

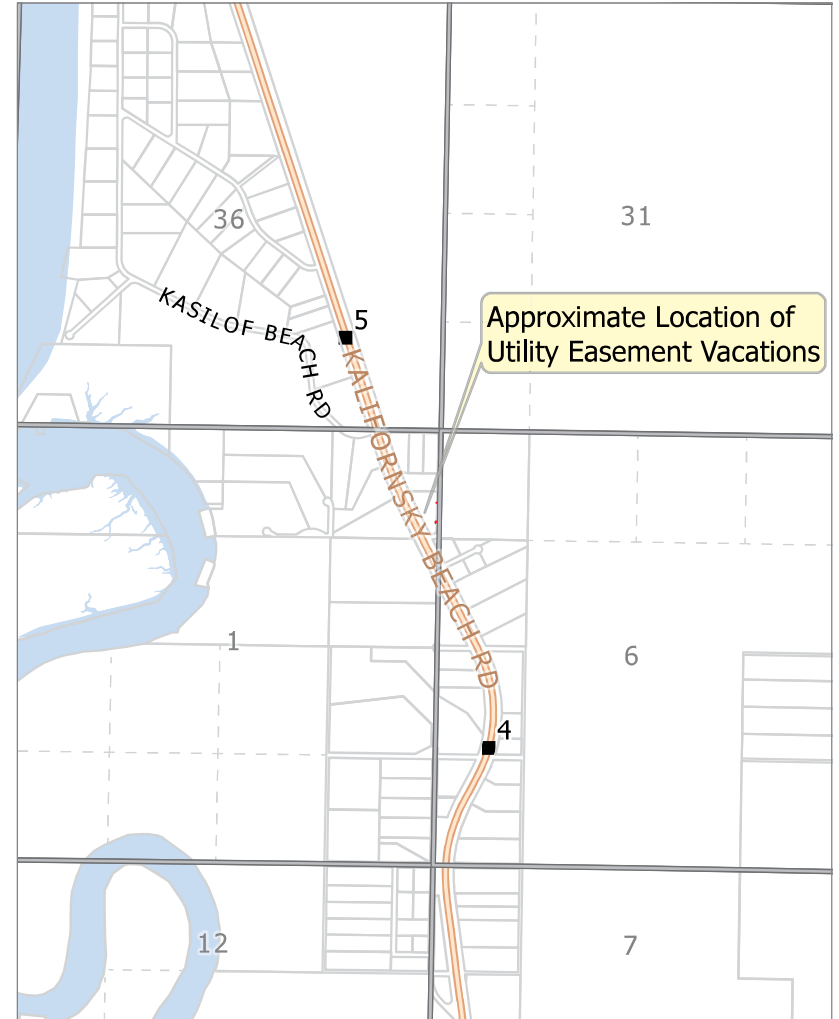
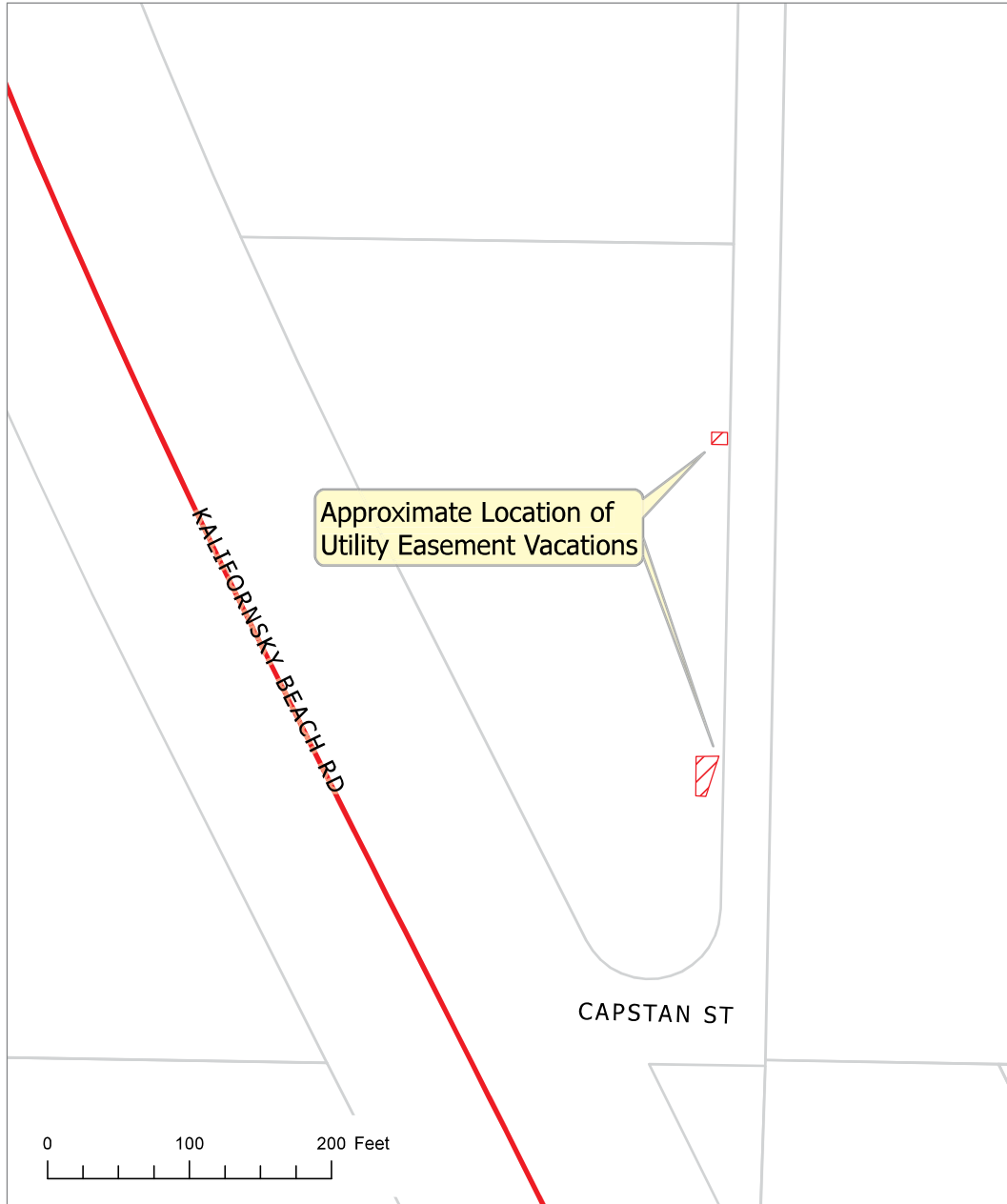
E. NEW BUSINESS

