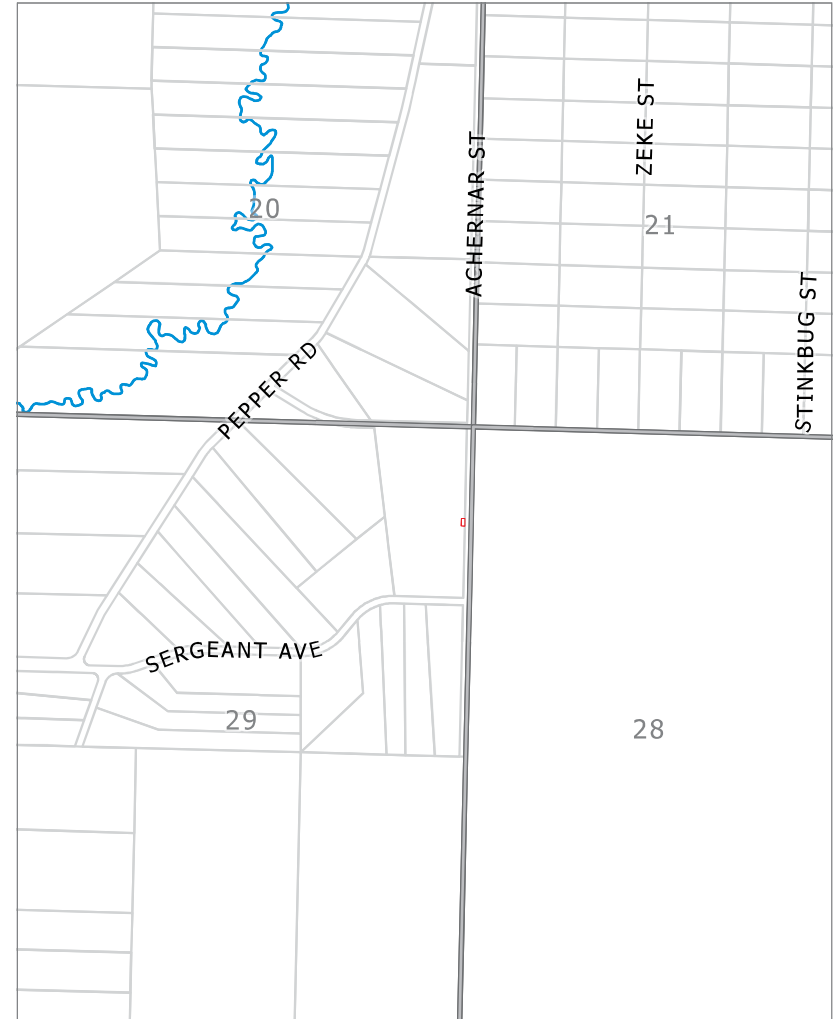
