



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • FAX: (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

www.borough.kenai.ak.us

CHARLIE PIERCE
BOROUGH MAYOR

MEMORANDUM

TO: Wayne Ogle, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director *mb*

DATE: January 11, 2018

SUBJECT: Vacation of public rights-of-way and utility easements in the Cohoe area described as follows:

- * Vacation of the eastern portion (approximately 620 feet) of the Saskatoon Avenue right-of-way as dedicated on Crooked Creek Subdivision, Plat KN 75-35. The right-of-way being vacated is unconstructed;
- * Vacation of the ten-foot-wide utility easement adjoining the western boundary of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
- * Vacation of the five-foot-wide utility easement located thirty-five feet north of, and running parallel to, the Saskatoon Ave right-of-way across the entire width of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
- * Vacation of the twenty-foot-wide utility easement adjoining the northern boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228
- * Vacation of the ten-foot-wide utility easement adjoining the western boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228;
- * Vacation of the ten-foot-wide utility easements on the north and south sides of the shared boundary between Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84- 228, and Tract D Crooked Creek Subdivision, Plat KN 75-35, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108.

The portion of the Saskatoon Avenue right-of-way and the utility easements proposed to be vacated are located within the NE1/4 of Section 12, T2N, R12W, S.M., AK, within the KPB; File 2017-173V.

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 January 8, 2018, the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation by unanimous consent based on the following findings of fact. This petition is being sent to you for your consideration and action.

Findings

1. If the vacations are approved, finalization will be accomplished by recording the plat Crooked Creek Subdivision Marre Replat.

2. Crooked Creek, an anadromous stream protected by KPB 21.18, flows through Crooked Creek Subdivision Marre Replat.
3. Tract C-1, KN 84-228, and Tract B1, KN 2004-83, to the west cannot use the portion of Saskatoon Avenue proposed for vacation for access due to the location of Crooked Creek.
4. Tract C-1, KN 84-228, has existing access off constructed Ray Street.
5. Tract B1, KN 2004-83, has existing access off constructed Ichabod Drive, which is partially maintained by KPB. Tract B1 also fronts Ray Street.
6. The 160-acre DNR parcel to the south has extensive access on State maintained Crooked Creek Road.
7. KPB Roads Department submitted a statement of no comments.
8. State Department of Transportation provided the width and general source of right-of-way dedication for Crooked Creek Road.
9. ENSTAR and Homer Electric Association submitted statements of no comments or objections.
10. Sufficient rights-of-way exist to serve surrounding properties.
11. Per the submittal, the right-of-way proposed for vacation is not in use for access.
12. Per the submittal, the right-of-way proposed for vacation has not been constructed.
13. No surrounding properties will be denied access.

Draft, unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

cc: petitioners' w/minutes only

AGENDA ITEM F. PUBLIC HEARINGS

3. Vacation of public rights-of-way and utility easements in the Cohoe area described as follows:
- * Vacation of the eastern portion (approximately 620 feet) of the Saskatoon Avenue right-of-way as dedicated on Crooked Creek Subdivision, Plat KN 75-35. The right-of-way being vacated is unconstructed;
 - * Vacation of the ten-foot-wide utility easement adjoining the western boundary of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
 - * Vacation of the five-foot-wide utility easement located thirty-five feet north of, and running parallel to, the Saskatoon Ave right-of-way across the entire width of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
 - * Vacation of the twenty-foot-wide utility easement adjoining the northern boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228
 - * Vacation of the ten-foot-wide utility easement adjoining the western boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228;
 - * Vacation of the ten-foot-wide utility easements on the north and south sides of the shared boundary between Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84- 228, and Tract D Crooked Creek Subdivision, Plat KN 75-35, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108.

The portion of the Saskatoon Avenue right-of-way and the utility easements proposed to be vacated are located within the NE1/4 of Section 12, T2N, R12W, S.M., AK, within the KPB; File 2017-173V.

Staff Report given by Max Best

PC Meeting: 1/8/18

Purpose as stated in petition: R/W is not currently in use by public. Road construction is impractical due to wetland & creek crossing. Public access to Crooked Creek will not be negatively affected. Better access exists upstream/downstream. N1/2 of R/W already vacated Per KN 2005-25 and KN 2004-83. Adjacent parcels under common ownership are being replatted into one tract.

None of the utility easements being vacated by this platting action are in use by a utility company, and usage of the easements is largely impractical due to the existing topography and wetlands. Existing utilities have been located per one-call and are shown. The vacation of these easements will not negatively affect the interests of the Kenai Peninsula Borough, or the interests of any of the utility companies as usable and practical existing utility easements will remain, as well as new utility easements being dedicated. See the submittal for details regarding the proposed vacations.

Petitioners: Patrick J. Marre and Kelly L. Marre of Wasilla, AK and James L. Heames and Donna Heames of Kasilof, AK.

Notification:

Public notice appeared in the December 28, 2017 issue of the Peninsula Clarion. The public hearing notice was published in the January 4, 2018 issues of the Peninsula Clarion, Homer News, and Seward Journal as part of the Commission's tentative agenda.

Seven certified mailings were sent to owners of property within 300 feet of the proposed vacations. Four receipts had been returned when the staff report was prepared. Three public hearing notices were sent by regular mail to owners within 600 feet of the proposed vacations.

The public hearing notice was emailed to 16 agencies and interested parties. The public hearing notice was distributed to 10 KPB Departments and 1 agency via shared database.

Notices were mailed to the Kasilof Post Office and Kasilof Community Library with a request to be posted in

public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comments, recommendations, or objections.

Homer Electric Association: No comments or objections.

ACS: No objection.

KPB Addressing Officer: No objection.

KPB Code Compliance: No comments.

KPB Planner: No material site or local option zone issues.

KPB River Center: The proposed vacation is not within a mapped flood hazard zone. The property is affected by the Anadromous Habitat Protection District.

KPB Roads Department: No comments.

State Department of Transportation & Public Facilities: Crooked Creek is a State maintained road. The 100' ROW was plat dedicated.

State Parks: No comments.

Staff Discussion:

If the vacations are approved, finalization will be by recording the plat Crooked Creek Subdivision Marre Replat. The plat is scheduled for Plat Committee review on January 22, 2018.

Crooked Creek, an anadromous stream protected by KPB 21.18, flows through Saskatoon Avenue. Crooked Creek adjoins the western portion of Saskatoon Avenue proposed to be vacated. Crooked Creek essentially subdivides the property since crossing the anadromous stream appears to be impractical.

The block does not and cannot comply with KPB 20.30.170 due to Crooked Creek.

DNR owns the adjoining 160-acre parcel to the south. This parcel is not within the Kenai Area Plan, but since Crooked Creek flows through the entire parcel, it seems unlikely DNR will subdivide the property for residential use.

Comments from GCI were not available when the staff report was prepared.

Staff's Findings:

1. If the vacations are approved, finalization will be accomplished by recording the plat Crooked Creek Subdivision Marre Replat.
2. Crooked Creek, an anadromous stream protected by KPB 21.18, flows through Crooked Creek Subdivision Marre Replat.
3. Tract C-1, KN 84-228, and Tract B1, KN 2004-83, to the west cannot use the portion of Saskatoon Avenue proposed for vacation for access due to the location of Crooked Creek.
4. Tract C-1, KN 84-228, has existing access off constructed Ray Street.
5. Tract B1, KN 2004-83, has existing access off constructed Ichabod Drive, which is partially maintained by KPB. Tract B1 also fronts Ray Street.

6. The 160-acre DNR parcel to the south has extensive access on State maintained Crooked Creek Road.
7. KPB Roads Department submitted a statement of no comments.
8. State Department of Transportation provided the width and general source of right-of-way dedication for Crooked Creek Road.
9. ENSTAR and Homer Electric Association submitted statements of no comments or objections.
10. Sufficient rights-of-way exist to serve surrounding properties.
11. Per the submittal, the right-of-way proposed for vacation is not in use for access.
12. Per the submittal, the right-of-way proposed for vacation has not been constructed.
13. No surrounding properties will be denied access.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the vacations as petitioned, subject to:

1. Consent of the proposed vacation by the KPB Assembly.
2. No objection from the utility providers.
3. Submittal of a final plat within a timeframe such that recordation of the plat can occur within one year of vacation consent.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, borough shall be considered to have given consent to the 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.

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Ruffner moved, seconded by Commissioner Whitney to grant the vacations of the public right-of-way and utility easements in the Cohoe area as petitioned based on the following findings of fact.

Findings

1. If the vacations are approved, finalization will be accomplished by recording the plat Crooked Creek Subdivision Marre Replat.
2. Crooked Creek, an anadromous stream protected by KPB 21.18, flows through Crooked Creek Subdivision Marre Replat.
3. Tract C-1, KN 84-228, and Tract B1, KN 2004-83, to the west cannot use the portion of Saskatoon Avenue proposed for vacation for access due to the location of Crooked Creek.
4. Tract C-1, KN 84-228, has existing access off constructed Ray Street.
5. Tract B1, KN 2004-83, has existing access off constructed Ichabod Drive, which is partially

- maintained by KPB. Tract B1 also fronts Ray Street.
6. The 160-acre DNR parcel to the south has extensive access on State maintained Crooked Creek Road.
 7. KPB Roads Department submitted a statement of no comments.
 8. State Department of Transportation provided the width and general source of right-of-way dedication for Crooked Creek Road.
 9. ENSTAR and Homer Electric Association submitted statements of no comments or objections.
 10. Sufficient rights-of-way exist to serve surrounding properties.
 11. Per the submittal, the right-of-way proposed for vacation is not in use for access.
 12. Per the submittal, the right-of-way proposed for vacation has not been constructed.
 13. No surrounding properties will be denied access.

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER ABSENT	ISHAM ABSENT
LOCKWOOD ABSENT	MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	10 YES 3 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

4. Vacation of a portion of the Willy Avenue right-of-way east of Brody Road adjoining the northernmost portion of the northern boundary of Tract B1A Kinrod 2003 Addition, Plat HM 2004-74, as dedicated on Kinrod 1998 Addition, Plat HM 99-8. The right-of-way being vacated is unconstructed and located within the SW1/4 of S31, T01S, R13W, SM, AK, within the KPB; KPB File 2017-166V.

Staff Report given by Max Best

PC Meeting: 1/8/18

Purpose as stated in petition: The existing right-of-way to be vacated only serves as access to the deed parcel dedicated in BK 99 PG 719, HRD. The lot lines of this property are going to be removed and the owners don't want an unnecessary right-of-way extending across their property.

Petitioners: Steven A. Tilbury, Patricia E. Tilbury, George Lindholm of Ninilchik, AK.

Notification:

Public notice appeared in the December 28, 2017 issue of the Homer News as a separate ad. The public hearing notice was published in the January 4, 2018 issues of the Peninsula Clarion, Homer News, and Seward Journal as part of the Commission's tentative agenda.

Seven public hearing notices were sent by certified mail to owners of property within 300 feet of the proposed vacation. Five receipts had been returned when the staff report was prepared. Four public hearing notices were sent by regular mail to owners of property within 600 feet of the proposed vacation.

Public hearing notices were emailed to 15 agencies and interested parties. One notice was emailed to a KPB Department. The public hearing notice was distributed to 10 KPB Departments and 1 agency by a shared database.

