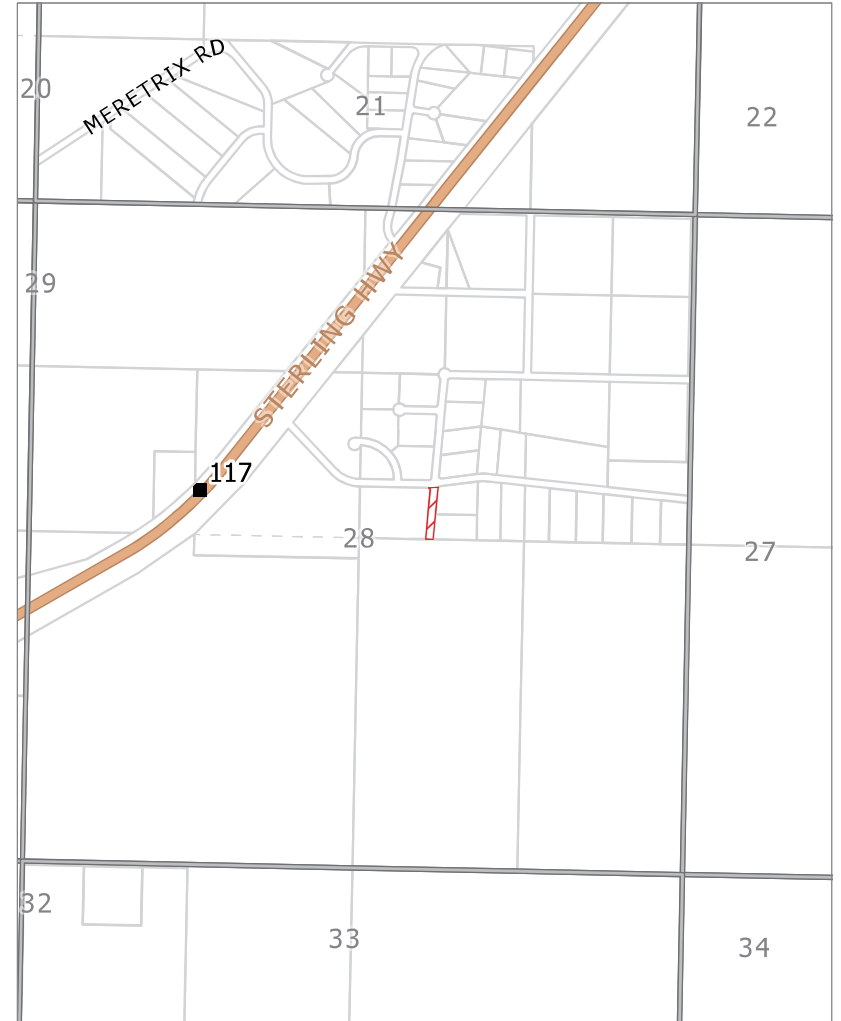
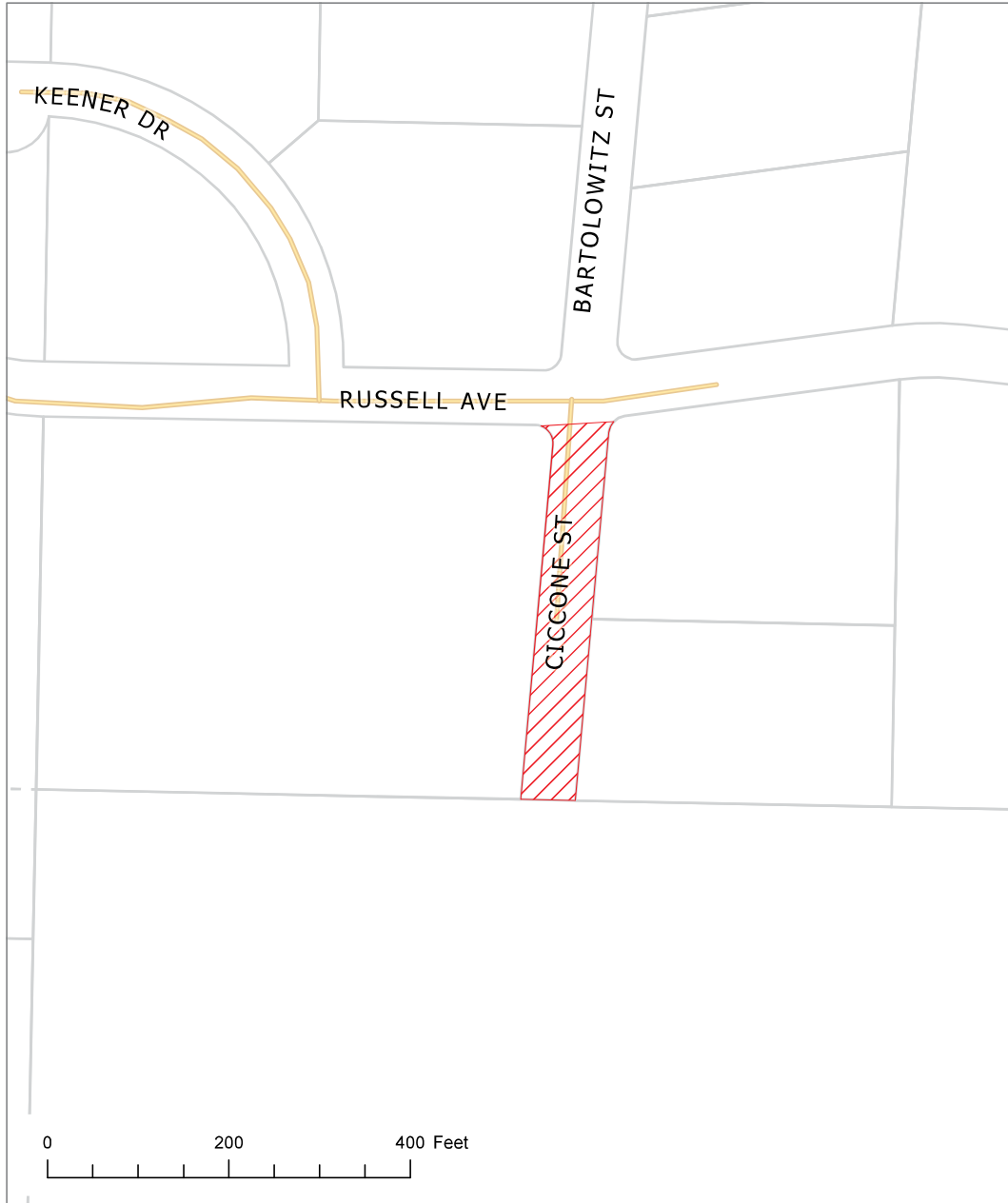


