


Kenai Peninsula Borough Planning Department

MEMORANDUM

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

FROM: Max Best, Planning Director 

DATE: June 26, 2019

RE: Vacate the southwesternmost approximately 560 feet of the Dorothy Drive right-of-way as dedicated on Gruening Vista 1988 Addition (HM 88-37). Also, vacate all utility easements associated with the rights of way, within Lots 38, 40, and 41 Gruening Vista 1988 Addition (HM 88-37) and Tract A Gruening Vista 1993 Addition (HM 93-61); Location: within the SE ¼ SE ¼ of Section 3, Township 6 South, Range 13 West, Seward Meridian, Kenai Peninsula Borough, Alaska. KPB File 2019-063V.

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 June 24, 2019, the Kenai Peninsula Borough Planning Commission granted approval of the proposed public access pedestrian 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. The petitioner owns all lots and tracts adjoining the portion of Dorothy Drive proposed to be vacated.
2. The petitioner has submitted a subdivision plat which will complete the right of way vacation, if approved, as well as replat the vacated right of way, Lot 38, Lot 40, and Lot 41 Gruening Vista 1988 Addn. (HM 88-37), and Tract A Gruening Vista 1993 Addn. (HM93-61) into one tract containing 28.163 Acres.
3. The existing terminus of Dorothy Drive ends within a very large area subject to slopes greater than 20 percent.
4. KPB Roads Department maintains Dorothy Drive to the bulb area.
5. The portion of Dorothy Drive proposed to be vacated is not maintained by KPB.
6. KPB Roads Department submitted a statement of no comments.
7. Homer Electric Association asked for a plat note or depiction of the 10-foot x 10-foot easement on former Lot 40 centered on an HEA transformer.
8. ENSTAR submitted a statement of no comments, recommendations, or objections.
9. ACS submitted a statement of no objections.
10. Sufficient rights-of-way exist to serve surrounding properties.
11. No surrounding properties will be denied access.
12. Section Line Easements exist, which provide continuous access for the public to travel from the dedicated right of way of Dorothy Drive to Birch Lane and Plunging Way located to the south.
13. Section Line Easements exist, which provide continuous access for utility companies to place utilities from Dorothy Drive to Birch Land and Plunging Way located to the south.
14. Per the submittal, the right-of-way proposed for vacation is not in use for access.
15. Per the submittal, the right-of-way proposed for vacation has not been constructed.
16. No statements of objection had been received when the staff report was prepared.

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

cc: petitioners' w/minutes only

AGENDA ITEM H. PUBLIC HEARINGS

1. Vacate the southwesternmost approximately 560 feet of the Dorothy Drive right-of-way as dedicated on Gruening Vista 1988 Addition (HM 88-37). Also, vacate all utility easements associated with the rights of way, within Lots 38, 40, and 41 Gruening Vista 1988 Addition (HM 88-37) and Tract A Gruening Vista 1993 Addition (HM 93-61); Location: within the SE ¼ SE ¼ of Section 3, Township 6 South, Range 13 West, Seward Meridian, Kenai Peninsula Borough, Alaska. KPB File 2019-063V.

Staff Report given by Scott Huff

PC Meeting: 6/24/19

Purpose as stated in petition: The parcels have a single owner and the right of way intent was to access these parcels being reverted to a single tract. This tract has legal access via Dorothy Drive and Lewis Place. Large slopes, surrounding topography, and the general terrain of the area make a right of way dedication through this tract unnecessary.

Petitioner: Spotty Merle LLC of Peachtree City, Georgia

Notification:

Public notice appeared in the June 13, 2019 issue of the Homer News as a separate ad. The public hearing notice was published in the June 20 issue of the Homer News as part of the Commission's tentative agenda.

Four certified mailings were sent to owners of property within 300 feet of the proposed vacation. Two receipts have been returned when the staff report was prepared.

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

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

Ten notices were emailed or made available to KPB staff/Departments via a shared database.

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

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

Comments Received:

ACS: No objections

ENSTAR: No comments, recommendations, or objections.

Homer Electric Association: No objection to the proposed vacation. Depict or provide a plat note for the 10-foot x 10-foot easement, per Bk. 24 Pg. 675 HRD, on former Lot 40 centered on an HEA transformer.

KPB Addressing: 41300 Dorothy Drive will be retained on Tract A-2. Irma R. Lane should be Lewis Place per SN 1997-02.

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

KPB River Center: Not within a mapped floodplain and not within the Habitat Protection District

KPB Roads Department: Within KPB Roads Department jurisdiction. No other comments.

State Parks: No comments.

Staff Discussion: The plat that will finalize the vacation, if approved, has been submitted and is scheduled for review by the Plat Committee on the July 15, 2019 meeting.

It is staff's understanding that a local trail, named the Mary Lane trail is within proximity to this right of way vacation. Staff does not have an accurate map showing the trail's location.

Staff reserves the right to change the recommendation if documentation is received confirming a public access exists within the right-of-way proposed to be vacated, continues on to neighboring parcels, and is being used by the public.

A cul-de-sac bulb or hammerhead per KPB 20.30.100 will not be required to be dedicated at the new terminus of Dorothy Drive. The intersection with Lewis Place is within 105 feet and provide a dedicated a 'T' type turn around right of way. A turn around could be constructed within the dedicated right of way which would meet KPB standards.

Findings:

1. The petitioner owns all lots and tracts adjoining the portion of Dorothy Drive proposed to be vacated.
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15. Per the submittal, the right-of-way proposed for vacation has not been constructed.
16. No statements of objection had been received when the staff report was prepared.
17. No alternate or superior right-of-way/public access is being provided in lieu of the requested right-of-way vacation.

STAFF RECOMMENDATION: Based on Findings 1-16, staff recommends approval of the vacations 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 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of

the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision.

If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

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

KPB 20.70.130:

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

END OF STAFF REPORT

Mr. Huff noted that the laydown packet contained four letters of support from neighbors as well as the Home Owners Association. There is also some documentation on trail research provided by McLane's Consulting. This vacation is not associated with the section line easement which is nearby but not within this plat. There is also one more letter that was handed out that was received at the end of the day.

Chairman Martin opened public comment.

1. James Hall, McLane Consulting, PO Box 468, Soldotna

Mr. Hall is the surveyor on the project and provided a little bit of trail research from a federal standpoint, showing where these trails were throughout history in their platting efforts through the USGS Quad sheets. He let the Commission know he was available for questions.

Commissioner Foster has taken the trail from the bottom up and he was never sure where the trail came out and if it was on the right-of-way. He wanted to know if the trail was found to be in the right-of-way. Mr. Hall said there is only history on the trails down below and they do not go to the top. Through general use of the local subdivisions and platting actions people have started to wander the area.

2. Jamie Ross, PO Box 3476, Homer

Mr. Ross has been a resident of Homer since 1987. He is one of the adjacent property owners. He and his wife purchased the land at the end of Dorothy in 1992. They had lived on another road off Skyline called Scenic Place. They lived at the top of the road and there was approximately one year round resident. It was all platted with numerous lots. When they moved in 2001 there was eighteen permanent homes below them. That is why they researched and looked for this property at the end of a dead end road. Dorothy ends a few hundred yards below their property and ends at Mr. Koskovich's driveway. This platted road has never been developed. The piece of properties below it are large parcels. Mr. Koskovich and himself worked in the early 90's to try to purchase the large tracts with the intent of them being conserved lands. A few years ago it came to their attention that a property developer had bought the land and intended to subdivide it into thirty lots. There are only four property owners at the end of this long road that comes to a dead end. When they found out that Spotty Merle, i.e. Mr. Brown, was wanting to purchase a lot adjacent to them they reached out and encouraged him to purchase the large parcels below so he would not be looking down on a thirty home subdivision. Thankfully he did purchase the land to prevent it from being subdivided. This road has never been constructed and is wilderness. It is very steep and there is a steep gulley off of it. The terrain is extremely difficult. The owner has no intention of

developing this land. The area of Homer is rapidly developing and this a small 100-acre sanctuary for wildlife. As an adjacent property owner he applauds the owner and is very thankful. He does not want to look down on a big development and that is why he chose at the end of a dead end road. He supports this vacation.

Commissioner Foster wanted to know if he knew anything about the trail. Mr. Ross said the trail is a separate issue. The trail in his opinion does not exist. There are about 96 acres that Mr. Brown purchased below this very steep ridge and that comes up onto the ridge. As Homer has developed many have begun to go over private land but the trail comes up from below and goes through Mr. Brown's property. At one time it belonged to an older woman from Anchorage that purchased the three homesteads back in the late 50's. It was all undeveloped lands. People just walked through. People are now buying and developing land and people have been trespassing through private property for some period of time. There is no defined trail. This portion of the road does not exist and is only platted. After Mr. Koskovich's driveway there is a very steep drop off onto the ridge. People are trespassing and have been coming through there either through the gulley, the crest of the ridge, or the bluff front.

3. Richard Koskovich, PO Box 1282, Homer

Mr. Koskovich is a full time resident at the end of this road. He is fully in favor of this lot line adjustment. Everyone that lives down there is in favor. It will help their community and keep the privacy and peace and quiet.

Commissioner Foster wanted to know Mr. Koskovich's understanding of the trail. He knows that Mr. Koskovich put some signs up on his property regarding the trail. Mr. Koskovich said there is no trail. They have had trespass problems. A handful of people have spread the rumor around that there was a trail. In 1996 he proved to the Commission that there is no trail and it is just a trespass issue.