Notices were mailed to the Ninilchik Post Office and Ninilchik Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comments, recommendations, or objections.



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2215 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2215

www.kpb.us

**CHARLIE PIERCE
BOROUGH MAYOR**

January 11, 2018

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION

MEETING OF JANUARY 8, 2018

- RE: Vacation of public rights-of-way and utility easements in the Cohoe area described as follows:
- * Vacation of the eastern portion (approximately 620 feet) of the Saskatoon Avenue right-of-way as dedicated on Crooked Creek Subdivision, Plat KN 75-35. The right-of-way being vacated is unconstructed;
 - * Vacation of the ten-foot-wide utility easement adjoining the western boundary of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
 - * Vacation of the five-foot-wide utility easement located thirty-five feet north of, and running parallel to, the Saskatoon Ave right-of-way across the entire width of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
 - * Vacation of the twenty-foot-wide utility easement adjoining the northern boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228
 - * Vacation of the ten-foot-wide utility easement adjoining the western boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228;
 - * Vacation of the ten-foot-wide utility easements on the north and south sides of the shared boundary between Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84- 228, and Tract D Crooked Creek Subdivision, Plat KN 75-35, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108.

The portion of the Saskatoon Avenue right-of-way and the utility easements proposed to be vacated are located within the NE1/4 of Section 12, T2N, R12W, S.M., AK, within the KPB; File 2017-173V.

By unanimous consent, the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation during their regularly scheduled meeting of January 8, 2018 based on the following findings of fact.

Findings

1. If the vacations are approved, finalization will be accomplished by recording the plat Crooked Creek Subdivision Marre Replat.
2. Crooked Creek, an anadromous stream protected by KPB 21.18, flows through Crooked Creek Subdivision Marre Replat.
3. Tract C-1, KN 84-228, and Tract B1, KN 2004-83, to the west cannot use the portion of Saskatoon Avenue proposed for vacation for access due to the location of Crooked Creek.
4. Tract C-1, KN 84-228, has existing access off constructed Ray Street.
5. Tract B1, KN 2004-83, has existing access off constructed Ichabod Drive, which is partially maintained by KPB. Tract B1 also fronts Ray Street.
6. The 160-acre DNR parcel to the south has extensive access on State maintained Crooked Creek Road.

7. KPB Roads Department submitted a statement of no comments.
8. State Department of Transportation provided the width and general source of right-of-way dedication for Crooked Creek Road.
9. ENSTAR and Homer Electric Association submitted statements of no comments or objections.
10. Sufficient rights-of-way exist to serve surrounding properties.
11. Per the submittal, the right-of-way proposed for vacation is not in use for access.
12. Per the submittal, the right-of-way proposed for vacation has not been constructed.
13. No surrounding properties will be denied access.

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. The proposed vacation will be forwarded to the Borough Assembly. The Assembly shall have 30 calendar days from the date of approval (January 8, 2018) in which to veto the Planning Commission decision. If the Planning Director receives no veto within the specified period, the Assembly shall be considered to have given consent to the vacation.

Please contact the Borough Clerk's office (907-714-2160 or 1-800-478-4441 toll-free within the borough) for additional information.

This notice and unapproved minutes of the subject portion of the meeting were sent January 11, 2018 to:

McLane Consulting, Inc.
PO Box 468
Soldotna, AK 99669

Patrick & Kelly Marre
5650 E. Alder Dr.
Wasilla, AK 99654-4238

Jeff & Donna Heames
PO Box 111
Kasilof, AK 99610-0111

AGENDA ITEM F. PUBLIC HEARINGS

3. Vacation of public rights-of-way and utility easements in the Coho area described as follows:
- * Vacation of the eastern portion (approximately 620 feet) of the Saskatoon Avenue right-of-way as dedicated on Crooked Creek Subdivision, Plat KN 75-35. The right-of-way being vacated is unconstructed;
 - * Vacation of the ten foot wide utility easement adjoining the western boundary of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
 - * Vacation of the five foot wide utility easement located thirty five feet north of, and running parallel to, the Saskatoon Ave right-of-way across the entire width of Tract 2A1 Crooked Creek Subdivision 2004 Addition, Plat KN 2005-25, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108;
 - * Vacation of the twenty foot wide utility easement adjoining the northern boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228
 - * Vacation of the ten foot wide utility easement adjoining the western boundary of Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84-228;
 - * Vacation of the ten foot wide utility easements on the north and south sides of the shared boundary between Tract 2-C Crooked Creek Subdivision Marsh 1984 Subdivision of Tract C, Plat KN 84- 228, and Tract D Crooked Creek Subdivision, Plat KN 75-35, as originally granted on Crooked Creek Subdivision 1977 Subdivision of Tract A, Plat KN 85-108.

The portion of the Saskatoon Avenue right-of-way and the utility easements proposed to be vacated are located within the NE1/4 of Section 12, T2N, R12W, S.M., AK, within the KPB; File 2017-173V.

STAFF REPORT

PC Meeting: 1/8/18

Purpose as stated in petition: R/W is not currently in use by public. Road construction is impractical due to wetland & creek crossing. Public access to Crooked Creek will not be negatively affected. Better access exists upstream/downstream. N1/2 of R/W already vacated Per KN 2005-25 and KN 2004-83. Adjacent parcels under common ownership are being replatted into one tract.

None of the utility easements being vacated by this platting action are in use by a utility company, and usage of the easements is largely impractical due to the existing topography and wetlands. Existing utilities have been located per one-call and are shown. The vacation of these easements will not negatively affect the interests of the Kenai Peninsula Borough, or the interests of any of the utility companies as usable and practical existing utility easements will remain, as well as new utility easements being dedicated. See the submittal for details regarding the proposed vacations.

Petitioners: Patrick J. Marre and Kelly L. Marre of Wasilla, AK and James L. Heames and Donna Heames of Kasilof, AK.

Notification:

Public notice appeared in the December 28, 2017 issue of the Peninsula Clarion. The public hearing notice was published in the January 4, 2018 issues of the Peninsula Clarion, Homer News, and Seward Journal as part of the Commission's tentative agenda.

Seven certified mailings were sent to owners of property within 300 feet of the proposed vacations. Four receipts had been returned when the staff report was prepared. Three public hearing notices were sent by regular mail to owners within 600 feet of the proposed vacations.

The public hearing notice was emailed to 16 agencies and interested parties. The public hearing notice was distributed to 10 KPB Departments and 1 agency via shared database.

Notices were mailed to the Kasilof Post Office and Kasilof Community Library with a request to be posted in

public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comments, recommendations, or objections.

Homer Electric Association: No comments or objections.

ACS: No objection.

KPB Addressing Officer: No objection.

KPB Code Compliance: No comments.

KPB Planner: No material site or local option zone issues.

KPB River Center: The proposed vacation is not within a mapped flood hazard zone. The property is affected by the Anadromous Habitat Protection District.

KPB Roads Department: No comments.

State Department of Transportation & Public Facilities: Crooked Creek is a State maintained road. The 100' ROW was plat dedicated.

State Parks: No comments.

Staff Discussion:

If the vacations are approved, finalization will be by recording the plat Crooked Creek Subdivision Marre Replat. The plat is scheduled for Plat Committee review on January 22, 2018.

Crooked Creek, an anadromous stream protected by KPB 21.18, flows through Saskatoon Avenue. Crooked Creek adjoins the western portion of Saskatoon Avenue proposed to be vacated. Crooked Creek essentially subdivides the property since crossing the anadromous stream appears to be impractical.

The block does not and cannot comply with KPB 20.30.170 due to Crooked Creek.

DNR owns the adjoining 160-acre parcel to the south. This parcel is not within the Kenai Area Plan, but since Crooked Creek flows through the entire parcel, it seems unlikely DNR will subdivide the property for residential use.

Comments from GCI were not available when the staff report was prepared.

Staff's Findings:

1. If the vacations are approved, finalization will be accomplished by recording the plat Crooked Creek Subdivision Marre Replat.
2. Crooked Creek, an anadromous stream protected by KPB 21.18, flows through Crooked Creek Subdivision Marre Replat.
3. Tract C-1, KN 84-228, and Tract B1, KN 2004-83, to the west cannot use the portion of Saskatoon Avenue proposed for vacation for access due to the location of Crooked Creek.
4. Tract C-1, KN 84-228, has existing access off constructed Ray Street.
5. Tract B1, KN 2004-83, has existing access off constructed Ichabod Drive, which is partially maintained by KPB. Tract B1 also fronts Ray Street.

6. The 160-acre DNR parcel to the south has extensive access on State maintained Crooked Creek Road.
7. KPB Roads Department submitted a statement of no comments.
8. State Department of Transportation provided the width and general source of right-of-way dedication for Crooked Creek Road.
9. ENSTAR and Homer Electric Association submitted statements of no comments or objections.
10. Sufficient rights-of-way exist to serve surrounding properties.
11. Per the submittal, the right-of-way proposed for vacation is not in use for access.
12. Per the submittal, the right-of-way proposed for vacation has not been constructed.
13. No surrounding properties will be denied access.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the vacations as petitioned, subject to:

1. Consent of the proposed vacation by the KPB Assembly.
2. No objection from the utility providers.
3. Submittal of a final plat within a timeframe such that recordation of the plat can occur within one year of vacation consent.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, borough shall be considered to have given consent to the 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.

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT



CROOKED CREEK SUBDIVISION, 2004 ADDITION

A replat of Tract 2A Crooked Creek Subd. 1977 Subd. of Tract A (KRD 85-108), vacating a portion of Saskatoon Ave. & associated utility easement.

Located in the NE1/4 Section 12, T2N R12W, S1M, Kaslof, Alaska
Kenai Recording District KPB File 2003-218 & 2004-218

Prepared for
Joseph Kronk
20975 Crooked Creek Rd
Kaslof, AK 99610

Prepared by
Johnson Surveying
Box 27
Clan Gulch, AK 99568



18 April 2005

SCALE 1" = 100' AREA = 4.638 acres 17 July, 2004

NOTES

1. A building setback of 20' from all street RDVs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Front 10' of building setback is also a utility easement, as is the entire setback within 5' of side lot lines.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
3. Saskatoon Avenue and associated utility easement vacation was approved by the KPB Planning Commission at the meeting of 24 November, 2003.
4. No access to State maintained RDVs allowed unless approved by the State of Alaska Dept. of Transportation.

PLAT APPROVAL

This plat was approved at the Kenai Peninsula Borough Planning Commission meeting of 23 August, 2004.

