

E. NEW BUSINESS

2. Right-Of-Way Vacation; KPB File 2023-133V

Petitioner: Boling

Funny River Area / Funny River APC

Request: Modifies C & C Bear Street ROW by vacating the southern 580' x 60' portion & creating a cul-de-sac, Plat KN 2003-74

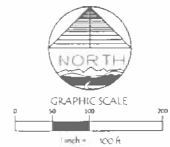
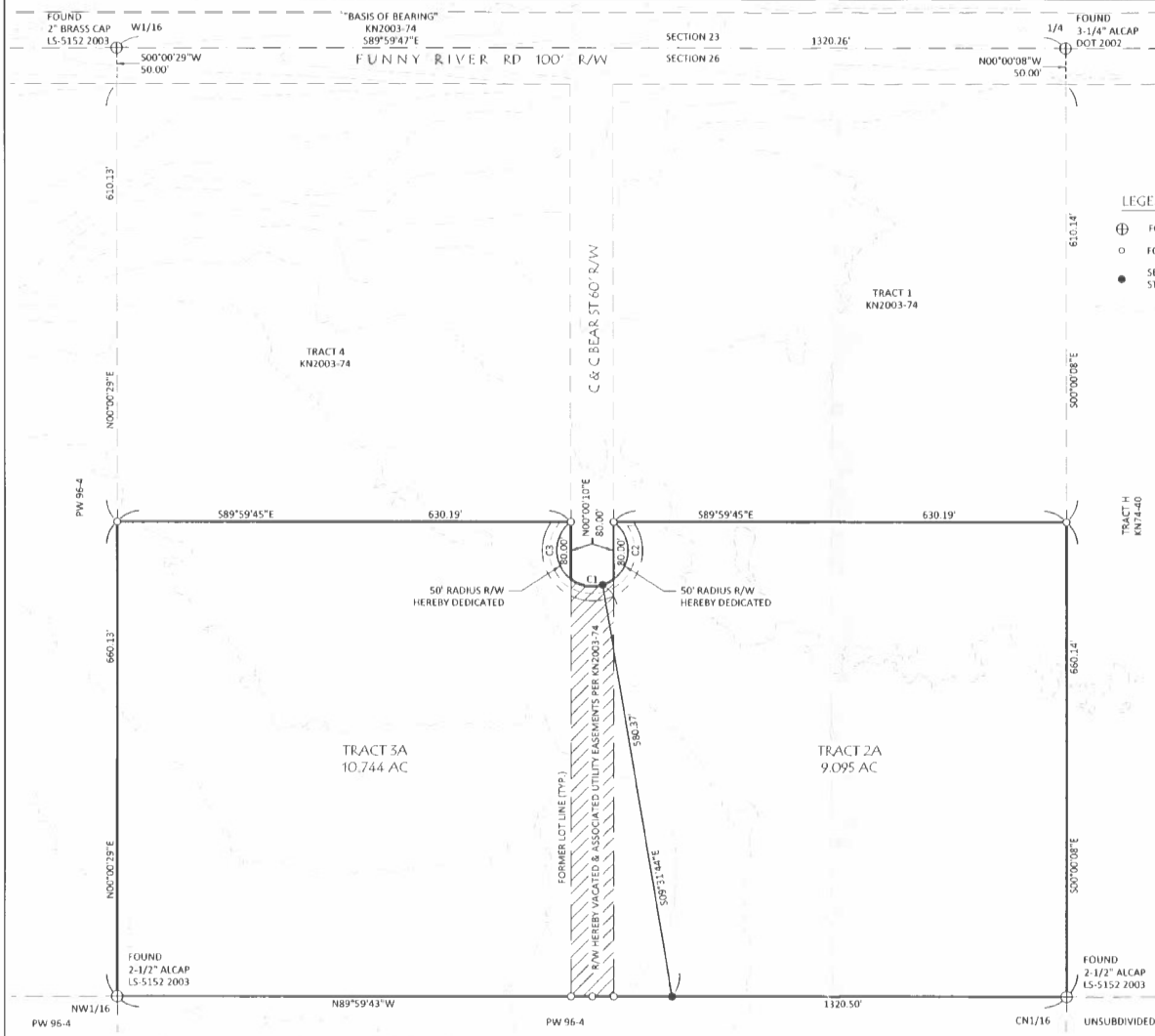


