


Kenai Peninsula Borough

Planning Department

MEMORANDUM

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

FROM: Robert Ruffner, Planning Director 

DATE: August 23, 2022

RE: Right-Of-Way Vacation: Joe Luy Court & Bismarck Court Right-of-Way and Associated Utility Easement Vacations; KPB File 2022-117V

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 August 22, 2022 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation by unanimous vote based on the means of evaluating public necessity established by KPB 20.65 (12-Yes, 2-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.

August 22, 2022 Draft PC Minutes
August 22, 2022 Meeting Packet Materials

***7. Minutes**

a. August 8, 2022 Planning Commission meeting minutes.

Chair Brantley asked if anyone wished to speak to any of the items on the consent agenda. Hearing no one wishing to comment he asked Ms. Shirnberg to read into the record the consent agenda items.

MOTION: Commissioner Martin moved, seconded by Commissioner Gillham to approve the consent and regular agendas.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

AGENDA ITEM E. NEW BUSINESS

Chair Brantley asked Ms. Shirnberg to read into the record the procedures for public hearings.

**ITEM E1 – RIGHT-OF-WAY VACATION
JOE LUY COURT AND BISMARCK COURT RIGHT-OF-WAY AND
ASSOCIATED UTILITY EASEMENT VACATIONS**

KPB File No.	2022-117V
Planning Commission Meeting:	August 22, 2022
Applicant / Owner:	Alcan Ventures Limited of Vernon, BC
Surveyor:	John Segesser / Segesser Surveys
General Location:	Citabria Street, Lower Salamatof Avenue, Salamatof
Legal Description:	Joe Luy Court and Bismarck Court, Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14, Township 6 North, Range 12 West, Section 1

Staff report given by Platting Specialist Julie Hindman.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Horton moved, seconded by Commissioner Slaughter, to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

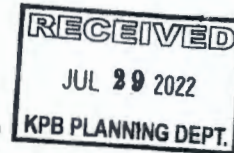
Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM E2 – CONDITIONAL USE PERMIT
ANADROMOUS WATERS HABITAT PROTECTION DISTRICT**

KPB File No.	2022-34
Planning Commission Meeting:	August 22, 2022
Applicant	Castaway Cove Association
Mailing Address	1577 C Street, Anchorage, AK 99501



Kenai Peninsula Borough Planning Department
144 North Binkley
Soldotna, Alaska 99669-7599
Toll free within the Borough 1-800-478-4441, extension 2200
(907) 714-2200



Petition to Vacate Public Right-of-Way/Easement/Platted Public Area
Public Hearing Required

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

- ☒ \$500 non-refundable fee to help defray costs of advertising public hearing.
- ☐ City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- ☒ Name of public right-of-way proposed to be vacated is dedicated by the plat of SHAMATOF AIR PARK HIGHWAY NO. 2 subdivision, filed as Plat No. 2009-14 in KENAI Recording District.
- ☐ Are there associated utility easements to be vacated? ☒ Yes ☐ No
- ☐ Are easements in use by any utility company? If so, which company NONE
- ☐ Easement for public road or right-of-way as set out in (specify type of document) _____ as recorded in Book _____ Page _____ of the _____ Recording District. (Copy of recorded document must be submitted with petition.)
- ☒ Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
- Has right-of-way been fully or partially constructed? ☐ Yes ☒ No
- Is right-of-way used by vehicles / pedestrians / other? ☐ Yes ☒ No
- Is alternative right-of-way being provided? ☐ Yes ☒ No

The petitioner must provide reasonable justification for the vacation. Reason for vacating:

OWNER IS RESUBDIVIDING THE PROPERTY TO ELIMINATE THE
NUMBER OF LOTS AND THE CUL DE SACS

The petition must be signed (written signature) by owners of the majority of land fronting the right-of-way, easement, or platted public area proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By:

Name: SECESSER SURVEYS
Address: 30485 ROGLAND ST
SOLDOTNA AK 99669

Signature as:

☐ Petitioner ☒ Representative

Phone 907 262 3909

Petitioners:

