

Kenai Peninsula Borough  
Planning Department

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**MEMORANDUM**

**TO:** Brent Johnson, Assembly President  
Kenai Peninsula Borough Assembly Members

**FROM:** Robert Ruffner, Planning Director *rr*

**DATE:** May 10, 2022

**RE:** Right-of-way Vacation: Vacating a portion of Paper Birch Lane & associated utility easements; KPB File 2022-023VR1.

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

During their regularly scheduled meeting of May 9, 2022 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation of by majority vote based on the means of evaluating public necessity established by KPB 20.65 (8-Yes, 2- No, 1-Absent, 3-Vacant). This petition is being sent to you for your consideration and action.

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

May 9, 2022 Agenda Item E3 Packet Materials  
May 9, 2022 Agenda Item E3 Desk Packet Materials

## Hindman, Julie

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**From:** Planning Dept,  
**Sent:** Friday, May 6, 2022 12:58 PM  
**To:** Hindman, Julie  
**Subject:** FW: <EXTERNAL-SENDER>KBP file# 2020-023VR1

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**From:** mk\*\*\*\*\*im k <mkinttrim@outlook.com>  
**Sent:** Friday, May 6, 2022 12:43 PM  
**To:** Planning Dept, <planning@kpb.us>  
**Subject:** <EXTERNAL-SENDER>KBP file# 2020-023VR1

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

Hello, I am Mark Kemberling a resident of lot 4A in Tulchina Pointe, 40790 Authentic RD. When I bought both of my lots in 2007 I KNEW where my property lines where! My builder verified this by survey. I really don't see an excuse for this at all. Most survey stakes that I have seen have writing on them referring to their purpose. The builder said in a previous hearing that he "thought" they were property lines. I find this hard to believe. Between the builder and the homeowner someone knew this in my opinion.

I agree with the Assembly's decision that this is a case of trespass and that only the footprint should be allowed.

Rewarding a mistake with property is not solving a problem and creates precedence! I believe that if you do reward littleknife with this property, that Developer Cr. be extended threw their property (lot to meet up with Paper Birch. All utilities are already on Developer. The land lost from lot 8 & 9 would be made up by the land gained.

As far as the vacate on lot 15, this has nothing to do with the original problem and should not be allowed. The assembly also questioned the reasoning of this. This should remain Borough property and would make great public access to Paper Birch.

My wife and I will be watching the meeting through Zoom.

Thank You,  
Mark & Jacqie Kemberling

Sent from [Mail](#) for Windows

## Quinton, Madeleine

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**From:** jan morrison <janmorrison35@yahoo.com>  
**Sent:** Friday, May 6, 2022 9:30 AM  
**To:** Planning Dept,  
**Subject:** <EXTERNAL-SENDER>Paper Birch Easement Vacation

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

Sent from my iPhone

Begin forwarded message:

**From:**  
**Date:** May 6, 2022 at 9:12:02 AM AKDT  
**To:**  
**Subject: Paper Birch Easement Vacation**

I am writing in opposition of the proposal to vacate a portion of the Paper Birch Lane easement. There are other solutions available that don't require the Borough giving away free and/or placing additional development costs and difficulties on other land owners in the area. Even if only a part of the Paper Birch easement is vacated, it still pushes the road onto a side hill which will be more costly and difficult to develop. Also, just vacating the easement as currently proposed, sets a bad precedent from the Borough and does nothing to deter builders from doing this in the future. Another thing that makes no sense in this proposal is the vacation of the Paper Birch easement behind lot 15. This lot has nothing to do with correcting the house encroachment on lot 9. Granting a vacation of the easement behind lot 15 would only increase cost and difficulty to developing Paper Birch Lane.

Another option that is mentioned by the petitioners is connecting Authentic Road and Paper Birch Lane through lot 2 owned by Charles Johnson. At the last meeting about vacating the Paper Birch easement, Mr. Johnson said he would not approve a road going through his lot. So, being that Mr. Johnson has already said he will not approve a road going through his lot, this option should not even be considered.

Looking at the maps and plats of the subdivision and taking into consideration that the Borough is under no obligation to vacate part of the Paper Birch easement for the convenience of 1 land owner, there is a better option available. That option is to connect Paper Birch to Developer Circle through lot 8, which is also owned by the builder/ homeowner of lot 9. This option would be a win for all parties involved. It would still provide access from Paper Birch to Authentic. It would not place any additional costs or difficulties on other land owners to develop this connecting road. It would set a standard that the Borough will hold builders accountable for not following basic rules to make sure builders are building on their own property. The Borough would not just be giving away land to correct a builder's mistake. The owner of the house in the Paper Birch easement also owns lot 8. By connecting Paper Birch to

Developer, the Borough would basically “trade” the vacated portion of the Paper Birch easement for an easement connecting Paper Birch to Developer.

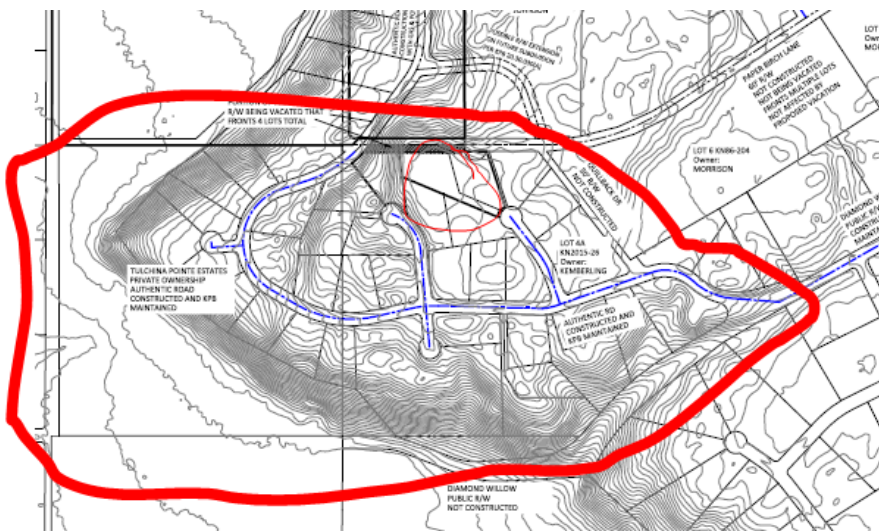
As currently proposed, I do not support the proposal to vacate part of the Paper Birch easement. It does nothing but place additional cost and burden on other land owners in the area, while at the same time rewarding the builder/ home owner on lot 9 for making a huge mistake.

Russ and Jan Morrison

To whom it may concern:

I am writing in opposition of the vacation of a portion of Paper Birch Lane proposal. Although this proposal is an improvement to the original proposal, the petitioners are not taking into account the Assembly's guidance on the direction they would favor. The petitioners trespassed on Borough property, staking claim to an ideal, flat, view-location. And now, just as in their first proposal, they want the Borough to give them and their neighbor Borough owned land when there are other solutions available. As Assembly member Eckland said, "this one is egregious". Mayor Charlie Pierce called for "relief for the Borough".

The house is perched on one of the flattest location in the entire 84 acre subdivision (see figure 1).



E3-23

Figure 1. Tulchina Pointe Estates in red bold. Location of house in red fine point.

Who else made plans to take advantage of that flat spot? How about the developers who planned for a road to go there! With a house taking up half of the road easement, plus the request for additional setback, any potential road is pushed over to the side of the hill (figure 2).

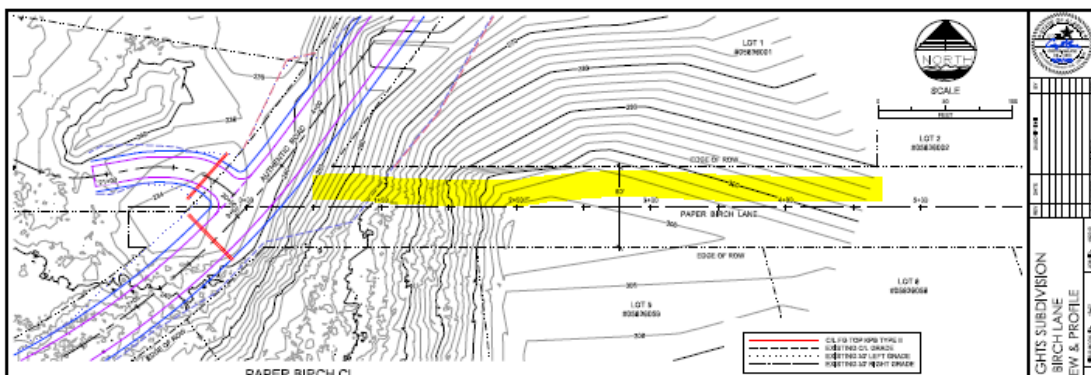


Figure 2. The highlighted segment would be the remaining easement if this partial vacation is approved. There is much more side hill and difficulties on this side of the easement.

Building a road/driveway on a slope, particularly right before the hill descends adds much cost and complexity to construction. This can be resolved in two ways: a foot print vacation, as Assembly President Johnson suggested, or moving the road easement to connect to Developer Circle on the petitioner’s lot 8, which we will call the Developer Connection, see figure 3.



Figure 3. Developer Connection; a possible alternative. The angle of interesting Paper Birch is less than the already approved intersection of Quillback and Paper Birch.

In both proposals to vacate this easement, the petitioners are taking no responsibility for placing this house on property that did not belong to them. “This is troubling,” said assembly member Bjorkman. Assembly member Cox said there are “consequences for not going through the right procedures.” Vacating an easement and giving the petitioner an abundant amount of Borough land IS NOT A CONSEQUENCE. It is a REWARD! Relocating the easement onto their double lot to Developer Circle would show effort at remedying their mistake. This is such an obvious solution that, 1.) allows the petitioners to be a part of the remedy for the problem they created, 2.) addresses the difficulty of building a road alongside their house and 3.) no one is getting free land for making a huge “mistake”.

### DEVELOPER CONNECTIN OPTION

The Developer Connection would involve turning Paper Birch Lane at the east corner of lot 8 and connecting to Developer Circle in a property exchange. It would show accountability, set a good standard for the Borough by seeking alternative remedies that provide relief for the Borough, and reduce the length and difficult terrain

to connect the roads. The Developer Connection would not add any additional road development cost, unlike the current proposal. The distance from Paper Birch Lane to Developer Circle along Lot 8 is only 266' (figure 4), which is half the length of continuing to Authentic Dr (figure 5), and would cut off difficult terrain (figure 6). It is relatively flat and without difficult side hills or slopes.



Figure 4. Developer Connection; a possible alternative. Only 266' long.

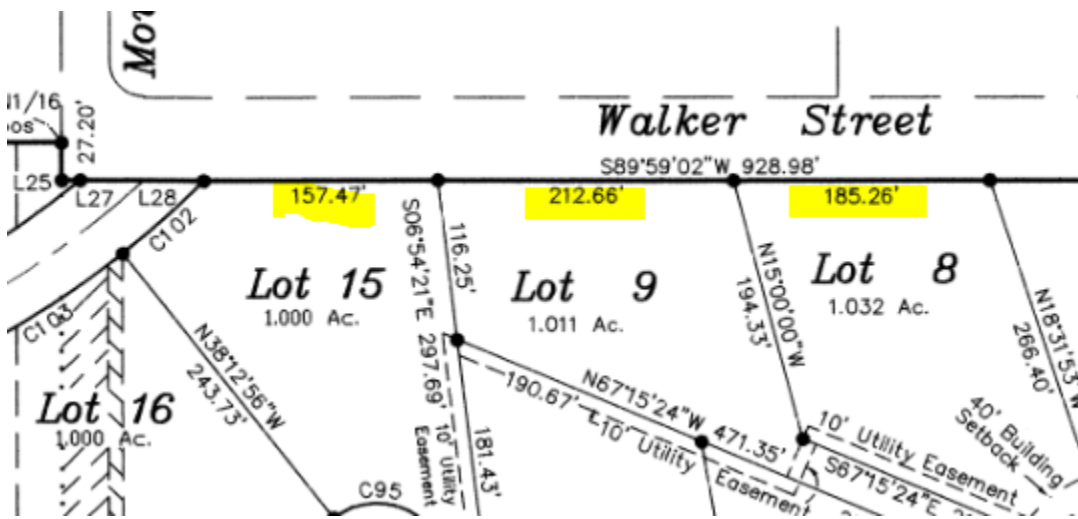


Figure 5. Paper Birch (formerly Walker St), the distant from lot 8, 9 and 15 to Authentic Dr. 555.39' Enlarged from Tulchina Pointe Estates plat.

