

E. NEW BUSINESS

5. Right-of-Way Vacation; KPB File 2023-026V

Orion / Canyon Creek Trust

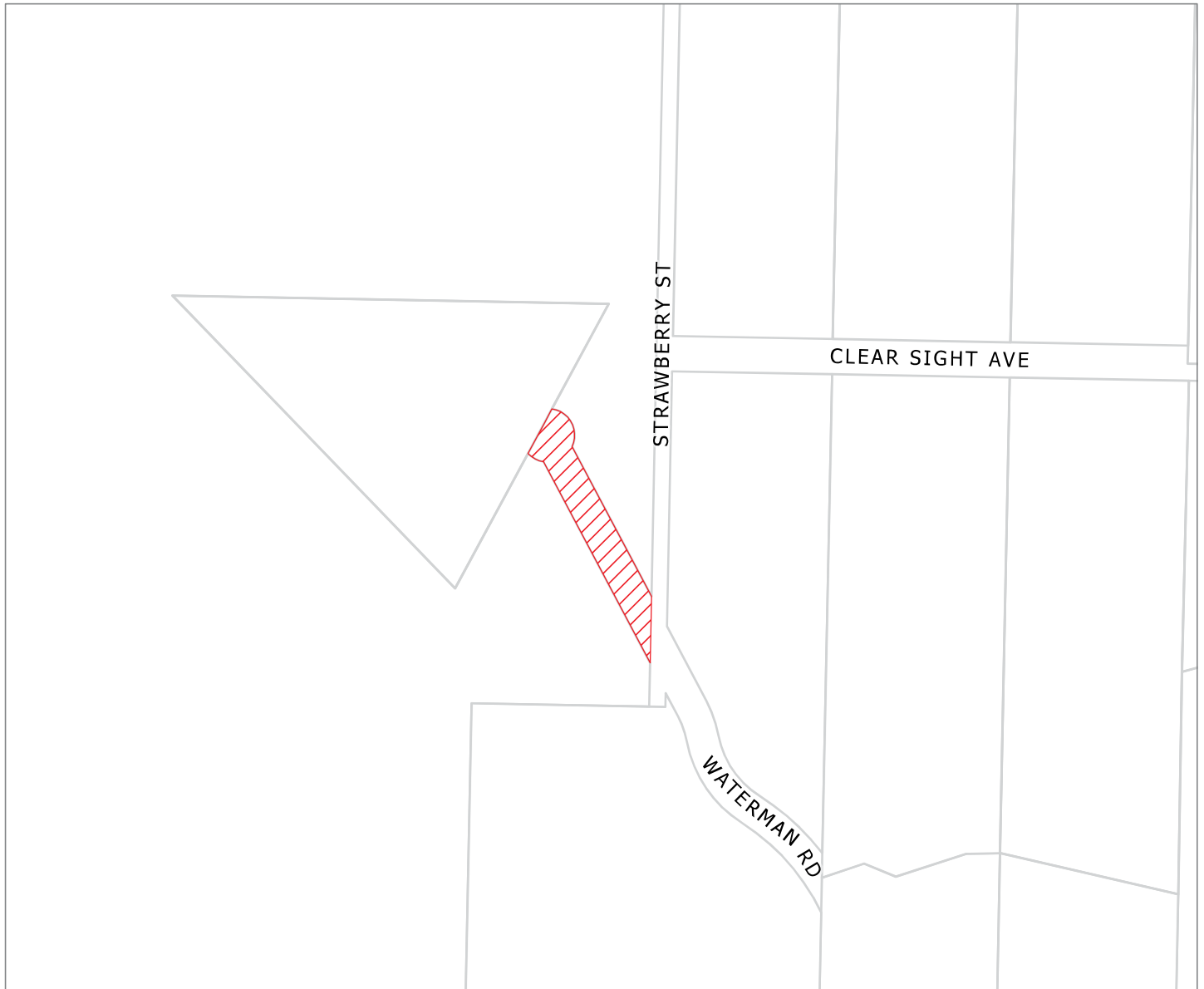
**Request: Vacates entire north portion of Waterman Road
dedicated on Skipper's View, Plat HM 81-32**

