


Kenai Peninsula Borough  
Planning Department

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**MEMORANDUM**

**TO:** Brent Johnson, Assembly President  
Kenai Peninsula Borough Assembly Members

**FROM:** Robert Ruffner, Planning Director 

**DATE:** May 29, 2024

**RE:** Vacating the entire Circe Land Right-Of-Way

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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 May 28, 2024 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation by unanimous vote (9-Yes, 0-No) based on the means of evaluating public necessity established by KPB 20.70. This petition is being sent to you for your consideration and action.

A draft copy of the unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

May 28, 2024 Planning Commission Draft Meeting Minutes  
May 28, 2024 Agenda Item E3 Meeting Packet Materials

**ITEM #3 - RIGHT OF WAY VACATION  
Reeder Lake Subdivision 2024 Addition**

<b>KPB File No.</b>	2024-039V
<b>Planning Commission Meeting:</b>	May 28, 2024
<b>Applicant / Owner:</b>	Lee Q. Wiley
<b>Surveyor:</b>	Jerry Johnson – Johnson Surveying
<b>General Location:</b>	Sterling Highway, Clam Gulch area
<b>Legal Description:</b>	A replat of Lots 1, 2, and 5 Reeder Lake Subdivision, KN 73-21, including a vacation of Circe Lane ROW. Located in the NW ¼ Sec 22, T2N, R12W, SM, Clam Gulch, Alaska, Kenai Recording District.

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Epperheimer moved, seconded by Commissioner Staggs to granting the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, based on staff recommendations and subject to the four conditions set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 9	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Tautfest, Venuti
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**ITEM #4 – STREET NAMING RESOLUTION 2024-03  
RENAMING A PUBLIC RIGHT-OF-WAY IN THE FUNNY RIVER COMMUNITY  
FROM SALIX COURT TO BAILEY COURT**

Staff report given by Addressing Officer Rhea Leavitt.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Staggs moved, seconded by Commissioner Epperheimer to adopt Street Naming Resolution 2024-03 renaming a public right-of-way in the Funny River community, ESN 302 from Salix Court to Bailey Court.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 9	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Tautfest, Venuti
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**ITEM #4 – STREET NAMING RESOLUTION 2024-03  
RENAMING A PUBLIC RIGHT-OF-WAY IN THE FUNNY RIVER COMMUNITY  
FROM RILL WAY TO CORKY WAY**

Staff report given by Addressing Officer Rhea Leavitt.