4. Pete Zuyus, 41095 Dorothy Dr., Homer

Mr. Zuyus directly adjoins the property being combined. He supports the consolidation 100 percent and the partial right-of-way vacation submitted by Spotty Merle. He was speaking on behalf of three entities, Kathleen and Peter Zuyus, Gruening Vista Homeowners Association, Gruening Vista West HOA. He is President of one and the Vice President of the other. He and his wife own the adjoining property and fully support the request. Lowering the density in their community is a positive benefit to all the residents in Gruening Vista. In addition, no existing road is being abandoned. The 560-foot vacation requested is a proposed undeveloped future road that will be unnecessary when the parcels are combined. As Vice President of the GVHOA he extends that the board is in unanimous support of this request. Several years ago Spotty Merle met with the Association and heard the concerns about the previous owner. The previous owner stated their intent was to subdivide their parcels and substantially increase the density of homes in the subdivision. Spotty Merle committed that they would abandon that plan and maintain the rural wildlife nature of the community. The parcel replat is a statement of their commitment and honors their commitment to the area by reducing the housing density in Gruening Vista. This is a welcome plan by everyone in the community. He is also the President of GV West HOA and all members support the parcel consolidation 100 percent for many of the same reasons as the other HOA group. It is refreshing to have a neighbor that follows through with his commitment to bettering the community for all of its residents.

Commissioner Foster looked back at a lot of the letters from a previous meeting. There were a lot of people that wrote about the trails and John Fowler. He built the trails from the bottom that were designed to meet up with this historic trail that people ran cattle down for fifty or sixty years. He asked if Mr. Zuyus knew anything about the trail. Mr. Zuyus said that there is no trail. The previous issue when the trail was brought up has nothing to do with this particular item. It had to do with the section line vacation that is under a different consideration. Mr. Fowler never had trails coming up. He has never released a dedication to the trails. Cattle has never gone up and down the section line in question. The Mary Lane Trail theory is a myth. It would be very difficult to have Mary Lane

terminate on Dorothy Drive in 1958 and 1960 when Dorothy Drive was not created until 1973. There are a lot of myths floating around to serve individual purposes, some are financial and some are political but none are based on reality.

5. Blaine Gilman, 130 S. Willow, Suite #3, Kenai

Mr. Gilman represents Spotty Merle and Zac Brown. One of the reasons that this is going forward is that Mr. Brown had made commitments to his neighbors that he wouldn't build a lot of houses on the property that he was constructing. To show that, he is getting rid of the lot lines for Lot 40, 38 and 41 and turning it into one large lot that will be Tract A-2. The right-of-way will go away and it has never been constructed. Regarding the trail, they did research and hired McLane's to do a trail survey. That is in the packet and on page 135.15 they conclude that through 71 years of federal surveys and local planning actions there has been no evidence of a historical trail system through the area. There has been no trail that has been dedicated. There is a process with the State of Alaska to dedicate a trail. The people who have been hiking through the area have been trespassing. It is really not trespassing if it is not posted. People hike on other people's property and that is common in the State of Alaska. This issue is not regarding the section line which will come before the Commission. This is a minor request in getting this portion done. Mr. Brown wants to be a good neighbor to his community. He also wants privacy and that is a major concern. He wants a buffer to have some peace. He has had issues in other states in which he felt threatened. He is concerned about privacy. He bought this parcel because it is on a dead end road. He talked to his neighbors and then bought large parcels of property around for a buffer. He asks that the Commission approve the right-of-way vacation of Dorothy Drive. It is about 560 feet.

Commissioner Venuti stated that it was mentioned that they were going to be vacating property lines. He wanted to know if he would expand on that. Mr. Gilman said this was just vacating the right-of-way and they will be replatting to combine several lots into one large parcel. Commissioner Venuti asked if that had been presented. Mr. Gilman said the proposal was located on page 129 of the packet.

Commissioner Ecklund wanted to know if this was related to the issue that previously came before the Commission for property Mr. Brown was trying to get privacy around. She recalled an issue with a gate. She wanted to know if this was near that property. Mr. Gilman replied that the gated road is Dorothy Drive. Commissioner Ecklund stated that this will now not have a gate but be private property. Mr. Gilman stated that Dorothy Drive ends at Mr. Koskovich's house and then there are 560 feet of unconstructed right-of-way. That is what will be vacated with this request and part of the replatting.

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 Whitney to vacate the southwesternmost approximately 560 feet of Dorothy Drive right-of-way as dedicated on Gruening Vista 1988 Addition and also vacate the associated 10-foot-wide utility easement within Lots 38, 40, and 41, citing findings 1 through 16.

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

H. PUBLIC HEARINGS

- 1. Vacate approximately 560 feet of the Dorothy Drive right-of-way and the associated 10' wide utility easements within Lots 38, 40, and 41 Gruening Vista 1988 Addition (HM 88-37).
Petitioner: Spotty Merle LLC of Peachtree City, GA
KPB File 2019-063V**

AGENDA ITEM H. PUBLIC HEARINGS

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STAFF RECOMMENDATION: Based on Findings 1-16, staff recommends approval of the vacations as petitioned, subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
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KPB 20.70.130:

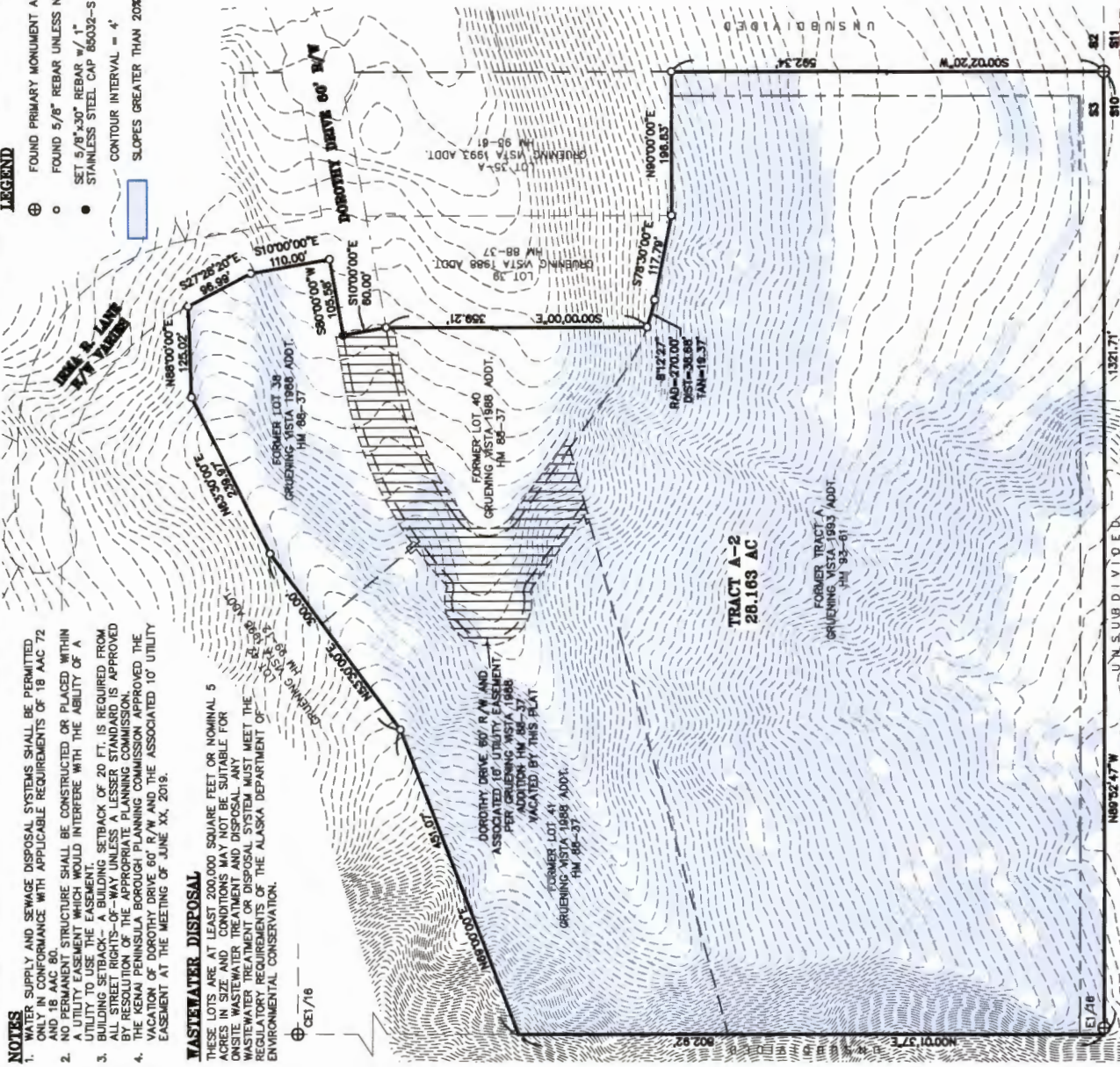
THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

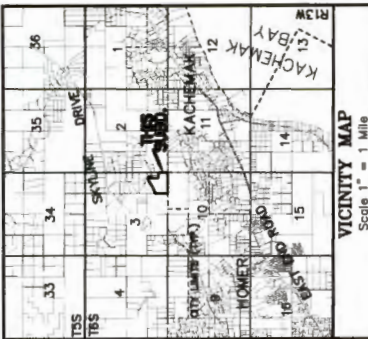
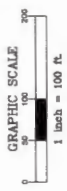
- NOTES**
1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED TO BE CONSTRUCTED WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 60.
 2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
 3. BUILDING SETBACK - A BUILDING SETBACK OF 20 FT. IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION.
 4. VACATION OF DOROTHY DRIVE 60' R/W AND THE ASSOCIATED 10' UTILITY EASEMENT AT THE MEETING OF JUNE XX, 2019.

