

Kenai Peninsula Borough

Planning Department

MEMORANDUM

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

FROM: Melanie Aeschliman, Planning Director *MA*

DATE: December 15, 2021

RE: Right-of-way Vacation: Fauerbach Court right-of-way vacation and associated utility easements and anchor easement, Clam Gulch Heights Glendening 1979 Subdivision, KPB File 2021-150V

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 December 13, 2021 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation of by unanimous vote based on the means of evaluating public necessity established by KPB 20.65 (5-Yes, 0-No, 3 Absent, 3-Vacant) 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.

December 13, 2021 Planning Commission Draft Meeting Minutes
December 13, 2021 Agenda Item E3 Meeting Packet

PETITIONER CONTACT INFORMATION

**James E. Glendening
694 Sycamore Circle
Kenai, AK 99611**

**Daniel John Sims
2130 9th Street W-174
Columbia Falls, MT 59912**

No Email Address Available

RECOMMENDATION:**STAFF RECOMMENDS:**

- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

Vice Chair Ruffner opened the meeting for public comment.

Jerry Johnson, Johnson Surveying, P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and made himself available for questions.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Brantley to grant preliminary approval to Towle Subdivision 2021 Replat based on staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM E3 - FAUERBACH COURT RIGHT OF WAY VACATION AND ASSOCIATED UTILITY EASEMENTS AND ANCHOR EASEMENT

KPB File No.	2021-150V
Planning Commission Meeting:	December 13, 2021
Applicant / Owner:	James E. Glendening of Kenai, Alaska and Daniel John Sims of Columbia Falls, Montana
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Russell Ave., Keener Dr., and Bartolowitz St. / Clam Gulch
Legal Description:	Lots 4, 5, 6 and 27, Clam Gulch Heights Glendening 1979 Subdivision Plat No 81-135

Staff report given by Scott Huff.

Specific Request / Purpose as stated in the petition: Lots are being combined with an associated replat, eliminating the need for this ROW.

Notification: Public notice appeared in the December 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the December 9, 2021 issue of the Peninsula Clarion 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 Clam Gulch

Post Office of Clam Gulch

Fourteen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Six receipts had been returned when the staff report was prepared.

Seventeen public hearing notices were mailed to agencies and interested parties as shown below:

State of AK Dept. of Fish & Game

Ninilchik Traditional Council

State of AK DNR

Alaska Communication Systems (ACS)

State of AK DOT

ENSTAR Natural Gas

State of AK DNR Forestry

General Communications Inc. (GCI)

Central Emergency Services

Homer Electric Association (HEA)

Legal Access (existing and proposed): Fauerbach Court a 60 foot wide and 350 feet in length right of way that ends in a cul-de-sac. Fauerbach Court is unconstructed and not maintained by KPB Roads Department. It is located off of Bartolowitz Street, a 60 foot wide right of way that is only partially constructed and not maintained by the borough.

A replat has been submitted that will reconfigure four lots into three. Proposed Lot 4A and 27A will have access via Bartolowitz Street. Lots 5 and 6 will be combined into proposed Lot 5A and will have access from Keener Drive. Keener Drive is a 50 foot wide borough maintained right of way. Both Keener Drive and Bartolowitz Street are located off Russell Avenue, a 60 foot wide borough maintained right of way located near mile 117 of the Sterling Highway.

No new dedications are proposed.

The block is irregular in design. The block does close but the block length exceeds code requirements. Sterling Highway, Russell Avenue, Bartolowitz Street, Kizer Avenue, Glendening Street, and Sesame Avenue define the block. As the right of way proposed for vacation is a cul-de-sac, it does not improve block lengths or help provide a closed block. The vacation will not affect the block requirements.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	

Site Investigation: The right of way and lots adjoining this right of way are not affected by low wet areas. The right of way is free of any steep slopes. There are steep slopes that will divide the newly proposed Lot 5A and access to the northern portion may be more difficult without the right of way. Vacating the right of way may reduce the ability or design options for Lot 5A to be further subdivided.

