

RE: Request to Vacate Paper Birch Lane

My name is Charles Johnson. I am the owner of lot #2. I am the forth party directly connected to the vacate request due to the encroachment on lot #9. I am the one that stands to lose his access for road and utilities by this move. This portion of Paper Birch Lane if vacated would remove my best and most economical option.

I would not be opposed to this vacate if I could be assured that I would have access to road and utilities that would be as good or superior than that of Paper Birch.

Note: Planning Commission considerations 20.65.050 #5 and #7. I have been shown the proposed subdivision plat of lot #1 provided to the borough by Cody McLane (owner) that includes roads to my property.

I would like to be assured that the roads will be built as shown and have access to the appropriate utilities, then this vacate would have my acceptance.

If I can not be assured, then I would ask that the road not be vacated and instead be moved slightly to avoid the encroachment from Lot #9.



058-360-02

From: Planning Dept,
Sent: Wednesday, March 16, 2022 1:19 PM
To: Quinton, Madeleine
Subject: FW: <EXTERNAL-SENDER>RE replat 2022-23V lot 15, 8, 9 (KN2009-48)

From: mk****im k <mkinttrim@outlook.com>
Sent: Wednesday, March 16, 2022 1:14 PM
To: Planning Dept, <planning@kpb.us>
Subject: <EXTERNAL-SENDER>RE replat 2022-23V lot 15, 8, 9 (KN2009-48)

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I work on the slope but will try to get down there in person. I own a dbl lot on Authentic Rd.

When this house started to build (lot 8 & 9) it was OBVIOUS by standing in the road that the house was being built way too far back! I even discussed this with the neighbors. Compared to the neighboring houses it is too far back. I feel that that this may have been done on purpose to get a better view. Since the house is only on the easement by a small amount I would have to say leave it where it is. No respectable builder builds a house not knowing the property lines are, period!

On the proposal it says that the area is full of steep slopes and not usable which I have to disagree with. 1st of all the survey work was done by Cody McLane's company which seems to profit on land usage if this goes thru and it could be used for wastewater treatment systems. If its so steep and unusable then a septic system would not be possible either!

By allowing this to proceed you are setting precedent! Any builder or landowner will use this to their advantage!

I hear that there may be a gentlemans agreement between Cody McLane and Charles Johnson to provide access to Mr Johnsons property. Until that is put in writing I feel that this hearing should be DELAYED until that access proposal is approved by the Borough.

Thank You
Mark Kemberling
40790 Authentic Rd
Soldotna 99669
907-205-0234

Sent from [Mail](#) for Windows

From: My Email <madeinalaska49@hotmail.com>
Sent: Thursday, March 17, 2022 8:20 PM
To: Planning Dept,
Subject: <EXTERNAL-SENDER>Testimony Regarding Vacating the Easement Along Paper Birch Lane

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Madeleine or Julie, Will you please send me a confirmation when you receive this email?

Thanks you,

Heidi

3/16/2022

Heidi and Kevin Morrison
Owners of Forest Hills Lookout Subdivision,
Lot 6, 15 Acres on Paper Birch Lane

Subject: Testimony Regarding Vacating the Easement Along Paper Birch Lane

To whom it may concern:

I am writing due to concern about the easement vacation notice dated 2/24/2022 that I received March 3rd. I have owned a 15 acre parcel with at least 1,400 feet of road frontage along Paper Birch Lane for 20 years. We have walked the road easement many times since we owned the property. We are familiar with the terrain and placement of the road. We never had the concern that constructing a road within the easement would have ever been questioned. In fact, we are baffled that dangerous terrain is being used as an excuse to reward someone for building a house in a right-of-way.

We are opposed to lending support to vacating our access to the Tulchina Pointe Subdivision roads. Abandoning the easement has negative effects on many property owners, but the consequences that this proposal puts directly on my property faces are more impactful and shifts substantial development costs to me. First of all, vacating the primary road easement as proposed puts pressure on the development of Quillback Drive, which runs along 622' of the west side of my property. Although there is a partial road allotment for access for Quillback Rd, I have never dedicated matching road access for this easement as I do not desire to develop this road. It would cost me at least a half an acre of land just for my portion of the road easement! Not to mention the increased cost and burden to build a road. The value of that

half an acre can be roughly figured by comparing it to the value of the lots in Tulchina Pointe as it is adjacent to that subdivision and shares lot lines with several of their lots. Why would I ever want to develop Quillback when I have full access to all 15 acres of my property along Paper Birch?