KPB File 2023-133V
T 05N R 09W SEC 26
Funny River

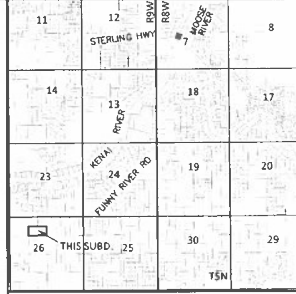
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



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- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 5/8" REBAR UNLESS NOTED
 - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S
- CONTOUR INTERVAL = 4'



VICINITY MAP
Scale 1" = 1 Mile

NOTES

1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
2. BUILDING SETBACK- A BUILDING SETBACK OF 20 FT. IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
3. THE FRONT 10 FEET OF THE 20 FOOT BUILDING SETBACK WITH AN ADDITIONAL 10 FEET WITHIN 5 FEET OF THE SIDE PROPERTY LINE IS A UTILITY EASEMENT PER KN2003-74.
4. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
5. ROADS MUST MEET THE DESIGN AND CONSTRUCTION STANDARDS ESTABLISHED BY THE BOROUGH IN ORDER TO BE CONSIDERED FOR CERTIFICATION AND INCLUSION IN THE ROAD MAINTENANCE DEPARTMENT. NO DIRECT ACCESS TO STATE MAINTAINED RIGHTS-OF-WAY PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.

CURVE TABLE						
CURVE #	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	73°44'23"	50.00'	64.35'	37.50'	S 89°59'50" E	60.00'
C2	106°15'37"	50.00'	92.73'	66.67'	N 00°00'10" E	80.00'
C3	106°15'37"	50.00'	92.73'	66.67'	S 00°00'10" W	80.00'



Plat #

Rec. Dist. _____

Date _____ 20__

Time _____

WASTEWATER DISPOSAL
THIS TRACT IS AT LEAST 200,000 SQUARE FEET IN SIZE AND CONDITIONS MAY NOT 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.

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

NOTARY'S ACKNOWLEDGEMENT
FOR: BETH BOLING
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2023
MY COMMISSION EXPIRES: _____
NOTARY PUBLIC FOR THE STATE OF ALASKA

PLAT APPROVAL
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2023.

KPB 2023-133V

BETH BOLING
4720 CRAFTSMAN RD, HOMER, AK 99603

AUTHORIZED OFFICIAL _____ DATE _____

C & C BEAR SUBDIVISION 2023 REPLAT
A RESUBDIVISION OF TRACT 2 & 3 C & C BEAR SUBDIVISION (KN2003-74) & ASSOCIATED R/W VACATION OF C & C BEAR STREET
BETH BOLING, OWNER
4720 CRAFTSMAN RD
HOMER, AK 99603
19.891 AC. M/L SITUATED IN THE NW1/4 OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 9 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, AND THE KENAI RECORDING DISTRICT, ALASKA.

ENGINEERING - TESTING SURVEYING - MAPPING
P.O. BOX 408
SOLDOTNA, AK 99569
VOICE (907) 283-4218
FAX (907) 283-3265
WWW.MCLANECO.COM

KPB FILE NO. 2023-xxx
PROJECT NO. 232000

SCALE 1" = 100'
DATE: OCT. 2023
Bdgs. No.: 23-xx
DRAWN BY: JAH

AGENDA ITEM E. NEW BUSINESS

ITEM #2 - RIGHT OF WAY VACATION
VACATESOUTHERN 580' X 60' PORTION OF C & C BEAR STREET IN
LOT 2 & 3

KPB File No.	2023-133V
Planning Commission Meeting:	December 11, 2023
Applicant / Owner:	Beth Boiling of Homer Alaska
Surveyor:	James Hall / McLane Consulting Inc.
General Location:	Funny River Road, Funny River APC
Legal Description:	Lots 2 & 3 in C&C Bear Subdivision

STAFF REPORT

Specific Request / Purpose as stated in the petition: Vacate a 580' portion of C & C Bear Street in Lots 2 & 3 of C & C Bear Subdivision KN 2003-74. Current use is by the same property owner who also owns the parcel south of this property having waiver 96-4 (40 acres). Large acreage parcels have legal access that can be utilized in future subdivision efforts.