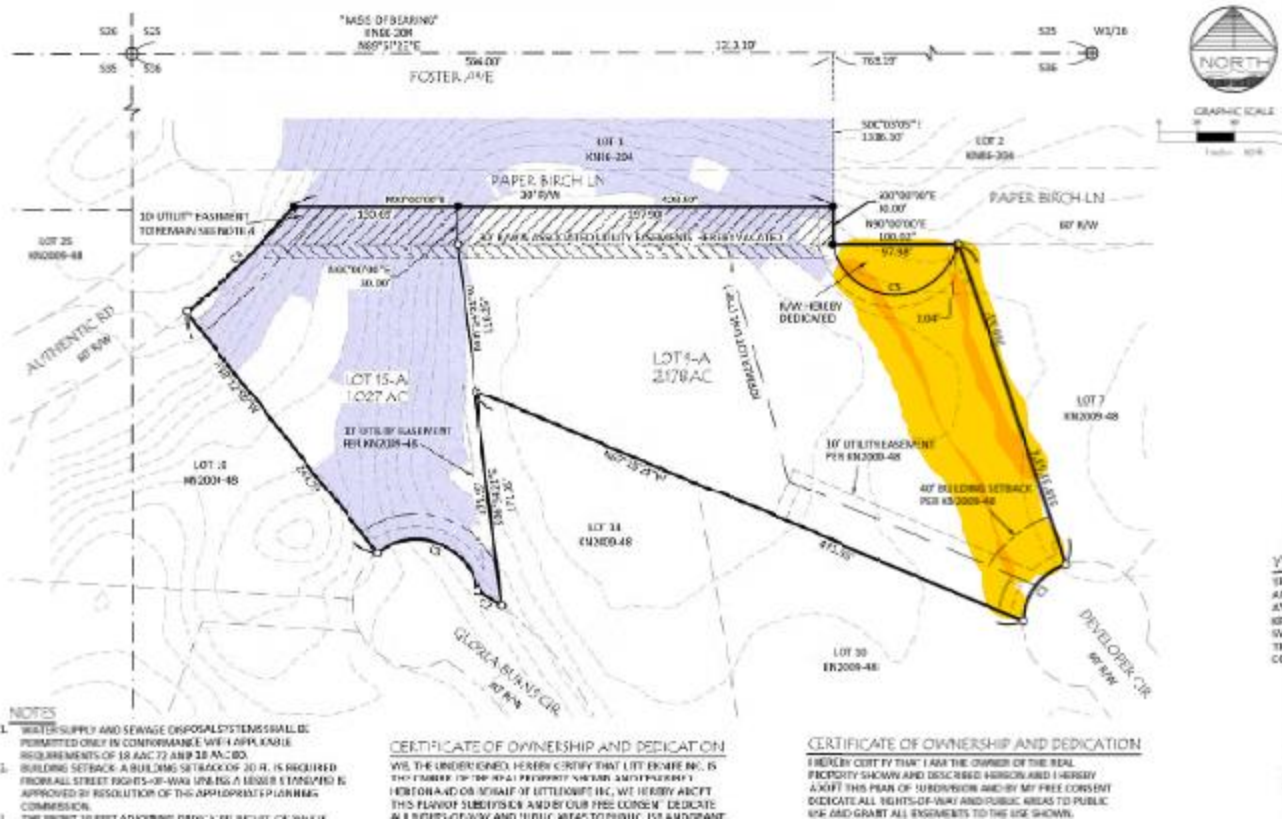


Figure 6. The yellow highlighted portion would be the Developer Connection. It has few terrain difficulties compared to remaining road easement if this vacation is approved.

The Developer Connection also “improve(s) the block” which was a concern of the KPB Road Department.

Why does the borough need to GIVE AWAY a third of an acre, which causes a reduction in access when they could EXCHANGE .36 (266’x60’) while creating better and cheaper access and not set a bad precedent for building in easements?

### FOOTPRINT VACATION OPTION

Assembly President Johnson suggested the petitioners consider a footprint vacation. This proposal is far from a footprint vacation. The petitioners are still seeking an outcome that most favors them! Not their neighbors or anyone desiring access. This vacation still AWARDS a third of an acre to them, whereas a footprint vacation would award the minimal amount of square footage needed to satisfy the encroachment. **The planning commission is under no obligation to give away more land than would satisfy the encroachment.** Just because they are asking for all of the easement (30’ x 428’), doesn’t mean the Borough has to give it away. Especially where there are other, better alternatives! Assembly member Elam said the petitioners (in their last proposal) were requesting a “full back yard”. This proposal is no different. “It’s a take,” he commented.



## LOT 15 EASEMENT VACATION

Another aspect in this proposal that should cause the entire case to be thrown out is the request that lot owner 15 also be awarded Borough property (see figure 4 for lot locations). This property is not relevant to the encroachment. Vacating the easement on lot 15 does nothing to help fix the house encroachment. If anything, it further limits the location of a road/driveway, which also increase the road construction cost. Adding the easement vacation of lot 15 into the proposal suggests that that this is nothing more than an egregious land grab.

The owner of lot 15 resides on Lot 16. Lot 15 is a side yard. This lot, which has not been altered since purchased a few years ago, is hilly. The owner, purchased the lot knowing the terrain (and road easement) would restrict development. The owner of the lots described the hill as Mount Alyeska; so steep that four-wheelers would topple over backward on their riders. Please see figures 7 and 8 to see the nature of the hill and terrain in question. Does it appear that a “tram is needed to get to the top”? Please judge with your own eyes from the pictures provided by the petitioners and weigh if exaggerations have been made.



Figure 7 and 8. Photos of the terrain.

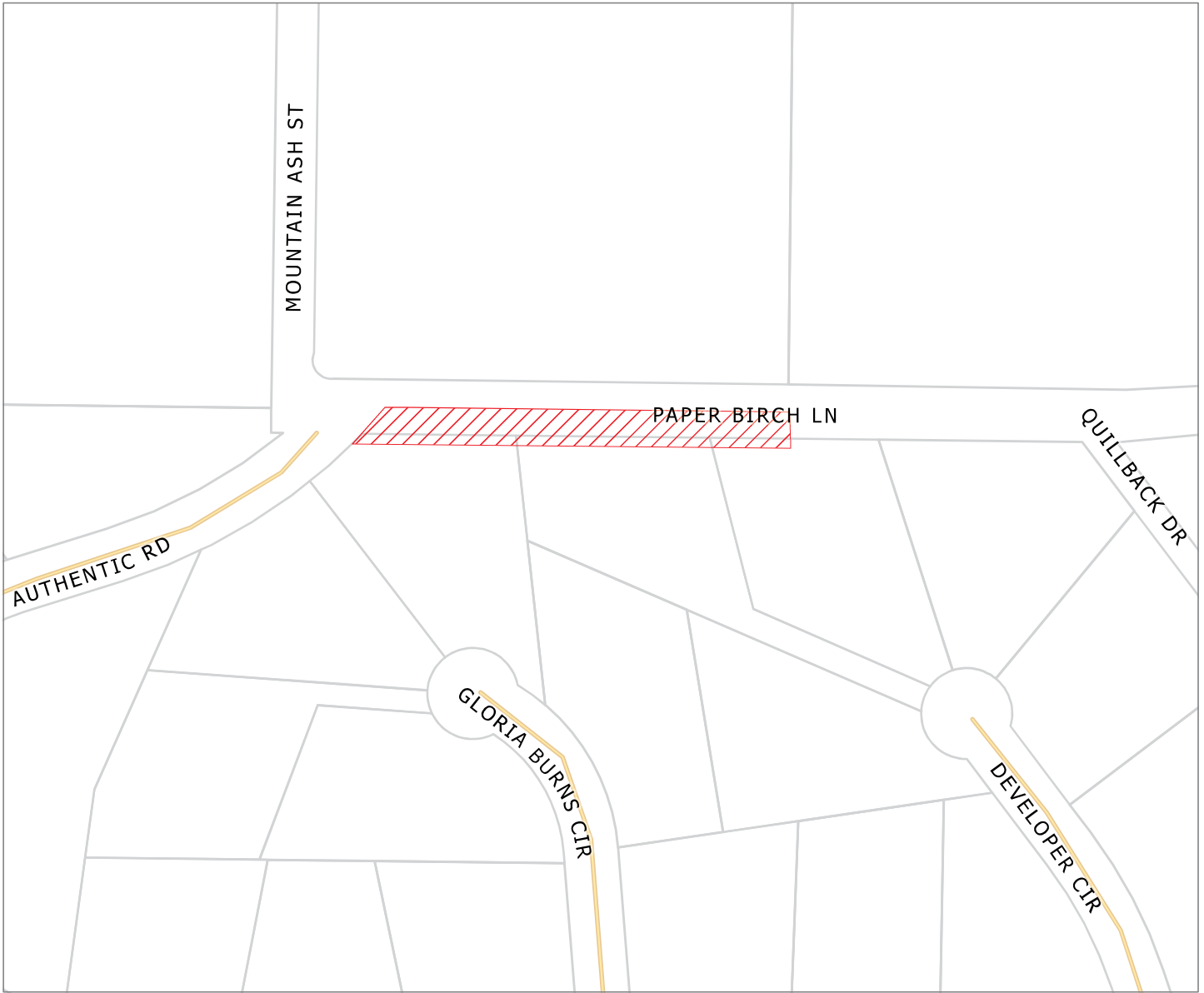
“I appreciate the Assembly standing up and showing support that the Planning Commission can say no,” said Assembly member Eckland. We encourage the Planning Commission to recognize that there are better options available than what is offered in this proposal; both for the Borough and neighbors desiring access. Please take the Assembly’s UNANIMOUS veto as a signal to ask the petitioners to provide a proposal that provides an acceptable replacement access instead of just vacating the existing access. Assembly President Johnson said the Assembly’s action of vetoing the original proposal was sending “a good direction for the Planning Commission.” Assembly member Hibbert encouraged Planning Commission members to “stand strong.” Please send this proposal back to the petitioners.

