


# Kenai Peninsula Borough

## Planning Department

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### MEMORANDUM

**TO:** Brent Hibbert, Assembly President  
Kenai Peninsula Borough Assembly Members

**FROM:** Melanie Aeschliman, Planning Director 

**DATE:** February 23, 2021

**RE:** Utility Easement Vacation: Vacating a 10' utility easement and anchor easement within Lot 6 and Lot 7 Kimbrel Subdivision KN 82-63, granted by Kimbrel Subdivision KN 76-68 located within Section 27, Township 4 North, Range 11 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-150V.

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In accordance with KPB 20.70.110, no vacation of a Borough right-of-way and/or easement within the borough outside of the limits of cities may be made without the consent of the Borough Assembly.

During their regularly scheduled meeting of February 22, 2021 the Kenai Peninsula Borough Planning Commission granted approval of the above vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70.

A draft copy of the unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

February 22, 2021 Planning Commission Draft Meeting Minutes  
February 22, 2021 Agenda Item E2 Meeting Packet Materials

Finalize the approval of the vacation by either

1. 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).

OR

2. Recording of a resolution within 90 days of adoption of the resolution by the Planning Commission, with the following requirements
  - a. Provide an exhibit drawing, prepared by a licensed land surveyor, clearly indicating the portion of the utility easement being vacated to be recorded with KPB Planning Commission Resolution 2021-01, becoming Page 2 of 2.
  - b. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
  - c. The Planning Department is responsible for filing the Planning Commission resolution.

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.

#### END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

**MOTION:** Commissioner Venuti moved, seconded by Commissioner Morgan to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

**MOTION PASSED:** Hearing no discussion or objection, the motion was carried by the following vote.

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Chesser, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Ecklund, Ruffner				

2. **Vacate a 10' utility easement and anchor easement within Lot 6 and Lot 7 Kimbrel Subdivision KN 82-63, granted by Kimbrel Subdivision KN 76-68 located within Section 27, Township 4 North, Range 11 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-150V.**

Staff report given by Scott Huff.

Purpose as stated in petition: Our site plan was based on the plat (dated 1981 KN 82-63) that was on file with the Borough, which does not show the easement. Additionally, the site plan is based on the one suitable building site of what both parcels consist of, resulting in the structure being within the easement in question. The remainder of both parcels is either lowland or an excavation pit from homestead roadbuilding days.

I dug a bit deeper knowing that there was another parcel south of our parcels and across the creek/wetland that may be affected by vacating the easement. That parcel shows the original Kimbrel Subdivision (1976 KN 76-68)) and the easement. That easement looks to be accessible from the south.

Petitioners: Amundsen Educational Center

Location: The easement is located on two parcels off of Tote Road, a state maintained right of way, in the Kalifornsky Beach APC area.



**Notification:** Notice of vacation mailings were sent by regular mail to 13 owners of property within 300 feet. Notice of the proposed vacation was emailed to 7 agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

**Comments Received:**

HEA: No comments.

ENSTAR Natural Gas: No comments.

GCI: No comments received after attempt to receive comments.

ACS: No objections to easement vacation.

KPB Roads: No objection.

**SUPPORTING INFORMATION:**

Kimbrel Subdivision, KN 76-68, granted a 10 foot utility easement adjoining the Knight Court dedication including an anchor easement radius. In 1982 the plat KN 82-63, Kimbrel Subdivision Gibson 1981 Subdivision of Tracts 3, 4, 9, was recorded. This plat vacated section line easements and right of ways, provided additional right of ways and changed lot reconfigurations. Plat KN 82-63 vacated Knight Court but did not include the vacation of the 10 foot utility easement and anchor easement. The 10 foot utility easement remains thirty feet from the west boundary of Lots 6 and 7.

The owners of Lot 6 and 7 submitted a preliminary plat to combine their lots. During the review of the plat it was determined that the utility easement was still in existence. The preliminary plat was reviewed and approved by the Plat Committee on January 11, 2021. If the vacation of the utility easement is approved, it can be finalized on Kimbrel Subdivision 2020 replat.

