# Kenai Peninsula Borough Planning Department

# **MEMORANDUM**

TO:

Brent Johnson, Assembly President

Kenai Peninsula Borough Assembly Members

FROM:

Sam Lopez, Acting Planning Director

DATE:

January 9, 2024

RE:

Vacate 30-foot Alley in Block 11, US Survey 3564

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 January 8, 2024 the Kenai Peninsula Borough Planning Commission granted approval of the above proposed vacation by unanimous vote (7-Yes,2-Absent) based on the means of evaluating public necessity established by KPB 20.70. 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.

January 8, 2024 Planning Commission Draft Meeting Minutes January 8, 2024 Agenda Item E1 Meeting Packet Materials

### \*4 Plat Granted Final Approval

- a. Don's Place Subdivision Faeo Replat; KPB File 2023-022
- b. Irons Subdivision Covey Replat; KPB File 2022-110
- c. Riverview Subdivision Coghill Replat Lot 1A SLEV; KPB File 2019-064

### \*6. Commissioner Excused Absences

a. Virginia Morgan, Cooper Landing/Hope District

#### \*7. Minutes

a. December 11, 2023 Planning Commission Meeting Minutes.

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record. Chair Brantley then asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no one wishing to comment, Chair Brantley brought it back to the commission for a motion.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Tautfest 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 - 7	Brantley, Epperheimer, Fikes, Gillham, Slaughter, Tautfest, Venuti
Absent - 2	Morgan, Staggs

### AGENDA ITEM E. NEW BUSINESS

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

# ITEM #1 - RIGHT OF WAY VACATION VACATE 30' ALLEY IN BLOCK 11 US SURVEY 3564 (30'X240')

KPB File No.	2023-141V
Planning Commission Meeting:	January 8, 2023
Applicant / Owner:	Paul & Marcia Zimmerman Kasilof AK
Surveyor:	James Hall / McLane Consulting Inc.
General Location:	Kalifornsky Beach Rd & Sadie Lane in Kasilof
Legal Description:	Lots 2 – 7 Block 11 US Survey No 3564 Alaska Townsite of
Legal Description.	Kasilof KN 3564 SEC 30 T 3N R 11W

Staff report given by Platting Manager Vince Piagentini.

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 Slaughter moved, seconded by Commissioner Venuti to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, based on staff recommendations and subject to the four conditions as set forth in the staff report.

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

## **MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 7	Brantley, Epperheimer, Fikes, Gillham, Slaughter, Tautfest, Venuti
Absent - 2	Morgan, Staggs

Kenai Peninsula Borough Page 2



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

DEC 08 2023

TAIT / PLATTED PUBLIC AREA

The Planning 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.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Subdivision Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

SUBMITTAL REQUIREMENTS				
A platted right of way vacation (ROWV) application	will be scheduled for the next available	olanni	ng	
commission meeting after a complete application I	has been received.			
-\$500 non-refundable fee to help defray cost	s of advertising public hearing. Plat fees	will b	e in	
addition to the vacation fees.			K	12
- City Advisory Planning Commission. Copy of n	ninutes at which this item was acted on, alo	ong wi	th a	
copy of City Staff Report.				
	blic right of way proposed to be vacated wa	15	1	
dedicated by the plat of US SURVEY 3564	Subdivision, filed as F	lat No		•
in the KENAI Recording				
- 3 copies of the plat or map showing the platte				
17 inches in size. Area to be vacated must be cle	early depicted. Proposed alternative public	acces	s to	
be shown and labeled on the sketch.				
- REASON FOR VACATING The petitioner must a		ition f	or	
the vacation of the platted right of way / platted		_	_	1
Has the platted right of way been fully or partially o		Yes	1	No
Is the platted right of way used by vehicles / pedest	rians / other?	Yes	1	No
Is alternative right-of-way being provided?		Yes	1	No
Are there utility easements associated with the right of way to be vacated?		Yes	1	No
Is the platted right of way and or associated utility e	easement in use by any utility company?	Yes	1	No
If so, which utility provider?				
LEGAL DESCRIPTION ADJOINING LAND:				_
Lot, Block, Subd. or street address				
LOTS 2 THRU 7 BLOCK 11 US SURVEY 3564				-
Section, township, range SECTION 30, T3N,	R11W, SM AK			
City (if applicable)	General area KBEACH & SADIE L	N		
	TOPACH & CABLE E	-14		_
The petition must be signed by owners of a majorit	by of the land affected by the platted right	ofwa	<b>V</b>	
proposed to be vacated. Each petitioner must inclu			У	
property. Attach additional signature sheets if need		•		
property. Actaon additional signature sneets if neet	ueu.			
Submitted by:				
Land Owner				
Name (printed): Paul Zumerman	Signature Ven Er			٦
e-mail: PCZ & acs AlAska, Net	Address:			$\dashv$
	P.O.BOX XI4), KOSILOF, AK	991	12	
Owner of: 675 2 TARU 7 B lock 11	V-C - C NONUSIEU JAIC	116	10	_
land Owner:	1			_
Name (printed): MARCIA ZIMMERAME e-mail: MZIM FOCCALACKO NET	Signature Waking for			_
c man bi Ein Cheshinskin	Address: Pro. BOX 414, KASILOF, AK 9	1		
Owner of: Lots 2 then 7 Bluck 11 LIS SURVEY 3564	0-0-50x 474, RASILOF, AK 9	9610	)	
Lis survey 3564				
FOR OFFICE USE ONLY				
RECEIVED BY DATE SUBM	IITTEDKPB FILE #			23