Fritz Creek Area / Kachemak APC



Kenai Peninsula Borough Planning Department

Vicinity Map

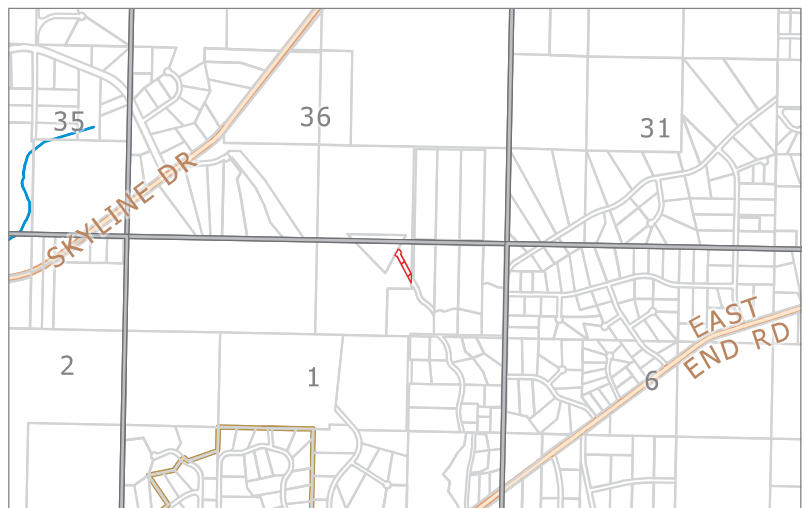
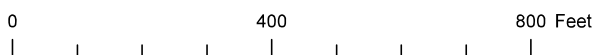