Sincerely,

Kevin and Heidi Morrison



Vicinity Map

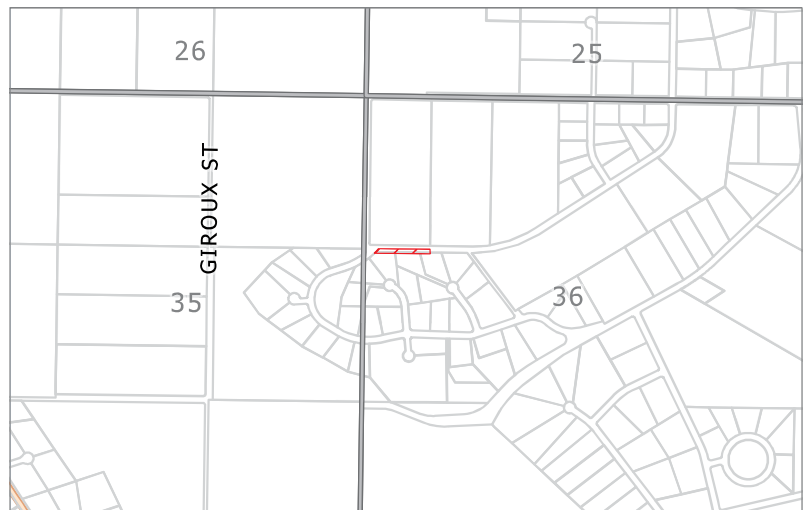
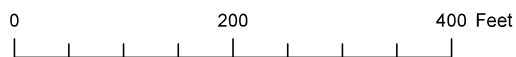


KPB File # 2022-023VR1

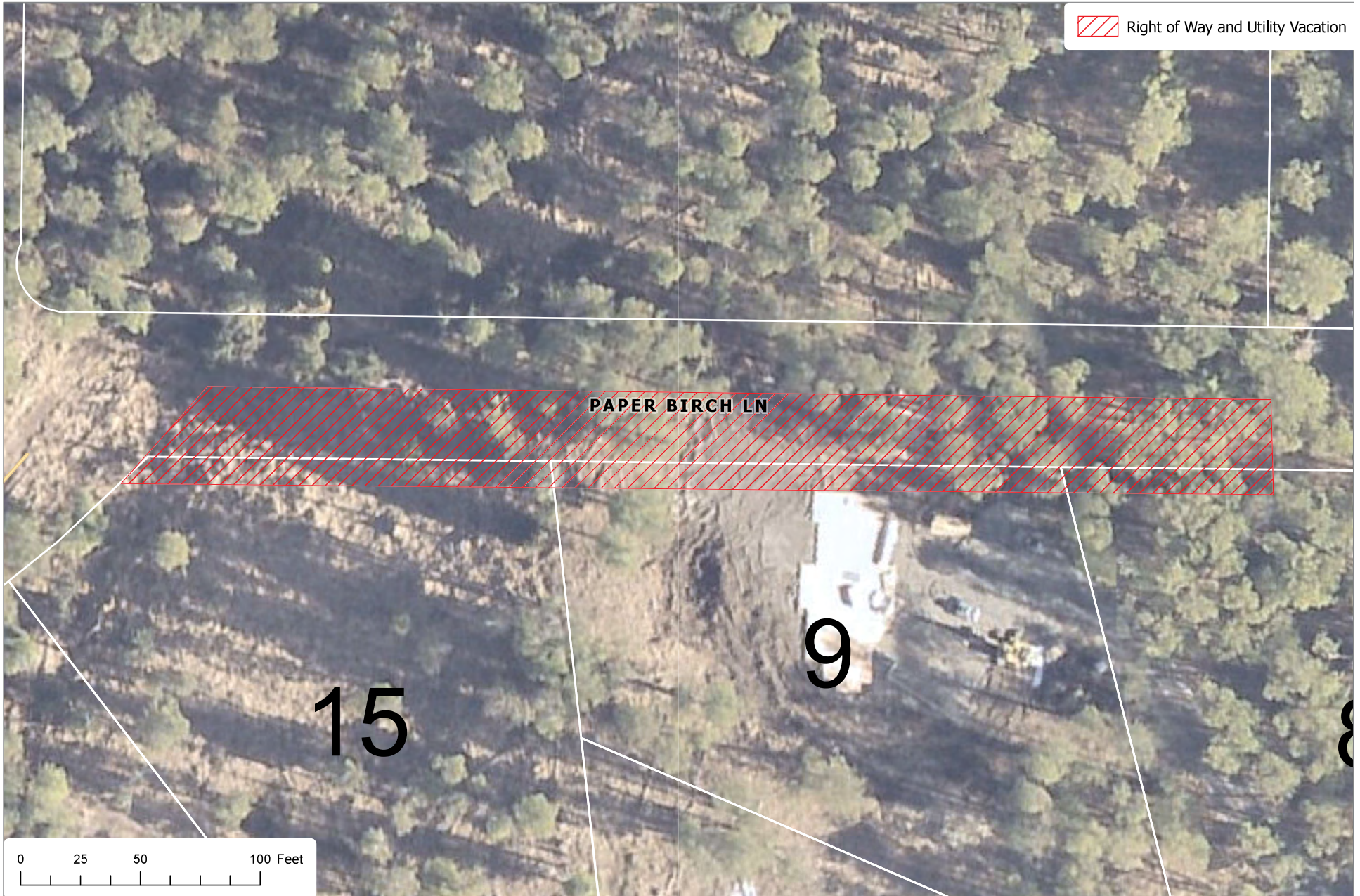
S36-T05N-R10W

Sterling

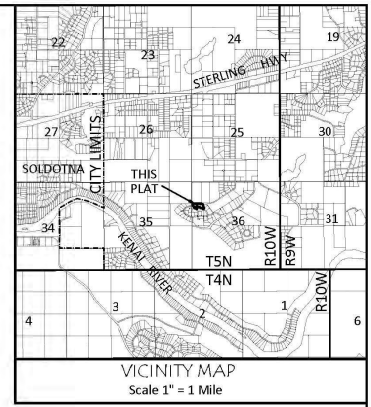
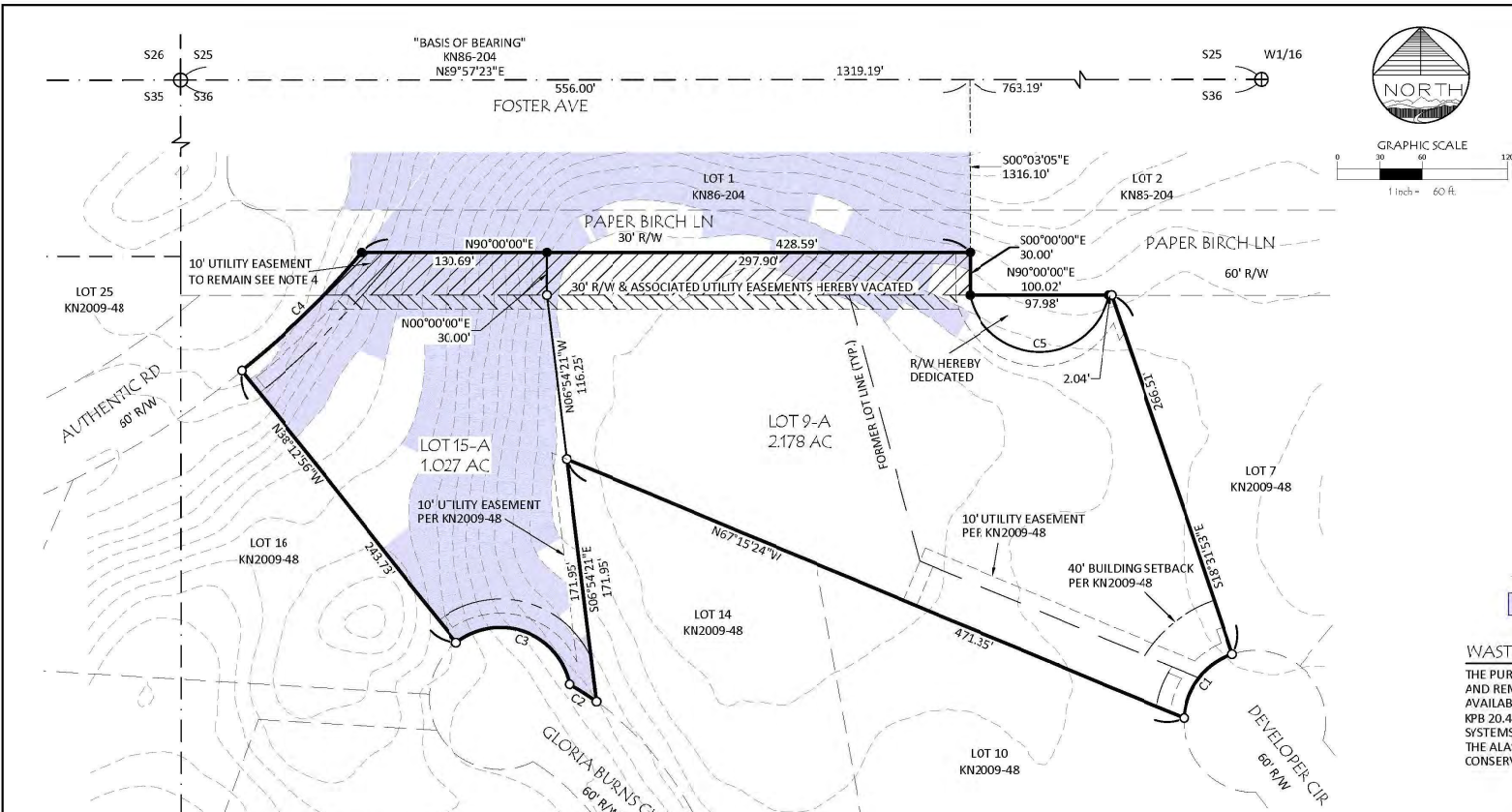
4/13/2022



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.



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**LEGEND**

- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
- FOUND 5/8" REBAR UNLESS NOTED
- SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S
- SLE SECTION LINE EASEMENT
- CONTOUR INTERVAL = 4'
- SLOPES GREATER THAN 20%

**WASTEWATER DISPOSAL**

THE PURPOSE OF THIS PLATTING ACTION IS TO VACATE R/W AND REMOVE A LOT LINE, WHICH WILL PROVIDE GREATER AVAILABLE WASTEWATER DISPOSAL AREA AS DESCRIBED BY KPB 20.40.020(A)(2). WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

- NOTES**
- WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
  - BUILDING SETBACK- A BUILDING SETBACK OF 20 FT. IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
  - THE FRONT 10 FEET ADJOINING DEDICATED RIGHTS-OF-WAY IS ALSO A UTILITY EASEMENT PER KN86-204.
  - 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.
  - THE RIGHT-OF-WAY VACATION OF A PORTION OF PAPER BIRCH LANE AND ASSOCIATED UTILITY EASEMENTS WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING 02-2022.
  - THIS PARCEL MAY BE AFFECTED BY THE FOLLOWING:
    - COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED AUGUST 23, 2006 IN DOCUMENT No. 2006-009157-0 KRD. THE BOROUGH WILL NOT ENFORCE PRIVATE COVENANTS, EASEMENTS OR DEED RESTRICTIONS PER KPB 20.60.170(B).

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT LITTLEKNIFE INC, IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF LITTLEKNIFE INC, 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.

LITTLEKNIFE INC., STEVE BOWEN - OWNER LOT 8 & 9 KN2009-48  
36496 HALEY'S WAY, SOLDOTNA, AK 99669

LITTLEKNIFE INC., HALEY BOWEN - OWNER LOT 8 & 9 KN2009-48  
36496 HALEY'S WAY, SOLDOTNA, AK 99669

**NOTARY'S ACKNOWLEDGEMENT**

FOR: STEVE AND HALEY BOWEN

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

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

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

GALE L SMITH, OWNER LOT 15 KN2009-48  
34701 GLORIA BURNS CIRCLE, SOLDOTNA, AK 99669

**NOTARY'S ACKNOWLEDGEMENT**

FOR: GALE L SMITH

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

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

**CURVE TABLE**

CURVE #	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	68°33'14"	50.00'	59.82'	34.08'	S 37° 03' 57" W	56.32'
C2	5°33'18"	230.00'	22.30'	11.16'	V 56° 44' 05" W	22.29'
C3	116°40'11"	50.00'	101.81'	81.07'	V 69° 52' 51" W	85.11'
C4	10°45'42"	630.00'	118.33'	59.34'	N 45° 18' 13" E	118.16'
C5	156°55'34"	50.00'	136.94'	244.95'	N 90° 00' 00" E	97.98'

**KPB 2022-023VR1**

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF \_\_\_\_\_, 2022.

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



**Plat #**

Rec Dist \_\_\_\_\_

Date \_\_\_\_\_ 20\_\_\_\_

Time \_\_\_\_\_ M

**TULCHINA POINTE ESTATES 2022 REPLAT**

A RESUBDIVISION OF LOTS 8, 9 & 15 TULCHINA POINTE ESTATES SUBDIVISION PHASE 2 AMENDED (KN2009-48) w/ RIGHT-OF-WAY VACATION INCLUDING ASSOCIATED UTILITY EASEMENTS FOR A PORTION OF PAPER BIRCH LANE

LITTLEKNIFE INC., OWNER LOT 8 & 9 KN2009-48  
36496 HALEY'S WAY, SOLDOTNA, AK 99669

GALE L SMITH, OWNER LOT 15 KN2009-48  
34701 GLORIA BURNS CIRCLE, SOLDOTNA, AK 99669

3.272 AC. M/L - SITUATED IN THE NW 1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 10 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH AND THE KENAI RECORDING DISTRICT, ALASKA.