2. Utility Easement Vacation; KPB File 2022-052V

**Vacate portion of the utility easement located in Lot 5 of
Cole's Corner, Plat KN 85-31**

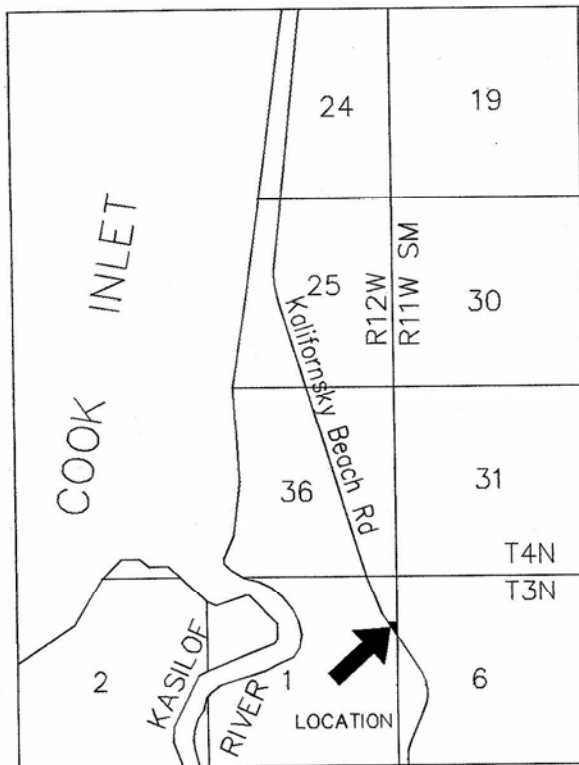
PIN: 133-471-05

**Petitioner/Land Owner: Estate of Josephine S. Knapp
Kasilof Area**



KPB File # 2022-052V
S01 T03N R12W
Kalifornsky





VICINITY 1" = 1 mile MAP

Coles Corner #2 Preliminary Plat

A subdivision of Lot 5 Cole's Corner, KRD 85-31, including a utility vacation.
 Located in the NE1/4 Section 1, T3N R12W, SM, Kasilof, Alaska.
 Kenai Recording District Kenai Peninsula Borough