## **E. NEW BUSINESS**

- 2. Right-Of-Way Vacation; KPB File 2022-136V  
Request: Ciccone Street & Associated Utility Easements  
Johnson Surveying / Jim & Debbie Wann Family Trust, Ciccone  
Clam Gulch Area**



KPB File # 2022-136V  
 S28 T02N R12W  
 Clam Gulch

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



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.



# Clam Gulch Heights 2022 Addition

## Preliminary Plat

A replat of Lots 11 & 12 Clam Gulch Heights, Glendening 1979 Subd. of Tracts 12,13, 14, 15, 16, 17, 18 ( KRD 81-135 ), and Lot 8A Clam Gulch Heights 2011 Addition ( KRD 2011-60 ) 17, 18 ( KRD 81-135 ), including a vacation of Ciccone St. & associated utility easements. Located in the NE1/4 Section 28, T2N R12W, SM, Clam Gulch, Alaska. Kenai Recording District Kenai Peninsula Borough

Prepared for

Jim & Debbie Wann  
Family Trust  
P.O. Box 269  
Clam Gulch, AK 99568



Anthony W Ciccone  
Kathleen S Ciccone  
16111 Pasadero Dr.  
Houston, TX 77083

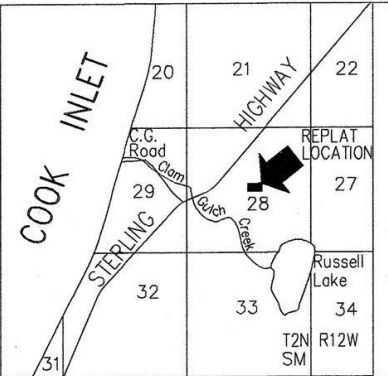
Prepared by

Johnson Surveying  
P.O. Box 27  
Clam Gulch, Ak 99568  
(907) 262-5772

### NOTES

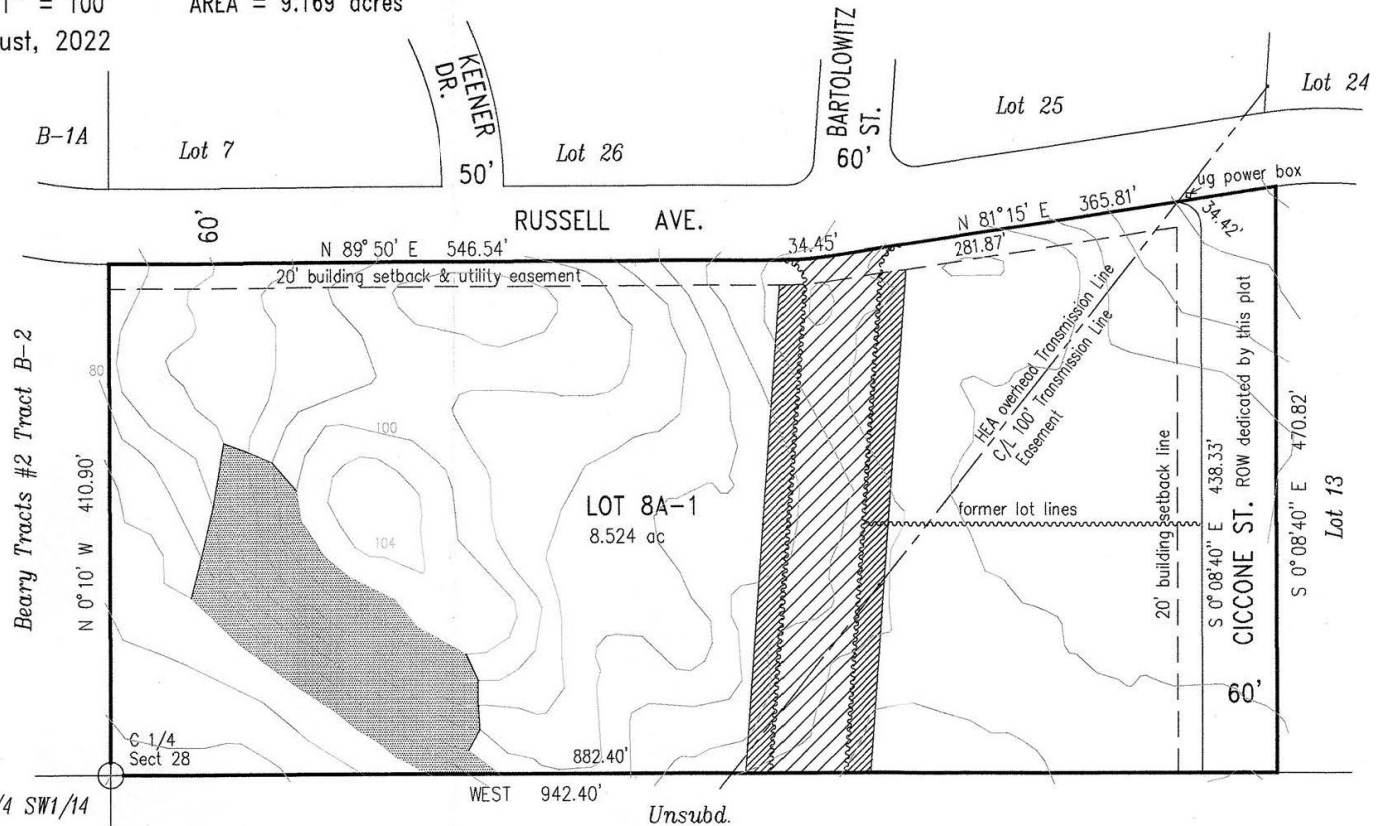
1. A building setback of 20' from all street ROWs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Building setback is also a utility easement as granted by plat KRD 85-135.
2. No permanent structures shall be constructed or placed within a utility easement that would interfere with the ability of a utility to use the easement.
3. Contour interval 4'. Shaded areas indicate grades over 25%. there are no wet areas on the property.

-  - indicates Ciccone St. ROW being vacated.
