

# Kenai Peninsula Borough Planning Department

---

## MEMORANDUM

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

**FROM:** Max Best, Planning Director *SA for M.B.*

**DATE:** May 29, 2019

**RE:** Vacate a section line easement and right-of-way including the associated utility easement as follows:

- a. Vacate a 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55);
- b. Vacate the westerly 23 feet by the southerly approximately 285 feet of the Glenmore Circle right-of-way as dedicated on Pilot's Bend Subdivision Part Three, Plat KN 86-71; and including the associated 10-foot utility easement adjoining the portion of the Glenmore Circle right-of-way to be vacated within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55).

The section line easement and right-of-way proposed to be vacated are undeveloped and located within the SE¼ of Section 21, Township 5 South, Range 9 West, Seward Meridian, Kenai Peninsula Borough, Alaska; KPB File No. 2019-056V

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

During their regularly scheduled meeting of May 28, 2019, the Kenai Peninsula Borough Planning Commission granted approval of the proposed section line easement 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. Current ROW is undeveloped.
2. Current local traffic uses constructed traveled way in the 50-foot SLE to the immediate East.
3. Right of way to be vacated provided access to one residence. That residence uses the constructed traveled way to the East.
4. Adequate access width still in place with 10-foot ROW remaining combined with 50-foot SLE to the east to provide a full 60-foot wide access.
5. Terrain is relatively flat and has no effect on development options.
9. KPB records show the section line easement width is 83 feet.
10. The petition proposes to vacate a 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55);
11. DNR owns the 120-acre and 25-acre parcels to the east and north of the proposed vacations.
12. DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street.
13. The owner of Lot 1B, KN 2008-55, uses Glenmore Circle for access and has been issued a Glenmore Circle address
14. No surrounding properties will be denied access.
15. The existing traveled gravel road and existing constructed approach to Funny River Road has been

located, and shown, by the surveyor.

16. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping and the National Wetlands Inventory, the right-of-way and section line easement proposed to be vacated are not affected by low wet areas.

*Conditions:*

1. Consent by the KPB Assembly.
2. Statement of approval or non-objection from ENSTAR.
3. No objection from the owner of Lot 1B, KN 2008-55, or the State Department of Natural Resources.
4. Compliance with any State requirements for the section line easement vacation.

During their regularly scheduled meeting of May 28, 2019, the Kenai Peninsula Borough Planning Commission granted approval of the proposed right-of-way vacation and associated 10-foot utility easement by unanimous consent based on the following findings of fact and subject to the following conditions. This petition is being sent to you for your consideration and action.

*Findings:*

1. Current ROW is undeveloped.
2. Current local traffic uses constructed traveled way in the 50-foot SLE to the immediate East.
3. Right of way to be vacated provided access to one residence. That residence uses the constructed traveled way to the East.
4. Adequate access width still in place with 10-foot ROW remaining combined with 50-foot SLE to the east to provide a full 60-foot wide access.
5. Terrain is relatively flat and has no effect on development options.
9. ACS submitted a statement of no objection.
10. KPB records show Glenmore Circle overlies an 83-foot wide section line easement.
11. A 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55) is being petitioned to be vacated.
12. Per KPB Roads Department, it appears that the building will not create issues with maintenance if it is ever applied for.
13. DNR owns the 120-acre and 25-acre parcels to the east and north of the proposed vacations.
14. The DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street.
15. No surrounding properties will be denied access.
16. The existing traveled gravel road and existing constructed approach to Funny River Road has been located, and shown, by the surveyor.
17. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping and the National Wetlands Inventory, the right-of-way and section line easement proposed to be vacated are not affected by low wet areas.

*Conditions:*

1. Consent by the KPB Assembly
2. Statement of approval or non-objection from ENSTAR.
3. No objection from the owner of Lot 1B, KN 2008-55, or the State Department of Natural Resources.
4. Compliance with Chapter 20 of the KPB Code for preliminary and final plat review and approval.

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**

1. Vacate a utility easement, right-of-way, and section line easement as follows:
  - a. Vacate a 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55);
  - b. Vacate the westerly 23 feet by the southerly approximately 285 feet of the Glenmore Circle right-of-way as dedicated on Pilot's Bend Subdivision Part Three, Plat KN 86-71; and
  - c. Vacate the 10-foot utility easement adjoining the portion of the Glenmore Circle right-of-way to be vacated within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55).

Located off Funny River Road within the SE¼ of Section 21, Township 5 South, Range 9 West, Seward Meridian, Kenai Peninsula Borough, Alaska; KPB File No. 2019-056V

Staff Report given by Scott Huff

PC Meeting: 5/28/19

Since the fee right-of-way overlies the section line easement and both are proposed to be vacated, staff combined the public hearing notice to avoid duplicate mailings.

The right-of-way/utility easement and the section line easement vacations have been separated in the staff report because KPB will make the final decision about the vacation of the fee right-of-way and utility easement, and the State of Alaska will make the final decision about the vacation of the section line easement.

Although findings for the right-of-way vacation and section line easement vacation may be the same, or very similar, staff cited findings separately because of the different jurisdictional authorities.

Purpose as stated in petition: The current right-of-way is undeveloped. Current local traffic uses the constructed traveled way in the 50' wide Section Line Easement to the immediate East. Adequate access will remain. There is an existing structure encroaching in the right-of-way. Building was in ROW at time of purchase but was not disclosed to the current owner. Adequate utility easements will be provided with a new platting action. A total of 83 feet of section line easement is in place, which provides ample space for a constructed access.

Petitioners: Colin Tom and Vanessa Tom of Aipea, Hawaii.

Notification: Public notice was published in the Peninsula Clarion as a separate ad on May 16, 2019. The public hearing notice was published in the Peninsula Clarion in the May 23 issue as part of the Commission's tentative agenda.

Eight certified mailings were sent to owners of property within 300 feet of the parcels. One receipt had been returned when the staff report was prepared.

Seven public hearing notices were sent by regular mail to owners within 600 feet.

Eighteen public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to seven KPB staff via a shared database.

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

The notice and maps were posted on the Borough web site and bulletin board.

Comments:

ACS: No objection

ENSTAR: ENSTAR Natural Gas Company **objects** to the proposed vacations for Glenmore Circle right-of-way, a portion of 33-foot section line easement, and a portion of 10-foot wide utility easement, KPB File: 2019-056V, and advises that there is an existing natural gas facility, which runs through the proposed vacations. ENSTAR will withdraw this objection upon one of two scenarios:

- 1) ENSTAR is granted a 15-foot wide natural gas easement centered on the existing natural gas facility, or,
- 2) The petitioner will contract with ENSTAR to relocate the existing natural gas facility into the 50-foot wide section line easement to the immediate east, outside of the proposed vacation areas, subject to utility permit authorization from the Kenai Peninsula Borough.

*Platting Staff Comments: The surveyor was notified of ENSTAR's objection and is working with ENSTAR to resolve it.*

KPB Addressing: 37020 Funny River Road will be retained on Lot 2. Existing street names are correct.

KPB Planner: This property is not affected by a local option zone or material site.

KPB River Center: The proposed vacation is within a mapped flood hazard zone (A4); floodplain panel #020012-2065A. The property is within a flood way. The property is affected by the Habitat Protection District.

KPB Roads Department: It appears that the building will not create issues with maintenance if it is ever applied for.

State Parks: No comments.

**RIGHT OF WAY AND UTILITY EASEMENT VACATION**

**Exception Requested:** KPB 20.70.130 – recordation of the vacation plat within one year of vacation consent.

**Staff Discussion for the Exception:** KPB 20.70.130 limits vacation approval to one year from vacation consent. KPB 20.25.110 grants a four-year approval for any plat that requires submittal and approval by the State of Alaska. Since the right-of-way and utility vacation are included on the Section Line Easement Vacation Plat, it could be interpreted that the four-year vacation approval extends to all vacations shown on the face of the plat.

For clarity, **staff recommends** the record reflect that the approval time for the right-of-way and utility easement vacations match the approval time for the section line easement vacation.

The surveyor advised staff that a Section Line Easement Vacation Plat has not yet been submitted to the State of Alaska.

**Staff recommends** action on the exception be by a separate motion from the requested vacations.

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

**Findings**

1. The utility easement, right-of-way, and section line easement vacations will be finalized by recording the Pilot's Bend Subdivision Tom Addition Section Line Easement Vacation Plat.