### **US SURVEY 3564 REPLAT & ASSOCIATED ALLEY VACATION**

#### **LEGAL DESCRIPTION:**

REPLAT OF LOTS 2 THRU 7 BLOCK 11 US SURVEY 3564 W/ ALLEY VACATION FOR A PORTION OF THE 30 FOOT WIDE ALLEY LOCATED WITHIN SECTION 30, TOWNSHIP 3 NORTH, RANGE 11 WEST, SEWARD MERIDIAN, ALASKA.

### **ALLEY VACATION:**

A PORTION OF THE 30 FOOT ALLEY WITHIN BLOCK 11 US SURVEY 3564.

PROPOSED VACATION IS APPROXIMATELY 7200 SF (0.165 AC).

#### **ADJOINING PROPERTIES:**

ALL SURROUNDING PARCELS REMAIN WITH LEGAL ACCESS.

### **ALTERNATE ACCESS RIGHT-OF-WAY:**

INTERIOR ALLEY THAT RESTRICTS DEVELOPMENT OF THE PROPERTY. ALTERNATE ACCESS IS NOT NECESSARY AS THE PARCEL IS SURROUNDED BY 100+ FOOT R/W's.

#### **REASONING:**

- THE CURRENT USE IS BY THE SAME PROPERTY OWNER THAT WILL COMBINE THE LOTS 2 THRU 7 BLOCK 11.
- UNDER-SIZED LOTS WERE CREATED BY THE US SURVEY 3564 w/ RESTRICTIONS OF A 30 FOOT WIDE ALLEY.
- THIS VACATION AND LOT COMBO WILL BRING THE PROPERTY ABOVE MINIMUM BOROUGH STANDARDS FOR LOT SIZE.
- PROPERTY IS SURROUNDED BY OVERSIZE R/W's THAT HAVE NOT BEEN DEVELOPED OR UTILIZED.

# E. NEW BUSINESS

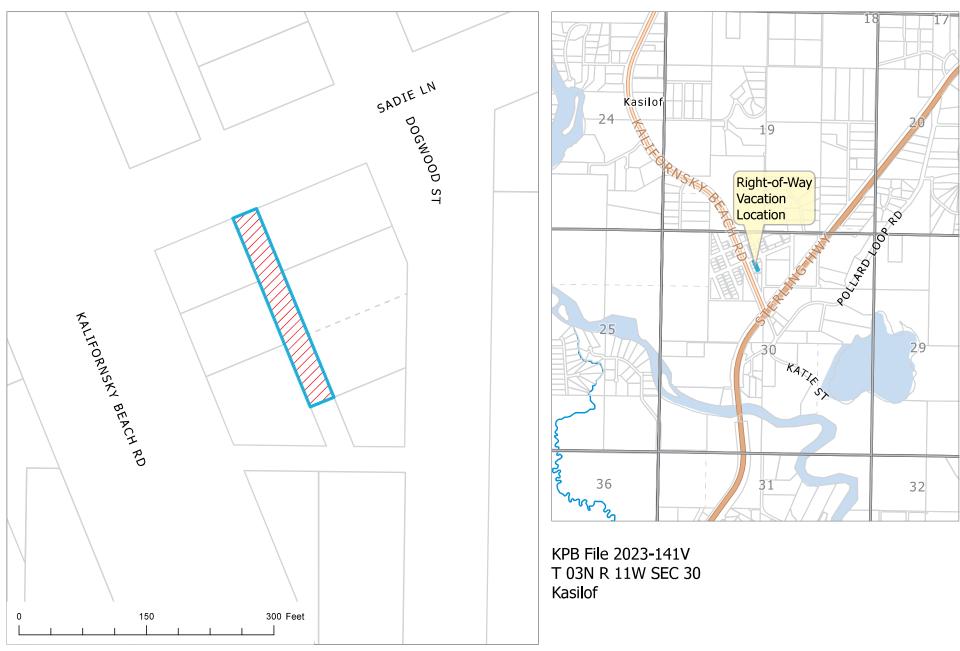
Right-of-Way Vacation; KPB File 2023-141V
 McLane Consulting Group / Zimmerman
 Request: Vacate the 30' by 240' alleyway associated
 with Lots 2-7, Block 11, US Survey No. 3564
 Kasilof Area