If the owners are unable to record a plat within one year of vacation they may request to finalize by Resolution. If the owners decide to finalize by Resolution it will need to be brought back to the Planning Commission to adopt the Resolution.

**Findings:**

8. The petition states that the utility easement proposed to be vacated is not in use by a utility company.
9. ACS, ENSTAR, and HEA provided written non-objection to the proposed vacation.
10. GCI was contacted for comments but the owner did not receive a response.
11. The Kenai Peninsula Borough roads department provided written non-objection.
12. Kimbrel Subdivision, Plat KN 76-68, granted a 10' wide utility easement and anchor easement adjoining Knight Court and affecting the western boundary of Tract 3.
13. Kimbrel Subdivision Section Line Vacation Plat KN 82-63, vacated Knight Court.
14. The vacation of Knight Court did not include the vacation of the utility easement adjoining Knight Court.
15. Plat KN 82-63 subdivided Tracts 3, 4, and 9 and created lots 6 and 7.
16. KN 82-63 did not depict the 10' utility and anchor easement on the former western boundaries of Tract 3 and 4.
17. No surrounding properties will be denied utilities.
18. The edge of the utility easement is 30 feet from the western boundary of Lots 6 and 7.
19. A preliminary plat has been submitted and approved to combine Lots 6 and 7.

Staff reviewed the vacation request and recommends granting approval with Findings 1, 2, 4, 6, 7, 9-12 supporting the vacation request.

**STAFF RECOMMENDATION:** Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff findings, staff recommends approval of the vacations as petitioned, subject to:

1. Finalize the approval of the vacation by either
  - a. Submittal of a final plat KPB 2021-150 within a timeframe such that the plat can be recorded within one year of vacation approval (KPB 20.70.130).  
OR
  - b. Recording of a resolution within 90 days of adoption of the resolution by the Planning Commission, with the following requirements
    - i. Provide an exhibit drawing, prepared by a licensed land surveyor, clearly indicating the portion of the utility easement being vacated to be recorded with KPB Planning Commission Resolution 2020-18, becoming Page 2 of 2.
    - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
    - iii. The Planning Department is responsible for filing the Planning Commission resolution.

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.

#### END OF STAFF REPORT

Chair Martin opened the item for public comment. Hearing no one wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

**MOTION:** Commissioner Morgan moved, seconded by Commissioner Brantley to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

**MOTION PASSED:** Hearing no discussion or objection, the motion was carried by the following vote.

Yes	9	No	0	Absent	2
Yes	Bentz, Brantley, Carluccio, Chesser, Fikes, Gillham, Martin, Morgan, Venuti				
No					
Absent	Ecklund, Ruffner				

3. **Conditional Land Use Permit; PC Resolution 2021-06; Material Extraction; Parcel Number: 211-250-06; Location: SEC 36, T09N, R15W, S.M., AN 0900088 AK State Cadastral Survey 90-132 E1/2; Applicant: Hilcorp Alaska, LLC; Owner: Hilcorp Alaska, LLC**

Staff report given by Bryan Taylor.

Applicant: Hilcorp Alaska, LLC

Landowner: Hilcorp Alaska, LLC

Parcel Number: 211-250-06

Legal Description: E1/2 Section 36, T. 9N., R. 15W., Seward Meridian

Location: West side of Cook Inlet, near Trading Bay Production Facility

**BACKGROUND INFORMATION:** The applicant wishes to obtain a permit for gravel extraction in the center of the parcel listed above. A previous CLUP for this site was approved in 2014 and has expired. Approximately 8,000 cubic yards were removed under the previous CLUP, disturbing an area of approximately 2 acres. This application is within the same footprint of the previous CLUP but with a smaller proposed extraction area than the previously permitted 3.5 acres.

