

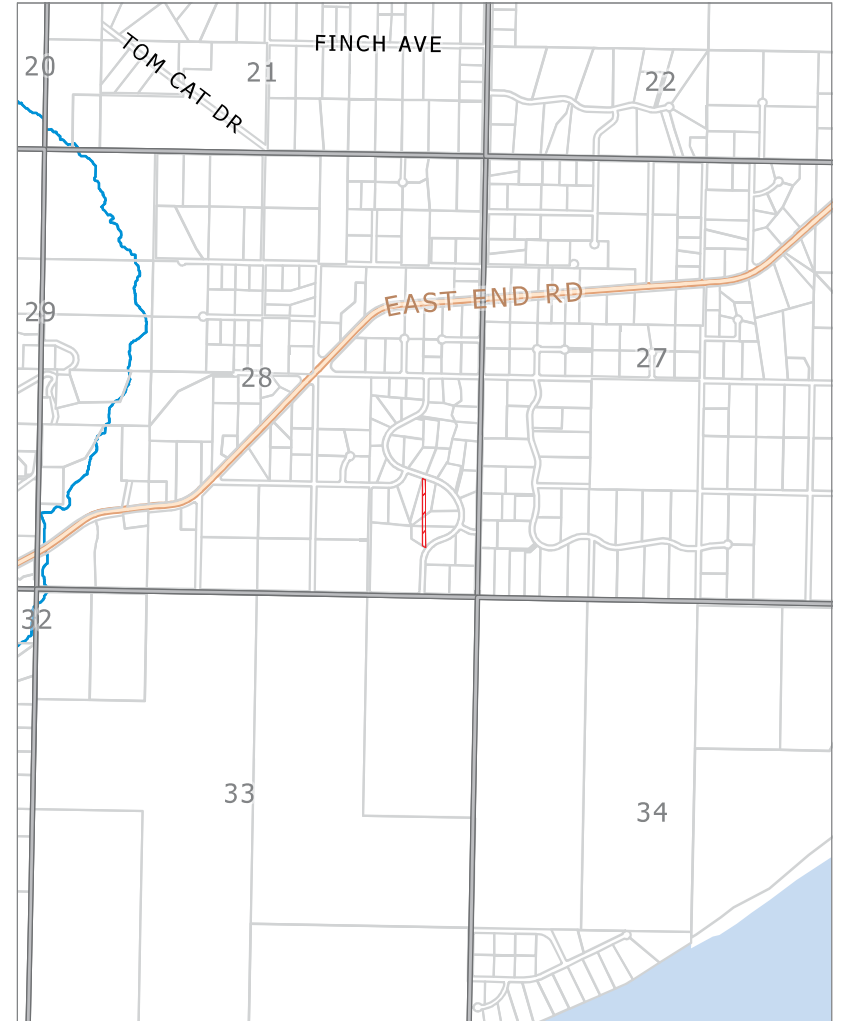
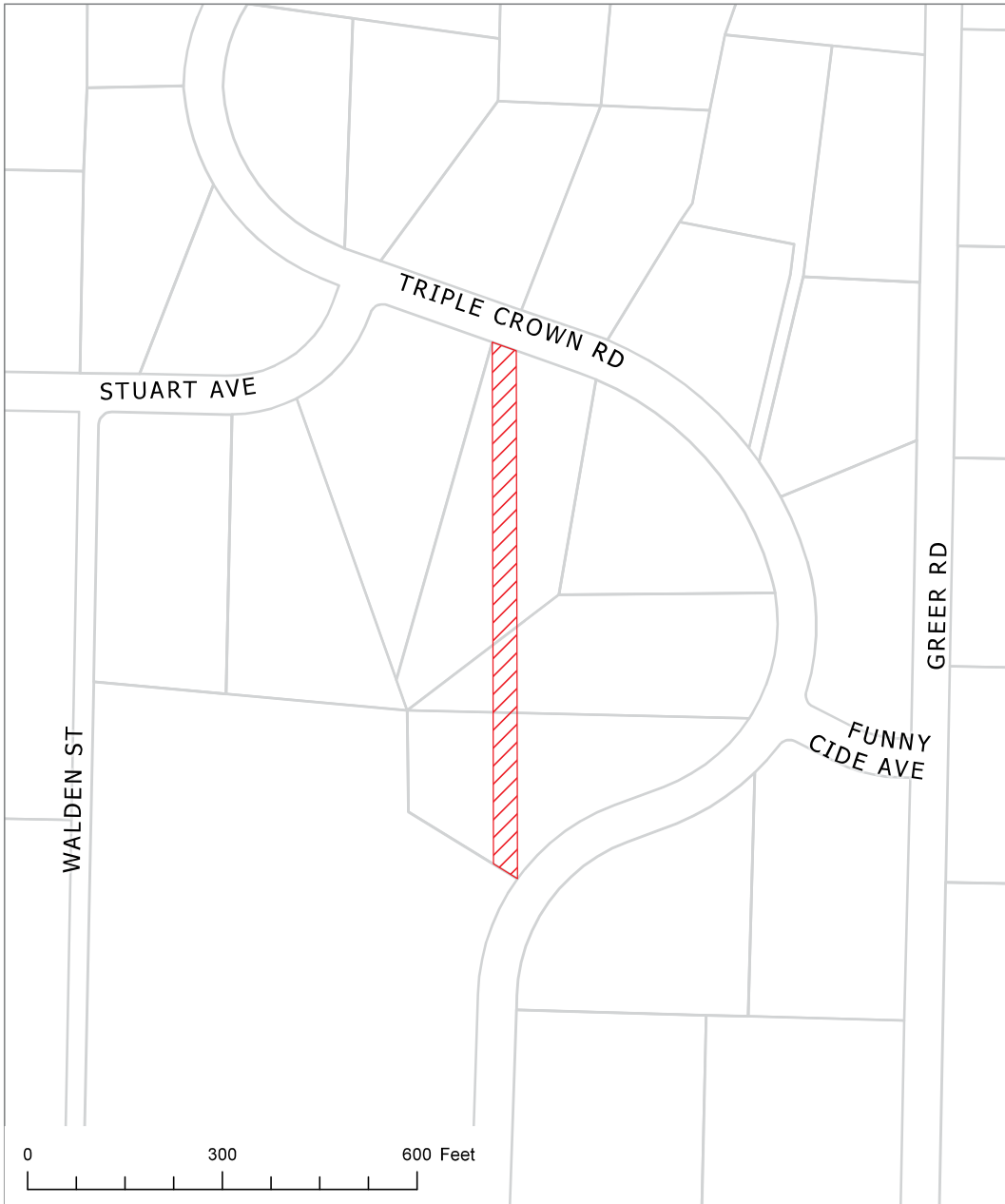
E. NEW BUSINESS

