



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

www.borough.kenai.ak.us

CHARLIE PIERCE
BOROUGH MAYOR

M E M O R A N D U M

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

FROM: Max Best, Planning Director

DATE: November 15, 2017

SUBJECT: Vacate the 40 foot wide public access easement crossing Tract 3, Parkinson Tracts, as granted on Parkinson Tracts, Plat HM 78-63; Location: off Seaward Avenue, Anchor Point, within the NE 1/4 NE 1/4 of Section 8, Township 5 South, Range 15 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough; KPB File 2017-156V.

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 November 13, 2017, the Kenai Peninsula Borough Planning Commission granted approval of the proposed 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. Per HM 78-63, a 40-foot easement exists along the constructed roadway through Tracts 3 & 4 until an alternate access of equal or better quality is constructed to the adjoining lands to the south which are now served by the existing road.
2. The 40-foot easement was unnamed on HM 78-63, but it connects with Moffit Place, a 60-foot cul-de-sac dedicated within Parkinson South Subdivision (HM 78-76).
3. Moffit Place in its entirety is maintained by the KPB Roads Department.
4. If the proposed vacation is approved, it will be finalized by recording a right-of-way acquisition plat which will vacate the 40-foot access easement through Tract 3 and dedicate a 60-foot alternative right-of-way along the southern boundary of Tract 3 that connects Moffit Place with Spruce View Street.
5. Per the submittal, the 60-foot alternative right-of-way is constructed and ready for immediate acquisition.
6. The proposed alternative is a fee right-of-way dedication that is 20 feet wider than the 40-foot access easement.
7. Sufficient rights-of-way exist to serve the surrounding properties.
8. No surrounding properties will be denied access.
9. The 40-foot access easement proposed for vacation is constructed and in use.

The Assembly has 30 days from November 13, 2017 in which to veto the decision of the Planning Commission. If the Commission receives no veto within the 30-day period, the decision of the Commission will stand.

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

cc: petitioners' w/minutes only

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacate the 40 foot wide public access easement crossing Tract 3, Parkinson Tracts, as granted on Parkinson Tracts, Plat HM 78-63; Location: off Seaward Avenue, Anchor Point, within the NE 1/4 NE 1/4 of Section 8, Township 5 South, Range 15 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough; KPB File 2017-156V.

Staff Report given by Max Best

PC Meeting: 11/13/17

Purpose as stated in petition: An alternate roadway is constructed and will be dedicated as a right-of-way in the plat that will finalize this action.

Petitioners: Vickey J. Hodnik and George Krier of Homer, Alaska.

Notification: Public notice appeared in the November 2 issue of the Homer News as a separate ad and on November 9 as part of the Planning Commission's tentative agenda.

Ten certified mailings were sent to owners of property within 300 feet of the parcels. No receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to six owners within 600 feet. Staff also mailed the public hearing notice to two owners at the terminus of Moffit Place who are outside the notification radius but will be affected by the proposed access change.

Public hearing notices were emailed to 11 agencies and made available to 10 KPB departments by shared database. Notices were mailed to the Anchor Point Post Office and Anchor Point Community Library 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:

KPB Addressing: 35031 Moffit Pl. will be retained on Tract 3.

KPB Code Compliance: No comments.

KPB Planning: No Local Option Zone or material site issues.

KPB RSA: Moffit Place within the easement to be vacated is RSA-maintained. The RSA Board during its October meeting accepted newly constructed road for maintenance in Spruce View and new Moffit Place dedication upon approval of the new plat.

River Center: The proposed vacation is not within the Anadromous Habitat Protection District; the parcel(s) are located within a Floodway, VE Map Panel 02122C-1890E.

State Parks: No comments.

Anchor Point Fire & EMS: Issued a statement of no objection to this easement vacation since another access has been established.

Alaska State DOT: No objection to the public utility easement vacation as submitted

Staff Discussion: If the proposed vacation is approved it will be finalized by recording a right-of-way acquisition plat, which will provide a 60-foot alternative dedication for Moffitt Place. The right-of-way acquisition plat is tentatively scheduled for Plat Committee review on November 27, 2017.