ENGINEERING - TESTING SURVEYING - MAPPING  
P.O. BOX 465  
SOLDOTNA, AK 99669  
VOICE: (907) 283-4218  
FAX: (907) 283-3285  
WWW.MCLANECG.COM

KPB FILE NO. 2022-xxx

PROJECT NO. 222039

SCALE 1" = 100'

DATE: FEB. 2022

BOOK NO.: xxx

DRAWN BY: JAH

**ITEM 3 - RIGHT-OF-WAY VACATION  
VACATE A PORTION OF PAPER BIRCH LANE AND ASSOCIATED UTILITY EASEMENTS**

<b>KPB File No.</b>	2022-023VR1
<b>Planning Commission Meeting:</b>	May 9, 2022
<b>Applicant / Owner:</b>	LittleKnife Inc and Gale Smith of Soldotna
<b>Surveyor:</b>	James Hall / McLane Consulting Group
<b>General Location:</b>	Sterling area, Paper Birch Lane, Mountain Ash Street
<b>Legal Description:</b>	Lots 8, 9, and 15 of Tulchina Pointe Estates Phase 2, Plat KN 2009-48.

**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** Right-of-way vacation for southern 30' R/W of Paper Birch Lane from Authentic Road to the easterly property line of Lot 1 (KN 86-204).

Current right-of-way width is 60 feet over very difficult terrain with steep slopes. The remaining 30 foot R/W maintains public access to authentic road.

Proposed vacation is approximately .304 acres divided amongst 3 parcels per KPB Code 20.65.060.

All surrounding parcels remain with legal access.

Authentic Road is being extended through Lot 1 (KN 86-204). Preliminary approval by the Kenai Peninsula Borough on 11/12/2019 with vacation approval of Mountain Ash Street and Section Line Easements on 10/28/2019 under KPB File No. 2019-117.

Lot 2 (KN 86-204) remains with legal access from Paper Birch Lane, Foster Avenue, Authentic Road extension w/east extension and Quillback Drive.

Alternate route is 2.075 acres that is being constructed in summer 2022 with power and gas utilities being installed. This provided access points for future development.

**Notification:** Public notice appeared in the April 28, 2022 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the May 5, 2022 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

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

Library of Soldotna

Post Office of Soldotna

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

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

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

State of Alaska Dept. of Fish and Game

State of Alaska DNR

State of Alaska DOT  
 State of Alaska DNR Forestry  
 Central Emergency Services  
 Alaska Communication Systems (ACS)

ENSTAR Natural Gas  
 General Communications Inc, (GCI)  
 Homer Electric Association (HEA)

**Legal Access (existing and proposed):** Paper Birch Lane is a 60 foot wide right-of-way located in the Sterling Area. Paper Birch Lane is approximately 3,100 feet long with several intersections that break the road into segments. The petition is to vacate approximately 428 feet of the southern 30 feet of the western portion of Paper Birch Lane and the remainder of the right-of-way will remain. The road is located off Forest Lane, a state maintained right-of-way that runs south of the Sterling Highway near mile 90.

To access the portion being discussed there are multiple routes dedicated but not all are fully constructed. Foster Avenue, Moran Street, Authentic Road, and Quillback Drive intersect Paper Birch Lane. Foster Avenue and Moran Street are constructed and maintained by the Kenai Peninsula Borough. Authentic Road is constructed and connects to Diamond Willow Lane. Both are constructed and maintained by the Borough. Diamond Willow Lane connects back to Foster Avenue near the Forest Lane intersection. Quillback Drive is only a half width right-of-way that is not constructed.

Portions of Paper Birch Lane appear to be cleared and used for access. The Kenai Peninsula Borough does not maintain any portions of Paper Birch Lane. The areas cleared are northeast of the Quillback Drive intersection and are accessed via Moran Street and Foster Avenue.

Preliminary plat Forest Hills Lookout Bolder Heights Addition, KPB File 2019-117, is located to the north of the proposed vacation. That plat and the associated vacations have been approved. The plat, once recorded, will vacate a portion of Mountain Ash Street, a portion of Foster Avenue, and will provide a new right-of-way that continues Authentic Road to the north and provides a connection to Foster Avenue. A new right-of-way will be dedicated that provides access to the large acreage tract to the east. The owners are working to vacate some section line easements and the Planning Commission granted four year approvals to allow the vacations and plat to be recorded together.

A partial bulb is proposed to be dedicated to provide an adequate turn around area for Paper Birch Lane. The northern 30 foot width of Paper Birch Lane will remain and may be used for public access but does not meet the requirements for a borough right-of-way.

The 15 acre lot to the north will have access to Paper Birch Lane and to Foster Avenue to the north. Once the plat to the west is finalized, the parcel will also have access from the new dedications. If the 15 acre parcel to the north is ever subdivided, it will have multiple access routes to provide access and possible connections to internal rights-of-way.

Lot 15 has access from Authentic Road and Gloria Burns Circle. Lots 8 and 9 have constructed access on Developer Circle.

Paper Birch Lane, Quillback Drive, and Authentic Road provide a closed block. The length around Authentic Road is not compliant. Multiple rights-of-way are off Authentic Road but they are cul-de-sacs and do not improve the block. The reason for the placement for the new rights-of-way in the proposed subdivision to the north is due to terrain. The sketch provided shows the steep terrain within the Paper Birch Lane Dedication.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: RSA does not object to this vacation.
SOA DOT comments	Comments not received when the staff report was prepared.

**Site Investigation:** The dedicated right-of-way contains steep slopes through the majority of the portion petitioned for vacation. There does not appear to be any lot wet areas within the dedication.

Quillback Drive, Paper Birch Lane and its intersections with Foster Avenue and Moran Street appear to be free from low wet areas. Steep slopes do not appear to be present within the rights-of-way. The slopes within Quillback Drive are approximately 9 percent.

KPB River Center review	<p>A. Floodplain            Reviewer: Carver, Nancy            Floodplain Status: Not within flood hazard area            Comments: No comments</p> <p>B. Habitat Protection            Reviewer: Aldridge, Morgan            Habitat Protection District Status: Is NOT within HPD            Comments: No comments</p> <p>C. State Parks            Reviewer: Russell, Pam            Comments: No Comments</p>
Alaska Fish and Game	No objections

**Staff Analysis:** This is a revised vacation design. On March 21, 2022, the Planning Commission approved a full 60 foot wide vacation for the same section of right-of-way. The vacation was forwarded to the Kenai Peninsula Borough Assembly and on April 5, 2022, the Assembly vetoed the Planning Commission decision. Based on the discussion and concerns brought forward by the Assembly the owners have provided another design. This is considered a new petition with a new and separate hearing from the previous petition.

Forest Hills Lookout Subdivision, Plat KN 86-204, dedicated the right-of-way being discussed. It was named Walker Street when dedicated. Resolution SN 2015-09 changed the street name. The parent subdivision created larger acreage lots. Many have been subdivided through the years and provide the current configuration of the area. The Tulchina Pointe Estates Preliminary Design was approved on April 10, 2006. Phase 1 was recorded in May of 2006. Phase 2 was reviewed again by the Plat Committee as there were changes from the original design. It was heard and approved on July 17, 2006. During the public hearing, the surveyor stated the terrain was a deciding factor in some of the road and lot design. The future plans included a vacation of Paper Birch Lane (Walker Street) and to provide a continuation of Authentic Road to connect to Foster Avenue. The owner at the time finalized Phase 2 but did not continue with any other development.

The lot to the northwest has received preliminary approval to vacate multiple rights-of-way and easements to allow for dedications that work with the terrain in the area. This included a continuation of Authentic Road to connect to Foster Avenue. The ability for Paper Birch Lane to provide a better connection to another right-of-way may be obtained in the future if Lot 2, located to the northeast, is ever subdivided.

The owner of Lots 8 and 9 is LittleKnife Inc. The owner is a construction company that recently built a home on the lots for a client. It was determined that the house was constructed partially within the right-of-way. The as-built shows the house at a slight angle and around a 35 foot length of the house is within the right-of-way. The widest width of the encroachment appears to be approximately 9.6 feet. The well is also 13.7 feet into the right-of-way.

A bulb is proposed for a turnaround area. The 50 foot radius bulb will be dedicated from Lot 8 and will provide an adequate turnaround area that should not require additional dedications in the future.

The 30 foot wide portion of Paper Birch Lane proposed to remain will not provide a compliant right-of-way width. If the vacation is approved as shown, an exception to KPB 20.30.120 – Streets-width requirements will be required. Staff notes that the remaining portion of Paper Birch Lane will not comply with KPB 20.30.090 – Streets-Maximum grades allowed. Due to the terrain and the reduced width Paper Birch Lane will not be able to be a borough maintained right-of-way according to KPB Code requirements. The right-of-way will be able to be used by the public for all allowable uses.

The petition is proposing to vacate the associated utility easements along the portion of Paper Birch Lane to be vacated. New 10 foot utility easements will be placed along the newly dedicated bulb and along the southern boundary of the remaining 30 foot wide right-of-way. 10 foot utility easements will also be required to remain adjacent to Authentic Road and along the eastern property line adjacent to Paper Birch Land. A twenty foot setback will also be put into place along the southern boundary of the remaining 30 foot wide right-of-way.

Per KPB Code 20.90.100, Definitions, a well casing is allowable within the 20 foot setback as it does not impact the sight distance along the right-of-way. The well will not be within the new utility easement. A plat note will be requested to address the existing well.

At the time the staff report was prepared no written comments have been received from the public regarding the revised proposal.

### 20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;  
**Staff comments:** This portion of Paper Birch Lane is not constructed. During the previous review, public noted that it was used for walking, horse riding, and all-terrain vehicles.
  2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The intersection with Authentic Road will be difficult due to the terrain. New rights-of-way are proposed to the north that used terrain to help determine locations. The along this portion to be vacated all have access from other rights-of-way.
  3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** No lots will be denied access to utility easements.
  4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** Does not provide access to public lands or waters.
  5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** The proposal of a remaining 30 foot wide right-of-way will not comply with KPB Code right-of-way width requirements. A road may be constructed but not to borough standards or receive borough maintenance.
  6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:** The steep terrain may make pedestrian use difficult but could still be feasible. A 30 foot width remaining will provide possible pedestrian use.
  7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.



**Staff comments:** Requests by utility providers will be reviewed and the surveyor/owner must work with utility providers to ensure all needed easements are provided. The proposed plat will grant easements along dedicated rights-of-way.

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

**Staff comments:** There is a structure within the right-of-way.

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

The Assembly will hear the vacation at their scheduled May 17, 2022 meeting.

If approved, Tulchina Pointe Estates 2022 Replat will finalize the proposed right-of-way vacation. The Plat Committee is scheduled to review the preliminary plat on May 23, 2022.

**KPB department / agency review:**

Planner	<p>Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 41258 AUTHENTIC RD 34426 DEVELOPER CIR</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names: DEVELOPER CIR GLORIA BURNS CIR PAPER BIRCH LN AUTHENTIC RD FOSTER AVE</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: 41258 AUTHENTIC RD will remain with lot 1. 34426 DEVELOPER CIR will remain with lot 9A.</p>
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No Comment</p>

**Utility provider review:**

HEA	No comments
ENSTAR	No comments or objections
ACS	No objections
GCI	Approved as shown.