River Center Review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments
River Center Review	B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments

	C. State Parks Reviewer: Russell, Pam Comments: No Comments
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Staff Analysis: The subdivision is located in the Clam Gulch area and is not within an advisory planning commission boundary. It is located near mile 117 of the Sterling Highway.

The subject parcels and right of way were originally subdivided by Clam Gulch Heights, Plat KN 72-61. That plat created aliquot description lots. Clam Gulch Heights Glendening 1979 Subdivision, Plat KN 81-135, further subdivided the parcels and dedicated Shady Court. Resolution SN 2005-07 renamed Shady Court to Fauerbach Court.

Fauerbach Court provides the only legal access to Lot 5 and provides a secondary access to Lots 4, 6, and 27. A replat, Clam Gulch Heights 2021 Addition KPB File 2021-150, has been submitted. The proposed plat will combine Lots 5 and 6 into one lot with access from Keener Drive. Lot 4 and Lot 27 will continue to have access via Bartolowitz Street.

A 20 foot building setback was put in place adjoining Fauerbach Court. The parent plat granted the full setback as a utility easement. A 10 foot by 30 foot anchor easement was also granted within Lot 5 along the cul-de-sac, which extends beyond the granted easement by 10 feet. The proposal includes vacating the associated utility easement and the anchor easement. A 20 foot utility easement will be granted along the new lot line boundaries abutting Bartolowitz Street. Review has been sent to the utility companies for comment and staff recommends that requested easements be worked out with the utility companies and be granted.

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: The right of way is currently not constructed and does not appear to be used.
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The road is relatively flat and contains no wet lands. Alternative access is provided by previously dedicated right of ways.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: Additional right of ways are in place, as well as utility easements, to provide adequate access and utilities to all surrounding parcels.
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 right of way does not provide access to any water body or area with public interest.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: The proposed vacation will not limit opportunities for interconnectivity with adjacent parcels and adequate right of ways and utility easements have been dedicated.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Other public access does not appear to be needed as the cul-de-sac provides access to private property.

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: Utility easements will be provided that exceed requirements but follows the parent plat dedications. Any requested easements from utility providers shall be worked out with the land owners before final plat approval.

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

Staff comments: The right of way provided access to four lots. The reconfiguration proposed will allow all lots to have adequate access.

If approved, the plat Clam Gulch Heights 2021 Addition will finalize the proposed right of way vacations. The Planning Commission is scheduled to review the plat on December 13, 2021. If the vacation is approved, the consent by the Kenai Peninsula Borough Assembly is required. The Assembly must hear the vacation within thirty days of the Planning Commission decision. The Assembly should hear the vacation at their January 4, 2022 meeting.

KPB department / agency review:

Planner	
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: 55450 FAUERBACH CT 17635 BARTOLOWITZ ST 17610 KEENER DR 17615 BARTOLOWITZ ST Existing Street Names are Correct: Yes List of Correct Street Names: FAUERBACH CT BARTOLOWITZ ST KEENER DR KIZER AVE Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: 55450 FAUERBACH CT will be deleted. 17635 BARTOLOWITZ ST will remain with lot 4A. 17610 KEENER DR will remain with lot 5A. 17615 BARTOLOWITZ ST will remain with lot 27A.
Assessing	Reviewer: Wilcox, Adeena Comments: No comment

Utility provider review:

HEA	No comments.
ENSTAR	No comments or objections.
ACS	No objections
GCI	Approved as shown.

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(F) 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. 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 of 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.*

END OF STAFF REPORT

Vice Chair Ruffner opened the meeting for public comment.

Jerry Johnson, Johnson Surveying; P.O. Box 27, Clam Gulch, AK 99568: Mr. Johnson was the surveyor on this project and made himself available for questions.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Brantley moved, seconded by Commissioner Venuti to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance with borough code.

