


Kenai Peninsula Borough  
Planning Department

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**MEMORANDUM**

**TO:** Kelly Cooper, Assembly President  
Kenai Peninsula Borough Assembly Members

**FROM:** Marcus Mueller, Acting Planning Director 

**DATE:** July 21, 2020

**RE:** Utility Easement Vacation of the following easements:

- 10 foot utility easement adjoining the south boundary of Lot 1, excluding 10 feet adjoining Owen Road right of way;
- 10 foot utility easement adjoining the east boundary of Lot 10, excluding the 10 feet adjoining Cowen Road right of way;
- 10 foot utility easement adjoining the east and north boundary of Lot 11, excluding the 10 feet adjoining Owen Road right of way, located within Cowan-McFarland Subd. No. 3 (Plat KN 83-227), utility easements granted by Cowan McFarland Subdivision No 1 (Plat KN 1660) and Cowan-McFarland Subd. No. 3 (Plat KN 83-227); within Section 22, Township 5 North, Range 9 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-053V

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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 13, 2020 the Kenai Peninsula Borough Planning Commission granted approval of the proposed utility easement vacations associated with Cowan-McFarland Subdivision No. 1 (Plan KN 1660) and Cowan-McFarland Subdivision No. 3 (Plant KN 83-227) by unanimous vote based on the means of evaluating public necessity established by KPB 20.70. 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 13, 2020 Planning Commission Draft Meeting Minutes  
July 13, 2020 Agenda Item E1 Meeting Packet & Desk Packet Materials

2. Utility Easement Vacation of the following easements:

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Staff report given by Scott Huff

**STAFF REPORT**

PC Meeting: July 13, 2020

Purpose as stated in petition: Vacant not practical easements. Takes away from usable area of new lot.

Petitioners: Russell A. Stirman of Kennewick, WA.

Location: Off Owen Street and McFarland Road, Funny River area.

Notification: Notice of vacation mailings were sent by regular mail to 11 owners of property within 300 feet. Notice of the proposed vacation was emailed to 13 agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

The proposed vacations are within the Funny River Advisory Planning Commission (APC). The Funny River APC was not able to meet on this item. The information was sent to each of the APC members. One of the members submitted a written comment that he thought the easement request was in good order and that he would recommend approval.

Staff Comments: The utility easements proposed to be vacated are along interior lot lines of three parcels. The three parcels are proposed to be combined into one lot. The preliminary plat for Cowan McFarland Subdivision Stirman Replat, KPB File 2020-053, was conditionally approved at the June 22, 2020 Plat Committee meeting. If approve, the vacations will be finalized by the recording of the replat.

Comments Received:

ACS: No objection.

ENSTAR Natural Gas: No objection.

GCI: No objection.

HEA: No objection.

**Petitioner Findings:**

1. The utility easement proposed to be vacated is not in use by a utility company.

**Staff Findings:**

2. ACS, ENSTAR, GCI, HEA, provided written non-objection to the vacation of the utility easements.

3. The proposed vacations will be finalized by plat.
4. The preliminary plat Cowan McFarland Subdivision Stirman Replat, KPB File 2020-053, was approved at the June 22, 2020 Plat Committee.
5. Per Cowan-McFarland Subdivision, KN 1660, there are 10 foot utility easements granted on both sides of the property line shared by Tract 1 and Tract 3 as well as Tract 2 and Tract 3.
6. Per Cowan-McFarland Subdivision No. 3, KN 83-227, the 10 foot utility easements from the parent plat were carried over and additional 10 foot utility easements were granted along the new lot line for Lot 10.
7. 10 foot utility easements will be granted along the dedicated right of ways with the recording of the proposed plat Cowan McFarland Subdivision Stirman Replat, KPB File 2020-053 .
8. No surrounding properties will be denied utilities.

Based upon the above findings, **staff recommends** granting the vacation as petitioned.

**NOTE: Action after denial of vacation (KPB 20.70.120)**

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.
- B. Upon denial by the planning commission, 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.

**END OF STAFF REPORT**

Chair Martin open the item for public comment

See and hearing no one else from the public wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

**MOTION:** Commissioner Venuti moved, seconded by Commissioner Whitney to approve the utility easement vacation as petitioned based on staff recommendations and compliance with borough code.