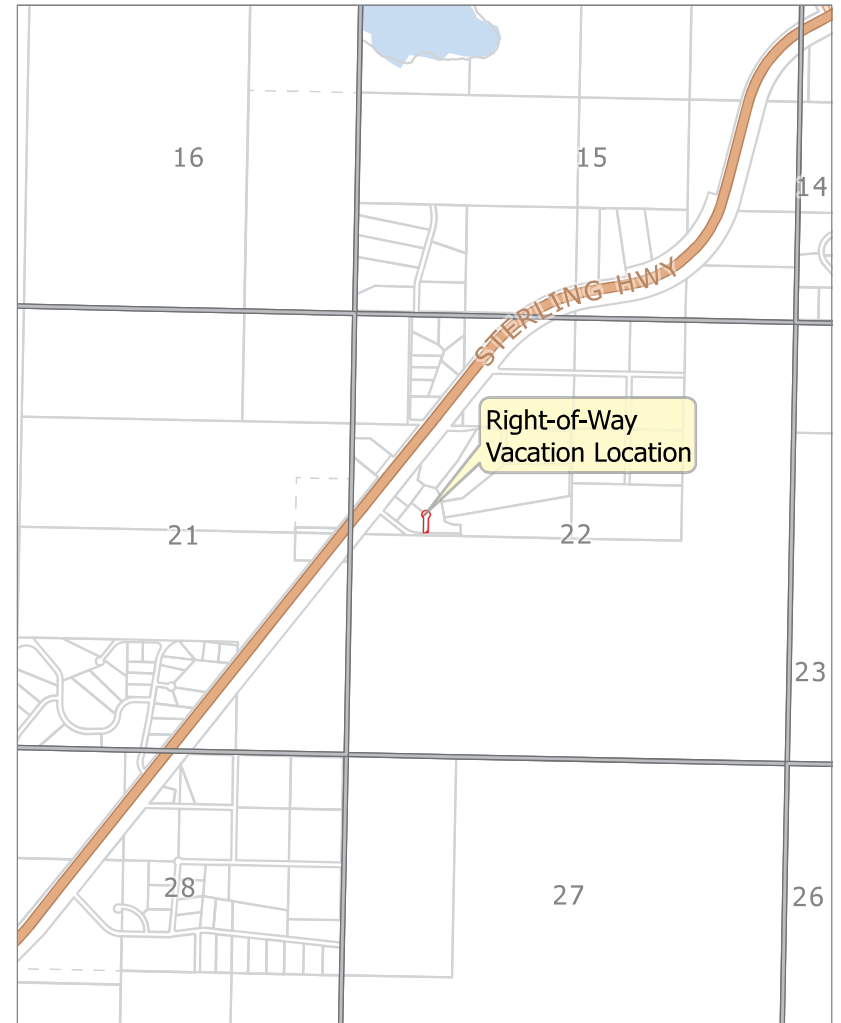
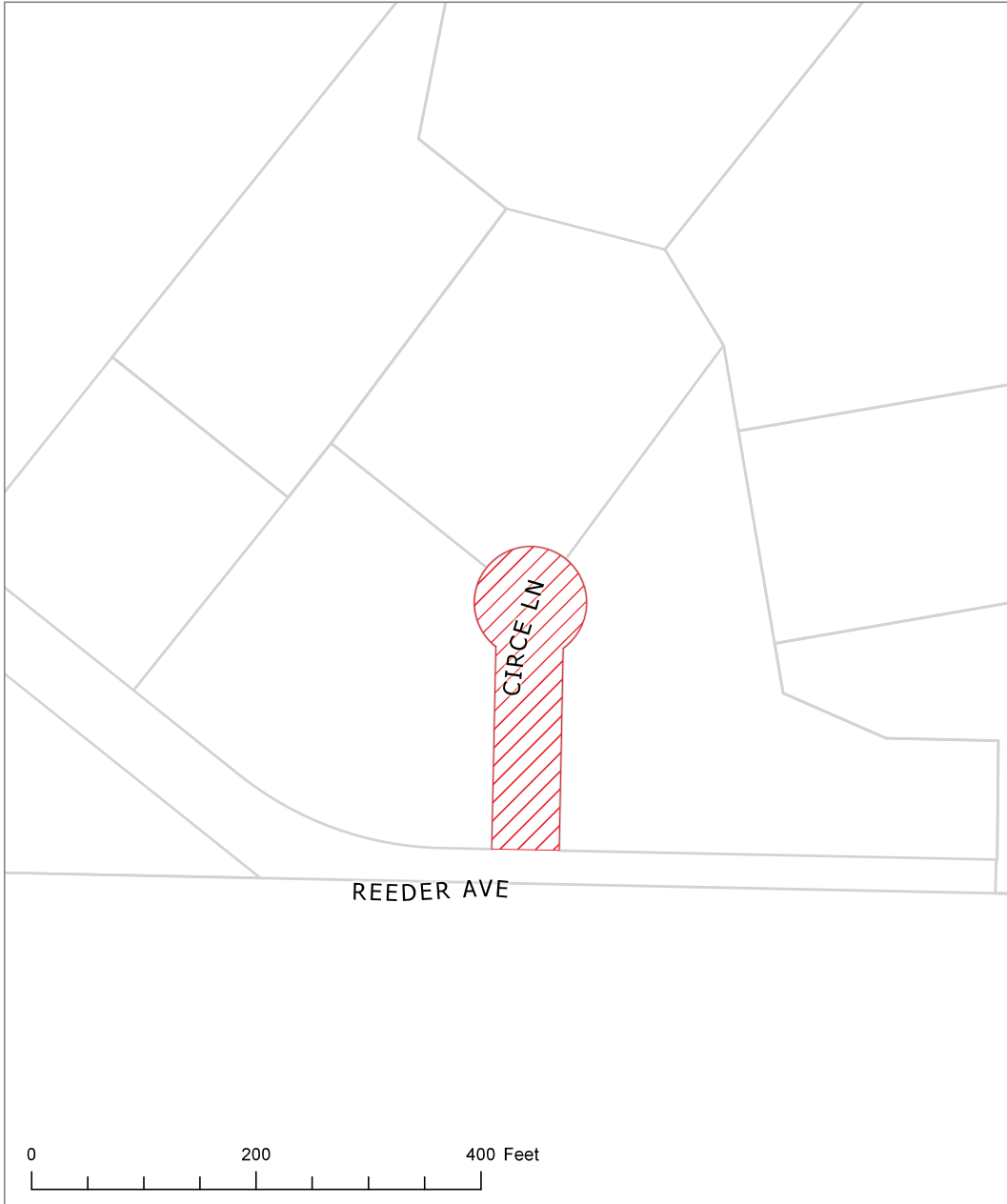
Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Epperhemier moved, seconded by Commissioner Staggs to adopt Street Naming Resolution 2024-03 renaming a public right-of-way in the Funny River community, ESN 302 from Rill Way to Corky Way.