Comments from the utility companies were not available when the staff report was prepared. KPB 20.10.070

does not address granting utility easements. Per HM 78-63, Tract 3 is subject to a 10-foot utility easement along its eastern boundary, and a 33-foot section line easement along its northern boundary. KPB records concur with the 33-foot section line easement within Tract 3. Section line easements may be used for utilities.

Findings:

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6. The proposed alternative is a fee right-of-way dedication that is 20 feet wider than the 40-foot access easement.
7. Sufficient rights-of-way exist to serve the surrounding properties.
8. No surrounding properties will be denied access.
9. The 40-foot access easement proposed for vacation is constructed and in use.

STAFF RECOMMENDATION: Based on Findings 1-8, staff recommends approval of the vacation as petitioned, subject to:

1. Written approval by the KPB Roads Department.
2. Submittal of an application to the KPB Roads Department for decertification of the portion of the 40-foot access easement proposed to be vacated so KPB is not responsible for maintaining a private access easement.
3. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent.

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 city or 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

Vice Chairman Ruffner opened the meeting for public comment. Seeing and hearing no one wishing to speak Vice Chairman Ruffner closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Venuti to approve the vacation as petitioned per staff recommendations, conditions, findings and borough code.

Findings

1. Per HM 78-63, a 40-foot easement exists along the constructed roadway through Tracts 3 & 4 until an alternate access of equal or better quality is constructed to the adjoining lands to the south which are now served by the existing road.
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7. Sufficient rights-of-way exist to serve the surrounding properties.
8. No surrounding properties will be denied access.
9. The 40-foot access easement proposed for vacation is constructed and in use.

VOTE: The motion passed by unanimous consent.

BENTZ ABSENT	CARLUCCIO YES	ECKLUND YES	ERNST ABSENT	FIKES YES	FOSTER YES	ISHAM ABSENT
LOCKWOOD YES	MARTIN ABSENT	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	9 YES 4 ABSENT

~~AGENDA ITEM G. ANADROMOUS WATERS HABITAT PROTECTION (KPB 21.18)~~

- ~~1. Appeal of permit denial to relocate and rebuild a prior existing accessory structure within the 50-foot Habitat Protection District.~~

~~Staff Report given by Karyn Noyes~~

~~PC MEETING: November 13, 2017~~

~~**Applicants:** Michael and Judy Madden
Daniel and Jodi Mullen
13641 Olympic View Rd NW
Silverdale, WA 98383~~

~~**Project Location:** Mile 17 of the Kenai River on the right bank~~

~~**Legal Description:** T 5N R 10W SEC 19 SM KN 0870069 ROACHER'S COVE
PLANNED UNIT DEVELOPMENT AMENDED LOT 173, AK.~~

~~**Kenai Peninsula Borough (KPB) Parcel Number:** 057-487-68~~

~~**Denial Action:** KPB 21.18.090 does not allow for the movement of a prior existing structure within the 50-foot Habitat Protection District (HPD) to another site within the 50-foot HPD.~~

~~**Background Information**~~



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**CHARLIE PIERCE
BOROUGH MAYOR**

November 15, 2017

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION

MEETING OF NOVEMBER 13, 2017

RE: Vacate the 40 foot wide public access easement crossing Tract 3, Parkinson Tracts, as granted on Parkinson Tracts, Plat HM 78-63; Location: off Seaward Avenue, Anchor Point, within the NE 1/4 NE 1/4 of Section 8, Township 5 South, Range 15 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough; KPB File 2017-156V.

By unanimous consent, the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation during their regularly scheduled meeting of November 13, 2017 based on the following findings of fact and conditions.

Findings

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Conditions

1. Written approval by the KPB Roads Department.
2. Submittal of an application to the KPB Roads Department for decertification of the portion of the 40-foot access easement proposed to be vacated so KPB is not responsible for maintaining a private access easement.
3. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent.