2. Section Line Easement Vacation Plats must be processed, approved, and finalized by the State Department of Natural Resources.
3. KPB 20.25.110 grants a four-year approval for any plat that requires submittal and approval by the State of Alaska.
4. Per KPB 20.25.110, any plat that requires submittal to and approval by the State of Alaska, including but not limited to section line easement vacation plats and highway right-of-way plans, will be given an initial four-year preliminary approval. Extensions of the approval may be given by the planning director as needed for completion of the project.
5. Per the surveyor, a Section Line Easement Vacation Plat has not yet been submitted to the State of Alaska.

Staff reviewed the exception request and recommends granting approval. If denied the surveyor will need to record a right of way vacation plat within one year and then record a separate section line easement vacation plat within four years.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;  
**Findings 1-5 appear to support this standard.**
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 1-5 appear to support this standard.**
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 1-5 appear to support this standard.**

Staff Discussion for the Right-of-way and Utility Easement Vacations: The preliminary plat (Pilot's Bend Subdivision Tom Addition Section Line Easement Vacation), which will finalize the vacation (if approved) has been submitted for Plat Committee's review on June 10, 2019.

The property is within a Special Assessment Utility District (USAD). Since a fee right-of-way is being vacated, the property boundaries will be altered; therefore, a Tax Certificate will be required to be recorded with the mylar.

Glenmore Circle adjoins three properties: the petitioners, owner of Lot 1B (KN 2008-55), and 120-acre parcel owned by the State Department of Natural Resources (DNR).

The owner of Lot 1B, KN 2008-55, uses Glenmore Circle for access and has been issued a Glenmore Circle address.

The DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street. DNR's parcels are within the Kenai River Special Management Area.

**Surveyor's Findings for the Right-of-way and Utility Easement Vacation:**

1. Current ROW is undeveloped.
2. Current local traffic uses constructed traveled way in the 50-foot SLE to the immediate East.
3. Right of way to be vacated provided access to one residence. That residence uses the constructed traveled way to the East.
4. Adequate access width still in place with 10-foot ROW remaining combined with 50-foot SLE to the east to provide a full 60-foot wide access.
5. Terrain is relatively flat and has no effect on development options.
6. ROW to be vacated has existing structure encroachment that was undisclosed to current owner at time of purchase.
7. Seeking exception to building setback width near existing structure.
8. Adequate utility easement provided with new platting action.

**Platting Staff Findings for the Right-of-way and Utility Easement Vacation:**

9. ACS submitted a statement of no objection.
10. KPB records show Glenmore Circle overlies an 83-foot wide section line easement.
11. A 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55) is being petitioned to be vacated.
12. Per KPB Roads Department, it appears that the building will not create issues with maintenance if it is ever applied for.
13. DNR owns the 120-acre and 25-acre parcels to the east and north of the proposed vacations.
14. The DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street.
15. No surrounding properties will be denied access.
16. The existing traveled gravel road and existing constructed approach to Funny River Road has been located, and shown, by the surveyor.
17. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping and the National Wetlands Inventory, the right-of-way and section line easement proposed to be vacated are not affected by low wet areas.
18. The owner of Lot 1B, KN 2008-55, the adjoining lot to the north, uses Glenmore Circle for access and has been issued a Glenmore Circle address.
19. ENSTAR submitted a statement of objection to the proposed vacations.

**STAFF RECOMMENDATION:** Based on Findings 1-5 and 9-17 staff recommends granting a four-year approval of the vacations as petitioned, subject to:

1. Consent by the KPB Assembly
2. Statement of approval or non-objection from ENSTAR.
3. No objection from the owner of Lot 1B, KN 2008-55, or the State Department of Natural Resources.
4. Compliance with Chapter 20 of the KPB Code for preliminary and final plat review and approval.

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

**NOTE: KPB 20.70.120. - Action after denial of vacation petition.**

- 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.

**SECTION LINE EASEMENT VACATION**

**Staff Discussion:** Per KPB 20.70.220, the petition must be reviewed and approved by the planning commission, but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Per the surveyor, a section line easement vacation plat has not been submitted to the State.

#### **Surveyor's Findings**

1. Current ROW is undeveloped.
2. Current local traffic uses constructed traveled way in the 50-foot SLE to the immediate East.
3. Right of way to be vacated provided access to one residence. That residence uses the constructed traveled way to the East.
4. Adequate access width still in place with 10-foot ROW remaining combined with 50-foot SLE to the east to provide a full 60-foot wide access.
5. Terrain is relatively flat and has no effect on development options.
6. ROW to be vacated has existing structure encroachment that was undisclosed to current owner at time of purchase.
7. Seeking exception to building setback width near existing structure.
8. Adequate utility easement provided with new platting action.

#### **Platting Staff's Findings for the Section Line Easement Vacation**

9. KPB records show the section line easement width is 83 feet.
10. The petition proposes to vacate a 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55);
11. DNR owns the 120-acre and 25-acre parcels to the east and north of the proposed vacations.
12. DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street.
13. The owner of Lot 1B, KN 2008-55, uses Glenmore Circle for access and has been issued a Glenmore Circle address
14. No surrounding properties will be denied access.
15. The existing traveled gravel road and existing constructed approach to Funny River Road has been located, and shown, by the surveyor.
16. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping and the National Wetlands Inventory, the right-of-way and section line easement proposed to be vacated are not affected by low wet areas.
17. ENSTAR submitted a statement of objection to the proposed vacations.

**STAFF RECOMMENDATION:** Based on Findings 1-5 and 9-16, staff recommends granting a four-year approval for the section line easement vacation as submitted, subject to:

1. Consent by the KPB Assembly.
2. Statement of approval or non-objection from ENSTAR.
3. No objection from the owner of Lot 1B, KN 2008-55, or the State Department of Natural Resources.
4. Compliance with any State requirements for the section line easement vacation.

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

**NOTE: KPB 20.70.120. - Action after denial of vacation petition.**

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.
- B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

**END OF STAFF REPORT**

Chairman Martin opened public comment.

1. Jason Young, 43335 K-Beach Rd., Suite 16B, Soldotna  
Mr. Young was available for questions.

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

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to approve the vacation of a section line easement, a right-of-way, and an associated utility easement in the Funny River area.

**AMENDMENT MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to approve the exception requested to KPB 20.70.130 – recordation of the vacation plat within one year of vacation consent, citing staff report findings 1 through 5 in support of the 3 standards.

**AMENDMENT MOTION PASSED:** Seeing and hearing no discussion or objection the motion passed by unanimous consent.

Commissioner Ecklund wanted to know if Government Lot 10, that is to the east, it is where the existing constructed approach to the cul-de-sac, was alright with that road being the travel way and if there was an easement. Mr. Huff responded that Government Lot 10 is owned by the State of Alaska DNR. There is a 50 foot section line easement on that side of the section line. There is an improved road there which is wholly within the section line easement.

**MOTION PASSED:** Seeing and hearing no discussion or objection the motion passed by unanimous consent.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to approved the Section Line Easement vacation per KPB 20.70.220 to allow time to match the state's review of a section line easement, citing staff report findings 1 through 5 and 9 through 16 to grant a four year approval based on staff recommendations and adherence to borough code.

**MOTION PASSED:** Seeing and hearing no discussion or objection the motion passed by unanimous consent.



## **F. PUBLIC HEARINGS**

**1. Vacate a Section Line Easement, a Right-of-Way, and an associated utility easement in the Funny River area.**

**KPB File 2019-056V**

**Petitioner: Colin Tom and Vanessa Tom of Aipea, Hawaii**

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacate a utility easement, right-of-way, and section line easement as follows:
  - a. Vacate a 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55);
  - b. Vacate the westerly 23 feet by the southerly approximately 285 feet of the Glenmore Circle right-of-way as dedicated on Pilot's Bend Subdivision Part Three, Plat KN 86-71; and
  - c. Vacate the 10-foot utility easement adjoining the portion of the Glenmore Circle right-of-way to be vacated within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55).

Located off Funny River Road within the SE¼ of Section 21, Township 5 South, Range 9 West, Seward Meridian, Kenai Peninsula Borough, Alaska; KPB File No. 2019-056V

STAFF REPORT

PC Meeting: 5/28/19

Since the fee right-of-way overlies the section line easement and both are proposed to be vacated, staff combined the public hearing notice to avoid duplicate mailings.