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

MOTION PASSED BY UNANIMOUS VOTE:

Yes	5	Absent	3	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Fikes, Gillham, Martin				

ITEM E4 - CLAM GULCH HEIGHTS 2021 ADDITION

KPB File No.	2021-150
Plat Commission Meeting:	December 13, 2021
Applicant / Owner:	James E. Glendening of Kenai, Alaska Daniel John Sims of Columbia Falls, Montana
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Keener Drive, Bartolowitz Street and Fauerbach Court, Clam Gulch
Parent Parcel No.:	137-370-04, 137-370-05, 137-370-06, 137-370-07
Legal Description:	Lots 4, 5, 6 and 27, Clam Gulch Heights Glendening 1979 Subdivision Plat No 81-135
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat creates three lots from four lots and finalizes a right of way vacation of Fauerbach Court including the associated utility easements.

Location and Legal Access (existing and proposed): The subdivision is located in the Clam Gulch area, near mile 117 of the Sterling Highway. The four parent lots have access from Fauerbach Court, a 60 foot wide right of way that ends in a cul-de-sac. Former Lot 6 has secondary access from Keener Drive.

If approved by the KPB Planning Commission and the KPB Assembly, this plat will finalize the vacation of Fauerbach Court.

The new lot configuration will result in Bartolowitz Street providing access to proposed lots 4A and 27A. Bartolowitz Street is a 60 foot wide right of way that is partially constructed and not maintained by the