Expected lifespan of material site: 10 years with an annual quantity of material to be mined estimated at around 100 cubic yards. Material will be used for maintenance activities associated with oil and gas





## Planning Department

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

# Planning Commission

## Meeting Packet

**February 22, 2021  
7:30 p.m.**

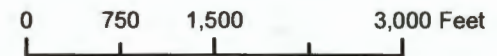
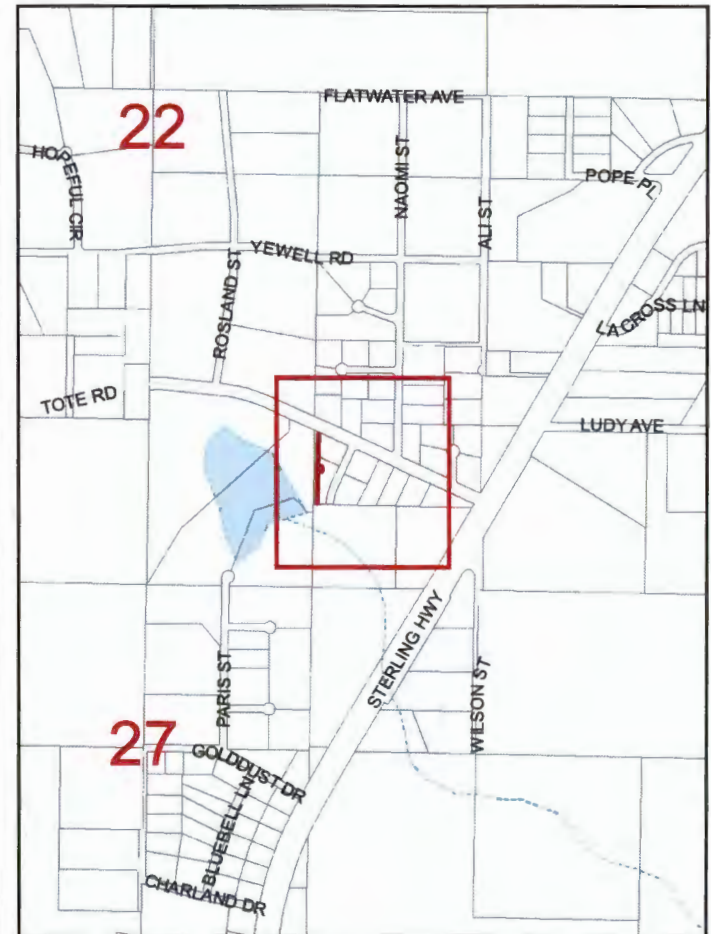
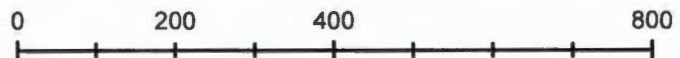
**KENAI PENINSULA BOROUGH  
ASSEMBLY CHAMBERS  
144 NORTH BINKLEY ST.  
SOLDOTNA, ALASKA 99669**

## **E. NEW BUSINESS**

- 2. Utility Easement Vacation: Vacate a 10' utility easement and anchor easement within Lot 6 & Lot 7 Kimbrel Subdivision (Plat KN 82-63) located within SEC 27, T04N, R11W, S.M., AK; KPB File 2020-150V; Petitioners: Amundsen Educational Center of Soldotna, AK**



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.



KPB 2020-150V  
S27 T04N R11W  
KALIFORNSKY

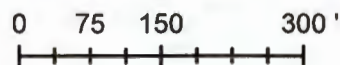
Date: 1/22/2021  
PClements, KPB 2020-150v





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.

### Aerial View



Utility Easement Vacation

PClements, KPB 2020-150V  
Date: 1/22/2021  
Imagery Soldotna 2018





## AGENDA ITEM E. UTILITY EASEMENT VACATIONS

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PC Meeting: February 22, 2021