-  - indicates utility easement being vacated.



SCALE 1" = 100'  
3 August, 2022

AREA = 9.169 acres



### WASTEWATER DISPOSAL

20.40.020(A)(2)  
The parent subdivision for lots resulting from this platting action was approved by the Alaska Department of Environmental Conservation on 4/30/1980. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

N1/2 N1/2 N1/2 NE1/4 SW1/4

**KPB 2022-136V**



**ITEM 2 - RIGHT OF WAY VACATION  
60 FOOT WIDE CICCONE STREET RIGHT OF WAY AND ASSOCIATED UTILITY EASEMENTS**

<b>KPB File No.</b>	2022-136V
<b>Planning Commission Meeting:</b>	October 10, 2022
<b>Applicant / Owner:</b>	Jim & Debbie Wann Family Trust of Clam Gulch, AK Anthony & Kathleen Ciccone of Houston, TX
<b>Surveyor:</b>	Jerry Johnson / Johnson Surveying
<b>General Location:</b>	Russell Avenue, Clam Gulch
<b>Legal Description:</b>	Ciccone Street between Lot 8A Clam Gulch Heights 2011 Addition KRD 2011-60 and Lots 11 & 12 Clam Gulch Heights, Glending 1979 Subdivision of Tracts 12, 13, 14, 15, 16, 17 18 KRD 18-135, Kenai Recording District, Section 28, Township 2 North, Range 12 West Seward Meridian

**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** ROW is being moved to a more desirable location to the adjacent owners.

**Notification:** Public notice appeared in the September 29, 2022 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the October 6, 2022 issue of the Peninsula Clarion as part of the Commission’s tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Ninilchik Post Office of Clam Gulch

Seventeen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Six receipts had been returned when the staff report was prepared.