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 (November 13, 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 November 15, 2017 to:

Mullikin Surveys
PO Box 790
Homer, AK 99603

Gregory Krier & Vickey Hodnik
PO Box 1836
Homer, AK 99603-1836

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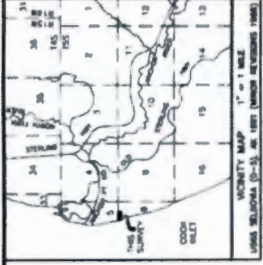
KPB 20.70.130:

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

END OF STAFF REPORT

NOTES:

1. The purpose of this plan is to dedicate new Right-of-Way within Tract 3 (Parkinson Tract) to the use of the existing utility easements shown on the plat. The easements are shown along the common boundary between Tracts 3 & 4. Level and accurate access of equal or better quality is constructed to the easements and the easements are shown along the easement line.
2. The easement is 40' wide and is shown on the 79-63 MAP. Tract 3 is now vacated for this plat.
3. **BASE OF BEARING:** The Base of Bearing was determined by High Precision GPS methods. A total grid oriented to True Geographic North was used for this survey.
4. This is not a subdivision.



LOCAL MAP
1" = 1 MILE
LOCAL MAP (D-1), ALaska NORTH BRUNNEN 1982

CENTRAL OFFICE OF OVERSEAS ASSESSMENT
100 North 10th Street, Suite 100
Anchorage, Alaska 99501
Phone: (907) 263-1111
Fax: (907) 263-1112
Website: www.oa.gov

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DEPARTMENT OF REVENUE
ANCHORAGE OFFICE
100 North 10th Street, Suite 100
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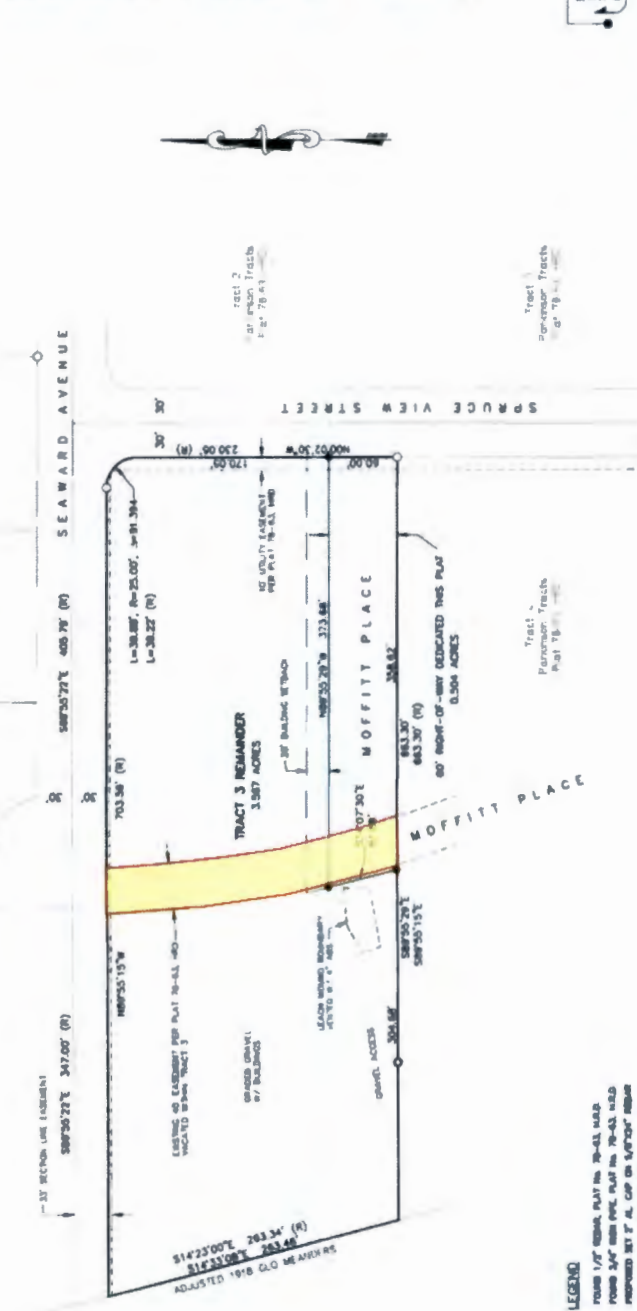
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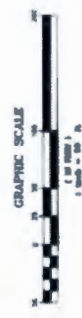
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LEGEND