WASTEWATER DISPOSAL

THESE LOTS ARE AT LEAST 2000,000 SQUARE FEET OR NOMINAL 5 ACRES IN SIZE AND SHALL BE SUITABLE FOR ON-SITE WASTEWATER TREATMENT AND DISPOSAL. ANY WASTEWATER TREATMENT OR DISPOSAL SYSTEM MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.



- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 5/8" REBAR UNLESS NOTED
 - SET 5/8"x30" REBAR @ 1'
 - STAINLESS STEEL CAP 85032-S
 - CONTOUR INTERVAL = 4'
 - ▭ SLOPES GREATER THAN 20%



CERTIFICATE OF OWNERSHIP AND DEDICATION

I, THE UNDERSIGNED, HEREBY CERTIFY THAT SPOTTY MERLE LLC, IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF SPOTTY MERLE LLC, I HEREBY AGREE TO THIS PLAN OF SUBDIVISION AND A RESUBDIVISION OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

R. STANFORD FLOWERS, CFO ON BEHALF OF
 SPOTTY MERLE LLC, OWNER
 101 GARDNER PARK
 PEACHTREE CITY, GA 30269

NOTARY'S ACKNOWLEDGEMENT
 I, R. STANFORD FLOWERS
 DO HEREBY ACKNOWLEDGE BEFORE ME THIS
 _____ DAY OF _____ 2019

MY COMMISSION EXPIRES : _____
 NOTARY PUBLIC FOR THE
 STATE OF GEORGIA



PLAT APPROVAL

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

AUTHORIZED OFFICIAL _____

GRUENING VISTA 2019 REPLAT & ASSOCIATED R/W EASEMENT VACATION

REPLAT LOT 38, 40 AND 41 OF GRUENING VISTA 1988 ADDITION (HM88-37) AND TRACT A GRUENING VISTA 1993 ADDITION (HM93-61)

SPOTTY MERLE LLC, OWNER
 101 GARDNER PARK
 PEACHTREE CITY, GA 30269

28.163 AC. M/L. SITUATED IN THE SE1/4 OF SE1/4 OF SECTION 3, TOWNSHIP 6 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, HOMER RECORDING DISTRICT, ALASKA.

ENGINEERING TESTING
 SURVEYING - MAPPING
 P.O. BOX 488
 1000 UNIVERSITY AVENUE
 VOICE (907) 263-2479
 FAX (907) 263-2008
 WWW.MCLANE.COM



KPB FILE NO. 2019-DXK

PROJECT NO. 19SD06

DATE: MAY 2019

BOOK NO. 1: 19-XX

DRAWN BY: JAH

Tract #	
Date	20
Title	X

KPB 2019-063V



GRUENING VISTA 1968 ADDITION

LOCATED IN S.E. 1/4, SEC. 3, T.6S., R.13W., S.M. HOMER, ALASKA.
 BY IRMA R. SCAVENIUS 2009 WILDWOOD LANE, ANCHORAGE, ALASKA.
 99603

HOMER RECORDING DISTRICT

SCALE 1"=100 AREA=11.139 AC. JUN. 30, 1988

NOTE

A building set back of 20' from all P.O.W.'s is required unless a lesser standard is approved by a resolution of the appropriate planning committee. Front 10' of building set back is also a utility easement, and also the entire set back within 5' of side lot lines for guy wires.
 Sets on these lots may or may not be suitable for conventional site waste disposal. No person may construct, install, maintain, or operate a pressurized water system, or other below waste disposal system unless approval of the ALASKA DEPT. OF ENVIRONMENTAL CONSERVATION is obtained. Sets made by C.E. Mike Torkelson indicate sets are suitable for on-site waste water disposal systems, November, 1977.

PLAT APPROVAL

This plat was approved by the Final Plat Book Borough Planning Commission at the meeting of JAN. 4 1988

FINAL PENINSULA BOROUGH
 Authorized Official: Richard J. Taylor 9-7-88
 Date

OWNER'S CERTIFICATE AND DEDICATION

I hereby certify that I am the owner of the property shown and described herein, and that I hereby adopt this plat of subdivision, and dedicate all R.O.W.'s to public use and grant of easements to uses shown.

Irma R. Scavenius
 IRMA R. SCAVENIUS

NOTARY'S CERTIFICATE

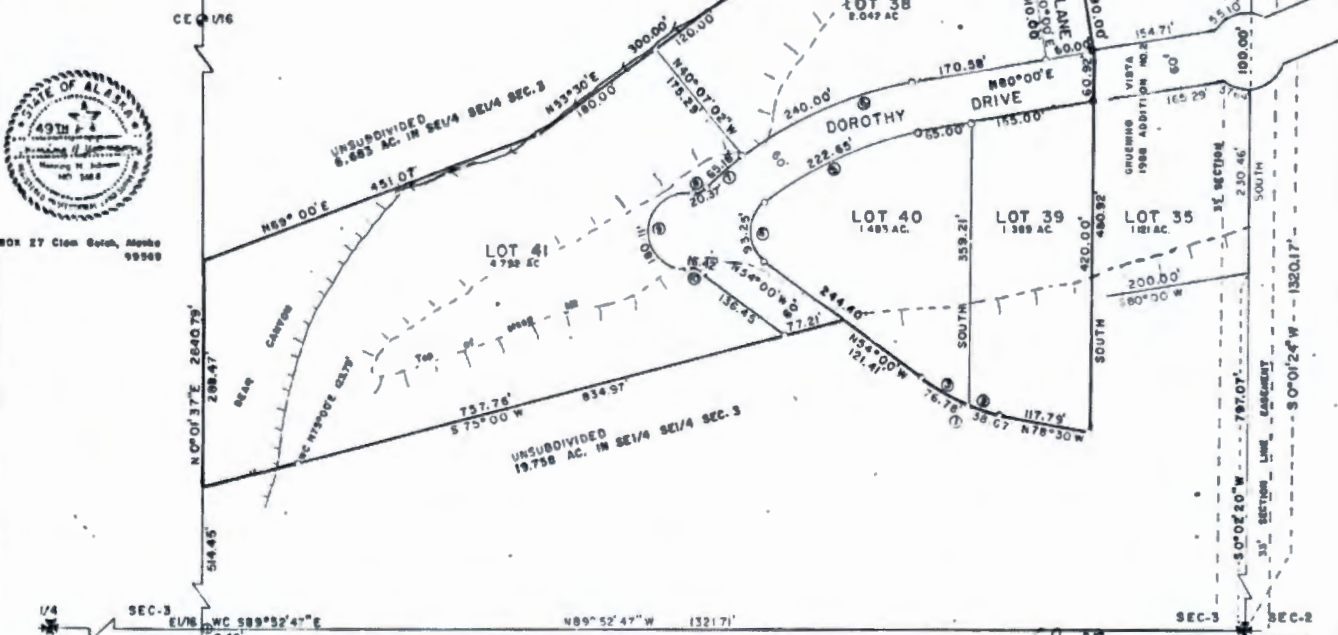
Subscribed and sworn to before me this 10th day of August 1988.
Harvey H. Kelly
 NOTARY FOR ALASKA
 Irma R. Scavenius

LEGEND

- - 1977 brass cap man by G.L.O. found.
- - brass cap man by 268-S found.
- - 1/2" rebar found.
- - 1/2" x 24" rebar set.
- ⊗ - 3/4" x 30" AL Wren. set.

CURVE DATA

① R=240.00' C=114.50' T=58.68' L=115.49' BC=Use Tang Prop	② R=270.00' C=78.52' T=38.65' L=76.76' BC=462°09'48"W	③ R=270.00' C=220.97' T=115.48' L=222.08' BC=N66°25'49"E	④ R=550.00' C=87.14' T=32.63' L=65.10' BC=S50°31'55"W	⑤ R=500.00' C=97.36' T=215.31' L=1180.11' BC=S8°10'07"W
⑥ R=270.00' C=38.64' T=18.37' L=38.67' BC=N74°23'40"W	⑦ R=90.00' C=60.31' T=67.00' L=93.25' BC=N0°34'14"W	⑧ R=530.00' C=227.95' T=122.09' L=240.00' BC=S67°01'59"W	⑨ R=200.00' C=19.50' T=11.17' L=20.37' BC=S76°11'14"W	⑩ R=200.00' C=19.50' T=11.17' L=20.37' BC=S77°30'52"E



88-37
 FILED 20-
 HOMER REC DIST
 DATE 9-12-88
 236 P
 MPB
 J. Saldaña

GRUENING VISTA 1993 ADDITION

AREA AT OF LOT 35 GRUENING VISTA 1986 ADDN No 2 (HR 96-110) AND AN UNSUBDIVIDED REMAINDER SHOWN ON GRUENING VISTA 1988 ADDN(HR 89-37)



Located in the SE 1/4 Section 3, T6S R13W S.M., ALASKA
 Home Recording District
 PREPARED FOR: JAMES SCAVENIUS
 2009 WILLOW LANE
 ANCHORAGE, AK 99503
 PREPARED BY: JONHSON SURVEYING
 BOX 27
 CLAW Gulch, AK 99568
 RICHARD & ANN KOSKOVICH
 P.O. BOX 1282
 HOMER, AK 99603