DECEMBER 13, 2021 PC MEETING INFORMATION

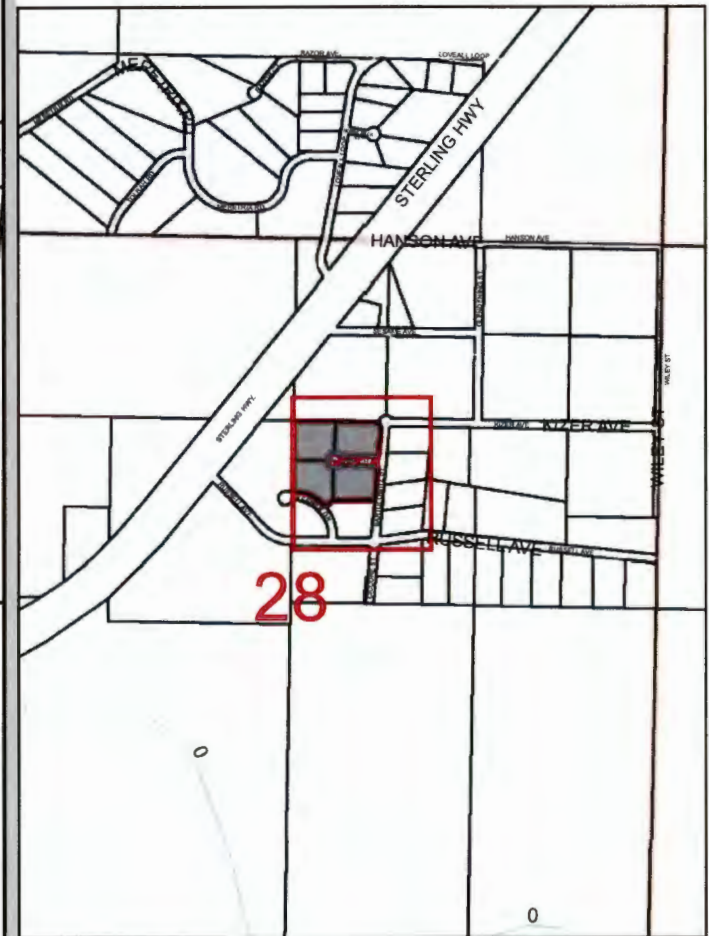
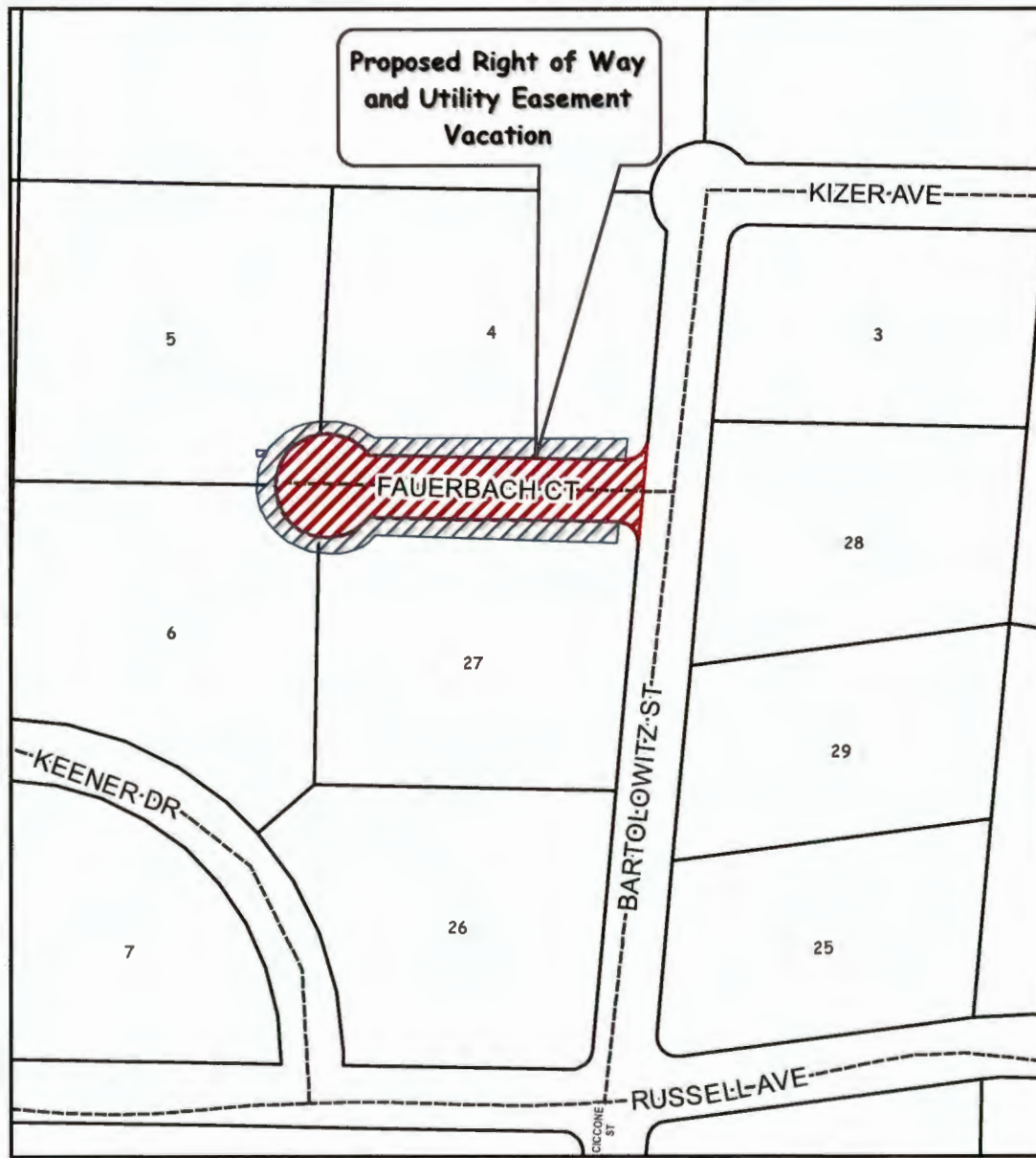
E. NEW BUSINESS

3. Right-of-Way Vacation; KPB 2021-150V

Request: Vacate a 60' cul-de-sac, Fauerbach Court running east to west approximately 303.94' & the associated 20' utility easement & anchor easement

Surveyor: Johnson Surveys

Petitioners: James E. Glendening & Daniel John Sims of Kenai Clam Gulch Area



0 625 1,250 2,500 Feet



KPB 2021-150V
S28 T02N R12W
Clam Gulch

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.