KPB File 2023-026V

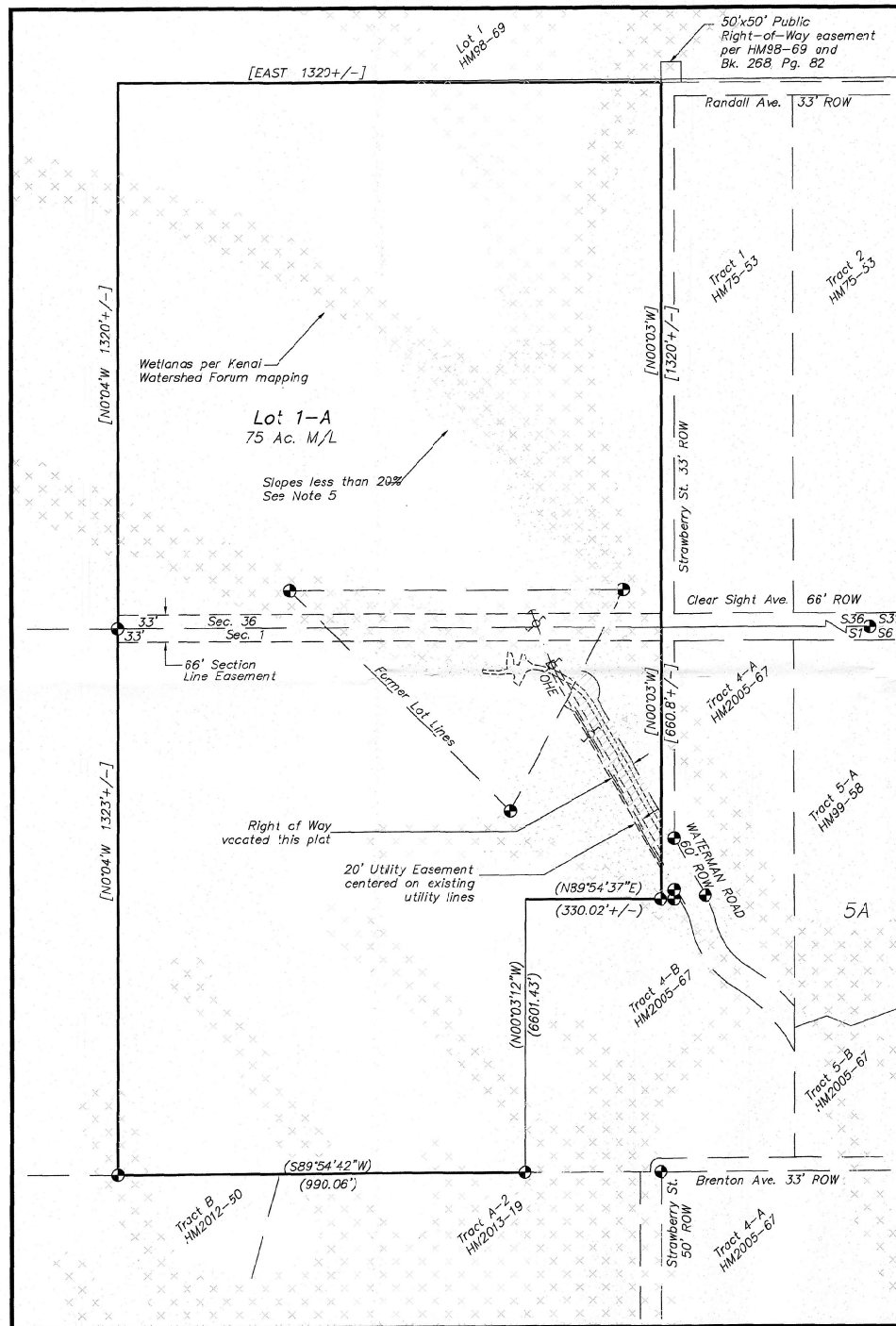
T 06S R 13W SEC 1

Fritz Creek

3/9/2023







NOTES:

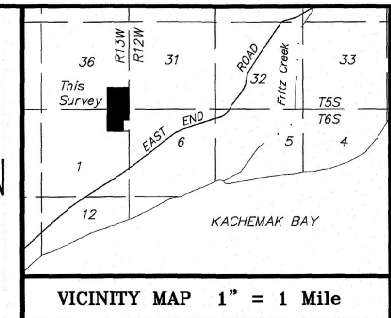
1. A building setback of 20' is required from all street rights-of-way unless a lesser standard is approved by the appropriate Planning Commission.
2. The front 15' and the entire setback within 5 ft. of side lot lines is a utility easement. No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.
3. Any person developing this property is responsible for obtaining all required local, state, and federal permits, including a U.S. Army Corps. of Engineers wetland determination, if applicable.
4. Existing overhead powerlines as shown hereon are the centerlines of 20' electrical distribution line easements per HM81-32. These easements include guys and anchors.
5. Most of this subdivision has slopes in excess of 20%. The dotted hatched area shows slopes less than 20%.
5. No field survey was conducted and no monuments were found or set.

LEGEND

- Monument of Record
- Utility pole
- [] Record dimension per HM81-32
- () Record dimension per HM2005-67

Wastewater Certificate:

This lots at least 200,000 square feet or a nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Conservation.



Ownership Certificate:

We hereby certify that we are the owners 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 to public use and grant all easements to the use shown.

Garrett Walker
for The Canyon Creek Trust
40015 Waterman Road
Homer, AK 99603

Notary's Acknowledgement:

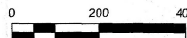
For _____
Acknowledged before me this _____ day of _____, 20____.

Notary Public for _____
My Commission expires: _____

Plat Approval:

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of _____, 2023
Kenai Peninsula Borough

By: _____
Authorized Official



SKIPPER'S VIEW 2023 ADDITION

A Vacation of a portion of the Right-of-Way of Waterman Road and Replat of Lots 1 and 2, Skipper's View Subdivision, HM81-32, within NW1/4 NE1/4 Sec 36, T.6S., R.13W., and SW1/4 SE1/4 Sec. 1, T5S, SM, Kenai Peninsula Borough, Homer Recording District, Third Judicial District, Alaska Containing 75.7 Acres more or less

Prepared for:
The Canyon Creek Trust
40015 Waterman Road
Homer, AK 99603

Prepared by:
Orion Surveys
PO Box 15025
36570 Mara Road,
Fritz Creek, AK 99603
(907) 399-7028
tom@orionsurveys.com

Scale: 1"=200'

Date: 1/15/2023

FB:

Job # 991

KPB File No. 2023-

KPB 2023-026V

AGENDA ITEM E. NEW BUSINESS

**ITEM 5 - RIGHT OF WAY VACATION
VACATE APPROXIMATELY 425 FEET OF THE NORTHERN PORTION OF WATERMAN ROAD AS
DEDICATED BY SKIPPER'S VIEW, PLAT HM 81-32**

KPB File No.	2023-026V
Planning Commission Meeting:	April 10, 2023
Applicant / Owner:	The Canyon Creek Trust of Homer, Alaska
Surveyor:	Tom Latimer / Orion Surveys
General Location:	Waterman Road, Mile 5 of East End Road, Fritz Creek, Kachemak Bay Advisory Planning Commission
Legal Description:	Waterman Road, Skipper's View, Plat HM 81-32, Township 6 South, Range 13 West, Section 1

STAFF REPORT

Specific Request / Purpose as stated in the petition: The portion of Waterman Road being vacated lies entirely within this subdivision and does not connect to any surrounding properties. The owners wish to consolidate Lots 1 and 2 HM 81-32 into a single lot. The right of way will no longer be needed to serve former Lot 1. No other parties will be affected by this vacation.

