

AGENDA ITEM E. NEW BUSINESS

ITEM 2 - Carl F Ahlstrom Subdivision RPM's Replat Number 2 Utility Easement Vacation

<b>KPB File No.</b>	2021-054V
<b>Planning Commission Meeting:</b>	August 9, 2021
<b>Applicant / Owner:</b>	RPM's LLC and John Mellish of Kenai, Alaska
<b>Surveyor:</b>	John Segesser / Segesser Surveys, Inc.
<b>General Location:</b>	City of Kenai

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STAFF REPORT

**Specific Request / Purpose as stated in the petition:** Vacate 10' utility easements along the side lot lines of Lots 19, 20, 21, Block 13, Carl F. Ahlstrom Subdivision (Plat KN-216) and Lot 22A, Block 13, Carl F. Ahlstrom Subdivision RPM's Replat (Plat KN 2017-66) excluding the 15 feet adjoining Kenai Spur Highway and the 10 feet adjoining the northeast boundary.

Located within Section 25, Township 6 North, Range 12 West, Seward Meridian, Alaska, within the Kenai Peninsula

The petitioner is in the process of vacating lot lines to create one parcel.

**Notification:** Notice of vacation mailings were sent by regular mail to 45 owners of property within 600 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.

**Staff Analysis:** The commission is hearing the vacation of several utility easements proposed to be finalized by the Carl F. Ahlstrom Subdivision RPM's Replat Number 2, KPB File 2021-054. The plat committee held a public hearing for the preliminary plat on June 14, 2021 and approved the plat. The plat will be combining four lots into one lot. This vacation will vacate utility easements that adjoin the parent lot lines.

Carl F. Ahlstrom Subdivision (KN-216) was filed in 1955 and created the lots within this subdivision. KN-216 granted 10 foot utility easement adjoining all side lot lines. Carl F. Ahlstrom Subdivision RPM's Replat, KN 2017-66 combined Lots 22-24 into one lot, Lot 22A. Plat KN 2017-66 also finalized the vacation of the utility easements adjoining the former lot lines. Lot 22A is now being replatted with Lots 19-21.

There are several buildings on the lots and the owner wishes to not have 20 foot utility easements running through the middle of the new lot. A 15 foot utility easement will be granted along the Kenai Spur Highway. Plat KN 2017-66 granted 15 foot utility easements along Lot 22A adjoining the Kenai Spur Highway and Wildwood Drive, excluding the area affected by a permanent structure. 10 foot utility easements will remain from plat K-216 along the south boundary and along the northeast boundary.

The City of Kenai reviewed the preliminary plat at their March 24, 2021 meeting. The plat was approved subject to the Kenai City Council declaring the utility easements not being needed for public purposes and approve the vacations as shown on the preliminary plat.

**Utility provider review:**

HEA	No comments
ENSTAR	No comments or objections
ACS	No objections
GCI	No response received prior to staff report being written.

## Findings:

1. The petition states that the utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, and HEA provided written non-objection to the proposed vacation.
3. City of Kenai Planning and Zoning approved the plat with the depicted utility easement vacations on March 24, 2021.
4. Carl F. Ahlstrom Subdivision, K-216, granted 10 foot utility easements adjoining all lot lines.
5. Carl F. Ahlstrom Subdivision RPM's Replat, KN 2017-66, vacated the interior 10 foot utility easements along the side lot lines of Lots 22-24 of Plat K-216.
6. Plat KN 2017-66 granted 15 foot utility easements along Kenai Spur Highway, excluding the area affected by permanent structures, and Wildwood Drive within Lot 22A.
7. Plat K-216 granted 10 foot utility easements along the northeast boundary of the proposed replat.
8. The preliminary plat will grant a 15 foot utility easement along the Kenai Spur Highway adjacent to parent lots 19-21.
9. No surrounding properties will be denied utilities.
10. The vacation will acquire consent from Kenai City Council as outlined in their Municipal Code 22.05.110.

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## **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 the Kenai City Council and 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*

- *Objective A - Encourage coordination of 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*
  - *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.*

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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