1. Right-Of-Way Vacation; KPB File 2023-131V

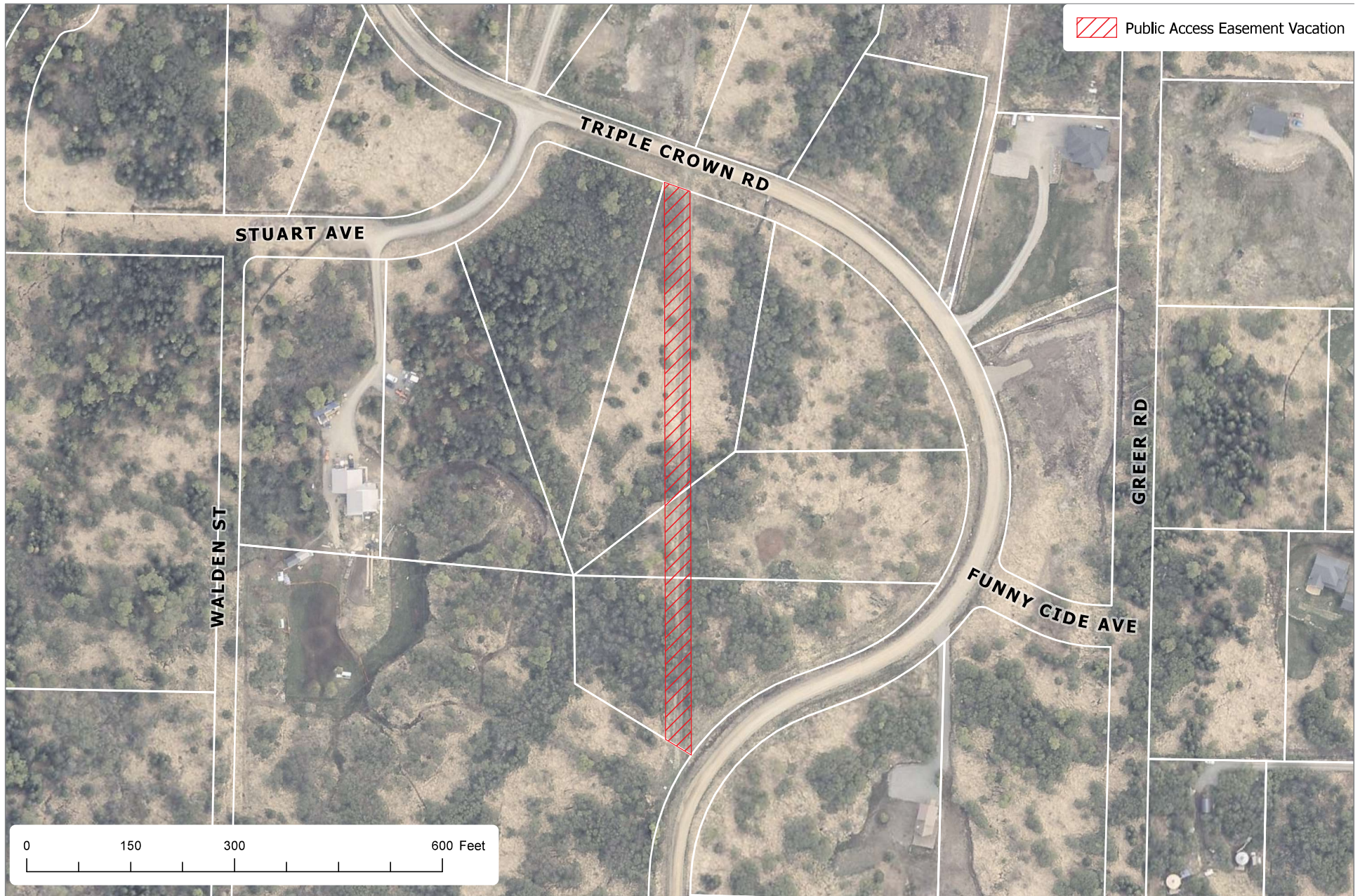
Petitioner Von Ruden & Bakke

Fritz Creek Area / Kachemak Bay APC

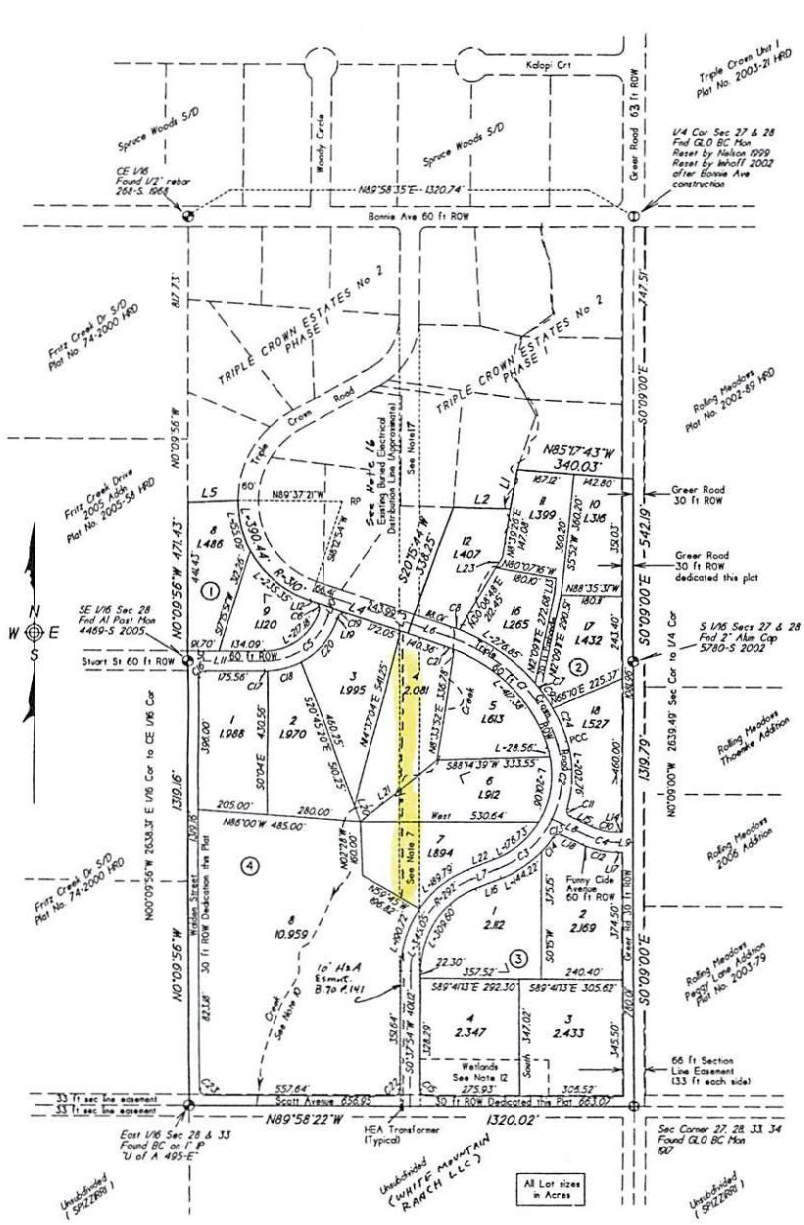
Request: Vacate the 60' wide public access easement running south approximately 1450' from Triple Crown Road ROW , the Scott Road ROW, Plat HM 2014-16



KPB File 2023-131V
T 05S R 12W SEC 28
Fritz Creek



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.