Signature Matthias Gohl
Name Matthias Gohl
Address ALCAN Ventures Ltd.
8090 Jackpine Road, Vernon, BC V1B 3M9
Canada

Owner of _____

Signature _____
Name _____
Address _____

Owner of _____

Signature _____
Name _____
Address _____

Owner of _____

Signature _____
Name _____
Address _____

Owner of _____

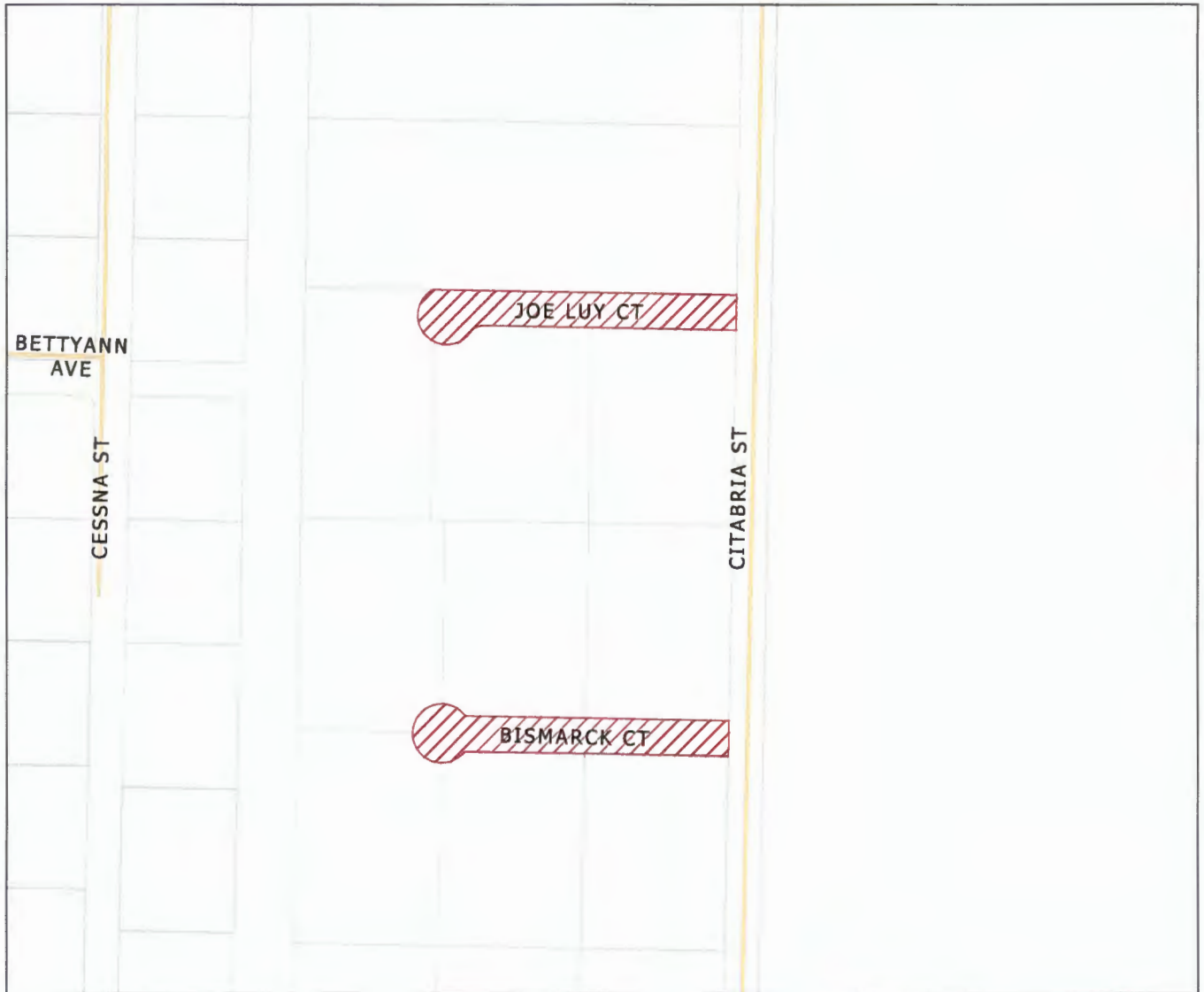
E. NEW BUSINESS

- 1. Right-of-Way Vacation; KPB File 2022-117V
Segesser Surveys /Alcan Ventures Limited of Vernon, BC
Request: Vacate Joe Luy Court & Bismarck Court
Salamatof Area**