The right-of-way/utility easement and the section line easement vacations have been separated in the staff report because KPB will make the final decision about the vacation of the fee right-of-way and utility easement, and the State of Alaska will make the final decision about the vacation of the section line easement.

Although findings for the right-of-way vacation and section line easement vacation may be the same, or very similar, staff cited findings separately because of the different jurisdictional authorities.

Purpose as stated in petition: The current right-of-way is undeveloped. Current local traffic uses the constructed traveled way in the 50' wide Section Line Easement to the immediate East. Adequate access will remain. There is an existing structure encroaching in the right-of-way. Building was in ROW at time of purchase but was not disclosed to the current owner. Adequate utility easements will be provided with a new platting action. A total of 83 feet of section line easement is in place, which provides ample space for a constructed access.

Petitioners: Colin Tom and Vanessa Tom of Aipea, Hawaii

Notification: Public notice was published in the Peninsula Clarion as a separate ad on May 16, 2019. The public hearing notice was published in the Peninsula Clarion in the May 23 issue as part of the Commission's tentative agenda.

Eight certified mailings were sent to owners of property within 300 feet of the parcels. One receipt had been returned when the staff report was prepared.

Seven public hearing notices were sent by regular mail to owners within 600 feet.

Eighteen public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to seven KPB staff via a shared database.

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

The notice and maps were posted on the Borough web site and bulletin board.

Comments:

ACS: No objection

ENSTAR: ENSTAR Natural Gas Company **objects** to the proposed vacations for Glenmore Circle right-of-way, a portion of 33-foot section line easement, and a portion of 10-foot wide utility easement, KPB File: 2019-056V, and advises that there is an existing natural gas facility, which runs through the proposed vacations. ENSTAR will withdraw this objection upon one of two scenarios:

- 1) ENSTAR is granted a 15-foot wide natural gas easement centered on the existing natural gas facility, or,
- 2) The petitioner will contract with ENSTAR to relocate the existing natural gas facility into the 50-foot wide section line easement to the immediate east, outside of the proposed vacation areas, subject to utility permit authorization from the Kenai Peninsula Borough.

*Platting Staff Comments: The surveyor was notified of ENSTAR's objection and is working with ENSTAR to resolve it.*

KPB Addressing: 37020 Funny River Road will be retained on Lot 2. Existing street names are correct.

KPB Planner: This property is not affected by a local option zone or material site.

KPB River Center: The proposed vacation is within a mapped flood hazard zone (A4); floodplain panel #020012-2065A. The property is within a flood way. The property is affected by the Habitat Protection District.

KPB Roads Department: It appears that the building will not create issues with maintenance if it is ever applied for.

State Parks: No comments.

**RIGHT OF WAY AND UTILITY EASEMENT VACATION**

Exception Requested: KPB 20.70.130 – recordation of the vacation plat within one year of vacation consent.

Staff Discussion for the Exception: KPB 20.70.130 limits vacation approval to one year from vacation consent. KPB 20.25.110 grants a four-year approval for any plat that requires submittal and approval by the State of Alaska. Since the right-of-way and utility vacation are included on the Section Line Easement Vacation Plat, it could be interpreted that the four-year vacation approval extends to all vacations shown on the face of the plat.

For clarity, **staff recommends** the record reflect that the approval time for the right-of-way and utility easement vacations match the approval time for the section line easement vacation.

The surveyor advised staff that a Section Line Easement Vacation Plat has not yet been submitted to the State of Alaska.

**Staff recommends** action on the exception be by a separate motion from the requested vacations.

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

**Findings**

1. The utility easement, right-of-way, and section line easement vacations will be finalized by

- recording the Pilot's Bend Subdivision Tom Addition Section Line Easement Vacation Plat.
2. Section Line Easement Vacation Plats must be processed, approved, and finalized by the State Department of Natural Resources.
  3. KPB 20.25.110 grants a four-year approval for any plat that requires submittal and approval by the State of Alaska.
  4. Per KPB 20.25.110, any plat that requires submittal to and approval by the State of Alaska, including but not limited to section line easement vacation plats and highway right-of-way plans, will be given an initial four-year preliminary approval. Extensions of the approval may be given by the planning director as needed for completion of the project.
  5. Per the surveyor, a Section Line Easement Vacation Plat has not yet been submitted to the State of Alaska.

Staff reviewed the exception request and recommends granting approval. If denied the surveyor will need to record a right of way vacation plat within one year and then record a separate section line easement vacation plat within four years.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;  
**Findings 1-5 appear to support this standard.**
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 1-5 appear to support this standard.**
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 1-5 appear to support this standard.**

Staff Discussion for the Right-of-way and Utility Easement Vacations: The preliminary plat (Pilot's Bend Subdivision Tom Addition Section Line Easement Vacation), which will finalize the vacation (if approved) has been submitted for Plat Committee's review on June 10, 2019.

The property is within a Special Assessment Utility District (USAD). Since a fee right-of-way is being vacated, the property boundaries will be altered; therefore, a Tax Certificate will be required to be recorded with the mylar.

Glenmore Circle adjoins three properties: the petitioners, owner of Lot 1B (KN 2008-55), and 120-acre parcel owned by the State Department of Natural Resources (DNR).

The owner of Lot 1B, KN 2008-55, uses Glenmore Circle for access and has been issued a Glenmore Circle address.

The DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street.

DNR's parcels are within the Kenai River Special Management Area.

**Surveyor's Findings for the Right-of-way and Utility Easement Vacation:**

1. Current ROW is undeveloped.
2. Current local traffic uses constructed traveled way in the 50-foot SLE to the immediate East.
3. Right of way to be vacated provided access to one residence. That residence uses the constructed traveled way to the East.
4. Adequate access width still in place with 10-foot ROW remaining combined with 50-foot SLE to the east to provide a full 60-foot wide access.
5. Terrain is relatively flat and has no effect on development options.
6. ROW to be vacated has existing structure encroachment that was undisclosed to current owner at time of purchase.
7. Seeking exception to building setback width near existing structure.
8. Adequate utility easement provided with new platting action.

**Platting Staff Findings for the Right-of-way and Utility Easement Vacation:**

9. ACS submitted a statement of no objection.
10. KPB records show Glenmore Circle overlies an 83-foot wide section line easement.
11. A 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55) is being petitioned to be vacated.
12. Per KPB Roads Department, it appears that the building will not create issues with maintenance if it is ever applied for.
13. DNR owns the 120-acre and 25-acre parcels to the east and north of the proposed vacations.
14. The DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street.
15. No surrounding properties will be denied access.
16. The existing traveled gravel road and existing constructed approach to Funny River Road has been located, and shown, by the surveyor.
17. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping and the National Wetlands Inventory, the right-of-way and section line easement proposed to be vacated are not affected by low wet areas.
18. The owner of Lot 1B, KN 2008-55, the adjoining lot to the north, uses Glenmore Circle for access and has been issued a Glenmore Circle address.
19. ENSTAR submitted a statement of objection to the proposed vacations.

**STAFF RECOMMENDATION:** Based on Findings 1-5 and 9-17 staff recommends granting a four-year approval of the vacations as petitioned, subject to:

1. Consent by the KPB Assembly
2. Statement of approval or non-objection from ENSTAR.
3. No objection from the owner of Lot 1B, KN 2008-55, or the State Department of Natural Resources.
4. Compliance with Chapter 20 of the KPB Code for preliminary and final plat review and approval.

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

**NOTE: KPB 20.70.120. - Action after denial of vacation petition.**

- 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.

## **SECTION LINE EASEMENT VACATION**

**Staff Discussion:** Per KPB 20.70.220, the petition must be reviewed and approved by the planning commission, but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Per the surveyor, a section line easement vacation plat has not been submitted to the State.

### **Surveyor's Findings**

1. Current ROW is undeveloped.
2. Current local traffic uses constructed traveled way in the 50-foot SLE to the immediate East.
3. Right of way to be vacated provided access to one residence. That residence uses the constructed traveled way to the East.
4. Adequate access width still in place with 10-foot ROW remaining combined with 50-foot SLE to the east to provide a full 60-foot wide access.
5. Terrain is relatively flat and has no effect on development options.
6. ROW to be vacated has existing structure encroachment that was undisclosed to current owner at time of purchase.
7. Seeking exception to building setback width near existing structure.
8. Adequate utility easement provided with new platting action.