# Kenai Peninsula Borough Planning Department

Vicinity Map

12/17/2023 N

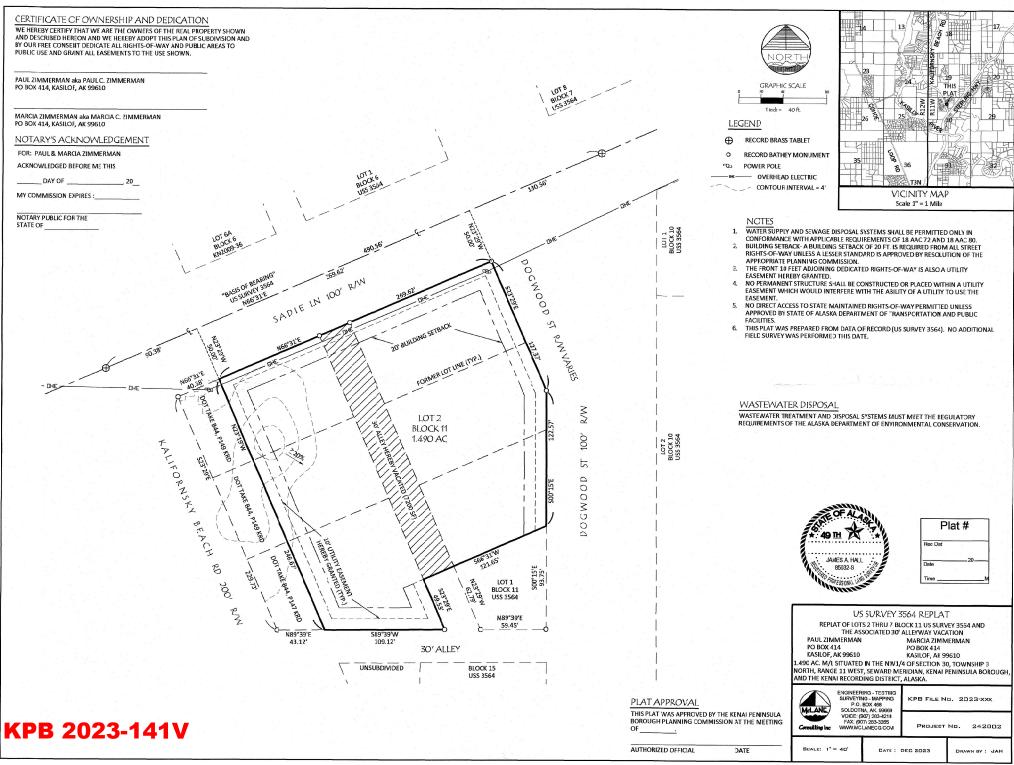


# Kenai Peninsula Borough Planning Department

Aerial Map

KPB File 2023-141V 12/17/2023





AGENDA ITEM E. NEW BUSINESS

# ITEM #1 - RIGHT OF WAY VACATION VACATE 30' ALLEY IN BLOCK 11 US SURVEY 3564 (30'X240')

KPB File No.	2023-141V	
Planning Commission Meeting: January 8, 2023		
Applicant / Owner:	Paul & Marcia Zimmerman Kasilof AK	
Surveyor:	James Hall / McLane Consulting Inc.	
General Location:	ation: Kalifornsky Beach Rd & Sadie Lane in Kasilof	
Legal Description:	Lots 2 – 7 Block 11 US Survey No 3564 Alaska Townsite of Kasilof KN	
	3564 SEC 30 T 3N R 11W	

#### STAFF REPORT

<u>Specific Request / Purpose as stated in the petition:</u> Vacation for a portion of the 30 foot wide alley located within Block 11 US Survey 3564. Proposed vacation is approximately 7200 SF (0.165 AC). Interior alley that restricts development of the property. Current use is by the same property owner that will combine the lots 2 thru 7 Block 11. Under-sized lots were created by the US Survey 3564 with restrictions of a 30 foot wide alley. This vacation and lot combo will bring the property above minimum Borough standards for lot size. The property is surrounded by oversized right-of-ways that have not been developed or utilized.