Notification: The public hearing notice was published in the Peninsula Clarion issue of the December 7, 2023 as part of the Commission's tentative agenda.

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

Library of Soldotna

Post Office of Soldotna

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

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

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

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Funny River Advisory Planning Commission
Central Emergency Services

Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)
Chugach Electric

Legal Access (existing and proposed):

The current access of C & C Bear Street is located in the area of Funny River along Funny River Road between mile post 13 and 14. There is no new access proposed. If this vacation is approved the owner is proposing to end the road with a bulb dedicating right of way to round the end on the sides for circular portions. This will be completed with a subdivision platting in the near future.

The subdivision is not affected by a section line easement.

The block is compliant for length.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: All adjacent parcels appear to remain access served. The RSA appreciates the turnaround bulb provision. No additional comments
SOA DOT comments	No comments

Site Investigation:

There are low wet areas on this property with kettle type running down the area where the road is located and a little east and drainageway designation per KPB GIS data on the eastern half of current Lot 2. There is no floodplain or mapped flood hazard area located on this property though.

Currently in the south end of the area to be vacated, there are structures located within the right-of-way. Vacating the right-of-way would remove the structures from encroaching and a future proposed subdivision moves the property line further east when complete.

KPB River Center review	<p>A. Floodplain Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Comments:</p>
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Staff Analysis:

The subdivision is located on a parcel that was given a plat waiver in 1996 and was able to be divided in 40 acre parcels out of the quarter section. C & C Bear Subdivision KN 2003-74 then divided the parcel into four tracts and the dedication of C & C Bear Street a 60-foot right-of-way.

Adjacent tracts are subdivided into large tracts to the east and unsubdivided tracts to the south and west.

By ending C & C Bear Street in a bulb, this signifies the road is being terminated at this point with no further development. **Staff recommends:** the surveyor redesign the end of C&C Bear Street with hammer head or t-style turn around to allow for future development. This would allow for the road to continue east or west without the need for the bulb to be broken if further development to the south is proposed.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: no. Only as a driveway
 2. A road is impossible or impractical to construct, and alternative access has been provided;

Staff comments: no, a proposed bulb is proposed

3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;

Staff comments: no. large tracts are located to the south

4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;

Staff comments: no

5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;

Staff comments: yes. But owner owns land directly to the south

6. Other public access, other than general road use, exist or are feasible for the right-of-way;

Staff comments: possible future development could provide access

7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.

Staff comments: nothing appears to be in place

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

Staff comments: little development is being done to the south, but there are dedications noted to the south from adjacent properties to be utilized in future developments also.

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

The Assembly will hear the vacation at their scheduled January 2, 2024 meeting.

If approved, C & C Bear Subdivision 2023 Replat will finalize the proposed right of way vacations. The Plat Committee is scheduled to review the plat on submittal of the preliminary plat.