KENAI PENINSULA BOROUGH

By Mary Lee 2/6/2005
Authorized Official Date

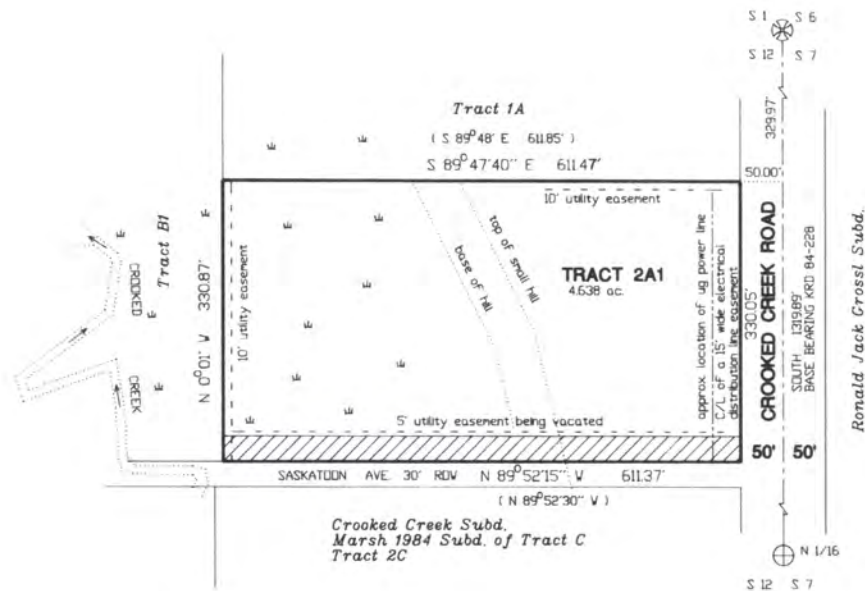
2005-25
RECORDED ~~FILED~~ 20
KENAI REC. DIST.
DATE 5-9-2005
TIME 9:35 AM
Requested by:
Johnson Surveying
Box 27
Clan Gulch, AK 99568

LEGEND

- ⊗ - USBLM 3 1/2" brass cap monument, 1954, Found
- ⊕ - 2 1/2" brass cap monument, 268-S, 1978, Found
- - 1/2" rebar lot corner, Found
- ⊥ - 1/2" x 4" rebar with 1" plastic cap, set
- () - Record information, plat KRD 85-108
- ⋆ - Indicates swamp
- ▨ - Indicates RDV being vacated

WASTEWATER DISPOSAL

These lots are 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 system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.



OWNERSHIP CERTIFICATE

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

Joseph C. Kronk, Jr.
Joseph C. Kronk, Jr., Trustee of the Kronk Trust
20975 Crooked Creek Road
Kaslof, AK 99610

NOTARYS ACKNOWLEDGEMENT

For: Joseph C. Kronk, Jr.
Subscribed and sworn to before me this 14th

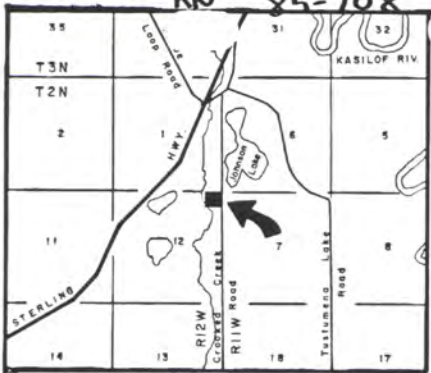
day of April, 2005

Robert L. Johnson
Notary Public For Alaska

My commission expires January 7, 2006



KN 85-108



VICINITY 1" = 1 Mi. MAP



BOX 508 CLAM GULCH, AK 99568

CROOKED CREEK SUBDIVISION

1977 SUBDIVISION OF TRACT - A

LOCATED IN SEC LOT 1, NE1/4 SEC 12, T2N, R12W, S.M. KASILOF, AK.

SCALE 1" = 200'

AREA = 8.397 AC.

6 - 2 - 1983

BY JOSEPH DITTRICK BOX 31, KASILOF, ALASKA 99610

NOTE: Data shown is largely from BLM plat and is subject to a true field survey of Sec. Lot 1, Sec. 12. No stakes found or set this date.

A 10' utility easement along all roads.

A bldg. setback of 20' from all rows is required unless a lesser standard is approved by a resolution of the appropriate planning commission.

LEGEND

○ - Brass cap monument existing 1967

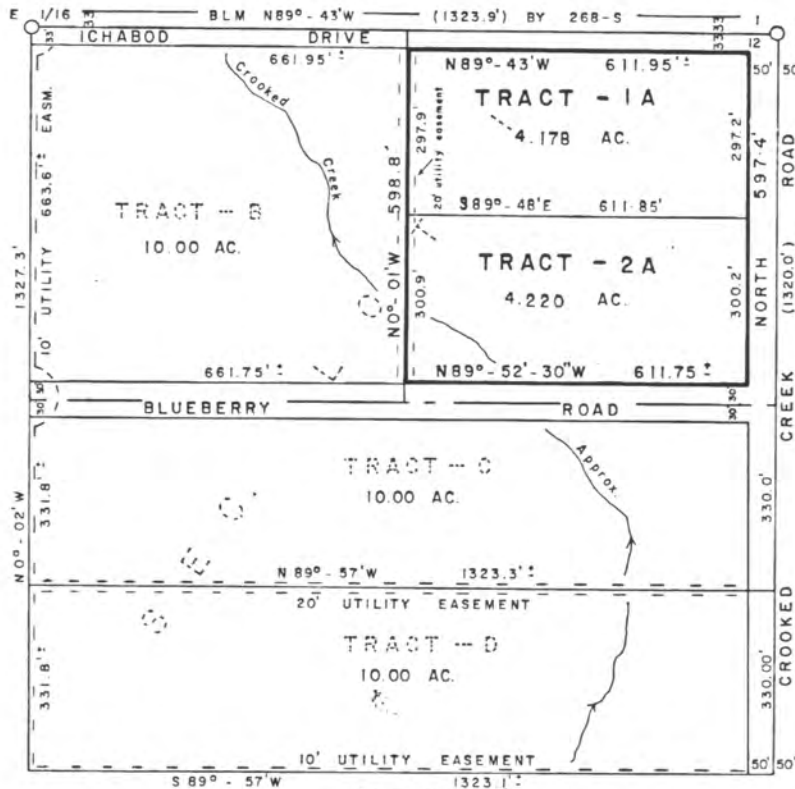
PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of AUGUST 13, 1984

KENAI PENINSULA BOROUGH

BY Richard O. Tudge 6-13-85
Authorized Official

ATKINSON SUBD



OWNERS' CERTIFICATE

I hereby certify that I am the owner of the property shown and described hereon, and that I hereby adopt this plan of subdivision, and grant all easements to users shown.

Joseph A. Dittrick
JOSEPH A. DITTRICK Box 131 Kasilof, Ak. 99610

85-108

RECORDED (11 FL) 10

Kenai REC. DIST.

DATE 6-14-85

DATE 3-12-85

BY Henning Johnson

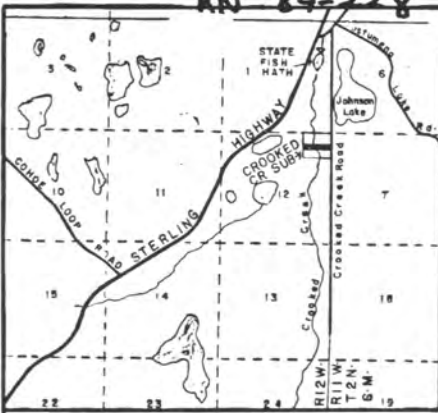
NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this 17 day of DECEMBER 1984

Carol Cuseo
NOTARY PUBLIC FOR ALASKA (for Joseph Dittrick)
My commission expires Postmarked 9/25/86



KN 84-228



VICINITY MAP SCALE=1"=1 MILE

CROOKED CREEK SUBDIVISION

MARSH 1984 SUBDIVISION OF TRACT - C

LOCATED IN GOV. LOT 1, FRACTIONAL NE 1/4 SEC. 12 T2N R12W S 11M, KASILOF, ALASKA
By: Mackey Marsh Box 378 Kasilof, Alaska 99610

SCALE=1"=200'

AREA= 8.792 AC.

JULY 9, 1984

LEGEND

- ✦ - 1954 brass cap by USBLM found
- ⊙ - brass cap by 268-S found
- - 1/2" X 2' rebar set
- ⊞ - Low wet ground

NOTE

A 20' bldg set-back along all R.O.W.s to be limit of UTILITY EASEMENTS along streets.

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of

AUGUST 13 1984.

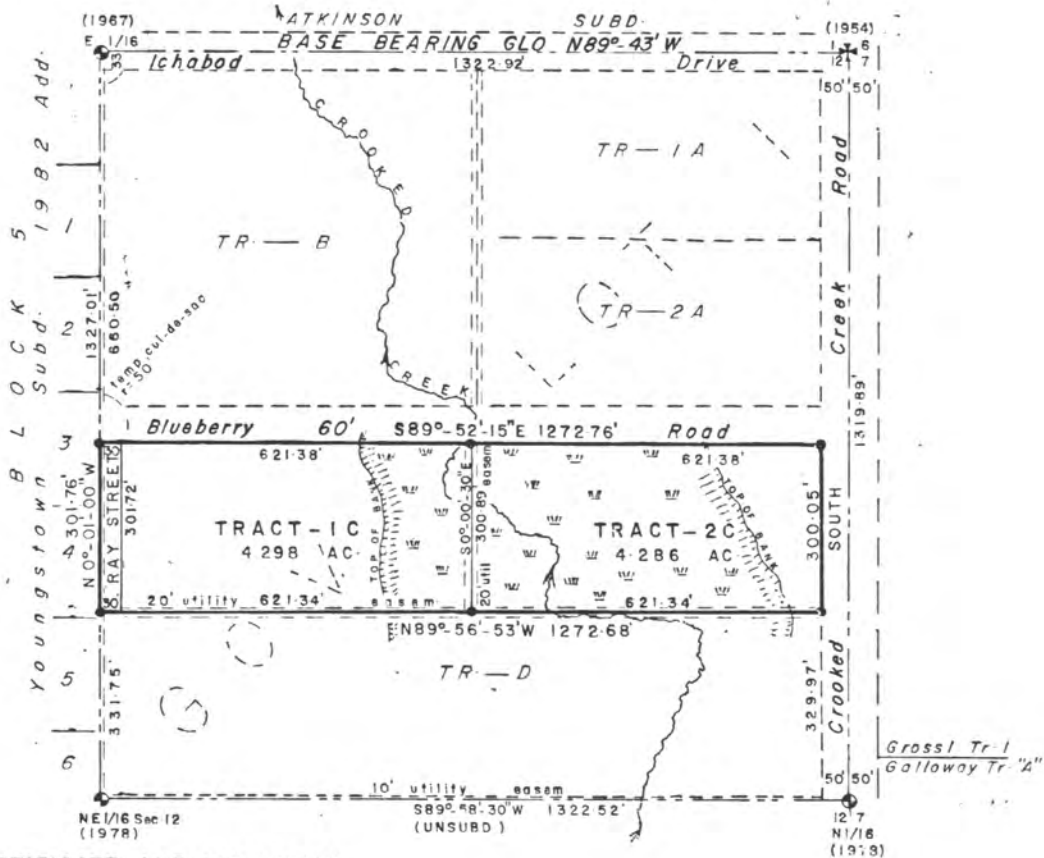
KENAI PENINSULA BOROUGH

Date 8/27/84 Thomas R. Linn
Authorized Official

84-228

FILED 10-
Kenai REC DIST

DATE 8/27 1984
TIME 3:18 P.M.
Surveyed by Hennig Johnson
Address _____



OWNER'S CERTIFICATE AND DEDICATION

I hereby certify that I am the Owner of the property shown and described herein, and I hereby adopt this plan of subdivision, and dedicate all streets to public use, and grant all easements to uses shown.