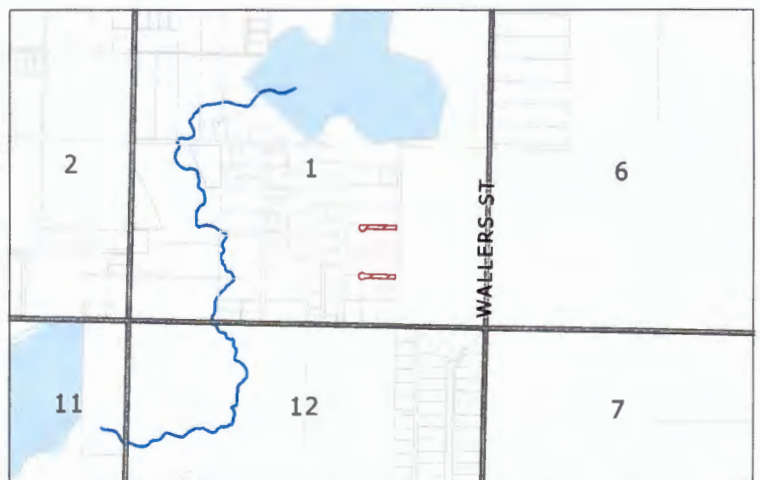
Kenai Peninsula Borough Planning Department

Vicinity Map



KPB File 2022-117V
T 06N R 12W SEC 01
Salamatof

7/31/2022





Aerial View



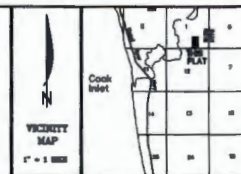
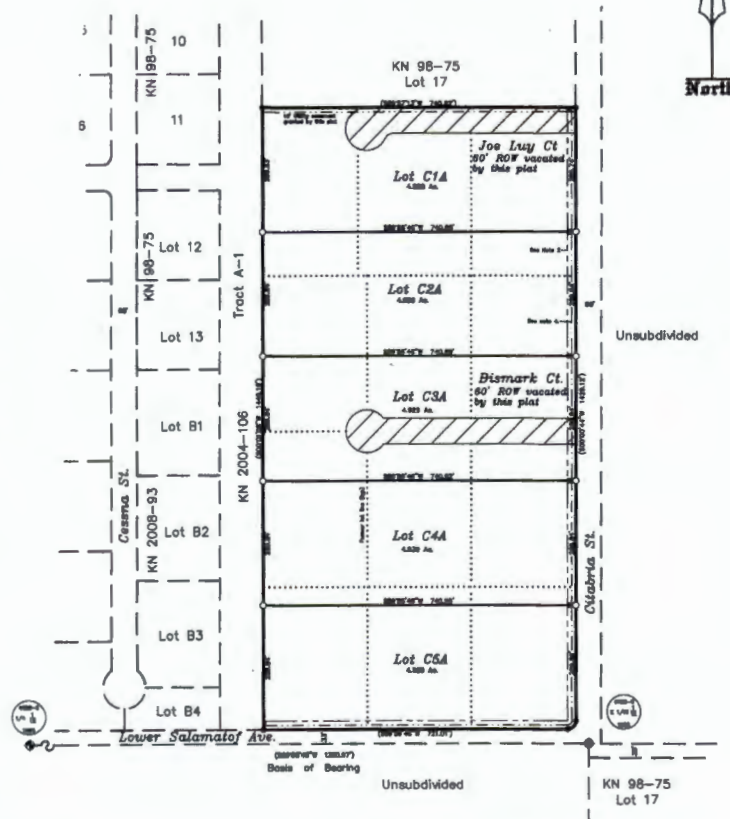
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

- ⑦ 3 1/4" ALUM. CAP MOMENT RES-2 1900 POUND
- 5/8" RESIN POUND
- 5/8" RESIN 1/2" PLASTIC CAP LOOSE SET
- () RECORD BATHY PLAT 200S-14 STD

[illegible]

I hereby certify that I am properly registered and bonded to practice law serving in the State of Alaska. The plot represents a survey made by me or under my direct supervision, the measurements shown herein actually made as described, and of dimensions and other details are correct.