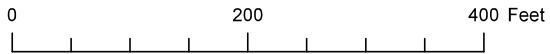
Hearing no objection or further discussion, the motion was carried by the following vote:

## **E. NEW BUSINESS**

- 3. Right-Of-Way Vacation; KPB File 2024-039V  
Johnson Surveying / Wiley  
Request: vacates the entire Circe Lane right-of-way  
Cohoe Area**



KPB File 2024-039V  
T 02N R 12W SEC 22  
Cohoe



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# REEDER LAKE SUBDIVISION 2024 ADDITION Preliminary Plat

A replat of Lots 1, 2, and 5 Reeder Lake Subd., KRD 73-21, including a vacation of Circle Ln. ROW.  
Located in the NW1/4 Section 22, T2N R12W, SM, Clam Gulch, Alaska.  
Kenai Recording District Kenai Peninsula Borough

Prepared for

Lee Q. Wiley  
P.O. Box 199  
Clam Gulch, AK 99568

Prepared by

Johnson Surveying  
Box 27  
Clam Gulch, Ak 99568  
(907) 262-5772

SCALE 1" = 100'  
18 March, 2024

AREA = 5.735 acres

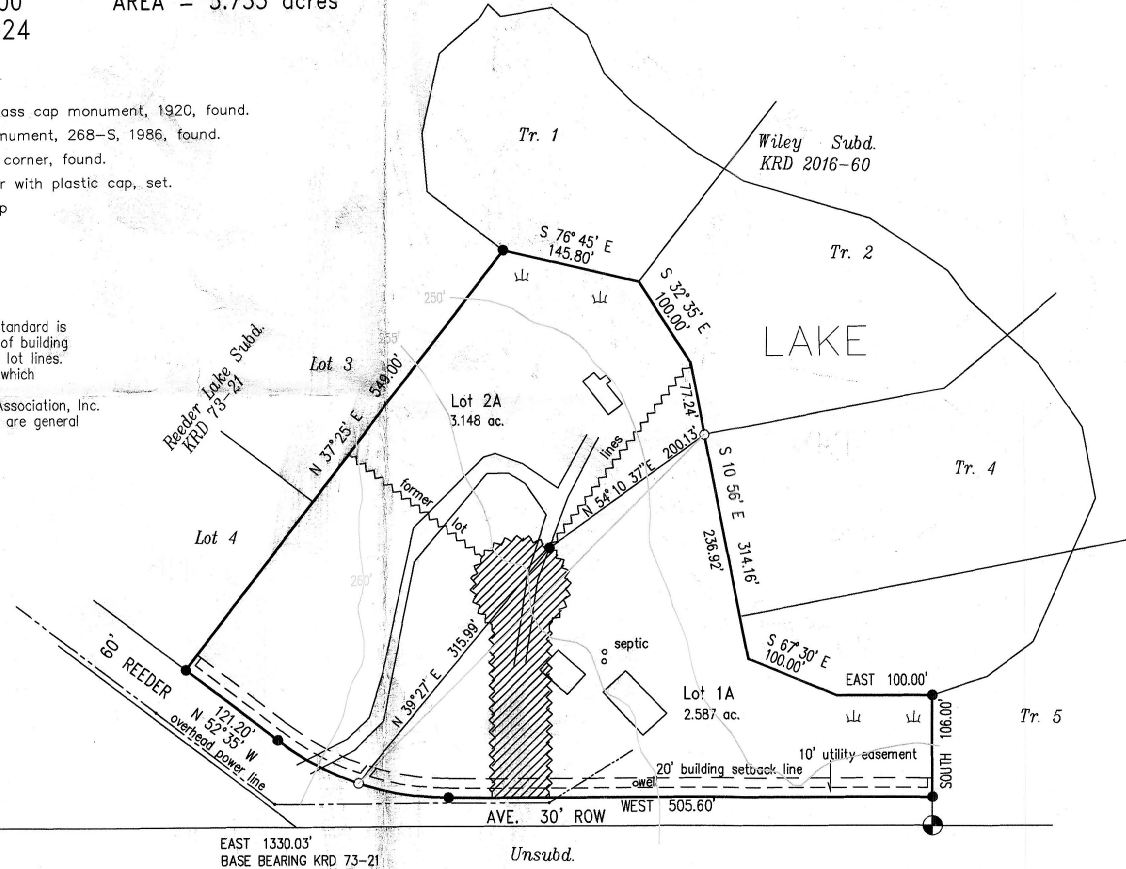
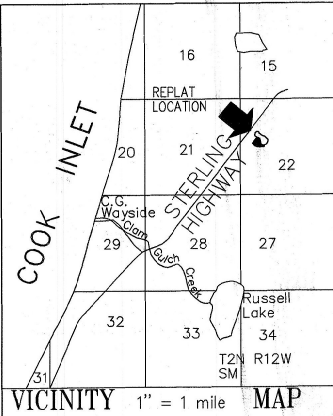
## LEGEND

