

AGENDA ITEM E. NEW BUSINESS

ITEM 1 - UTILITY EASEMENT ALTERATION  
EDGINGTON SUBDIVISION NO. 2 (KN 79-195) LOTS 3 AND 4

<b>KPB File No.</b>	2021-129V1
<b>Planning Commission Meeting:</b>	September 27, 2021
<b>Applicant / Owner:</b>	Jessica Seymour, Paul Kelly, Guy and Colleen Sherman, all of Soldotna, Alaska
<b>Surveyor:</b>	Jason Young, Mark Aimonetti / Edge Survey and Design, LLC
<b>General Location:</b>	Sterling

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STAFF REPORT

**Specific Request / Purpose as stated in the petition:** None was stated. A preliminary plat to adjust the shared lot line the easement is centered on has been submitted.

**Notification:** Notice of vacation mailings were sent by regular mail to 34 owners of property within 600 feet. Notice of the proposed vacation was emailed to Borough agencies and interested parties.

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

**Staff Analysis:** The petition requests to vacate the entire utility easement that is on the common boundary between Lot 3 and Lot 4. It does not appear that any utility lines are currently located within the easement.

The petition was accompanied with a petition to vacate a portion of Fannie Mae Avenue and a preliminary subdivision plat. The preliminary plat will adjust the lot line between Lot 3 and 4 as well as finalize both the utility and right of way vacations.

The right of way vacation is scheduled to be heard by the Planning Commission on the September 27, 2021 meeting. The preliminary plat is scheduled to be heard by the Plat Committee at the September 27, 2021 meeting.

Edgington Subdivision No. 2, Plat KN 79-195 created the current lot configuration for lots 3 and 4 and the owners at that time granted the utility easements. That plat granted a 5 foot utility easement along the straight portion of Midway Drive, now named Fannie Mae Avenue, within Lot 3. In addition, a 20 foot utility easement centered on the shared lot line for lots 3 and 4 was granted. Each lot has a 10 foot wide utility easement that is approximately 225 feet long.

The right of way vacation is proposing to vacate the bulb portion of Fannie Mae Avenue only and to grant that area as a utility easement. The plat will also be granting additional utility easements along Fannie Mae Avenue. The additional easements will provide full 15 foot wide utility easements abutting the dedicated right of way. The plat will also be granting a 20 foot electric distribution line easement and a 15 foot gas distribution line easement each centered on existing services.

The petition did not state the reason for the vacation request. Looking at KPB GIS Imagery, a structure on Lot 4 appears to be very close to the lot line if not crossing and within the utility easement. The preliminary plat will be adjusting a portion of the shared lot line by moving it to the east 25 feet. Leaving the utility easement in place will create a 20 foot utility easement running through a portion of proposed Lot 4A and may create a possible encroachment.

No objections were received from the utility providers.

**Utility provider review:**

HEA	Approved as shown
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ENSTAR	Approved as shown
ACS	No objections
GCI	Approved as shown

#### **Findings:**

1. The petition states the easement is not in use by any utility companies.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
3. The Roads Service Area had no comment.
4. Edgington Subdivision No. 2, Plat KN 79-195, granted a 20 foot wide utility easement approximately 225 feet long on the shared lot line of lots 3 and 4.
5. Additional easements are proposed to be granted over existing services by platting action.
6. A 15 foot utility easement will be granted along the dedicated right of way, Fannie Mae Avenue.
7. The area of the cul-de-sac bulb right of way proposed for vacation will be granted as utility easement by platting action.
8. No surrounding properties will be denied utilities.
9. The property is located on Longmere Lake.
10. The utility easement runs along the lot line towards Longmere Lake.

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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 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**