State _____



I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT 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.

SEYMOUR DORN, PRESIDENT
ALCAN VENTURES LIMITED
8080 JACKSON ROAD
VICTORIA, BC V8B 3A9

FOR _____
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 20____

NOTIFY PUBLIC FOR ALARM
BY COMMUNICATING

THIS PLAN HAS APPROVED BY THE HON. MEMBERS BOROUGH
PLANNING COMMISSION AT THE MEETING OF

ARMED AND DANGEROUS
AUTHORISED OFFICIAL

**Salamatof Air Park
Alcan 2023 Replat.**

Located within the W1/2 W1/4 Section 1, T8N, R10W, S4E,
Kendall Parkways Group, Alaska.

Containing 24,540 Ac.		Owner	
Surveyor Sagester Surveys 30485 Redford St. Southfield, MI 48034 (907) 586-3808		Moss Features Limited 8880 Redington Road Vernon, BC V1S 2S2	
AGE NO.	22779	DRUMS	7-36-22
SURVEYED	N/A	SCALE	1"=100'
FIELD BOOK	N/A	SHEET	1 of 1

AGENDA ITEM E. NEW BUSINESS

ITEM 1 – RIGHT-OF-WAY VACATION
JOE LUY COURT AND BISMARCK COURT RIGHT-OF-WAY AND
ASSOCIATED UTILITY EASEMENT VACATIONS

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STAFF REPORT

Specific Request / Purpose as stated in the petition: Owner is resubdividing the property to eliminate the number of lots and the cul-de-sacs.

Notification: Public notice appeared in the August 11, 2022 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the August 18, 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 Nikiski

Post Office of Nikiski

Fifteen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Eight receipts had been returned when the staff report was prepared. There were no required public hearing notices to be sent by regular mail as certifies were sent to those within 600 feet instead of the required 300 feet.

Fifteen 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
Emergency Services of Nikiski

Nikiski Community Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)

Legal Access (existing and proposed): The subject parcels are located within the Salamatof Air Park and have a tract abutting them to the west that contains an airstrip. There are multiple dedications and easements in the area that provide access but only certain portions are constructed. The access route is located from the corner of state maintained Miller Loop Road where the right-of-way changes to a northern direction and the access from KPB maintained roads are south of the state right-of-way. Various rights-of-way are used to connect to Lower Salamatof Avenue that connects to Citabria Street. Citabria Street is a 60 foot wide, borough maintained right-of-way that was dedicated by Salamatof Air Park, Plat KN 98-75. This right-of-way runs along the eastern boundary of the affected lots and will continue to provide access to the new lot configurations.

Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14, dedicated the two subject vacations, Joe Luy Court and Bismarck Court. These are both 60 foot wide dedicated rights-of-way that end in cul-de-sacs. They are currently

not constructed. The owners are proposing to combine lots in a manner that they will have frontage along Citabria Street or Lower Salamatof Avenue. The lots will also abut Tract A for access to the airstrip.

The proposed design will no longer require the cul-de-sacs for access to lots. Due to the location of the airstrip the block lengths do not comply but as the rights-of-way proposed for vacation are cul-de-sacs the vacation of them will not improve or worsen block lengths as they are not through rights-of-way.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Painter, Jed Comments: No comments
SOA DOT comments	

Site Investigation: The proposed vacations do not contain any low wet areas or steep terrain. The remaining access appears to be free from steep terrain and low wet areas and is currently constructed and borough maintained.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments C. State Parks Reviewer: Russell, Pam Comments: No Comments
State of Alaska Fish and Game	No objections

Staff Analysis: Salamatof Air Park, Plat KN 98-75, created Tract C as well as Tract A that contains the airstrip. Citabria Street was also dedicated as a 60 foot wide right-of-way and the North 33 feet of Lower Salamatof Avenue. Tract C was replatted by Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14. That plat created twelve lots and dedicated Joe Luy Court and Bismarck Court to provide required access to some of the lots. The owners are proposing to replat the twelve lots into five lots that will have access from Citabria Street and Lower Salamatof Avenue.