0 125 250 500'

PClements, KPB 2021-150V Date: 11/16/2021



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

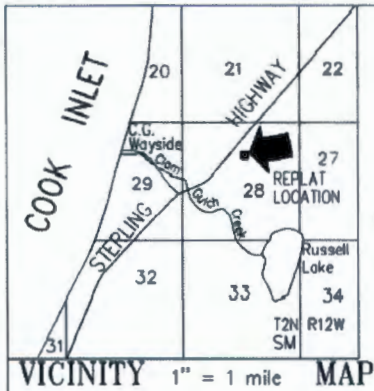
0 50 100 200'

Aerial View



- Anchor Easement
- Utility Easement Vacation
- Right of Way Vacation

PClements, KPB 2021-150V
Imagery FixedWing 2012-13



Clam Gulch Heights 2021 Addition Preliminary Plat

A replat of Lots 4, 5, 6, & 27 Clam Gulch Heights, Glendening 1979 Subd. of Tracts 12, 13, 14, 15, 16, 17, 18 (KRD 81-135), including a vacation of Fauerbach Ct & associated utility easements. Located in the NE1/4 Section 28, T2N R12W, SM, Clam Gulch, Alaska.
Kenai Recording District Kenai Peninsula Borough

Prepared for

James E Glendening
694 Sycamore Cir.
Kenai, AK 99611

Daniel John Sims
2130 9th St W
Columbia Falls,
MT 59912

Prepared by

Johnson Surveying
P.O. Box 27
Clam Gulch, AK 99568
(907) 282-5772

SCALE 1" = 100'