### **Platting Staff's Findings for the Section Line Easement Vacation**

9. KPB records show the section line easement width is 83 feet.
10. The petition proposes to vacate a 13 foot by 54.88-foot portion of the section line easement within Lot 1C Block 3 Pilot's Bend Replat (KN 2008-55);
11. DNR owns the 120-acre and 25-acre parcels to the east and north of the proposed vacations.
12. DNR properties (120-acre and 25-acre parcels) front the section line easements, paved State maintained Funny River Road, Hayfield Street, Kenwood Avenue, and State maintained Owen Street.
13. The owner of Lot 1B, KN 2008-55, uses Glenmore Circle for access and has been issued a Glenmore Circle address
14. No surrounding properties will be denied access.
15. The existing traveled gravel road and existing constructed approach to Funny River Road has been located, and shown, by the surveyor.
16. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping and the National Wetlands Inventory, the right-of-way and section line easement proposed to be vacated are not affected by low wet areas.
17. ENSTAR submitted a statement of objection to the proposed vacations.

**STAFF RECOMMENDATION:** Based on Findings 1-5 and 9-16, staff recommends granting a four-year approval for the section line easement vacation as submitted, subject to:

1. Consent by the KPB Assembly.
2. Statement of approval or non-objection from ENSTAR.
3. No objection from the owner of Lot 1B, KN 2008-55, or the State Department of Natural Resources.
4. Compliance with any State requirements for the section line easement vacation.

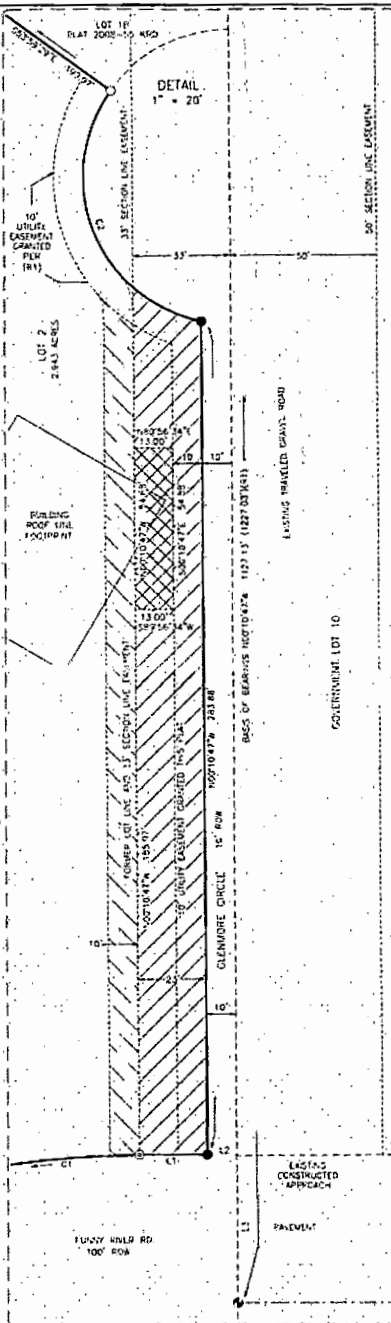
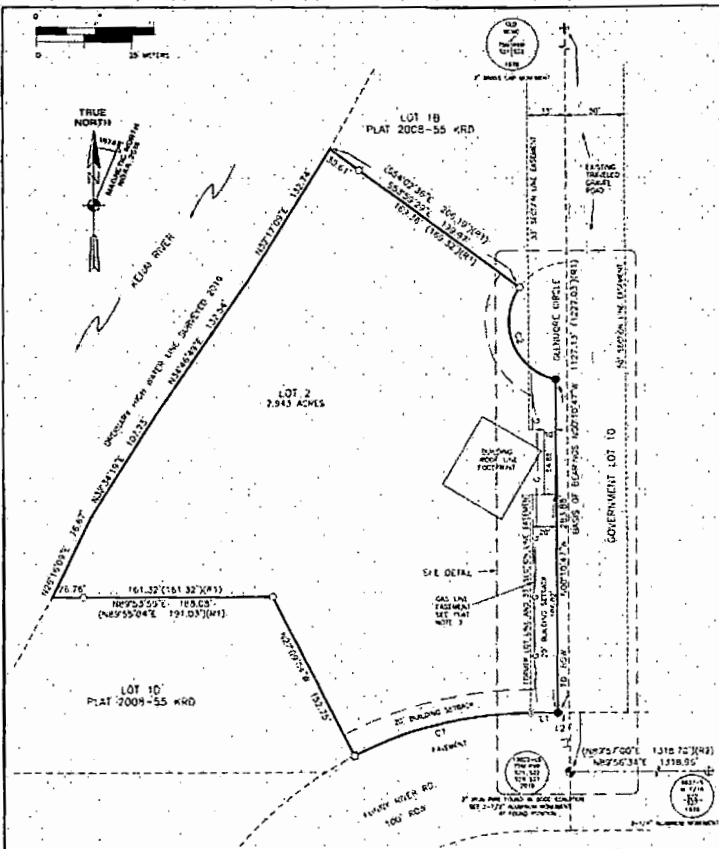
**If the vacation is approved, the Borough Assembly has thirty days in which they may veto Planning Commission approval of the vacation.**

**NOTE: KPB 20.70.120. - Action after denial of vacation petition.**

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**

- B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**

END OF STAFF REPORT



- NOTES**
- A 20' BUILDING SETBACK IS REQUIRED FROM ALL STREET RIGHT OF WAYS UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION. EXCEPT A 10' BUILDING SETBACK ADJACENT TO EXISTING BUILDINGS. NO FUTURE DEVELOPMENT WITHIN EXCEPTED AREA AS DEPICTED ON THIS PLAN.
  - THE FRONT 10' OF THE BUILDING SETBACK IS ALSO AN UTILITY EASEMENT. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT UNLESS IT DOES NOT INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
  - A 3' GAS LINE EASEMENT IS BEING GRANTED THIS PLAT CENTERED ON EXISTING GAS LINE.
  - POWER ELECTRIC ASSOCIATION, INC. HAS A UTILITY EASEMENT WITH NO DEFINED LOCATION, ACCORDING JANUARY 4, 1962, MISC. VOLUME 7, PAGE 176, WHICH MAY AFFECT THIS PARCEL.
  - NO PRIVATE ACCESS TO STATE MAINTAINED RIGHT OF WAYS PERMITTED UNLESS APPROVED BY THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.
  - THE NATURAL MEANDERS OF THE NEAR HIGH WATER LINE FORMS THE TRUE TOTAL BOUNDARY OF THE SUBDIVISION. THE TRUE PROPERTY CORNERS BEING THE EXTENSION OF THE 55x130 LOT LINES AND THEIR INTERSECTION WITH THE NATURAL MEANDERS OF THE ORDINARY HIGH WATER LINE.
  - FLOOD HAZARD NOTICE: SOME OR ALL OF THE PROPERTIES SHOWN ON THIS PLAT HAVE BEEN DESIGNATED BY FEMA AS A FLOOD HAZARD AREA DURING AS OF THE DATE THIS PLAT IS RECORDED WITH THE DISTRICT RECORDING'S OFFICE. PRIOR TO DEVELOPING THE NEAR PENINSULA BOROUGH FLOODPLAIN ADMINISTRATION SHOULD BE CONTACTED FOR CURRENT INFORMATION AND REGULATIONS. DEVELOPMENT MUST COMPLY WITH CHAPTER 21.06 OF THE NEAR PENINSULA BOROUGH CODE. THIS PLAT IS EFFECTED BY FLOOD ZONES AA AND C PER MAP PANEL 0000172000A.
  - ANADROMOUS HABITAT PROTECTION NOTE: PORTIONS OF THIS SUBDIVISION ARE WITHIN THE NEAR PENINSULA BOROUGH ANADROMOUS HABITAT PROTECTION DISTRICT. SEE AFB CHAPTER 21.10 AS MAY BE AMENDED, FOR RESTRICTIONS THAT AFFECT DEVELOPMENT IN THIS SUBDIVISION.
  - GLENNVIEW CIRCLE PARALLEL RIGHT OF WAY VACATION AND UTILITY EASEMENT VACATION WAS APPROVED AT THE JUNE 10, 2019 NEAR PENINSULA BOROUGH PLANNING COMMISSION MEETING.
  - THE PARTIAL SECTION LINE EASEMENT VACATION IS IN COMPLIANCE WITH ALASKA DEPARTMENT OF NATURAL RESOURCES FINAL TECHNICAL 19-0-000, APPROVED AUGUST 12, 2019.
  - THE ALTERNATIVE ROUTE (A) ACCORDANCE WITH AS 19.30.010 INCLUDES EXISTING CONSTRUCTED UNPAVED ROAD IN 50' SECTION LINE EASEMENT TO THE EAST.
  - LAPELWAYS TO 4TH EDEGE WERE CANCELED AT THE 1041 COUNCIL MEETING OF JUNE 10, 2019. AFB CODE 20.30.110 PART STREETS, AFB CODE 20.30.120 STREET WIDTH, AFB CODE 20.30.240 BUILDING SETBACK.
  - WASTEWATER TREATMENT: THE WASTEWATER TREATMENT FOR THE LOT RESULTING FROM THIS PLATING ACTION WAS APPROVED BY THE NEAR PENINSULA BOROUGH PLANNING COMMISSION ON OCTOBER 22, 2007. WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