The rights-of-way are not constructed. The only lot that is not part of the replat that fronts along one of the proposed vacations is Lot 17 of Salamatof Air Park, Plat KN 98-75. Lot 17 abuts the airstrip and Citabria Street. Access appears to be constructed within the lot from the dedicated right-of-way and to the airstrip.

Salamatof Air Park Alcan Addition No. 2, Plat KN 2009-14, granted utility easements along the front 10 feet adjacent to dedicated rights-of-way and 20 feet within 5 feet of side lot lines. Per the application, the owners wish to vacate the associated utility easements. **Staff recommends** if the vacations are approved the utility easements being vacated be depicted and noted. This plat is proposing to dedicate a new 10 foot utility easement along the northern boundary and carry over the easements as granted by the parent plat. **Staff recommends** easement depictions be updated along Citabria Street to reflect the 20 foot easements centered 5 feet on the former side lots lines as the petition did not include those to be vacated.

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: The rights-of-way are not constructed
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The replat will result in the rights-of-way not being needed for access, existing alternate access is available.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: This is abutting an airstrip and no additional rights-of-way are needed with the proposed design.
 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: The rights-of-way are cul-de-sacs that do not provide access to public areas
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: As the rights-of-way are cul-de-sacs that are to be permanently closed, the vacations do not limit opportunities for interconnectivity.
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Provide access to private parcels that will be combined.
 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: A new easement is proposed and easements will remain along Citabria Street. Requests from providers will be reviewed.
 8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: The rights-of-way were created to grant access to lots that will no longer exist due to replat.

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 September 6, 2022 meeting.

If approved, Salamatof Air Park Alcan 2022 Replat will finalize the proposed right of way vacations. The Plat Committee is scheduled to review the plat on August 22, 2022.

KPB department / agency review:

Planner	Reviewer: Raidmae, Ryan
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	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: None Existing Street Names are Correct: No List of Correct Street Names: CESSNA ST JOE LUY CT LOWER SALAMATOF AVE CITABRIA ST Existing Street Name Corrections Needed: BISMARCK CT should be BISMARCK CT All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: BISMARCK CT should be BISMARCK CT. JOE LUY CT and BISMARCK CT will be deleted.
Assessing	Reviewer: Windsor, Heather Comments: No comment

Utility provider review:

HEA	No comment
ENSTAR	No comment or recommendations
ACS	
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*
 - 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.*