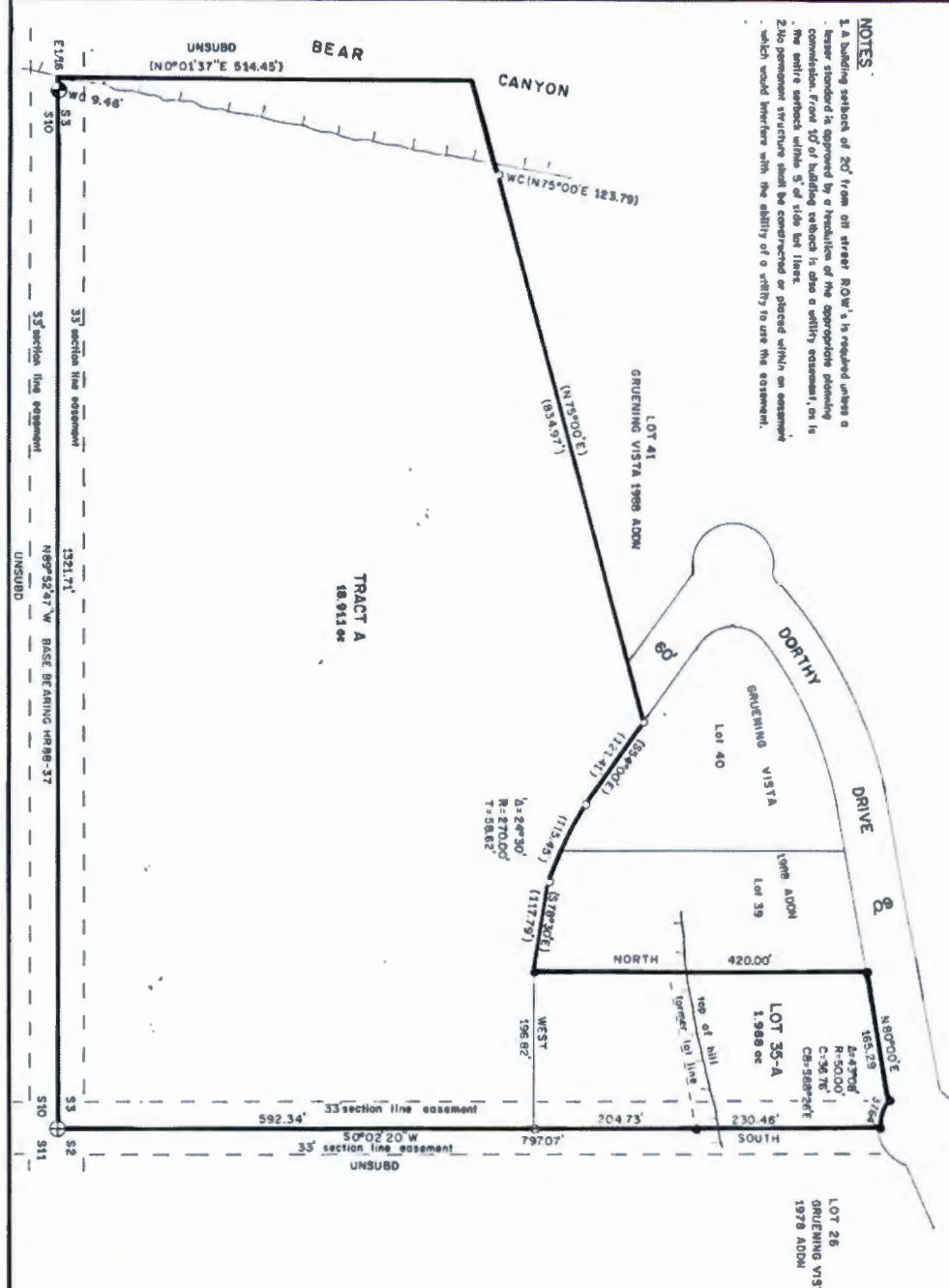


SCALE 1" = 100' AREA = 20,879 sq. ft. 10 Aug, 1993

- LEGEND**
- 1987 brass cap monument by S.L.O. found
 - 1988 chip monument by S.L.O. found
 - 1/2" round iron corner, found
 - 1/2" round iron corner, found
 - 1/2" x 1/2" round with 1 plastic cap, set
 - 1 - Indicates record information

NOTES:

- A building setback of 20' from all street ROW's is required unless a lesser standard is approved by a resolution of the appropriate planning commission. From 10' of building setback is also a utility easement, on the entire setback within 5' of side lot lines.
- Also permission structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.



PLAT APPROVAL
 This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of 13 September, 1993.
 KRISTIN PENNINGTON, BOROUGH
 By: *Kristin Pennington*
 Authorized Official Date: 12-17-93

WASTEWATER DISPOSAL
 Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
 The ADEC requires this subdivision for planning.
 EEA
 Date: 9/30/93

OWNERSHIP CERTIFICATE & DEDICATION
 We hereby certify that we are the owners of the real property shown and described herein, and that we hereby dedicate this portion of subdivision and by our fee consent grant all easements to the use shown.
 We further certify that Deeds of Trust affecting this property do not contain restrictions which would prohibit the platting, or require signature and approval of beneficiaries.
 Linda R. Schenck
 Richard J. Koskovich
 Erin Ann Koskovich

NOTARY'S ACKNOWLEDGEMENT
 For Linda R. Schenck
 Subscribed and sworn to before me this 22nd day of November, 1993.
Linda R. Schenck
 Notary Public for Alaska
 My commission expires: 01/01/94

NOTARY'S ACKNOWLEDGEMENT
 For Richard J. Koskovich
 Subscribed and sworn to before me this 22nd day of November, 1993.
Richard J. Koskovich
 Notary Public
 My commission expires: 01/01/94

NOTARY'S ACKNOWLEDGEMENT
 For Erin Ann Koskovich
 Subscribed and sworn to before me this 22nd day of November, 1993.
Erin Ann Koskovich
 Notary Public
 My commission expires: 01/01/94

FILED 20-
 12-17-93
 Homer, Alaska
 Notary Public
 My commission expires: 01/01/94







