

## **E. NEW BUSINESS**

### **9. Utility Easement Vacation; KPB File 2022-101V**

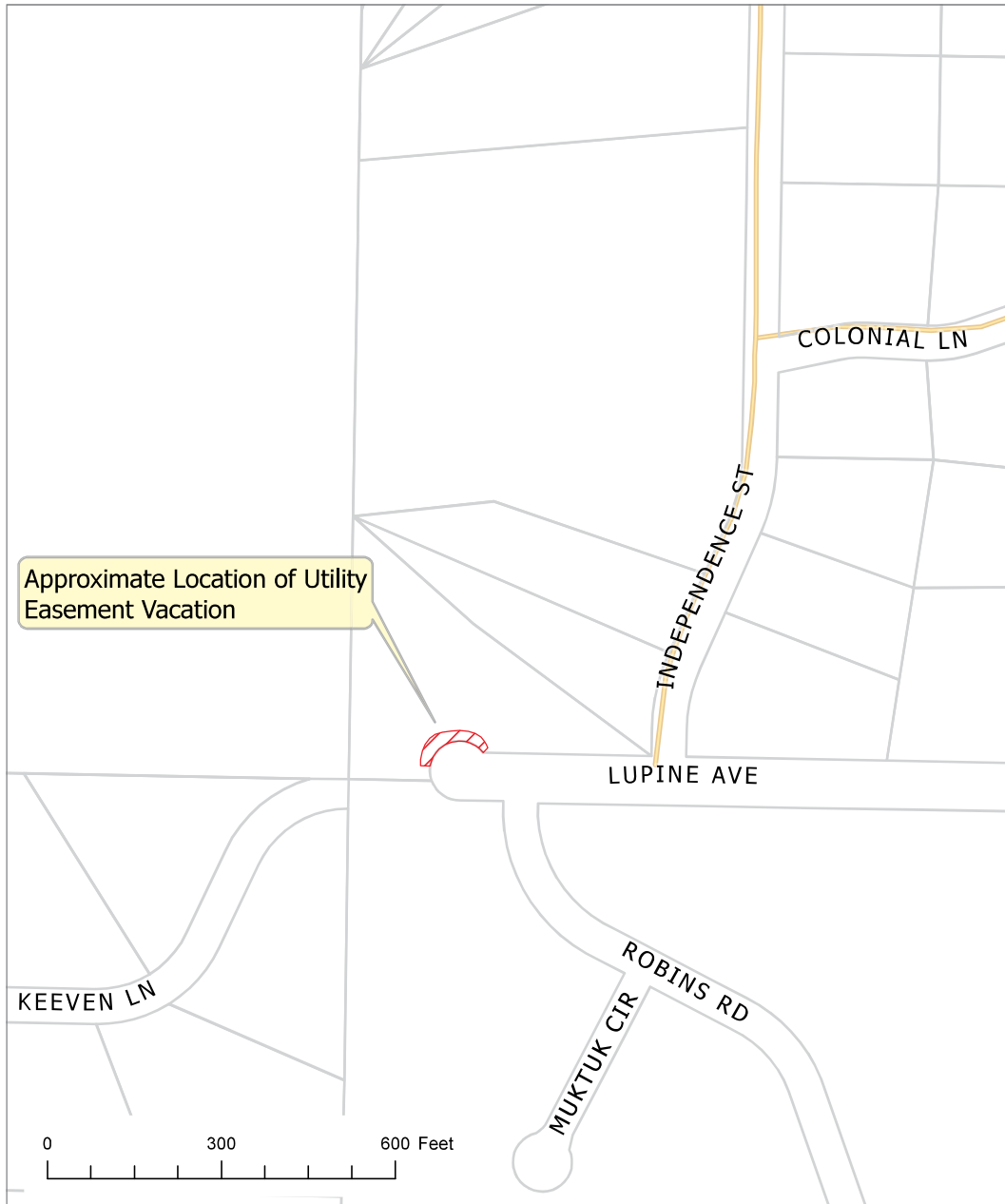
**PC Resolution 2022-40**

**Lot 1, Block 2, Centennial Shores Subdivision Number One;**

**Plat KN 85-157**

**Edge Survey & Design / Ranquette**

**Nikiski Area**



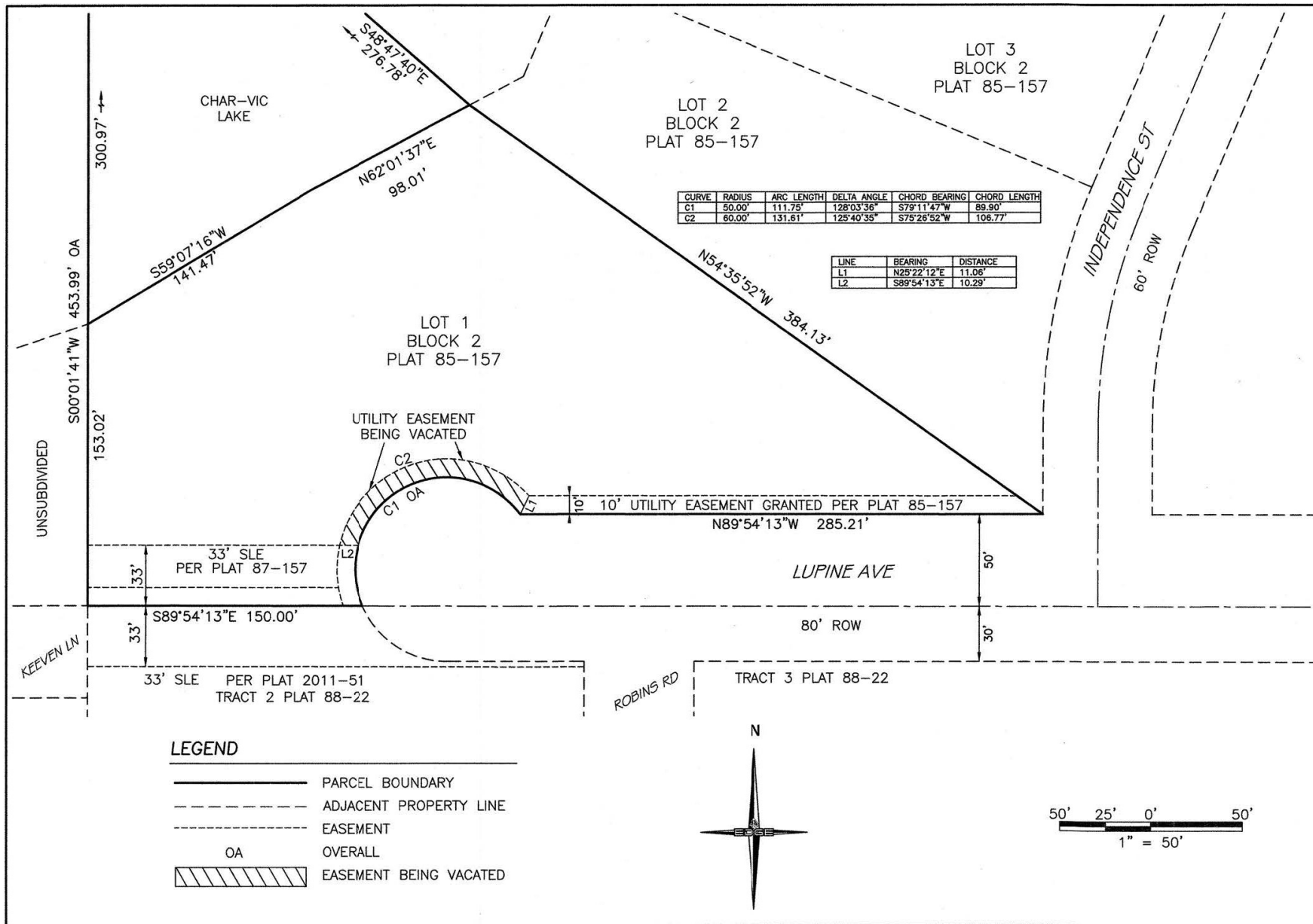
KPB File # 2022-101V  
S07 T07N R11W  
Nikiski





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.





**EDGE**  
SURVEY AND DESIGN, LLC

12501 OLD SEWARD, D ANCHORAGE, AK 99515  
Phone (907) 344-5590 Fax (907) 344-7754

UTILITY EASEMENT VACATION EXHIBIT DRAWING  
LOT 1 BLOCK 2  
CENTENNIAL SHORES SUBDIVISION NO. ONE  
PLAT 85-157 KENAI RECORDING DISTRICT

DRAWN BY:  
JY

CHECKED BY:  
RS

DATE:  
7/1/2022

SCALE:  
1" = 50'

PROJECT:  
22-555

SHEET:  
1 OF 1

KPB 2022-101V

**ITEM 9 - UTILITY EASEMENT ALTERATION  
LOT 1 BLOCK 2 CENTENNIAL SHORES SUBDIVISON NUMBER ONE (KN 85-157)**

<b>KPB File No.</b>	2022-101V
<b>Planning Commission Meeting:</b>	August 8, 2022
<b>Applicant / Owner:</b>	Eric Ranguette
<b>Surveyor:</b>	Jason Young, Ryan Sorensen / Edge Survey and Design LLC
<b>General Location:</b>	Lupine Avenue, Keeven Lane, Nikiski area

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** House was purchased without easement encroachment disclosed. House is encroaching into a non-utilized easement. All utility companies have signed off on vacation of partial easement.

