


Kenai Peninsula Borough

Planning Department

MEMORANDUM

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

FROM: Robert Ruffner, Planning Director 

DATE: May 10, 2022

RE: Right-of-way Vacation: Vacating a portion of Paper Birch Lane & associated utility easements; KPB File 2022-023VR1.

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 9, 2022 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation of by majority vote based on the means of evaluating public necessity established by KPB 20.65 (8-Yes, 2- No, 1-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.

May 9, 2022 Agenda Item E3 Packet Materials
May 9, 2022 Agenda Item E3 Desk Packet Materials

Hindman, Julie

From: Planning Dept,
Sent: Friday, May 6, 2022 12:58 PM
To: Hindman, Julie
Subject: FW: <EXTERNAL-SENDER>KBP file# 2020-023VR1

From: mk*****im k <mkinttrim@outlook.com>
Sent: Friday, May 6, 2022 12:43 PM
To: Planning Dept, <planning@kpb.us>
Subject: <EXTERNAL-SENDER>KBP file# 2020-023VR1

CAUTION:This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello, I am Mark Kemberling a resident of lot 4A in Tulchina Pointe, 40790 Authentic RD. When I bought both of my lots in 2007 I KNEW where my property lines where! My builder verified this by survey. I really don't see an excuse for this at all. Most survey stakes that I have seen have writing on them referring to their purpose. The builder said in a previous hearing that he "thought" they were property lines. I find this hard to believe. Between the builder and the homeowner someone knew this in my opinion.

I agree with the Assembly's decision that this is a case of trespass and that only the footprint should be allowed.

Rewarding a mistake with property is not solving a problem and creates precedence! I believe that if you do reward littleknife with this property, that Developer Cr. be extended threw their property (lot to meet up with Paper Birch. All utilities are already on Developer. The land lost from lot 8 & 9 would be made up by the land gained.

As far as the vacate on lot 15, this has nothing to do with the original problem and should not be allowed. The assembly also questioned the reasoning of this. This should remain Borough property and would make great public access to Paper Birch.

My wife and I will be watching the meeting through Zoom.

Thank You,
Mark & Jacqie Kemberling

Sent from [Mail](#) for Windows

Quinton, Madeleine

From: jan morrison <janmorrison35@yahoo.com>
Sent: Friday, May 6, 2022 9:30 AM
To: Planning Dept,
Subject: <EXTERNAL-SENDER>Paper Birch Easement Vacation

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Sent from my iPhone

Begin forwarded message:

From:
Date: May 6, 2022 at 9:12:02 AM AKDT
To:
Subject: Paper Birch Easement Vacation

I am writing in opposition of the proposal to vacate a portion of the Paper Birch Lane easement. There are other solutions available that don't require the Borough giving away free and/or placing additional development costs and difficulties on other land owners in the area. Even if only a part of the Paper Birch easement is vacated, it still pushes the road onto a side hill which will be more costly and difficult to develop. Also, just vacating the easement as currently proposed, sets a bad precedent from the Borough and does nothing to deter builders from doing this in the future. Another thing that makes no sense in this proposal is the vacation of the Paper Birch easement behind lot 15. This lot has nothing to do with correcting the house encroachment on lot 9. Granting a vacation of the easement behind lot 15 would only increase cost and difficulty to developing Paper Birch Lane.

Another option that is mentioned by the petitioners is connecting Authentic Road and Paper Birch Lane through lot 2 owned by Charles Johnson. At the last meeting about vacating the Paper Birch easement, Mr. Johnson said he would not approve a road going through his lot. So, being that Mr. Johnson has already said he will not approve a road going through his lot, this option should not even be considered.

Looking at the maps and plats of the subdivision and taking into consideration that the Borough is under no obligation to vacate part of the Paper Birch easement for the convenience of 1 land owner, there is a better option available. That option is to connect Paper Birch to Developer Circle through lot 8, which is also owned by the builder/ homeowner of lot 9. This option would be a win for all parties involved. It would still provide access from Paper Birch to Authentic. It would not place any additional costs or difficulties on other land owners to develop this connecting road. It would set a standard that the Borough will hold builders accountable for not following basic rules to make sure builders are building on their own property. The Borough would not just be giving away land to correct a builder's mistake. The owner of the house in the Paper Birch easement also owns lot 8. By connecting Paper Birch to

Developer, the Borough would basically “trade” the vacated portion of the Paper Birch easement for an easement connecting Paper Birch to Developer.

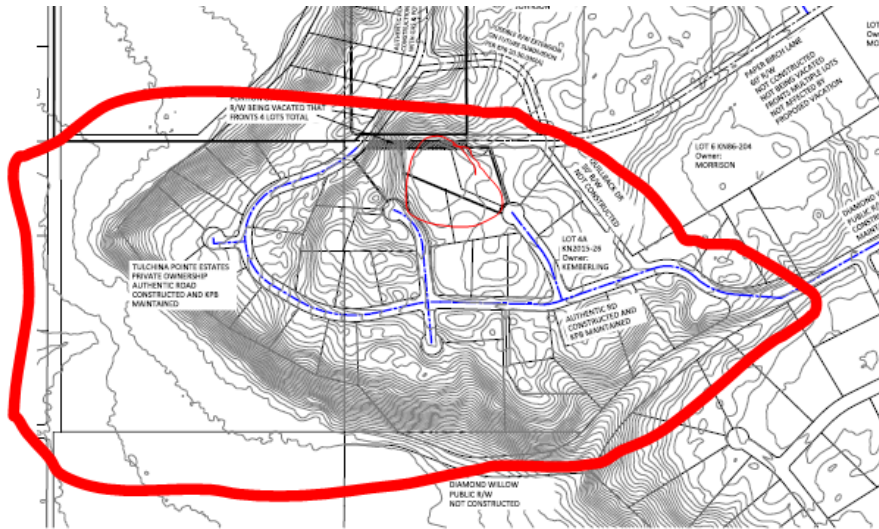
As currently proposed, I do not support the proposal to vacate part of the Paper Birch easement. It does nothing but place additional cost and burden on other land owners in the area, while at the same time rewarding the builder/ home owner on lot 9 for making a huge mistake.

Russ and Jan Morrison

To whom it may concern:

I am writing in opposition of the vacation of a portion of Paper Birch Lane proposal. Although this proposal is an improvement to the original proposal, the petitioners are not taking into account the Assembly's guidance on the direction they would favor. The petitioners trespassed on Borough property, staking claim to an ideal, flat, view-location. And now, just as in their first proposal, they want the Borough to give them and their neighbor Borough owned land when there are other solutions available. As Assembly member Eckland said, "this one is egregious". Mayor Charlie Pierce called for "relief for the Borough".

The house is perched on one of the flattest location in the entire 84 acre subdivision (see figure 1).



E3-23

Figure 1. Tulchina Pointe Estates in red bold. Location of house in red fine point.

Who else made plans to take advantage of that flat spot? How about the developers who planned for a road to go there! With a house taking up half of the road easement, plus the request for additional setback, any potential road is pushed over to the side of the hill (figure 2).

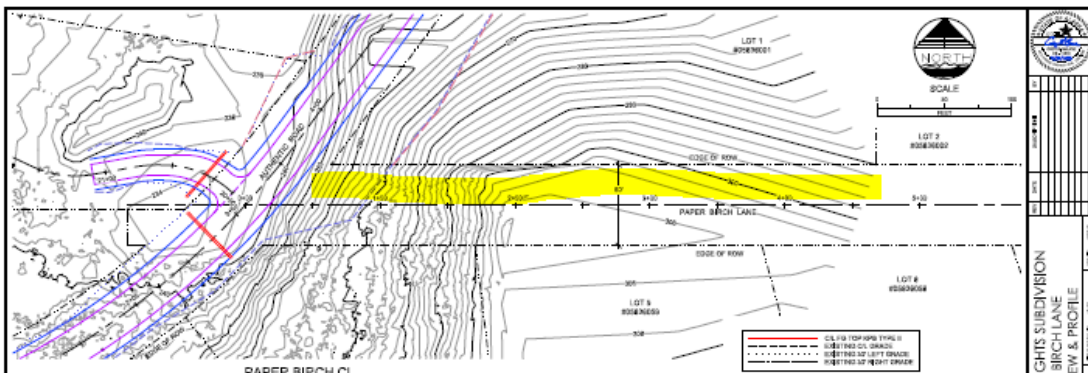


Figure 2. The highlighted segment would be the remaining easement if this partial vacation is approved. There is much more side hill and difficulties on this side of the easement.

Building a road/driveway on a slope, particularly right before the hill descends adds much cost and complexity to construction. This can be resolved in two ways: a foot print vacation, as Assembly President Johnson suggested, or moving the road easement to connect to Developer Circle on the petitioner's lot 8, which we will call the Developer Connection, see figure 3.



Figure 3. Developer Connection; a possible alternative. The angle of interesting Paper Birch is less than the already approved intersection of Quillback and Paper Birch.

In both proposals to vacate this easement, the petitioners are taking no responsibility for placing this house on property that did not belong to them. "This is troubling," said assembly member Bjorkman. Assembly member Cox said there are "consequences for not going through the right procedures." Vacating an easement and giving the petitioner an abundant amount of Borough land IS NOT A CONSEQUENCE. It is a REWARD! Relocating the easement onto their double lot to Developer Circle would show effort at remedying their mistake. This is such an obvious solution that, 1.) allows the petitioners to be a part of the remedy for the problem they created, 2.) addresses the difficulty of building a road alongside their house and 3.) no one is getting free land for making a huge "mistake".

DEVELOPER CONNECTIN OPTION

The Developer Connection would involve turning Paper Birch Lane at the east corner of lot 8 and connecting to Developer Circle in a property exchange. It would show accountability, set a good standard for the Borough by seeking alternative remedies that provide relief for the Borough, and reduce the length and difficult terrain

to connect the roads. The Developer Connection would not add any additional road development cost, unlike the current proposal. The distance from Paper Birch Lane to Developer Circle along Lot 8 is only 266' (figure 4), which is half the length of continuing to Authentic Dr (figure 5), and would cut off difficult terrain (figure 6). It is relatively flat and without difficult side hills or slopes.



Figure 4. Developer Connection; a possible alternative. Only 266' long.