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

State of Alaska Dept. of Fish and Game	Alaska Communication Systems (ACS)
State of Alaska DNR	ENSTAR Natural Gas
State of Alaska DOT	General Communications Inc, (GCI)
State of Alaska DNR Forestry	Homer Electric Association (HEA)
Central Emergency Services	
Ninilchik Traditional Council	

**Legal Access (existing and proposed):** The proposed vacation is for approximately 400 feet of the 60 foot wide Ciccone Street and the associated utility easements located south of Russell Avenue. Russell Avenue is a borough maintained 60 foot wide right-of-way located near mile 117 of the Sterling Highway. Ciccone Street provides access to one lot along the west, two lots along the east, and dead ends at an 80 acre parcel. Approximately half the length of Ciccone Street is constructed and maintained by the borough and is used by Lot 8A of Clam Gulch Heights 2011 Addition.

New access is proposed with the plat Clam Gulch Heights 2022 Addition. The proposal is to combine the three lots that are along Ciccone Street to create one lot and provide a new 60 foot wide dedication for Ciccone Street to the east of the new lot.

The Sterling Highway, Russell Avenue, and section line easements define a closed block that exceeds allowable lengths. Ciccone Street, if continued south could help the block length. The block length with Ciccone Street where it is currently approximately 1,460 feet. Moving the right-of-way to the east will lengthen the block to approximately 1,800 feet. The only constructed portions of the block are the Sterling Highway and Russell Avenue. Large acreage tracts are to the south that can provide additional rights-of-way to improve the block when they are subdivided. A dedication existed along the southern boundary that improved the block. That right-of-way was granted on Clam Gulch Heights, Plat KN 72-61 and was vacated by Clam Gulch Heights Glendening 1979 Subdivision of Tracts 12-18, Plat KN 81-135.

Ciccone Street currently provides access to an 80 acre parcel with improvements located on it. An 80 acre parcel to the east of that land contains improvements and is owned by the same owner. The large acreage tracts are accessed directly from the Sterling Highway through University of Alaska lands. The existing location of Ciccone Street is the closest dedication to the structures and existing travelway on the property. The replat will move the access to the east approximately 400 feet.

KPB Roads Dept. comments	Out of Jurisdiction: Yes Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	

**Site Investigation:** The existing right-of-way has some sloping within the dedication but nothing extremely steep. The slopes within the new proposed location are less steep and appear to improve the slope associated with the dedication. There are steep slopes found further south within the abutting 80 acre parcel. Continuation of the right-of-way in the future may require some meandering, slope easements, or additional widths to provide for a feasible right-of-way.

There are not low wet areas present in the area to affect the vacation or the new proposed dedication. There are no flood hazard areas present.

A travelway is located within Lots 11 and 12 from Russell Avenue. This travelway runs through the lots to the south and then turns east and runs through Lots 13 and 14 and appears to end within or near Lot 15. Lots 13 and 14 are owned by the petitioners of the vacation. The proposed relocation will allow portions of the existing travelway to be within the dedication.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Within City of Soldotna/Kenai Comments: No comments  B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments  C. State Parks Reviewer: Russell, Pam Comments: No Comments
Alaska Fish and Game	No objections



**Staff Analysis:** The original dedication of Ciccone Street was on Clam Gulch Heights Glendening 1979 Subdivision of Tracts 12, 13, 14, 15, 16, 17, 18 KN 81-135 and was named Barbara Street. The road is partially constructed and maintained but is used as a driveway as it is currently only providing access to one lot with improvements.

As a portion of the existing drive is maintained by the borough, staff would request that the new right-of-way dedication be built to borough standards prior to finalization of the vacation with KPB Roads agreeing that the new construction is acceptable. The creation of the new right-of-way will help provide a good access to the large acreage lot to the south if it is later needed. The new right-of-way will also provide an access to Lot 13 within a dedication and not through parcels.

Homer Electric Association has requested an additional easement but this is not along or within the vacation area and will be addressed on the preliminary plat.

Alaska Communications (ACS) does not approve of the vacation due to equipment along Ciccone Street. Relocation of the equipment can occur at the expense of the land owners. Staff would recommend the owners work with the utility provider to grant utility easements for the existing equipment. If the vacation is approved, staff will not allow the vacation to be finalized without written acceptance by ACS.

#### **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 only being used by the property to the west as a driveway. ACS has equipment within the associated utility easement.
  2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The road is not impossible to construct and portions are but more practical to be dedicated and constructed to the east.
  3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The lots on both sides of the vacation are residential usage. The new dedication will provide the same amount of access to the lots to the south as the existing but terrain will need to be considered in future dedications.
  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:** Does not provide access to any public interest area.
  5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** The new dedication will allow for development to the south and allow for access to the lots to the east.
  6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:** Other access is not needed.
  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:** Utility easements along new dedications must remain and work with utility providers for any requested easements. Acquire approval from ACS by relocating equipment or granting of additional utility easements.