- ⊗ - 2 1/2" USGLO brass cap monument, 1920, found.
- ⊙ - 2 1/2" alcap monument, 268-S, 1986, found.
- - 1/2" rebar lot corner, found.
- - 1/2" x 4' rebar with plastic cap, set.
- ⚡ - indicates swamp

## NOTES

1. A building setback of 20' from all street ROWs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Front 10' of building setback is also a utility easement as is the entire setback within 5' of side lot lines.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
3. This property is subject to electrical easements granted to Homer Electric Association, Inc. in Kenai Records Misc Book 31 page 163 and Misc Book 37 page 87. These are general easements, no definite location given.
4. Contour interval 5'. No grades exceed 3%.

 - indicates Circle Ln. ROW being vacated



1/4 cor  
Sect. 21 Sect. 22

EAST 1330.03'  
BASE BEARING KRD 73-21

Unsubd.

## WASTEWATER DISPOSAL

KPB 20.40.020  
This plat increases the per lot available wastewater disposal areas.  
Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Dept. of Environmental Conservation.

**KPB 2024-039V**

AGENDA ITEM E. NEW BUSINESS

**ITEM #3 - RIGHT OF WAY VACATION  
Reeder Lake Subdivision 2024 Addition**

<b>KPB File No.</b>	2024-039V
<b>Planning Commission Meeting:</b>	May 28, 2024
<b>Applicant / Owner:</b>	Lee Q. Wiley
<b>Surveyor:</b>	Jerry Johnson – Johnson Surveying
<b>General Location:</b>	Sterling Highway, Clam Gulch, Alaska
<b>Legal Description:</b>	A replat of Lots 1, 2, and 5 Reeder Lake Subdivision, KN 73-21, including a vacation of Circe Lane ROW. Located in the NW ¼ Sec 22, T2N, R12W, SM, Clam Gulch, Alaska, Kenai Recording District.

**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** Adjacent lots are being combined eliminating the need for the ROW. All resulting lots will have legal access.

**Notification:** The public hearing notice was published in the May 8<sup>th</sup> issue of the Peninsula Clarion and the May 9<sup>th</sup> issue of the Homer News 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 Kasilof

Post Office of Kasilof

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

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

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

State of Alaska DNR  
State of Alaska DOT  
Ninilchik Traditional Council  
Alaska Communication Systems (ACS)

ENSTAR Natural Gas  
General Communications Inc, (GCI)  
Homer Electric Association (HEA)

**Legal Access (existing and proposed):**

Legal access to the property is from Reeder Avenue on the south of the property. Reeder Avenue is accessed at approximately mile 115.75 of the Sterling Highway, just north of Clam Gulch, Alaska.