- POINT 1/4" IRON, PLAT No. 79-63 MAP.
- POINT 3/4" IRON PIPE, PLAT No. 79-63 MAP.
- POINT SET BY A. CAP ON 5/4/2017 BEING EXISTING LINE NOT SURVEYED
- (R) SECOND PER PARKINSON TRACT, PLAT No. 79-63 MAP.



KPB 2017-156V

**PARKINSON TRACT 3 REPLAT,
MOFFITT PLACE RIGHT-OF-WAY ACQUISITION,
AND 40' ACCESS EASEMENT VACATION**

A REPLAT OF TRACT 3, PARKINSON TRACT, PLAT No. 79-63 MAP, AND VACATION OF A 40' ACCESS EASEMENT, ALL LOCATED WITHIN THE NE 1/4 OF SECTION 8, TOWNSHIP 3 NORTH, RANGE 24 WEST, SECOND ALASKA FEDERAL LAND DISTRICT, 15 HOMER RECORDING DISTRICT, ALASKA.

CONTAINING 4.071 ACRES, MORE OR LESS.

SUPPLIER: CLEVER

WALLON SUPPLY CO.
1000 W. 10th Ave.
Anchorage, Alaska 99501
Phone: (907) 263-1111
Fax: (907) 263-1112
Website: www.oa.gov

SCALE: 1" = 50'

PLAT No. 2017-156V

DATE: 05/04/2017

FILE: PARKINSON.DWG

DATE: 05/04/2017

CERTIFICATE OF OWNERSHIP

I, HENRY CITY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON I HEREBY REQUEST APPROVAL OF THIS PLAT SHOWING SUCH EASEMENTS FOR PUBLIC UTILITIES AND ROADWAYS DESIGNATED BY ME FOR PUBLIC USE.

Henry City That
 HENRY CITY THAT
 MOBILE, ALABAMA

NOTARY'S ACKNOWLEDGEMENT
 SUBSCRIBED AND SIGNED TO BEFORE ME THIS 30th DAY OF JANUARY 1978
 BEFORE ME FOR PUBLIC USE
 NOTARY PUBLIC
 VIRGINIA WILSON

SURVEYORS CERTIFICATE
 I, THE UNDERSIGNED REGISTERED SURVEYOR, HENRY CITY THAT A LAND SURVEY HAS BEEN COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT CORNERS AND MONUMENTS HAVE BEEN LOCATED AND ESTABLISHED AND THAT DIMENSIONS SHOWN HEREON ARE TRUE AND CORRECT.