Subdivision Boundary Line Chart

L1 S10°10'51"W 18.73'
L2 N88°24'58"W 167.74'
L3 S18°12'54"W 60.00'
L4 N71°47'05"W 310.40'
L5 S87°48'00"W 148.75'

Funny Cide Ave Centerline Chart

L8 S84°28'34"E 148.84'
Line 8 a Road
C4 L-89.09' R-200'
L9 East 47.34'

Triple Crown Road Centerline Chart

L6 S71°47'05"E 88.00'
C1 L-475.00' R-500'
C2 L-227.33' R-300'
C3 L-224.17' R-300'
L7 S68°20'14"W 81.00'

Stuart St Centerline Chart

L10 S18°37'05"W 55.10'
C5 L-249.17' R-200'
L1 West 225.70'

Blocks 1, 2, 3, and 4 Line and Curve Chart

L2 N74°07'06"W 15.98'
L3 N52°00'00"E 46.80'
L4 West 17.26'
L5 S64°28'35"E 68.43'
L6 S68°20'14"W 81.00'
L7 West 17.42'
L8 S44°28'35"E 68.43'
L9 S75°35'35"W 50.2'
L20 S10°45'00"E 50.00'
L21 N52°22'20"E 194.00'
L22 S68°20'14"W 81.00'
L23 N32°22'42"E 34.99'

C6 L-30.92' R-20'
C7 L-26.08' R-535'
C8 L-26.05' R-20'
C9 L-45.53' R-535'
C10 L-75.73' R-40'
C11 L-21.55' R-20'
C12 L-40.246' R-230'
C13 L-18.55' R-20'
C14 L-55.06' R-330'
C15 L-3.63' R-20'
C16 L-3.47' R-20'
C17 L-2.59' R-230'
C18 L-40.150' R-230'
C19 L-3.77' R-20'
C20 L-73.46' R-130'
C21 L-29.40' R-475'
C22 L-3.20' R-20'
C23 L-3.15' R-20'
C24 L-48.57' R-535'

Notes

1. All wastewater disposal system shall comply with existing applicable laws at the time of construction.
2. The front 10 ft. and the entire building setback within 5 ft. of side lot lines is also a utility easement.
3. General easements (see location given) in favor of Homer Electric Association have been recorded in B49 M94 and B70 P141.
4. No access to State maintained rights-of-way permitted unless approved by State of Alaska Department of Transportation.
5. A building setback of 20 ft. is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.
6. A 2" self-identifying aluminum cap on 5/8" diameter x 36" long rebar set at all lot corners unless otherwise specified.
7. Existing Road is within 60 ft wide ROW easement in favor of the University of Alaska and the general public, recorded in B4 69 P420 HRD.
8. Existing buried powerline is centerline of 15 ft wide electrical distribution easement.
9. Basis of Bearing is Rolling Meadows Plot No. 2002-89 HRD.
10. The existing stream bed is centerline of a 40 ft wide drainage and greenbelt easement. Conditions and restrictions reference Serial No. 29114-521437 HRD.
11. Roads must meet the design and construction standards established by the Kenai Peninsula Borough to be considered for acceptance into the easement system.
12. Wetlands shown within Lots 3 and 4 Block 3 according to the wetlands determination under Corps of Engineers F04-2008-150-0157.
13. WASTEWATER DISPOSAL: LOT 8 BLOCK 4
These lots are of least 200,000 square feet or 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 Environmental Conservation.
14. No permanent structures are permitted within the pashade portion of Lot 8 Block 2.

Wastewater Disposal

Soil conditions in this subdivision have been found unsuitable for conventional onsite wastewater treatment and disposal systems. Plans for a typical alternate wastewater system for use on lots in this subdivision are included in the Engineer's Subdivision and Soil Report and are available from the Kenai Peninsula Borough. All alternate onsite wastewater treatment and disposal systems must be designed by a professional engineer registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation prior to construction.

I. Spuitland CE 2225 11/20/07
Engineer License No. Date

Ownership Certificate

We hereby certify that we are the owners of the real property shown and described herein and that we hereby adopt this plan of subdivision and by our free consent dedicate of rights-of-way to public use and grant all easements to the use shown.

Triple Crown Estates LLC 11-8-07
Date
Triple Crown Estates LLC
5243 Kochanek Drive
Homer AK 99603

Notary's Acknowledgment
Subscribed and sworn to me before me this 6th day of November 2007.

For Sanford Beachy
Sanford Beachy
Notary Public for Alaska
My Commission Expires 4-24-2008



Surveyors Certificate

I hereby certify that I am a Registered Land Surveyor and that this plan represents a survey made by me or under my direct supervision and the monuments shown hereon actually exist as described and that my knowledge and other details are correct to the best of my knowledge.
Date Nov 9, 2007 Roger W. Whifflet LS 5780

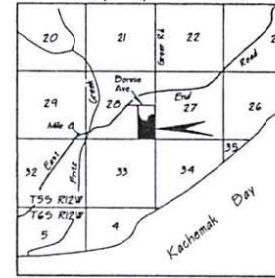


Plat Approval

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of April 24, 2008.