Prepared for
 Estate of Josephine S Knapp
 P.O. Box 389
 Kasilof, AK 99610

Prepared by
 Johnson Surveying
 P.O. Box 27
 Clam Gulch, Ak 99568

SCALE 1" = 100' AREA = 2.56 acres 23 March, 2022

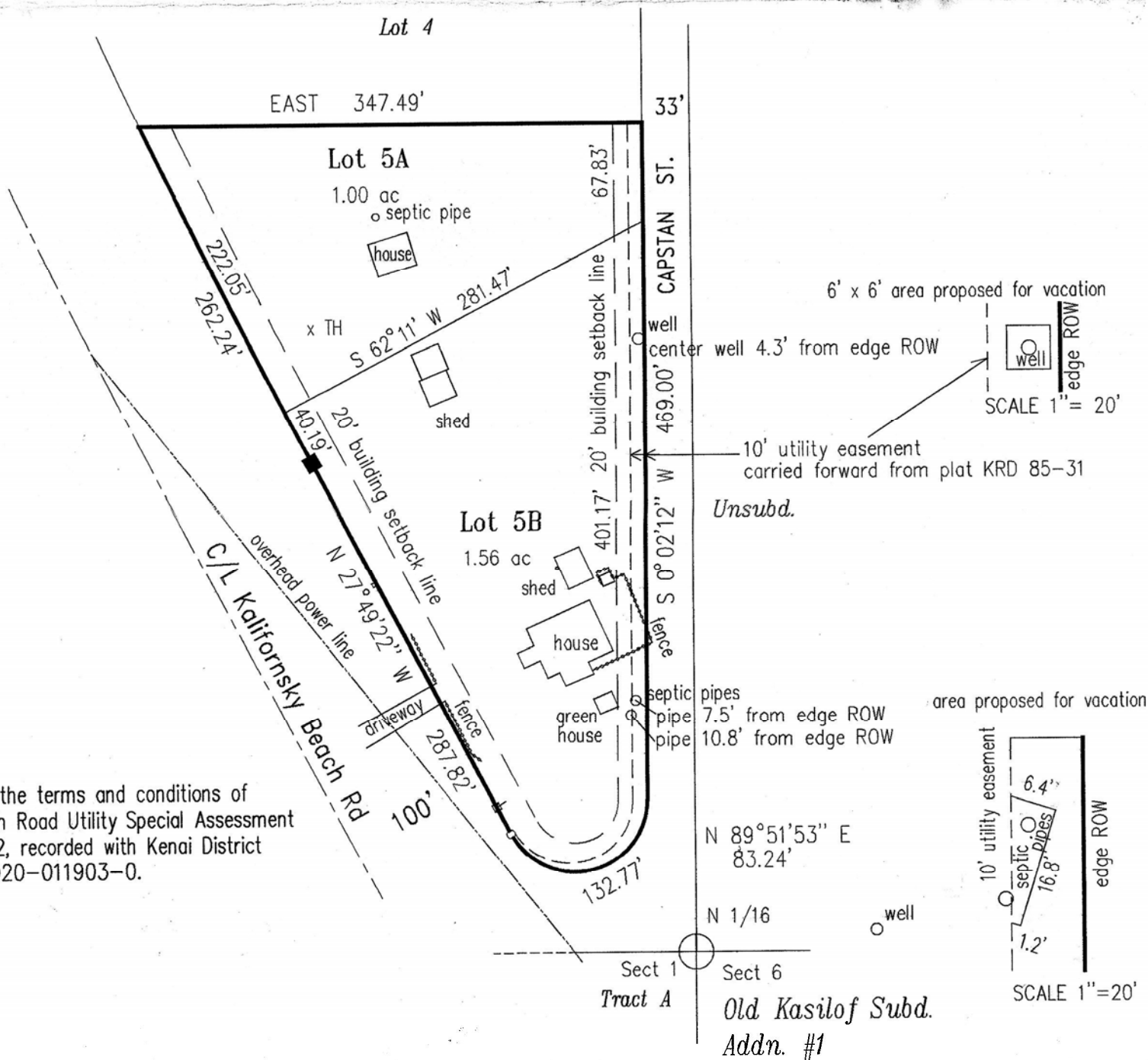
NOTES

1. A building setback of 20' from all street ROW's is required unless a lesser standard is approved by a resolution of the appropriate planning commission. 10' of setback adjoining ROWs is also a utility easement, extending to 20' setback within 5' of side lot lines.
2. 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.
3. No access to State maintained ROWs permitted unless approved by the State of Alaska Dept. of Transportation.
4. This property is subject to a reservation of easement for highway purposes, and any assignments or uses thereof for recreational, utility or other purposes, as disclosed by Public Land Order No. 601, dated August 10, 1949 and amended by Public Land Order No. 757, dated October 10, 1959; Public Land Order No. 1613, dated April 7, 1958; and Dept. of the Interior Order No. 2665, dated October 16, 1951, Amendment No. 1 thereto, dated July 17, 1952 and Amendment No. 2 thereto, dated September 15, 1956, filed in the Federal Register.
5. Kalifornsky Beach Road ROW is as shown on State DOT plans S-0463(4) sheet 17 and S-0463(8) sheet 5.
6. This property is subject to an electrical easement granted to Homer Elactric Association filed with the Kenai District Recorder in Misc. Book 31 Page 159. This is a general easement, no specific location given.
7. This property is subject to private covenants filed with the Kenai District Recorder in Book 266 Page 139. The borough will not enforce private covenants, easements, or deed restrictions per KPB 20.60.170.
8. Topography of the subdivision is flat. There are no wet areas on the property.

KPB 2022-052V

NOTE

This property is subject to the terms and conditions of the South Kalifornsky Beach Road Utility Special Assessment per KPB Ordinance 2020-42, recorded with Kenai District by instrument serial #2020-011903-0.



AGENDA ITEM E. NEW BUSINESS

ITEM 2 - UTILITY EASEMENT ALTERATION
VACATE PORTIONS OF UTILITY EASEMENTS LOCATED WITHIN
LOT 5 OF COLE'S CORNER, PLAT KN 85-31

KPB File No.	2022-052V
Planning Commission Meeting:	June 13, 2022
Applicant / Owner:	Estate of Josephine S. Knapp of Anchorage, AK
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Kalifornsky Beach Road, Capstan Street, Kasilof / Kalifornsky APC

STAFF REPORT

Specific Request / Purpose as stated in the petition: Vacate a 6'x6' portion of the utility easement that the well is located within and vacate a portion of the utility easement for the septic that is 6.4' in the utility easement.

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

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