Mackey Marsh
Mackey Marsh

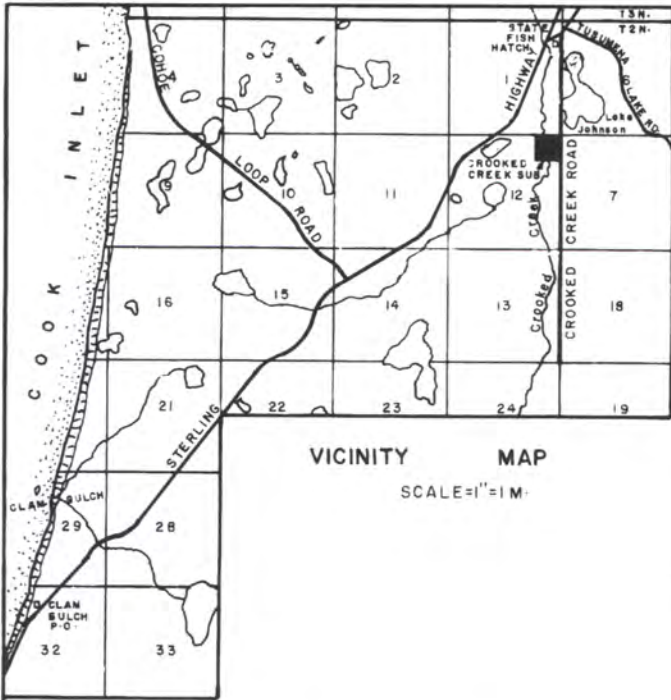
NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this 12th day of July 1984.

Marie Griffin
NOTARY PUBLIC FOR ALASKA
For Mackey Marsh
8-23-84
My commission expires _____

ISOLATED
SUBDIVISION
ADOC APPROVAL
NOT REQUIRED
18 ACC 72.065
Sharon Johnson





VICINITY MAP

SCALE=1"=1M.

CROOKED CREEK SUBDIVISION

LOCATED IN SEC. LOT 1, SEC. 12, T2N. R12W. S.M. KASLOF, ALASKA

BY: ROBERT AND NITA CORREIA, CLAM GULCH, ALASKA.

CONTAINING 40.11 AC. ±

SCALE = 1" = 200'

JUNE 10, 1974

ALIQUOT PARTS ARE OF SEC. LOT 1.

DATA SHOWN IS LARGELY FROM BLM PLAT AND IS SUBJECT TO A TRUE FIELD SURVEY OF SEC. LOT 1, SEC. 12. NO STAKES FOUND OR SET THIS DATE.

A 5' U.G. AND TREE CUTTING EASEMENT ALONG ALL ROADS FOR HOMER ELEC. ASSOC. TEMP. CUL-DE-SACS RADIUS=50'.

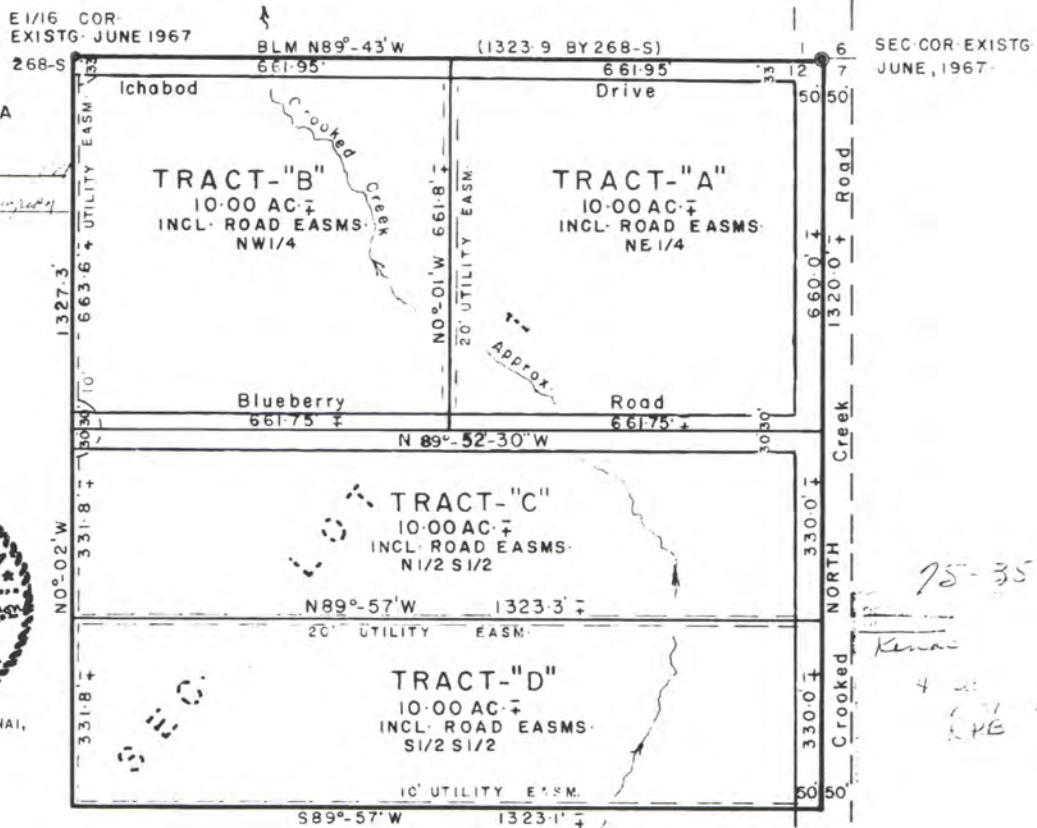
● --- INDICATES BRASS CAPPED MON. EXISTG. 1967.

KENAI PENINSULA BOROUGH APPROVED

BY: *[Signature]*
Mayor



STAR ROUTE 2, KENAI, ALASKA 99611



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 STREETS TO PUBLIC USE AND TO THE USE OF PUBLIC UTILITIES.

OWNER _____

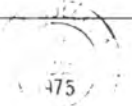
OWNER _____

OWNER _____

STATE OF ALASKA, THIRD JUDICIAL DISTRICT

SUBSCRIBED AND SWORN BEFORE ME THIS _____ OF _____ 1974

NOTARY PUBLIC FOR ALASKA
My Commission Expires _____



SE-56 NY





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





	Right of Way Vacation
	Utility Easement Vacation



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



	Right of Way Vacation
	Utility Easement Vacation

AGENDA ITEM D. SUBDIVISION PLAT PUBLIC HEARINGS

6. Crooked Creek Subdivision 2003 Addition
 KPB FILE 2004-092 [Johnson/Gorlick]

Staff report as reviewed by Maria Sweppy.

Plat Committee Meeting 4/26/2004

Location: On Crooked Creek, between Sterling Hwy. and Crooked Creek Road, Kasilof
Proposed Use: Residential
Zoning: Unrestricted
Sewer/Water: On site
Assessing Use: Recreation/Cabin

Supporting Information:

This plat will finalize a right-of-way and utility easement vacation approved by the Planning Commission in November 2003. Alternate right-of-way is proposed to be dedicated over the existing road.

Comments had not been received from the Kenai River Center when this report was prepared.

Staff recommends the vacation approval date be shown or noted on the plat. A condition of the vacation approval requires a final plat be submitted within one year of the vacation approval.

Staff recommends the following note be placed on the plat: *Roads must meet the design and construction standards established by the borough in order to be considered for certification and inclusion in the road maintenance program.*

Per KPB Resolution 2000-025, if the Certificate to Plat indicates any beneficial interests affect this property, they will be notified and given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

Staff recommends that notes be placed on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

Exceptions Requested: KPB 20.20.110 -- right-of-way width for Ray Street. The submittal letter states the 20-foot dedication proposed by the plat is adequate for the limited use envisioned for the area.

Findings:

1. The vacation was approved subject to dedication of a right-of-way to encompass the existing travel way.
2. The vacation was approved subject to dedication of a 30-foot right-of-way if the travel way and utilities were not encompassed within a 20-foot dedication.
3. The preliminary plat shows the easterly edge of the travel way near or outside the proposed 20-foot dedication for the entire length.
4. A 20-foot dedication would result in portions of the travel way being located on private property.
5. The road may have been in use for access to surrounding properties since 1975.
6. The road extends the dedication of Ray Street from the south, a 30-foot dedication.
7. The additional right-of-way is needed for routine maintenance, such as plowing and ditching.
8. Lots to the south of this subdivision are large enough that further subdivision is possible.
9. Further subdivision could result in additional use of the road.
10. A 30-foot dedication results in an approximately equal area exchange for the vacated right-of-way.

Planning staff has reviewed this request and recommends denial of the exception request. **Planning staff recommends** a 30-foot dedication be provided.

20.24.010 provides that the commission may authorize exceptions to any of the requirements set forth in Title 20. This section also states - The commission shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Staff requests and recommends the committee make their findings, tying them specifically to each of the above three facts, and vote on the requested exception in a separate motion.

STAFF RECOMMENDATIONS: Grant approval of the preliminary plat subject to any above recommendations, and the following conditions:

REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.12 AS FOLLOWS:

1. Vicinity map – correct spelling of Tustumena.

ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE APPROVAL OF FINAL PLAT IN ACCORDANCE WITH TITLE 20 INCLUDE:

2. Provide or correct dedication and/or approval statement with notary's acknowledgment as needed.
3. Survey and monumentation to meet Ordinance requirements; or an exception having been granted.
4. Show building setback statement per 20.20.230.
5. Conform to conditions of KPB Planning Commission Resolution 78-6.
6. Compliance with Chapter 20.16.155 D & 20.14 Wastewater Disposal regulations - note.
7. Compliance with Ordinance 90-38 (Substitute) - Ownership.
8. Compliance with Ordinance 90-43 Easement Definition.
9. Compliance with Ordinance 93-59 - Payment of all taxes due prior to final approval. If final approval and filing of plat is sought between January 1 and the tax due date, the full amount of the estimated taxes will be on deposit with the Finance Department.

NOTE: A NOTICE OF RECONSIDERATION MAY BE TAKEN FROM THE DECISION OF THE PLAT COMMITTEE TO THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH PLANNING DEPARTMENT WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE, SERVICE BY MAIL, OR PUBLICATION. (2.40.080 BOROUGH CODE OF ORDINANCES).

THE NOTICE OF RECONSIDERATION SHALL BRIEFLY STATE THE REASON RECONSIDERATION IS REQUESTED AND THE APPLICABLE PROVISIONS OF THE BOROUGH CODE OR OTHER LAW UPON WHICH RECONSIDERATION IS BASED.

END OF STAFF REPORT

ADDENDUM TO THE STAFF REPORT

Staff report addendum as read by Maria Sweppy.

Plat Committee Meeting 4/26/2004

Exceptions Requested: The owner originally requested an exception to KPB 20.20.110 right-of-way width for Ray Street. He wanted to provide a 20-foot dedication proposed by the plat. Staff could not make findings to support the request and recommended denial.

The owner's intention was to retain as much usable area on his lot as possible. He had requested the 20-foot width, realizing that KPB 20.20.230 required a 20-foot building setback along the right-of-way. This would have resulted in a total of 40 feet of land no longer available for development.

Staff worked with the owner to find a safe and acceptable design that would satisfy both the Borough's and the owner's

needs.

The owner is withdrawing the request for an exception to the full half right-of-way dedication and extension of Ray Street, and is requesting an exception to the KPB 20.20.230 Building Setback. He proposes a 10-foot setback adjacent to Ray Street and no setback adjacent to the remaining half dedication of Saskatoon Avenue.