**LEGEND**

+	OLD MONUMENT FOUND	(79)	RECORD DATA, SEE REFERENCE
1B	PRIMARY MONUMENT FOUND	KRD	NEAR RECORDING DISTRICT
1C	PROPERTY CORNER FOUND		RIGHT OF WAY GRANTED PER (R1) BEING VACATED THIS PLAT
1D	PROPERTY CORNER FOUND		UTILITY EASEMENT GRANTED PER (R1) BEING VACATED THIS PLAT
1E	PROPERTY CORNER FOUND		RIGHT OF WAY AND SECTION LINE EASEMENT BEING VACATED THIS PLAT
1F	PROPERTY CORNER SET		
1G	PROPERTY CORNER SET		
1H	PROPERTY CORNER SET		
1I	PROPERTY CORNER SET		
1J	PROPERTY CORNER SET		
1K	PROPERTY CORNER SET		
1L	PROPERTY CORNER SET		
1M	PROPERTY CORNER SET		
1N	PROPERTY CORNER SET		
1O	PROPERTY CORNER SET		
1P	PROPERTY CORNER SET		
1Q	PROPERTY CORNER SET		
1R	PROPERTY CORNER SET		
1S	PROPERTY CORNER SET		
1T	PROPERTY CORNER SET		
1U	PROPERTY CORNER SET		
1V	PROPERTY CORNER SET		
1W	PROPERTY CORNER SET		
1X	PROPERTY CORNER SET		
1Y	PROPERTY CORNER SET		
1Z	PROPERTY CORNER SET		

**REFERENCES**

(R1) PLAT 2004-15, PILOT'S BEND BIRD REPEAT, KRD  
 (R2) PLAT 2012-10, BIRD HOMESTEAD SUBDIVISION PART 5, KRD

**CURVE AND LINE TABLE**

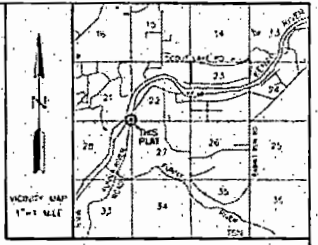
CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARINGS	CHORD LENGTH
C1	1318.95'	1318.95'	180.00°	1318.95'	1318.95'
C2	332.73'	116.57'	170.50°	170.50°	116.57'
C3	50.00'	25.54'	174.00°	174.00°	25.54'
C4	50.00'	25.54'	174.00°	174.00°	25.54'

**CERTIFICATE OF SURVEYOR**

I, MARK ANTHONY LINDSEY, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THIS SURVEY ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



KPB:2019-056V



**CERTIFICATE OF OWNERSHIP AND DEDICATION**

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FILED CONSENT GENERATE ALL RIGHTS-OF-WAY AND PUBLIC ACCESS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

COLOR: TOM VANESSA L TOM  
 OWNERS OF PORTION LOT 1C  
 55-130 LINDA PLACE  
 NEAR, ALASKA 99501

**NOTARY ACKNOWLEDGMENT**

FOR COLOR: TOM  
 ACKNOWLEDGED BEFORE ME  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2019

NOTARY PUBLIC FOR STATE OF \_\_\_\_\_

**NOTARY ACKNOWLEDGMENT**

FOR VANESSA L TOM  
 ACKNOWLEDGED BEFORE ME  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2019

NOTARY PUBLIC FOR STATE OF \_\_\_\_\_

**PILOT'S BEND SUBDIVISION  
 FOR ADDITION  
 SECTION LINE EASEMENT VACATION**

A SUBDIVISION OF LOT 1C BLOCK 3 PILOT'S BEND BIRD REPEAT, PLAT 2004-15 KRD, AND THE VACATION OF A PORTION OF SECTION LINE EASEMENT, UTILITY EASEMENT AND RIGHT OF WAY.

COLOR: TOM AND VANESSA L TOM  
 55-130 LINDA PLACE  
 NEAR, ALASKA 99501

LOCATED WITHIN THE SE 1/4 SECTION 21,  
 T54N, R94E, S24E ALASKA MERIDIAN,  
 NEAR PENINSULA BOROUGH, ALASKA  
 NEAR RECORDING DISTRICT

CONTAINING 0.943 ACRES

**EDGE**  
 SURVEYING & MAPPING, LLC  
 1000 SOUTH BRANCH C. AVENUE, ANCHORAGE, ALASKA 99503  
 PHONE 281-344-0225 FAX 281-344-0298

**APPROVAL RECOMMENDED**

STATEWIDE PLANNING SUPERVISOR	DATE	FIELD BOOK:
DRAWN BY:	SURVEY DATE:	SCALE:
21	5-29-18	1" = 50'
CHECKED BY:	DATE:	AKB FILE NO.:
MA	02-02-2019	2019
		AKB FILE NO.:
		010712347

**SECTION LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION**

**STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

THE VACATION STATEMENT, AS SHOWN HEREON HAS BEEN REVIEWED BY THE CENTRAL REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: REGIONAL OFFICE RIGHT-OF-WAY AGENT

**STATE OF ALASKA DIVISION OF MINING, LAND AND WATER**

THE VACATION STATEMENT, AS SHOWN HEREON HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND AND WATER AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: DIRECTOR, DIVISION OF MINING, LAND AND WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA SURRENDERS AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION LINE EASEMENT FOR PUBLIC HIGHWAYS RESTRICTED TO IT UNDER AS 19.10.010, (SPECIFIC AREA DELINEATED ON THIS PLAT WITH DOUBLE CROSS HATCH).

APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
 COMMISSIONER  
 ALASKA DEPARTMENT OF NATURAL RESOURCES

APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
 COMMISSIONER  
 ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE NEAR PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF FEBRUARY 4, 2019.  
 NEAR PENINSULA BOROUGH

