

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - Stanley's Meadow 2021 Utility Easement Vacations

KPB File No.	2021-086V
Planning Commission Meeting:	August 9, 2021
Applicant / Owner:	Cecil R., Ina L., Billy Ray and Stephanie Joy Jones of Homer, Alaska
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Fritz Creek/ Kachemak APC

STAFF REPORT

Specific Request / Purpose as stated in the petition:

- Vacate a 20' utility easement within Lot 10A Stanley's Meadow No. 11 (HM 93-60)
- Vacate 5' utility easements along each side of interior lot lines of Lots 8-A, 9-A, 10-A Stanley's Meadow No. 11 ADEC Power-Trip Replat (HM 93-60) and each side of former lot line between Lots 7 and 10 Stanley's Meadow No. 11 (Plat HM 91-47)

Utility easements granted by Stanley's Meadow No. 11 ADEC Power-Trip Replat (Plat HM 93-60) and Stanley's Meadow No. 11 (Plat HM 91-47).

A subdivision replat has been submitted showing the vacation of the interior utility easements, vacation of Cove View Court right of way, and the replatting of 4 lots into 2 lots.

Notification: Notice of vacation mailings were sent by regular mail to 21 owners of property within 600 feet. Notice of the proposed vacation was emailed to 6 agencies and interested parties.

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

Staff Analysis: A plat has been submitted to reconfigure 4 lots into two lots. The plat for Stanley's Meadow 2021, KPB File 2021-086, is scheduled to be reviewed at the August 9, 2021 Plat Committee meeting. This petition is to vacate utility easements that run along the former lot lines.

The Planning Commission approved the vacation of Cove View Court, and the utility easements associated with the right of way, at the meeting of July 12, 2021. The vacation will be heard by the Kenai Peninsula Borough Assembly on August 3, 2021 where they may consent or veto the Planning Commission decision.

The property was originally part of Alaska State Land Survey No. 79-225, plat HM 80-50. The purpose of plat HM 80-50 was to transfer state lands to private ownership.

The land was then subdivided by Stanley's Meadow No. 3, plat HM 81-84. Plat HM 81-84 granted several utility easements including a 40 foot wide utility easement which is defined as 10 feet on both sides of two parallel power lines.

Stanley's Meadow No. 11, plat HM 91-47, further subdivided the property. Plat HM 91-47 granted 10 foot easements along each side of existing power lines, 5 foot utility easements along each side of all interior lot lines, a 20 foot utility easement within lots 7 and 10, and 10 foot utility easements along all dedicated right of ways. Plat 91-47 also contained a note that any utility easements granted by plat HM 81-84 that were not utilized were vacated.

Stanley's Meadow No. 11 ADEC Power-Trip Replat, plat HM 93-60 reconfigured a lot line and extended the 20 foot utility easement previously granted. A new utility easement was granted 5 feet of each side on the new lot line.

A plat has been submitted to vacate Cove View Court and reconfigure 4 lots into 2 lots. Both lots will have access from Perkins Road. The approval of the right of way vacation included the vacation of the 10 foot utility easements that adjoined Cove View Court.

This hearing is to review the vacation of the 5 foot utility easements granted along the interior lot lines and the 20 foot wide utility easements that was granted by HM 91-47 and HM 93-60. The approval of this utility easement vacation will remove utility easements from the interior of the proposed lots. A 10 foot utility easement along Perkins Road will remain in place. Additionally, Homer Electric Association requested that the 10 foot easement on either side of the existing power lines that are within current Lot 18-A remain in place.

Utility provider review:

HEA	No objection to ROW and utility easement vacations as shown. Carry forward note #4 of Plat #93-60 HRD. "10 utility easement exists along each side of all powerlines." Request the powerline across Lot 18-A be shown on the replat.
ENSTAR	No objections to the proposed vacation of the utility easements as shown on Stanley's Meadow 2021 preliminary plat.
ACS	No objections to the ROW, Lot Line, and PUE vacations shown on the plat.
RSA	No objection as this time.

Findings:

1. The petition states that the utility easements proposed to be vacated is not in use by a utility company.
2. KPB RSA, ACS, ENSTAR, and GCI provided written non-objection to the proposed vacations.
3. HEA has no objection to the utility easement vacations as shown, though requests to carry forward note #4 of Stanley's Meadow No 11 ADEC Power-Trip Replat (Plat HM 93-60) "10' UTILITY EASEMENT EXISTS ALONG EACH SIDE OF ALL POWER LINES".
4. Stanley's Meadow No 11 (Plat HM 91-47) and Stanley's Meadow No 11 ADEC Power-Trip Replat (Plat HM 93-60), granted a 20' wide utility easement within the boundary of Lot 7 and Lot 10.
5. Stanley's Meadow No 11 (Plat HM 91-47) granted 5' utility easements along each side of all interior lot lines.
6. Stanley's Meadow No. 11 ADEC Power-Trip Replat (Plat HM 93-60) granted 5' utility easements along each side of all interior lot lines.
7. Stanley's Meadow No 11 (Plat HM 91-47) granted a 10' utility easement along each side of all existing power lines, guys and anchors.
8. Stanley's Meadow No 11 ADEC Power-Trip Replat (Plat HM 93-60) replatted lots 1-18 per Stanley's Meadow No 11 (Plat HM 91-47) which carried forward the 5' utility easement along each side of the former lot 7 and former lot 10 for 100', now located in the lower middle of lot 10-A, HM 93-60.
9. Stanley's Meadow No. 3 (Plat HM 81-84) granted 10' utility easements along each side of existing powerlines which is within Lot 18-A (proposed Lot 9-B).
10. No surrounding properties will be denied utilities.
11. A 10 foot utility easement will remain on Perkins Road after Cove View Ct. is vacated.

RECOMMENDATION:

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends approval of the utility easement alteration as petitioned, subject to:

1. Grant utility easements requested by utility providers.
2. Finalizing the approval of the easement alteration by either;
 - a. The recording of a subdivision plat within 12 months or,
 - b. 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.**

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*
 - o *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*
 - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
 - *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.*

END OF STAFF REPORT