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

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

**KPB 20.65.050 – Action on vacation application**

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

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

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

- *Focus Area: Energy and Utilities*
  - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*

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

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

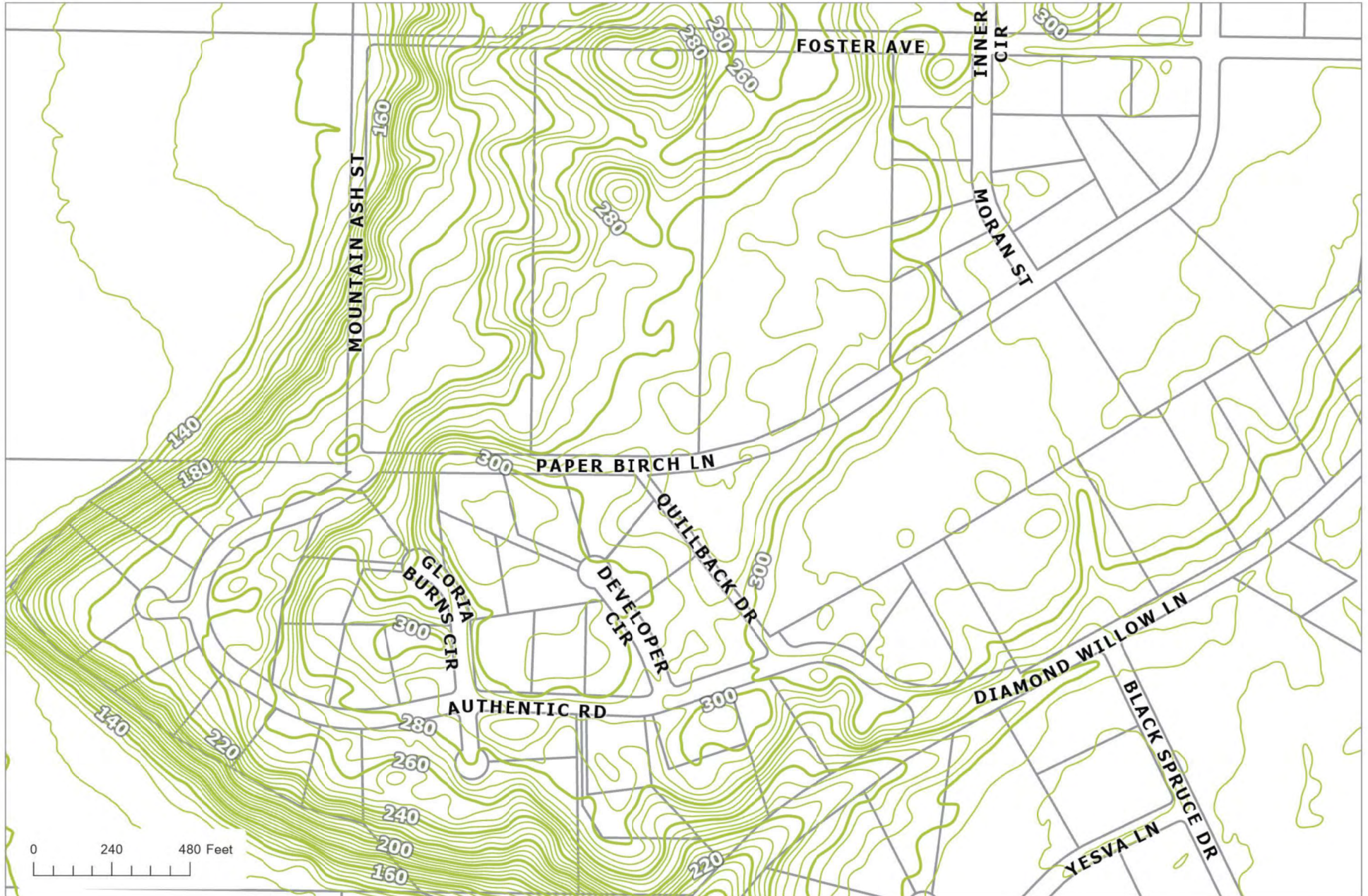
- *Focus Area: Transportation*
  - *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
    - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*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

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**END OF STAFF REPORT**



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.



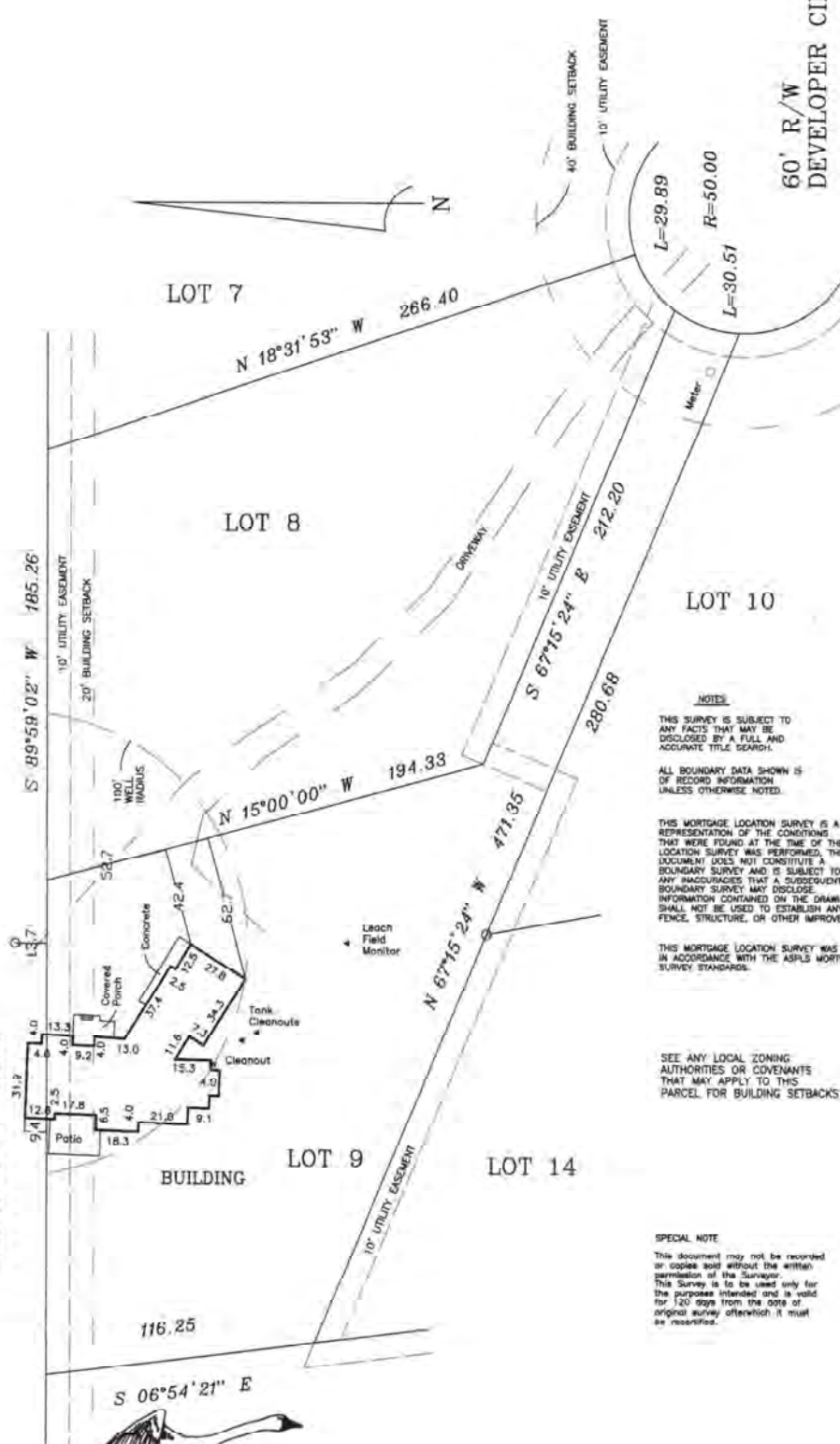
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



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.

60' R/W  
DEVELOPER CIRCLE

60' R/W  
WALKER STREET



**NOTES**

THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.

ALL BOUNDARY DATA SHOWN IS OF RECORD INFORMATION UNLESS OTHERWISE NOTED.

THIS MORTGAGE LOCATION SURVEY IS A REPRESENTATION OF THE CONDITIONS THAT WERE FOUND AT THE TIME OF THE LOCATION SURVEY WAS PERFORMED. THIS DOCUMENT DOES NOT CONSTITUTE A BOUNDARY SURVEY AND IS SUBJECT TO ANY INACCURACIES THAT A SUBSEQUENT BOUNDARY SURVEY MAY DISCLOSE. INFORMATION CONTAINED ON THE DRAWING SHALL NOT BE USED TO ESTABLISH ANY FENCE, STRUCTURE, OR OTHER IMPROVEMENTS.

THIS MORTGAGE LOCATION SURVEY WAS PREPARED IN ACCORDANCE WITH THE ASPLS MORTGAGE LOCATION SURVEY STANDARDS.

SEE ANY LOCAL ZONING AUTHORITIES OR COVENANTS THAT MAY APPLY TO THIS PARCEL FOR BUILDING SETBACKS.

**SPECIAL NOTE**

This document may not be recorded or copies sold without the written permission of the Surveyor. This Survey is to be used only for the purpose intended and is valid for 120 days from the date of original survey after which it must be re-surveyed.



**Swan Surveying**

Michael Swan R.L.S. P.O. Box 987 • Soldotna, AK 99669 • 907-252-6816



02-18-22

IN 22-005	FB	DATE 02-18-22	SCALE 1"=50'	DRWN M.A.S.	CHK
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I hereby certify that I have performed a Mortgage Inspection of the following described property

LOT 8 TULCHINA POINTE STATES  
SUBDIVISION PHASE 2 AMENDED

Located in the Kenai Recording District, Kenai, AK, and that the improvements situated thereon are within the property lines and do not overlap or encroach on the property lying adjacent thereto, that no improvements on property lying adjacent thereto encroach on the premises in question and that there are no roadways, transmission lines or other visible easements on said property except as indicated hereon.

Dated at 22, Alaska This 18<sup>th</sup> day of FEBRUARY 2022

AS-BUILT





INTEGRITY SURVEYS

Tulchina Pointe Estates – Phase 2

AFFIDAVIT

The above referenced subdivision plat, as filed in the office of the District Recorder, Kenai Recording District, under Plat File No. 2006-63, has been amended by:

Correcting the correcting curves 64 & 66 and lines 21 & 22 within their respective tables. The old information has been lined out and corrective tables provided.