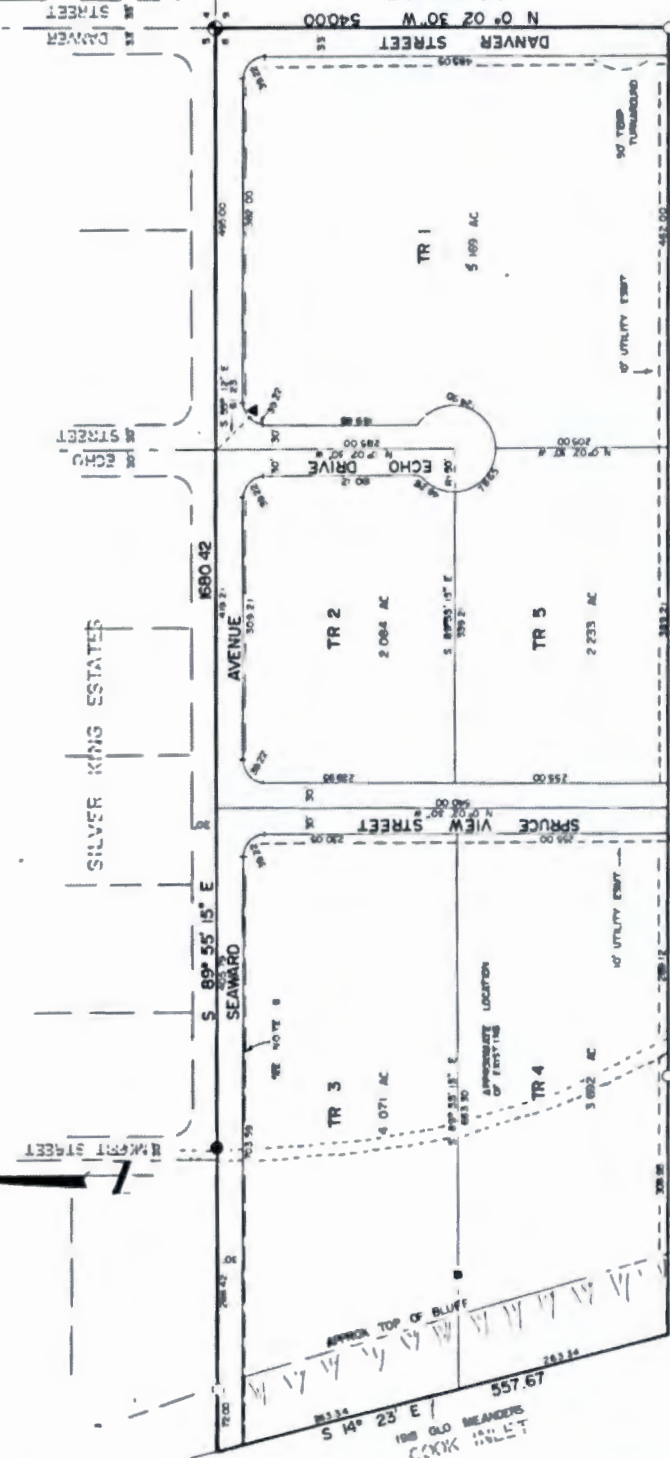
PLAT APPROVED
 THIS PLAT HAS BEEN APPROVED BY THE PENINSULA BROADWAY PLANNING COMMISSION AS RECORDED IN THE OFFICIAL MINUTES OF THE MEETING OF JANUARY 23, 1978, IS HEREBY ACKNOWLEDGED AND ACCEPTED AS THE OFFICIAL PLAT, SUBJECT TO ANY AND ALL CONDITIONS AND REQUIREMENTS OF ORDINANCES AND LAWS APPLICABLE THERE TO REMAIN PENINSULA BROADWAY.

VICINITY MAP
 1/4 MILE
July Waring



DATE: APRIL, 1978
 SCALE: 1" = 100'
 DESIGNED BY: J.A.
 DRAWN BY: S.W.
 CHECKED BY: A.M.
 F.L.D. BK. NO. 38 87

PARKINSON TRACTS
 LOCATED IN OLD LOT 1, SEC. 8, T. 5 S., R. 15 W., S.W.
 CONTAINING 9.575 ACRES
ABILITY SURVEYS
 HENRY ANDERSON, L.L.C. REG. 1283
 MOBILE, ALABAMA



78-63
 Home REC. DEPT.
 DATE 7-6-78
 FILED 9-44-78
 APPROVED BY: KFB

UNSUBDIVIDED

- NOTES:**
1. ALL WESTERLY PORTION INTERSECT WITH EXISTING L&M AT THE TIME OF CONSTRUCTION
 2. A 20' BROAD STRUCK LINE EXISTING ALONG ALL RIGHTS OF WAY
 3. THE STATE OF ALABAMA REQUIRES ALL WESTERLY PORTION SYSTEMS TO BE A MINIMUM OF 100' FROM ANY WATER SOURCE
 4. 12" 1/2" REPAIR SET AT ALL LOT CORNERS
 5. THIS QUALIFIES AS AN RELATED SUBDIVISION AS DEFINED IN 48 JAC 79 (D-7)
 6. THERE IS A 33' SECTION LINE EASEMENT ALONG THE NORTH BOUNDARY OF TRACTS 3 & 4, UNITS, AN ALTERNATE ACCESS OF ROAD OR BETTER QUALITY IS CONSTRUCTED TO THE ADJOINING LAND TO THE SOUTH WHICH ARE NOW SERVED BY THE EXISTING ROAD