**MAIN MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	3
Yes	Bentz, Carluccio, Ecklund, Fikes, Foster, Whitney, Venuti, Ruffner, Martin				
No	None				
Absent	Brantley, Ernst, Morgan				

**AGENDA ITEM H. SPECIAL CONSIDERATIONS**

1. Building Setback Exception  
Hansen Subdivision Lot 2 Block 1 (Plat KN 1678)  
KPB File 2020-058; Resolution 2020-15  
Location: Oehler Road, off Funny River Road, Soldotna area

Staff report given by Scott Huff

**STAFF REPORT**

PC Meeting: 7/13/2020

Petitioner: Nancy J. Bracker of Wasilla, Alaska.

Submittal: A one story house, built 1960, prior to subdivision ordinance in 1968 and setback requirement.

Staff Discussion: The encroaching structure is constructed on Lot 2 Block 1 of Hansen Subdivision (Plat KN-1678). The lot is on Oehler Road. The city boundary for Soldotna is located on the centerline of Oehler Road. This lot is on the east side of Oehler Road which is outside of the City of Soldotna. The encroaching

## **G. UTILITY EASEMENT VACATIONS**

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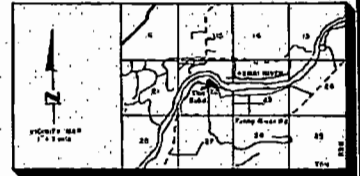
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END OF STAFF REPORT



NO.	AREA	ACRES	TANGENT	CHORD	CHORD BEARING
1	1,370.00'	31° 49' 34"	2,262.74'	444.85'	S 67° 28' 2" E
2	1,008.00'	34° 36' 25"	1,604.25'	299.94'	S 77° 42' 07" E



**CERTIFICATE of OWNERSHIP and DEDICATION**

I HEREBY CERTIFY THAT I am the OWNER(S) OF THE PROPERTY SHOWN & DESCRIBED HEREIN & THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION & DEDICATE ALL RIGHT-OF-WAYS & PUBLIC AREAS TO PUBLIC USE & GRANT ALL EASEMENTS TO THE USE SHOWN.

*D. J. Rice* *Notary Public*  
 D. J. Rice, Notary Public for Alaska  
 P.O. Box # 707  
 Anchorage, AK 99509