Notification: The public hearing notice was published in the April 6, 2023 issue of the Homer News 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 Homer

Post Office of Homer

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

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

Twenty 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
Kachemak Bay Advisory Planning Commission
Kachemak Emergency Services

Kenai Peninsula Borough Office
Ninilchik Traditional Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)

Legal Access (existing and proposed): The portion of right-of-way proposed for vacation is the northern portion of a right-of-way with the partial cul-de-sac bulb. The road has been dedicated with several names but is now named as Waterman Road. Waterman Road is located near mile 5 of state maintained East End Road. Waterman Road is constructed and borough maintained until it reaches the dedicated right-of-way, Brenton Avenue. The maintained portion of Waterman Road is approximately 2,700 feet in length. The right-of-way continues north via a 25 foot ingress-egress easement over the roadway as granted by Pease Subdivision Red Rock Addition, HM 99-58. The constructed roadway continues north within a right-of-way dedication. The end of the right-of-way ends with a

partial bulb to provide access to a lot. The proposed vacation will vacate the northern portion starting at the intersection of Strawberry Street. Access for all lots will remain the same. A proposed replat will combine the two lots that front along the proposed vacation and will not require additional access.

Section line easements are present that runs through the subdivision. The section line easements do not appear to be in use.

There are many undeveloped and incomplete right-of-way dedications and section line easements within the area. The terrain in this area will make the ability to get feasible roads to create a complete block minimal.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: No comments
SOA DOT comments	No comment – DOT Engineering

Site Investigation: The right-of-way proposed for vacation is constructed and used to access improvements on Lot 1. The right-of-way is not maintained. It appears that there are areas within the dedication where the slope exceeds 10 percent. Lot 1 and Lot 2 have limited areas not affected by steep terrain. Some of the areas of Lot 2 that have slopes that are not as steep are not accessible due to the current lot configurations.

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>
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Staff Analysis: Skipper's View, Plat HM 81-32, dedicated the right-of-way proposed for vacation. The plat named the right-of-way Strawberry Street but was changed by Resolution SN 2003-10 to Hanging Circle. Resolution SN 2012-04 then changed it to Waterman Road.

Skipper's View, HM 81-32, was a subdivision of aliquot lands. The 75 acre parcel created Lot 2, a 69.5 acre lot, and Lot 1, a 5 acre lot. The design of Lot 1 is unusual as it is a triangle with section line easement that intersect the lot. The placement of Lot 1 was over the best terrain found within in the subdivision. Steep slopes are throughout with limited use. The dedication was to comply with code and provide access to a dedicated street to Lot 1. Looking at older aerial photos it appears the area dedicated was already in use for access to the improvements that are located on Lot 1.

There are steep slopes throughout the subdivision. Some are within Lot 1 but most of the steep terrain is within Lot 2. There are some areas with slopes that are not as steep. Some of those may be accessed from the right-of-way but others are on the other side of Lot 1 and can only be accessed through Lot 1 or by section line easements. The section line easement along the east with a partial dedication for Strawberry Street is subject to very steep slopes and the ability for this to be used for access is minimal.

There are dedications and easements available to neighboring lands. Some will be difficult to access due to terrain. The area proposed for dedication only provides access to two lots that are proposed to be combined into one lot.

The parent plat did not grant utility easements adjacent to the right-of-way. An existing powerline was in place that provided service to Lot 1. This powerline appears to be within a portion of the dedication. Per Skipper's View, HM 81-32, the powerline is center of a 20 foot utility easement. The existing easement will remain in place on the replat of the property.

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 right-of-way is currently being used as a driveway to improvements on Lot 1.
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: Road is constructed as a driveway. The terrain does not comply with KPB Code for maintained roads and would require work to be entered into the KPB maintenance program. The two lots using the road will be combined and share the driveway. All other lots appear to have some form of access.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: There are numerous large acreage lots in the area but due to terrain will have limited access. It appears most lots in the general area have some form of access but all may not be feasible. The design of this road only benefits two lots that are to be combined.
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 interest areas.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: Only benefits two lots. Ends as a cul-de-sac and due to terrain limited ability to be dedicated any further.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments:
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: An easement is in place over the existing powerlines and will be carried over. Any easements requested by the utility providers shall be considered.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: The vacation will place the driveway back onto private property and it currently only provides access to improvements that are in the middle of 75 acres.