- LEGEND:**
- ▲ FOUND SECTION CORNER OLD BC MONUMENT
 - WC BC LOT
 - ▲ FOUND ORANGE STONE URM 140 145-720
 - FOUND 1" 3/8" 5-1077
 - FOUND BC BE URM 3888-5-877
 - SET 3/4" 1" 1/2" C



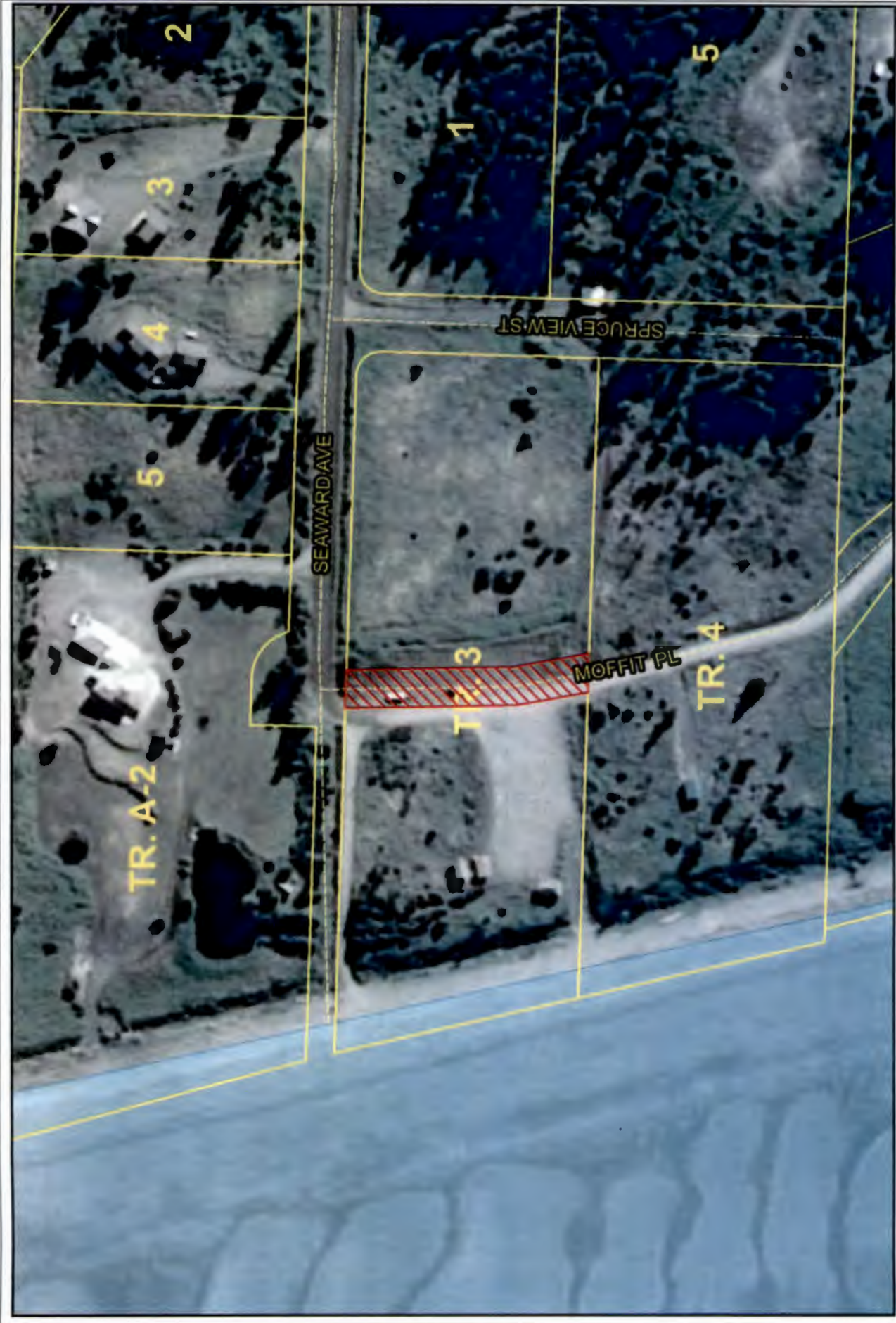


The information depicted herein is for a graphical representation only of best available sources. The Monial Peninsula Borough assumes no responsibility for any errors on this map.

Aerial View



JReif, KPB
Date: 10/19/2017





Kenai Peninsula Borough Planning Department
 144 North Binkley Street
 Soldotna, AK 99669

Plat Submittal Form

Survey Firm Name & Address:

Mullikin Surveys Phone: 907-235-8975
 P.O. Box 790
 Homer, AK 99603-0790 Email: mullikin@xyz.net

- Preliminary Plat Revised Preliminary Plat Minor Revisions Major Revisions
 Preliminary Design Subdivision Plat Phase (If a phased development, note preliminary design name below.)
 (Preliminary Design Name: _____)

- Submittal of 2 full size plats and 7- 11x17 size plats.
 Plat Submittal Fee in the Amount of \$700
 Final Plat - Preliminary Approval Granted _____ (date)
 Plat Recording Fee in the Amount of _____

Abbreviated Plat Yes No (If yes, use the Abbreviated Plat Submittal Form.)

Plat Name: Parkunson Tract 3 Replat, Moffitt Avenue ^{Place} Right-of-Way Acquisition & 40' Access Easement Vacation

General Location: 1 1/2 miles southwest of Anchor Point, Alaska

- USE: Residential Recreational Commercial Agricultural
 Other: ROW Acquisition Plat

City minutes attached (Plat location is in city limits or Bridge Creek Watershed District.)

CURRENT ZONING WHERE APPLICABLE: _____

SEWER: On site City Community WATER: On site City Community

EXCEPTIONS REQUIRED AND REQUESTED:

- The roadway has been constructed and is ready for immediate acquisition.
- _____
