



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

www.borough.kenai.ak.us

MIKE NAVARRE
BOROUGH MAYOR

M E M O R A N D U M

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director *mb*

DATE: May 24, 2017

SUBJECT: Vacation of the dedicated portion of Diamond M Ranch Road between Lots 3A and 5A as shown on Carrol Martin Subdivision Diamond M Resort Addition, Plat KN 2008-116; located within the N 1/2 Section 22 and SW 1/4 Section 15, T5N, R11W, Seward Meridian, Alaska, and within the Kenai Peninsula Borough; KPB File 2017-058V.

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 May 22, 2017, the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation by unanimous consent based on the following findings of fact. This petition is being sent to you for your consideration and action.

Findings

1. There is not a constructed road within the current ROW.
2. The new location of ROW will encompass the existing roadway.
3. Sufficient rights-of-way exist to serve the surrounding properties.
4. No surrounding properties will be denied access.
5. Per the submittal, the right-of-way proposed for vacation is not in use for access.
6. Homer Electric Association submitted a statement of reviewed/no comments.
7. Per the submittal, the alternative dedication will connect with the existing dedication of Diamond M Ranch Road per KPB 20.30.030.
19. Per the detailed drawing provided by the surveyor, the portion of Sports Lake Road proposed for vacation has not been constructed.

The Assembly has 30 days from May 22, 2017 in which to veto the decision of the Planning Commission. If the Commission receives no veto within the 30-day period, the decision of the Commission will stand.

Draft, unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

cc: petitioners' w/minutes only

AGENDA ITEM F. PUBLIC HEARINGS

3. Vacate the dedicated portion of Diamond M Ranch Road between Lots 3A and 5A as shown on Carrol Martin Subdivision Diamond M Resort Addition, Plat KN 2008-116; located within the N 1/2 Section 22 and SW 1/4 Section 15, T5N, R11W, Seward Meridian, Alaska, and within the Kenai Peninsula Borough; KPB File 2017-058V.

STAFF REPORT

PC Meeting: 5/22/17

Purpose as stated in petition:

- 1) A roadway has not been built within Diamond M Ranch Road right of way. The new right of way dedication will be over the existing travel way; and
- 2) There is an existing well located within the ROW. The vacation of the ROW will allow the existing well to be used for a public water system.

Petitioners: Carrol Martin, Joanne Martin, Blair Martin, and Ronna Martin of Kenai, AK

Notification: Public notice appeared in the May 11, 2017 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the May 18 issue as part of the tentative agenda.

Seven certified mailings were sent to owners of property within 300 feet of the parcels. One receipt had been returned when the staff report was prepared. Two public hearing notices were sent by regular mail to owners within 600 feet of the proposed vacation.

Eleven public hearing notices were emailed agencies and interested parties.

Pertinent KPB Departments were notified of the public hearing through an interdepartmentally shared subdivision database. The public hearing notice was emailed to Central Emergency Services.

Notices were mailed to the Kenai Post Office and Kenai Community Library with a request 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:

Homer Electric Association: reviewed/no comments.

KPB Addressing Officer: No objection to the proposed vacation.

KPB Road Maintenance: Do the new dedications cause any setback issues to existing structures?

River Center: The proposed vacation is not within a mapped flood hazard zone, and it is not within the Anadromous Habitat Protection District.

Staff Discussion:

The proposed alternative right-of-way is being dedicated atop an existing natural gas line. A 15-foot easement for the gas line underlies the proposed alternative dedication. Comments from ENSTAR were not available when the staff report was prepared. ENSTAR may not be willing to have a right-of-way dedicated atop their existing facilities.

Imagery indicates a large structure very close to the proposed alternative right-of-way dedication. The

alternative right-of-way dedication may need to be designed to avoid creating encroachments in the building setback required by KPB 20.30.240.

Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping, neither the alternative right-of-way nor the existing right-of-way is affected by low wet areas.

Per KPB GIS 4-foot contours terrain within the alternative and existing right-of-way is flat.

Surveyor's Findings

1. There is not a constructed road within the current ROW.
2. The new location of ROW will encompass the existing roadway.