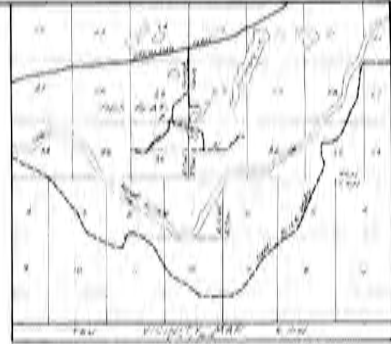
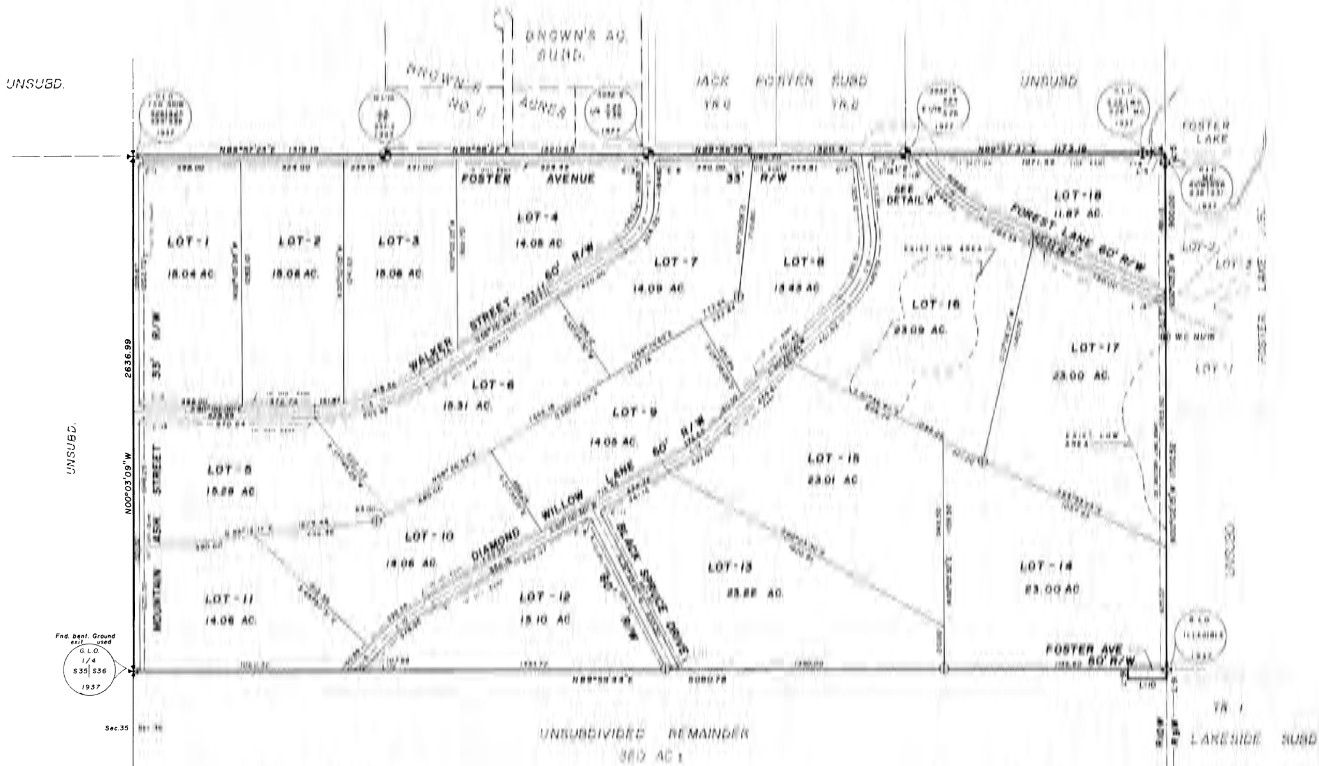
The above revision constitutes the sole change to the plat, aside from its notation thereon.

The above revision does not alter lot areas and does not affect or influence any change of ownership, drainage features, rights-of-way or any other item which would adversely affect this or adjacent properties. We, therefore, are submitting this plat for refiling as corrected

Date: 19 August, 2009



# FOREST HILLS LOOKOUT SUBDIVISION



### Certificate of Ownership and Dedication

WE HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREIN AND THAT WE INTEND TO USE SAID LOT(S) OF SUBDIVISION AND MAKE ALL NECESSARY RECORDS TO USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

WITNESSED AND SIGNED: Mark A. Johnson, Notary Public

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at the City and County of Anchorage, State of Alaska, this 10th day of August, 2014.

### Notary's Acknowledgment

FOR Mark A. Johnson and James A. Stearns

Subscribed and sworn before me this 10th day of August, 2014.

Notary for the State of Alaska: Mark A. Johnson

### Plan Approval

THIS PLAN WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLAN AND COMMISSION AT THE MEETING OF August 11, 2014 AT 3:30 PM (08:00 AM, PM), USE PD 37001(a), (b), (c) AS Amended (Official).

### Surveyor's Certificate

I, David C. ... CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, THAT THIS PLAN IS A TRUE AND CORRECT REPRESENTATION OF LAND SURVEYED BY ME UNDER MY DIRECT SUPERVISION, THAT THE DISTANCES AND BEARINGS ARE SHOWN CORRECTLY, AND THE METHOD OF SURVEYING FOR THIS SURVEY WAS NOT EXCEPTED IN ANY PART IN WRITING, AND THAT ALL PERMANENT EXTENDER CONTROL MONUMENTS, ALL OTHER MONUMENTS, AND LIT DIMENSIONS HAVE BEEN SET AND STAKED.

### Water Supply and Sewage Disposal

NO INDIVIDUAL WATER SUPPLY OR SEWAGE DISPOSAL SYSTEM SHALL BE PERMITTED ON ANY LOT UNLESS SUCH SYSTEM IS LOCATED, CONSTRUCTED AND EQUIPPED IN ACCORDANCE WITH THE REQUIREMENTS OF STATUTES AND REGULATORY ORDINANCES OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION WHICH GOVERN THOSE SYSTEMS.

### LEGEND

- ① FOUND OFFICIAL SURVEY MONUMENT
- ② FOUND 2 1/2" O.D. BRASS CAP MONUMENT
- ③ SET 2" O.D. ALUMINUM MONUMENT
- ④ FOUND 2" O.D. (APR 18 1876)
- ⑤ ALL LOT CORNERS, ANGLE POINTS AND P.O.C. MONUMENTED WITH 3/4" NEBRAS AND YELLOW CAP 2582-1

**AMENDED PLAN (see Notes)**

**FOREST HILLS LOOKOUT SUBDIVISION**

CONTAINING 39.93 ACRES MORE OR LESS AND SITUATED WITHIN SECTION 30, T8N, R10W, S6M, AK AND THE KENAI PENINSULA BOROUGH

PREPARED FOR: SALAMATOF NATIVE ASSOCIATION INC  
NO. 81488 (KAS) 01 0001

PREPARED BY: **peb** PROFESSIONAL ENGINEER  
REG. NO. 57297  
1400 KENNEDY BLVD., ANCHORAGE, ALASKA 99501

DATE: 8/28/14 SCALE: 1" = 80'  
CHECKED: D.C. PUBLISHED: NOV 10, 2014

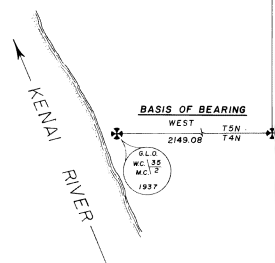
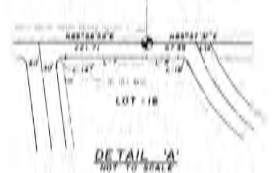
### CURVE TABLE

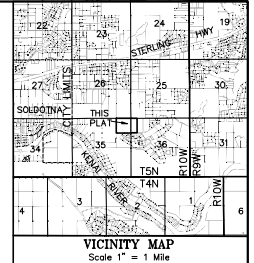
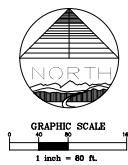
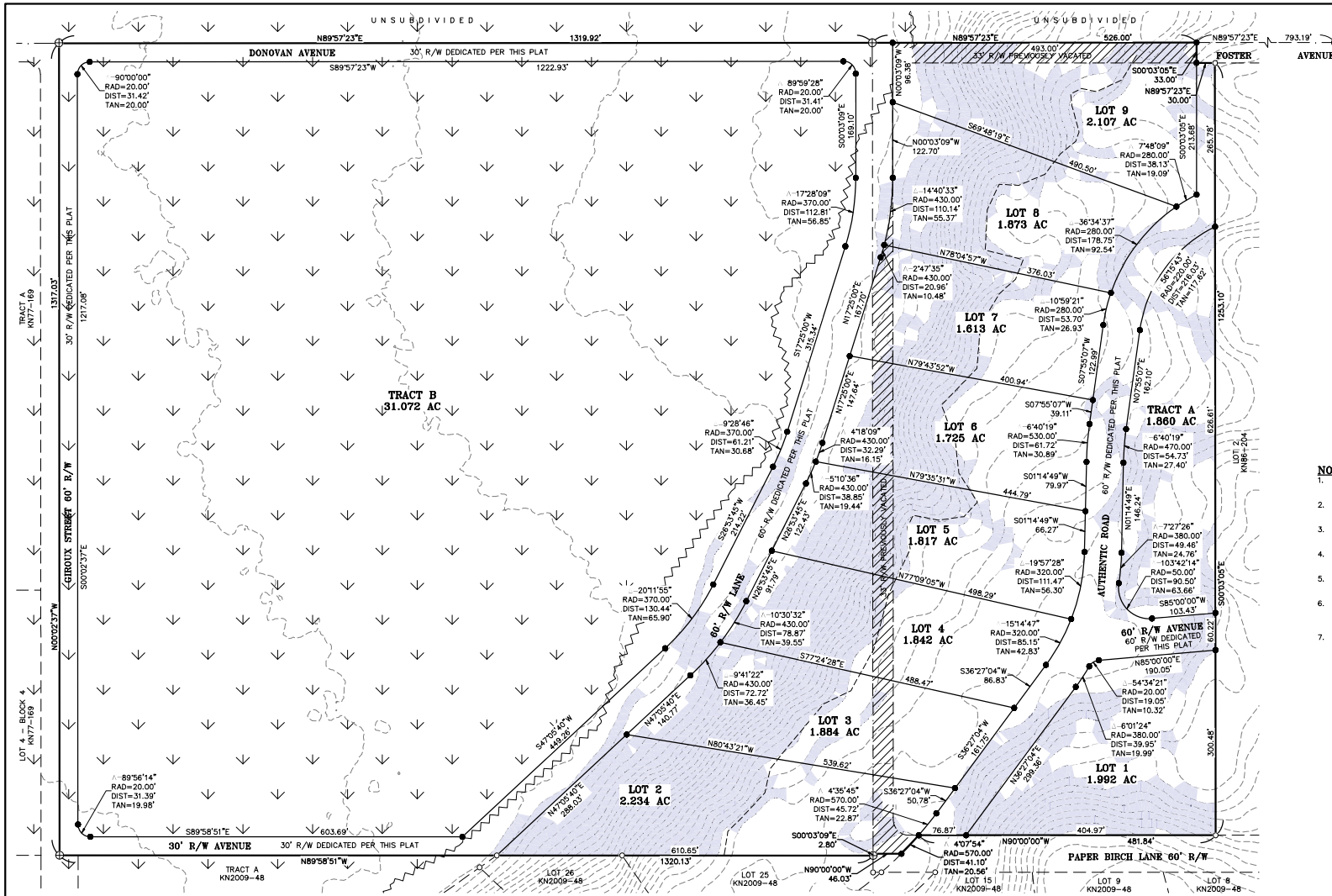
CURVE	DELTA	RADIUS	ARC	TANGENT
01	89°00'33"	25.00	30.07	23.01
02	89°00'51"	25.00	30.20	23.08
03	89°01'09"	25.00	30.33	23.16
04	89°01'27"	250.00	294.84	163.56
05	33°34'30"	1000.00	598.00	301.88
06	89°01'09"	25.00	30.20	23.08
07	89°00'51"	25.00	30.07	23.01
08	89°00'33"	25.00	29.94	22.94
09	78°31'27"	100.00	108.07	196.09
10	89°01'09"	25.00	30.33	23.16
11	89°01'27"	250.00	294.84	163.56
12	33°34'30"	1000.00	598.00	301.88
13	89°01'09"	25.00	30.20	23.08
14	89°00'51"	25.00	30.07	23.01
15	89°00'33"	25.00	29.94	22.94
16	89°00'15"	25.00	29.81	22.87

- ### NOTES
1. THIS PLAN IS A 20' WIDE BOUNDING SETBACK FROM ALL DEDICATED R/W'S UNLESS A DIFFERENT STANDARD IS SPECIFIED BY NOTATION OF THE APPROPRIATE PLANNING COMMISSION.
  2. THERE SHALL BE A 10' UTILITY EASEMENT UNDER ALL DEDICATED RIGHT-OF-WAY.
  3. ALL WATER COLLATERAL DRAINAGE SYSTEMS SHALL BE DESIGNED BY AN ENGINEER REGISTERED IN THE STATE OF ALASKA AND APPROVED BY THE ALASKA DEPT. OF ENVIRONMENTAL CONSERVATION PRIOR TO INSTALLATION.
- Amended 10/8/14**
1. BEARING ON CENTERLINE OF FOREST LANE CHANGED FROM N 89°01'27" W TO N 89°01'09" W.
  2. ADDED MISSING DIMENSION ON LOT 3, ALONG R/W OF WALKER STREET - 338.75 FEET.
  3. CHANGED DIMENSION OF EAST BOUNDARY OF LOT 17 FROM 128.07 FEET TO 128.00 FEET AND THE DIMENSION OF THE 60' TO CONTACT BOUNDING STAKE AT W/2 NORTH CORNER.
  4. CHANGED AREA OF LOT 16 FROM 25.00 ACRES TO 25.00 ACRES TO REFLECT CORRECT AREA OF SUBDIVISION.
  5. CHANGED DIMENSION OF CURVE 01-4 FROM 200.00 FEET TO 200.75 FEET.
  6. CHANGED THE HIGH BLOCK TO REFLECT THE CORRECT SPELLING OF "FOSTERING".