KENAI PENINSULA BOROUGH
By Maya B. B.
Authorizing Official

Vicinity Map 1" = 1 Mile



Triple Crown Estates No. 2 - Phase 2

Being a Subdivision of the E 1/2 SE 1/4 Section 28, T5S, R2W, S4, excepting therefrom Triple Crown Estates No. 2 - Phase 1 as shown on Plat No. 2007-26

within the Kenai Peninsula Borough
Homer Recording District, Third Judicial District, Alaska
Containing 50.957 Acres, more or less

Client: Triple Crown LLC 5243 Kochanek Dr Homer AK 99603	Surveyor: Roger W. Whifflet, RLS PFS No. 2588 Homer AK 99603	FB 06-2/07-2 Drawn RWI SCALE 1" = 200' ft.
Date of Survey June 2007	File nplcramp2phase2.rap rapcity.com	KPB File No. 2006-202 KPB File No. 2007-178

15. The easterly 10 ft. of Lot 16 Block 2 is a utility easement.
16. The buried electrical distribution line within Phase 1 was retired in 2007.
17. 60 ft. wide ROW easement within Phase 1 vacated by KPB Planning Commission Resolution 2006-24.

KPB 2023-131V

AGENDA ITEM E. NEW BUSINESS

**ITEM #1 - RIGHT OF WAY VACATION
VACATE THE 60' WIDE PUBLIC ACCESS EASEMENT RUNNING SOUTH
APPROXIMATELY 1450 FROM TRIPLE CROWN ROAD ROW TO
SCOTT ROAD ROW IN LOTS 3, 4, 6, 7 & 8 BLOCK 4 OF
TRIPLE CROWN ESTATES NO. 2 PHASE 2 HM 2014-16**

KPB File No.	2023-131V
Planning Commission Meeting:	December 11, 2023
Applicant / Owner:	Andrew & Rosemary Von Ruden of Owatonna, MN Erik Bakke of Homer AK
Surveyor:	None to date
General Location:	Fritz Creek area / Kachemak APC
Parcel No.:	172-035-35, 172-035-36, 172-035-38, 172-035-39 & 172-035-40
Legal Description:	Road / Subdivision / Rec. Dist. / Section Township Range S.M.

STAFF REPORT

Specific Request / Purpose as stated in the petition: Vacate the easement running south from Triple Crown Road to Scott Road rights-of-ways crossing Lots 3, 4, 6, 7 & 8 Block 4 in Triple Crown Estates No 2 Phase 2 HM 2014-16.

Notification: The public hearing notice was published in the Homer News issue of the December 7, 2023 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

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

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

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
Kachemak Bay Advisory Planning Commission
City of Homer
Emergency Services of Kachemak
Kenai Peninsula Borough Homer Office

Emergency Services of Kachemak
Ninilchik Traditional Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)
Chugach Electric

Legal Access (existing and proposed):

Existing access is by Triple Crown Road a 60' Borough maintained road dedicated by the Triple Crown Estates No 2 subdivisions Phases 1 and 2. The Triple Crown Road goes between Bonnie Avenue and Scott Road.

No new access is being dedicated. An old access easement is proposed to be vacated for non-use.

There is a section line easement on the east side of the subdivision that is not developed and is unknown if used for easements.

Block length is compliant along Triple Crown Road.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: ROW appears to have shifted from the granted easement with the 2006-07 subdivision, assuming to contend with grades. Access is provided. The RSA has no issue with the proposed vacation.
SOA DOT comments	

Site Investigation:

There are no steep areas throughout the subdivision as the terrain slopes gradually from the north to the south at a grade of 5%.

There is a stream that runs across the subdivision, following the north line of Lot 6 Block 4 having a 40 foot wide drainage and greenbelt easement. Conditions and restrictions are referenced in Serial 2014-002037 HRD per note 10 on Triple Crown Estates No. 2 – Phase 2 2014-16 HRD.

The entire area being considered for this action is a wetland designation with a label of discharge slope by the KPB GIS system.

KPB River Center review	A. Floodplain Reviewer: Hindman, Julie Floodplain Status: Within City of Homer Comments: No comments B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments C. State Parks Reviewer: Comments:
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Staff Analysis:

The access easement was originally established in 1972 to cross the property to access the land to the south owned by the University of Alaska and was filed in Book 69 Page 420 HRD on May 21, 1972. At the time the land was described as the E1/2 of the SE1/4 of Section 28, T5S, R12W SW in the Kenai Peninsula Borough of the Third Judicial District, State of Alaska. In 2007 the first of two subdivisions were done as Triple Crown Estates No. 2 Phase 1 2007-26 HRD was recorded, dedicating a new 60 foot wide road named Triple Crown Road. The road did not follow the access easement. In 2014 Triple Crown Estates No. 2 Phase 2 2014-16 HRD was recorded, continuing the dedication of Triple Crown Road, not following the access easement.