Platting Staff Findings:

3. Sufficient rights-of-way exist to serve the surrounding properties.
4. No surrounding properties will be denied access.
5. Per the submittal, the right-of-way proposed for vacation is not in use for access.
6. Homer Electric Association submitted a statement of reviewed/no comments.
7. Per the submittal, the alternative dedication will connect with the existing dedication of Diamond M Ranch Road per KPB 20.30.030.

STAFF RECOMMENDATION: Based on the above findings, staff recommends approval of the vacation as petitioned, subject to:

1. Submittal of a final plat in accordance with Chapter 20 of the KPB Code within a timeframe such that the plat can be recorded within one year of vacation consent.
2. Compliance with recommendations by ENSTAR, GCI, and ACS.
3. The alternative right-of-way will create no encroachments.

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 city or 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



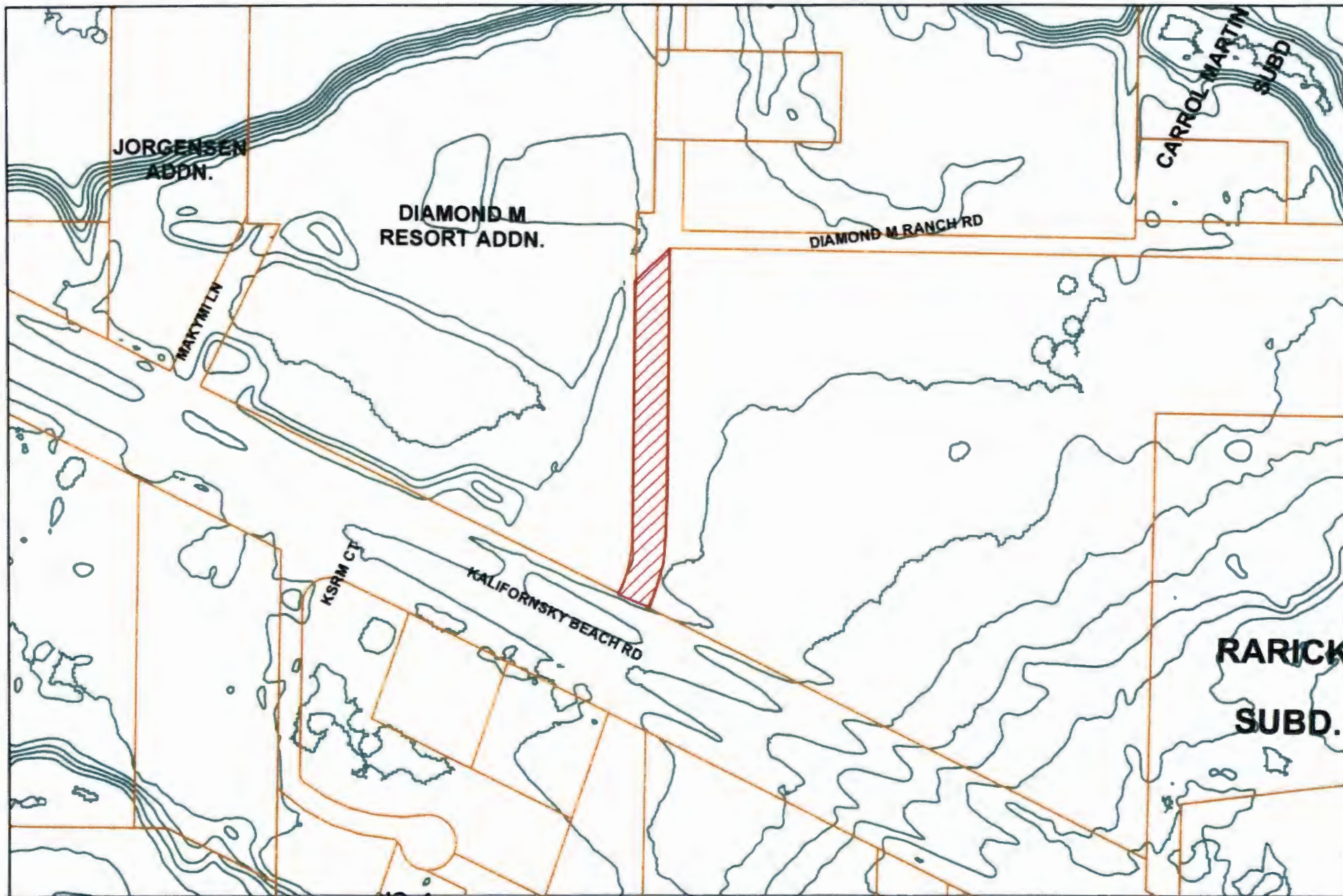
The information depicted hereon is for a graphical representation only of best available sources. The Kansas Peninsula Borough assumes no responsibility for any errors on this map.