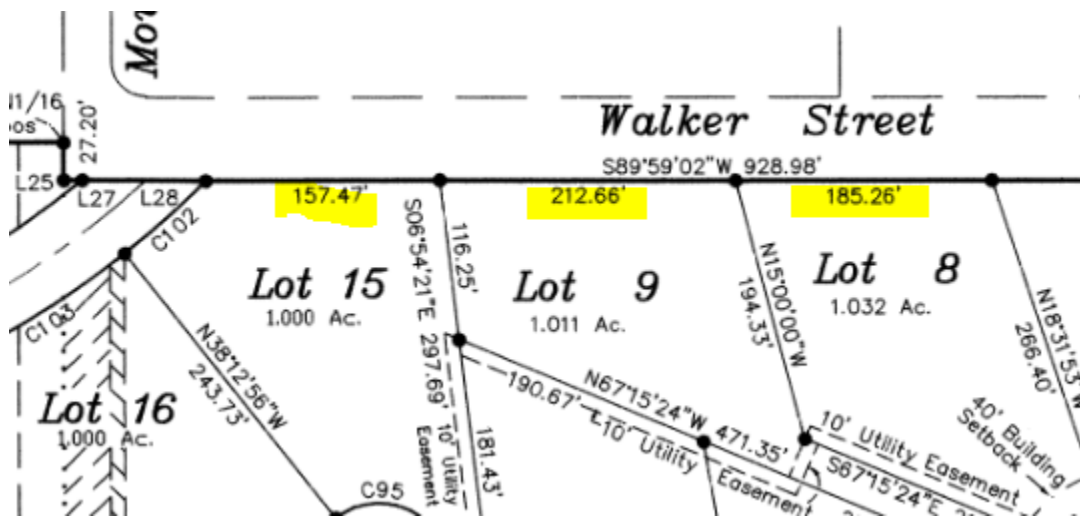


Figure 5. Paper Birch (formerly Walker St), the distant from lot 8, 9 and 15 to Authentic Dr. 555.39' Enlarged from Tulchina Pointe Estates plat.

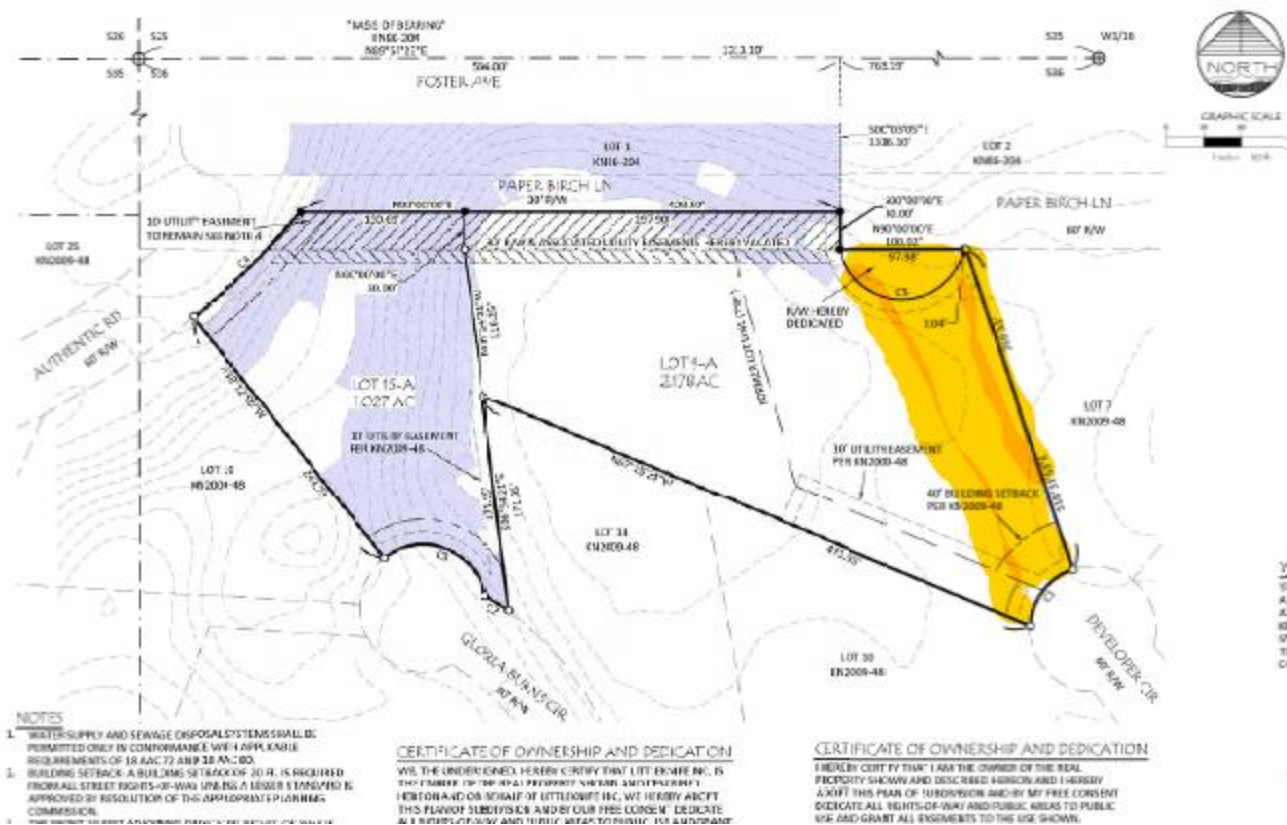


Figure 6. The yellow highlighted portion would be the Developer Connection. It has few terrain difficulties compared to remaining road easement if this vacation is approved.

The Developer Connection also “improve(s) the block” which was a concern of the KPB Road Department.

Why does the borough need to GIVE AWAY a third of an acre, which causes a reduction in access when they could EXCHANGE .36 (266’x60’) while creating better and cheaper access and not set a bad precedent for building in easements?

FOOTPRINT VACATION OPTION

Assembly President Johnson suggested the petitioners consider a footprint vacation. This proposal is far from a footprint vacation. The petitioners are still seeking an outcome that most favors them! Not their neighbors or anyone desiring access. This vacation still AWARDS a third of an acre to them, whereas a footprint vacation would award the minimal amount of square footage needed to satisfy the encroachment. **The planning commission is under no obligation to give away more land than would satisfy the encroachment.** Just because they are asking for all of the easement (30’ x 428’), doesn’t mean the Borough has to give it away. Especially where there are other, better alternatives! Assembly member Elam said the petitioners (in their last proposal) were requesting a “full back yard”. This proposal is no different. “It’s a take,” he commented.

LOT 15 EASEMENT VACATION

Another aspect in this proposal that should cause the entire case to be thrown out is the request that lot owner 15 also be awarded Borough property (see figure 4 for lot locations). This property is not relevant to the encroachment. Vacating the easement on lot 15 does nothing to help fix the house encroachment. If anything, it further limits the location of a road/driveway, which also increase the road construction cost. Adding the easement vacation of lot 15 into the proposal suggests that that this is nothing more than an egregious land grab.

The owner of lot 15 resides on Lot 16. Lot 15 is a side yard. This lot, which has not been altered since purchased a few years ago, is hilly. The owner, purchased the lot knowing the terrain (and road easement) would restrict development. The owner of the lots described the hill as Mount Alyeska; so steep that four-wheelers would topple over backward on their riders. Please see figures 7 and 8 to see the nature of the hill and terrain in question. Does it appear that a “tram is needed to get to the top”? Please judge with your own eyes from the pictures provided by the petitioners and weigh if exaggerations have been made.

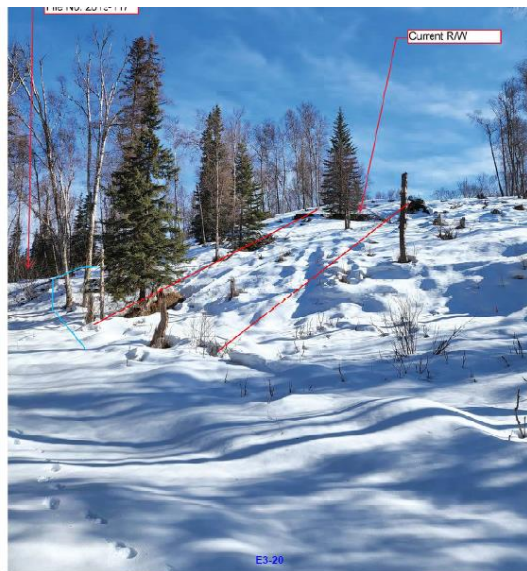


Figure 7 and 8. Photos of the terrain.