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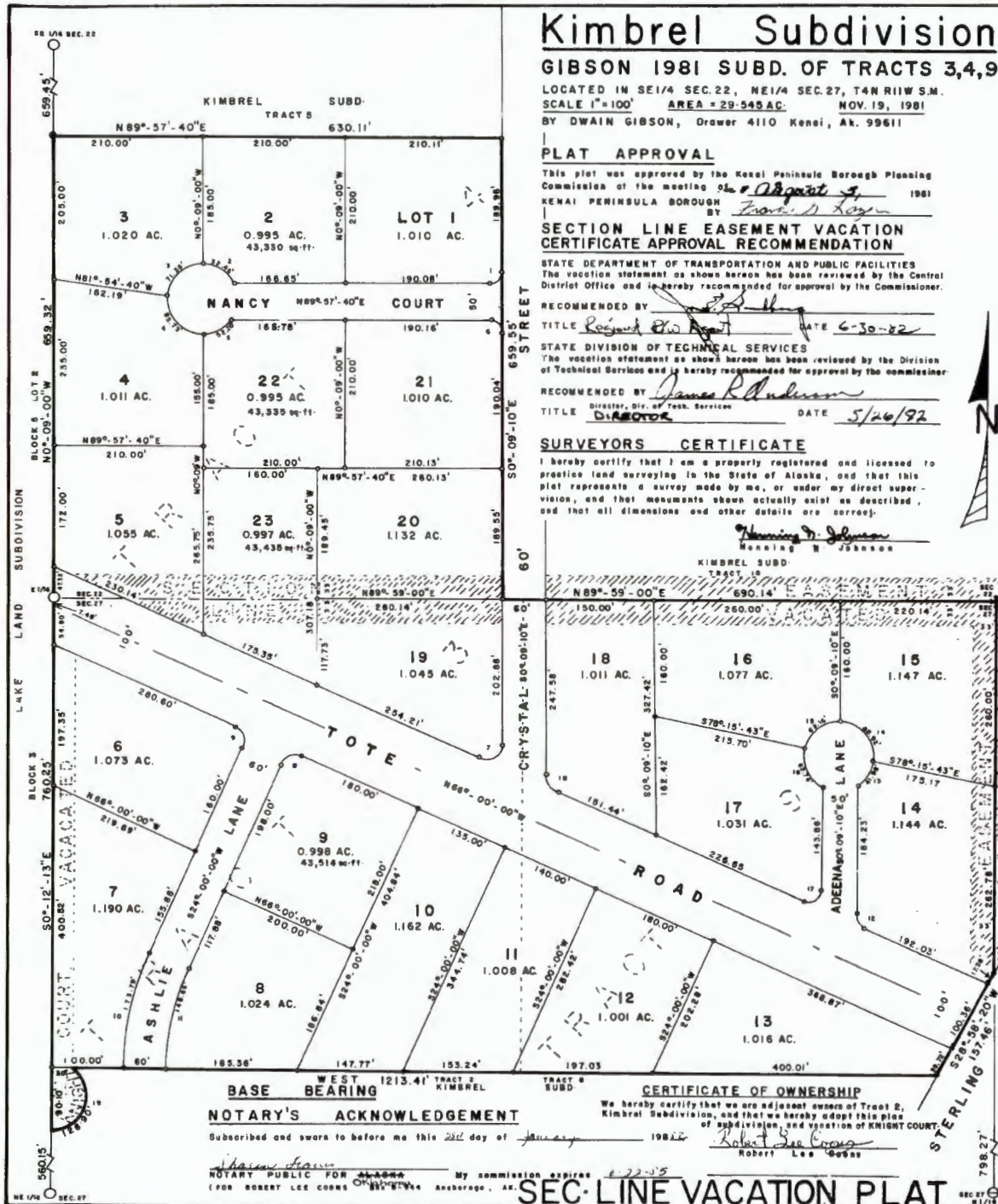
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**KPB 20.70.120:**

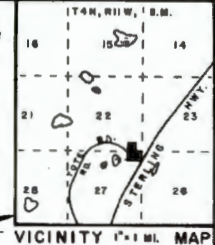
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END OF STAFF REPORT



The State of Alaska, acting by and through the Commissioner of the Department of Natural Resources and the Commissioner of the Department of Transportation and Public Facilities, does hereby state and declare that the State of Alaska vacates and releases all rights and title to any and all portions of section line easements for public highways reserved to it under Alaska State Statute 18.01.010 (specific area delineated)

APPROVED  
[Signature]  
 Commissioner of the Department of Transportation and Public Facilities  
 DATE 5/26/82  
 APPROVED  
[Signature]  
 Commissioner of the Department of Natural Resources  
 DATE 5/26/82



### CERTIFICATE OF OWNERSHIP

We hereby certify that we are the owners of the property shown and described herein, and that we hereby adopt this plan of subdivision, and Section Line Vacation, and dedicate all Rights of Way to public use, and grant all easements to pass shown.