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 2, 2023 meeting.

If approved, Skipper's View 2023 Addition will finalize the proposed right of way vacations. The plat has been submitted but at the time the staff report was prepared the application was incomplete based on KPB Code 20.25 requirements. Once the application is complete the plat will be scheduled for the first available Plat Committee meeting.

KPB department / agency review:

Addressing	<p>Reviewer: Robinson, Celina Affected Addresses: 40015 WATERMAN RD, 40025 WATERMAN RD</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: STRAWBERRY ST, CLEAR SIGHT AVE, WATERMAN RD</p> <p>Existing Street Name Corrections Needed: RANDALL AVE SHOULD BE RANDAL AVE (ONE "L"); REFER TO PLAT HM 1975-53</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: 40015 WATERMAN RD, 40025 WATERMAN RD WILL NOT BE AFFECTED; THE VACATED PORTION OF WATERMAN RD WILL BE PORTRAYED BY DRIVEWAY DATA FOR DISPATCH PURPOSES</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	

Utility provider review:

HEA	
ENSTAR	No comments 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 of 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

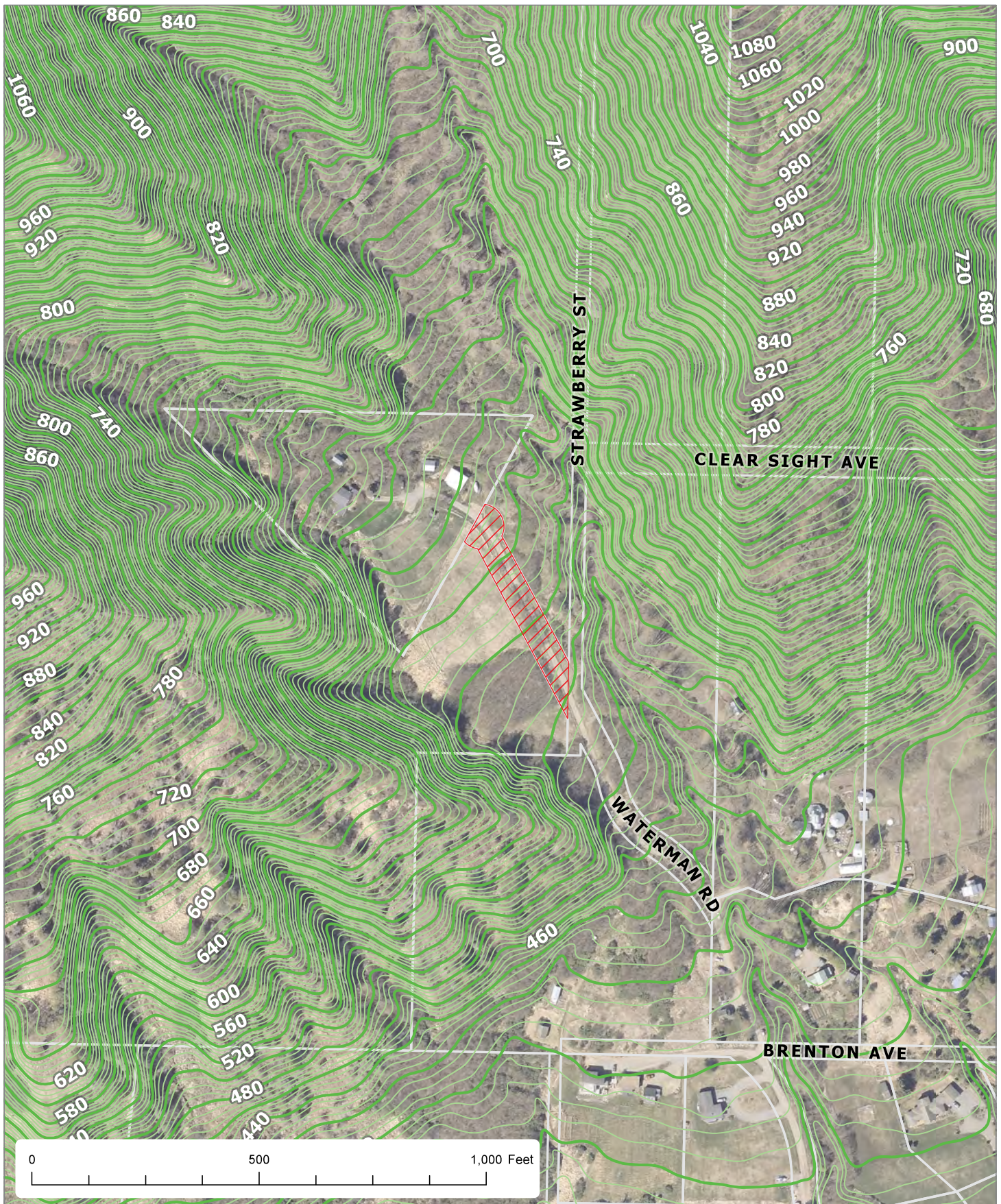
- *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: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