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

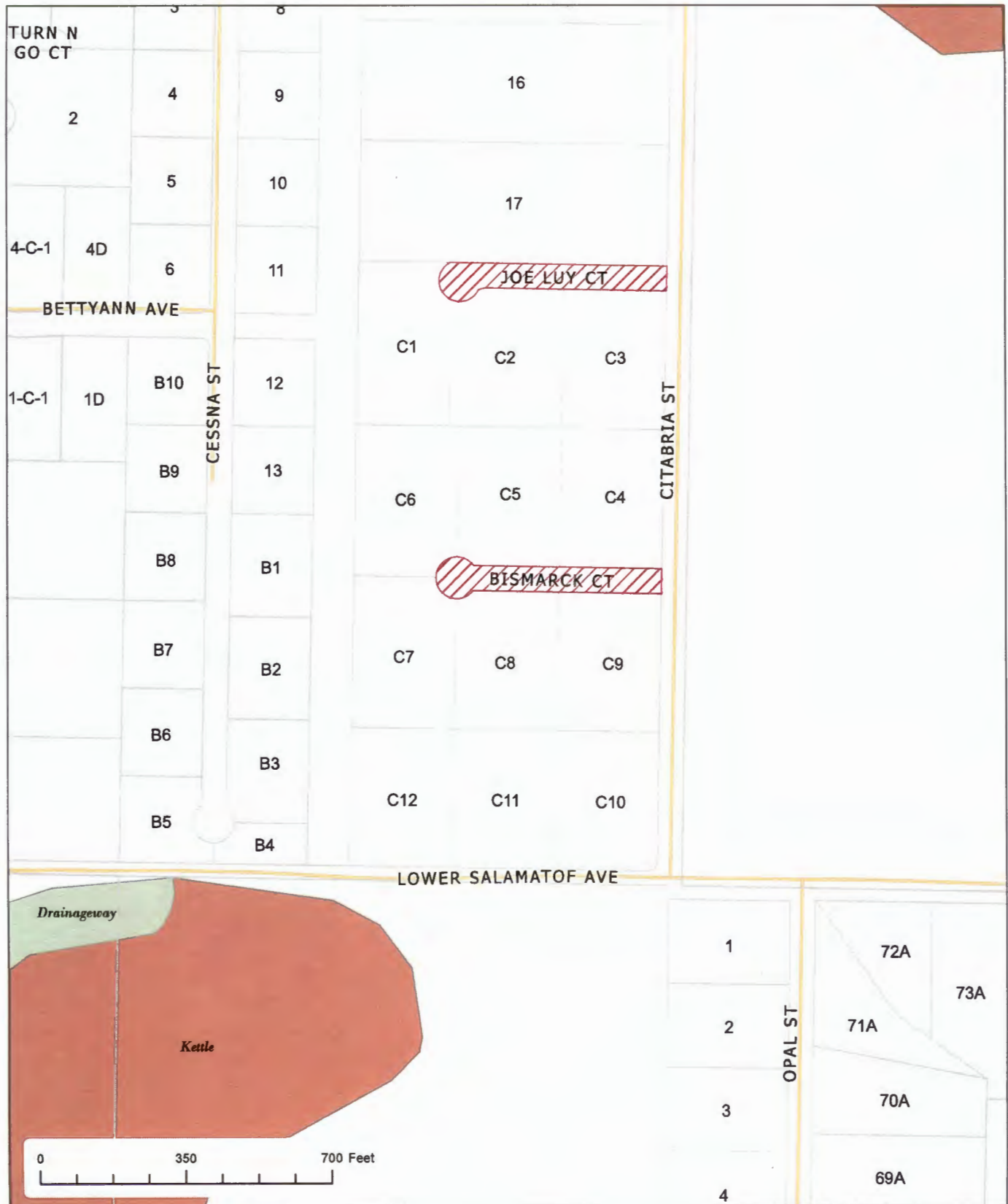
- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT

Page 5 of 5



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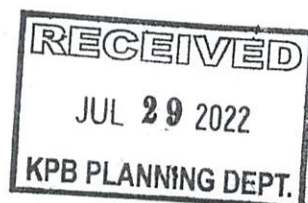


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- ☐ City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- ☒ Name of public right-of-way proposed to be vacated is dedicated by the plat of SALAMATOF AIR PARK ALCTN ADDN No 2 Subdivision, filed as Plat No. 2009-14 in KENAI Recording District.
- ☐ Are there associated utility easements to be vacated? ☒ Yes ☐ No
- ☐ Are easements in use by any utility company? If so, which company NONE
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- Is right-of-way used by vehicles / pedestrians / other? ☐ Yes ☒ No
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Submitted By:

Name: SEGESSER SURVEYS
Address 30485 ROSLAND ST
SOLDOTNA AK 99669

Signature as:

Petitioner

☒ Representative

Phone 907 262 3909

Petitioners:

Signature Matthias Gohl

Name Matthias Gohl

Address ALCAN Ventures Ltd.

8090 Jackpine Road, Vernon, BC V1B 3M9

Canada

Owner of _____

Signature _____

Name _____

Address _____

Owner of _____

Signature _____

Name _____

Address _____

Signature _____

Name _____

Address _____

Owner of _____

Owner of _____