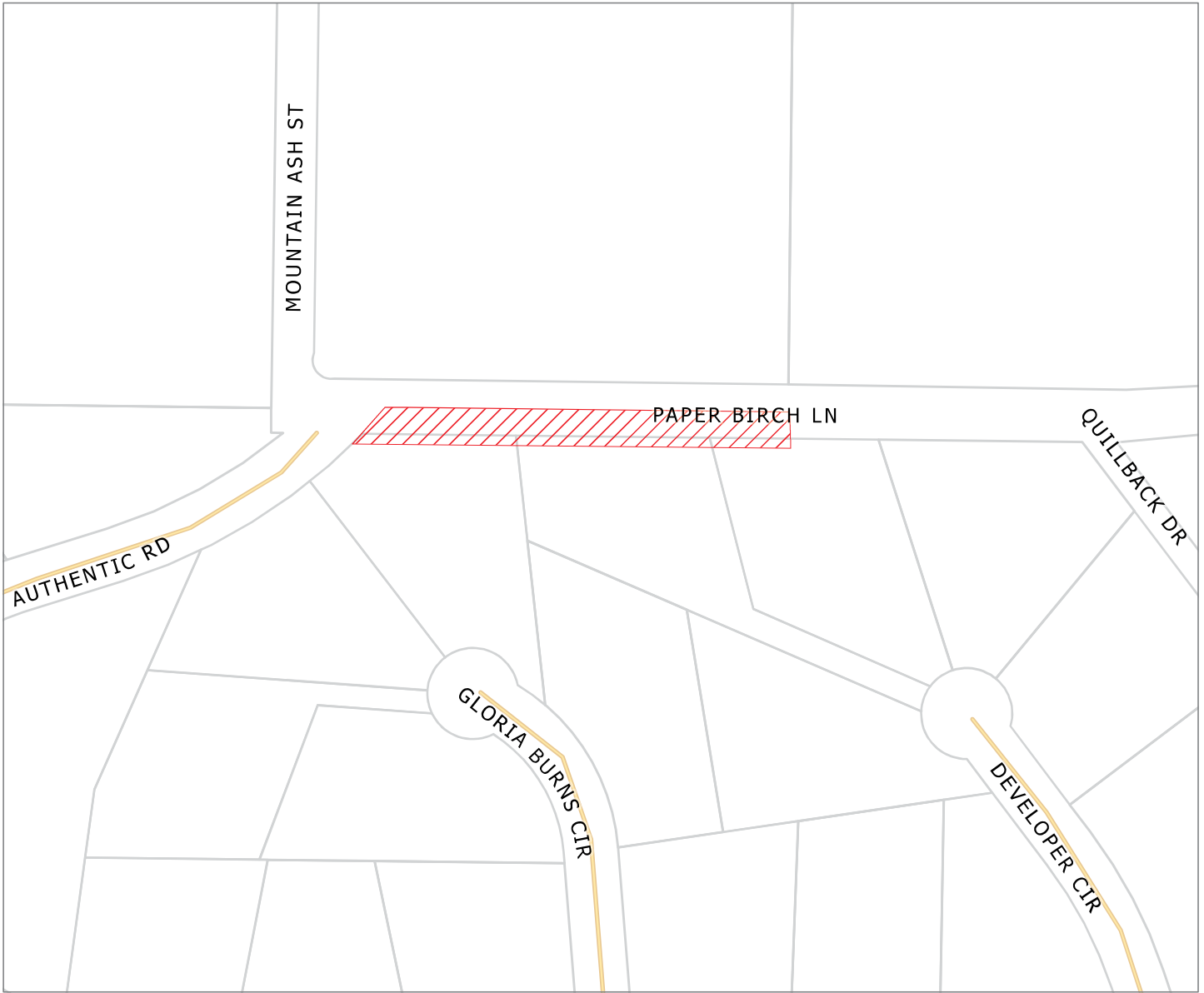
“I appreciate the Assembly standing up and showing support that the Planning Commission can say no,” said Assembly member Eckland. We encourage the Planning Commission to recognize that there are better options available than what is offered in this proposal; both for the Borough and neighbors desiring access. Please take the Assembly’s UNANIMOUS veto as a signal to ask the petitioners to provide a proposal that provides an acceptable replacement access instead of just vacating the existing access. Assembly President Johnson said the Assembly’s action of vetoing the original proposal was sending “a good direction for the Planning Commission.” Assembly member Hibbert encouraged Planning Commission members to “stand strong.” Please send this proposal back to the petitioners.

Sincerely,

Kevin and Heidi Morrison



Vicinity Map

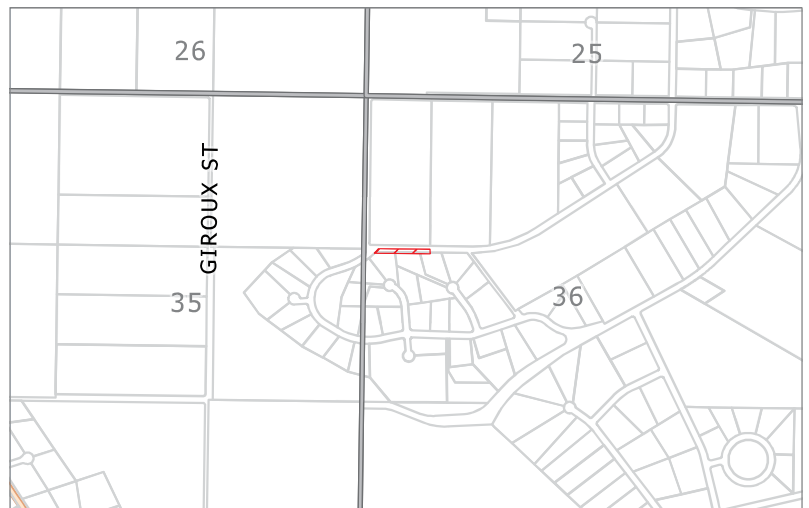
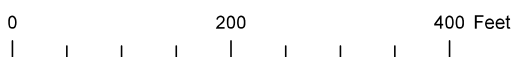


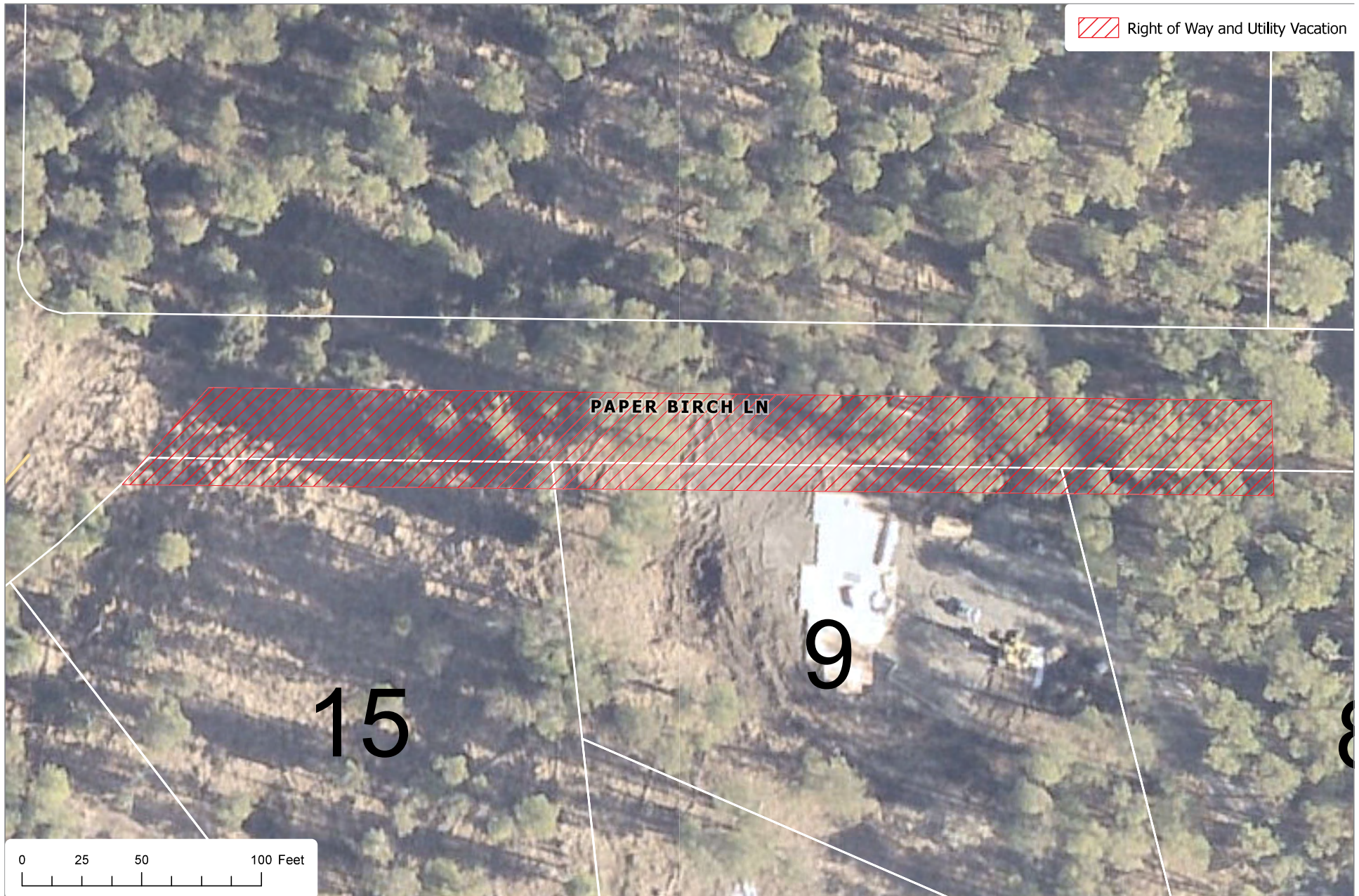
KPB File # 2022-023VR1

S36-T05N-R10W

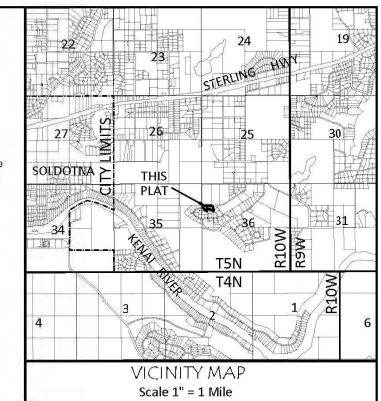
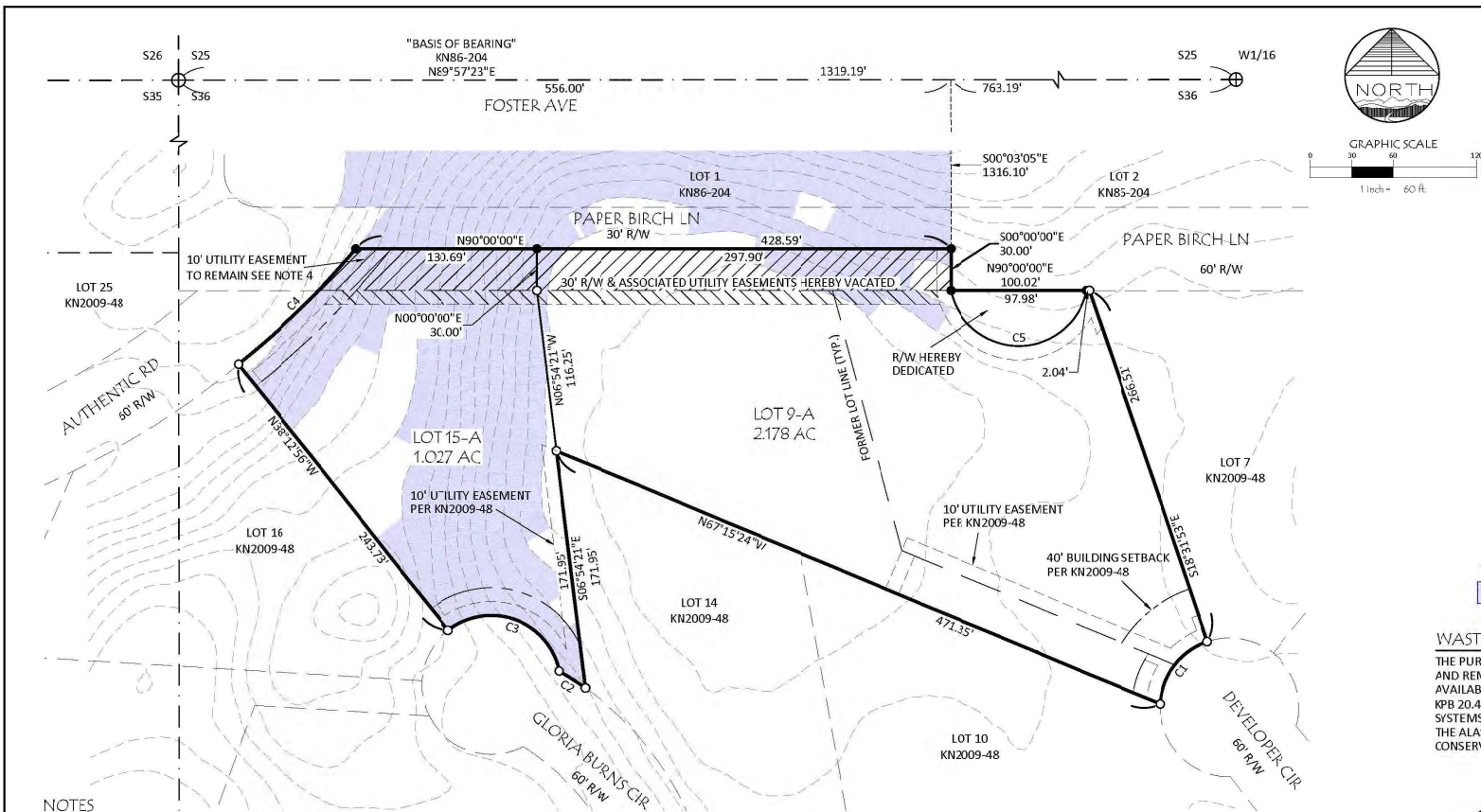
Sterling