**NOTARY'S ACKNOWLEDGEMENT**

SUBSCRIBED AND SWORN BEFORE ME THIS 12th DAY OF JULY, 1983 FOR *D. J. Rice* and *D. J. Rice*

*D. J. Rice*  
 NOTARY PUBLIC FOR ALASKA  
 MY COMMISSION EXPIRES

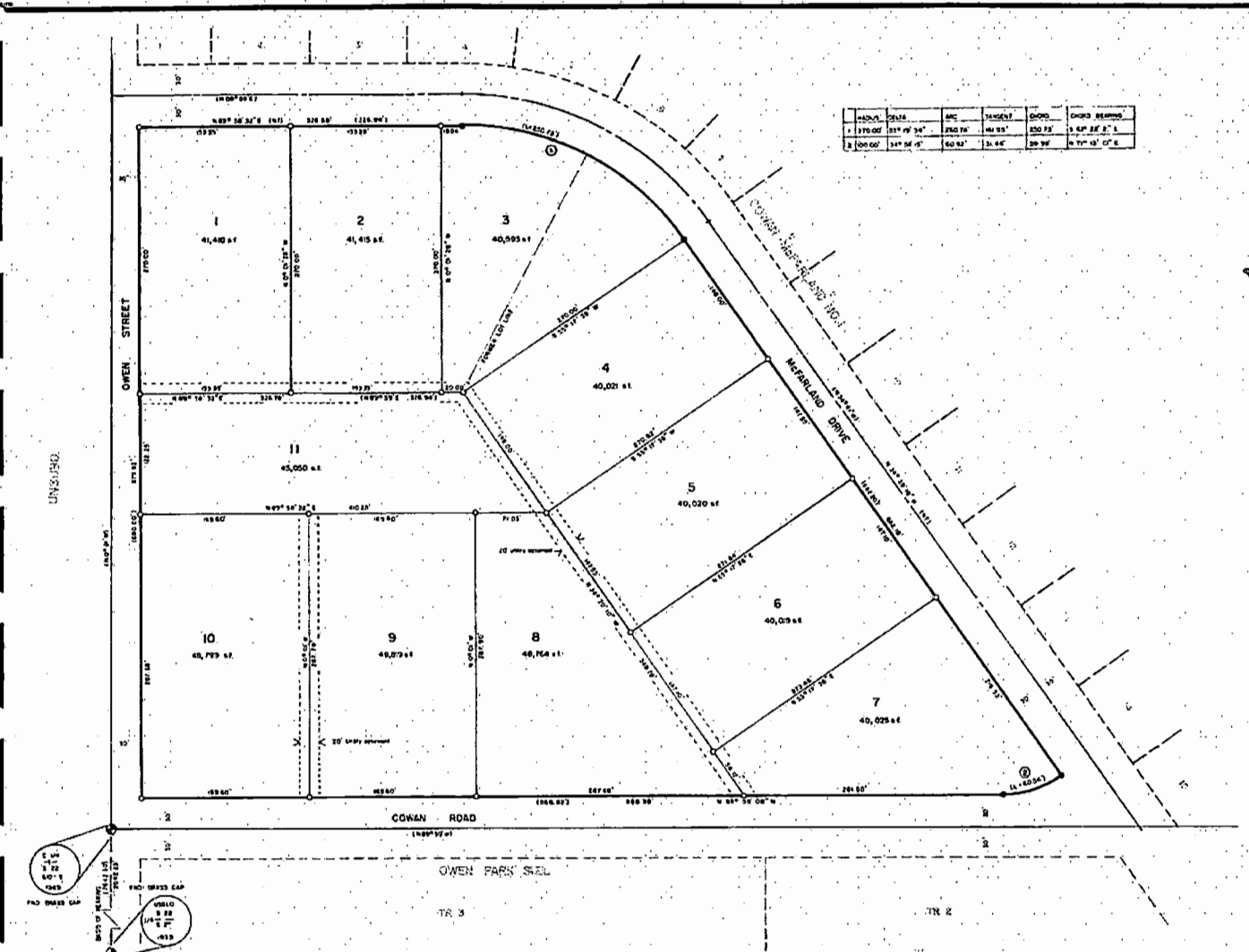
**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF July 11, 1983

KENAI PENINSULA BOROUGH  
*[Signature]*  
 AUTHORIZED OFFICIAL

83-227  
 10-13  
 2003  
*[Signature]*

*[Signature]*  
 ELIZABETH E. BAKER, P.L.S.  
 REGISTRATION NO. L.S.-5122



*Subdivided by 10/1/83*

KN 83-227

- LEGEND:**
- ⊙ MONUMENT (Found this survey)
  - ⊕ MONUMENT (Set this survey)
  - 1/2" BEARING (Found this survey)
  - 5/8" x 3/4" REBAR (Set this survey)
  - 1) RECORD DATUM N=1440
  - 1 1/2) NOT TANGENT

- NOTES:**
- 1) PROPOSED LAND USES ARE RECREATIONAL, RESIDENTIAL & AGRICULTURAL.
  - 2) A SETBACK OF 20 FEET IS REQUIRED FROM ALL STREET RIGHT-OF-WAYS UNLESS A LOWER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
  - 3) ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAWS AT THE TIME OF CONSTRUCTION.