KPB department / agency review:

Addressing	Reviewer: Leavitt, Rhealyn Affected Addresses: 35765 C & C BEAR ST Existing Street Names are Correct: Yes List of Correct Street Names: C & C BEAR ST, FUNNY RIVER RD Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:
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	Comments: No other comments
Code Compliance	Reviewer: Ogren, Eric Comments: Currently there are structures in the ROW.
Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather Comments: No comment
Advisory Planning Commission	

Utility provider review:

HEA	No comments
ENSTAR	
ACS	No comment
GCI	

RECOMMENDATION:

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

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Revision of bulb style cul-de-sac to a hammer or t-style cul-de-sac turn around.
5. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.65.050 – Action on vacation application

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

except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

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

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

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

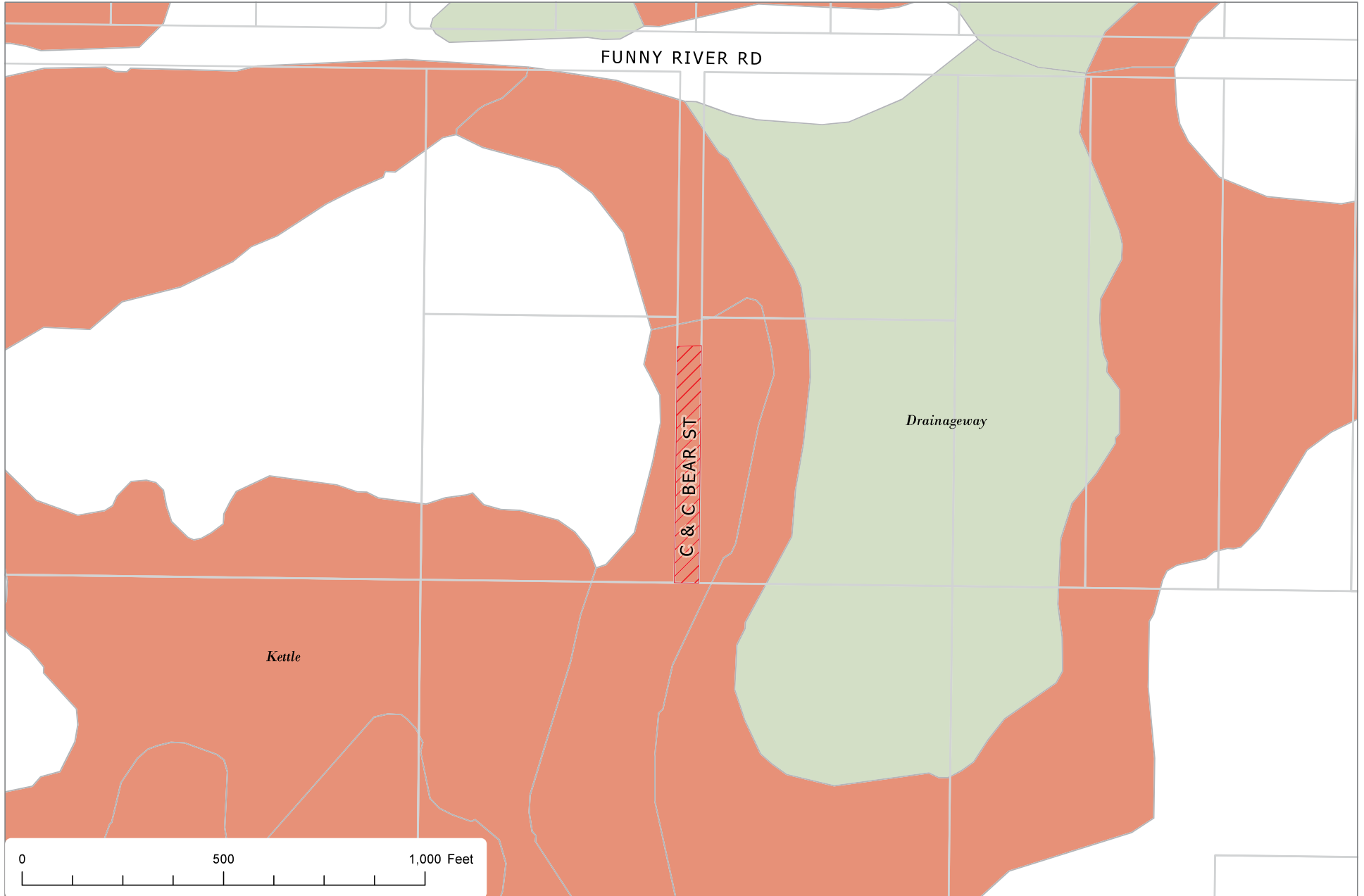
Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