4/13/2022





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.



- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 5/8" REBAR UNLESS NOTED
 - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S
 - SLE SECTION LINE EASEMENT
 - CONTOUR INTERVAL = 4'
 - SLOPES GREATER THAN 20%

WASTEWATER DISPOSAL

THE PURPOSE OF THIS PLATTING ACTION IS TO VACATE R/W AND REMOVE A LOT LINE, WHICH WILL PROVIDE GREATER AVAILABLE WASTEWATER DISPOSAL AREA AS DESCRIBED BY KPB 20.40.020(A)(2). WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

- NOTES**
- WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
 - 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.
 - THE FRONT 10 FEET ADJOINING DEDICATED RIGHTS-OF-WAY IS ALSO A UTILITY EASEMENT PER KN86-204.
 - 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.
 - THE RIGHT-OF-WAY VACATION OF A PORTION OF PAPER BIRCH LANE AND ASSOCIATED UTILITY EASEMENTS WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2022.
 - THIS PARCEL MAY BE AFFECTED BY THE FOLLOWING:
 - COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED AUGUST 23, 2006 IN DOCUMENT No. 2006-009157-0 KRD. THE BOROUGH WILL NOT ENFORCE PRIVATE COVENANTS, EASEMENTS OR DEED RESTRICTIONS PER KPB 20.60.170(B).

CERTIFICATE OF OWNERSHIP AND DEDICATION

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT LITTLEKNIFE INC., IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BEHALF OF LITTLEKNIFE INC., 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.

LITTLEKNIFE INC., STEVE BOWEN - OWNER LOT 8 & 9 KN2009-48
36496 HALEY'S WAY, SOLDOTNA, AK 99669

LITTLEKNIFE INC., HALEY BOWEN - OWNER LOT 8 & 9 KN2009-48
36496 HALEY'S WAY, SOLDOTNA, AK 99669

NOTARY'S ACKNOWLEDGEMENT

FOR: STEVE AND HALEY BOWEN
ACKNOWLEDGED BEFORE ME THIS

____ DAY OF _____, 20__

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC FOR THE
STATE OF _____

CERTIFICATE OF OWNERSHIP AND DEDICATION

I 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.

GALE L SMITH, OWNER LOT 15 KN2009-48
34701 GLORIA BURNS CIRCLE, SOLDOTNA, AK 99669

NOTARY'S ACKNOWLEDGEMENT

FOR: GALE L SMITH
ACKNOWLEDGED BEFORE ME THIS

____ DAY OF _____, 20__

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC FOR THE
STATE OF _____

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____, 2022.

AUTHORIZED OFFICIAL _____ DATE _____

CURVE TABLE						
CURVE #	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	68°33'14"	50.00'	59.82'	34.08'	S 37° 03' 57" W	56.32'
C2	5°33'18"	230.00'	22.30'	11.16'	V 56° 44' 05" W	22.29'
C3	116°40'11"	50.00'	101.81'	81.07'	V 69° 52' 51" W	85.11'
C4	10°45'42"	630.00'	118.33'	59.34'	N 45° 18' 13" E	118.16'
C5	156°55'34"	50.00'	136.94'	244.95'	N 90° 00' 00" E	97.98'

KPB 2022-023VR1



Plat #

Rec Dist _____

Date _____ 20__

Time _____ M

TULCHINA POINTE ESTATES 2022 REPLAT

A RESUBDIVISION OF LOTS 8, 9 & 15 TULCHINA POINTE ESTATES SUBDIVISION PHASE 2 AMENDED (KN2009-48) w/ RIGHT-OF-WAY VACATION INCLUDING ASSOCIATED UTILITY EASEMENTS FOR A PORTION OF PAPER BIRCH LANE

LITTLEKNIFE INC., OWNER LOT 8 & 9 KN2009-48
36496 HALEY'S WAY, SOLDOTNA, AK 99669

GALE L SMITH, OWNER LOT 15 KN2009-48
34701 GLORIA BURNS CIRCLE, SOLDOTNA, AK 99669

3.272 AC. M/L - SITUATED IN THE NW1/4 OF SECTION 36, TOWNSHIP 5 NORTH, RANGE 10 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH AND THE KENAI RECORDING DISTRICT, ALASKA.

ENGINEERING - TESTING
SURVEYING - MAPPING
P.O. BOX 485
SOLDOTNA, AK 99669
VOICE: (907) 283-4218
FAX: (907) 283-3285
WWW.MCLANECG.COM

KPB FILE NO. 2022-xxx

PROJECT NO. 222039

SCALE 1" = 100'

DATE: FEB. 2022

BOOK NO.: xxx

DRAWN BY: JAH

AGENDA ITEM E. NEW BUSINESS

**ITEM 3 - RIGHT-OF-WAY VACATION
VACATE A PORTION OF PAPER BIRCH LANE AND ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2022-023VR1
Planning Commission Meeting:	May 9, 2022
Applicant / Owner:	LittleKnife Inc and Gale Smith of Soldotna
Surveyor:	James Hall / McLane Consulting Group
General Location:	Sterling area, Paper Birch Lane, Mountain Ash Street
Legal Description:	Lots 8, 9, and 15 of Tulchina Pointe Estates Phase 2, Plat KN 2009-48.

STAFF REPORT

Specific Request / Purpose as stated in the petition: Right-of-way vacation for southern 30' R/W of Paper Birch Lane from Authentic Road to the easterly property line of Lot 1 (KN 86-204).

Current right-of-way width is 60 feet over very difficult terrain with steep slopes. The remaining 30 foot R/W maintains public access to authentic road.

Proposed vacation is approximately .304 acres divided amongst 3 parcels per KPB Code 20.65.060.

All surrounding parcels remain with legal access.

Authentic Road is being extended through Lot 1 (KN 86-204). Preliminary approval by the Kenai Peninsula Borough on 11/12/2019 with vacation approval of Mountain Ash Street and Section Line Easements on 10/28/2019 under KPB File No. 2019-117.

Lot 2 (KN 86-204) remains with legal access from Paper Birch Lane, Foster Avenue, Authentic Road extension w/east extension and Quillback Drive.

Alternate route is 2.075 acres that is being constructed in summer 2022 with power and gas utilities being installed. This provided access points for future development.

Notification: Public notice appeared in the April 28, 2022 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the May 5, 2022 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 Soldotna

Post Office of Soldotna

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

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

Sixteen 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
Central Emergency Services
Alaska Communication Systems (ACS)

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

Legal Access (existing and proposed): Paper Birch Lane is a 60 foot wide right-of-way located in the Sterling Area. Paper Birch Lane is approximately 3,100 feet long with several intersections that break the road into segments. The petition is to vacate approximately 428 feet of the southern 30 feet of the western portion of Paper Birch Lane and the remainder of the right-of-way will remain. The road is located off Forest Lane, a state maintained right-of-way that runs south of the Sterling Highway near mile 90.

To access the portion being discussed there are multiple routes dedicated but not all are fully constructed. Foster Avenue, Moran Street, Authentic Road, and Quillback Drive intersect Paper Birch Lane. Foster Avenue and Moran Street are constructed and maintained by the Kenai Peninsula Borough. Authentic Road is constructed and connects to Diamond Willow Lane. Both are constructed and maintained by the Borough. Diamond Willow Lane connects back to Foster Avenue near the Forest Lane intersection. Quillback Drive is only a half width right-of-way that is not constructed.

Portions of Paper Birch Lane appear to be cleared and used for access. The Kenai Peninsula Borough does not maintain any portions of Paper Birch Lane. The areas cleared are northeast of the Quillback Drive intersection and are accessed via Moran Street and Foster Avenue.

Preliminary plat Forest Hills Lookout Bolder Heights Addition, KPB File 2019-117, is located to the north of the proposed vacation. That plat and the associated vacations have been approved. The plat, once recorded, will vacate a portion of Mountain Ash Street, a portion of Foster Avenue, and will provide a new right-of-way that continues Authentic Road to the north and provides a connection to Foster Avenue. A new right-of-way will be dedicated that provides access to the large acreage tract to the east. The owners are working to vacate some section line easements and the Planning Commission granted four year approvals to allow the vacations and plat to be recorded together.

A partial bulb is proposed to be dedicated to provide an adequate turn around area for Paper Birch Lane. The northern 30 foot width of Paper Birch Lane will remain and may be used for public access but does not meet the requirements for a borough right-of-way.

The 15 acre lot to the north will have access to Paper Birch Lane and to Foster Avenue to the north. Once the plat to the west is finalized, the parcel will also have access from the new dedications. If the 15 acre parcel to the north is ever subdivided, it will have multiple access routes to provide access and possible connections to internal rights-of-way.

Lot 15 has access from Authentic Road and Gloria Burns Circle. Lots 8 and 9 have constructed access on Developer Circle.