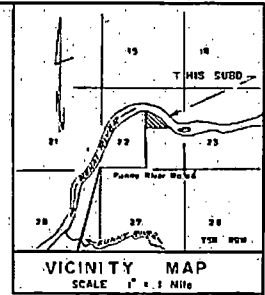
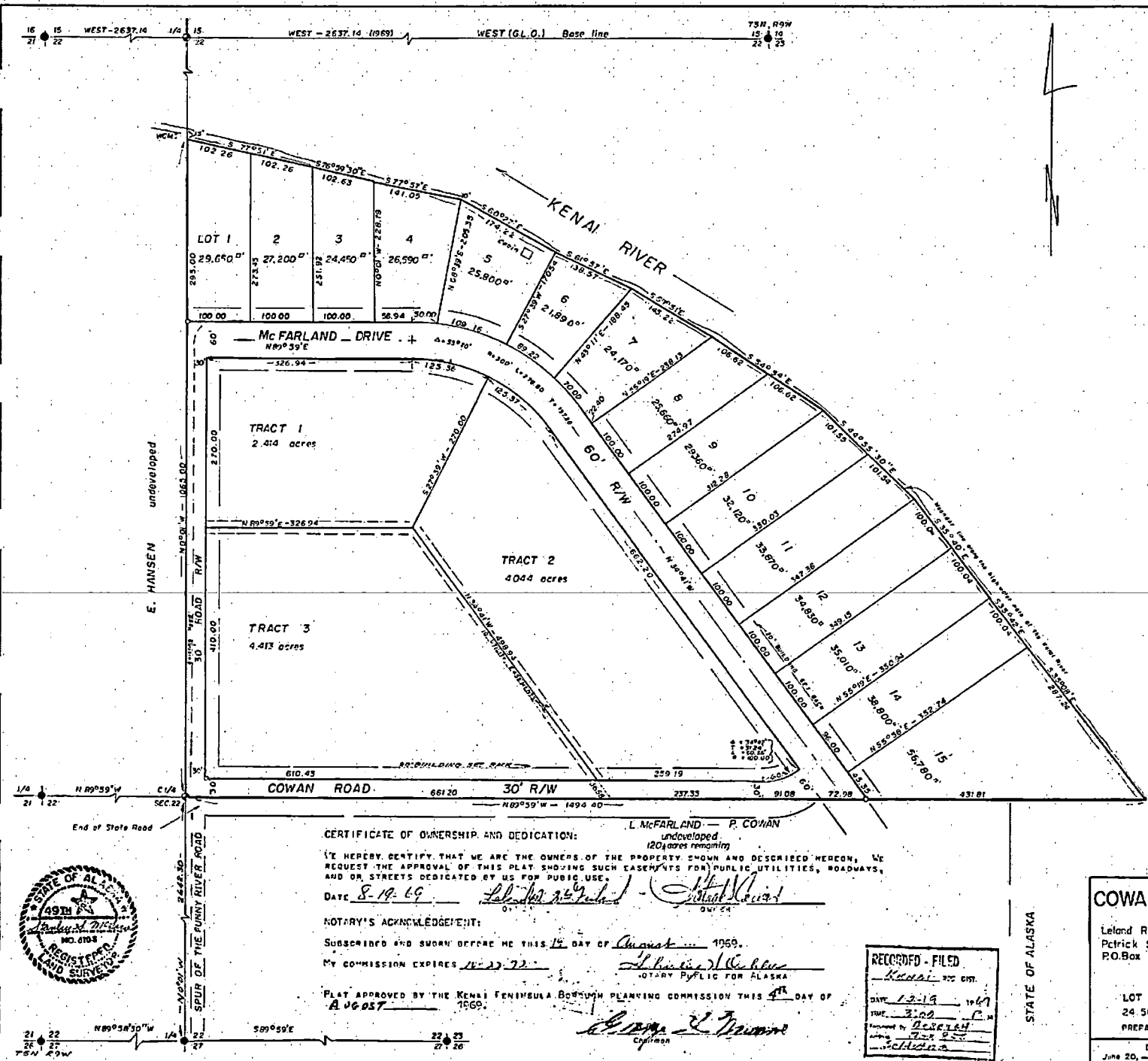
COWAN-MCFARLAND SUBD. NO. 3  
 A SUBDIVISION OF TRACTS 1, 2 & 3,  
 COWAN - MCFARLAND SUBD.  
 AS RECORDED AND R-1660  
 LOCATED WITHIN  
 SECTION 14 T14N R14W S14E  
 CONTAINING CERTAIN AREAS NOT SHOWN

**DOWLING-RICE and ASSOCIATES**  
 P.O. BOX 874 SOLDOTNA, ALASKA 99669

ENCLOSURE	PER - SDU	SUBMITTER
RECORDED 8/25	MAILED 8/25	
MAILED 8/24	STATE 7-10	
FILED 8/23	FIELD WORK 8/23	



KW 1660



**LEGEND AND NOTES**

- Found G.L.O. brass cap monument
- Set 2 1/2" official survey brass cap monument.
- Set 1" oil cap.
- ▲ Set 1/2" x 1/8" rods at all other lot corners.

All bearings refer to the G.L.O. datum of WEST for the North boundary of section 22, T5N, R9W, S.M. Alaska.