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

END OF STAFF REPORT



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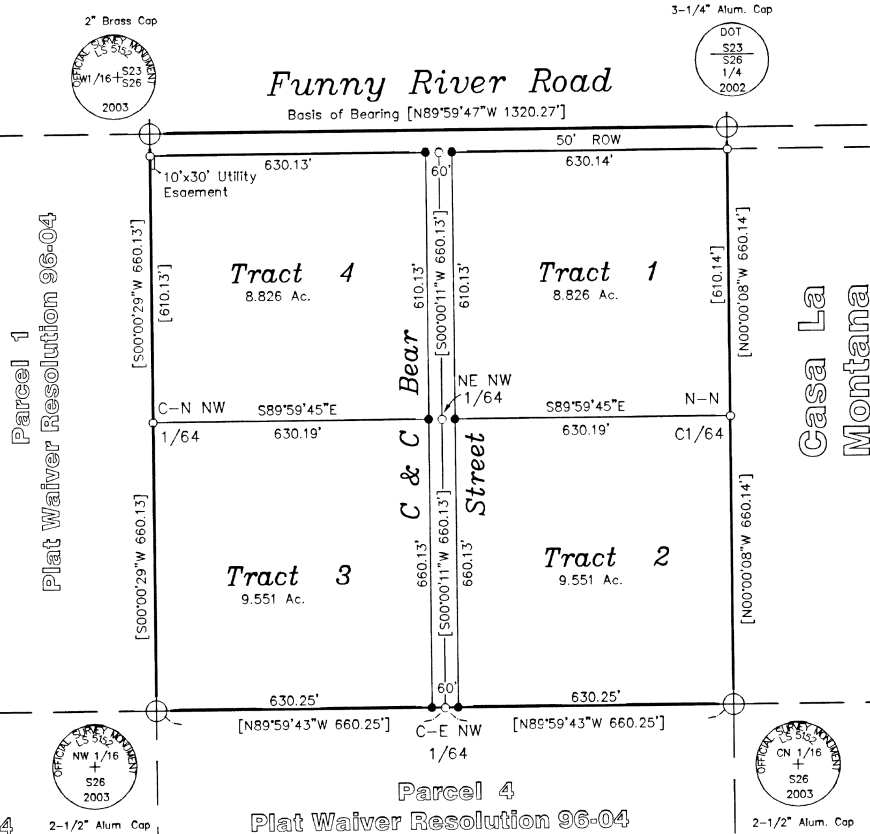
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SURVEYOR'S CERTIFICATE

I hereby certify that: I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown hereon actually exist as described, and all dimensions and other details are correct to the normal standards of practice of land surveyors in the State of Alaska.
Date 11 Nov, '03

Parcel 3
Plat Waiver Resolution 96-04

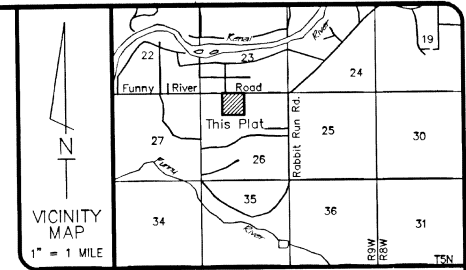


NOTES:

- Proposed land uses are recreational, residential, agricultural, and commercial.
- Building Setback - A setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.
- No private access to State maintained ROW's permitted unless approved by the State of Alaska Department of Transportation.
- Front 10 ft. of the building setback adjacent to rights-of-way with an additional 10 within 5 ft. of the side property line is a utility easement. 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.
- WASTEWATER DISPOSAL:** These lots are at least 200,000 square feet or nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.
- Roads must meet the design and construction standards established by the Borough in order to be considered for certification and inclusion in the road maintenance program.