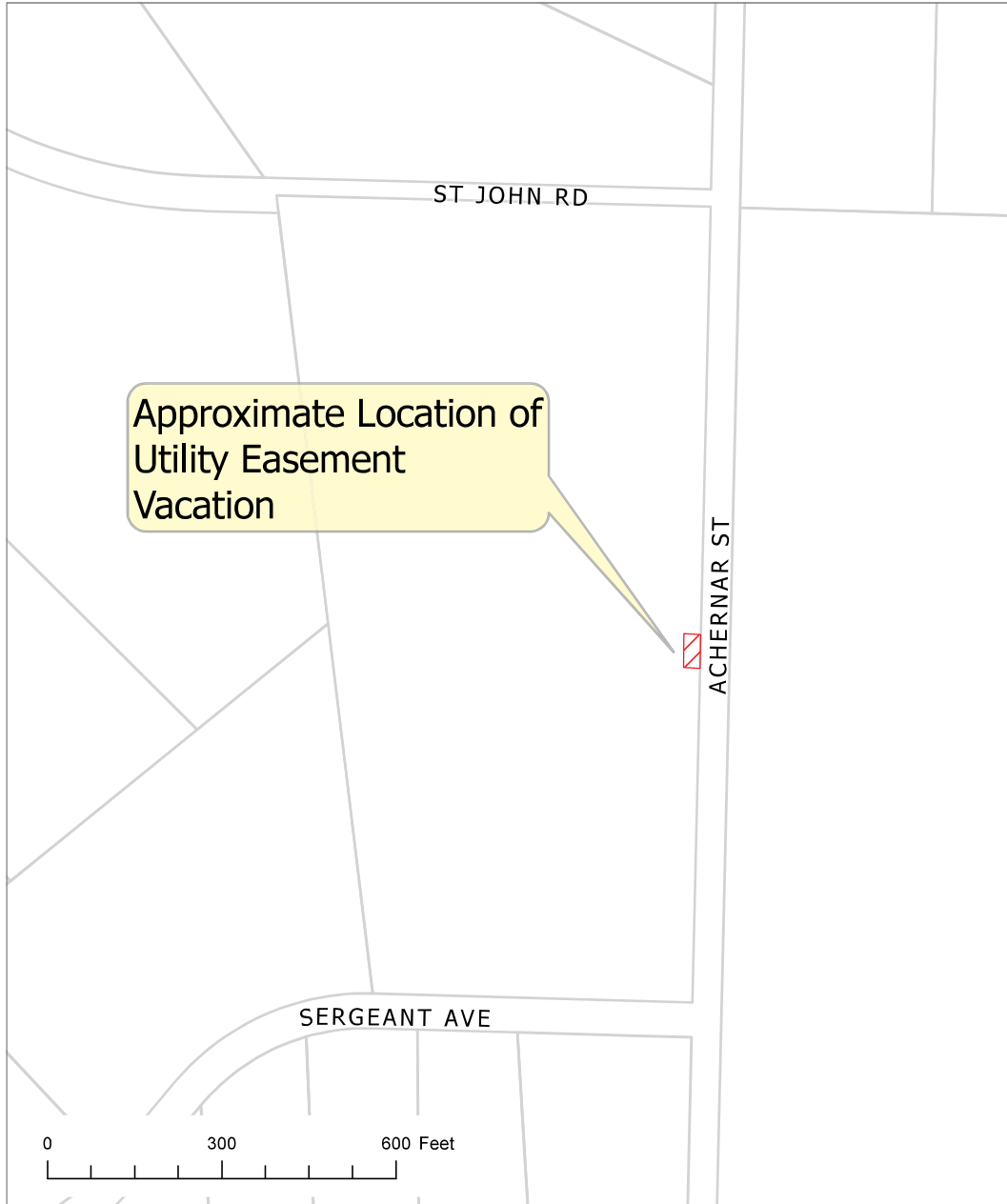