The natural meanders of the Kenai River form the bounds of all lots adjoining the river. The traverse line, as established, is for survey computation and state only all corners as set on said traverse line are witness corners, with true corners being on the attention of lot line to the natural meanders.

————— 1969 flood line.



**CERTIFICATE OF OWNERSHIP AND DEDICATION:**

L. McFARLAND - P. COWAN  
undeveloped  
120+ acres remaining

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON. WE REQUEST THE APPROVAL OF THIS PLAT SHOWING SUCH EASEMENTS FOR PUBLIC UTILITIES, ROADWAYS, AND OR STREETS DEDICATED BY US FOR PUBLIC USE.

DATE 8-19-69 L. McFarland - P. Cowan

**NOTARY'S ACKNOWLEDGEMENT:**  
Subscribed and sworn before me this 19 day of August, 1969.  
My commission expires 12-23-72 L. McFarland  
NOTARY PUBLIC FOR ALASKA

PLAT APPROVED BY THE KENAI PENINSULA BOATWASH PLANNING COMMISSION THIS 4 DAY OF AUGUST 1969.

**RECORDED - FILED**  
Kodiak 300 CRT.  
DATE 12-19 1969  
TIME 3:00 P.M.  
Prepared by Deborah  
Checked by McFarland

**COWAN - McFARLAND SUBDIVISION NO. 1**

Leland R. McFarland owner  
Patrick S. Cowan owner  
P.O. Box 509 - Soldotna, Alaska

**LEGAL DESCRIPTION**  
LOT 5, SECTION 22, T5N, R9W, S.M. CONTAINING  
24.506 ACRES  
PREPARED & SURVEYED BY: S.S. McLane Soldotna, Alaska

DATE June 20, July 16, 1969  
SCALE 1" = 100'

K-1660

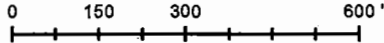



KENAI RIVER



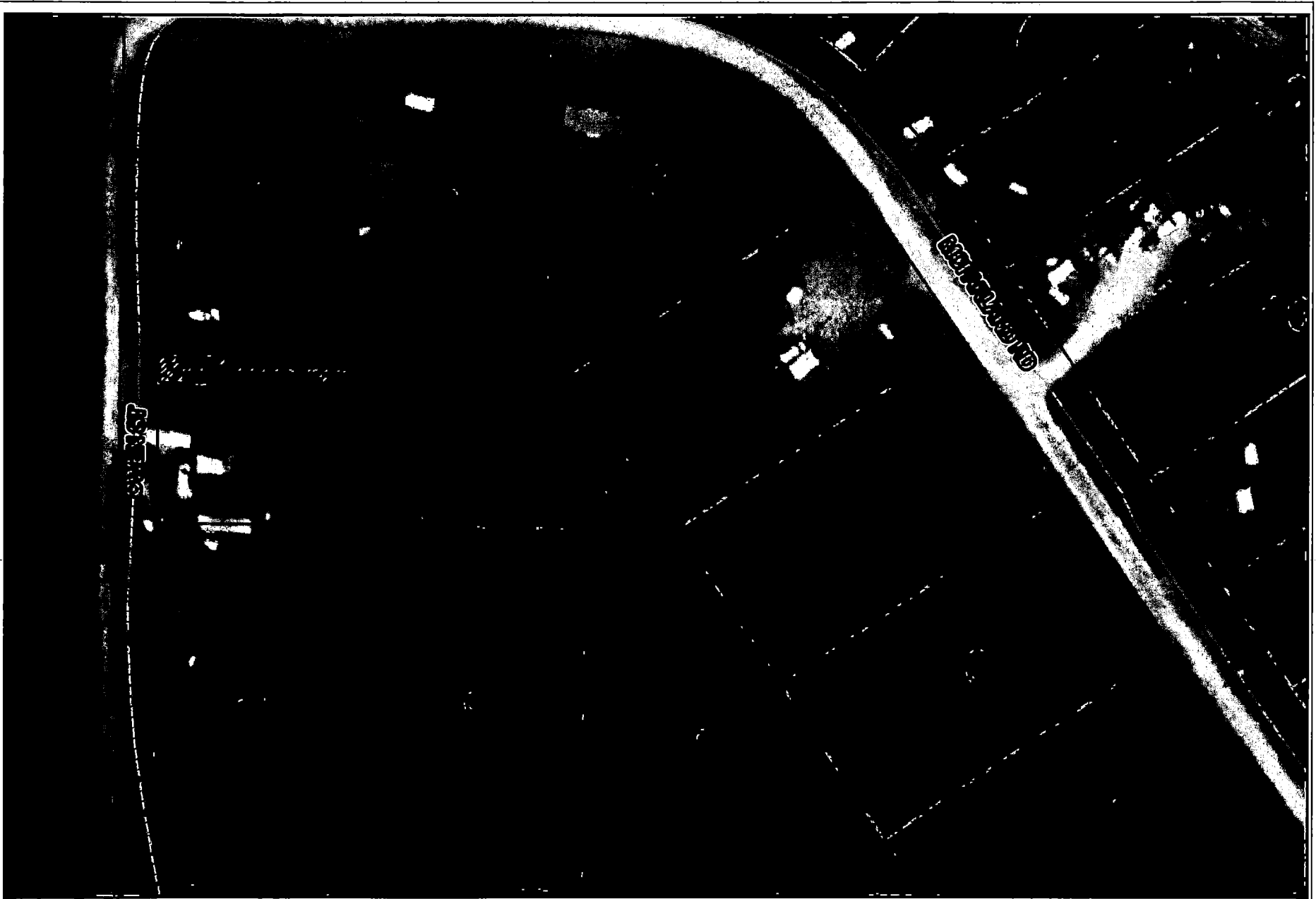
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