### LINE TABLE

LINE	BEARING	DISTANCE
1.1	N 89°01'09" W	200.75
1.2	S 89°01'15" W	381.74
1.3	N 89°01'27" E	107.68
1.4	N 89°01'37" E	147.75
1.5	S 89°01'37" E	33.75
1.6	S 89°01'37" E	154.30
1.7	N 89°01'37" E	160.00
1.8	N 89°01'37" E	33.07
1.9	S 89°01'37" E	90.00
2.0	N 89°01'37" E	200.00
2.1	N 89°01'37" E	25.00
2.2	N 89°01'37" E	33.07
2.3	N 89°01'37" E	33.75





- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
  - FOUND 1/2" REBAR UNLESS NOTED
  - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP #5032-S
  - ⊖ POWER POLE
  - OVERHEAD ELECTRIC
  - AREA SUBJECT TO INUNDATION
  - CONTOUR INTERVAL = 4'
  - 33' ROAD R/W PREVIOUSLY VACATED
  - SLOPES GREATER THAN 20%

- NOTES**
1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
  2. BUILDING SET BACK - A BUILDING SET BACK OF 20 FT. IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
  3. THE FRONT 10 FEET OF THE 20 FOOT BUILDING SETBACK AND THE ENTIRE SETBACK WITHIN 5 FEET OF THE SIDE LOT LINES IS ALSO A UTILITY EASEMENT.
  4. 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.
  5. 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.
  6. THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF THE 33' ROAD R/W FOSTER AVENUE, 33' ROAD R/W MOUNTAIN ASH STREET AND PORTION OF PAPER BIRCH LANE CREATED BY KN86-204 AT THE MEETING OF 7/27/2019.
  7. THE KENAI PENINSULA BOROUGH PLANNING COMMISSION, ALASKA DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF NATURAL RESOURCES APPROVED THE VACATION OF THE 50' SECTION LINE EASEMENT AT 7/27/2019.

**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 DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

**WASTEWATER DISPOSAL**

THESE LOTS ARE AT LEAST 200,000 SQUARE FEET OR NOMINAL 5 ACRES IN SIZE AND CONDITIONS MAY NOT BE SUITABLE FOR CONVENTIONAL ONSITE WASTEWATER TREATMENT AND DISPOSAL. ANY WASTEWATER TREATMENT OR DISPOSAL SYSTEM MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

**CERTIFICATE OF OWNERSHIP**

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND I HEREBY APPROVE OF THE SECTION LINE EASEMENT VACATION AS SHOWN HEREON.

CODY R. McLANE  
PO BOX 468  
SOLDOTNA, AK 99669

**NOTARY'S ACKNOWLEDGEMENT**

FOR: CODY R. McLANE  
ACKNOWLEDGED BEFORE ME THIS

\_\_\_\_ DAY OF \_\_\_\_\_ 2019

MY COMMISSION EXPIRES : \_\_\_\_\_

NOTARY PUBLIC FOR THE STATE OF ALASKA

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF \_\_\_\_\_ 2019.

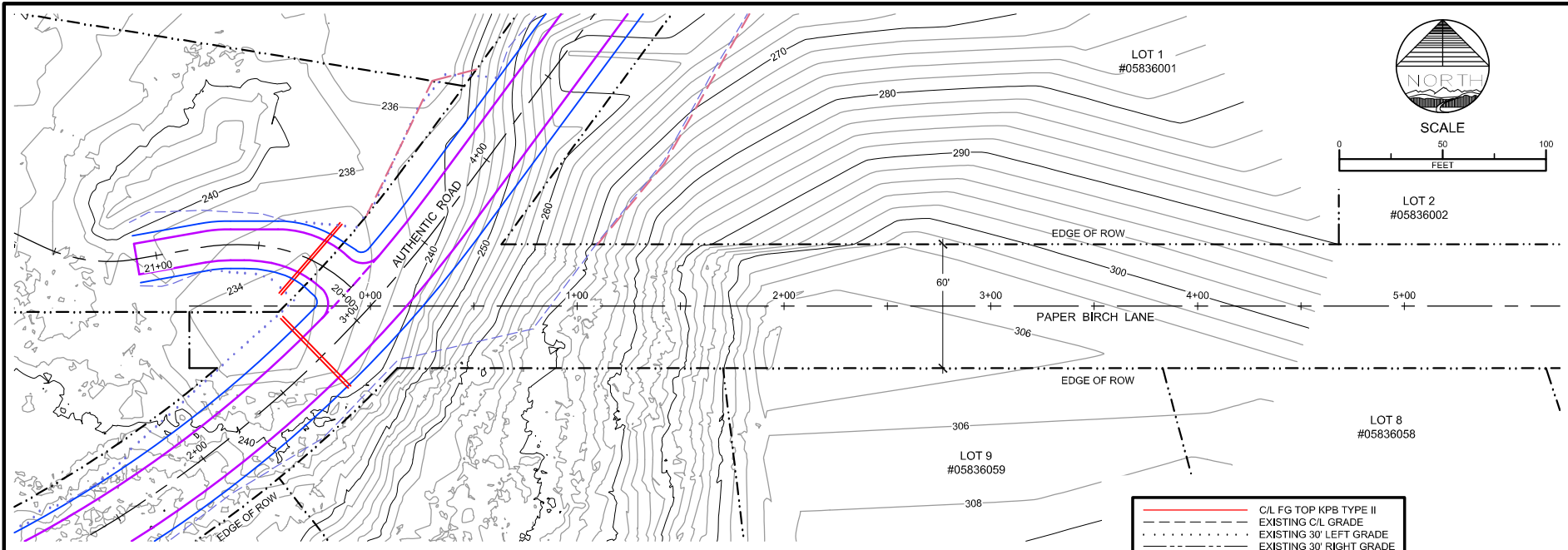
AUTHORIZED OFFICIAL

Plat #	
Rec. Dist.	
Date	
Time	

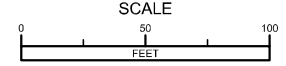
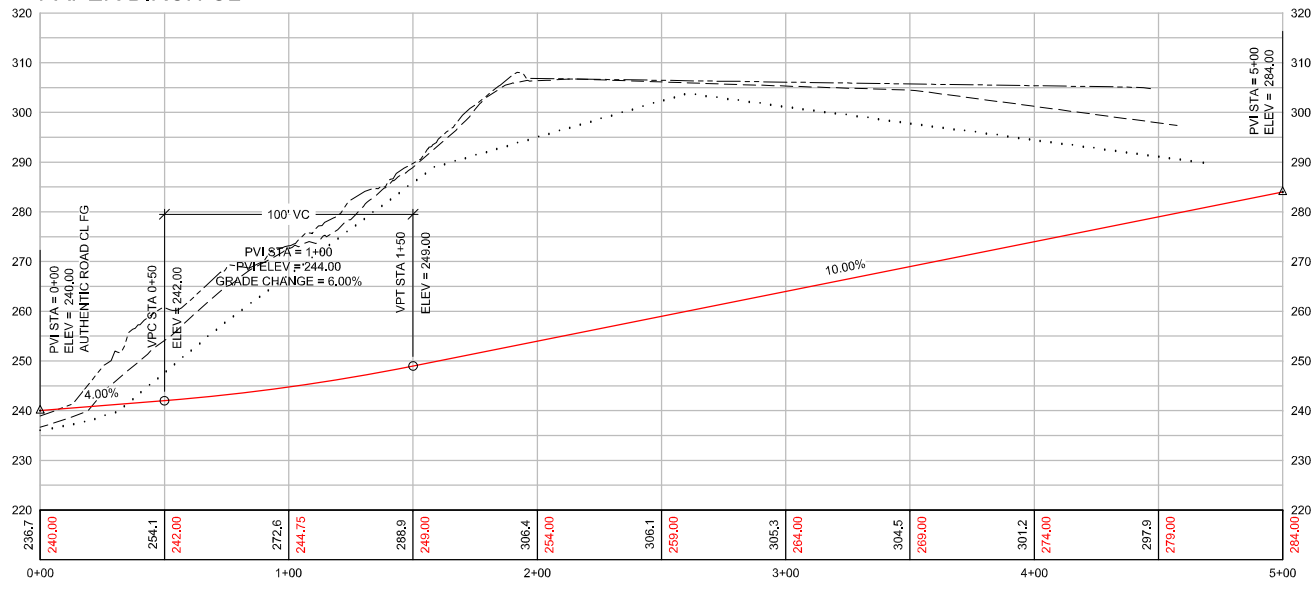
**FOREST HILLS LOOKOUT BOLDER HEIGHTS ADDITION**  
(A RESUBDIVISION OF LOT 1 AMENDED FOREST HILLS LOOKOUT SUBDIVISION KN86-204 AND UNSUBDIVIDED N81/4 OF NE1/4 OF SECTION 35, T5N, R10W, S4M, AK)  
CODY R. McLANE  
PO BOX 468  
SOLDOTNA, AK 99669

	ENGINEERING - TESTING SURVEYING - MAPPING P.O. BOX 468 SOLDOTNA, AK 99669 VOICE (907) 284-4218 FAX (907) 285-3055 WWW.MCLANE05.COM	KPB FILE NO. 2019-0000
	PROJECT NO. 19201D	
SCALE 1" = 80'	DATE: SEP. 2019	BOOK NO.: 19-000
		DRAWN BY: JAH

CODY R. McLANE C.E. 11510 AK DATE



**PAPER BIRCH CL**



REV	DATE	DESCRIPTION
1	12/16/09	PERMIT ISSUE

BOULDER HEIGHTS SUBDIVISION  
 PAPER BIRCH LANE  
 PLAN VIEW & PROFILE

FIELD WORK DATE: SUMMER & FALL 2013  
 FIELD BOOK NO.: 5407  
 JOB NO.: 105010



DRAWN BY: CRM  
 CHECKED BY: CRM  
 HORZ. SCALE: 1" = 50'  
 VERT. SCALE: 1" = 25'  
 SHEET: **EX**

Approved R/W  
around steep  
terrain being  
dedicated per KPB  
File No. 2019-117

