



# **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

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

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

[www.kpb.us](http://www.kpb.us)

**MIKE NAVARRE**  
**BOROUGH MAYOR**

April 25, 2017

## **KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION**

### **MEETING OF APRIL 24, 2017**

**RE:** Vacate that portion of the 33-foot wide Section Line Easement within the NE 1/4 NE 1/4 Section 23, T05N, R09W, lying north of Scout Lake Loop Road and east of Mountain Ridge Heights Subdivision (KN 77-162). The portion of easement being vacated is unconstructed and located within the NE 1/4 NE 1/4 of Section 23, T5N, R9W, Seward Meridian, Alaska, within the Kenai Peninsula Borough; KPB File 2017-028

By unanimous consent, the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation during their regularly scheduled meeting of April 24, 2017 based on the following findings of fact and conditions.

#### *Findings*

1. The State Department of Natural Resources issued a preliminary decision of approval (EV-3-254) for the proposed section line easement vacation on November 29, 2016.
2. The adjoining 66-foot section line easement to the west was vacated by EV-2-034.
3. The adjoining 50-foot section line easement to the north within the 17-acre KPB owned parcel will remain in place.
4. Lots within Mountain Ridge Heights Subdivision Part One to the west through which the 66-foot section line easement to the west was vacated front State maintained Scout Lake Loop Road.
5. State Department of Natural Resources survey staff conducted a field inspection of the proposed vacation on January 21, 2016.
6. DNR survey staff found the subject section line easement is not constructed, and they found no evidence that vehicles, pedestrians, or other public interests have been or are using the section line easement proposed for vacation.
7. Scout Lake Loop Road, a 100-foot wide, paved, State maintained right-of-way, provides looped access for the neighborhood.
8. If the section line easement were constructed, it would enter Scout Lake Loop Road at an odd angle on a curve, requiring a large radius curve return or an exception to be in compliance with KPB 20.30.150.
9. Per KPB Roads Department, the section line proposed for vacation is not needed for the Road Service Area.
10. GCI and Homer Electric Association submitted statements of no comments.
11. Sufficient rights-of-way exist to serve the surrounding properties.
12. No surrounding properties will be denied access.

#### *Conditions*

1. Submittal of the preliminary plat for Plat Committee review per KPB Title 20 within one year of Planning Commission approval.
2. Compliance with any State requirements for the section line easement vacation.

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

Assembly. The Assembly shall have 30 calendar days from the date of approval (April 24, 2017) in which to veto the Planning Commission decision. If the Planning Director receives no veto within the specified period, the Assembly shall be considered to have given consent to the vacation.

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

This notice and unapproved minutes of the subject portion of the meeting were sent April 25, 2017 to:

Johnson Surveying  
PO Box 27  
Kasilof, AK 99568

Samuel & Sheryl Christner  
PO Box 1271  
Soldotna, AK 99669-1271

Kenai Peninsula Borough  
144 North Binkley St.  
Soldotna, AK 99669

**AGENDA ITEM F. PUBLIC HEARINGS**

5. Vacate that portion of the 33-foot wide Section Line Easement within the NE 1/4 NE 1/4 Section 23, T05N, R09W, lying north of Scout Lake Loop Road and east of Mountain Ridge Heights Subdivision (KN 77-162). The portion of easement being vacated is unconstructed and located within the NE 1/4 NE 1/4 of Section 23, T5N, R9W, Seward Meridian, Alaska, within the Kenai Peninsula Borough; KPB File 2017-028.

**STAFF REPORT**

PC Meeting: 4/24/17

**Purpose as stated in petition:**

- 1) The constructed house and septic system extend into the easement;
- 2) A portion of the easement to the west has already been vacated so this easement dead-ends to the west; and
- 3) Scout Lake Loop Road runs parallel to this easement, which provides better access through the area that is already constructed.

**Petitioners:** Sam and Sheryl Christner of Soldotna, AK and Marcus Mueller, KPB Land Manager, of Soldotna, AK

**Notification:** The public hearing notice was published in the April 13, 2017 issue of the Peninsula Clarion as a separate ad and on April 20 as part of the tentative agenda.

Public hearing notices were sent to 16 owners within 600 feet by regular mail per KPB 20.70.220.

Public hearing notices were emailed to 11 KPB Departments and 12 agencies and interested parties.

The public hearing notice was mailed to the Soldotna Library and the Sterling Post Office with a request to post it in a public place.

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

**Comments Received:**

GCI: No comments.

Homer Electric Association: Reviewed/no comments.

KPB Addressing Officer: No objection.

KPB Roads Department: The section line to be vacated is not needed for the Road Service Area. I defer to the KPB Planning Department to determine if adequate access from Scout Lake Loop Road is available to the adjacent Borough-owned parcel.

River Center: The proposed vacation is not within a mapped flood hazard zone, and it is not within the 50-foot Anadromous Habitat Protection District.

State Parks: No comments.

**Staff Discussion:** The State Department of Natural Resources issued a preliminary decision of approval (EV-3-254) for the proposed section line easement vacation on November 29, 2016. The mylar must be submitted to DNR within two years from the date of approval of the Final Decision unless extended by DMLW, Survey Section.

The preliminary plat for the Section Line Easement Vacation has not yet been scheduled for Plat Committee review.

### **Findings for the Proposed Vacation**

1. The State Department of Natural Resources issued a preliminary decision of approval (EV-3-254) for the proposed section line easement vacation on November 29, 2016.
2. The adjoining 66-foot section line easement to the west was vacated by EV-2-034.
3. The adjoining 50-foot section line easement to the north within the 17-acre KPB owned parcel will remain in place.
4. Lots within Mountain Ridge Heights Subdivision Part One to the west through which the 66-foot section line easement to the west was vacated front State maintained Scout Lake Loop Road.
5. State Department of Natural Resources survey staff conducted a field inspection of the proposed vacation on January 21, 2016.
6. DNR survey staff found the subject section line easement is not constructed, and they found no evidence that vehicles, pedestrians, or other public interests have been or are using the section line easement proposed for vacation.
7. Scout Lake Loop Road, a 100-foot wide, paved, State maintained right-of-way, provides looped access for the neighborhood.
8. If the section line easement were constructed, it would enter Scout Lake Loop Road at an odd angle on a curve, requiring a large radius curve return or an exception to be in compliance with KPB 20.30.150.
9. Per KPB Roads Department, the section line proposed for vacation is not needed for the Road Service Area.
10. GCI and Homer Electric Association submitted statements of no comments.
11. Sufficient rights-of-way exist to serve the surrounding properties.
12. No surrounding properties will be denied access.

**STAFF RECOMMENDATION:** Based on Findings 1-12 and KPB 20.25.110, staff recommends granting a four-year approval for the vacation as submitted, subject to:

1. Submittal of the preliminary plat for Plat Committee review per KPB Title 20 within one year of Planning Commission approval.
2. Compliance with any State requirements for the section line easement vacation.

### **NOTE:**

**KPB 20.70.110 - Vacation consent—Assembly.**

**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 - Action after denial of vacation petition.**

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

**END OF STAFF REPORT**