AREA = 5.764 acres

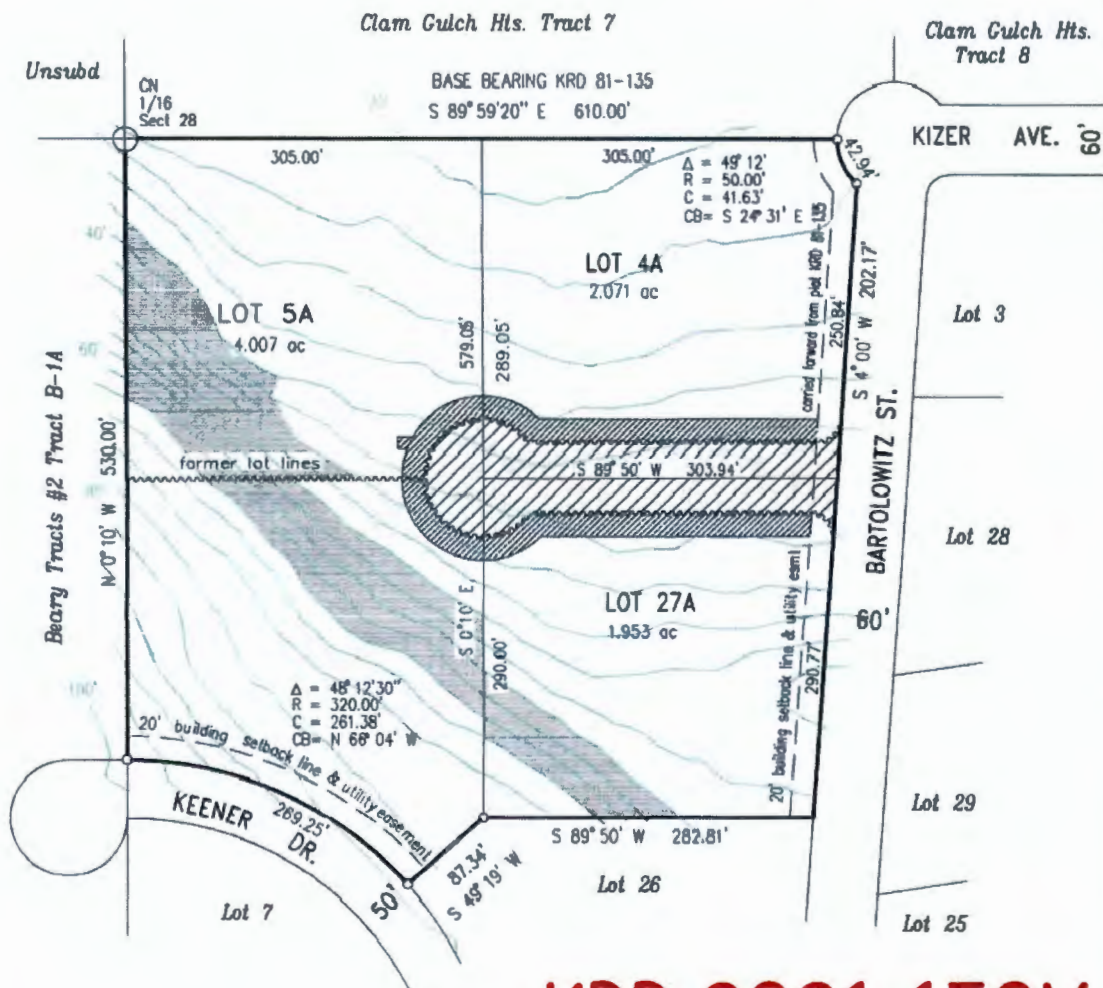
3 August, 2021

- indicates Fauerbach Court ROW being vacated.

- indicates utility & anchor easement being vacated.

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. Building setback is also a utility easement as granted by plat KRD 85-135.
2. No permanent structures shall be constructed or placed within a utility easement that would interfere with the ability of a utility to use the easement.
3. Contour interval 4'. Shaded areas are grades over 25%. there are no wet areas on the property.



KPB 2021-150V

AGENDA ITEM E. NEW BUSINESS

**ITEM 3 - FAUERBACH COURT RIGHT OF WAY VACATION AND
ASSOCIATED UTILITY EASEMENTS AND ANCHOR EASEMENT**

KPB File No.	2021-150V
Planning Commission Meeting:	December 13, 2021
Applicant / Owner:	James E. Glendening of Kenai, Alaska and Daniel John Sims of Columbia Falls, Montana
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Russell Avenue, Keener Drive, and Bartolowitz Street / Clam Gulch
Legal Description:	Lots 4, 5, 6 and 27, Clam Gulch Heights Glendening 1979 Subdivision Plat No 81-135

STAFF REPORT

Specific Request / Purpose as stated in the petition: Lots are being combined with an associated replat, eliminating the need for this ROW.

Notification: Public notice appeared in the December 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the December 9, 2021 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

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Central Emergency Services

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Legal Access (existing and proposed): Fauerbach Court a 60 foot wide and 350 feet in length right of way that ends in a cul-de-sac. Fauerbach Court is unconstructed and not maintained by KPB Roads Department. It is located off of Bartolowitz Street, a 60 foot wide right of way that is only partially constructed and not maintained by the borough.

A replat has been submitted that will reconfigure four lots into three. Proposed Lot 4A and 27A will have access via Bartolowitz Street. Lots 5 and 6 will be combined into proposed Lot 5A and will have access from Keener Drive. Keener Drive is a 50 foot wide borough maintained right of way. Both Keener Drive and Bartolowitz Street are located off Russell Avenue, a 60 foot wide borough maintained right of way located near mile 117 of the Sterling Highway.

No new dedications are proposed.

The block is irregular in design. The block does close but the block length exceeds code requirements. Sterling Highway, Russell Avenue, Bartolowitz Street, Kizer Avenue, Glendening Street, and Sesame Avenue define the block. As the right of way proposed for vacation is a cul-de-sac, it does not improve block lengths or help provide a closed block. The vacation will not affect the block requirements.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	

Site Investigation: The right of way and lots adjoining this right of way are not affected by low wet areas. The right of way is free of any steep slopes. There are steep slopes that will divide the newly proposed Lot 5A and access to the northern portion may be more difficult without the right of way. Vacating the right of way may reduce the ability or design options for Lot 5A to be further subdivided.

River Center Review	<p>A. Floodplain Reviewer: Carver, Nancy 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: Russell, Pam Comments: No Comments</p>
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Staff Analysis: The subdivision is located in the Clam Gulch area and is not within an advisory planning commission boundary. It is located near mile 117 of the Sterling Highway.