AUTHORIZED OFFICIAL: \_\_\_\_\_ DATE: \_\_\_\_\_

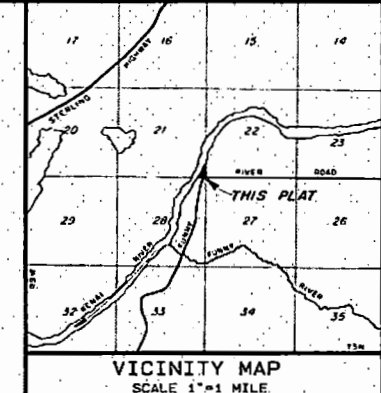
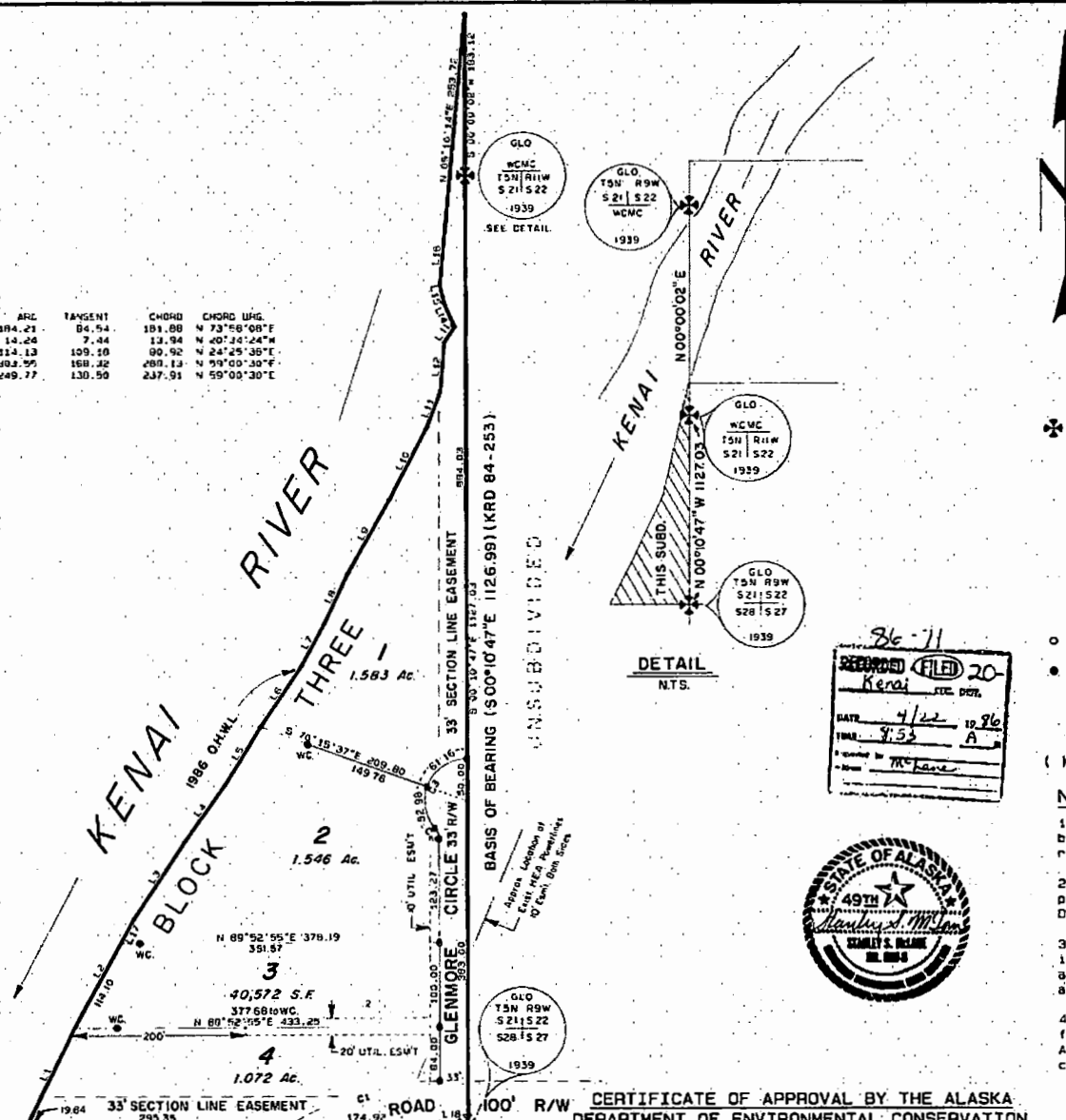


**CURVE TABLE**

CURVE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEG.
1	31°45'09"	332.23	194.21	84.54	191.88	N 73°58'08"E
2	40°47'13"	40.00	14.24	7.44	13.94	N 40°34'24"W
3	130°47'13"	50.00	114.13	109.10	90.92	N 24°25'35"E
4	51°37'26"	434.23	284.99	158.32	280.13	N 59°00'30"E
5	61°37'26"	434.23	249.77	130.50	237.91	N 59°00'30"E

**LINE TABLE**

LINE	BEARING	DISTANCE
1	N 26°21'02"E	147.41
2	N 28°40'24"E	148.14
3	N 33°09'31"E	109.41
4	N 35°07'40"E	82.46
5	N 31°49'30"E	80.76
6	N 28°52'21"E	87.18
7	N 28°08'15"E	56.93
8	N 24°51'07"E	66.14
9	N 29°18'15"E	101.94
10	N 27°18'53"E	85.85
11	N 20°59'39"E	49.08
12	N 04°45'06"E	59.72
13	N 33°48'47"E	21.89
14	N 23°48'50"W	31.87
15	N 12°11'58"W	21.00
16	N 05°10'14"W	71.13
17	S 28°40'18"W	34.04
18	N 89°48'11"E	31.00



- LEGEND**
- ✱ BLM or GLO monument recovered
  - BLM or GLO monument not recovered
  - Found official survey monument
  - ▨ Set Berntsen 3 1/4" x 30" aluminum survey monument
  - Monument of record not recovered
  - Found 5/8" rebar
  - Set 5/8" x 30" rebar with 2" aluminum cap
  - Found 1/2" rebar
  - Set 1/2" x 24" rebar with plastic cap C 263
  - Found 1 1/2" aluminum cap
  - Found rebar with plastic cap
  - ( ) Indicates record data

36-11  
 RECORDED FILED 20  
 Kenai  
 DATE 4/22 1986  
 TIME 9:53 A  
 M. Lane



- NOTES**
- Water supply and sewage disposal systems shall be permitted only in conformance with applicable requirements of 18 AAC 70, 18 AAC 72, and 18 AAC 80.
  - No direct access to state maintained ROWs permitted unless approved by State of Alaska Department of Transportation.
  - BUILDING SET BACK** - A building set back of 20 ft. is required from all street right-of-ways unless a lesser standard is approved by resolution of the appropriate Planning Commission.
  - The Ordinary High Water Line of the Kenai River forms the boundary of all riverfront lots. The Approximate 1888 D.M.W.L. shown is for survey computations only.

**CERTIFICATE OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

This subdivision has been reviewed in accordance with 18AAC72.065 and is approved, subject to any noted restrictions.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

STATE OF ALASKA  
 NOTARY PUBLIC  
 SHIRLEY MOORE  
 My Commission Expires 2/24/87

**NOTARY'S ACKNOWLEDGEMENT**  
 FOR: *Elmer R. Bird and Patsy J. Bird*  
 Subscribed and sworn before me this 24 day of March, 1986.  
 My commission expires 2/24/89  
*Shirley L. Moore*  
 Notary Public for the State of Alaska

**CERTIFICATE OF OWNERSHIP AND DEDICATION**  
 We hereby certify that we are the owners of the property shown and described hereon and that we hereby adopt this plan of subdivision and dedicate all right-of-ways to public use, and grant all easements to the use shown.  
*Elmer R. Bird* *Patsy J. Bird*  
 Elmer R. Bird Patsy J. Bird

**PLAT APPROVAL**  
 This plat was approved by the KENAI PENINSULA BOROUGH PLANNING COMMISSION at the meeting of  
 APRIL 9 1986  
 KENAI PENINSULA BOROUGH  
 By *Richard P. Torgue*  
 Authorized Official

**PILOT'S BEND SUBDIVISION PART THREE**

Elmer R. Bird, owner  
 Box 2045  
 Soldotna, AK 99669

**LOCATION**  
 5.614 Ac. M/L SITUATED IN THE SE 1/4 SE 1/4 SECTION 21 EAST OF THE KENAI RIVER T5N R9W SEWARD MERIDIAN ALASKA AND WITHIN THE KENAI PENINSULA BOROUGH.