Dwain Gibson Clara R. Gibson  
 DWAIN GIBSON Drawer 4110 Kenai, AK. 99611 CLARA R. GIBSON  
Alvin Kimbrel Dorothea M. Kimbrel  
 ALVIN KIMBREL DOROTHEA KIMBREL

### NOTARY'S ACKNOWLEDGEMENT

Subscribed and sworn to before me this 10th day of May 1982  
[Signature]  
 NOTARY PUBLIC FOR ALASKA  
 My commission expires 1-22-85  
 NOTARIZED FOR Dwain Gibson, Clara R. Gibson,  
Alvin Kimbrel and Dorothea Kimbrel

### CURVES

1 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	2 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	3 A=81°45'-00" R=20.00' C=89.91' T=30.00' L=31.42'	4 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	5 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	6 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	7 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	8 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	9 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	10 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	11 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	12 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	13 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	14 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	15 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	16 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	17 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	18 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	19 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	20 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	21 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	22 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'	23 A=80°00'-00" R=20.00' C=88.91' T=30.00' L=31.42'
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### LEGEND

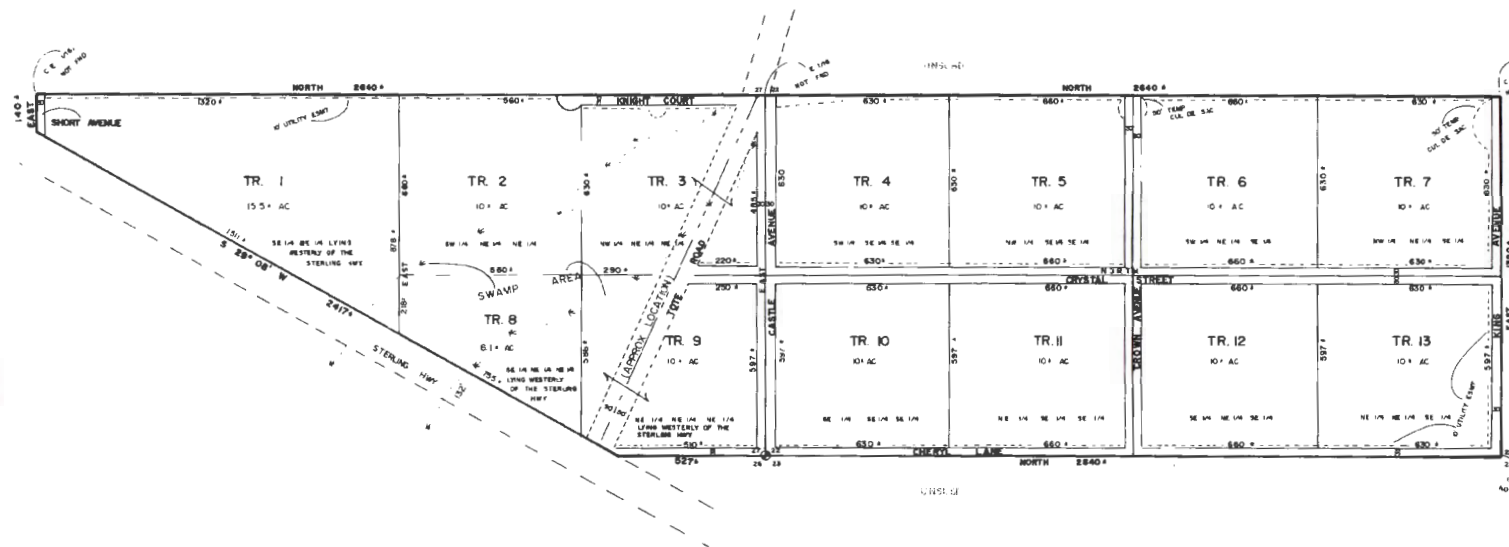
+ 1919 brass cap monument by G.L.O. found.  
 ○ 1978 brass cap monument by 237-S, found.  
 ⊕ 1978 aluminum cap on 1/2" rerod by 1300-S  
 - 1/2" x 2" rerod set.  
 ● 1/2" x 2" rerod found.  
 [Hatched Area] Indicates sec-line areas vacated.