Aerial View



PRELIMINARY PLAT

ESolomon, KPB
Date: 4/23/2017



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

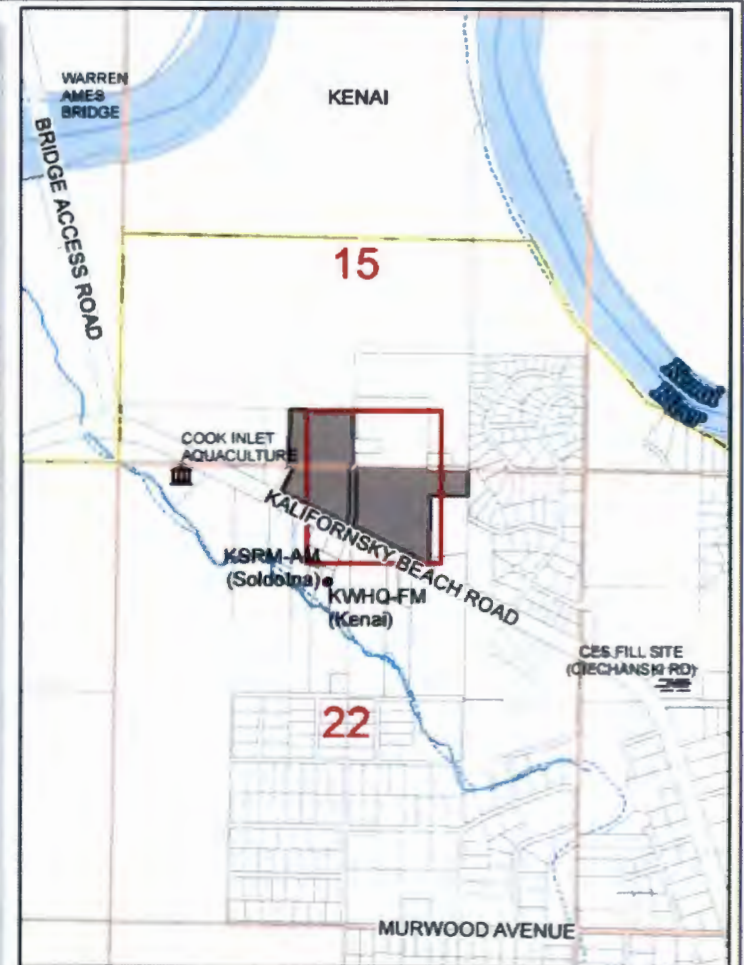
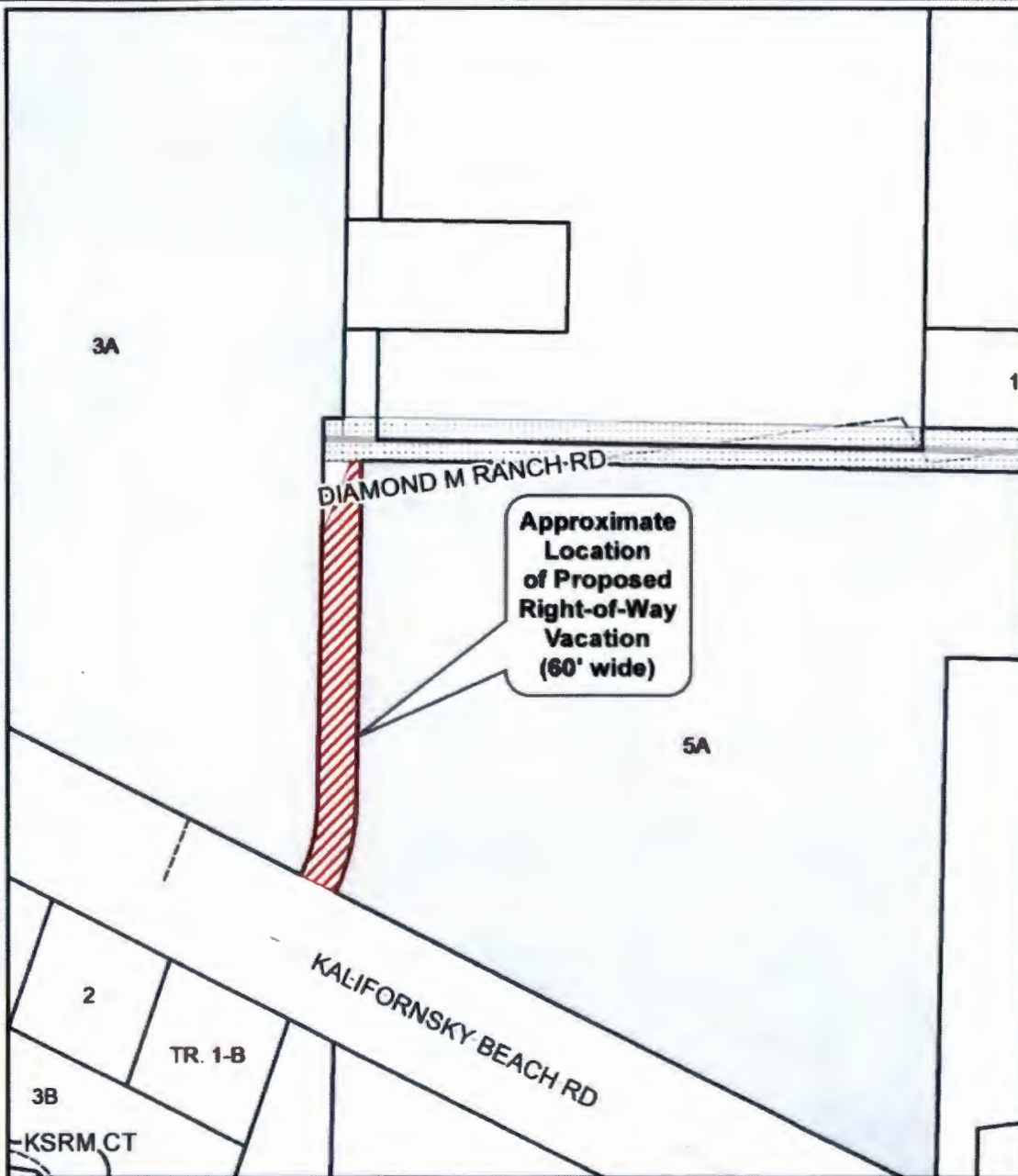
Date: 5/10/2017