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

**Staff comments:** This will allow the owners to combine some of their lots.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly will hear the vacation at their scheduled October 25, 2022 meeting.

If approved, Clam Gulch Heights 2022 Addition will finalize the proposed right of way vacations. The Plat Committee is scheduled to review Clam Gulch Heights 2022 Addition on October 10, 2022.

**KPB department / agency review:**

Planner	<p>Reviewer: Raidmae, Ryan            There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments:            There are not any material site issues with this proposed plat.</p>
Code Compliance	<p>Reviewer: Ogren, Eric            Comments: No comments</p>
Addressing	<p>Reviewer: Haws, Derek            Affecte Addresses:            17565 CICCONE ST            17570 CICCONE ST            17556 CICCONE ST</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:            CICCONE ST            RUSSELL AVE            KEENER DR            BARTOLOWITZ ST</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names;</p> <p>List of Street Names Denied:</p> <p>Comments:            17565 CICCONE ST, 17570 CICCONE ST, and 17556 CICCONE ST will be deleted. New Russell Ave address will be assigned to lot 8A-1.</p>
Assessing	<p>Reviewer: Wilcox, Adeena            Comments: No Comment</p>



**Utility provider review:**

HEA	Locate the overhead single phase electric line and provide a 30 foot easement centered on the overhead line including any down guy anchors within this subdivision boundary.
ENSTAR	No comments or recommendations
ACS	Not approved. ACS has plants along Ciccone St. If they will need to be relocated approval upon contractor for reimbursement.
GCI	Approved as shown

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends APPROVAL 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. Construction of the new right-of-way built to the satisfaction of the KPB Road's Department.
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).

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**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*

- *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*
  - *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*
  - *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.*