To the west, north and east of this subdivision are other subdivided parcels ranging in size from 1.22 acres to 11.50 acres. To the south are large unsubdivided parcels that have access by section line easements. The parcel directly south of Lot 8 Block 4 will still be accessed by Triple Crown Road and will not be affected by this vacation.

The portion of the easement north of this requested vacation was vacated by Resolution 2008-24.

There are utilities in the area to be vacated. Easements have been recorded for some utilities.

No future development is proposed at this time. The vacation of the easement is being proposed to better utilize the owner's properties.

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: Not currently as a roadway, only for utilities in place.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: Not impractical, but a new road has been put in place and in use.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: Areas west and east are developed
 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: not applicable to this situation
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: no
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: yes, a road is in place for use and access to lots
 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: easements have been supplied as requested or will be accommodated.
 8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: the northern portion has been vacated for non-use previously. No surrounding properties will be denied access due this vacation.

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 January 2, 2024 meeting.

If approved, a vacation plat will need to be submitted to finalize the proposed right of way vacations. A subdivision plat will be accompanying this vacation and will be finalized under 20.10.080 – Vacation Plat.

KPB department / agency review:

Addressing	<p>Reviewer: Leavitt, Rhealyn Affected Addresses: NONE</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names: TRIPLE CROWN RD, STUART AVE</p> <p>Existing Street Name Corrections Needed: STUART ST WAS CHANGED BY SN 2011-18 TO STUART AVE</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: No other comments</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	No comment
ENSTAR	
ACS	No objections
GCI	