Kenai Peninsula Borough Planning Department

Four-foot Contours

0 100 200 400 Feet





0 1,500 3,000 6,000 Feet

KPB 2017-058V
T05N R11W S15 & S22
KALIFORNISKY



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.

0 225 450 900'

ESolomon, KPB
 Date: 4/27/2017

PLAT COMMENTS FROM KENAI PENINSULA BOROUGH REVIEWERS

2017-058V: Carrol Martin Subdivision Diamond M Resort 2017 Addition Vacation of Portion of Diamond M Ranch Rd.

Scott Huff

Monday, May 22, 2017

1. LOZD and Material Site Comments

Reviewer: Wall, Bruce

NOT located within an LOZD

2. Kenai River Center (Floodplain, Habitat Protection, and State Parks)

A. Floodplain

Reviewer: Harris, Bryr

Floodplain Status: Not within flood hazard area

Comments:

B. Habitat Protection

Reviewer: Carver, Nancy

Habitat Protection District Status: Is NOT within HPD

Comments:

C. State Parks

Reviewer: Russell, Pam

Comments:

No Comments

3. Addressing and Streets

Reviewer: Henson, Carrie

Affected Addresses:

41125 KALIFORNSKY BEACH RD - WILL BE RETAINED ON LOT 5B

48500 DIMAOND M RANCH RD - WILL BE RETAINED ON LOT 3B

48512 DIAMOND M RANCH RD - WILL BE RETAINED ON LOT 3B

48522 DIAMONDM RANCH RD - WILL BE RETAINED ON LOT 3B

Existing Street Names are Correct: True

List of Correct Street Names:

DIAMOND M RANCH RD

MAKYMI LANE

KALIFORNSKY BEACH ROAD

Existing Street Name Corrections Needed:

All New Street Names are Approved: False

List of Approved Street Names:

List of Street Names Denied:

Comments:

NO OBJECTION TO THE VACATION

4. **Code Compliance**

Reviewer: Shears, Jennifer

Comments:

5. **Road Maintenance**

Roads Reviewer: Knackstedt, Henry

Out of Jurisdiction: False

Comments:

Do the new dedications cause any setback issues to existing structures?