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

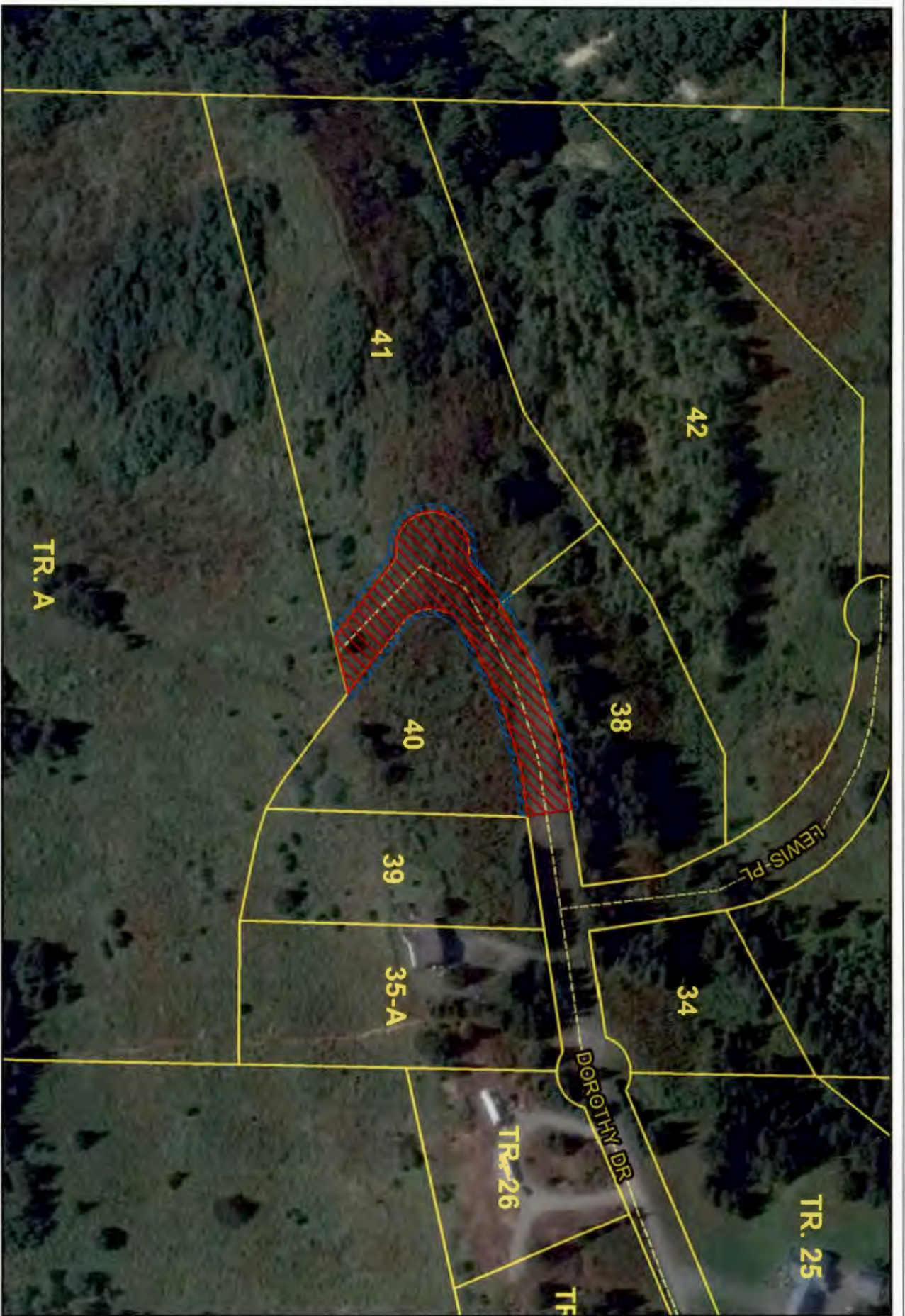


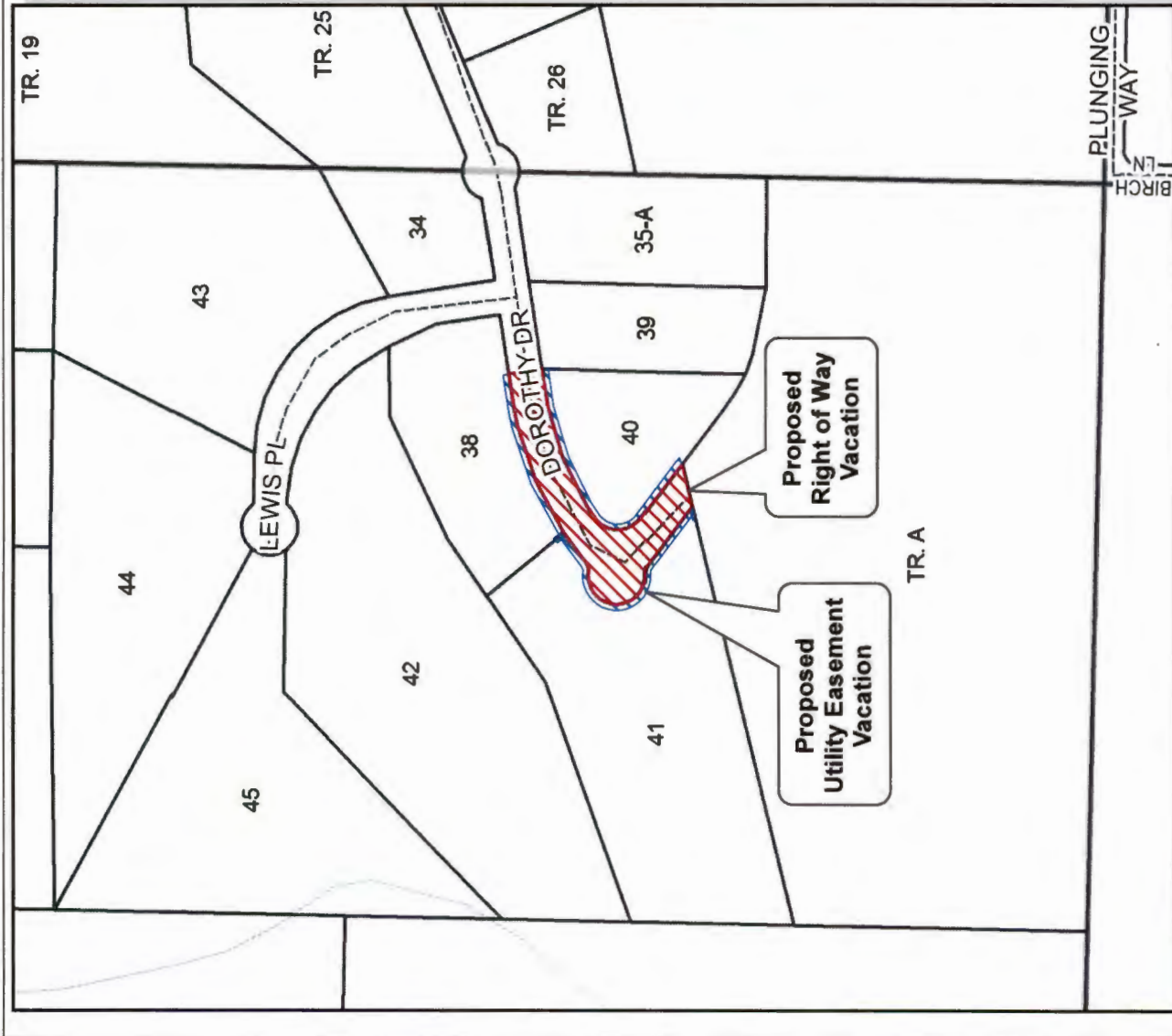
Aerial View



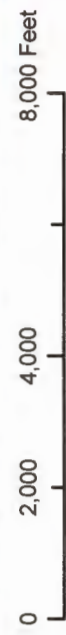
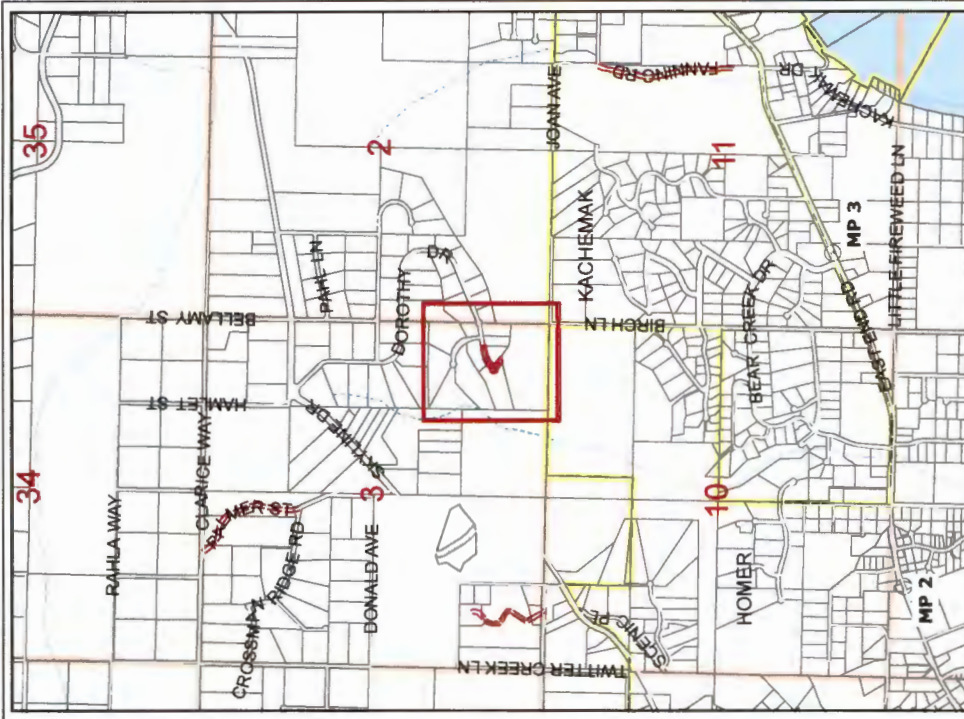
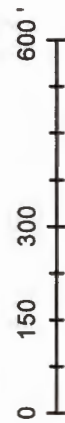
-  Right of Way Vacation
-  Utility Easement Vacation

J.Reif, KPB
Date: 5/30/2019
Imagery: Aug 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.

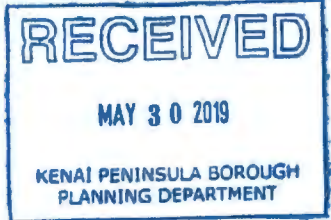


KPB 2019-063V
T06S R13W S03
DIAMOND RIDGE

JReif, KPB
 Date: 5/30/2019



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 Gruening Vista 1988 Addition Subdivision, filed as Plat No. 88-37 in Homer Recording District.
- Are there associated utility easements to be vacated? Yes No
- Are easements in use by any utility company? If so, which company _____
- Easement for public road or right-of-way as set out in (specify type of document) _____ as recorded in Book _____ Page _____ of the _____ Recording District. (Copy of recorded document must be submitted with petition.)
- Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
 - Has right-of-way been fully or partially constructed? Yes No
 - Is right-of-way used by vehicles / pedestrians / other? Yes No
 - Is alternative right-of-way being provided? Yes No

The petitioner must provide reasonable justification for the vacation. Reason for vacating:
The parcels have a single owner and the R/W intent was to access these parcels being reverted to a single Tract. This Tract has legal access via Dorothy Drive and Irma R. Lane. Large slopes, surrounding topography and the general terrain of the area make a R/W dedication through this Tract unnecessary.

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: McLane Consulting, Inc. Signature as: Petitioner Representative
 Address _____
PO Box 468
Soldotna, AK 99669
 Phone 907-283-4218

Petitioners:
 Signature [Signature] Signature _____
 Name R. Stanford Flowers, CFO Name _____
 Address Spotty Merle, LLC Address _____
101 Gardner Park
Peachtree City, GA 30269
 Owner of L138,40,41(HM88-37), Tract A(HM93-61) Owner of _____
 Signature _____ Signature _____
 Name _____ Name _____
 Address _____ Address _____
 Owner of _____ Owner of _____

McLANE

CONSULTING, INC.
P.O. Box 468 Soldotna, Alaska 99669
(907) 283-4218 fax (907) 283-3265

LETTER OF TRANSMITTAL

To: Kenai Peninsula Borough
Planning Department
144 N. Binkley St.
Soldotna, Alaska 99669

DATE: MAY 30, 2019 JOB # 192006
ATTENTION: Scott Huff
RE: Gruening Vista 2019 Replat
KBP File 2019-xxx
PRELIM
From: James Hall

We are sending you: Attached Under separate Cover
Via: Delivered

Copies	Description
1	Blackline Prelim Plat full size
10	Blackline Prelim Plat 11x17
1	Plat Submittal Form signed by owner w/ fee of \$200
1	Vacation Petition signed by owner w/ fee of \$500
1	Corporate Documents

Reason for Transmittal Checked Below:

FOR APPROVAL AS REQUESTED APPROVED AS SUBMITTED REVIEW/COMMENT
 FOR YOUR USE APPROVED AS NOTED RETURNED FOR CORRECTIONS

Remarks:

Copy to: File Signed: James

DESK COPY

TO: KENAI PENINSULA BOROUGH PLANNING COMMISSION

Re: KPB File 2019-063V

Date: June 19, 2019

We are owners of property on Dorothy Drive in the Gruening Vista Subdivision.

We fully support and recommend that you approve the request by Spotty Merle LLC to re-plat their Lots into a single lot and vacate the southwestern most, approximately 560 feet of the Dorothy Drive right-of-way.

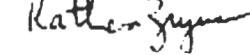
Our property adjoins the Spotty Merle property and we welcome the consolidation.