- _____
- _____

Comments: (Attach an additional sheet if needed.)

Donald E. Mullikin, PLS, d/b/a Mullikin Surveys, is my agent for this project related to platting issues.

Original Signature(s) of Owner(s) of a Majority of Land within the Subdivision

Vickey J. Hodnik, 10/11/2017
 Print Name

Vickey J. Hodnik
 Signature

Gregory Krier, 10/11/2017
 Print Name

Gregory Krier
 Signature

 Print Name

 Signature

 Print Name

 Signature

Please Note: If you are signing as a representative or official of a corporation and own less than 50% of said corporation (or you are not listed as a registered agent in the State of Alaska corporation database), a corporate resolution or signed document from the Board of Directors clearly stating your authorization to sign for the corporation must be attached.

MULLIKIN SURVEYS

P.O. Box 790, Homer, AK 99603-0790

Ph. & Fax: (907) 235-8975

October 18, 2017

Planning Dept.
Kenai Peninsula Borough
144 N. Binkley
Soldotna, AK 99669



Re: Preliminary Submittal of Parkinson Tract 3 Replat, Moffitt Place Right of Way Acquisition & 40' Access Easement Vacation

Dear Sirs:

The following items are enclosed for processing the preliminary plat referenced above:

- Plat Submittal form, signed by owners
- Check No. 805. \$700.00: \$200 plat review fee and \$500 petition to vacate fee.
- Certificate to Plat
- Lot closure sheets
- Two full size paper copies, seven 11"x17" copies

No exceptions are being requested.

Please schedule the plat for review at the next Plat Committee meeting, November 13, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald E. Mullikin".

Donald E. Mullikin, P.L.S.

DEM:jvm

P.S. Pat Malone @ RSA advised us that his preference for the newly dedicated right-of-way name be Moffitt Place.