There is no new dedication being proposed with this vacation as the vacation is being combined with the adjacent lots touching the cul-de-sac and then divided into two lots.

Traffic flowing in and out of Reeder Avenue will not be impacted by the vacation of Circe Lane.

Block length along Reeder Avenue will remain compliant after the vacation of Circe Lane.

KPB Roads Dept. comments	Out of Jurisdiction: No  Roads Director: Griebel, Scott Comments: No RSA comment or objection.
SOA DNR comments	No comment

**Site Investigation:**

Reeder Avenue is mostly level along its entire length and Circe Lane is level as well with no grades exceeding 3%.

Reeder Lake borders on the north side of the proposed Lots 1A and 2A. A significant border around Reeder Lake is labeled Kettle by the KWF Wetlands Assessment – this area appears to mostly follow the contour near the lake and should be shown on the plat when submitted.

KPB River Center Review	<p>A. Floodplain</p> <p>Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: waterbody next to parcel is not a KPB regulated anadromous stream</p>
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**Staff Analysis:** The subject parcel was an aliquot part of the S ½ NW ¼, Section 22, Township 2 North, Range 12 West, Seward Meridian, Clam Gulch, Alaska. Reeder Lake Subdivision KN 73-21 divided the parcel into the 6 lots, and 2 dedications. Circe Lane is now being requested for vacation with this petition.

The remainder of the S1/2 NW1/4 lying east of Sterling Highway was subdivided into 5 tracts and a dedication by Wiley subdivision KN 2016-60. To the west are to lots of the Reeder Lake Subdivision and to the south is a 500 acres unsubdivided parcel

Utility providers have yet to comment, however, SOA DNR has indicated that they do not have any comment on the proposed vacation. There is a 5' utility easement around Circe Lane that should be vacated. **Staff recommends;** that if the applicant wants the utility easement vacated, they return at a later date to vacate the 5' utility easement.

The plat proposes a 20' building setback from all street ROWs and to include the front 10' of the setback and the entire setback within 5' of side lot lines as a utility easement.

The applicant proposes to finalize the vacation of Circe Lane with a subdivision that combines Lots 1-2, and 5, KN 73-21, into 2 parcels designated as proposed Lots 1-A and 2-A.

**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: only as a driveway, not developed as a road**
2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments: The Sterling Highway and Reeder Avenue currently service all adjacent parcels.**
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments: No utility comments at this time.**
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: this vacation does not provide access to a public interest.**
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments: There would be no negative effect to the adjacent parcels by vacating Circe Lane.**
6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments: with the vacation of Circe Lane, the parcels will still have access b Reeder Avenue**
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: No utility comments at this time, however, a 5' utility easement along all ROWs was established for the subdivision in KN 73-21.**
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.  
**Staff comments: 3 lots will be combined into 2 on the proposed plat, therefore reducing the need for the cul-de-sac.**

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 Jun 4, 2024 meeting.

If approved, Reeder Lake Subdivision 2024 Addition will finalize the proposed right of way vacation. The Plat Committee is scheduled to review Reeder Lake Subdivision 2024 Addition on May 28 2024 at their regularly scheduled meeting.

**KPB department / agency review:**

Addressing	Reviewer: Leavitt, Rhealyn Affected Addresses: 54800 REEDER AVE
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	<p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names: CIRCE LN, REEDER AVE</p> <p>Existing Street Name Corrections Needed: ON SKETCH ROW IS CIRCLE LN, PLEASE CORRECT TO CIRCE LN</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: ADDRESS WILL NOT BE AFFTECTED.</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: Granting the vacation would clear up the ROW encroachment.</p>
Planner	<p>Reviewer: Raidmae, Ryan</p> <p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather</p> <p>Comments: No comment</p>

**Utility provider review:**

HEA	
ENSTAR	
ACS	No objections
GCI	Approved as shown

**STAFF RECOMMENDATIONS**  
**CORRECTIONS / EDITS**

Make the following corrections:

Correct the road name in the legal to Circe  
 Correct the road name below NOTES near the hatching to Circe for the ROW being vacated.  
 Add Lot 6 to the southwest across Reeder Ave.