Thank you,



Peter T. Zuyus

Kathleen Zuyus



**CORPORATE RESOLUTION OF
GRUENING VISTA HOMEOWNERS ASSOCIATION, INC**

I, Peter Zuyus, Vice President of Gruening Vista Homeowners Association, Inc. an Alaska corporation organized and existing under and by virtue of the laws of the State of Alaska, do hereby certify that the Board of Directors was polled and the following Resolution was unanimously adopted:

BE IT RESOLVED, that:

Gruening Vista Homeowners Association, Inc. is in agreement with Spotty Merles, Inc.'s petition to vacate the southwesternmost approximately 560 feet of the Dorothy Drive right-of-way as dedicated on Gruening Vista 1988 Addition (HM 88-37). Also, vacate all utility easements associated with the rights of way, within Lots 38, 40, and 41 Gruening Vista 1988 Addition (HM 8837) and Tract A Gruening Vista 1993 Addition (HM 93-61); Location: within the SE ¼ SE ¼ of Section 3, Township 6 South, Range 13 West, Seward Meridian, Kenai Peninsula Borough, Alaska
KPB File 2019-063V

Dated this 19th day of June, 2019


Peter Zuyus, Vice President

TO: KENAI PENINSULA BOROUGH PLANNING COMMISSION

Re: KPB File 2019-063V

Date: June 19, 2019

We are owners of property on Dorothy Drive in the Gruening Vista Subdivision.

We fully support and recommend that you approve the request by Spotty Merle LLC to re-plat their Lots into a single lot and vacate the southwestern most, approximately 560 feet of the Dorothy Drive right-of-way.

Thank you,


Michael Zuyus


Patricia Zuyus

TO: KENAI PENINSULA BOROUGH PLANNING COMMISSION

Re: KPB File 2019-063V

Date: June 19, 2019

I am owner of property on Dorothy Drive in the Gruening Vista Subdivision.

I fully support and recommend that you approve the request by Spotty Merle LLC to re-plat their Lots into a single lot and vacate the southwestern most, approximately 560 feet of the Dorothy Drive right-of-way.

Thank you,

Richard Koskovich



6.19.19

June 17 2019

Homer, Alaska
Trail research

FOR

**Dorothy Drive Right-of-way
Vacation
Township 6 South
Range 13 West
Seward Meridian, Alaska**

Prepared By:

McLANE CONSULTING INC.
38240 Kenai Spur Highway
PO Box 468
Soldotna, AK 99669

Homer, Alaska
Trail research



Cover Letter

Kenai Peninsula Borough
Attention: Max Best
144 North Binkley St.
Soldotna, AK 99669

TABLE OF CONTENTS

- * - Cover Letter
- 1 - Trail Systems
- 2 - Conclusion

Subject: Letter of Trail System research in Homer, AK

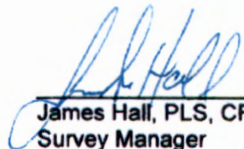
McLane Consulting in Soldotna, Alaska would like to provide research conducted from a published records standpoint of Trail Systems in and around Homer, AK. The mentioned trails are within Township 6 South, Range 13 West, Seward Meridian, Alaska.

There has been no evidence through the years to warrant a trail system through or along this proposed vacation of Dorothy Drive right-of-way.

Included with this letter is evidence of trails and general access through history from a published standpoint by the Federal Government and references to local platting actions. None of these trails have approached the area of concern being Dorothy Drive.

If you have any questions regarding this submission, please contact James Hall at 907-953-5886.

Sincerely,
McLane Consulting, Inc.



James Hall, PLS, CFedS
Survey Manager

1. Trail Systems

1917-1918 Federal Surveyors

Government Land office official field notes - 1918. No mention of historic trail.
Following Section Line common to Section 2 & 3, T6S, R13W, S.M., AK.

... GRASS.

N. 0° 3' W. Met. sec. 2 and 3 on a true line.

Ascend grassy slope through dense windfall.

8.00 Ascend abruptly.

13.48 Top of steep ascent. Thence gradual ascent over rolling land, through scattering timber and undergrowth.

20.93 Crk. 3 lks. wide, 6 ins. deep, course SW.

40.00 Set an iron post, 3 ft. long, 1 in. in dia., 24 ins. in the ground for 1 sec. cor., marked on cap;

183 | S2
1817 From which;
A spruce, 18 ins. dia., bears N. 10° 18' W.
98 lks. dist., marked 1 8 3 ST.

A spruce 18 ins. dia., bears N. 4° 40' W.
98 lks. dist., marked 1 8 3 ST.

87.87 Top of ascent on ridge bears NF. and SP. 1378 ft. above mean high tide line Coal Bay.

Descend gradually N. slope rolling land.

89.00 40 ft. below top of ridge.

The cor. sec. 2, 3, 34 and 35 on the N. bdy of the Top.

Land rolling.

Soil, black loam, 2nd rate.

Timber, birch, spruce and cottonwood.

Undergrowth; alders, high grass and scrub spruce.

EXECUTED BY

F. V. HILTYMOSE N. H. HATTYER

In the capacity of U. S. Surveyor, under instructions of the
 Supervisor of Surveys
 Directed by the ~~Commissioner of the General Land Office~~ to perform surveys included in
 Group No. 7, which were approved by the Commissioner of the General Land
 Office, pursuant to authority contained in the Act of
 Congress dated _____, 1911

Survey commenced FEB. 24, 1917 1917
 Survey completed AUG. 12, 1917 1917

W. accepted July 15, 1918

Homer, Alaska
Trail research



Following Section Line common to Section 3 & 10, T6S, R13W, S.M., AK.

East on a random line bet. secs. 3 and 10.
40.00 Set temp. $\frac{1}{2}$ sec. cor.
79.99 Intersect N. and S. line at the cor. secs. 3, 10 and 11.
West on a true line bet. secs. 3 and 10.

079

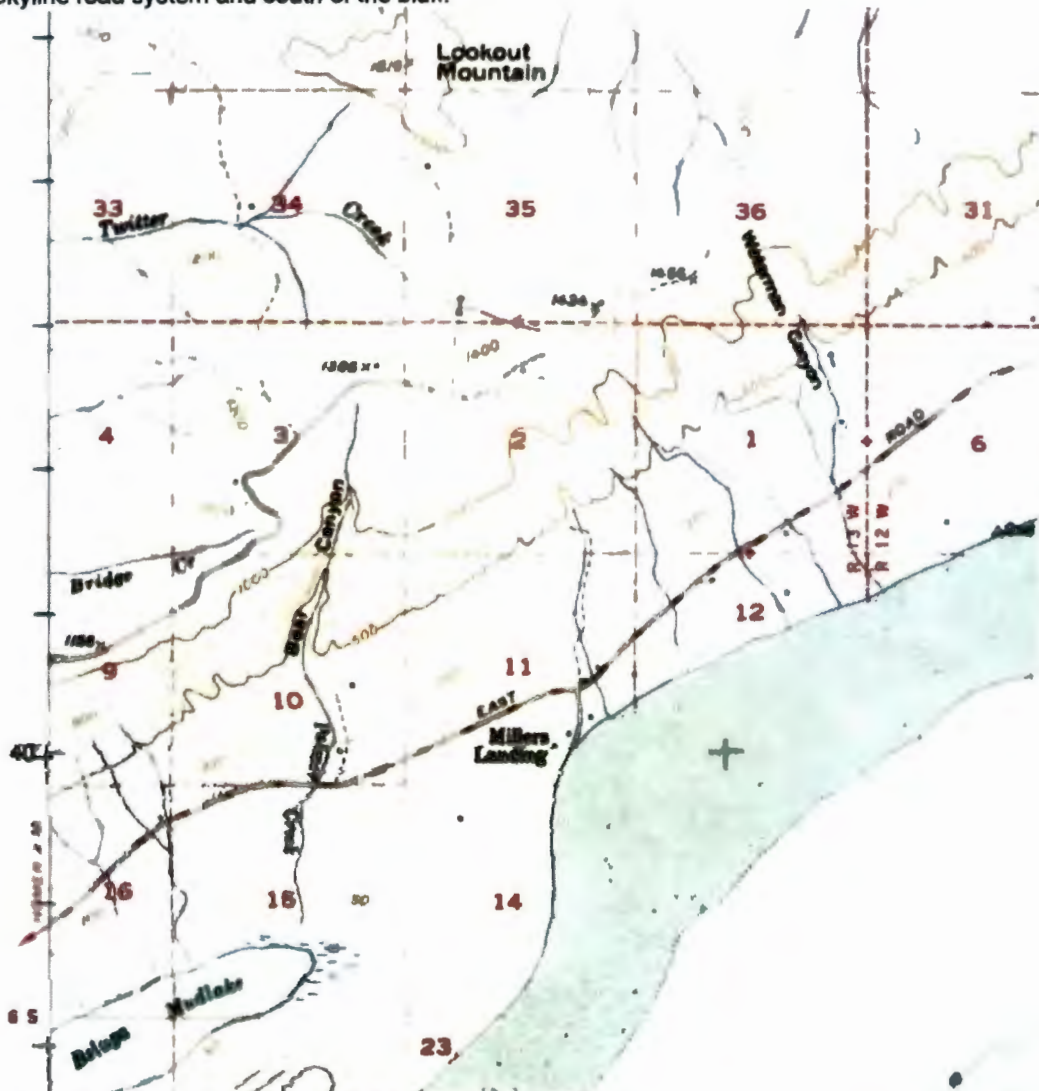
Subdivision of T.6 S.R.13 W.