Staff has made findings to support the revised proposal and recommends granting the revised exception, as requested. If approved, a note will appear on the final plat to indicate there is a 10-foot utility easement and building setback adjacent to Ray Street dedication and no building setback along Saskatoon Avenue.

Findings:

1. The purpose of the vacation action is to provide an alternate dedication over the constructed road (Ray Street).
2. The dedication will provide legal access on a road used by three parcels.
3. The dedication will prevent the need for costly and lengthy legal actions for people who use the road, as well as the landowner.
4. Due to the terrain and surrounding subdivision pattern, Ray Street will have limited vehicular traffic.
5. Ray Street will be a short (approximately 990 feet) total dedication, including the 627 feet being dedicated by this plat.
6. Ray Street is straight with no sight distance problems.
7. The constructed road will lie within the dedication.
8. Saskatoon Avenue will be a half dedication with the adjacent landowners wishing to retain the half right-of-way for public access.
9. The location of Crooked Creek and the associated wetlands severely limit or prohibit the potential for vehicular use of Saskatoon Avenue.
10. Saskatoon Avenue is a straight dedication.
11. Saskatoon Avenue is not constructed.
12. Due to the limited usage potential, sight distance will not be an issue on Saskatoon Avenue.
13. The owner of the proposed subdivision accesses from Ihabod Street, along the north boundary, further limiting traffic on Ray Street.

20.24.010 provides that the commission (committee) may authorize exceptions to any of the requirements set forth in Title 20. This section also states - The commission (committee) shall find the following facts before granting any exceptions:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-12 appear to support this condition.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-12 appear to support this condition.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-13 appear to support this condition.

Staff requests and recommends the committee make their findings, tying them specifically to each of the above three facts, and vote on the requested exception in a separate motion.

STAFF RECOMMENDATIONS: Grant approval of preliminary plat subject to above recommendations, and the recommendations in the original staff report. The request for redesign to provide a 30-foot dedication is no longer applicable.

END OF STAFF REPORT ADDENDUM

Chairman Martin read the rules by which public hearings are conducted and opened the meeting for public comment.

1. Terry Gorlick, Anchorage

Mr. Gorlick hoped to move to the Kenai Peninsula soon. He read a statement into the record.

I would like to thank the Planning Department for all their continued help in guiding me through this process. Also, I would like to thank Jerry Johnson for his help in understanding the boundaries, easements, rights-of-way, and utilities. In my request today, I would like to review the two subjects, the dedication of right-of-way and the vacation.

First, the Planning Board agreed with the Corps of Engineers, Department of Fish & Game, Office of Habitat Management and Permitting, as well as numerous others that the street vacated was unfit due to the wetland and stream crossing for any kind of road. The commission allowed me to vacate my portion and allowed my neighbor's half to remain for his use as public or private access. Thirty feet is ample use for him or others so I requested a variance to the setback on my portion. This will not impact any party to give up setback for the right-of-way. I reviewed the option with Mary Toll and was informed it was acceptable, which is reflected in the addendum.

Second, the right-of-way being dedicated is being done so the pathway used by the neighbors for so many years can continue without any liability to me in case of any accident or mishap. The current pathway is slightly more than 20 feet (24 feet at the southern end) and encompasses a portion of the utility. Staff asked me to increase the right-of-way width to 30 feet. I have asked for a 10-foot setback, which would be an exception to the 20-foot setback. I am not opposed to that option, but I would have opposed a 20-foot setback as unnecessary as the utilities are already in and located.

Mr. Gorlick offered to answer questions. He added that he would appreciate retaining any property he could. No questions were heard.

Seeing and hearing no one else wishing to comment, Chairman Martin closed the public hearing and opened discussion among the Committee.

MOTION: Commissioner Massion moved, seconded by Commissioner Foster, to approve an exception to KPB 20.20.230, building setback, tying the findings to the facts.

Commissioner Johnson abstained from discussion and voting.

It was the consensus of the Plat Committee that:

Findings 1-12 applied to Fact 1 (That special circumstances or conditions affecting the property have been shown by application.);

Findings 1-12 applied to Fact 2 (That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title);

Findings 1-13 applied to Fact 3 (That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.).

Findings:

1. The purpose of the vacation action is to provide an alternate dedication over the constructed road (Ray Street).
2. The dedication will provide legal access on a road used by three parcels.
3. The dedication will prevent the need for costly and lengthy legal actions for people who use the road, as well as the landowner.
4. Due to the terrain and surrounding subdivision pattern, Ray Street will have limited vehicular traffic.
5. Ray Street will be a short (approximately 990 feet) total dedication, including the 627 feet being dedicated by this plat.
6. Ray Street is straight with no sight distance problems.
7. The constructed road will lie within the dedication.
8. Saskatoon Avenue will be a half dedication with the adjacent landowners wishing to retain the half right-of-way for public access.

9. The location of Crooked Creek and the associated wetlands severely limit or prohibit the potential for vehicular use of Saskatoon Avenue.
10. Saskatoon Avenue is a straight dedication.
11. Saskatoon Avenue is not constructed.
12. Due to the limited usage potential, sight distance will not be an issue on Saskatoon Avenue.
13. The owner of the proposed subdivision accesses from Ichabod Street, along the north boundary, further limiting traffic on Ray Street.

VOTE: The motion passed by unanimous consent with one abstention.

FOSTER YES	JOHNSON ABSTAINED	MARTIN YES	MASSION YES	THREE YES ONE ABSTAINED
---------------	----------------------	---------------	----------------	----------------------------

Chairman Martin entertained a motion for the plat.

MOTION: Commissioner Massion moved, seconded by Commissioner Foster, to grant approval to the preliminary plat subject to staff recommendations.

Commissioner Johnson abstained from discussion and voting.

VOTE: The motion passed by unanimous consent with one abstention.

FOSTER YES	JOHNSON ABSTAINED	MARTIN YES	MASSION YES	THREE YES ONE ABSTAINED
---------------	----------------------	---------------	----------------	----------------------------

AGENDA ITEM D. SUBDIVISION PLAT PUBLIC HEARINGS

1. Jesse Lee Heights Addition No. 5
KPB FILE 2004-089 [McLane/Safeway]

STAFF REPORT

Plat Committee Meeting 4/26/2004

Location: City of Seward
 Proposed Use: Commercial
 Zoning: Not provided
 Sewer/Water: City
 Assessing Use: Commercial, Vacant

The Seward Planning and Zoning Commission scheduled this plat for review on April 6, 2004, one day after the submittal cut-off date for the borough meeting. The Borough Planning Department scheduled it for the April 26, 2004 Plat Committee meeting based upon assurance that the minutes would be provided immediately after the city meeting.

The minutes have not been provided, and the city was contacted. They have postponed action on the plat till the April 20 meeting. This falls one day after the April 19 cut-off for the May 10 Borough meeting.

KPB 20.12.050 (A) gives the city advisory planning commission 49 days from the date of receipt in which to review the preliminary plat and take action.

KPB 20.12.050 (C) requires that the written comments from the city advisory planning commission be included with the submittal to the Borough

The plat will be rescheduled when the city planning and zoning minutes are received.

END OF STAFF REPORT

Ms. Sweppy advised the committee that staff received the required information, and the plat was scheduled for review on May 10.

Chairman Martin opened the meeting for public comment. No requests to speak were heard. **The Plat Committee**

of December 2004 – 2005).

Review Coordinating Agencies

State of Alaska
OPMP- Office of Project Management & Permitting
DMLW- Division of Mining, Land and Water
DO&G- Division of Oil & Gas
ADEC- Alaska Department of Environmental Conservation
ADOT&PF- Alaska Department of Transportation & Public Facilities
DOF- Division of Forestry
ADF&G- Alaska Department of Fish and Game

Other Agencies:
USACE- Army Corps of Engineers, USFS -U.S. Forest Service

END OF CURRENT REVIEWS

AGENDA ITEM C. CONSENT AGENDA

7. Commissioner Excused Absences
 - a. Mari Anne Gross
 - b. Lynn Hohl
 - c. Blair Martin
 - d. Mark Massion

AGENDA ITEM C. CONSENT AGENDA

7. Minutes
 - a. November 10, 2003 Plat Committee Minutes
 - b. November 10, 2003 Planning Commission Minutes

MOTION: Commissioner Tauriainen moved, seconded by Commissioner Isham, to adopt the consent agenda and approve the regular agenda. Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

AGENDA ITEM D. PUBLIC COMMENT/PRESENTATIONS/COMMISSIONERS

Chairman Bryson called for public comment for items not on the consent agenda. No requests to speak were heard.

AGENDA ITEM E. UNFINISHED BUSINESS

1. Vacate a portion of Saskatoon Avenue (dedicated by as Blueberry Avenue and renamed by KPB PC Resolution SN 95-02), and associated utility easements, west of Crooked Creek, dedicated by Crooked Creek Subdivision (Plat KN 75-35); within Section 12, Township 2 North, Range 12 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2003-218; carried forward from November 10, 2003

STAFF REPORT

PC Meeting 11/24/2003

Purpose as stated in petition: (Summarized from petition and discussion with petitioner). There is a constructed travel way within Ray Street. This extends north out of the dedication to Ichabod Drive, along the west boundary of the Gorlick parcel. It appears to be used as the sole access for two lots south of the Gorlick parcel. The petitioner proposes

dedication of a 20-foot right-of-way to encompass the constructed road, and vacation of those portions of the utility easement not needed to accommodate the existing power line (exact location to be determined with survey if vacation is approved).

Petitioners: Terry Gorlick and Joseph C. Kronk of Kasilof, Alaska

Public notice appeared in the October 23 and October 30, 2002 issues of the Peninsula Clarion.

Twenty (20) certified mailings were sent to owners of property within 300 feet of the parcels; eighteen (18) of the receipts have been returned.

Eleven (11) regular mailings were sent to agencies and interested parties; nine (9) notices were sent to KPB Departments. Four (4) notices were posted in public locations. The notice and maps were posted on the Borough web site.

Statement(s) of non-objection

KPB River Center

Homer Electric Association (subject to retention of 20-foot easement centered on existing power line)

Staff discussion

It is not clear how many years this encroaching road has been in use. The oldest structure that appears to use the road for access is on the lot farthest to the south. Assessing records indicate the house on that lot was built in 1975. The house on the lot on the south side of Saskatoon was constructed in 1985. There is also a driveway in use to a lot on the west side of the encroaching road. The travel way proposed for dedication is not shown on the 1974 plat that dedicated Saskatoon Avenue (as Blueberry Road) or on the 1984 plat that dedicated the 300 foot portion of Ray Street.

This vacation is proposed in exchange for a dedication along the existing road that is currently in use. Access to the lots from Saskatoon Avenue is not feasible since it crosses Cooked Creek, a small creek that floods annually, surrounded on both sides by large swampy areas. Flooding last winter took out the two large culverts and the closest crossing of this creek at the hatchery approximately one mile north. The crossing has not yet been replaced. IF any crossing of the creek is ever put in place near the location of Saskatoon, staff would predict it to be on Ihabod Drive, a major through dedication between the highway and Crooked Creek Road.