**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 including a submittal to and approval by the Plat Committee.

3. Grant utility easements requested by 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 20.65.050(I)).
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#### **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*

- *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.*

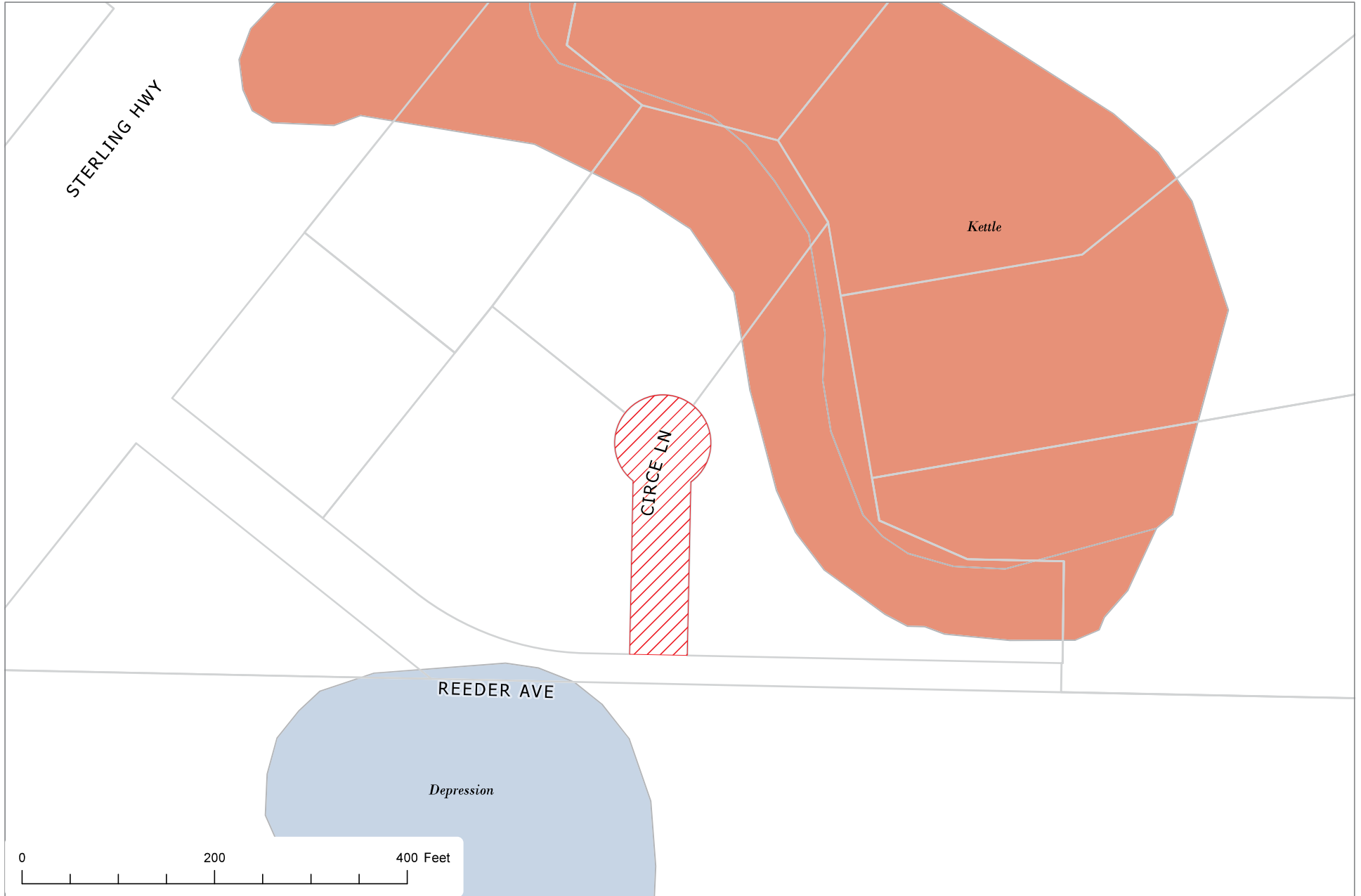
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**END OF STAFF REPORT**