Roads Director: Malone, Patrick

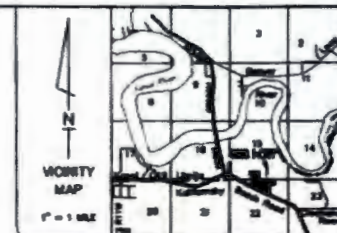
Comments:

No comments

CERTIFICATE OF SURVEY
I HEREBY CERTIFY THAT I AM A FULLY
LICENSED AND LICENSED TO PRACTICE LAND
SURVEYING IN THE STATE OF ALABAMA, AND HAVE
CONDUCTED A SURVEY MADE BY ME OR UNDER MY
DIRECT SUPERVISION, THE INSTRUMENTS USED
ARE ACTUALLY CORRECT AS DESCRIBED, AND ALL
MEASUREMENTS AND OTHER DETAILS ARE CORRECT TO
THE BEST OF MY KNOWLEDGE AND BELIEF.
WITNESS MY HAND AND SEAL OF OFFICE
THIS 15TH DAY OF MAY, 1964.
AT THE CITY OF MOBILE, STATE OF ALABAMA.



Plot #	
Year	
Size	
Value	



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 AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

JOHN E. MARTIN CAROL A. MARTIN
CHURCH OF FORMER LOT 2A
PO BOX 1776
TOLSON, AL 36080

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

FOR JONAS B. MARTIN AND COUNSEL 4 MARTIN
ACKNOWLEDGES BEFORE ME THIS _____ DAY OF _____, 2017

FOR RONA MARTIN AND BLAIR MARTIN
ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2017

THIS PLAN HAS APPROVED BY THE HENRI FORMELLA SURGEON PLANNING
COMMISSION AT THE MEETING OF _____

KPB FILE No

A REVIEWER OF LIFT 3A AND LIFT 3A CANNOT SEARCH SUBMISSION
ENDING IN PREFIX ACTION PLAN 2000-116 END

CHIEF: JAMES E. SMITH AND COUNSEL, A PARTNER
PO BOX 1776
HARTFORD, CT 06102

RONA GAFEN AND BLAIR HARTEN
ATTORNEYS AT LAW
1001 N. 10TH ST.
SUITE 200
DENVER, CO 80202-3440

LOCATED WITHIN THE SW 1/4 SECTION 13 AND THE NW 1/4 SECTION 22,
T15N, R17E, SEWARD MERIDIAN, HONOLULU RECORDING DISTRICT, HONOLULU
BOROUGH, ALASKA

CONTAINS 49.275 ACRES

EDD BYT BYT GIVE HEDAL AK 10001

JOB NO:	217002	DATE:	APRIL 17, 2017 SA
BY:		TIME:	10:00 AM

CERTIFICATE of OWNERSHIP and DEDICATION

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 true consent dedicate all rights-of-way to public use and grant of easements to the use shown.

Richard E. King *Marlene F. King*
Richard E. King Marlene F. King

We further certify that Deeds of trust affecting this property do not contain restrictions which would prohibit this report, or require signature and approval of beneficiaries.

Notary's Acknowledgement

Subscribed and sworn before me on this 21st day of January 1994, for *Richard E. King*

Joseph P. McKee
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 12/31/95

WASTEWATER DISPOSAL (Lots 1 and 4)

Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

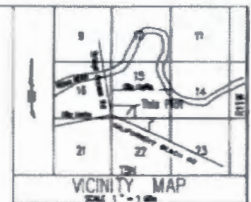
WASTEWATER DISPOSAL (Lots 2,3 and 5)

Conditions may not be suitable for on-site wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

Subject to any noted restrictions, the Alaska Department of Environmental Conservation approves this subdivision for platting.