**Aerial View**



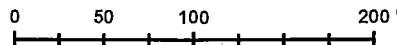
	Proposed Location of Utility Easement Vacation
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PClements, KPB  
Date: 6/12/2020  
Imagery: 2010 Kenai River



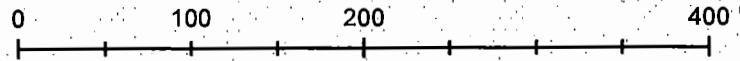
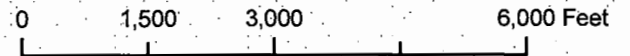
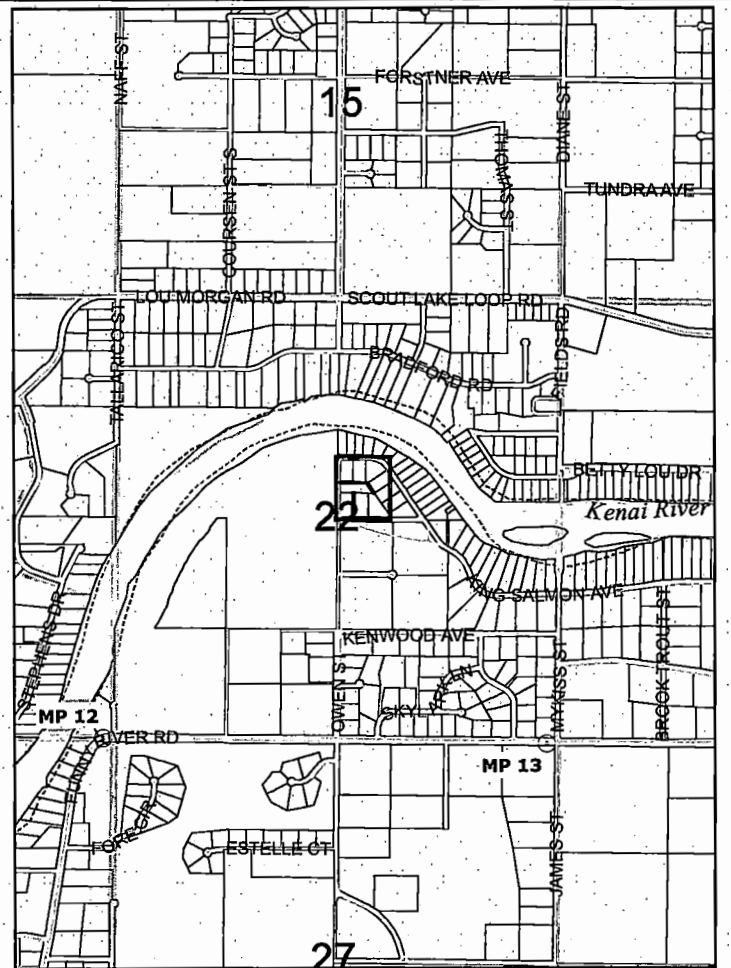