Secondly, the added pressure to develop the only remaining easement, through Quillback, reduces my potential to subdivide small portions of my lot to sell to the adjacent property owners. I have a written request from a neighbor from 2019 offering to purchase a portion of my property to increase their lot size and move or remove Quillback. It has been our intent to explore this option once we move back to Soldotna, which will be this summer, 2022. If the easement on Paper Birch is vacated as proposed, I will be under more scrutiny and have less consideration should we decide to move forward with potential offers.

One more direct negative result on my property comes from the cost and burden of developing Quillback. Most of my neighbors along Quillback do NOT desire to see Quillback developed. Because they have no benefit of the road development (they all have direct access to Developer or Authentic Dr), I have fewer property owners to potentially share the development costs with. However, there are multiple large parcel owners along Paper Birch. It has always been our intent to propose a cost share for a mutually beneficial road. I would also like to mention that Paper Birch, which was Walker Street at the time, has been on the Borough road list for development in the past. I believe it was around 2004 when I saw that the Borough had received unexpected road development funding. I was thrilled to see Walker Street on the list of a handful of roads to develop. Upon contacting the Borough to find out more, I learned that there were a few roads ahead of Walker Street in priority, but the Borough would develop the roads as prioritized until funding ran out. Unfortunately, funding did run out before they got to Walker Street/Paper Birch, but that doesn't prevent the possibility that another round of funding may also help expedite the road development. Having Paper Birch end in a "bulb" or partial round-about as proposed detracts from potential Borough development assistance. From my conversations with the Borough, they are most interested in lending support to roads that improve access by connecting to other roads.

Contrary to the effects this proposal has on my lot, the petitioners have much to gain. The four lots stand to gain .591 acres split amongst the lots. Their gain shifts the pressure to my lot to produce an matching 30' wide easement, which causes my lot alone a risk of LOSING .43 acres. They gain .591 acre; I lose .43 acre.

Secondly, their property has an increased desirability and added value due to not having a road run beside their houses. However, the direct opposite effect is applied to my property because I will be under pressure to develop Quillback and have the road, that should have been their burden, be in my yard and in my neighbors' yards.

The newly constructed house also gained a tremendous view and southern exposure by being placed where it is. Having a better view and exposure obviously took priority over the impact of having a road right next to the house. The road easement was already on the plat when they selected the building site, so it is assumed that the owners and contractor knew that the house would be close to a road, and they were ok with that because they were gaining a view. The house was built on a double lot, so there were many options for a non-controversial location. Either the owners/builder were ok with the house being close to the road or they had intentions to build first, ask questions later. I am assuming they were ok with the first option.

Lastly, the petitioners' gains will be the result of rewarding bad business practices. Had due diligence been completed, we wouldn't be here having this discussion and, later on, us property owners along Paper Birch would be dealing with developing the road as platted. Assuming this isn't the first time the Borough has dealt with situations like these, the impact of granting this easement vacation as proposed send a distasteful message to us property owners along the road and rewards the offending party; a practice that doesn't cast the Borough in a positive light.

To summarize, my main concerns are maintaining a through access to Authentic Dr and relieving pressure for developing Quillback Dr. Due to the limited options available, my first suggestion to Littleknife Inc was to encumber the easement somewhere else on their generous double lot. Although not ideal, it is possible to turn Paper Birch at the corner of their property, creating a 90 degree turn, and connect to Developer Dr. This solution allows the offending party to correct

their mistake within their own property and not shift the consequences to other property owners. I recognize this solution may not produce an ideal road corner, however it seems the most just.