Borough Road Maintenance has requested a 30-foot dedication, stating that a 20-foot dedication would not qualify for road maintenance. Staff was not aware that a 30-foot half dedication was able to qualify for maintenance. The road has not been constructed to Borough standards, and does not appear to be a candidate for maintenance no matter what size the dedication. The landowner wants to provide the minimal dedication to accommodate the existing road and power line, and retain the maximum developable property since it is his intention to fence the property and raise llamas.

This dedication, even at a substandard size of 20 feet, greatly improves an existing situation. Public access is provided to three lots along a road that clearly accommodates the level of traffic using it.

The owner of the tract to the south of Saskatoon Avenue voiced telephone opposition to the vacation, indicating he had purchased to the adjoining property to the east and may desire to use Saskatoon as access. That parcel. Tract 2C, accesses off Crooked Creek Road and for the reasons outlined above, access from Saskatoon on the west side of Crooked Creek is not feasible. If he does not wish to participate in the vacation, **staff recommends** the portion of Saskatoon from the centerline north, west of Crooked Creek, be vacated, with the southerly 30-foot dedication remaining in place for pedestrian access to the creek. The large swampy area on both sides of the creek does not easily accommodate pedestrian access.

Staff recommends that the vacation be approved, subject to a dedication sufficient to cover the existing road and any utilities located within the Gorlick property with a 20-foot minimum dedication. If the 20-foot dedication does not encompass the entire road and utilities, **staff recommends** the dedication be increased to 30 feet.

Findings:

1. If a dedication is provided in exchange for the vacation, sufficient rights-of-way will exist to serve the surrounding properties.
2. If a dedication is provided in exchange for the vacation, surrounding properties will not be denied access.
3. Per the submittal, the right-of-way proposed for vacation is not in use for access.
4. Per the submittal, the right-of-way proposed for vacation has not been constructed.
5. The right-of-way does not appear to be in use for utilities.
6. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
7. To date, one utility company has provided a letter of non-objection.
8. To date, no letters of opposition have been submitted.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the vacations as petitioned, subject to:

1. Submittal of a preliminary plat in accordance with Chapter 20 of the KPB Code (submittal of a final plat within one year of vacation approval).

If the vacation is approved, the Kenai Peninsula Borough Assembly has thirty days in which they may veto Planning Commission approval of the vacation.

DENIAL OF A VACATION PETITION IS A FINAL ACT FOR WHICH NO FURTHER CONSIDERATION SHALL BE GIVEN BY THE KENAI PENINSULA BOROUGH. APPEALS TO PLANNING COMMISSION DENIAL OF A VACATION MUST BE TAKEN WITHIN THIRTY (30) DAYS TO SUPERIOR COURT AT KENAI, ALASKA PURSUANT TO PART VI OF THE ALASKA RULES OF APPELLATE PROCEDURES. [20.28.110 AS AMENDED BY KENAI PENINSULA BOROUGH ORDINANCE 99-43].

END OF STAFF REPORT

Mr. Best advised the Commission that the staff report had not been changed. Additional information was provided in the desk packet. The public hearing has been closed. He understood that some people present wished to give the Commission additional information. He suggested the public hearing be re-opened.

Chairman Bryson read the rules by which public hearings are conducted. He re-opened the meeting for public comment and called for new information.

1. Terry Gorlick, Anchorage

Mr. Gorlick hoped to move to his property in Kasilof soon. He provided a small packet of information for the desk packet. *(Clerk's Note: A copy was provided for the subject file.)*

Mr. Gorlick read a letter from Patsy Archer, Archer Escrow Company, regarding the vacation and dedication.

I was contacted by Mr. Gorlick and Dale Dolifka in assisting the parties in the Crooked Crook Subdivision area to develop a conclusion to the original trespass along the travel way to be dedicated as a road.

On July 25, 2003, I forwarded letters to concerned parties, Jon Baker, Lori & Scott Sarchet and Jeff and Donna Heames. In conversations with Sarchet and Heames, all parties were in favor of this vacation and dedication of right of way, as the road currently exists and are participating in the costs involved.

On August 5, 2003 I spoke with Diane Hogan/Baker and she had advised me that they would be agreeable to vacate the entire Saskatoon Ave., provided they received one-half on the vacated road. They since changed their stand and said they would not participate at all. Obviously, they have since changed their minds due to personal conflicts they perceive between themselves and Mr. Gorlick.

It's unfortunate that one party would attempt to delay this very reasonable resolution. This dedication/vacation would be to the benefit of all parties involved and I strongly urge approval by the Planning Commission.

The surveyor, Gerald Johnson, is awaiting approval to proceed.

Mr. Gorlick commented that the road was 17-24 feet wide. It connected to the existing Ray Street, which accessed the Atkinson Subdivision. The dedication would become a Borough Street and an extension of Ray Street, which would connect with Ichabod Street. It is an improved road, which has been used by all aforementioned parties for access for an extended period of time.

Mr. Gorlick read his letter dated November 11, 2003

The proposal for vacation of Saskatoon and the new road dedication is an excellent opportunity for the Borough and the neighbors of Crooked Creek Subdivision. It allows for permanent access of Ichabod and a continuation of Ray Street from the Crooked Creek Subdivision Plat to the Atkinson Subdivision Plat. This allows and makes available easy and safe access for neighbors, Borough, utility and emergency vehicles as needed. It also allows for the Saskatoon right of way, which is environmentally unsafe, as well as economically unfeasible, to be transferred to the property owners for residential development and improvement.

Any consideration to build a road in the Saskatoon right of way would take approval and impact statements from an excess of 5 major agencies as well as numerous environmental groups who would most probably oppose the wetland river crossing.

The Bakers who state to own both lot; (parcels) on the south side of the Saskatoon can make improvements or build roads with proper approvals on their own private property. This also would be accomplished with the vacation of Saskatoon.

In conclusion, the vacation of Saskatoon and the dedication of the continuation of Ray Street seems to best suit the subdivision, the community, and the Borough.

Mr. Gorlick commented that the Bakers, the only ones who object to the vacation at this time, purchased property in the Youngstown Subdivision, which is almost directly across from their property. Their proposal is to connect Pearl Street to Saskatoon, which would benefit only the Bakers. The subject vacation and proposed dedication serves a group instead of only two property owners.

Mr. Gorlick spoke with Dan Bevington, Coastal Management Program, on November 14, 2003. Mr. Bevington supported staff's recommendation regarding the vacation of Saskatoon. He indicated the importance of protecting Crooked Creek. Additional details are in Mr. Bevington's November 10 memorandum.

Mr. Gorlick read letter dated November 12 from himself and Joseph Kronk.

Joseph Kronk Petitioner #2, as well as, Terry Gorlick Petitioner #1 both have Saskatoon traveling the Southeast and Southwest through a border of their property respectively. This property is within the flood plain and being directly crossed by Crooked Creek. We were informed by the Corps of Engineers, Case #9-2003-0749, dated June 10, 2003, that the property within Section 12 T2N, R12W, Seward Meridian, the Valley type area and the River in which Saskatoon (the property proposed for vacation) falls within, the wetlands fall under Corps of Engineers jurisdiction, as well as, the Environmental Protection Agency Clean Water Act requirements. Construction of a road or travel way would be unsuitable and disruptive to the environment and would also most probably be also opposed by the Department of Fish and Game, as Crooked Creek is a natural salmon spawning stream with Chinook, Coho and natural run of steelhead. This alone is criteria for the planning board to approve vacation of Saskatoon. We therefore request the board approve the petition.

The Corps of Engineers' letter, dated July 7, 2003, confirms the area has wetlands. The Corps provided a color map showing the open water, wetlands, and uplands. Saskatoon was determined to be a wetland area. The firewise map, provided to Mr. Gorlick when he had beetle killed trees removed, shows Saskatoon is unimproved except for minor clearing.

The State Department of Natural Resources Office of Habitat Management and Permitting reviewed the petition. Since there are other access points for Crooked Creek and the decreased stream crossing is an asset to fish habitat, this office did not object to the vacation.

The State Department of Fish & Game did not object to the proposed vacation of Saskatoon provided an alternative right-of-way is dedicated as proposed. Crooked Creek has populations of coho and king salmon. Access to Crooked Creek already exists at several locations in this area, and vacation of this easement will help eliminate the unpermitted crossing of Crooked Creek by motorized vehicles.

Mr. Gorlick asked the Commission to approve the vacation.

2. Diane Hogan

Ms. Hogan said she was also speaking for her husband, Jon Baker. She did not include anything in the mailout packet because she was unable to meet the packet deadline. She distributed some information to the Commission. *(Clerk's Note: A copy was provided for the subject file.)*

Ms. Hogan commented that her property was a subdivision; it was not a plot or parcel. Part of her retirement plan was to divide her property into three parcels and use Saskatoon for access. She owned property across the creek, but it was part of her initial purchase. Comments were made during the last meeting that the property across the creek was purchased to develop a road, which was untrue. It has never been her intention to develop anything across the creek.

Ms. Hogan wanted to keep the road that was along her property line. She purchased Lot 3 in Youngstown Subdivision to develop a street that accessed Pearl Street, which is a Borough maintained road. She had asked Road Service for some assistance, but the RSA could not help because the road was private. She was told that she needed to develop her access street or hire an attorney to pursue prescriptive rights.

Ms. Hogan did not intend to develop the street soon. Construction of the street was part of her retirement plan, which would not be undertaken for about 10 years. She thought the other neighbors agreed with the proposed vacation/dedication because they have no other access. Ms. Hogan briefly described two proposals made to her by Mr. Gorlick regarding the vacation of Saskatoon.

Ms. Hogan said she had been using the street for more than 25 years. She commented that it was a shame the petitioner did not research the road when he purchased his property. She believed she was being asked to give up something that she planned to use because the petitioner did not do any research. Ms. Hogan noted that a communication breakdown among three neighbors had occurred.

Ms. Hogan's property cost \$10000, which is \$2500 more than the current market value. She paid \$1500 to develop the street, pending the outcome of the petition.

Ms. Hogan received a notice from the Roads Department dated October 14. The certified letter from the Planning Department was dated October 11. The Roads Department notice advised her that the Planning Department was going to support the vacation. She thought this was completely inappropriate because she had not had a chance to testify.

Ms. Hogan commented that she did what the Borough asked of her. She understood her only options were to develop the street or hire an attorney.

Vice Chairman Clark asked Ms. Hogan if she planned to construct a road across her Youngstown parcel to access Saskatoon Avenue, which would connect Pearl Street with Saskatoon Avenue. Ms. Hogan replied yes.

3. Jerry Johnson, Johnson Surveying, Box 27, Clam Gulch

Mr. Johnson said he was hired by Terry Gorlick to assist with the platting. Mr. Johnson thought obtaining the dedication of Ray Street would be very beneficial to the neighborhood. Some people in this area do not have dedicated right-of-way to the road system.

Regarding the Baker/Hogan plan to subdivide their parcel into three lots, Mr. Johnson envisioned the three lots fronting on Crooked Creek Road and Ray Street. He did not understand why they would want to use Saskatoon Avenue. He thought the lots would exceed the 3:1 ratio, but it was typical to allow an exception for

lots fronting creeks. He did not think Saskatoon Avenue would be necessary for a three-lot subdivision of Tract 1C.

Seeing and hearing no one else wishing to speak, Chairman Bryson closed the public comment and opened discussion among the Commission.

MOTION: Vice Chairman Clark moved, seconded by Commissioner Isham, to approve the vacation as requested.