END OF STAFF REPORT





Aerial with 5-foot Contours



UNSUBDIVIDED

EAST 1320 *

10' UTILITY ESMT.

RANDAL AVE.

N

NOTES:

1. A SETBACK OF 20' IS REQUIRED FROM ALL STREET RIGHTS OF WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.

LEGEND:

- SET 3/4" I.P.

UNSUBDIVIDED

1320 * N 0° 04' W 1323 *

1320 * N 0° 03' W 660.8 *

SUBDIVISION

PLEASE

LOT 2
69.5 * AC.

STRAWBERRY STREET

N 89° 55' E
330 *

10' UTILITY ESMT.

N 89° 54' E 990 *

UNSUBDIVIDED

NE 1/16 (NOT FOUND)
B.C. AS SHOWN ON PLAT
OF JODI - LYNN HEIGHTS

CERTIFICATE OF OWNERSHIP
I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON. I HEREBY REQUEST APPROVAL OF THIS PLAT SHOWING SUCH EASEMENTS FOR PUBLIC UTILITIES DEDICATED BY ME FOR PUBLIC USE.

Larry J. Hollinshed
LARRY J. HOLLINSHED
BOX 1055
HOMER, AK.

Sandra J. Hollinshed
SANDRA J. HOLLINSHED

NOTARY'S ACKNOWLEDGEMENT
SUBSCRIBED AND SWORN TO BEFORE ME THIS 24th DAY OF April 1981

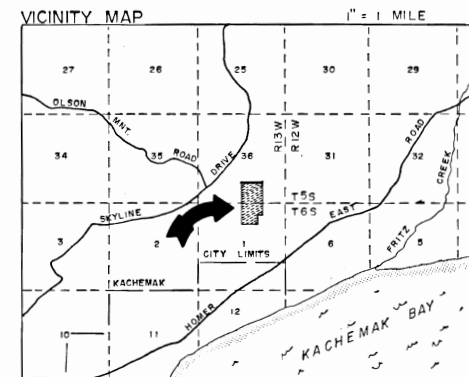
Shirley Ann Wilson
NOTARY PUBLIC FOR ALASKA
SURVEYORS' CERTIFICATE
SHIRLEY ANN WILSON 24, 1984
MY COMMISSION EXPIRES

I, THE UNDERSIGNED REGISTERED SURVEYOR, HEREBY CERTIFY THAT A LAND SURVEY HAS BEEN COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT CORNERS AND MONUMENTS HAVE BEEN LOCATED AND ESTABLISHED AND THAT DIMENSIONS SHOWN HEREON ARE TRUE AND CORRECT.

Jerry Anderson 4/21/81
JERRY ANDERSON, 3686-S DATE

PLAT APPROVAL
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF April 6, 1981.

BY Jeffrey B. Lalor
AUTHORIZED OFFICIAL



81-32

NEEDS - FILED 10-
Homer REC. DIST.

DATE 5-7-81
TIME 9:36 A.
Requested by K.P. Baranov
Address Sullivan

APPROXIMATE LOCATION OF EXISTING POWERLINE. THERE IS A 10' UTILITY EASEMENT ALONG EACH SIDE OF EXISTING LINES.



DATE: MARCH, 1981
SCALE: 1" = 200'
DRAWN BY: S W
FLD. BK. NO.: 97 & 91
JOB NO.: 1290



SKIPPER'S VIEW

SITUATED IN THE NW 1/4 NE 1/4, SEC. 1, T 6 S, R 13 W, S.M. 8 BEING THE SW 1/4 SE 1/4, SEC. 36, T 5 S, R 13 W, S.M.

CONTAINING 75 * ACRES

ABILITY - SURVEYS

JERRY ANDERSON, RLS BOX 1263 HOMER, ALASKA