LEGEND:

- ⊕ Monument (found)
- 1-1/2" Alum. Cap Monument (Found)
LS 5152, 2003
- 5/8" Rebar (set this survey)
- [] Record and Measured Datum - Record of Survey, Plat # 2003-48



CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

Carl R. Bear Carole A. Bear
Carl R. Bear Carole A. Bear

168 Hillcrest Avenue
Soldotna, Alaska 99669

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 11th DAY OF November, 2001 FOR Carl R. Bear and Carole A. Bear.

Rita M. Hart
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 10-21-06



PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF September 8, 2003

KENAI PENINSULA BOROUGH

Mary Joell
AUTHORIZED OFFICIAL

KPB FILE No. 2003-189

C & C Bear Subdivision

A subdivision of Parcel 2, KPB Plat Waiver Resolution 96-04. Located within the NE1/4 NW1/4 Section 26, T5N, R9W, S26., Kenai Recording District, Kenai Peninsula Borough, Alaska. Peninsula Borough, Alaska.

Containing 40.00 Acres

Integrity Surveys

605 Swires Drive Kenai, Alaska 99611-8363
SURVEYORS PHONE - (907) 283-9047 PLANNERS
FAX - (907) 283-9071

JOB NO:	23189 ref. 23121	DRAWN:	7 November, 2003 CB
SURVEYED:	September, 2003	SCALE:	1" = 200'
FIELD BK:	?	DISK:	S26, T5N, R9W, S26

2003-74
RECORDED 30 -
KENAI REC. DIST.
DATE: 11-14 2003
TIME: 3:42 P.M.
REQUESTED BY:
INTEGRITY SURVEYS
605 SWIRES DRIVE
KENAI, ALASKA 99611

KENAI PENINSULA BOROUGH
PLANNING COMMISSION

BOOK 0478 PAGE 936

PLAT WAIVER RESOLUTION 96-04

KENAI RECORDING DISTRICT

GRANTING A PLATTING WAIVER FOR CERTAIN LANDS WITHIN SECTION 26 TOWNSHIP 5 NORTH, RANGE 9 WEST, SEWARD MERIDIAN, ALASKA

WHEREAS, James E. Chapman has petitioned for a waiver of platting requirements for the following described parcel:

NW1/4 Section 26, Township 5 North, Range 9 West, Seward Meridian,
Alaska cntg 160 acres plus/minus

WHEREAS, 29.04.090 of Alaska Statutes provides that the platting authority shall waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that certain conditions exist.

WHEREAS, it has been determined that all requirements have been met.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1: That a waiver of platting requirements is hereby granted for the above described parcel.

Section 2: That the plat waiver is being granted for the purpose of creating four parcels described as follows:

Parcel 1: NW1/4 NW1/4 Section 26, Township 5 North, Range 9 West, Seward Meridian, Alaska, cntg 40 acres plus/minus

Parcel 2: NE1/4 NW1/4 Section 26, Township 5 North, Range 9 West, Seward Meridian, Alaska, cntg 40 acres plus/minus

Parcel 3: SW1/4 NW1/4 Section 26, Township 5 North, Range 9 West, Seward Meridian, Alaska, cntg 40 acres plus/minus

Parcel 4: SE1/4 NW1/4 Section 26, Township 5 North, Range 9 West, Seward Meridian, Alaska, cntg 40 acres plus/minus

Section 3: That this resolution is void if not recorded in the appropriate Recording District within thirty days of adoption.

Section 4: That this resolution becomes effective upon being properly recorded.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 12 DAY OF February, 1996.

Philip W Bryson
Philip Bryson, Vice Chairperson
Planning Commission

NOTARY ACKNOWLEDGEMENT:

Subscribed and sworn before me this 12 day of February, 1996.

Maria E Sweppy
Notary Public for State of Alaska
My Commission Expires: 1-16-99

96-1190
KENAI REC 15
DISTRICT
REQUESTED BY *RPB*

NOTARY PUBLIC
STATE OF ALASKA
MARIA E. SWEPPY

Please return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley
Soldotna, Alaska 99669-7599

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