The subject parcels and right of way were originally subdivided by Clam Gulch Heights, Plat KN 72-61. That plat created aliquot description lots. Clam Gulch Heights Glendening 1979 Subdivision, Plat KN 81-135, further subdivided the parcels and dedicated Shady Court. Resolution SN 2005-07 renamed Shady Court to Fauerbach Court.

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A 20 foot building setback was put in place adjoining Fauerbach Court. The parent plat granted the full setback as a utility easement. A 10 foot by 30 foot anchor easement was also granted within Lot 5 along the cul-de-sac, which extends beyond the granted easement by 10 feet. The proposal includes vacating the associated utility easement and the anchor easement. A 20 foot utility easement will be granted along the new lot line boundaries abutting Bartolowitz Street. Review has been sent to the utility companies for comment and staff recommends that requested easements be worked out with the utility companies and be granted.

20.65.050 – Action on vacation application

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1. The right-of-way or public easement to be vacated is being used;
Staff comments: The right of way is currently not constructed and does not appear to be used.
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The road is relatively flat and contains no wet lands. Alternative access is provided by previously dedicated right of ways.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: Additional right of ways are in place, as well as utility easements, to provide adequate access and utilities to all surrounding parcels.
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 right of way does not provide access to any water body or area with public interest.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: The proposed vacation will not limit opportunities for interconnectivity with adjacent parcels and adequate right of ways and utility easements have been dedicated.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Other public access does not appear to be needed as the cul-de-sac provides access to private property.
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: Utility easements will be provided that exceed requirements but follows the parent plat dedications. Any requested easements from utility providers shall be worked out with the land owners before final plat approval.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: The right of way provided access to four lots. The reconfiguration proposed will allow all lots to have adequate access.

If approved, the plat Clam Gulch Heights 2021 Addition will finalize the proposed right of way vacations. The Planning Commission is scheduled to review the plat on December 13, 2021. If the vacation is approved, the consent by the Kenai Peninsula Borough Assembly is required. The Assembly must hear the vacation within thirty days of the Planning Commission decision. The Assembly should hear the vacation at their January 4, 2022 meeting.

KPB department / agency review:

Planner	
Code Compliance	Reviewer: Ogren, Eric

	Comments: No comments
Addressing	<p>Reviewer: Haws, Derek</p> <p>Affected Addresses:</p> <p>55450 FAUERBACH CT</p> <p>17635 BARTOLOWITZ ST</p> <p>17610 KEENER DR</p> <p>17615 BARTOLOWITZ ST</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:</p> <p>FAUERBACH CT</p> <p>BARTOLOWITZ ST</p> <p>KEENER DR</p> <p>KIZER AVE</p> <p>Existing Street Name Corrections Needed:</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:</p> <p>55450 FAUERBACH CT will be deleted.</p> <p>17635 BARTOLOWITZ ST will remain with lot 4A.</p> <p>17610 KEENER DR will remain with lot 5A.</p> <p>17615 BARTOLOWITZ ST will remain with lot 27A.</p>
Assessing	<p>Reviewer: Wilcox, Adeena</p> <p>Comments: No comment</p>

Utility provider review:

HEA	No comments.
ENSTAR	No comments or objections.
ACS	No objections
GCI	Approved as shown.

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(F) 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. 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*
 - *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*
 - *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.*

END OF STAFF REPORT

A map of the Colorado Plateau region, showing the Colorado River, the Gulf of California, and the states of Arizona and California. A black rectangle indicates the study area in the Colorado Desert region.

DEC 26, 1980

81-135
SEARCHED - INDEXED 10-2
Kramer
10-2 - 81
3:48 P
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[illegible]

- - Brass cap measured sat by 258-E
- - 1974 brass cap men. by 208-E found
- - brass cap by Cloud Hoffman, found
- - 1978 brass cap by G.L.G., found
- - 1/2" x 2" pored sat.

SHAW

5E1-18 NH



NEW ST. CLAY GULCH, AR. 00103

72-61 NY