**Notification:** The public hearing notice was published in the Peninsula Clarion issue of the January 4, 2024 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 Kasilof

Post Office of Kasilof

Fifteen certified mailings were sent to owners of property within 300 feet of the proposed vacation. 0 receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to Eighteen 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 Central Emergency Services Kenai Peninsula Borough Office Kenai Peninsula Borough Land Management Alaska Communication Systems (ACS) ENSTAR Natural Gas General Communications Inc, (GCI)

Homer Electric Association (HEA)

### **Legal Access (existing and proposed):**

Current access is by Kalifornsky Beach Rd a 200 foot right-of-way is on the westerly side of the lots, which is constructed. Sadie Ln a 100 foot right-of-way is on the north side of the block is also constructed. On the east is Dogwood St a varied width right-of-way, which is unconstructed. To the south is an unconstructed 30 foot alley.

No new dedication is proposed with this vacation as the block is surrounded by dedicated roads. A new dedication is not necessary.

Page 1 of 6

The block length is compliant with Kalifornsky Beach Rd, Sadie Ln, and Dogwood St creating a compliant block.

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

<u>Site Investigation:</u>
There are no steep areas on the property and the land is relatively flat across the plat.

There are no wetlands identified on the property.

The property is identified as being in a Flood Insurance Rate Map (FIRM) area designated flood zone labeled as Zone D. Drawing shall contain the following note:

### FLOOD HAZARD NOTICE:

Some or all of the property shown on this plat has been designated by FEMA or the Kenai Peninsula Borough Seward Mapped Flood Data Area as a flood hazard area district as of the date this plat is recorded with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations. Development must comply with Chapter 21.06 of the Kenai Peninsula Borough Code.

KPB River Center review	See attachments
	A. Floodplain
	Reviewer: Hindman, Julie Floodplain Status: IS in flood hazard area Comments: Flood Zone: D Map Panel: 02122C-0860E In Floodway: False Floodway Panel:
	B. Habitat Protection
	Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments
	C. State Parks
	Reviewer: Comments:

# Staff Analysis:

The vacated area is located in the Townsite of Kasilof surveyed as US Survey 3564. Previously the land had been aliquot parcel in Section 30 Township 3 North Range 11 West SM Alaska.

The 30' alley to be vacated is running through the middle of Block 11. Lots 2-7 are owned by the same owner which is adjacent to the portion being requested for vacation and is currently being used for residential purposes.

To the south on Lot 1 Block 11 is another residential owner and is currently vacant. The parcel to the east is currently vacant. Parcels to the north are currently vacant also.

After vacating the alley, the owner plans to combine the lots and vacated alley into one lot with a subdivision plat as shown on the drawing.

### 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: No

- A road is impossible or impractical to construct, and alternative access has been provided;
   Staff comments: road not installed, access from around the entire property as surrounded by streets.
- 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed:

Staff comments: random houses located in the area: roads laid out not constructed

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: No

5 The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;

Staff comments: No, owner would be only user. Not developed.

- 6. Other public access, other than general road use, exist or are feasible for the right-of-way; **Staff comments:** The property is surrounded by designated roads
- 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:** No comments yet, suggest to accommodate if needed.

8. Any other factors that are relevant to the vacation application or the area proposed to be vacated. **Staff comments:** 

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.

Page 3 of 6

The Assembly will hear the vacation at their scheduled January 16, 2024 meeting.

If approved, US Survey 3564 Replat will finalize the proposed right of way vacations. The Plat Committee will review the plat upon submittal.

KPB department / agency review:

Addressing	Reviewer: Leavitt, Rhealyn
3	Affected Addresses:
	51475 SADIE LN, 51465 SADIE LN, 23855 DOGWOOD ST
	Existing Street Names are Correct: Yes
	List of Correct Street Names: SADIE LN, DOGWOOD ST, KALIFORNSKY BEACH RD
	Existing Street Name Corrections Needed:
	All New Street Names are Approved: No
	List of Approved Street Names:
	List of Street Names Denied:
	Comments: ADDRESSES MAY BE AFFECTED BY THIS ACTION WILL ADVISE WITH PLAT.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Planner	Reviewer: Raidmae, Ryan 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.
Assessing	Reviewer: Windsor, Heather Comments: No comment
Advisory Planning Commissi	on

**Utility provider review:** 

HEA	
ENSTAR	No comment or recommendations
ACS	
GCI	
SEWARD ELECTRIC	
CHUGACH ELECTRIC	
TELALASKA	

## **RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends <u>APPROVAL</u> 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
  - 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.