Paper Birch Lane, Quillback Drive, and Authentic Road provide a closed block. The length around Authentic Road is not compliant. Multiple rights-of-way are off Authentic Road but they are cul-de-sacs and do not improve the block. The reason for the placement for the new rights-of-way in the proposed subdivision to the north is due to terrain. The sketch provided shows the steep terrain within the Paper Birch Lane Dedication.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: RSA does not object to this vacation.
SOA DOT comments	Comments not received when the staff report was prepared.

Site Investigation: The dedicated right-of-way contains steep slopes through the majority of the portion petitioned for vacation. There does not appear to be any lot wet areas within the dedication.

Quillback Drive, Paper Birch Lane and its intersections with Foster Avenue and Moran Street appear to be free from low wet areas. Steep slopes do not appear to be present within the rights-of-way. The slopes within Quillback Drive are approximately 9 percent.

KPB 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>
Alaska Fish and Game	No objections

Staff Analysis: This is a revised vacation design. On March 21, 2022, the Planning Commission approved a full 60 foot wide vacation for the same section of right-of-way. The vacation was forwarded to the Kenai Peninsula Borough Assembly and on April 5, 2022, the Assembly vetoed the Planning Commission decision. Based on the discussion and concerns brought forward by the Assembly the owners have provided another design. This is considered a new petition with a new and separate hearing from the previous petition.

Forest Hills Lookout Subdivision, Plat KN 86-204, dedicated the right-of-way being discussed. It was named Walker Street when dedicated. Resolution SN 2015-09 changed the street name. The parent subdivision created larger acreage lots. Many have been subdivided through the years and provide the current configuration of the area. The Tulchina Pointe Estates Preliminary Design was approved on April 10, 2006. Phase 1 was recorded in May of 2006. Phase 2 was reviewed again by the Plat Committee as there were changes from the original design. It was heard and approved on July 17, 2006. During the public hearing, the surveyor stated the terrain was a deciding factor in some of the road and lot design. The future plans included a vacation of Paper Birch Lane (Walker Street) and to provide a continuation of Authentic Road to connect to Foster Avenue. The owner at the time finalized Phase 2 but did not continue with any other development.

The lot to the northwest has received preliminary approval to vacate multiple rights-of-way and easements to allow for dedications that work with the terrain in the area. This included a continuation of Authentic Road to connect to Foster Avenue. The ability for Paper Birch Lane to provide a better connection to another right-of-way may be obtained in the future if Lot 2, located to the northeast, is ever subdivided.

The owner of Lots 8 and 9 is LittleKnife Inc. The owner is a construction company that recently built a home on the lots for a client. It was determined that the house was constructed partially within the right-of-way. The as-built shows the house at a slight angle and around a 35 foot length of the house is within the right-of-way. The widest width of the encroachment appears to be approximately 9.6 feet. The well is also 13.7 feet into the right-of-way.

A bulb is proposed for a turnaround area. The 50 foot radius bulb will be dedicated from Lot 8 and will provide an adequate turnaround area that should not require additional dedications in the future.

The 30 foot wide portion of Paper Birch Lane proposed to remain will not provide a compliant right-of-way width. If the vacation is approved as shown, an exception to KPB 20.30.120 – Streets-width requirements will be required. Staff notes that the remaining portion of Paper Birch Lane will not comply with KPB 20.30.090 – Streets-Maximum grades allowed. Due to the terrain and the reduced width Paper Birch Lane will not be able to be a borough maintained right-of-way according to KPB Code requirements. The right-of-way will be able to be used by the public for all allowable uses.

The petition is proposing to vacate the associated utility easements along the portion of Paper Birch Lane to be vacated. New 10 foot utility easements will be placed along the newly dedicated bulb and along the southern boundary of the remaining 30 foot wide right-of-way. 10 foot utility easements will also be required to remain adjacent to Authentic Road and along the eastern property line adjacent to Paper Birch Land. A twenty foot setback will also be put into place along the southern boundary of the remaining 30 foot wide right-of-way.

Per KPB Code 20.90.100, Definitions, a well casing is allowable within the 20 foot setback as it does not impact the sight distance along the right-of-way. The well will not be within the new utility easement. A plat note will be requested to address the existing well.

At the time the staff report was prepared no written comments have been received from the public regarding the revised proposal.

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: This portion of Paper Birch Lane is not constructed. During the previous review, public noted that it was used for walking, horse riding, and all-terrain vehicles.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The intersection with Authentic Road will be difficult due to the terrain. New rights-of-way are proposed to the north that used terrain to help determine locations. The along this portion to be vacated all have access from other rights-of-way.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: No lots will be denied access to utility easements.
 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: Does not provide access to public lands or waters.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: The proposal of a remaining 30 foot wide right-of-way will not comply with KPB Code right-of-way width requirements. A road may be constructed but not to borough standards or receive borough maintenance.
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: The steep terrain may make pedestrian use difficult but could still be feasible. A 30 foot width remaining will provide possible pedestrian use.
 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: Requests by utility providers will be reviewed and the surveyor/owner must work with utility providers to ensure all needed easements are provided. The proposed plat will grant easements along dedicated rights-of-way.

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

Staff comments: There is a structure within the right-of-way.

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 May 17, 2022 meeting.

If approved, Tulchina Pointe Estates 2022 Replat will finalize the proposed right-of-way vacation. The Plat Committee is scheduled to review the preliminary plat on May 23, 2022.

KPB department / agency review:

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.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: 41258 AUTHENTIC RD 34426 DEVELOPER CIR Existing Street Names are Correct: No List of Correct Street Names: DEVELOPER CIR GLORIA BURNS CIR PAPER BIRCH LN AUTHENTIC RD FOSTER AVE Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: 41258 AUTHENTIC RD will remain with lot 1. 34426 DEVELOPER CIR will remain with lot 9A.
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(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. 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*
 - *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.*

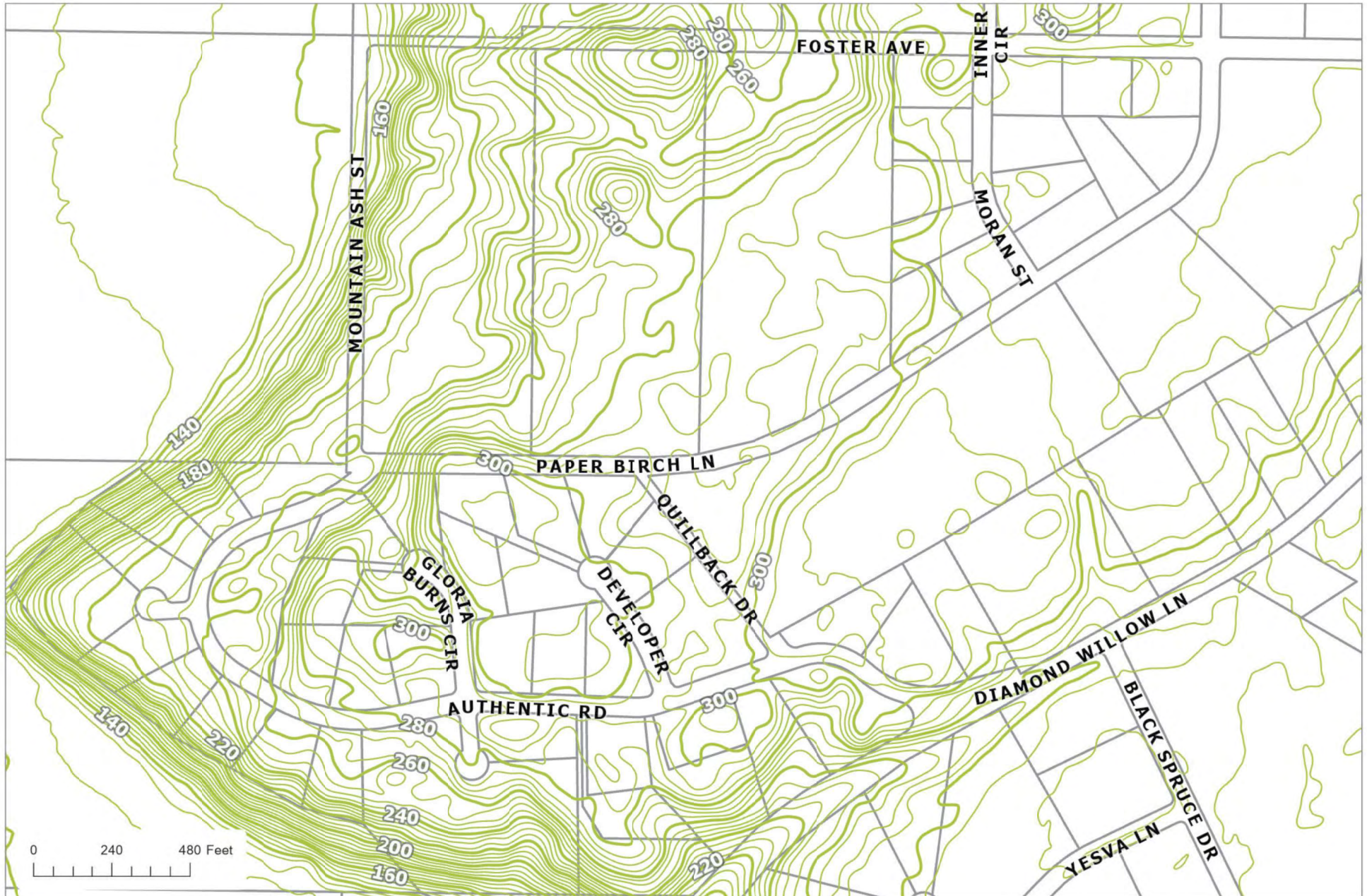
Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *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



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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60' R/W WALKER STREET

S 89°59'02" W 212.66

S 89°59'02" W 185.26

10' UTILITY EASEMENT

20' BUILDING SETBACK

110' WELL RADIUS

LOT 7

N 18°31'53" W 266.40

LOT 8

N 15°00'00" W 194.33

LOT 9

BUILDING

116.25

S 06°54'21" E



Swan Surveying

Michael Swan R.L.S.

P.O. Box 987 • Soldotna, AK 99669 • 907-252-5816

IN 22-005 FB DATE 02-18-22 SCALE 1"=50' DRWN MAS CHK

I hereby certify that I have performed a Mortgage Inspection of the following described property
LOT 8 TULCHINA POINTE ESTATES
SUBDIVISION PHASE 2 AMENDED

Located in the Kenai Recording District, Kenai, AK, and that the improvements situated thereon are within the property lines and do not overlap or encroach on the property lying adjacent thereto, that no improvements on property lying adjacent thereto encroach on the premises in question and that there are no roadways, transmission lines or other visible easements on said property except as indicated hereon.