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*

- *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

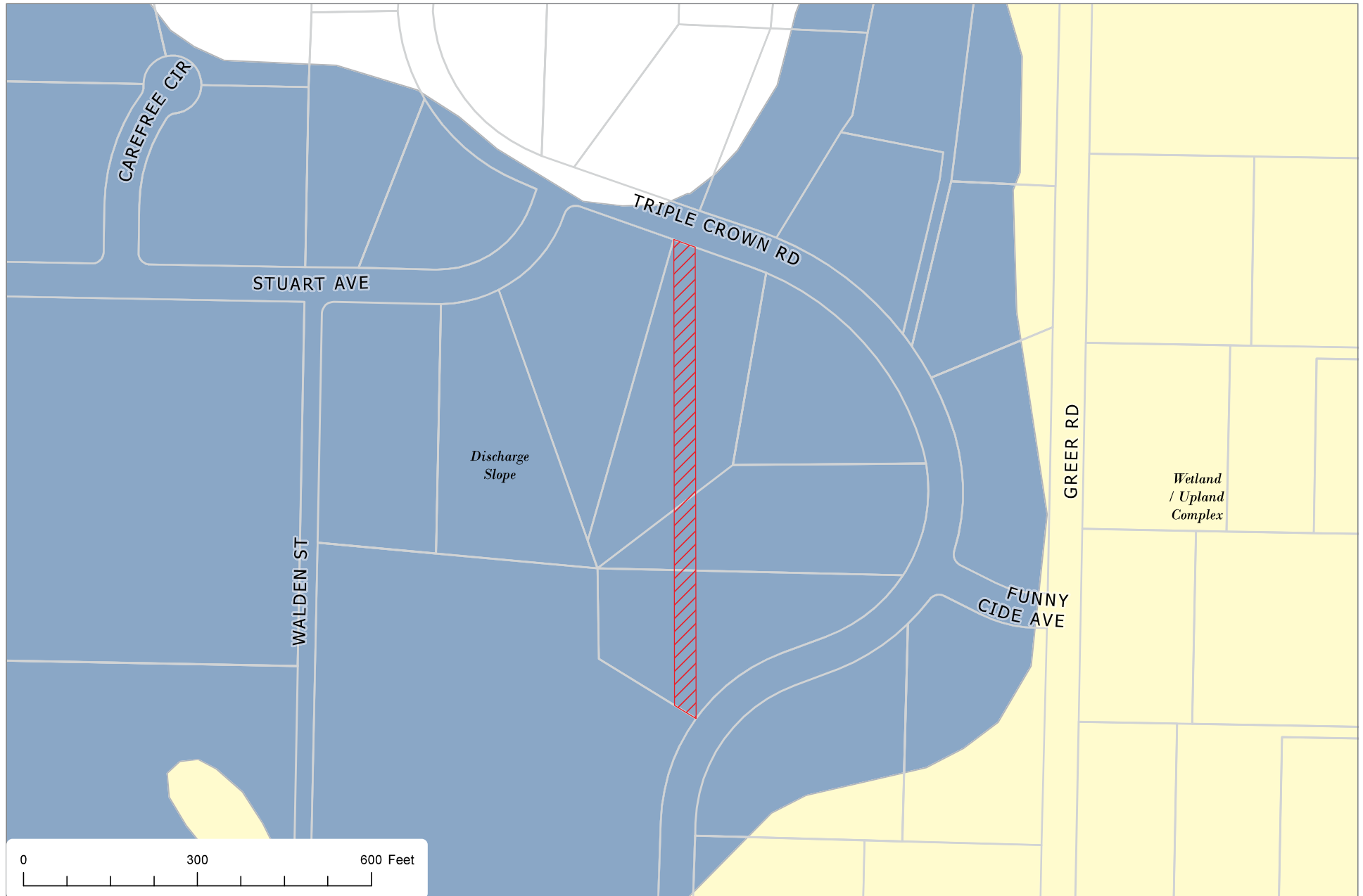
- Focus Area: Transportation

- *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



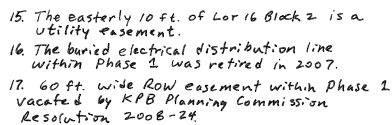
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2014-16
Plat #
Homer
Rec Dist
7/28 2014
Date
Time 9:57 AM

THIS INDENTURE, made and entered into this 25th day of April, 1972, by and between Eugene Julius Evancoe and Olive M. Evancoe, husband and wife of Washington, Illinois, hereinafter referred to as GRANTOR, and the UNIVERSITY OF ALASKA, a public corporation hereinafter referred to as the GRANTOR.

WITNESSETH:

That the Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto said Grantee, a perpetual, full and unrestricted easement in perpetuity and right-of-way, along, over and across the following described strip, tract or parcel of land and real estate lying, and being situated in the State of Alaska, as follows, to-wit:

That portion of the E 1/2 of the SE 1/4 of Section 28, T.5 S., R.12W., Seward Meridian in the Kenai Peninsula Borough of the Third Judicial District, State of Alaska, being a 60.00 foot wide strip of land which is 30.00 feet on each side, parallel with and adjacent to the following described centerlines:

The right-of-way begins at the southerly right-of-way line of Homer East Road, Alaska Department of Highways Project #SAS-414.

Parcle "A" - Beginning at a point for the intersection of Homer East Road, Alaska Department of Highways Project #SAS-414, station 517 + 06L, and a driveway entering said highway right-of-way; Thence along a line bearing S45 degrees 04 minutes East, a distance of 654' more or less to a point for the intersection of said line with the East-West quarter section line of Section 28, T5s, R12W, S.M.: Thence easterly along the quarter section line of Section 28, a distance of 1,850 1190 feet more or less to the quarter-section corner common to ~~section 27 and section 28, T5S, R12W, S.M. Centerline of parcel "B"~~ (Elevated Point) *eye*