Commissioner Johnson noted that after the last meeting his brother had been hired by the petitioner. Commissioner Johnson abstained from discussion and voting.

Chairman Bryson commented that the motion was in accordance with staff recommendations. Vice Chairman Clark agreed.

Commissioner Troeger supported the motion. He commented that the Commission appreciated the effort of the parties involved in providing several documents. He added that the Commission studied the information carefully.

VOTE: The motion passed by unanimous consent with one abstention.

BRYSON YES	CLARK YES	FOSTER YES	GROSS ABSENT	HOHL ABSENT	HUTCHINSON YES	ISHAM YES
JOHNSON ABSTAINED	MARTIN ABSENT	MASSION ABSENT	PETERSEN YES	TAURIAINEN YES	TROEGER YES	8 YES 1 ABSTAINED 4 ABSENT

Chairman Bryson commented that the vacation would be forwarded to the Assembly for final action.

AGENDA ITEM E. UNFINISHED BUSINESS

2. Vacate that portion of the 30-foot wide public roadway easement on the west side of the SE ¼ of Section 34, Township 5 North, Range 11 West, Seward Meridian, Alaska, extending approximately 1260 feet south from south boundary of Merrywood Avenue, to the south boundary of the adjacent gravel pit. This easement would be an extension of Farr Street from the north. No portion of the easement overlaying or adjacent to the existing gravel pit access road is proposed for vacation; KPB File 2001-147

STAFF REPORT

PC Meeting 11/24/2003

Purpose as stated in petition: The S ½ has been constructed to access a gravel pit in the NE ¼ SW ¼. The gravel pit extends to the property line down to the water table and makes it difficult to build a road within the easement as granted. We propose to dedicate over the road on the south and enrout the road access to the north property line to line up with Silver Weed Street and Poppy Woods Street in Poppy Woods Subdivision This will also access Merrywood Avenue.

Petitioner: Clint D. Hall of Kenai, Alaska

Public notice appeared in the August 23 and August 30, 2001 issues of the Peninsula Clarion. The vacation was originally scheduled for review at the September 10, 2001 Planning Commission meeting. Action was postponed until brought back by staff or the owner, pending the outcome on Zephyr Field Estates Subdivision. That subdivision was appealed and eventually approved.

Public notice for the continuation of the Public Hearing appeared in the October 23 and October 30, 2003 issues of the Peninsula Clarion.

Thirty-four (34) certified mailings were sent to owners of property within 300 feet of the parcels; thirty-two (32) of the receipts have been returned.

Fourteen (14) regular mailings were sent to agencies and interested parties; nine (9) notices were sent to KPB Departments. Five (5) notices were posted in public locations. The notice and maps were posted on the Borough web site.

Commissioner Johnson said he would vote in favor of the motion. The Assembly will have time to consider the Legal Department's recommendations. He wanted to show the Assembly that the Commission supported the project, which has been ongoing for a long time. If there is some legal reason why the subject ordinance could not be enacted, Commissioner Johnson was confident something could be worked out.

Commissioner Petersen commented that he would vote in favor of the motion, which supported the Cooper Landing Senior Center.

Commissioner Troeger wanted to support the Cooper Landing Seniors, as well as the entire Cooper Landing community, on any land issue. However, when he read the ordinance he thought that a lease might be in the best interest of the Borough. He concurred with Legal staff. He did not wish to stymie or delay the senior housing, but the legal ramifications had to be considered. In the best interest of the Borough and the Seniors regarding the legality of the land to be acquired, Commissioner Troeger believed leasing should be seriously considered. He encouraged the Seniors to work with the Assembly. He did not support the motion; he hoped those present understood the reason for his vote. A legal issue and a significant amount of money are involved. The Borough needed to proceed in the best way possible for the Seniors as well as the Borough.

Commissioner Massion understood that the motion, if approved, was a recommendation, and the Assembly would determine what course of action to take. Chairman Bryson agreed and re-stated the motion.

Vice Chairman Clark supported the motion. He concurred with Commissioner Johnson. The Assembly could determine whether the land could be sold for less than fair market value or if a lease was appropriate. He sympathized with those who were facing a time deadline with AHFC. He was familiar with AHFC and concurred that they require a long-term, or 40-50 year, lease. He believed it would be more difficult to locate a well and septic system on a smaller parcel. He thought it would be easier to convey the entire parcel, but the attorneys would need to work this out.

Commissioner Hutchinson said he would vote for the ordinance. He expressed surprise that the memo was written today. He questioned why it had not been provided a few months ago. He agreed with public testimony about the precedent set by the Cities of Kenai, Wasilla, and Houston for disposing of land for senior citizen purposes.

Chairman Bryson commented that the Cities of Kenai, Wasilla, and Houston had their own form of government and authority. Borough staff did not believe the Borough had the authority to proceed with the land sale as proposed.

VOTE: The motion passed by a majority vote.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL YES	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER NO	11 YES 1 NO 1 ABSENT

Chairman Bryson noted the Assembly would take action on the ordinance.

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacate a portion of Saskatoon Avenue (dedicated by as Blueberry Avenue and renamed by KPB PC Resolution SN 95-02), and associated utility easements, west of Crooked Creek, dedicated by Crooked Creek Subdivision (Plat KN 75-35); within Section 12, Township 2 North, Range 12 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2003-218

Staff report as read by Max Best.

PC Meeting 11/10/2003

Purpose as stated in petition: (Summarized from petition and discussion with petitioner). There is a constructed travel way within Ray Street. This extends north out of the dedication to Ihabod Drive, along the west boundary of the Gorlick parcel. It appears to be used as the sole access for two lots south of the Gorlick parcel. The petitioner proposes dedication of a 20-foot right-of-way to encompass the constructed road, and vacation of those portions of the utility easement not needed to accommodate the existing power line (exact location to be determined with survey if vacation is approved).

Petitioners: Terry Gorlick and Joseph C. Kronk of Kasilof, Alaska

Public notice appeared in the October 23 and October 30, 2002 issues of the Peninsula Clarion.

Twenty (20) certified mailings were sent to owners of property within 300 feet of the parcels; eighteen (18) of the receipts have been returned.

Eleven (11) regular mailings were sent to agencies and interested parties; nine (9) notices were sent to KPB Departments. Four (4) notices were posted in public locations. The notice and maps were posted on the Borough web site.

Statement(s) of non-objection

KPB River Center
Homer Electric Association (subject to retention of 20-foot easement centered on existing power line)

Staff discussion

It is not clear how many years this encroaching road has been in use. The oldest structure that appears to use the road for access is on the lot farthest to the south. Assessing records indicate the house on that lot was built in 1975. The house on the lot on the south side of Saskatoon was constructed in 1985. There is also a driveway in use to a lot on the west side of the encroaching road. The travel way proposed for dedication is not shown on the 1974 plat that dedicated Saskatoon Avenue (as Blueberry Road) or on the 1984 plat that dedicated the 300 foot portion of Ray Street.

This vacation is proposed in exchange for a dedication along the existing road that is currently in use. Access to the lots from Saskatoon Avenue is not feasible since it crosses Cooked Creek, a small creek that floods annually, surrounded on both sides by large swampy areas. Flooding last winter took out the two large culverts and the closest crossing of this creek at the hatchery approximately one mile north. The crossing has not yet been replaced. If any crossing of the creek is ever put in place near the location of Saskatoon, staff would predict it to be on Ichabod Drive, a major through dedication between the highway and Crooked Creek Road.

Borough Road Maintenance has requested a 30-foot dedication, stating that a 20-foot dedication would not qualify for road maintenance. Staff was not aware that a 30-foot half dedication was able to qualify for maintenance. The road has not been constructed to Borough standards, and does not appear to be a candidate for maintenance no matter what size the dedication. The landowner wants to provide the minimal dedication to accommodate the existing road and power line, and retain the maximum developable property since it is his intention to fence the property and raise llamas.

This dedication, even at a substandard size of 20 feet, greatly improves an existing situation. Public access is provided to three lots along a road that clearly accommodates the level of traffic using it.

The owner of the tract to the south of Saskatoon Avenue voiced telephone opposition to the vacation, indicating he had purchased to the adjoining property to the east and may desire to use Saskatoon as access. That parcel, Tract 2C, accesses off Crooked Creek Road and for the reasons outlined above, access from Saskatoon on the west side of Crooked Creek is not feasible. If he does not wish to participate in the vacation, **staff recommends** the portion of Saskatoon from the centerline north, west of Crooked Creek, be vacated, with the southerly 30-foot dedication remaining in place for pedestrian access to the creek. The large swampy area on both sides of the creek does not easily accommodate pedestrian access.

Staff recommends that the vacation be approved, subject to a dedication sufficient to cover the existing road and any utilities located within the Gorlick property with a 20-foot minimum dedication. If the 20-foot dedication does not encompass the entire road and utilities, **staff recommends** the dedication be increased to 30 feet.

Findings:

1. If a dedication is provided in exchange for the vacation, sufficient rights-of-way will exist to serve the surrounding properties.
2. If a dedication is provided in exchange for the vacation, surrounding properties will not be denied access.

3. Per the submittal, the right-of-way proposed for vacation is not in use for access.
4. Per the submittal, the right-of-way proposed for vacation has not been constructed.
5. The right-of-way does not appear to be in use for utilities.
6. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
7. To date, one utility company has provided a letter of non-objection.
8. To date, no letters of opposition have been submitted.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the vacations as petitioned, subject to:

1. Submittal of a preliminary plat in accordance with Chapter 20 of the KPB Code (submittal of a final plat within one year of vacation approval).

If the vacation is approved, the Kenai Peninsula Borough Assembly has thirty days in which they may veto Planning Commission approval of the vacation.

DENIAL OF A VACATION PETITION IS A FINAL ACT FOR WHICH NO FURTHER CONSIDERATION SHALL BE GIVEN BY THE KENAI PENINSULA BOROUGH. APPEALS TO PLANNING COMMISSION DENIAL OF A VACATION MUST BE TAKEN WITHIN THIRTY (30) DAYS TO SUPERIOR COURT AT KENAI, ALASKA PURSUANT TO PART VI OF THE ALASKA RULES OF APPELLATE PROCEDURES. [20.28.110 AS AMENDED BY KENAI PENINSULA BOROUGH ORDINANCE 99-43].

END OF STAFF REPORT

Mr. Best commented that the next Assembly meeting for which the vacations could be scheduled was December 16, which is more than 30 days from this public hearing. He recommended the Commission open the public hearing, hear anyone wishing to comment, and postpone action to the next meeting (November 24).

Chairman Bryson opened the meeting for public comment.

1. Diane Hogan, P.O. Box 502, Kasilof

Ms. Hogan and her husband owned property adjoining the road proposed for vacation. She indicated that she did not feel well and apologized for arriving late.

Ms. Hogan commented about an ongoing neighborhood dispute. The petitioner did not read his plat, and now he wanted something that he believed was taken from him. This summer he approached Ms. Hogan and advised her that she had been driving on his road. He stated several times that if he gave the Hogans the road, the Borough said he could have Saskatoon.

Chairman Bryson asked Ms. Hogan to address the proposed vacation and not discuss personalities.

Ms. Hogan talked to Road Maintenance to see what could be done. Road Maintenance staff said they could not help because it was not a public road. Road Maintenance staff suggested developing their access road (Saskatoon), which crossed Crooked Creek, or hire an attorney to pursue prescriptive rights on the road.