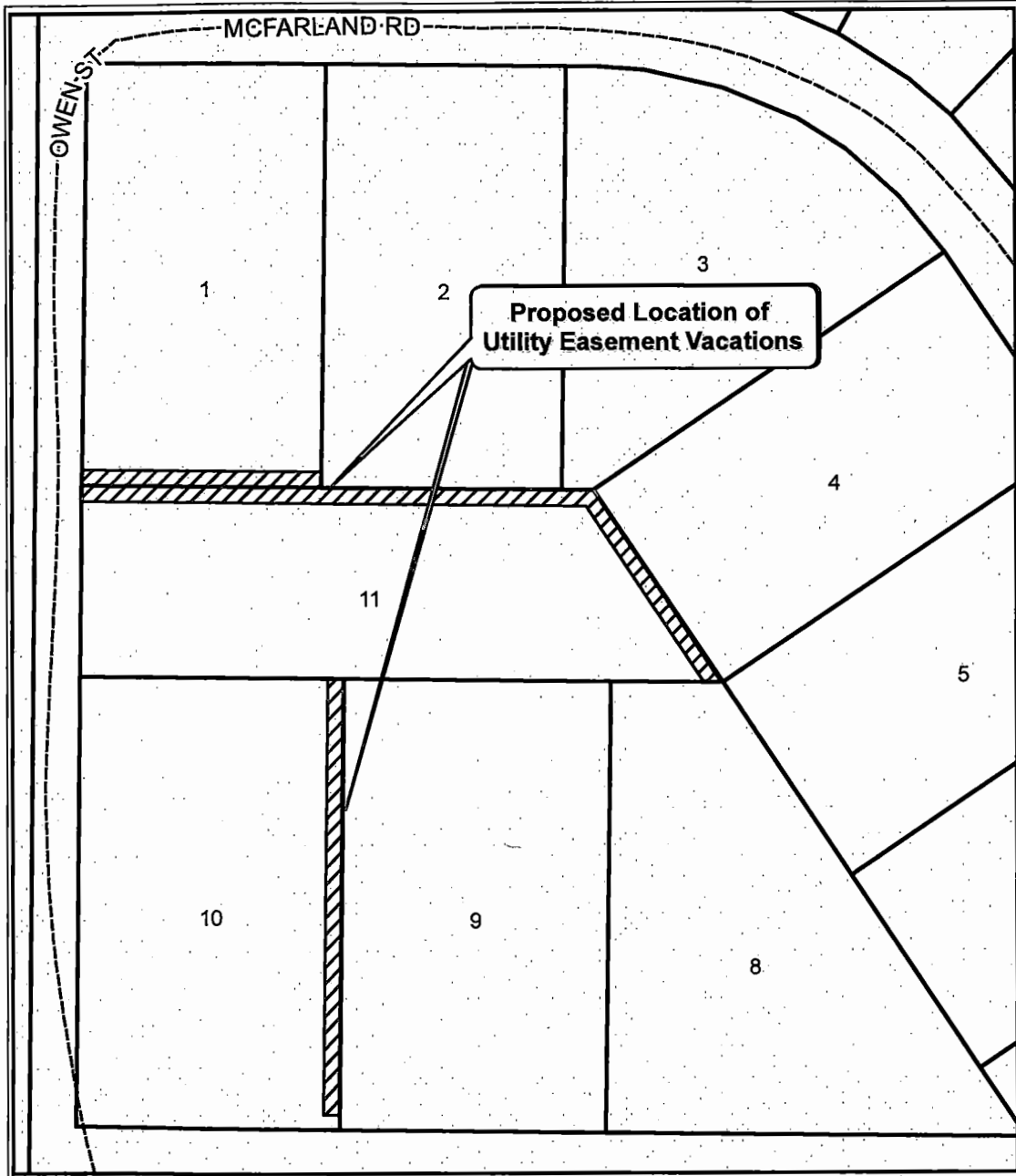
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### Aerial View



 Proposed Location of Utility Easement Vacation

PClements, KPB  
Date: 6/12/2020  
Imagery: 2018 Sterling



**Proposed Location of  
Utility Easement Vacations**

**KPB 2020-053V  
T05N R09W S22  
FUNNY RIVER**



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.