Staff Analysis: Coles Corner, Plat KN 85-31, created a 10 foot utility easement along the dedication of Cole's Street, which is now Capstan Street. This easement is along the curved southern boundary and the eastern boundary of the lot. The plat did not create a utility easement along Kalifornsky Beach Road.

The preliminary for Coles Corner #3, KPB File 2022-052, was heard and conditionally approved by the Plat Committee at the May 9, 2022 meeting. The plat will be dedicating 10 foot wide utility easements along Kalifornsky Beach Road and increasing the new and existing 10 foot utility easements to 20 feet within 5 feet of the side lot lines.

The vacation request is for two separate areas along Capstan Street. The northern request is for a 6 foot by 6 foot area around an existing well. A one foot portion of the utility easement between the vacated area and the Capstan Street dedication would remain as well as a 3 foot portion between the edge of the easement and the vacated area. The well is also within the building setback but per KPB code is allowable.

The southern request is for an angled vacation to encompass two septic pipes. The northern portion of this area will be to vacate a 6.4 foot area that angles to the southwest for a distance of 16.8 feet to a narrow portion of 1.2 feet. A 3.6 foot utility easement will remain between the vacation area and the right-of-way along the northern portion and 8.8 feet for the southern portion.

There are fences within the utility easements. The fences are not considered permanent structures and may remain but it should be noted that the utility providers may remove or request fences be removed or located if they hinder their ability to use the utility easements.

A portion of the fence is within the right-of-way of Capstan Street. The KPB Roads Department objects to the subdivision plan until the fence is removed from the right-of-way. The plat is proposed to finalize the vacations on this petition. A new as-built will be required prior to finalization of the plat as well as approval from the KPB Roads Department.

Utility provider review:

HEA	HEA does not object to the vacation of the portion of utility easement as depicted in the two detail drawings.
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ENSTAR	Approved as shown
ACS	No objections
GCI	Approved as shown

Findings:

1. The petition states that 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. The KPB Roads Department did not object to the easement vacations but require the fence to be removed from the right-of-way.
4. The vacation is for portions and narrow remaining portions will be remaining.
5. The utility easements were created by Coles Corner, Plat KN 85-31.
6. No surrounding properties will be denied utilities.

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 the 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