Surveyed by: **McLANE and ASSOCIATES, INC.**  
 Soldotna, AK 99669

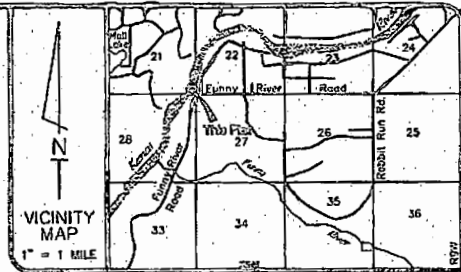
DATE OF SURVEY 3/20/86	SCALE 1" = 100'	SHEET 1 of 1
DRAWN BY MB,GB	BK. No. 84-33,86-09	K.P.B. FILE No.
CHECKED BY	JOB No. 86-2027	86-109

**NOTES:**

- Proposed land uses are recreational, residential, agricultural, and commercial.
- Building Setback - A setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.
- No private access to State maintained ROW's permitted unless approved by the State of Alaska Department of Transportation.
- Front 10 ft. of the building setback adjacent to rights-of-way is also a utility easement. No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a Utility to use the easement.
- Lots within this subdivision may be located within a designated flood hazard area; if such is the case, development must comply with Title 21 of the Kenai Peninsula Borough Code of Ordinances. A survey to determine the elevation of the property may be required prior to construction.
- 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.
- The natural meanders of the line of Mean High Water or Ordinary High Water forms the true bounds of the subdivision. The approximate line of Mean High Water or Ordinary High Water, as shown, is for computations only. The TRUE property corners being on the extension of the side lot lines and their intersection with the natural meanders.
- Portions of this subdivision are within the Kenai Peninsula Borough 50 ft. Anadromous Stream Habitat Protection Area. Development may be restricted under Chapter 21.18 Kenai Peninsula Borough Code of Ordinances.
- An exception was granted by the Plat committee on October 22, 2007 to KPB 20.20.180 (depth to width ratio).
- WASTEWATER DISPOSAL:** Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer, registered to practice in Alaska, and the design must be approved by the Alaska Dept. of Environmental Conservation.

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD BEARING
C1	31°51'45"	332.23'	184.76'	182.38'
C2	4°52'01"	332.23'	28.22'	28.21'
C3	26°59'44"	332.23'	156.53'	155.09'
C4	41°00'10"	20.00'	14.31'	14.01'
C5	76°53'49"	50.00'	67.11'	62.18'
C6	53°48'36"	50.00'	46.96'	45.25'
C7	130°42'25"	50.00'	114.06'	90.89'

LINE TABLE		
LINE	BEARING	Distance
L1	S23°39'13"W	54.93'
L2	S22°45'54"W	86.78'
L3	S14°06'52"W	107.09'
L4	S38°07'55"W	30.84'
L5	S06°15'50"E	108.62'
L6	S07°45'55"W	126.08'
L7	N00°10'47"W	47.96'



**CERTIFICATE of OWNERSHIP and DEDICATION**

WE HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

*Elmer Ray Bird*  
Elmer Ray Bird  
*Patsy J. Bird*  
Patsy J. Bird

37020 Funny River Road  
Soldotna, Alaska 99669

**NOTARY'S ACKNOWLEDGMENT**

SUBSCRIBED AND SWORN BEFORE ME THIS 9th DAY OF June 2008 FOR Elmer Ray Bird & Patsy J. Bird

*David Brown*  
NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES 1-1-09



**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF October 22, 2007

KENAI PENINSULA BOROUGH  
*Mary Jell*  
AUTHORIZED OFFICIAL

KPB FILE No. 2007-282

**Pilot's Bend Bird Replat**

A subdivision of Lot 1A Block 3 Pilot's Bend Subdivision, Plat No. 99-92 KRD.  
Located within the SE1/4 Section 21, T5N, R9W, S. M., Kenai Recording District, Kenai Peninsula Borough, Alaska.  
Containing 5.132 Acres

*Integrity Surveys, Inc.*  
8195 Kenai Spur Hwy Kenai, Alaska 99611-8902  
SURVEYORS PHONE - (907) 283-9047 FAX - (907) 283-9071 PLANNERS

JOB NO:	27173	DRAWN:	13 May, 2009 CB
SURVEYED:	10/07 - 01/08	SCALE:	1" = 100'
FIELD BK:	2007-5, P.G. 73,75	DISK:	Pilot's Bend

2008-55  
RECORDED 2D  
Kenai REC. DIST.  
DATE: 6/23 2008  
TIME: 11:32 A.M.  
REQUESTED BY:  
INTEGRITY SURVEYS  
8195 KENAI SPUR HWY  
KENAI, ALASKA 99611

**SURVEYOR'S CERTIFICATE**

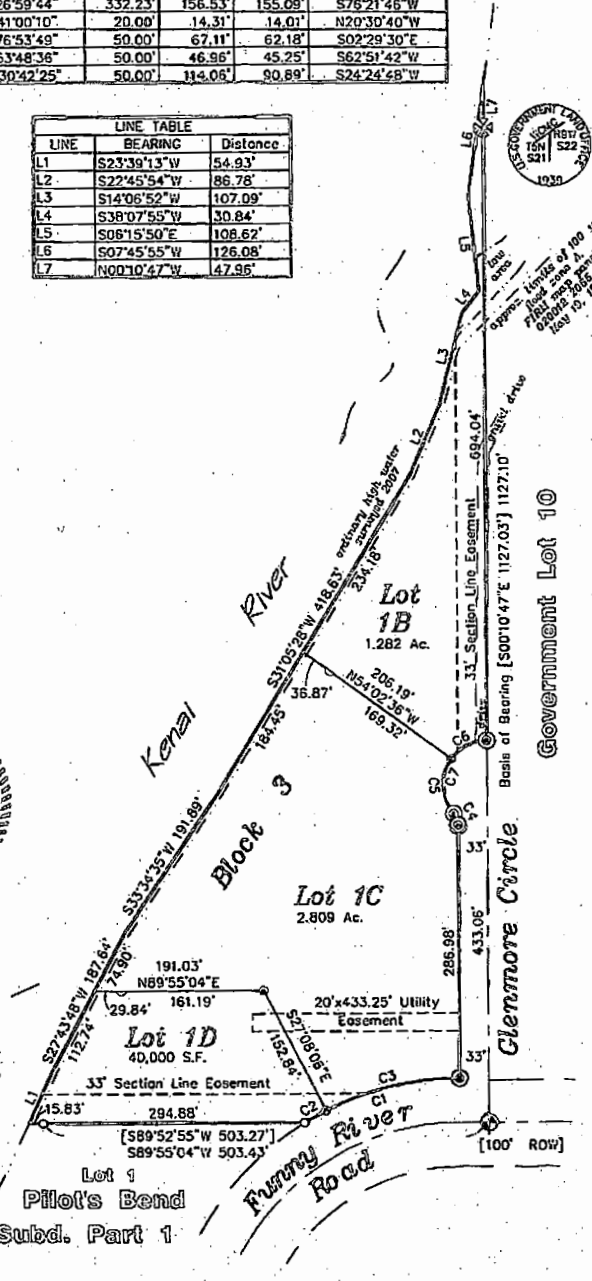
I hereby certify that: I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown herein actually exist as described, and all dimensions and other details are correct to the normal standards of practice of land surveyors in the State of Alaska.



*CE Baker*  
Engineer  
CE 7863  
License #  
13 June 2008  
Date

**LEGEND:**

- 2-1/2" Brass Cap GLO Monument (found)
- 2" Iron Pipe, no cap (found)
- Yellow Plastic Cap, C263 (found)
- 1/2" Rebar (found)
- 5/8" Rebar (set)
- Witness Corner Meander Corner, 5/8" Rebar (set)
- Record Datum - Pilot's Bend Subd. Homestead Addn., Plat # 99-92 KRD



APPROVED BY THE BOARD OF SUPERVISORS  
Kenai Peninsula Borough  
Kenai, Alaska  
May 20, 2008