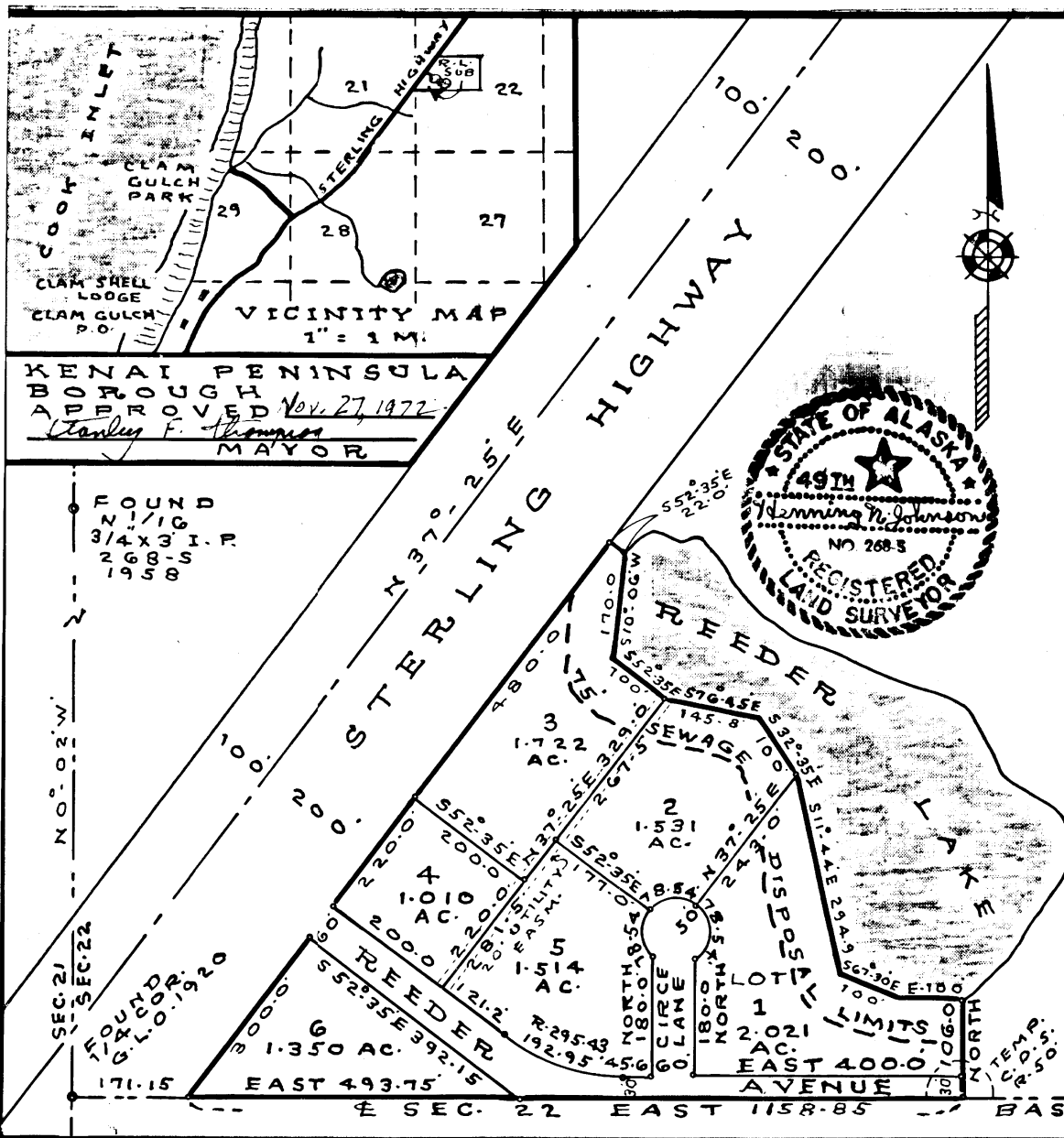
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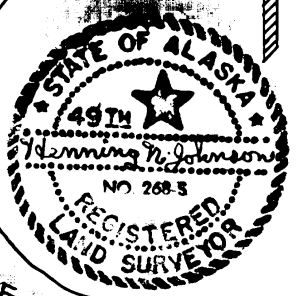
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KENAI PENINSULA  
BOROUGH  
APPROVED Nov. 27, 1972  
Stanley F. Thompson  
MAYOR