00.00	Descend mts. W. slope of canyon through scattering cotton-wood timber and dense undergrowth.
28.00	Foot descent. Creek, 10 lks. wide, 1 ft. deep, square SF. Ascend E. slope of canyon.
33.99	Set an iron post, 3 ft. long, 1 in. in dia., 24 ins. in the ground for $\frac{1}{2}$ sec. cor., marked on cap; $\frac{1}{2}$ E3 Dig pits 18 x 18 x 12 ins. on each line S10 From E. of cor. 3 ft. dist. 1917 No bearing trace within limits.
56.00	Top of ascent bears W. and SE. Enter heavy spruce timber. Hence over level land.
63.10	Begin descent rolling land.
79.98	80 ft. below top of ridge. The cor. secs. 3, 4, 9 and 10. Land rolling mts. and level. Soil; vegetable mold, 3rd rate. Timber; spruce and cottonwood. Undergrowth; alders and willows.

Homer, Alaska
Trail research



US Coast & Geodetic Survey Quadrangle maps from 1948 to 1987. Trail systems all north of Skyline road system and south of the bluff.



Mapped, edited, and published by the Geological Survey

Control by USC&GS

Hydrography compiled from USC&GS chart 8531

Reconnaissance topography from aerial photographs

by Mahan plotter, photo-slide methods,

and by plane-table surveys 1948

Aerial photographs taken 1942

Universal Transverse Mercator projection, zone 5

1927 North American datum

Dashed land lines indicate approximate locations

1000-meter Universal Transverse Mercator grid ticks,

zone 5, shown in blue

SELDOVIA (C-4), ALASKA

N5930—W15107.5/15X22.5

1948

MINOR CORRECTIONS MADE 1988



SELDOVIA (C-4), ALASKA
N5930—W15107.5/15x22.5

EDITION OF 1949

Mapped, edited, and published by the Geological Survey

Control by USC&GS

Reconnaissance topography from aerial photographs
by Mahan plotter, photo-alidade methods
and by plane-table surveys 1948
Aerial photographs taken July 1942

Polyconic projection. 1927 North American datum

Dashed land lines indicate approximate location



Mapped, edited, and published by the Geological Survey
Control by USGS USC&GS and USCE

SELDVIA (C-4), ALASKA

N5930-W15107 5/15X22 5

Topography by photogrammetric methods from aerial photographs
taken 1951-1952, field annotated 1961. Map not field checked

1961

Hydrography compiled from USC&GS charts 8531 (1959) and
8554 (1:200,000 scale 1959)

Universal Transverse Mercator projection 1927 North American datum
1000 meter Universal Transverse Mercator grid ticks, zone 5, shown in blue

Land lines printed in gray represent unsurveyed and unmarked
locations predetermined by the Bureau of Land Management
Folio S-16, Seward Meridian

Dashed red land lines indicate approximate locations of existing ground surveys

Swamps as portrayed, indicate only the wetter areas
usually of low relief as interpreted from aerial photographs



Mapped, edited, and published by the Geological Survey
Control by USGS, USC&GS, and USCE

Topography by photogrammetric methods from aerial photographs
taken 1951 and 1952, field annotated 1961. Map not field checked.

Selected hydrographic data compiled from USC&GS
Charts 8531 (1959) and 8554 (1:200,000 scale 1959). This
information is not intended for navigational purposes.

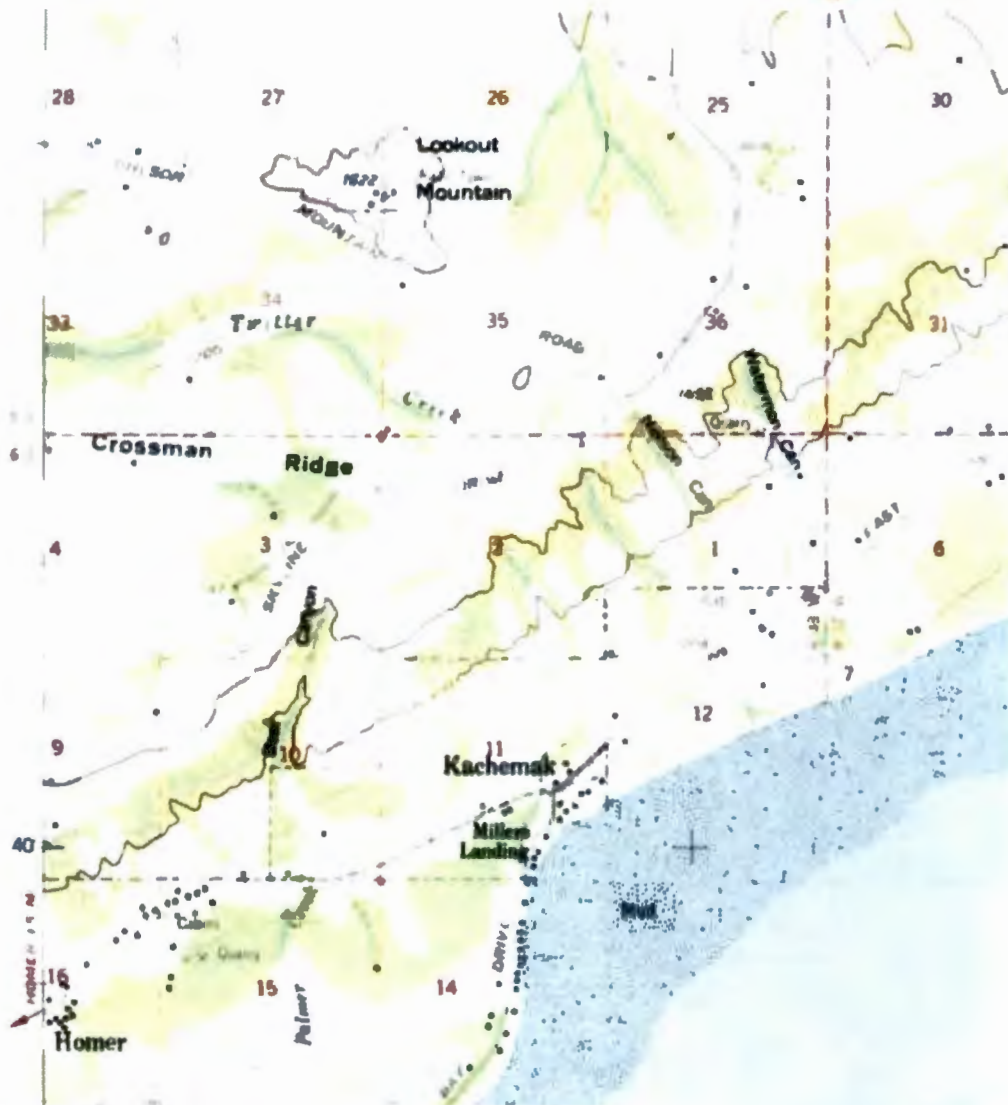
Universal Transverse Mercator projection 1927 North American datum
10,000 foot grid based on Alaska coordinate system zone 4
1000 meter Universal Transverse Mercator grid lines
zone 5 shown in blue.

Gray land areas represent unsurveyed and unmarked
land areas owned by the Bureau of Land Management
Folio S 16 Seward Meridian

Swampy areas are indicated by the wetter areas
usually of low relief and interpreted from aerial photographs.

SELDOVIA (C-4), ALASKA
N5930-W15107 5/15X22 5

1961
Map scale 1:50,000



Mapped, edited and published by the Geological Survey
Control by USGS, USC&GS and USCE

Topography by photogrammetric methods from aerial photographs taken 1951 and 1952; field annotations 1961. Map not field checked.

Selected hydrographic data compiled from USCGS Charts 8541 (1959) and 8554 (1:200,000 scale, 1959). This information is not intended for navigational purposes.

Universal Transverse Mercator projection, 1927 North American datum. 10,000 foot grid based on Alaska coordinate system, zone 4. 1000 meter Universal Transverse Mercator grid, zone 5 shown in blue.

Gray land lines represent unsurveyed and unmarked lines predetermined by the Bureau of Land Management. Folio S 16, Seward Meridian.

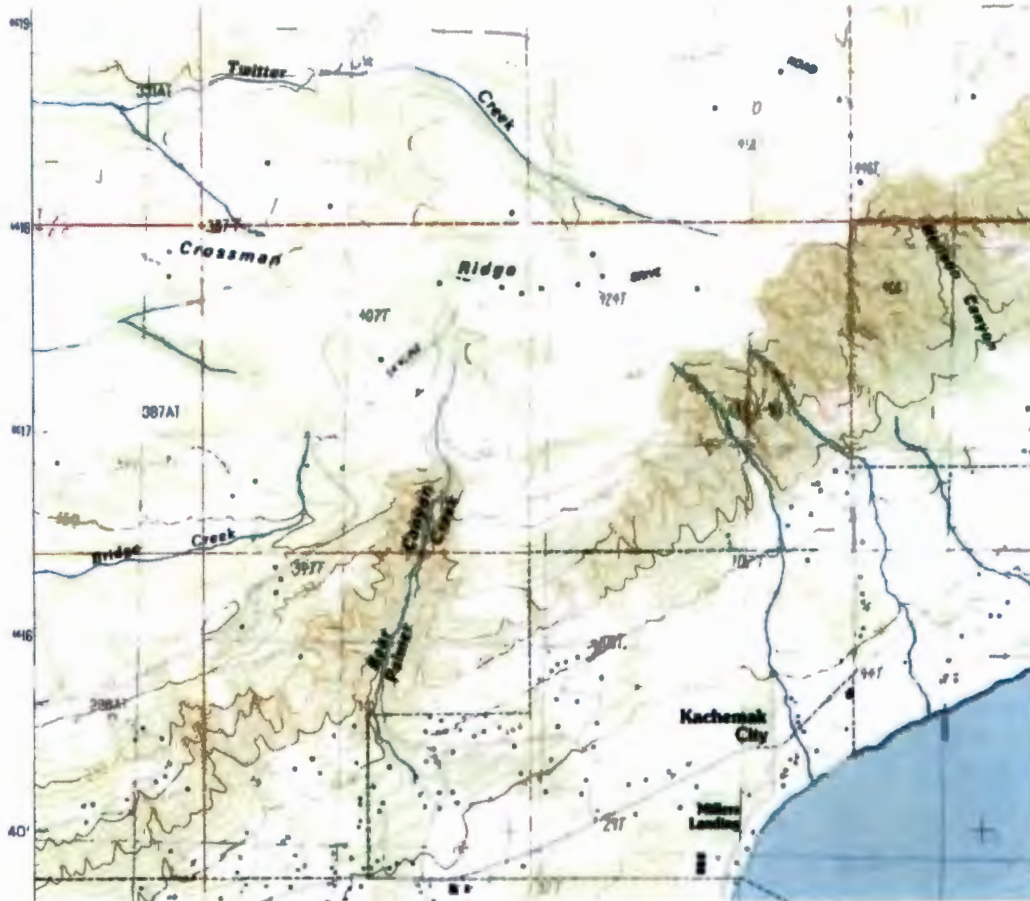
Swamps as portrayed indicate only the wetter areas; usually of low relief as interpreted from aerial photography.