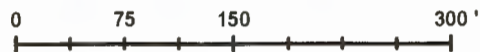
Government Lot 10




Glennmore Circle



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**



	Section Line Easement Vacation
	Right of Way Vacation
	Utility Easement Vacation

JReif, KPB  
 Date: 5/7/2019  
 Imagery: 2018



KENAI RIVER

1B

1C

GLENMORE CIR

1D

MP12

FUNNY RIVER RD

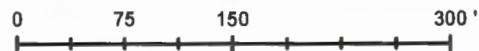
1




2



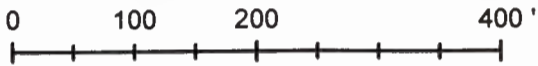
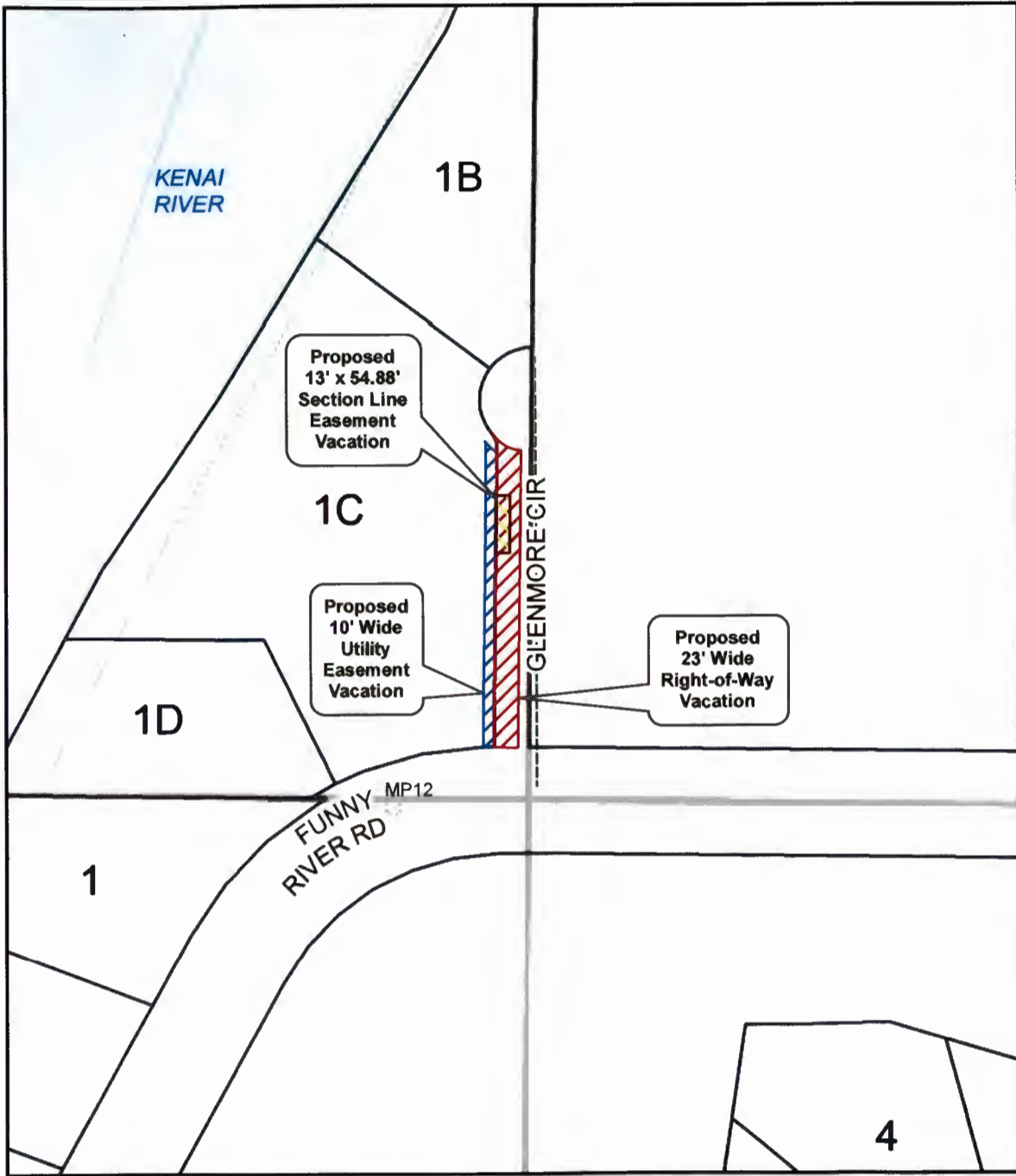
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Aerial View

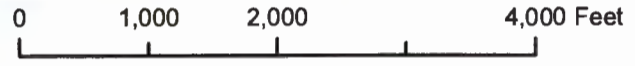
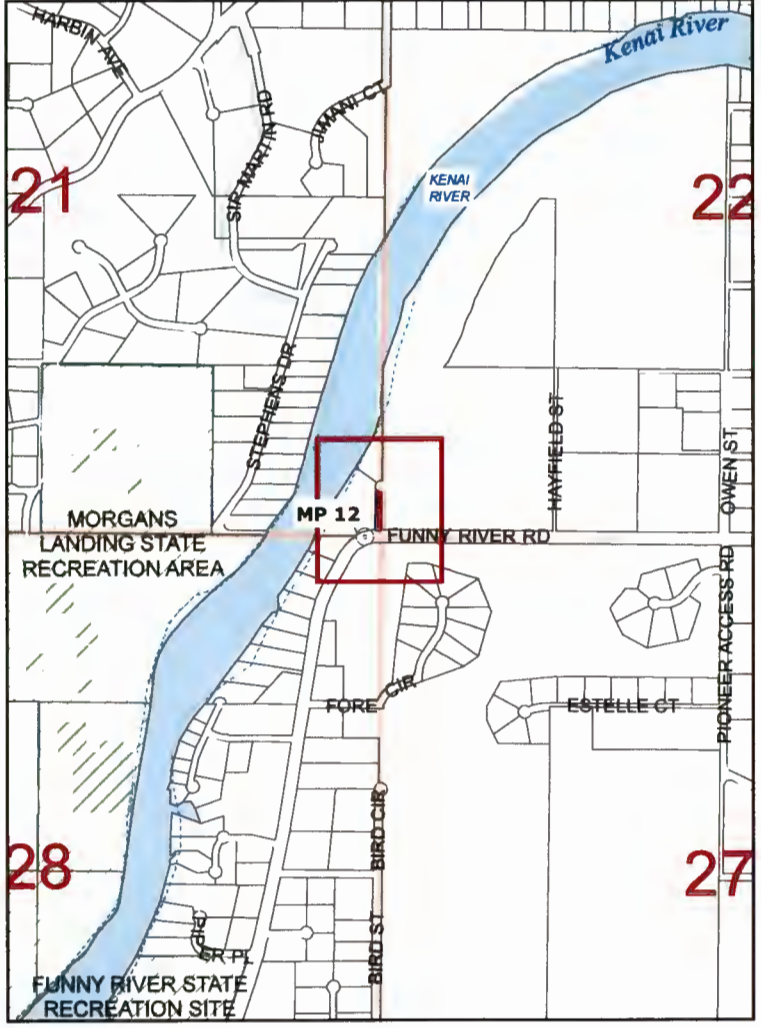


	Section Line Easement Vacation
	Right of Way Vacation
	Utility Easement Vacation

JReif, KPB  
Date: 5/7/2019  
Imagery: 2016



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.

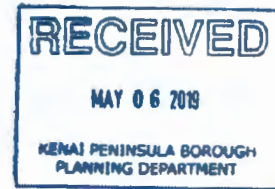


**KPB 2019-056V**  
**T05N R09W S21**  
**FUNNY RIVER**

JReif, KPB  
 Date: 5/7/2019



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 Pilot's Band Bird Flaplat Subdivision, filed as Plat No. 2008-55 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 No
  - 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:

Building in ROW at time of purchase undisclosed to current owner.  
A current total of 83' of section line easement in place, which provides ample space for a constructed access.  
Area to be vacated not constructed. Existing ROW provides access to one parcel and ends in cul-de-sac.  
Existing constructed access built in SLE to the East.

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: Edge Survey and Design  
 Address 43336 K-Beach Rd. Ste. 16B  
Soldotna, AK 99669  
jason@edgesurvey.net  
 Phone 907-283-9047

Signature as:

Petitioner  Representative

Petitioners:

Signature [Signature]  
 Name COLIN FRANK TOM  
 Address 98-130 LIPOA PL AIEA, HI 96701  
 Local: 37020 FUNNY RIVER RD

Signature [Signature]  
 Name VANESSA LINN HARA TOM  
 Address 98-130 LIPOA PL AIEA, HI 96701  
 Local: 37020 FUNNY RIVER RD

Owner of \_\_\_\_\_

Owner of \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

Owner of \_\_\_\_\_

Owner of \_\_\_\_\_

**Pilot's Bend Bird Replat. Plat 2008-55 KRD.**

**Findings for Vacation Approval:**

**Current ROW is undeveloped.**

**Current local traffic uses constructed traveled way in the 50' SLE to the immediate East.**

**Right of way to be vacated provided access to one residence. That residence uses the constructed traveled way to the East.**

**Adequate access width still in place with 10' ROW remaining combined with 50'SLE to the east to provide a full 60' wide access.**

**Terrain is relatively flat and has no effect on development options.**

**ROW to be vacated has existing structure encroachment that was undisclosed to current owner at time of purchase.**

**Seeking exception to building setback width near exiting structure.**

**Adequate utility easement provided with new platting action.**