

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - UTILITY EASEMENT ALTERATION
BARABARA HEIGHTS SUBDIVISION (KN 79-6) LOT 6 BLOCK 14

KPB File No.	2021-156V
Planning Commission Meeting:	January 10, 2021
Applicant / Owner:	Christina and Russell Griffith of Kenai, Alaska
Surveyor:	Jason Young, Mark Aimonetti / Edge Survey & Design, LLC
General Location:	Marrs Lane, Seldovia Village

STAFF REPORT

Specific Request / Purpose as stated in the petition: The petitioner would like to vacate the utility easements as depicted on the preliminary plat to allow for more useable space for the landowner of the parcel. Easements being vacated are along steep terrain and will not be needed for utilities. Easements granted per parent plat in a general manner covering all interior lot lines. The easements are not practical on these parcels.

Notification: Notice of vacation mailings were sent by regular mail to 22 owners of property within 600 feet. Notice of the proposed vacation was emailed to eight agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

Staff Analysis: Barabara Heights Subdivision (Plat SL 79-6) is located within the Seldovia Village and not within the City of Seldovia. Barabara Heights Subdivision was completed in 1979 and subdivided over 1,000 acres of Seldovia Native Association lands.

Barabara Heights Subdivision granted utility easements with the following plat note. "Easements for public utilities are herein provided 15 feet on each side of every lot line, for a total width of 30 feet along common interior lot lines, excepting along dedicated streets where easement width shall be 20 feet, adjacent to the street right-of-way."

The proposed utility easement alteration is for Lot 6 Block 14 of Barabara Heights Subdivision. This is a triangle shaped lot. The proposal will be to remove the 15 foot utility easement along the side lot lines only. The 20 foot utility easement will remain in place adjoining Marrs Lane.

The lot is within Block 14. Nine lots are within Block 14 and it is defined by Marrs Lane, Mine Loop Road. Per KPB records all original utility easements within that block are still in existence. 15 foot utility easements will remain in place on adjoining lots 5 and 7.

A prior existing use permit for a material site affects Lot 4 Block 14, located south of the proposed utility easement vacations.

A preliminary plat has been submitted, Barabara Heights Subdivision Griffith Addition KPB File 2021-156. The plat will subdivide the existing lot and will finalize the utility easement alteration. The preliminary plat is scheduled for the January 10, 2022 Plat Committee meeting.

Utility provider review:

HEA	No objections
ENSTAR	No objections
ACS	No objections
GCI	Approved as shown

Findings:

1. The utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
3. No surrounding properties will be denied utilities.
4. The Road Service Area had no comment.
5. Barabara Heights Subdivision, Plat SL 79-6, granted 15 foot utility easements along each interior lot line.
6. Barabara Heights Subdivision, Plat SL 79-6, granted 20 foot utility easements along all dedicated right of ways.
7. The 20 foot wide utility easement adjoining the dedicated right of way will remain.
8. The 15 foot utility easements within Lot 5 and Lot 7, and adjoining the side lot lines will remain.
9. Portions of the utility easements are affected by slopes over 20 percent grade.

RECOMMENDATION:

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends **APPROVAL** of the utility easement alteration as petitioned, subject to:

1. Grant utility easements requested by utility providers.
2. Finalizing the approval of the easement alteration by either;
 - a. The recording of a subdivision plat within 12 months or,
 - b. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
 - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
 - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
 - iii. The Planning Department is responsible for filing the Planning Commission resolution.

20.65.070 Alteration of platted utility easements

- E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement 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. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.**
- F. An appeal of the planning commission decision under this section 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*
 - *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.*

END OF STAFF REPORT