

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacate the south.752 feet (approximately) of the 60-foot wide Fish Street right-of-way and the west 190 feet of the 60-foot wide Brush Way right-of-way as dedicated on Nikishka Subdivision No. 2, Plat KN-1400. The rights-of-way being vacated are partially constructed and located within the SW¼ NE¼ of Section 1, Township 7 North, Range 12 West, Seward Meridian, Alaska and within the Kenai Peninsula Borough; KPB File 2016-084.

NOTE: Fish Street is to be re-aligned to be coincident with the east boundary of the Nikishka Subdivision No. 2.

Staff Report given by Max Best

PC Meeting: 8/22/16

Purpose as stated in petition: The existing Fish Street has two buildings in the right of way. The replat will move Fish Street around these buildings.

Petitioners: Alaska Omega Nutrition, Inc., of Seattle, Washington and Alvin and Wilma Hampson of Nikiski, Alaska.

Notification: Public notice appeared in the August 11 issue of the Peninsula Clarion as a separate ad and on August 18 as part of the Planning Commission's tentative agenda.

Nine certified mailings were sent to owners of property within 300 feet of the parcels. Eight receipts have been returned.

Ten notices of public hearing were sent by regular mail to owners within 600 feet.

Sixteen regular mailings were emailed to agencies and interested parties. Eleven notices were emailed to KPB Departments. Notices were mailed to the Nikiski Post Office and Nikiski Community Library to be posted in public locations. The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: There is an existing as main within the west half of the existing Fish Street right-of-way. As this right-of-way will be vacated, ENSTAR requests a 15-foot natural gas easement centered on the line within proposed Lot 2A Block 1.

Homer Electric Association: Reviewed/no comments.

KPB Addressing Officer: No objection to the vacation of Brush Way. No objection to the realignment of Fish Street. Some addresses will be affected by the proposed vacation and replat of the property.

River Center: The proposed vacation is not within a mapped floodplain or floodway, and it is not affected by the Anadromous Stream Habitat Protection District.

State Department of Transportation: The project (constructed) centerline is 75 feet from the edge of the property. Showing it as 100 feet could be confusing if someone thought that was the half width and that the total ROW was 200 feet when in fact it is only 150 feet. *[Staff Comment: The Plat Committee will address the highway width for the associated subdivision plat.]*

Staff Discussion: The preliminary plat has been submitted but not yet scheduled for Plat Committee review.

The surveyor provided a detailed as-built survey of the encroachments in the rights-of-way per KPB 20.70.050. No utility easements were included in the vacation petition. If the vacation petition is approved as submitted, it will not resolve encroachments into the 10-foot utility easement within Lots 2-8 Block 1.

Utility reviews from all the affected utility providers were not available when the staff report was prepared.

The parent plat (KN 1400) was recorded on February 3, 1965, which was prior to enactment of the subdivision ordinance. If a standard 20-foot building setback is created for the new alignment of Fish Street, an encroachment will be created with the existing building in the northern most portion of Lot 2A Block 1.

Findings:

1. Per the submittal, the rights-of-way proposed for vacation are partially constructed.
2. Per ENSTAR's review, there is an existing gas main within the west half of the existing Fish Street right-of-way.
3. The vacation petition proposes to vacate and re-align Fish Street and vacate that portion of Brush Way outside the new alignment for Fish Street.
4. Homer Electric Association submitted a statement of reviewed/no comments.
5. Sufficient rights-of-way exist to serve the surrounding properties.
6. No surrounding properties will be denied access.
7. The amount of right-of-way proposed for vacation is approximately the same as the amount of alternative right-of-way proposed for the new re-alignment of Fish Street.
8. Per KPB GIS mapping, the property is not affected by low wet areas.
9. Per KPB GIS 4-foot contours, terrain within subject lots is basically flat.

STAFF RECOMMENDATION: Based on Findings 3-9, staff recommends approval of the vacations as petitioned, subject to:

1. Grant the utility easements requested by the utility providers per KPB 20.30.060 and KPB 20.60.150.
2. Adjust the 20-foot building setback for the new alignment of Fish Street such that no encroachments will be created.
3. Submittal of a final plat within a timeframe that will ensure recordation of the plat within one year of vacation consent.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, 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.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Foster moved, seconded by Commissioner Venuti to approve the vacation of the south 752 feet of the 60 foot wide Fish Street right-of-way and the west 190 feet of the 60 foot wide Brush Way right-of-way as dedicated by Nikishika Subdivision based on the following findings of fact and conditions.

Findings

3. The vacation petition proposes to vacate and re-align Fish Street and vacate that portion of Brush Way outside the new alignment for Fish Street.
4. Homer Electric Association submitted a statement of reviewed/no comments.
5. Sufficient rights-of-way exist to serve the surrounding properties.
6. No surrounding properties will be denied access.
7. The amount of right-of-way proposed for vacation is approximately the same as the amount of alternative right-of-way proposed for the new re-alignment of Fish Street.
8. Per KPB GIS mapping, the property is not affected by low wet areas.
9. Per KPB GIS 4-foot contours, terrain within subject lots is basically flat.

VOTE: The motion passed by unanimous consent.

CARLUCCIO YES	COLLINS YES	ECKLUND YES	ERNST YES	FOSTER YES	GLENDENING YES	ISHAM YES
LOCKWOOD ABSENT	MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	12 YES 1 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacate the entire alley right-of way (approximately 104 feet long, 20 to 30 feet wide) between Lot 16A and Lot 17, Block 5, as dedicated on Townsite of Kenai Subdivision, plat KN-2970. The right-of-way being vacated is unconstructed, but the southwest portion is being used as a parking lot access point. These parcels are located within the E½ of Section 6, Township 05 North, Range 11 West, Seward Meridian, Alaska and within the Kenai Peninsula Borough. KPB File 2016-090.

Staff Report given by Max Best

PC Meeting: 8/22/16

Purposes as stated in petition:

- 1) The small alleyway right of way being vacated traverses through the parking lot for the building on Lot 16A.
- 2) All roadways are constructed in this area.
- 3) There is no need for the small alleyway.
- 4) After the alleyway is vacated, Lot 17 Block 5 will be joined to Lot 16A.

Petitioners: Kenaitze Indian Tribe of Kenai, Alaska and the City of Kenai, Alaska.

Notification: Public notice appeared in the August 11, 2016 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published on August 18 in the Peninsula Clarion as part of the Planning Commission's tentative agenda.

Thirteen certified mailings were sent to owners of property within 300 feet of the proposed vacation. Eight receipts have been returned to date.

Public hearing notices were sent by regular mail to 21 owners within 600 feet of the proposed vacation.

Notice of the public hearing was emailed to 18 agencies and interested parties. A public hearing notice was sent by regular mail to one agency. Ten notices were emailed to KPB Departments. Notices were mailed to the Kenai Post Office and Kenai Community Library to be posted in public locations. The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comments, recommendations, or objections.