## **E. NEW BUSINESS**

- 2. Utility Easement Vacation; KPB File 2022-086V; PC RES 2022-31  
Ehlers / Peninsula Surveying, LLC  
Location: Lot 39, Stariski Meadows; Plat HM 97-62  
Anchor Point Area / Anchor Point APC**



KPB File # 2022-086V  
S29 T03S R14W  
Happy Valley







AGENDA ITEM E. NEW BUSINESS

**ITEM 2 - UTILITY EASEMENT ALTERATION  
LOT 39 STARISKI MEADOWS PLAT HM 97-62**

<b>KPB File No.</b>	2022-086V
<b>Planning Commission Meeting:</b>	July 18, 2022
<b>Applicant / Owner:</b>	John and Pamela Ehlers of Ninilchik, Alaska
<b>Surveyor:</b>	Jason Schollenberg / Peninsula Surveying, LLC
<b>General Location:</b>	St. John Road, Achernar Street, Happy Valley / Anchor Point APC

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** (None stated on petition) Vacate a portion of the 10 foot utility easement along the eastern boundary of Lot 39 of Stariski Meadows, Plat HM 97-62, for a portion of a house within the easement.

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

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

**Staff Analysis:** Stariski Meadows, Plat HM 97-62, was a subdivision plat of aliquot lands. It created Lot 39 and put into place 20 foot building setbacks from all dedicated rights-of-way with the front 10 feet of the setback granted as a utility easement. The as-built submitted indicates a shed and house are within the setback. An application for a setback encroachment permit has been received and is scheduled for a hearing at the July 18, 2022 Planning Commission meeting. The house is also within the 10 foot wide utility easement.

The house is angled to the property line that is adjacent to the dedication of Achernar Street. The location of the house only allows a .8 foot easement width that widens to 2.4 feet along the structure. The proposal will vacate the entire 10 foot width for the portion of the encroaching house.

The 10 foot utility easement will remain along the Achernar Street dedication to the north and south of the house. The vacation will result in a break of the utility easement but access will be available from the north and south. Utility providers are allowed to receive permits to place utilities within dedicated rights-of-way and that would allow a possible connection if required.

**Utility provider review:**

HEA	HEA has no objection to the vacation of the platted utility easement where affected by the residential structure.
ENSTAR	No comment or recommendation
ACS	No objection.
GCI	No objection to the alteration of the existing 10' utility easement.

**KPB Department and Agency reviews:**

KPB Roads Dept. comments	Out of Jurisdiction: No  Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	No comment
KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area

	<p>Comments: Located within an non-regulatory D Zone</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>
State of Alaska Fish and Game	No objections
Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 68115 ST JOHN RD</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: SERGEANT AVE ACHERNAR ST ST JOHN RD</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: 68115 ST JOHN RD will remain with lot 39.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	<p>Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather Comments: No comment</p>
Advisory Planning Commission	Comments not available when the staff report was prepared.

#### 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. Stariski Meadows, Plat HM 97-62, granted a 10 foot wide utility easement along the eastern boundary of Lot 39, adjacent to Achernar Street.
4. A house has been constructed within the utility easement that reduces a portion down to a .8 foot width.
5. 10 foot wide utility easements will remain to the north and south of the encroaching structure.
6. Utility providers may request permits to use dedicated rights-of-way.
7. 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*
  - 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.*

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**END OF STAFF REPORT**

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2022-31  
HOMER RECORDING DISTRICT**

Vacate a 38.1' X 10' portion of a 10' utility easement for a house 9.2' into utility easement, within Lot 39 as granted by Stariski Meadows (HM 0970062); within S29, T03S, R14W, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2022-086V

WHEREAS, a request has been received from Pamela Ann Ehlers and John J Ehlers of Ninilchik, AK to vacate a 38.1' X 10' portion of a 10' utility easement for a house 9.2' into utility easement within Lot 39 and granted by Stariski Meadows (HM 0970062); and

WHEREAS, affected utility companies have provided written non-objection to the proposed vacation; and

WHEREAS, the Kenai Peninsula Borough Roads Department provided written non-objection to the proposed vacation; and

WHEREAS, the easement is not in use by the utility companies; and

WHEREAS, no surrounding properties will be denied utilities; and

WHEREAS, on July 18, 2022, the Kenai Peninsula Borough Planning Commission addressed all concerns about the proposed vacation; and

WHEREAS, the Planning Commission has found that vacating the utility easement will not be detrimental to the public interest; and

WHEREAS, 20.65.070 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish vacations by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the above described 38.1' x 10' portion of a 10' utility easement for a house 9.2' in the utility easement is hereby vacated.

Section 2. That an as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the locations of the portions of the utility easements being vacated be attached to, and made a part of this resolution, becoming page 2 of 2.

Section 3. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

Section 4. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 18TH DAY OF JULY, 2022.

\_\_\_\_\_  
Blair J. Martin, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shimberg,  
Administrative Assistant

Return to:  
Kenai Peninsula Borough Planning Department  
144 N. Binkley Street  
Soldotna, Alaska 99669