### BUILDING SETBACKS

A building setback of 20' from all street R.O.W.s is required unless a lesser standard is approved by a resolution of appropriate planning commission.  
 Side setback line to be limit of utility easements along streets.

DATE OF SURVEY Beginning <u>APRIL 25, 1981</u> Ending <u>SEPT. 1, 1981</u>		NAME OF SURVEYOR <u>Henning B. Johnson</u> P.O. Box 27 Clem Gulch, AK. 99568	
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF TECHNICAL SERVICES ANCHORAGE, ALASKA			
KIMBREL SUBDIVISION SECTION LINE VACATION PLAT, associated with LOCATED within the SE1/4 of Section 22, and within the NE1/4 of Section 27, T4N, R11W, S.M.			
DRAWN BY B. JOHNSON DATE <u>11/18/81</u> SCALE 1"=100'		APPROVAL RECOMMENDED <u>[Signature]</u> DATE <u>5/26/82</u> CHECKED FILE NO. <u>EV-2-210</u>	





# NOTES

1. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING APPLICABLE LAWS
2. A 10' BUREAU SECTION LINE EXISTS ALONG ALL ROAD R.S.P.
3. NO SURVEY HAS BEEN MADE NOR WERE ANY STAKES SET
4. ALL TRACT AREAS INCLUDE ROADS

## CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREIN, I HEREBY REQUEST APPROVAL OF THIS PLAT SHOWING SUCH EASEMENTS FOR PUBLIC UTILITIES, ROADWAYS AND ALLEYS DESIGNATED BY ME FOR PUBLIC USE.

Melvin E. Kimbrel  
MELVIN E. KIMBREL  
BOX 61  
SOLDOTNA, ALASKA 99669

Dorothea A. Kimbrel  
DOROTHEA A. KIMBREL

## NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 17<sup>th</sup> DAY OF June 1976

all that  
NOTARY PUBLIC FOR ALASKA

July 1, 1978  
COMMISSION EXPIRES

## SURVEYOR'S CERTIFICATE

I, THE UNDERSIGNED REGISTERED SURVEYOR, HEREBY CERTIFY THAT THE INFORMATION SHOWN ON THIS PLAT IS BASED UPON THE BEST RECENT PLATS OF THE PROPERTIES SHOWN, AND THAT NO FIELD SURVEY WAS PERFORMED.

Robert Anderson  
ROBERT ANDERSON

DATE 6-22-76

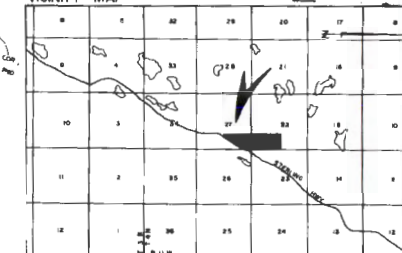
## PLAT APPROVAL

PLAT APPROVED BY THE BOROUGH PLANNING COMMISSION THIS 17<sup>th</sup> DAY OF July 1976

Donald E. Helmer  
BOROUGH MAYOR

DATE 6/17/76

## VICINITY MAP



DATE: MAY, 1976

SCALE: 1" = 200'

DESIGNED BY: AK

DRAWN BY: SW

CHECKED BY: JA

FLD. BK. NO.

**KIMBREL SUBDIVISION**

SITUATED IN THE E 1/2, SE 1/4, S 22, AND THE E 1/2, SE 1/4, S 21, T4N R14W, S.W. 1/4, LYING WESTERLY OF THE STERLING HIGHWAY

CONTAINING 121.1 ACRES

ABILITY SURVEYS

JOHN ANDERSON, L.S. BOX 284, SELLERS, ALASKA 99661