**Notification:** Notice of vacation mailings were sent by regular mail to fifteen 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:** The property was originally subdivided by Centennial Shores Subdivision Number one, Plat KN 85-157. The plat created Lot 1 Block 2 as well as dedicated Lupine Avenue, originally named Dog Bone Avenue, as a 50 foot wide right-of-way that ended with a partial bulb as an existing roadway continued to the south. Utility easements were not depicted but plat note 4 stated "*The front 10' of the building setback will serve as a utility easement.*" The plat did not depict the setbacks but did state in plat note 2 that they were being created along the rights-of-way.

An as-built had been done on the property that indicated that portions of the house and its attached improvements are within the utility easement and the building setback. The sketch provided with this petition indicates the desire to vacate the entire 10 foot wide utility easement along the norther portion of the bulb. 10 foot wide utility easements will remain on the straight portion of Lupine Avenue. Section line easements coincide the dedication of Lupine Avenue and continue west past the cul-de-sac. It is stated that the easement is not currently in use. If the utility providers did a connection from Lupine Avenue to the west, permits may be requested from the Borough for use of the right-of-way and section line easements.

Staff worked with the KPB Assessing department to determine if the structures in question may have been built prior to the creation of the setback and utility easements. Records do indicate a structure was present before the creation of the setback and utility easement but the deck was improved after the utility easement was put into place. It is also unknown if any other improvements on the house were done prior or after.

The property to the south was originally subdivided by Robins Subdivision No. 1, KN 79-139. It did not dedicate any portion of Lupine Avenue but did indicate a section line easement was present. The property was then replatted by Kenai Timers, Plat KN 86-133, which was amended by KN 86-195. That plat vacated the original dedication of Robins Road and dedicated the new location as currently exists. The plat also dedicated the southern portion of Lupine Avenue by granting 30 feet to 33 feet of dedication. The plat indicates 30 feet at the western portion with 33 feet on the eastern portion with a 33-foot section line easement still in place. Kenai Timbers Replat, KN 88-22, was recorded which removed lot lines to create larger tracts but the dedications remained as granted by the parent plats.

The current configuration is a 80 to 83 foot wide right of way atop section line easements. The cul-de-sac bulb has been broke through to provide access to the properties to the west by the use of the section line easements. The owner has stated that they are requesting this as it is a less expensive option. Staff has no objection if the Planning Commission wishes to grant this exception but staff would rather see a plan to vacate the bulb, reduce the right-of-

way width only if needed to bring the lot into compliance with the setback, and have a dedication be granted over the existing travelway.

There are encroachments into the building setback and a separate petition has been received to be reviewed by the Planning Commission at the August 8, 2022 meeting.

**Utility provider review:**

HEA	No comments
ENSTAR	Approved as shown
ACS	No objections to the easement vacation as shown
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. Centennial Shores Subdivision Number One, KN 85-157, created 10 foot utility easements along dedicated rights-of-way.
4. A structure and its attached improvements are currently within the easement thus limiting its use.
5. The right-of-way width is 80 feet wide and is atop section line easements.
6. Lupine Avenue is an 80 foot wide dedicated right-of-way.
7. Lupine Avenue is constructed and in use but not maintained by the borough.
8. The encroachments are along a cul-de-sac but access continues through the bulb within the section line easements.
9. Majority of the road is in the lower part of the right-of-way and the driveway is in the bulb of the right-of-way.
10. There does not appear to be any line of sight issues due to the clearing done in the area.

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**RECOMMENDATION:**

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends

- 1) To adopt Resolution 2022-40, subject to compliance with KPB 20.10.110 sections E and F and grant the utility easement permit.
- 2) To deny the utility easement permit and recommend petitioner return with a subdivision vacating a portion of Lupine Avenue, thereby moving and relocating the 20' building setback and also dedicating a portion of Lot 1 Block 2 Centennial Shores Subdivision No 1 85-157 on the southwesterly side as new roadway. This would begin to fix the issue of the roadway crossing and continuing west and connecting to Keeven Lane.

**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**





Aerial with 5-foot Contours







Wetlands