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**END OF STAFF REPORT**





Aerial View

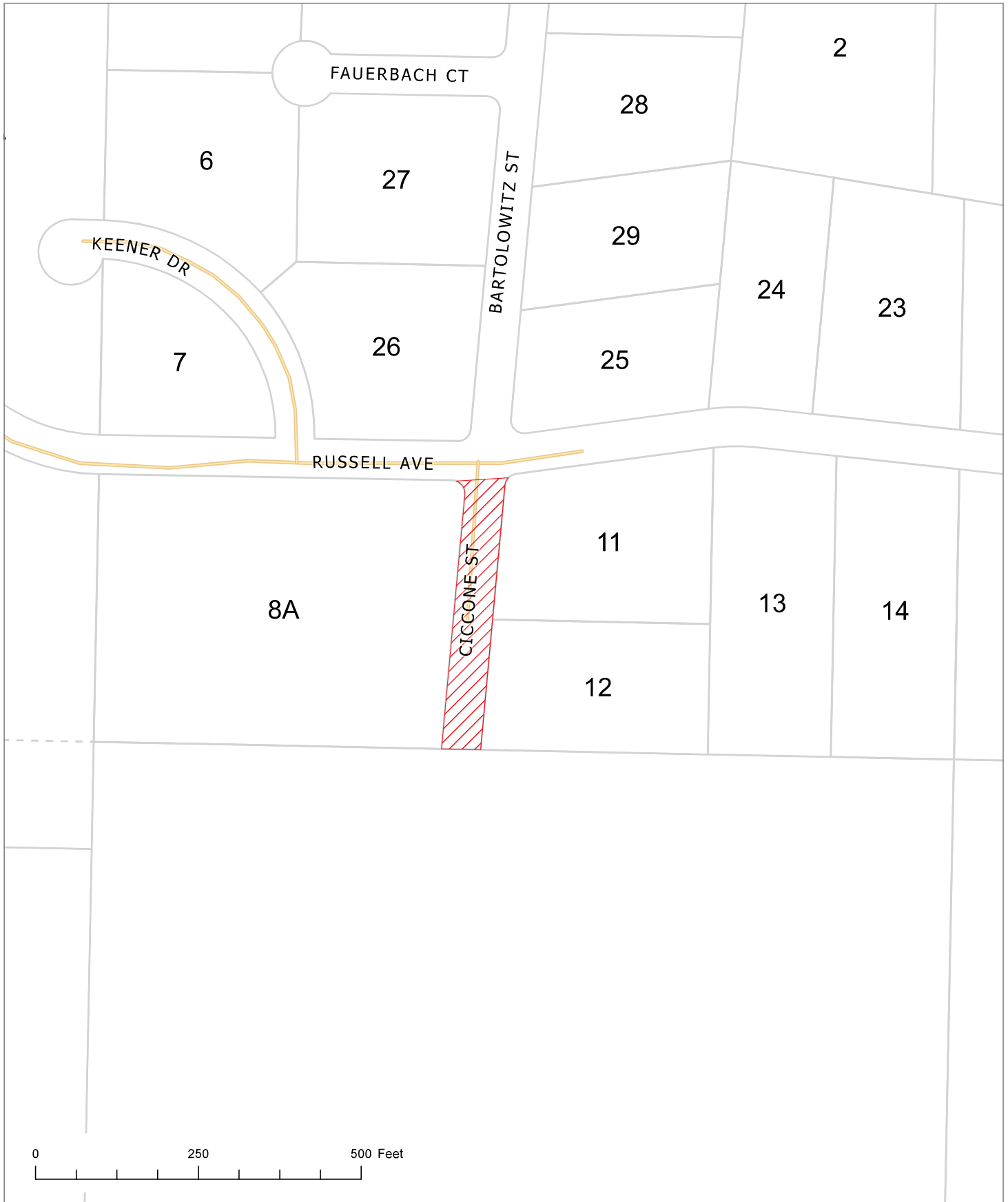


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Wetlands



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# CLAM GULCH HEIGHTS 2011 ADDITION

A replat of Lots 8, 9, & 10 Clam Gulch Heights, Glendening 1979  
 Subd. of Tracts 12, 13, 14, 15, 16, 17, 18 ( KR D 81-135 )  
 Located in the NE1/4 Section 28, T2N R12W, SM, Clam Gulch, Alaska.  
 Kenai Recording District Kenai Peninsula Borough File 2011-084

**Prepared for**  
 James Glendening  
 694 Sycamore Circle  
 Kenai, AK 99611

**Prepared by**  
 Johnson Surveying  
 Box 27  
 Clam Gulch, AK 99568



**SCALE 1" = 100'**      **AREA = 5.184 acres**  
**13 June, 2011**

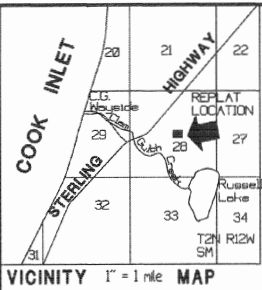
**LEGEND**

- ⊕ - 2 1/2" brass cap monument, 918-S, 1962, Found.
- ⊙ - 2 1/2" brass cap monument, 268-S, 1978, Found.
- - 1/2" rebar lot corner, Found.

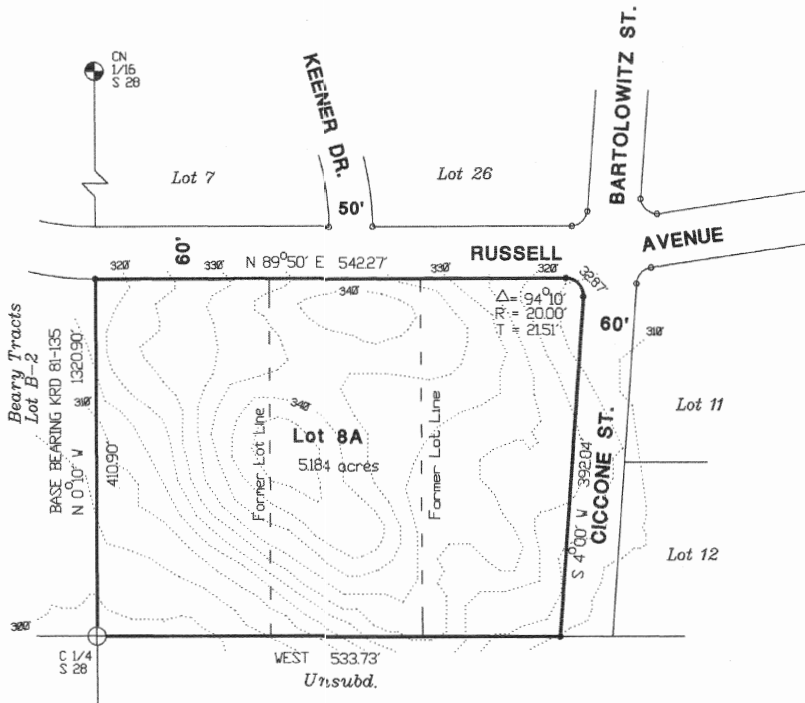
<b>RECORDED-FILED</b>	
REC. DIST.	2011-60
DATE	2011
TIME	M
Requested by:	Kenai
Johnson Surveying	Plat #
Box 27	10-28
Clam Gulch, Ak 99568	Date
	2011
	Time 8:34 AM

**NOTES**

- A building setback of 20' from all street ROWs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. 20' building setback is to be limit of utilities easement.
- No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.
- Restrictive covenants affecting this property are filed with the Kenai District Recorder in Book 513 Page 542 and amended in Book 536 Page 510.