Current R/W



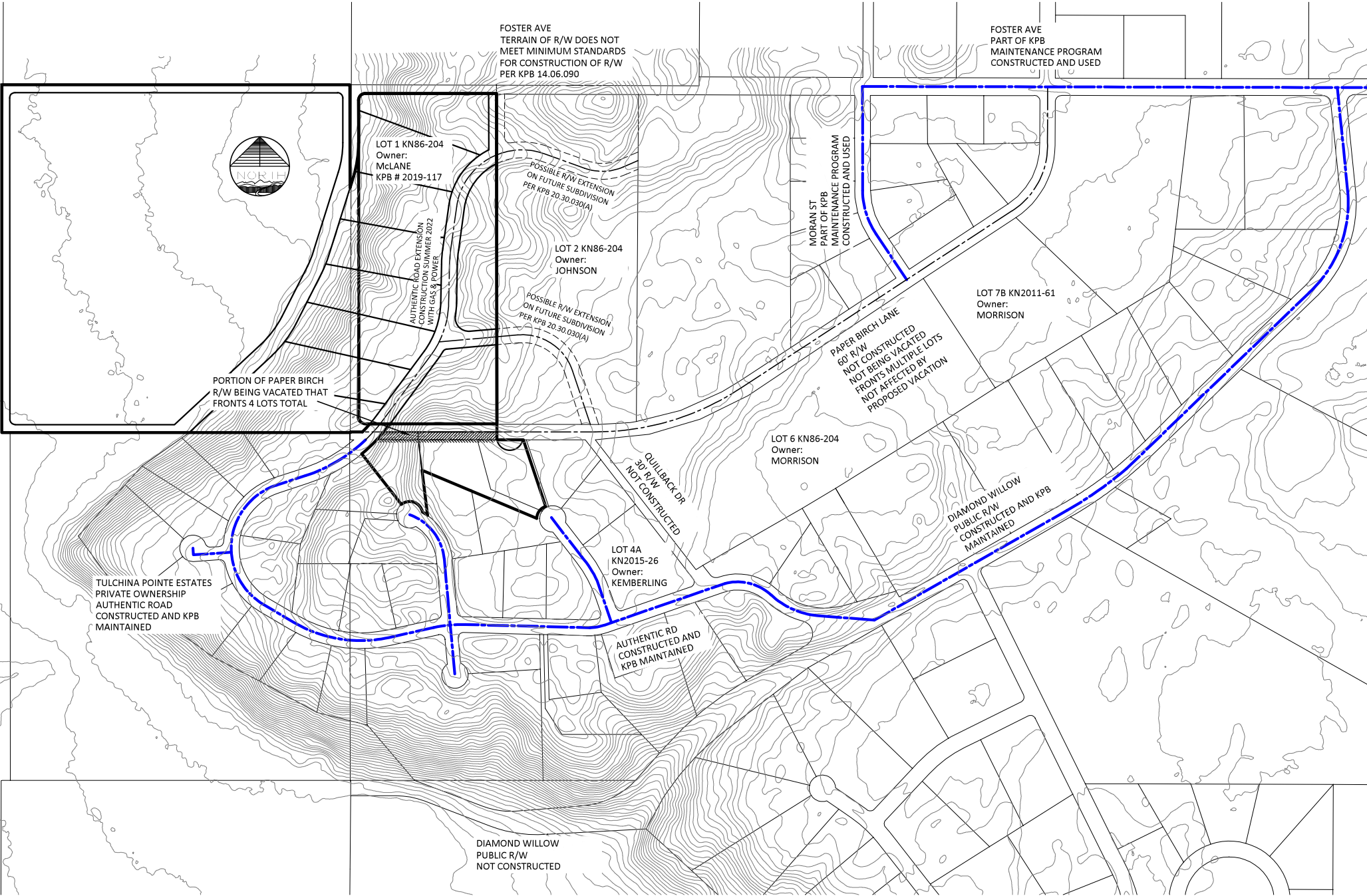


E3-21



Current R/W

Approved R/W  
around steep  
terrain being  
dedicated per KPB  
File No. 2019-117





AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

15. Tulchina Pointe Estates Phase 2 Revised Preliminary  
KPB 2006-149; Integrity/Pristine Properties

Staff Report reviewed by Patti Hartley

Plat Committee Meeting: 7/17/06

Location: South of Sterling Hwy in Soldotna  
Proposed Use: Residential, Recreational, Commercial, Agricultural  
Zoning: Unrestricted  
Sewer/Water: On-site  
Assessing Use: Residential, Vacant

Supporting Information:

The Plat Committee reviewed and granted conditional approval to the preliminary plat, which subdivided and reconfigured 84 acres into 47 lots, on April 10, 2006. The Committee granted exceptions to KPB 20.20.180 3:1 for Lot 28, KPB 20.20.160 Maximum Block Length, and KPB 20.20.090 Cul-de-sac Length.

Phase 1 was recorded in May of 2006. Four lots were finalized by this phase.

The final plat submitted for Phase 2 review contains substantial design changes to the rights-of-way and lots so the plat has been brought back to the Committee as a revised preliminary.

The revised preliminary creates 46 lots and a tract leaving an unsubdivided remainder of approximately 121 acres. **Staff recommends** the unsubdivided remainder be labeled with area. A soils report will be required, and an engineer will sign the plat. **Staff recommends** the appropriate wastewater disposal note for Tract A be added to the final plat.

Four cul-de-sacs, a 30-foot half dedication, a 10-foot dedication for Diamond Willow Lane, and a portion of Mountain Ash Street are being provided by the subject plat. Names have not been selected for two cul-de-sacs and the half right-of-way off Authentic Road. **Staff recommends** the surveyor work with Planning Staff to select names in compliance with KPB 14.10.

The vacations of the Mountain Ash Street and the section line easement were conditional upon alternate dedications being provided. **Staff recommends** all alternate dedications be provided on Phase 2, including the looped extension to Walker Street/Mountain Ash Street and the extension of Anthony Avenue along the south boundary, curving at the east end to access both lots to the south and encompass the existing travel way.

**Staff recommends** the intersection with Mountain Ash Street meet Borough design code requirements.

**Staff recommends** that no phases leave unsubdivided remainders of previously subdivided lots.

The lot east of the 30-foot half dedication contains 15 acres. It is reasonable to expect a matching dedication in the future.

Local Option Zoning review was not available when the staff report was prepared. The submittal states the proposed subdivision is affected by a Rural Residential Local Option Zone adopted on September 7, 2004. Neither KPB Code 21.18 nor the September 7, 2004 meeting summary for the Assembly indicate a local option zone affects the property. **Staff recommends** Plat Note 1 be verified.

Sizes for the flag lots range from 1 acre to 1.7 acres. Further subdivision is not possible unless the lots are served by public water and sewer. Panhandle widths are not noted on the plat. **Staff recommends** the surveyor confirm the panhandles are sufficient for driveway access.

**Staff requests** 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 (KPB 14.06).*

A company owns the property. If the ownership shown on the final Certificate to Plat is in a company or corporation, **staff recommends** a corporate resolution be provided to the Planning Department to confirm who is authorized to sign the plat (KPB 20.16.155).

Per Planning Commission Resolution 2000-25, 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.

If the Certificate to Plat shows the property is affected by private covenants, **staff recommends** the recording information of the private covenants and restrictions of record in effect at the time the final plat is approved be noted on the plat (KPB 20.16.140).

The property is not within an advisory planning commission.

No exceptions have been requested.

**STAFF RECOMMENDATIONS:** Grant approval of the revised preliminary plat subject to any above recommendations, appropriate approved recommendations in the April 10, 2006 staff report, and the following conditions:

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

1. Confirm the name and/or address of the owners (KPB 20.12.060).

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

2. Correct the date in Plat Note 2 to April 10, 2006.
3. Survey and monumentation must meet the ordinance requirements (KPB 20.16.160).
4. Conform to conditions of KPB Planning Commission Resolution 78-6.
5. Comply with Chapter 20.16.155 D and 20.14 Wastewater Disposal regulations.
6. Compliance with Ordinance 90-38 (Substitute) - Ownership.
7. 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 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

Chairman Bryson opened the meeting for public comment.

1. Cliff Baker, Integrity Surveys  
Mr. Baker addressed the vacation of Mountain Street and the extension of Anthony Avenue which is

along the south of the 40 acres on the west side. Anthony Avenue comes in from the west and is pretty much wet from where Anthony Avenue currently stops until they get over to the south end of this project and is tied into Diamond Willow. The owner is leaving a large unsubdivided remainder plus he owns the 80 acres that would be south of the extension of Anthony Avenue. Mr. Baker commented that in the future they would like to plan something around the wetlands. He wants to plan something that won't need to be vacated later. Mr. Baker didn't want to push something through just because it had to be extended across a large unsubdivided acreage that could be further developed to be aesthetic.

Mr. Baker brought a proposed intersection layout for Mountain Ash and Walker Street, which would provide dedicated access to the northwest. Walker would be vacated at the top of the knob and Authentic Road would connect to Foster Avenue. He stated what they are trying to do is to follow the terrain. His proposal at this time shows that the dedication will remain for the extension of Walker over to the 40 acres that is to the northwest and is shown as a driveway stub out. Mr. Baker also stated they are proposing to vacate the right of way for Mountain Ash Street going down the hill to the swamp. The easement will be left at this time. He also proposed to vacate the portion of Walker between the intersections at the top of the knob and install a cul-de-sac because the road can't be built over that terrain. A lot of the area can't be built and they are trying to work with the terrain as much as possible.

Chairman Bryson asked if there were questions for Mr. Baker.

Commissioner Heimbuch asked if it was Mr. Baker's long-term plan for Anthony to go down and hit Keystone. Mr. Baker replied no, Anthony already comes off of Keystone on the west. The long-term plan is that they will have to provide a connection there. Diamond Willow comes through Grandview Subdivision and connects to the end of what is being vacated. Mr. Baker has an overall plan that ties into Keystone, which is what Grandiosa is all about.

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

**MOTION:** Commissioner Foster moved, seconded by Commissioner Gross to grant approval of the revised preliminary with the staff recommendations, comments and conditions from this meeting and the April 10<sup>th</sup> meeting with the exception of the alternate dedication that is to be replaced that the client is working with staff and the Army Corp of Engineers to design appropriate dedications that take into account the terrain and wetlands.

Mr. Baker clarified that Anthony Drive needed to be included in the motion. Mr. Best stated that staff felt this is a good design and use of the property with the terrain involved.

**FRIENDLY AMENDMENT:** Commissioner Foster added to the motion that they would refer to the topographical lay down and put it in the record regarding Anthony Drive. Commissioner Gross concurred with the amendment.

**VOTE:** The motion passed by unanimous consent.

BRYSON YES	FOSTER YES	GROSS YES	HEIMBUCH YES	4 YES
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**AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS**

- 17. South Slope Subdivision Wilbanks Addition #2  
KPB File 2006-168; Johnson/Wilbanks

Staff Report reviewed by Patti Hartley

Plat Committee Meeting: 7/17/06

Location: east of Soldotna, off Tischer Avenue  
Proposed Use: Residential

7 April 2022

**TULCHINA POINTE ESTATES 2022 REPLAT & ASSOCIATED R/W VACATION**

**LEGAL DESCRIPTION:**

RESUBDIVISION OF LOTS 8, 9 & 15 TULCHINA POINTE ESTATES SUBDIVISION PHASE 2 AMENDED (KN2009-48) w/ RIGHT-OF-WAY VACATION INCLUDING ASSOCIATED UTILITY EASEMENTS FOR A PORTION OF PAPER BIRCH LANE LOCATED WITHIN SECTION 36, TOWNSHIP 5 NORTH, RANGE 10 WEST, SEWARD MERIDIAN, ALASKA.

**RIGHT-OF-WAY VACATION:**

SOUTHERN 30' R/W OF PAPER BIRCH LANE FROM AUTHENTIC ROAD TO THE EASTERLY PROPERTY LINE OF LOT 1 (KN86-204).

CURRENT RIGHT-OF-WAY WIDTH IS 60 FEET OVER VERY DIFFICULT TERRAIN WITH STEEP SLOPES. THE REMAINING 30 FOOT R/W MAINTAINS PUBLIC ACCESS TO AUTHENTIC ROAD.

PROPOSED VACATION IS APPROXIMATELY 0.304 ACRES DIVIDED AMONGST 3 PARCELS PER KPB CODE 20.65.060.

**ADJOINING PROPERTIES:**

ALL SURROUNDING PARCELS REMAIN WITH LEGAL ACCESS.

**ALTERNATE ACCESS RIGHT-OF-WAY:**

AUTHENTIC ROAD IS BEING EXTENDED THROUGH LOT 1 (KN86-204). PRELIMINARY APPROVAL BY THE KENAI PENINSULA BOROUGH ON 11/12/2019 WITH VACATION APPROVAL OF MOUNTAIN ASH STREET AND SECTION LINE EASEMENTS ON 10/28/2019 UNDER KPB FILE NO. 2019-117.

LOT 2 (KN86-204) REMAINS WITH LEGAL ACCESS FROM PAPER BIRCH LANE, FOSTER AVENUE, AUTHENTIC ROAD EXTENSION w/ EAST EXTENSION AND QUILLBACK DRIVE.

ALTERNATE ROUTE IS 2.075 ACRES THAT IS BEING CONSTRUCTED IN SUMMER 2022 WITH POWER AND GAS UTILITIES BEING INSTALLED. THIS PROVIDES ACCESS POINTS FOR FUTURE DEVELOPMENT.