Dated at 22 Alaska This 18th day of FEBRUARY 2022

AS-BUILT



02-18-22

40' BUILDING SETBACK
10' UTILITY EASEMENT

L=29.89
R=50.00
L=30.51

60' R/W DEVELOPER CIRCLE

LOT 10

NOTES

THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.

ALL BOUNDARY DATA SHOWN IS OF RECORD INFORMATION UNLESS OTHERWISE NOTED.

THIS MORTGAGE LOCATION SURVEY IS A REPRESENTATION OF THE CONDITIONS THAT WERE FOUND AT THE TIME OF THE LOCATION SURVEY WAS PERFORMED. THIS DOCUMENT DOES NOT CONSTITUTE A BOUNDARY SURVEY AND IS SUBJECT TO ANY INACCURACIES THAT A SUBSEQUENT BOUNDARY SURVEY MAY DISCLOSE. INFORMATION CONTAINED ON THE DRAWING SHALL NOT BE USED TO ESTABLISH ANY FENCE, STRUCTURE, OR OTHER IMPROVEMENTS.

THIS MORTGAGE LOCATION SURVEY WAS PREPARED IN ACCORDANCE WITH THE ASPLS MORTGAGE LOCATION SURVEY STANDARDS.

SEE ANY LOCAL ZONING AUTHORITIES OR COVENANTS THAT MAY APPLY TO THIS PARCEL FOR BUILDING SETBACKS.

SPECIAL NOTE

This document may not be recorded or copies sold without the written permission of the Surveyor. This Survey is to be used only for the purpose intended and is valid for 120 days from the date of original survey after which it must be re-surveyed.



Hideaway Estates Subdivision

Giroux Street

Anthony
Avenue

CERTIFICATE of OWNERSHIP
and DEDICATION

I 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.

Patrick S. O'Neill
Patrick S. O'Neill, Managing Member & Agent
Pristine Properties, LLC
P. O. Box 4281
Soldotna, Alaska 99669

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 10th DAY OF August
2006 FOR Patrick S. O'Neill

Sarah Hanson
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 3/1/09



Paula Wilson

- [illegible]



AMENDED PLAINING

This and previous Civil War 5000-10000 will be continuing around 40 & 45
over 200 21 & 22 within their respective forces. The 1st Division
has been moved and will continue to be moved around.

I certify that I have checked the corrections noted above and all other changes have been made.

C. J. B. C. *2 April 69*

CERTIFICATE OF SURVEYOR

I hereby certify that I am properly registered and qualified to perform this surveying in the State of Alaska, that past performance is worthy credit for this to make any other statement, the statements about former activity must be obtained, and no statements and other details are correct in the current statement of Alaska or other records to the State of Alaska.



PLAT APPROVAL

THE PLAN WAS APPROVED BY THE KINK PENINSULA BATHROOM PLANNING COMMISSION AT THE MEETING OF JUNE 17, 2014.

JOURNAL OF POST KEYNESIAN ECONOMICS


 ROBERT C. SCHUCHMAN
 Attorney for Plaintiff

KPB FILE No. 2006-149 Amended Pet.

**Tulchina Pointe
Estates - Phase 2**

[illegible]

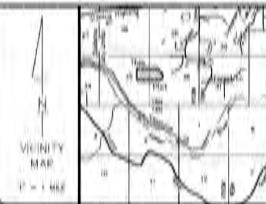
Located within the 110th S.W. Rural Municipality District 110th Precinct
Borough, Alaska
Containing 22,300 acres

Integrity Surveys

8108 Kaval Spin Hwy	Kaval, Alaska 99611-8008
SUMMIT	PLANNERS

Job No.	16018	Job Date	01 August 2008
Client	APR - 1000 3000	Scale	1" = 100'
Field No.	3000-1	Location	Indio Pointe

Year	Model	Price	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	297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INTEGRITY SURVEYS

Tulchina Pointe Estates – Phase 2

AFFIDAVIT

The above referenced subdivision plat, as filed in the office of the District Recorder, Kenai Recording District, under Plat File No. 2006-63, has been amended by:

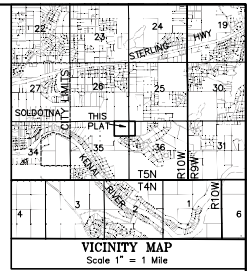
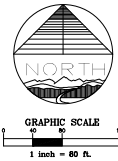
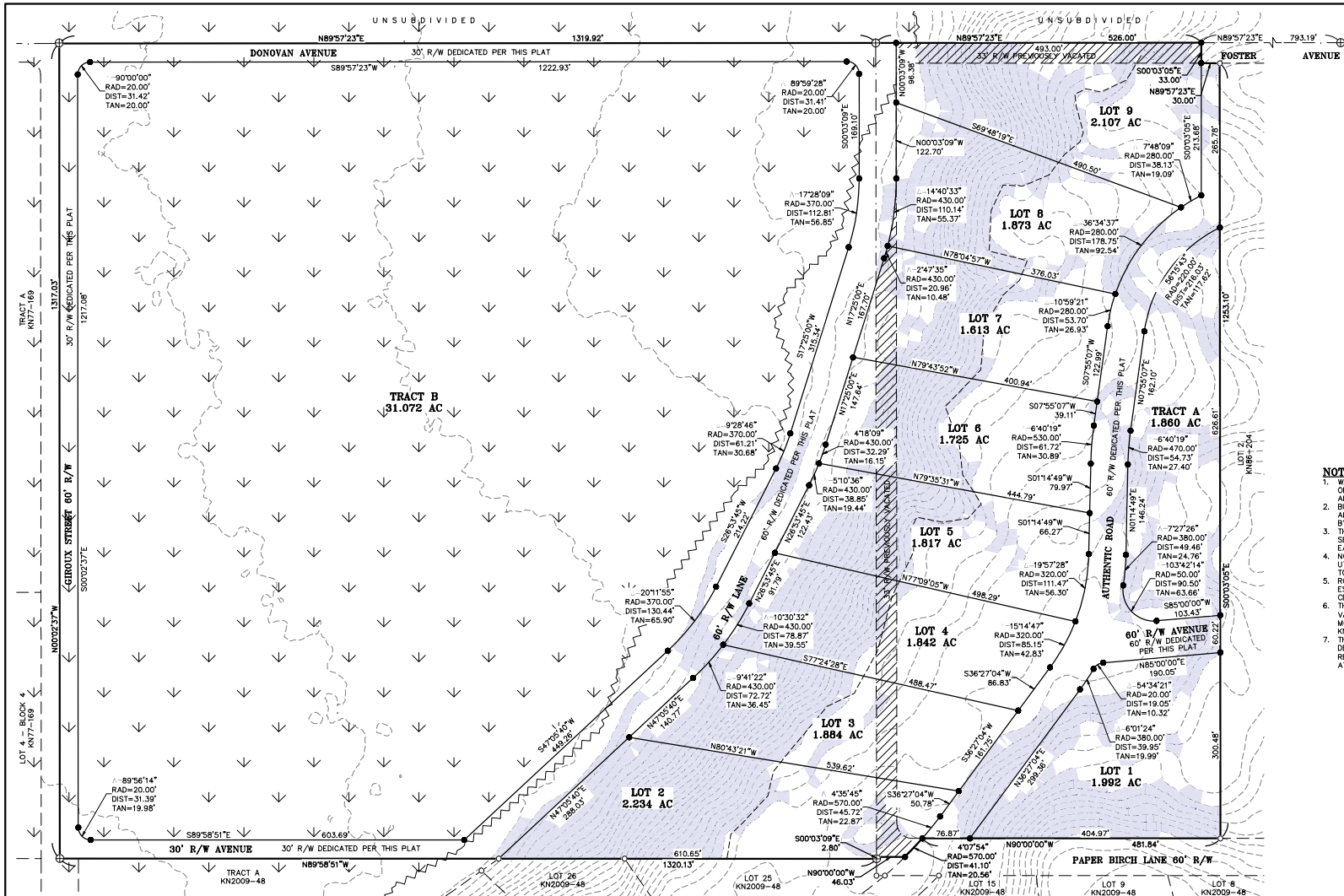
Correcting the correcting curves 64 & 66 and lines 21 & 22 within their respective tables. The old information has been lined out and corrective tables provided.

The above revision constitutes the sole change to the plat, aside from its notation thereon.

The above revision does not alter lot areas and does not affect or influence any change of ownership, drainage features, rights-of-way or any other item which would adversely affect this or adjacent properties. We, therefore, are submitting this plat for refile as corrected

Date: 19 August, 2009





- LEGEND**
- ⊕ FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 1/2" REBAR UNLESS NOTED
 - SET 5/8"x30" REBAR w/ 1" STAINLESS STEEL CAP 85032-S
 - ⚡ POWER POLE
 - OVERHEAD ELECTRIC
 - AREA SUBJECT TO INUNDATION
 - CONTOUR INTERVAL = 4'
 - 33' ROAD R/W PREVIOUSLY VACATED
 - SLOPES GREATER THAN 20%

- NOTES**
- WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
 - BUILDING SET BACK - A BUILDING SET BACK OF 20 FT. IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
 - THE FRONT 10 FEET OF THE 20 FOOT BUILDING SETBACK AND THE ENTIRE SETBACK WITHIN 5 FEET OF THE SIDE LOT LINES IS ALSO 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.
 - 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.
 - THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF THE 33' ROAD R/W FOSTER AVENUE, 33' ROAD R/W MOUNTAIN ASH STREET AND PORTION OF PAPER BIRCH LANE CREATED BY KN86-204 AT THE MEETING OF ????
 - THE KENAI PENINSULA BOROUGH PLANNING COMMISSION, ALASKA DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF NATURAL RESOURCES APPROVED THE VACATION OF THE 50' SECTION LINE EASEMENT AT ???????????.

WASTEWATER DISPOSAL

SOIL CONDITIONS, WATER TABLE LEVELS, AND SOIL SLOPES IN THIS SUBDIVISION HAVE BEEN FOUND SUITABLE FOR CONVENTIONAL ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS SERVING SINGLE-FAMILY OR DUPLEX RESIDENCES AND MEETING THE REGULATORY REQUIREMENTS OF THE KENAI PENINSULA BOROUGH. ANY OTHER TYPE OF ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEM MUST BE DESIGNED BY A PROFESSIONAL ENGINEER, REGISTERED TO PRACTICE IN ALASKA, AND THE DESIGN MUST BE APPROVED BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

WASTEWATER DISPOSAL

THESE LOTS ARE AT LEAST 200,000 SQUARE FEET OR NOMINAL 5 ACRES IN SIZE AND CONDITIONS MAY NOT BE SUITABLE FOR CONVENTIONAL ONSITE 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

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND I HEREBY APPROVE OF THE SECTION LINE EASEMENT VACATION AS SHOWN HEREON.