VICINITY 1" = 1 mile MAP



**PLAT APPROVAL**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of 18 July, 2011.

KENAI PENINSULA BOROUGH

By: Max West      Oct. 26, 2011  
 Authorized Official      Date

**WASTEWATER DISPOSAL**

This Lot is at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal systems must meet the regulatory requirements of the Alaska Dept. of Environmental Conservation.

**OWNERSHIP CERTIFICATE**

I hereby certify that I am the owner of the real property shown and described hereon; and that I hereby adopt this plan of replat, and by my free consent grant all easements to the use shown.

James E. Glendening  
 James E. Glendening 694 Sycamore Circle Kenai, AK 99611

**NOTARY'S ACKNOWLEDGEMENT**

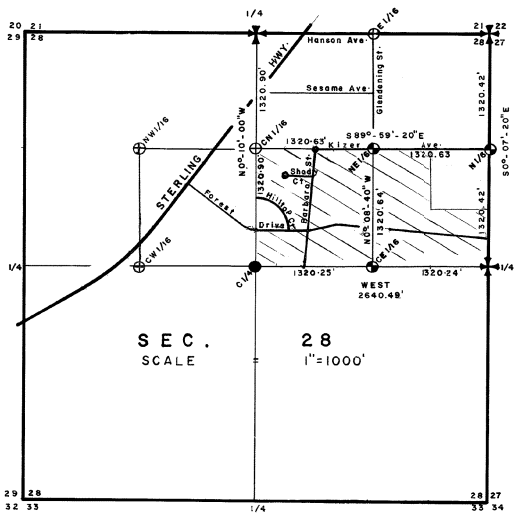
For: James E. Glendening  
 Subscribed and sworn to before me this 3  
 day of October 2011.

Karen Fuller  
 Notary Public for Alaska

My commission expires 9-25-2012







### CURVES

1 A=88°-00'-48" R=20.00' C=27.28' T=18.45' L=30.02' CB=N47°-00'-20"E	2 A=49°-12'-09" R=50.00' C=41.63' T=22.89' L=42.94' CB=S23°-35'-25"E	3 A=85°-50' R=20.00' C=27.24' T=18.60' L=29.96' CB=S44°-55'W	4 A=53°-08' R=50.00' C=70.71' T=50.00' L=78.54' CB=S45°-10'E	5 A=90° R=50.00' C=70.71' T=50.00' L=78.54' CB=S45°-10'E	6 A=94°-02' R=20.00' C=29.29' T=21.51' L=32.87' CB=S43°-05'E	7 A=53°-08' R=20.00' C=27.24' T=18.60' L=29.96' CB=S44°-55'W	8 A=94°-02' R=20.00' C=29.29' T=21.51' L=32.87' CB=S43°-05'E	9 A=85°-50' R=20.00' C=27.24' T=18.60' L=29.96' CB=S44°-55'W	10 A=94°-10' R=20.00' C=29.29' T=21.51' L=32.87' CB=S43°-05'E	11 A=77°-15' R=20.00' C=24.97' T=18.98' L=26.97' CB=N42°-37'-30"E	12 A=102°-45' R=20.00' C=31.25' T=25.00' L=35.87' CB=N47°-22'-30"W	13 A=15°-45' R=330.00' C=64.64' T=39.79' L=78.19' CB=S88°-07'-30"W	14 A=90°-00' R=270.00' C=64.64' T=39.79' L=78.19' CB=N88°-07'-30"E	15 A=90°-00' R=270.00' C=64.64' T=39.79' L=78.19' CB=N88°-07'-30"E	16 A=49°-29' R=330.00' C=262.77' T=144.09' L=270.78' CB=N65°-55'-29"W	17 A=41°-31' R=330.00' C=226.83' T=121.29' L=231.87' CB=N20°-55'-51"W
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# CLAM GULCH HEIGHTS

GLENDENING 1979 SUBDIVISION OF TRACTS 12, 13, 14, 15, 16, 17, 18

LOCATED IN S1/2 NE1/4 SEC. 28, T2N R12W S.M. CLAM GULCH, ALASKA 99568  
SCALE 1" = 200' AREA = 70.058 AC. DEC. 26, 1980

BY: JAMES E. AND BARBARA E. GLENDENING BOX 38 KASLOF, AK. 99568

## PLAT APPROVAL

This plat was approved by the KENAI PENINSULA BOROUGH PLANNING COMMISSION at the meeting of AUGUST 6 19 79  
KENAI PENINSULA BOROUGH By [Signature]  
ADMINISTRATIVE OFFICER

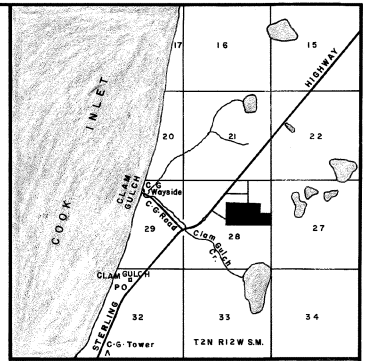
## CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of the property shown and described hereon, and that we hereby adopt this plan of subdivision, and dedicate all right of ways to public use, and grant all easements to the use shown.