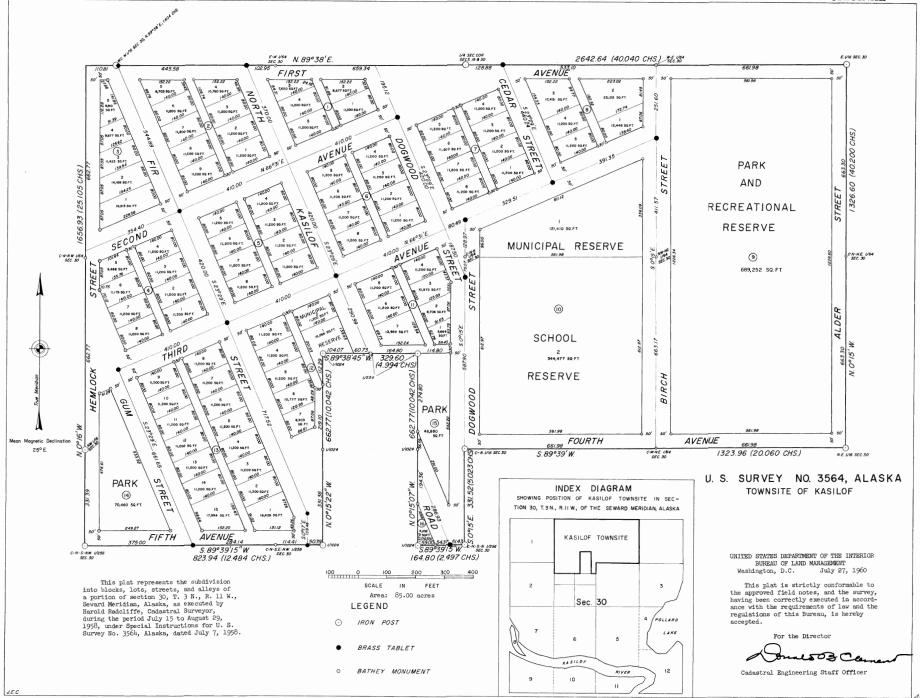
Page 5 of 6

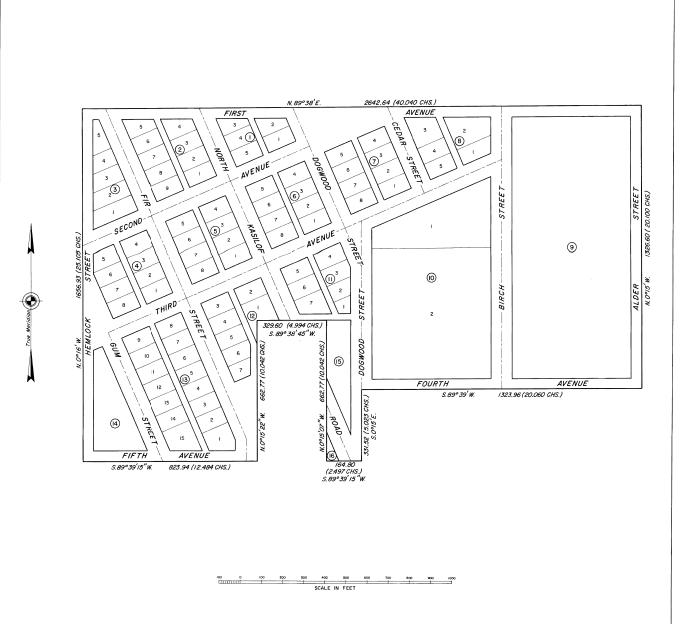
■ Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans 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** 





SUPPLEMENTAL PLAT
U.S. SURVEY
No. 3564, ALASKA
TOWNSITE OF KASILOF

This plat removes the following designations:

"Park and Recreational Reserve" from Block 9; "Municipal Reserve" from Block 10, Lot 1, and Block 12, Lots 1 and 2; "School Reserve" from Block 10, Lot 2; and "Park" from Blocks 14, 15, and 16.

This plat is based upon the plat accepted July 27, 1960, for U.S. Survey No. 3564, Alaska.

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT Anchorage, Alaska April 22, 1982

This plat is based upon the official records and, having been correctly prepared in accordance with the regulations of this Bureau, is hereby accepted.

For the Director

Chief, Division of Cadastral Survey, Alaska