LEGEND

- SET 5/8" REBAR
- FOUND 12"x12" Conc Post

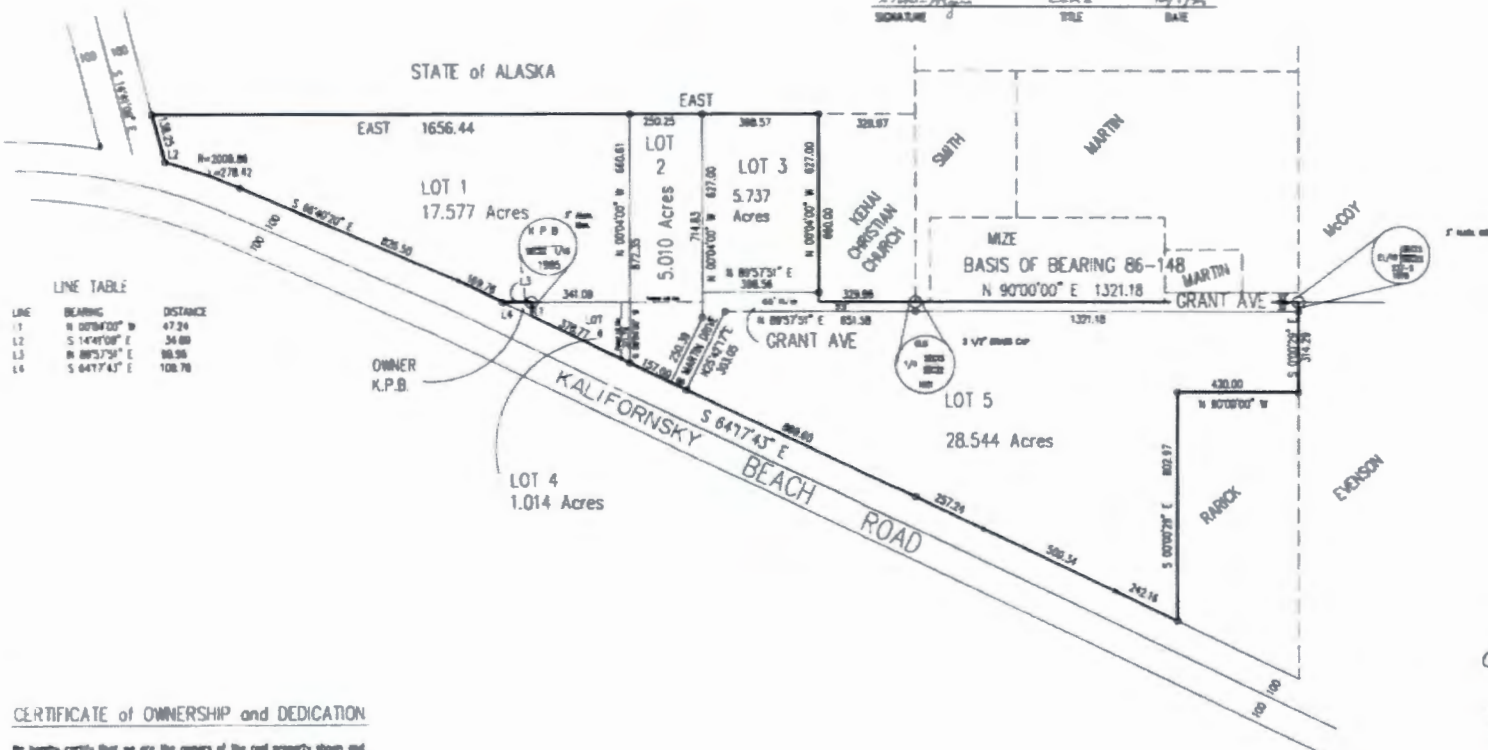


NOTES

1. All street corners to state maintained A.R.T. is certified as approved by State of Alaska Department of Transportation.
2. Building Setback—A setback of 10 feet is required from all street right-of-way unless a lesser distance is required by resolution of the appropriate Planning Commission.
3. No permanent structures shall be constructed or placed within or adjacent to any street right-of-way within the ability of a utility to use the easement.
4. Front 10 feet of building setback to show a utility easement and the entire setback to show a 10 foot right-of-way.
5. A utility easement of 10' x 20' feet is shown on the lot line between Lots 2 & 4 and beginning of the Right-of-Way of Kalifornsky Beach Road.
6. Section line between Lots 1,2 and 4, was surveyed for recording and will be marked with flag of a wooden post.