[Signature] JAMES E. GLENDENING  
[Signature] BARBARA E. GLENDENING

## NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this 4th day of September 19 81  
[Signature] Jane M. Gabler Sept. 13, 1981  
NOTARY PUBLIC FOR ALASKA, for James E. and Barbara E. Glendening  
My commission expires

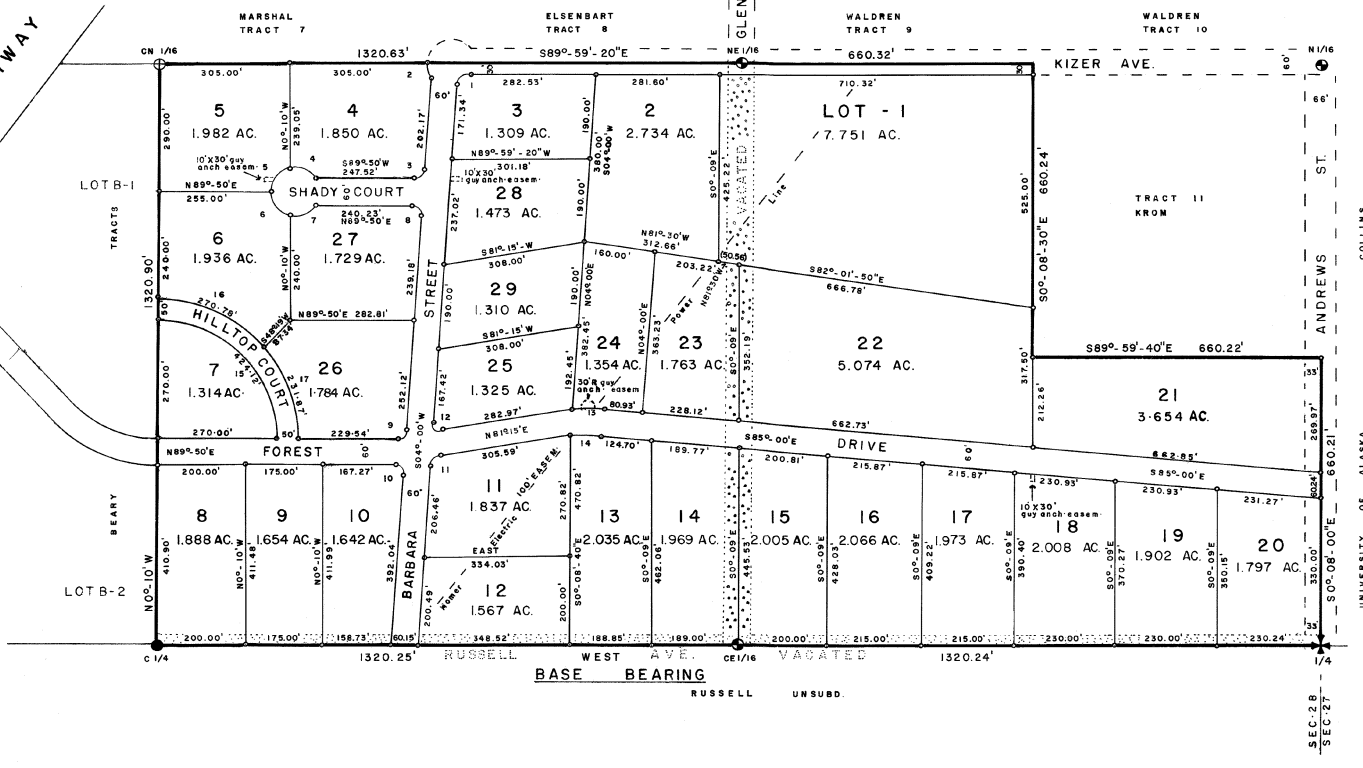


VICINITY SCALE 1" = 1 MILE MAP

**NOTE:** BUILDING SETBACKS - A setback of 20' is required from all street right of ways unless a lesser standard is approved by resolution of appropriate planning commission.  
**UTILITY EASEMENTS** - 20' building setback line is to be limit of utilities easements.

## LEGEND

- ⊕ - Brass cap monument set by 268-S
- ⊕ - 1978 brass cap mon. by 268-S found
- - brass cap by Claud Hoffman, found
- ⊕ - 1919 brass cap by G.L.O., found
- - 1/2" x 2' rod set.



81-135

RECORDED - FILED 100

Kenai

DATE 10-2-81

TIME 3:48 P

Prepared by KPB

Subdiv