PClements, KPB  
Date: 6/12/2020

**Clements, Peggy**

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**From:** Ron Gherman <rgherman51@gmail.com>  
**Sent:** Monday, June 22, 2020 10:57 PM  
**To:** Clements, Peggy  
**Subject:** <EXTERNAL-SENDER> Re: UTILITY EASEMENT VACATION REVIEW FOR JULY 13, 2020 MEETING: FUNNY RIVER APC

**CAUTION:**This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

**Thanks Peggy,**

**This easement looks to be in good order. I would recommend it.**

**Ron**

On Thu, Jun 18, 2020 at 3:19 PM Clements, Peggy <[PClements@kpb.us](mailto:PClements@kpb.us)> wrote:

Hello,

Attached sketch to be reviewed for the **July 13, 2020** meeting. Please provide comments by **June 29, 2020** to ensure the comments will be included in a staff report. Comments will be accepted until the Planning Commission's review has concluded.

- Cowan McFarland Subdivision Stirman Replat Utility Easement Vacation KPB 2020-053V

Kind regards,

**Peggy Clements**

Platting Technician



Kenai Peninsula Borough Planning Department  
 144 North Binkley  
 Soldotna, Alaska 99669-7599  
 Toll free within the Borough 1-800-478-4441, extension 2200  
 (907) 714-2200

**Petition to Vacate Utility Easement**

**No Public Hearing Required**

Submit completed form to the Kenai Peninsula Borough Planning Department, 144 North Binkley St., Soldotna, AK 99669

Upon receipt of complete application with all required attachments the vacation will be scheduled for Planning Commission action. The petitioner must secure and submit written comments from utility companies. If the easement is within city limits; secure and submit city's written comments. **The completed petition, with all required attachments, accompanied by a \$75.00 non-refundable fee, must be submitted to the Planning Department a minimum of thirty (30) days prior to the meeting at which the Planning Commission will take action.**

Fees - \$75.00 non-refundable fee attached.

To accomplish an approved vacation; a Planning Commission Resolution must be filed with the State Recorder to enter the vacation into the public records unless the vacation is accomplished by plat. Petitioner must pay filing fees (usually \$22-\$27).

Utility easement requested to be vacated was granted by plat of Subdivision, filed as Plat No. 83-227 in Kenai        Recording District.

Utility easement proposed to be vacated was granted by (specify type of document) as recorded in Book        Page        of the        Recording District. (Copy of recorded document must be submitted with petition)

Comments from Homer Electric Association attached.

Comments from Enstar Gas Company attached.

Comments from ACS Telephone Company attached.

Comment from GCI Cable Company attached.

Please note comments or no comments on the sketch or plat that is to be submitted with the petition.

Comments from the KPB Roads Department attached if applicable.

Comments from City of        attached.

One copy of plat or map (sketch) showing area proposed to be vacated. If easement was granted by document; one copy of recorded document must be submitted.

If an existing structure is encroaching into easement; As-Built showing encroachment must be attached.

Is easement being used by utility company?  Yes  No  
 If yes, which utility       

The petitioner must provide reasonable justification for the vacation. Reason for vacating:  
 Vacant not practical easments. Take away from usable area of new lot.

The petition must be signed (written signature) by owners of the land subject to the easement proposed to be vacated. Each must include mail address and legal description of his / her property.

Submitted by: Signature        As  Petitioner  Representative

Name: Edge Survey  
 Address: 43335 K-Beach Rd. Ste 16B  
Soldotna AK  
 Phone: 907-283-9047

Petitioners:  
 Signature *Russell Stirman*  
 Name Russell Stirman  
 Address 4109 west 18th Ave.  
Kennewick, WA 99338

Signature         
 Name Louise Stirman  
 Address 4109 West 18th Ave.  
Kennewick, WA 99338

Owner of Lot 1, 10 and 11 Plat 83-227

Owner of Lot 1, 10 and 11 Plat 83-227

Signature         
 Name         
 Address       

Signature         
 Name         
 Address       

Owner of       

Owner of