# REEDER LAKE SUBDIVISION

LOCATED IN S 1/2 NW 1/4 SEC. 22,  
T2N. R12W. S.M. CLAM GULCH,  
ALASKA.  
BY: MICHAEL WILEY, ENGLISH BAY, AK.  
CORS. SHOWN THUS O ARE 1/2" X 24" REBARS.  
NOTE: A 5' UTILITY EASEMENT ALONG  
ALL ROAD LINES FOR POWER UTILITY.  
SCALE: 1" = 200'  
OCT. 15, 1972  
AREA: 10.562 AC

## CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE  
THE OWNERS OF THE PROPERTY  
DESCRIBED HEREIN,  
AND WE HEREBY DEDICATE  
THE SAME TO THE USE OF  
PUBLIC UTILITIES.

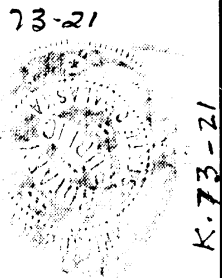
OWNER Michael Wiley Santa R. Wiley  
OWNER Ann C. Morris  
OWNER Richard N. Morris

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT  
SUBSCRIBED AND SWORN BEFORE  
ME THIS 2nd DAY OF Dec 1972  
WITNESS MY HAND AND OFFICIAL  
SEAL, THE DAY, MONTH AND YEAR.

NOTARY PUBLIC FOR ALASKA,  
Darlene Kashway Crawford 2/20/76

MY COMMISSION EXPIRES

RECORDED - FILED  
— Kenai REC. DIST.  
DATE 3-21-1973  
TIME 3 P.M.  
Requested by KPB  
Address Sal  
514293





# Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax



## PETITION TO VACATE PLATTED RIGHT OF WAY / PLATTED PUBLIC 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.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Subdivision Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

### SUBMITTAL REQUIREMENTS

**A platted right of way vacation (ROWV) application will be scheduled for the next available planning commission meeting after a complete application has been received.**

- \$500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- Circle Lane \_\_\_\_\_ platted public right of way proposed to be vacated was dedicated by the plat of Reeder Lake Subdivision Subdivision, filed as Plat No. 73-21 in the Kenai Recording District.
- 3 copies of the plat or map showing the platted right of way to be vacated. Must not exceed 11 x 17 inches in size. Area to be vacated must be clearly depicted. Proposed alternative public access to be shown and labeled on the sketch.
- **REASON FOR VACATING** The petitioner must attach a statement with reasonable justification for the vacation of the platted right of way / platted easement / platted public area.

Has the platted right of way been fully or partially constructed?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Is the platted right of way used by vehicles / pedestrians / other?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Is alternative right-of-way being provided?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Are there utility easements associated with the right of way to be vacated?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Is the platted right of way and or associated utility easement in use by any utility company?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If so, which utility provider?				

### LEGAL DESCRIPTION ADJOINING LAND:

Lot, Block, Subd. or street address Lots 1, 2, & 5 Reeder Lake Subdivision	
Section, township, range Section 22, T2N R12W, SM	
City (if applicable)	General area <u>Clam Gulch</u>

The petition must be signed by owners of a majority of the land affected by the platted right of way proposed to be vacated. Each petitioner must include address and legal description of his/her property. Attach additional signature sheets if needed.

### Submitted by:

#### Land Owner

Name (printed): Lee Q Wiley	Signature <u>Lee Q. Wiley</u>
e-mail:	Address: <u>Box - 199</u>
Owner of: Lots 1, 2, & 5 Reeder Lake Subdivision	<u>Clam Gulch AK 99568</u>

#### Land Owner:

Name (printed):	Signature
e-mail:	Address:
Owner of: Lots 1, 2, & 5 Reeder Lake Subdivision	

FOR OFFICE USE ONLY

RECEIVED BY \_\_\_\_\_

DATE SUBMITTED \_\_\_\_\_

KPB FILE # \_\_\_\_\_