CODY R. McLANE
PO BOX 468
SOLDOTNA, AK 99669

NOTARY'S ACKNOWLEDGEMENT

FOR: CODY R. McLANE
ACKNOWLEDGED BEFORE ME THIS

DAY OF 2019

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 _____, 2019.

AUTHORIZED OFFICIAL

Plat #	
Rec. Dist.	_____
Date	_____
Time	_____



FOREST HILLS LOOKOUT BOLDER HEIGHTS ADDITION

(A RESUBDIVISION OF LOT 1 AMENDED FOREST HILLS LOOKOUT SUBDIVISION KN86-204 AND UNSUBDIVIDED NE1/4 OF NE1/4 OF SECTION 35, T5N, R10W, S4M, AK)

CODY R. McLANE
PO BOX 468
SOLDOTNA, AK 99669

56.364 AC. M/L SITUATED IN THE NE1/4 SECTION 35 & W1/4 NW1/4 SECTION 35, TOWNSHIP 5 NORTH, RANGE 10 WEST, SEWARD MERIDIAN, ALASKA AND THE KENAI PENINSULA BOROUGH, IN THE KENAI RECORDING DISTRICT.

KPB FILE NO. 2019-KKK

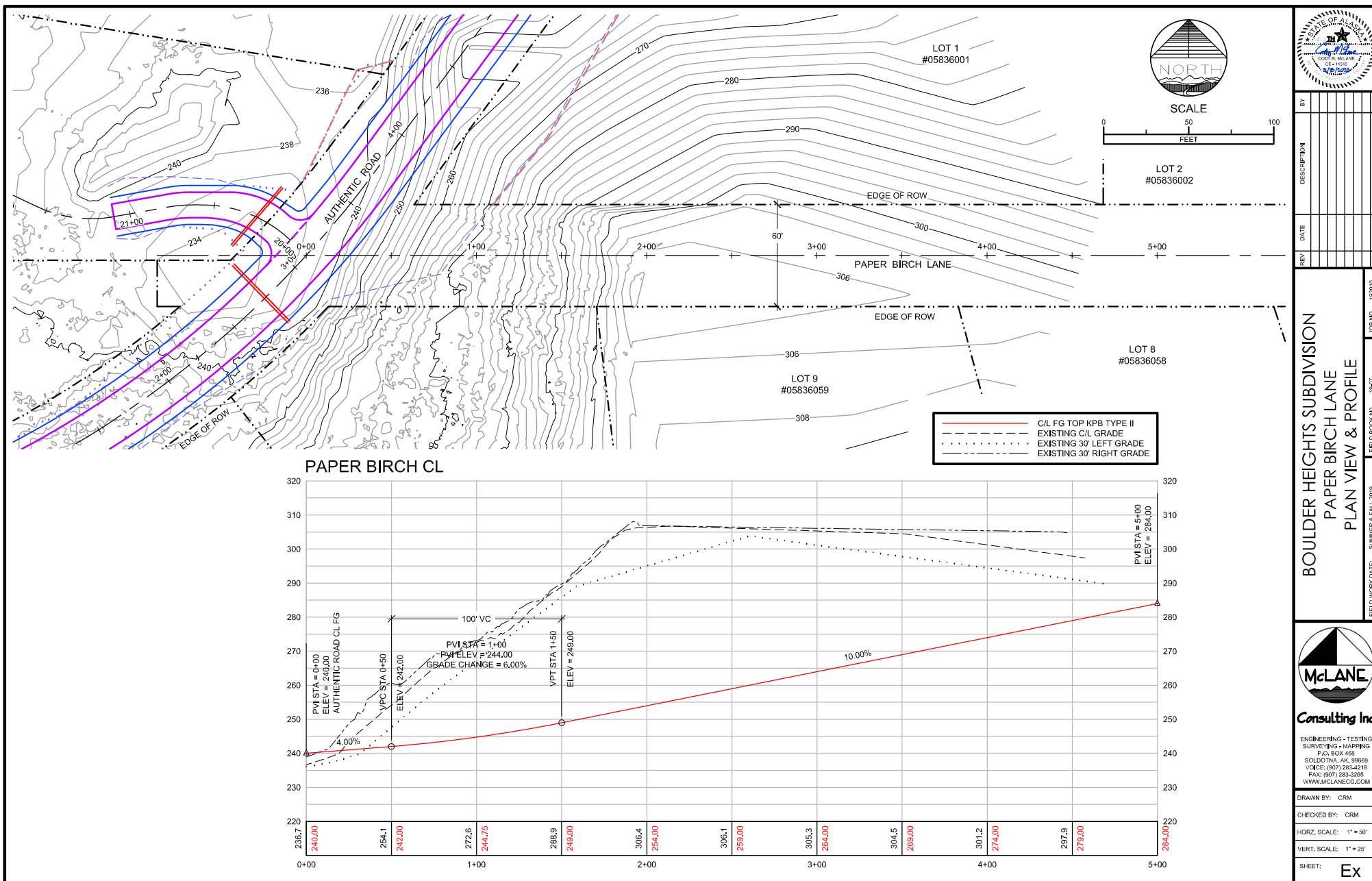
PROJECT NO. 19201D

DATE: SEP. 2019

BOOK NO.: 19-KKK

DRAWN BY: JAH

CODY R. McLANE C.E. 11510 AK DATE



Approved R/W
around steep
terrain being
dedicated per KPB
File No. 2019-117

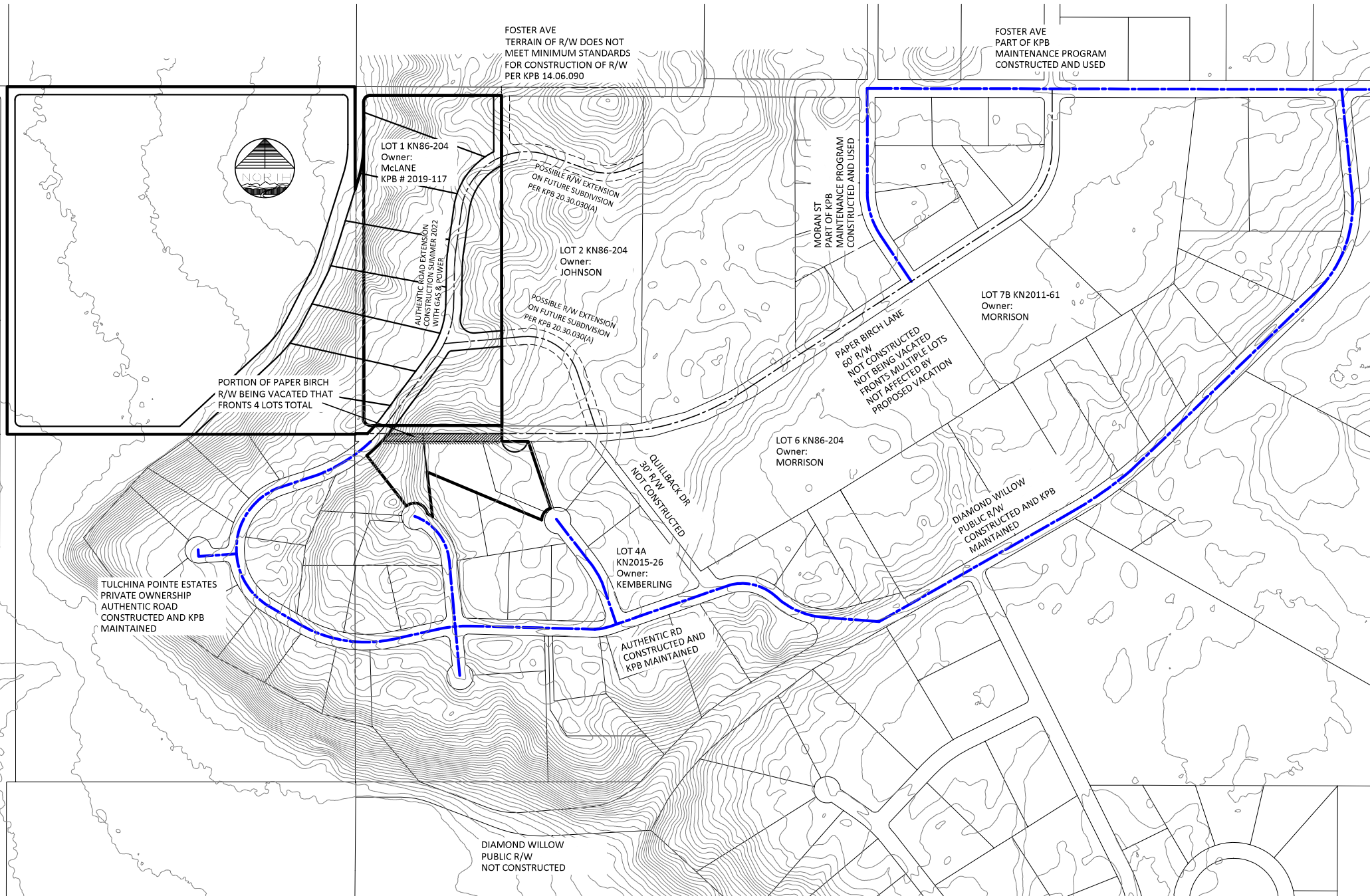
Current R/W





Approved R/W
around steep
terrain being
dedicated per KPB
File No. 2019-117

Current R/W



AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

15. Tulchina Pointe Estates Phase 2 Revised Preliminary
KPB 2006-149; Integrity/Pristine Properties

Staff Report reviewed by Patti Hartley

Plat Committee Meeting: 7/17/06

Location: South of Sterling Hwy in Soldotna
Proposed Use: Residential, Recreational, Commercial, Agricultural
Zoning: Unrestricted
Sewer/Water: On-site
Assessing Use: Residential, Vacant

Supporting Information:

The Plat Committee reviewed and granted conditional approval to the preliminary plat, which subdivided and reconfigured 84 acres into 47 lots, on April 10, 2006. The Committee granted exceptions to KPB 20.20.180 3:1 for Lot 28, KPB 20.20.160 Maximum Block Length, and KPB 20.20.090 Cul-de-sac Length.