SELDOVIA (C-4), ALASKA

N5930-W141075, 15x22.5

1961
LIMITED REVISIONS 1976

Homer, Alaska
Trail research



PRODUCED BY THE UNITED STATES GEOLOGICAL SURVEY
 CONTROL BY USGS, HOS400AA
 COMPILED FROM AERIAL PHOTOGRAPHS TAKEN 1980
 FIELD CHECKED 1986 MAP EDITED 1987
 PROJECTION UNIVERSAL TRANSVERSE MERCATOR
 GRID 1983-METER UNIVERSAL TRANSVERSE MERCATOR SCRS 5
 3180-FOOT STATE GRID TICKS ALASKA, ZONE 4
 UTM GRID DECLINATION 1°00' EAST
 1987 MAGNETIC NORTH DECLINATION 10°20' EAST
 VERTICAL DATUM NATIONAL GEODESIC VERTICAL DATUM OF 1989
 HORIZONTAL DATUM 1987 NORTH AMERICAN DATUM
 To place on the predicted North American Datum of 1983,
 move the projection lines as shown by dashed corner ticks
 (71 meters north and 123 meters east)
 There may be private holdings within the boundaries of any
 Federal and State Reservations shown on this map.
 The Alaska Maritime National Wildlife Refuge consists of all the
 public land in the coastal waters and adjacent seas of Alaska
 consisting of islands, islets, rocks, reefs, capes and spires, as well as
 designated mainland areas

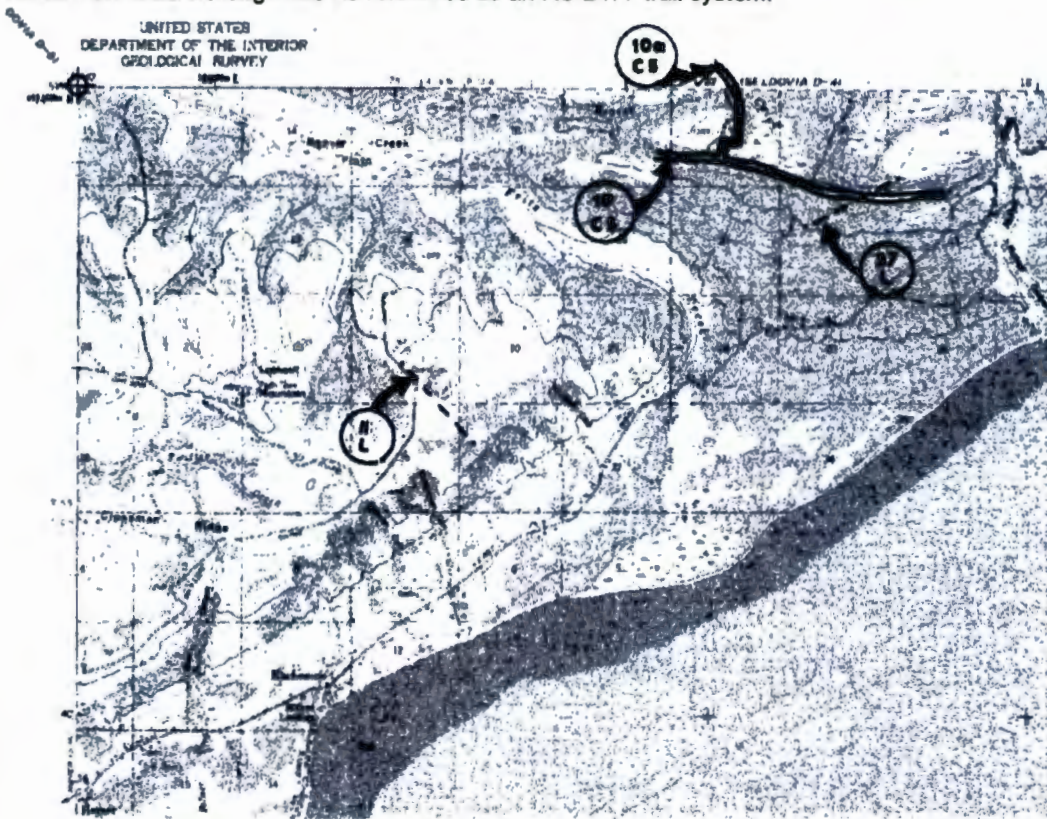
SELDOVIA (C-4) NW, ALASKA
PROVISIONAL EDITION 1987

89151-73-TM-025

The Tracks/Trails (road linework) displayed in 1987 reflect the Rights-of-way within platted subdivisions.

This area has been platted numerous times with no mention of any historic trail through the area. HM74-818, HM78-49, HM86-110, HM88-37, HM93-61, HM97-47, HM99-12, HM99-26, HM2018-7 are just a few relevant in the area.

Kenai Peninsula Borough has no reference as an RS-2477 trail system.

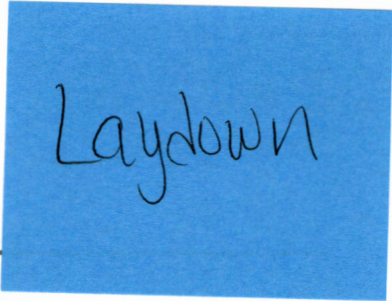


2. Conclusion

Private Homes in a Platted Subdivision with Public Rights-of-Way for access.

Through 71 years of Federal surveys and local platting actions there has been no evidence of a historic trail system through the area.

From: [Margi B](#)
To: [Reif, Jordan](#); [Sweppy, Maria](#); [Planning Dept.](#)
Subject: Dorothy Drive right-of-way vacation petition
Date: Monday, June 24, 2019 4:22:30 PM



Laydown

Dear Planning Commission,

Although I am not completely opposed to the vacation of the lower section of Dorothy Drive as proposed in KPB File 2019-063V, there are some important considerations and precedents that should be included in the decision making process.

The provided plat for this proposal shows the lots that are accessed through the proposed vacated public road as one lot. I do not know when these lots all became one lot, or if they actually have, but very recently there have been multiple lots accessed by the platted Dorothy Drive. These lots had covenants on them and were in the local Gruening Vista Homeowners Association. This is a fairly active homeowners association and has put lots of effort into building well-thought-out covenants among the neighbors. These covenants contained limits on changing of lot lines but perhaps there have been accepted exceptions for the change of the lot lines. I believe it is important that the covenants that were on the lots previously to continue onto the new, combined lot. The covenants limit commercial properties in the neighborhood, which may be important in the future with the change of this area to a large, undeveloped lot. Although I understand that the planning commission is not responsible for neighborhood covenants, I feel it is important for the commission to be aware of the complexity of the issue around these lots. The platted road that will possibly be vacated runs along a view ridge toward a lower bench. Although I do trust that the present landowner is not planning on building a large hotel or other commercial endeavor on the vacated roadway, I feel it is important to insure that this presently public access ridge does not become something so incongruous to the neighborhood in the future. I am not sure how that can be insured, but I think it is an important consideration.

The possibility of this presently public land becoming private also brings up my second point. It is important that Kenai Peninsula Borough be careful about granting public land to become private land. Although the land is platted as a roadway, which may not seem like public land, roadways and access points are very much a part of public experience in a community. One of the things that makes the Kenai Peninsula such an attractive place to live is the views from the roadways. Be it people driving, biking or walking, the visual scenery available to all of us makes us appreciate our location as well as want to be in the area. For example, I live near Skyline Drive in Homer. Regularly I bike the road for exercise. The bike ride is an amazingly uplifting activity not just because of the benefits of exercise, but because of the various views all along the way. These views are available to everyone, local or visitor, child or adult, walker, driver, or biker. One does not need to own view property to enjoy the amazing views our community has to offer because of the beautiful public roadways throughout our community. I feel this public access is in fact an important part of the quality of life in our community. If we allow our public access right-of ways to become private, we are losing not just the land, but we are limiting the quality of life in the area, and thus diminishing the value of our communities. We have very little public dedicated parkland locally and should recognize that maintaining beautiful, publicly accessible roadways contributes to this community need. Turning public roadways into private ways may be a dangerous

precedent to be setting in our borough.

Thank you for your careful consideration of the proposal. Your important work will help us maintain the beauty of this amazing place we live and allow us all to benefit from its splendor. I respect your experience and ideas on how to best maintain the health of our community.

Sincerely,
Margi Blanding
40585 Dorothy Drive
Homer, AK 99603