660 *eye*
Parcle "B" - Starting at the 1/4 corner common to Section 27 and Section 28 T.5 S., R.12W., Seward Meridian thence West a distance of 660.00 feet to the true point of beginning of said center line for Parcle "B" thence South and parallel to the East Section line of Section 28, T.5 S., R.12W, S.M. a distance of 2640.00 feet to the termination point of this parcle "B" center line.

The said right-of-way shall be used for the purpose of constructing and maintaining thereon a public roadway, and the Grantor covenants and agrees that the Grantee and the general public shall have full, free and uninterrupted use of said right-of-way for the purpose aforesaid, and for all other purposes deemed by Grantee to be beneficial, desirable or necessary in connection with the use of said right-of-way as a roadway.

The said right-of-way shall traverse the above described premises according to the plot attached hereto and made a part of this instrument. Should the said right-of-way herein granted cease to be used as a public roadway

Book No. 73-610

BOOK 69 PAGE 421

or the general public, then and in that event this easement shall cease and all rights granted herein shall revert to the owner of the fee as soon as the said use thereof shall be abandoned and discontinued.

IN WITNESS WHEREOF, the said Grantor has hereupon set his hand and seal on the day and year hereinabove written.

Grantor

Eugene Julius Evanroe
Eugene Julius Evanroe

Olive M. Evanroe
Olive M. Evanroe

UNITED STATES OF AMERICA)
STATE OF ILLINOIS)
COUNTY OF TAZEWELL)

ss.

THIS IS TO CERTIFY that on the 24th day of April, 1972, before the undersigned notary public, personally appeared EUGENE JULIUS EVANROE and OLIVE M. EVANROE, of Washington, Illinois, who are known to me to be the persons named in and executing the foregoing Warranty Deed and they acknowledged the same to be their act.