Perhaps the best alternative is moving the easement altogether by connecting Paper Birch to Authentic Road via Cody McLane's new subdivision. I have spoken with Littleknife Inc and another property owner who have had conversations with Charles Johnson, who owns a 15 acre parcel along Paper Birch, about connecting Paper Birch to Authentic through Charles' lot. It appears that Charles is in favor of this idea. Not only would this solution alleviate the encroachment, it would place Paper Birch in better terrain for developing. I am in favor of seeing this idea move forward, however, I will only support moving this easement after this new easement is GUARANTEED and FINALIZED on a Borough approved plat. It is a bad business practice to rely on word of mouth and good intentions. We do not want continue down the path of bad practices.

I propose that the Borough **DELAY** their decision on vacating this easement until the new easement is **ASSURED**, keeping us property owners whole and not leaving us worried about the future outcome. The motivation of the involved parties to finalize this alternate access will be greatly reduced as soon as the vacation on Paper Birch is granted. Please keep all parties working on this solution until it is finalized.

It is also worth keeping the petitioners involved in the process of gaining a new easement until it is finalized because, as mentioned above, there is a potential for another solution for easement on the double lot owned by Littleknife. Approving this petition now releases the petitioners from seeking a solution on their own properties. Also, Cody McLane and Steven Bowen have already made connections with Charles Johnson, and they have business connections that make them valuable partners in helping Charles Johnson create a plat and finalize his easement. Keeping their involvement with gaining a new access would help the process run smoother and, hopefully, quicker.

Moving the road easement through Charles Johnson's lot addresses two of my main concerns; road access to Authentic Dr and alternatives to developing Quillback Dr. I still have one issue that is not resolved with relocating the road. The issue of having pedestrian access through this existing right-of-way. Many of us walk and ride four-wheelers on the Paper Birch road easement, which is currently not much more than a trail. The public has much to gain from **retaining a right-of-way along this route**; it provides interconnectivity between the roads, it is convenient and direct, it creates a walking path loop (which is more desirable than a one way path), the terrain is suitable for public right-a-way, and maintaining a public right-of-way supports the precedent that future encroachments do not end up as win-win-win for the offenders. I would like to see a smaller public right-of-way easement continue through this portion of Paper Birch; one that will free the new house of encroachment, but still allow for public access. I am confident that the owners of the new home would be satisfied with this compromise since they were already aware that there was going to be a large ROAD next to their house. Having a smaller access easement seems like a reasonable compromise and allows them to proceed with resolving their encroachment.

Thank you for considering our comments,

Heidi and Kevin Morrison

From: Planning Dept,
Sent: Thursday, March 17, 2022 4:07 PM
To: Quainton, Madeleine
Subject: FW: <EXTERNAL-SENDER>Planning Commission 3/V21/2022 Paper Birch Easement

From: jan morrison <janmorrison35@yahoo.com>
Sent: Thursday, March 17, 2022 2:46 PM
To: Planning Dept, <planning@kpb.us>
Subject: <EXTERNAL-SENDER>Planning Commission 3/V21/2022 Paper Birch Easement

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Sent from my iPhone

Begin forwarded message:

Date: March 17, 2022 AC

3/17/2022

I am Russ Morrison. I own 5.5 acres lot on Paper Birch Lane. I am against vacating the Paper Birch easement unless another easement is arranged AND finalized. I bought my parcel last year because it can be subdivided and sold at a high value due to the direct road access to the Tulchina Pointe Subdivision. The Planning Commission would be devaluing my property by vacating this easement without another easement in place. I am against vacating this easement UNTIL another easement is guaranteed.

I understand there is a potential opportunity for an easement to go through Charles Johnson's lot. If that is the case, I urged the Commission to **DELAY** a decision on vacating the easement on Paper Birch until we know if the other easement is viable, as there is another option for easement through Steve's lot. Please do not grant this vacation until there is another easement in place.

Also, please do not approve a full easement vacation. Please provide for a public right-of-way, as currently allowed. I would like to be able to continue to use the Paper Birch trail through Lot 7, 8, 9, and 15.

Cody McLane and Steve Bowen have the ability to help Charles Johnson complete his easement. They have skills and experience with these thing. Also, they are responsible for us being in this situation. If the

Commission approves this vacation, Cody and Steve have less motivation to assist in getting the new easement finalized.

Russ