Phase 1 was recorded in May of 2006. Four lots were finalized by this phase.

The final plat submitted for Phase 2 review contains substantial design changes to the rights-of-way and lots so the plat has been brought back to the Committee as a revised preliminary.

The revised preliminary creates 46 lots and a tract leaving an unsubdivided remainder of approximately 121 acres. **Staff recommends** the unsubdivided remainder be labeled with area. A soils report will be required, and an engineer will sign the plat. **Staff recommends** the appropriate wastewater disposal note for Tract A be added to the final plat.

Four cul-de-sacs, a 30-foot half dedication, a 10-foot dedication for Diamond Willow Lane, and a portion of Mountain Ash Street are being provided by the subject plat. Names have not been selected for two cul-de-sacs and the half right-of-way off Authentic Road. **Staff recommends** the surveyor work with Planning Staff to select names in compliance with KPB 14.10.

The vacations of the Mountain Ash Street and the section line easement were conditional upon alternate dedications being provided. **Staff recommends** all alternate dedications be provided on Phase 2, including the looped extension to Walker Street/Mountain Ash Street and the extension of Anthony Avenue along the south boundary, curving at the east end to access both lots to the south and encompass the existing travel way.

Staff recommends the intersection with Mountain Ash Street meet Borough design code requirements.

Staff recommends that no phases leave unsubdivided remainders of previously subdivided lots.

The lot east of the 30-foot half dedication contains 15 acres. It is reasonable to expect a matching dedication in the future.

Local Option Zoning review was not available when the staff report was prepared. The submittal states the proposed subdivision is affected by a Rural Residential Local Option Zone adopted on September 7, 2004. Neither KPB Code 21.18 nor the September 7, 2004 meeting summary for the Assembly indicate a local option zone affects the property. **Staff recommends** Plat Note 1 be verified.

Sizes for the flag lots range from 1 acre to 1.7 acres. Further subdivision is not possible unless the lots are served by public water and sewer. Panhandle widths are not noted on the plat. **Staff recommends** the surveyor confirm the panhandles are sufficient for driveway access.

Staff requests the following note be placed on the plat: *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 (KPB 14.06).

A company owns the property. If the ownership shown on the final Certificate to Plat is in a company or corporation, **staff recommends** a corporate resolution be provided to the Planning Department to confirm who is authorized to sign the plat (KPB 20.16.155).

Per Planning Commission Resolution 2000-25, if the Certificate to Plat indicates any beneficial interests affect this property, they will be notified and given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

If the Certificate to Plat shows the property is affected by private covenants, **staff recommends** the recording information of the private covenants and restrictions of record in effect at the time the final plat is approved be noted on the plat (KPB 20.16.140).

The property is not within an advisory planning commission.

No exceptions have been requested.

STAFF RECOMMENDATIONS: Grant approval of the revised preliminary plat subject to any above recommendations, appropriate approved recommendations in the April 10, 2006 staff report, and the following conditions:

REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.12 AS FOLLOWS:

1. Confirm the name and/or address of the owners (KPB 20.12.060).

ADDITIONAL REQUIREMENTS FOR ADMINISTRATIVE APPROVAL OF THE FINAL PLAT IN ACCORDANCE WITH TITLE 20 INCLUDE:

2. Correct the date in Plat Note 2 to April 10, 2006.
3. Survey and monumentation must meet the ordinance requirements (KPB 20.16.160).
4. Conform to conditions of KPB Planning Commission Resolution 78-6.
5. Comply with Chapter 20.16.155 D and 20.14 Wastewater Disposal regulations.
6. Compliance with Ordinance 90-38 (Substitute) - Ownership.
7. Compliance with Ordinance 93-59 - Payment of all taxes due prior to final approval. If final approval and filing of plat is sought between January 1 and the tax due date, the full amount of the estimated taxes will be on deposit with the Finance Department.

NOTE: A NOTICE OF RECONSIDERATION MAY BE TAKEN FROM THE DECISION OF THE PLAT COMMITTEE TO THE PLANNING COMMISSION ACTING AS PLATTING BOARD BY FILING WRITTEN NOTICE THEREOF WITH THE BOROUGH PLANNING DIRECTOR ON A FORM PROVIDED BY THE BOROUGH WITHIN 10 DAYS AFTER NOTIFICATION OF THE DECISION OF THE PLAT COMMITTEE BY PERSONAL SERVICE, SERVICE BY MAIL, OR PUBLICATION 2.40.080 BOROUGH CODE OF ORDINANCES).

THE NOTICE OF RECONSIDERATION SHALL BRIEFLY STATE THE REASON RECONSIDERATION IS REQUESTED AND THE APPLICABLE PROVISIONS OF THE BOROUGH CODE OR OTHER LAW UPON WHICH RECONSIDERATION IS BASED.

END OF STAFF REPORT

Chairman Bryson opened the meeting for public comment.

1. Cliff Baker, Integrity Surveys
Mr. Baker addressed the vacation of Mountain Street and the extension of Anthony Avenue which is

along the south of the 40 acres on the west side. Anthony Avenue comes in from the west and is pretty much wet from where Anthony Avenue currently stops until they get over to the south end of this project and is tied into Diamond Willow. The owner is leaving a large unsubdivided remainder plus he owns the 80 acres that would be south of the extension of Anthony Avenue. Mr. Baker commented that in the future they would like to plan something around the wetlands. He wants to plan something that won't need to be vacated later. Mr. Baker didn't want to push something through just because it had to be extended across a large unsubdivided acreage that could be further developed to be aesthetic.

Mr. Baker brought a proposed intersection layout for Mountain Ash and Walker Street, which would provide dedicated access to the northwest. Walker would be vacated at the top of the knob and Authentic Road would connect to Foster Avenue. He stated what they are trying to do is to follow the terrain. His proposal at this time shows that the dedication will remain for the extension of Walker over to the 40 acres that is to the northwest and is shown as a driveway stub out. Mr. Baker also stated they are proposing to vacate the right of way for Mountain Ash Street going down the hill to the swamp. The easement will be left at this time. He also proposed to vacate the portion of Walker between the intersections at the top of the knob and install a cul-de-sac because the road can't be built over that terrain. A lot of the area can't be built and they are trying to work with the terrain as much as possible.

Chairman Bryson asked if there were questions for Mr. Baker.

Commissioner Heimbuch asked if it was Mr. Baker's long-term plan for Anthony to go down and hit Keystone. Mr. Baker replied no, Anthony already comes off of Keystone on the west. The long-term plan is that they will have to provide a connection there. Diamond Willow comes through Grandview Subdivision and connects to the end of what is being vacated. Mr. Baker has an overall plan that ties into Keystone, which is what Grandiosa is all about.

Seeing and hearing no one else wishing to comment, Chairman Bryson closed the public hearing and opened discussion among the Committee.

MOTION: Commissioner Foster moved, seconded by Commissioner Gross to grant approval of the revised preliminary with the staff recommendations, comments and conditions from this meeting and the April 10th meeting with the exception of the alternate dedication that is to be replaced that the client is working with staff and the Army Corp of Engineers to design appropriate dedications that take into account the terrain and wetlands.

Mr. Baker clarified that Anthony Drive needed to be included in the motion. Mr. Best stated that staff felt this is a good design and use of the property with the terrain involved.

FRIENDLY AMENDMENT: Commissioner Foster added to the motion that they would refer to the topographical lay down and put it in the record regarding Anthony Drive. Commissioner Gross concurred with the amendment.

VOTE: The motion passed by unanimous consent.

BRYSON YES	FOSTER YES	GROSS YES	HEIMBUCH YES	4 YES
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AGENDA ITEM E. SUBDIVISION PLAT PUBLIC HEARINGS

17. South Slope Subdivision Wilbanks Addition #2
KPB File 2006-168; Johnson/Wilbanks

Staff Report reviewed by Patti Hartley

Plat Committee Meeting: 7/17/06

Location: east of Soldotna, off Tischer Avenue
Proposed Use: Residential

7 April 2022

TULCHINA POINTE ESTATES 2022 REPLAT & ASSOCIATED R/W VACATION

LEGAL DESCRIPTION:

RESUBDIVISION OF LOTS 8, 9 & 15 TULCHINA POINTE ESTATES SUBDIVISION PHASE 2 AMENDED (KN2009-48) w/ RIGHT-OF-WAY VACATION INCLUDING ASSOCIATED UTILITY EASEMENTS FOR A PORTION OF PAPER BIRCH LANE LOCATED WITHIN SECTION 36, TOWNSHIP 5 NORTH, RANGE 10 WEST, SEWARD MERIDIAN, ALASKA.

RIGHT-OF-WAY VACATION:

SOUTHERN 30' R/W OF PAPER BIRCH LANE FROM AUTHENTIC ROAD TO THE EASTERLY PROPERTY LINE OF LOT 1 (KN86-204).

CURRENT RIGHT-OF-WAY WIDTH IS 60 FEET OVER VERY DIFFICULT TERRAIN WITH STEEP SLOPES. THE REMAINING 30 FOOT R/W MAINTAINS PUBLIC ACCESS TO AUTHENTIC ROAD.

PROPOSED VACATION IS APPROXIMATELY 0.304 ACRES DIVIDED AMONGST 3 PARCELS PER KPB CODE 20.65.060.

ADJOINING PROPERTIES:

ALL SURROUNDING PARCELS REMAIN WITH LEGAL ACCESS.

ALTERNATE ACCESS RIGHT-OF-WAY:

AUTHENTIC ROAD IS BEING EXTENDED THROUGH LOT 1 (KN86-204). PRELIMINARY APPROVAL BY THE KENAI PENINSULA BOROUGH ON 11/12/2019 WITH VACATION APPROVAL OF MOUNTAIN ASH STREET AND SECTION LINE EASEMENTS ON 10/28/2019 UNDER KPB FILE NO. 2019-117.

LOT 2 (KN86-204) REMAINS WITH LEGAL ACCESS FROM PAPER BIRCH LANE, FOSTER AVENUE, AUTHENTIC ROAD EXTENSION w/ EAST EXTENSION AND QUILLBACK DRIVE.

ALTERNATE ROUTE IS 2.075 ACRES THAT IS BEING CONSTRUCTED IN SUMMER 2022 WITH POWER AND GAS UTILITIES BEING INSTALLED. THIS PROVIDES ACCESS POINTS FOR FUTURE DEVELOPMENT.