

AGENDA ITEM E.      NEW BUSINESS

**ITEM 2.a - Eventyr Subdivision Number 3 Utility Easement Vacation**

<b>KPB File No.</b>	2020-079V
<b>Planning Commission Meeting:</b>	August 9, 2021
<b>Applicant / Owner:</b>	Molly E. Hannigan of Kenai, Alaska Christopher Johnson of Kenai, Alaska
<b>Surveyor:</b>	Jason Young / Edge Survey and Design, LLC
<b>General Location:</b>	City of Kenai

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**STAFF REPORT**

**Staff Analysis:** This item is back before the Planning Commission to adopt a Resolution to finalize a previously approved utility easement vacation.

The Planning Commission granted approval of the utility easement vacation at the August 24, 2020 KPB Planning Commission meeting. The recording of a subdivision plat depicting the vacation or the recording of a resolution can complete the vacation of a utility easement. Approval of a utility easement vacation expires in one year.

The Plat Committee granted approval of Eventyr Subdivision Number 3 at the August 10, 2020 Plat Committee meeting. The intent was to finalize the vacations with the recording of the subdivision plat. The surveyor and owners are working on completing the plat but will not be able to finalize prior to the one year approval to vacate the utility easement.

Adoption of Resolution 2021-25 will finalize the approved utility easement vacations.

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**RECOMMENDATION:**

Staff recommends adoption of PC Resolution 2021-25 to finalize the utility easement alteration as approved on August 24, 2020, subject to:

1. Grant utility easements requested by the Kenai City Council and utility providers on the final subdivision plat.
2. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
  - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
  - 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.

**20.65.070 Alteration of platted utility easements**

- E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement 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. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.**

- F. An appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

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END OF STAFF REPORT

UTILITY EASEMENT ALTERATION CHECKLIST  
complete items are marked with a check box - ☑

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**20.65.070. Alteration of platted utility easements**

- ☐ A. Where platted utility easements are reserved for the purpose of providing utility services by an agency or utility provider and are not dedicated to the public use in the same manner as public rights-of-way, public access, or public easement granted for public use, the planning commission shall review and act upon all requests to alter, including removal, platted utility easements. For purposes of types of easements covered by this section, the KPB 20.90.010 definition for Utility Easement controls.
- ☐ B. The petitioner shall include the following items when submitting a request to alter a platted utility easement.
1. A petition, provided by KPB Planning Department, signed by the owner of the land subject to the platted utility easement as shown on the borough tax rolls.
  2. Comments from the city advisory commission if applicable, and the jurisdictional authority of a dedicated right-of-way when the utility easement adjoins a dedicated right of way. A petition to alter a platted utility easement will not be approved if a city with jurisdictional authority objects to the alteration.
  3. Comments or non-objection from all appropriate utility providers. Affected utility providers must initial or comment on the same sketch or submittal that is provided to the borough.
  4. A sketch showing the alteration of the platted utility easement. If the alteration of the utility easement is due to an encroachment, then an as-built survey or site survey must be submitted with the petition.
  5. Appropriate application fee.
  6. Applicant statement containing the reasons for the alteration of the platted utility easement.
- Staff recommends:**
- ☐ C. Notice shall be sent per KPB 20.10.100.
- ☐ D. When the application is complete, the planning commission will take action on the requested alteration of the platted utility easement, either approving or denying the request.
- ☐ E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement 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. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.
- ☐ F. An appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.
- ☐ G. Approval of an application under this section expires in 12 months.
- ☐ H. Upon approval, the alteration of a utility easement can be finalized by either.
1. Recording of a subdivision plat which complies with Chapter 20.
  2. Recording of a utility easement alteration resolution. Upon approval of an alteration to a platted utility easement, not associated with the vacation of a right-of-way, not requiring transfer of title, or changing of boundary lines, a resolution may be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to finalize the approval. The petitioner is responsible for the recording fees.

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END OF UTILITY EASEMENT ALTERATION CHECKLIST