At this time Ms. Hogan began to look for the property owner of the property across from her parcel. She decided it was best to begin using Ray Street. The petitioner told her several times that her access road was Saskatoon.

On September 11 Ms. Hogan and her husband purchased the parcel across from their property, which cost \$10000. They spent \$1500 to start construction of the road. They discovered that a petition to vacate the road had been filed. Ms. Hogan submitted an application for a permit, but it was denied pending the outcome of the vacation petition.

The petitioner tried to sell the road to Ms. Hogan and her husband for \$5000. He talked to a neighboring property owner about destroying part of the road.

Ms. Hogan said that she was doing what was recommended – develop her access road. She was not going to cross the creek.

Chairman Bryson asked Ms. Hogan to summarize the remainder of her comments.

Ms. Hogan said she spent \$12000 toward what she was told her was her access road, but now it is proposed for vacation.

Commissioner Johnson commented that the vacation was likely to be postponed per the Director's recommendation. He asked Ms. Hogan to write down her concerns and give them to Planning staff so her written testimony could be included in the packet.

Commissioner Massion concurred. Providing written comments for the packet would give the Commission time to review her concerns and have questions ready during the next meeting.

In response to an inquiry from Ms. Hogan, Mr. Best said the next meeting was November 24. Chairman Bryson added that Ms. Hogan needed to talk with staff very soon about the deadline to submit comments for the next meeting.

Commissioner Gross asked Ms. Hogan if her driveway could be kept completely within Saskatoon. Ms. Hogan replied that she wanted to develop Saskatoon so they could reach Pearl Street, which is a Borough maintained road.

2. Terry Gorlick, Anchorage

Mr. Gorlick, currently an Anchorage resident, planned to move to his property in Kasilof. He commented that many statements made by the previous speaker were not true, only partially true, and were not germane to the petition.

The Heames and Sarchets, property owners who would be impacted by the vacation, agreed with the proposed vacation. The Heames have given Mr. Gorlick money to help with the costs associated with the vacation, e.g., surveying, replatting.

The Planning Commission considered Crooked Creek Marsh 1984 of Tract C (preliminary plat) on August 13, 1984. This subdivision created the property now owned by the Bakers. Mr. Gorlick read the staff report in part:

Special conditions which warrant Planning Commission Consideration: There is an existing travelway along the west boundary of Tract 1C. Staff recommends granting a ROW whose width will be worked out with staff and the adjacent owner.

No one followed up on staff's recommendation to work out the right-of-way.

As Mr. Gorlick began to develop his property, he spent a considerable amount cleaning up beetle killed trees and preparing for a site for his home. He was concerned about the liability in conjunction with people crossing his property long-term as well as future development of the back part of his property. Originally, he approached the Bakers with the idea that if they would agree to a liability statement that he would give up a portion of the road. This option was not acceptable to the Bakers who claimed prescriptive rights because they had used the road for 7-10 years. Mr. Gorlick began working with Dale Dolifka, Patty Archer, and Homer Electric Association on various proposals to resolve this matter. The Bakers did not agree to any of the proposals. On the other hand, other neighbors responded positively.

Mr. Gorlick's goal is to conclude something that began in 1984. He wanted to avoid court costs regarding prescriptive rights or Senate Bill 93. He agreed to give up 20 feet in exchange for vacating the Saskatoon portion. He wanted to fence his property so he could continue developing it.

Chairman Bryson asked Mr. Gorlick to summarize his comments.

Mr. Gorlick asked the Commission to accept the staff report as written. He asked for an exception; he wanted a 10-foot setback instead of a 20-foot setback. If the neighbors do not accept the entire vacation, he did not want the right-of-way to have a setback so he could have a fence along the property line.

Mr. Gorlick had a report from the Corps of Engineers who conducted a site visit on his property in response to a complaint from a neighbor. The Corps determined that the property on the other side of the creek is wetlands. Any development of this property would require permits for wetland fill. Also, a large ravine is in the area.

Commissioner Johnson asked who purchased the property across Saskatoon (on the other side of Crooked Creek). Mr. Gorlick replied the Bakers purchased it.

Commissioner Hohl asked Mr. Gorlick if he was going to construct only a fence in the setback. Mr. Gorlick replied yes.

Seeing and hearing no one else wishing to speak, Chairman Bryson closed the public comment and opened discussion among the Commission.

Chairman Bryson asked if staff had further comments. Mr. Best advised the Commission that a fence would not be considered a structure in conjunction with the building setback. A fence could be constructed up to the property line.

MOTION: Commissioner Tauriainen moved, seconded by Commissioner Isham, to postpone action until brought back by staff.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HOHL YES	HUTCHINSON YES	ISHAM YES
JOHNSON YES	MARTIN ABSENT	MASSION YES	PETERSEN YES	TAURIAINEN YES	TROEGER YES	12 YES 1 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

- Vacate that portion of the 30-foot wide public roadway easement on the west side of the SE ¼ of Section 34, Township 5 North, Range 11 West, Seward Meridian, Alaska, extending approximately 1260 feet south from south boundary of Merrywood Avenue, to the south boundary of the adjacent gravel pit. This easement would be an extension of Farr Street from the north. No portion of the easement overlaying or adjacent to the existing gravel pit access road is proposed for vacation; KPB File 2001-147

Staff report as read by Max Best. PC Meeting 11/10/2003

Purpose as stated in petition: The S ½ has been constructed to access a gravel pit in the NE ¼ SW ¼. The gravel pit extends to the property line down to the water table and makes it difficult to build a road within the easement as granted. We propose to dedicate over the road on the south and enrout the road access to the north property line to line up with Silver Weed Street and Poppy Woods Street in Poppy Woods Subdivision This will also access Merrywood Avenue.

Petitioner: Clint D. Hall of Kenai, Alaska

Public notice appeared in the August 23 and August 30, 2001 issues of the Peninsula Clarion. The vacation was originally scheduled for review at the September 10, 2001 Planning Commission meeting. Action was postponed until brought back by staff or the owner, pending the outcome on Zephyr Field Estates Subdivision. That subdivision was appealed and eventually approved.

Public notice for the continuation of the Public Hearing appeared in the October 23 and October 30, 2003 issues of the Peninsula Clarion.

Thirty-four (34) certified mailings were sent to owners of property within 300 feet of the parcels; thirty-two (32) of the receipts have been returned.



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 Public Right-of-Way/Easement/Platted Public Area
 Public Hearing Required**

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

- \$500 non-refundable fee to help defray costs of advertising public hearing.
- City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- Name of public right-of-way proposed to be vacated is dedicated by the plat of Crooked Creek _____ Subdivision, filed as Plat No. 75-35 _____ in Kenai _____ Recording District.
- Are there associated utility easements to be vacated? Yes No
- Are easements in use by any utility company? If so, which company _____
- Easement for public road or right-of-way as set out in (specify type of document) _____ as recorded in Book _____ Page _____ of the _____ Recording District. (Copy of recorded document must be submitted with petition.)
- Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
 - Has right-of-way been fully or partially constructed? Yes No
 - Is right-of-way used by vehicles / pedestrians / other? Yes No
 - Is alternative right-of-way being provided? Yes No

The petitioner must provide reasonable justification for the vacation. Reason for vacating:
 RW is not currently in use by public. Road Construction Impractical due to Wetland & Creek Crossing
 Public Access to Crooked Cr. will not be Negatively Affected. Better Access Exists upstream/downstream
 N 1/2 of RW already Vacated Per KN2005-25 KN2004-83
 Adjacent Parcels under common ownership are being replatting into 1 Tract

The petition must be signed (written signature) by owners of the majority of land fronting the right-of-way, easement, or platted public area proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By: Name: Cody McHane Signature as: Petitioner Representative
 Address: 38240 Kenai Spur Highway
Soldotna AK 99669
 Phone: 907-529-6466

Petitioners:
 Signature: Patrick J. Marre Signature: Kelly L. Marre
 Name: Patrick J. Marre Name: Kelly L. Marre
 Address: _____ Address: _____
5650 East Alder Drive 5650 East Alder Drive
Wasilla Alaska 99854 Wasilla Alaska 99854
 Owner of: TRACT 2A1 & 2C Owner of: TRACT 2A1 & 2C

Signature _____ Signature _____
 Name _____ Name _____
 Address _____ Address _____

 Owner of _____ Owner of _____



Kenai Peninsula Borough Planning Department
 144 North Binkley
 Soldotna, Alaska 99569-7599
 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. 85-13 84-228, 25-26 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 _____ 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
 Please See Attached

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 Cody McNamee As Petitioner Representative
 Name: Cody McNamee
 Address: 38240 Kendi Spur Hwy
Soldotna, AK 99669
 Phone: 907-529-6466

Petitioners:
 Signature Patrick J. Marre
 Name Patrick J. Marre
 Address 5650 East Alder Drive
Wasilla AK 99854

Signature Kelly L. Marre
 Name Kelly L. Marre
 Address 5650 East Alder Drive
Wasilla AK 99854

Owner of Tract 2A1 & 2C

Owner of Tract 2A1 & 2C

Signature Jeff Heames
 Name Jeff Heames
 Address PO Box 111
Kasilof AK 99610

Signature Donna Heames
 Name Donna Heames
 Address PO Box 111
Kasilof AK 99610

Owner of Tract D

Owner of Tract D



Consulting Inc

MCLANE CONSULTING INC.

38240 Kenai Spur Highway
Soldotna, AK 9669
907-283-4218

December 11, 2017

Kenai Peninsula Borough
Planning Department
144 N. Binkley
Soldotna, AK 99669

In Regards To: Crooked Creek Subdivision, Marre Replat Utility Easement Vacation

Utility Easement Vacation Justification:

- The 5' Utility Easement being vacated is a leftover from a previous vacation Per KN2005-25. The Utility Easement is not in use, and is unnecessary for future development.
- The 20' Utility Easement south of and adjacent to the 30' Saskatoon right of way is currently not in use, and full use of the easement is impractical due to the wetlands and proximity of Crooked Creek. This platting action is also vacating said 30' Right of way that this utility easement is associated with.
- The 20' Utility easement existing over the common property line of Tract 2C and Tract D is currently not in use. Use of the easement is impractical due to wetlands and proximity of Crooked Creek. This platting action is combing a portion of Tract D, and Tract 2C into a larger Tract. The existence of the easement is not necessary and is cumbersome in regards to future construction.
- The 10' Utility Easement Adjacent to the Property line common with Tract 2A1 and Tract B1 is not currently in use by any utility companies. Use of the easement is highly impractical due to wetlands
- The 10' Utility Easement Adjacent to the property line common with Tract 2C and Tract 1C is not currently in use by any utility company. Use of the Easement is highly impractical due to wetlands as well as the necessity for any utility to cross Crooked Creek.

Kenai Peninsula Borough

12/11/17

Page 2

In summary; none of the utility easements being vacated by this platting action are in use by a utility company, and usage of the easements is largely impractical due to the existing topography and wetlands. Existing utilities have been located per one-call and are shown. The vacation of these easements will not negatively affect the interests of the Kenai Peninsula Borough, or the interests of any of the utility companies as usable and practical existing utility easements will remain, as well as new utility easements being dedicated.

Thank you,

Ben Benson

McLane Consulting Inc.

907-398-3069