Lefroy Shigell
Notary Public in and for
Illinois
Commission Expires:

2-2-1973

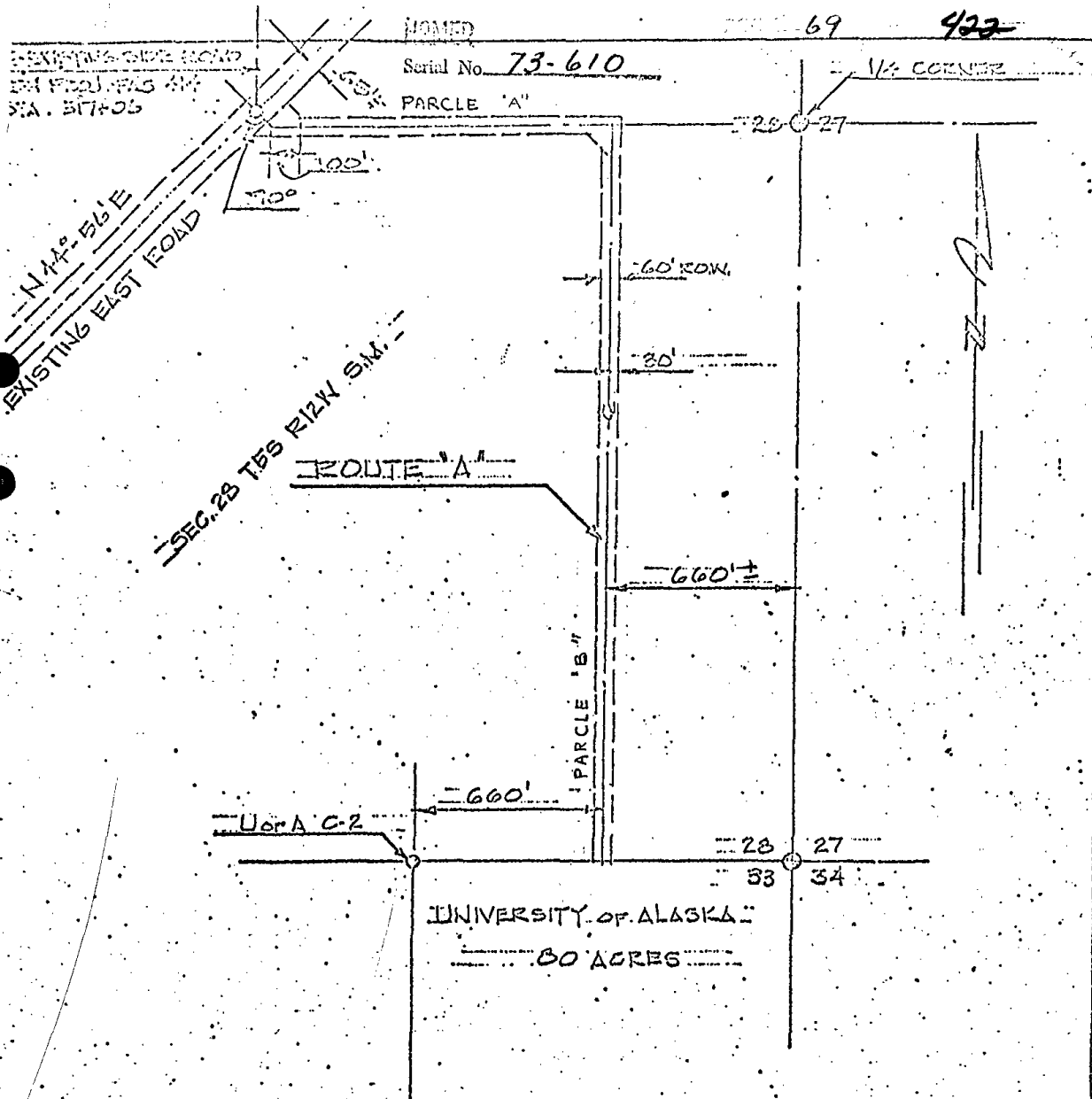
CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the University of Alaska, Grantee herein, acting by and through its President William R. Wood, hereby accepts for public purposes the real property easement or interest therein, described in this instrument and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of May, 1972.

UNIVERSITY OF ALASKA

By Wm R. Wood
William R. Wood, President



RECORDED - FILED	7-2
Homer	REC. DIST.
DATE	5-21-1973
TIME	12:35 P.M.
Requester	Univ. of Alaska
Address	Fairbanks, AK

REVI	UP-DATED	DWR	5-1-72
LOCATION PLAN			
ACCESS ROAD			
TO THE			
UNIVERSITY OF ALASKA, HOMER			
RED MEAT RESEARCH CENTER			
EXHIBIT "A" - R-O-W EASEMENT			
SURVEYED	DRAWN	DATE	SCALE
WHI	JEC	4-12-72	1" = 500'
			3