MICHAEL A. SWAN
REGISTRATION NO. LS-6940



CERTIFICATE of OWNERSHIP and DEDICATION

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 true consent dedicate all rights-of-way to public use and grant of easements to the use shown.

We further certify that Deeds of trust affecting this property do not contain restrictions which would prohibit this report, or require signature and approval of beneficiaries.

Notary's Acknowledgement

Subscribed and sworn before me on this 21st day of January 1994, for *Carol A. Martin*

Carol A. Martin
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 12/31/95

Notary's Acknowledgement

Subscribed and sworn before me on this 21st day of January 1994, for *Richard E. King*

Richard E. King
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 12/31/95

PLAT APPROVAL

The plat was approved by the ALASKA PERMITS DIVISION
Platted in accordance with the reading of SECTION 11, 1994

Richard E. King
Notary Public for Alaska

CAROL MARTIN SUBDIVISION No. 2

Owners:
Carol A. & Joanne Martin P.O. Box 1776
Seldovia, AK 99580
Richard & Marlene King P.O. Box 700
Homer, AK 99704

Location:
66.54 acres +/- Located in the SW 1/4 of section 15 and the W 1/2 of section 22, T2N, R17W, S4E, AK, and in the Kenai Peninsula Borough and the Kenai Recording District.

SWAN SURVEYING
P.O. Box 987
SOLDOTNA, AK 99580
PHONE 907-292-1814

DATE DEPOSED	SCALE	DISTRICT
Jan 1994	1"=400'	AK
FILED	FILED	FILED



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

RECEIVED

APR 21 2017

KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

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 Carol Martin Sub. Diamond M Resort Addn. Subdivision, filed as Plat No. 2008-116 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 _____
- ☐ 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:
please see attached submittal letter

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: Scott Huff - Integrity Surveys
Address 920 Set Net Dr.
Kenai, AK 99611

Signature as:

☐ Petitioner ☒ Representative

Phone 283-9047

Petitioners:

Signature Carol J. Martin
Name Carol J. Martin
Address PO Box 1778
Kenai, AK 99669

Signature Blair Martin
Name Blair Martin
Address 48500 Diamond M Ranch Rd.
Kenai, AK 99611

Owner of Lot 5A

Signature John B. Martin
Name John B. Martin
Address PO Box 1778
Kenai, AK 99669

Owner of Lot 3A

Signature Ronna Martin
Name Ronna Martin
Address 48500 Diamond M Ranch Rd.
Kenai, AK 99611

Owner of Lot 5A

Owner of Lot 3A



21 April 2017

Paul Voeller, Platting Officer
Kenai Peninsula Borough
144 North Binkley St.
Soldotna, AK 99669

Re: Carrol Martin Subdivision Diamond M Resort 2017 Addition showing the vacation of Diamond M Ranch Road.

Mr. Paul Voeller,

Please find attached the preliminary plat submittal for Carrol Martin Subdivision Diamond M Resort 2017 Addition. This subdivision will be vacating Diamond M Ranch Road and then dedicating it in a different location. A roadway has not been built within Diamond M Ranch Road right of way. The new right of way dedication will be over the existing traveled way.

There is an existing well located within the ROW. The vacation of the ROW will allow the existing well to be used for a public water system.

The following findings support the ROW vacation

1. There is not a constructed road within the current ROW.
2. The new location of ROW will encompass the existing roadway.

The following exceptions are being requested for the subdivision plat.

KPB 20.30.170 – Block Length

The following findings support the exception request.

- Diamond Ranch Road has been dedicated to the eastern boundary.
- There is no ROW to the east (within Willow Brook Subdivision) for a ROW to connect to.
- Lot 5B is a large field. If it is subdivided in the future then a ROW dedication can occur at that time to provide a connection from the east end of Diamond M Ranch Road back to Kalifornsky Beach Road.
- All lots front on a dedicated ROW

Should you have any questions, please feel free to call me. Thank you for your efforts on this project.

Sincerely,

Scott Huff, RLS
Integrity Surveys