

# Kenai Peninsula Borough Planning Commission

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Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

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September 13, 2021  
7:30 P.M.  
UNAPPROVED MINUTES

## CALL TO ORDER

Chair Martin called the meeting to order at 7:50 p.m. The meeting started late due to the Plat Committee running over time.

## ROLL CALL

### *Commissioners Present*

Jeremy Brantley, Sterling  
Cindy Ecklund, City of Seward  
Diane Fikes, City of Kenai  
Pamela Gillham, Ridgeway  
Blair Martin, Kalifornsky Beach  
Robert Ruffner, Kasilof/Clam Gulch  
Franco Venuti, City of Homer

With 7 members of an 11-member commission in attendance, a quorum was present.

### *Staff Present*

Melanie Aeschliman, Planning Director  
Sean Kelly, Legal Representative  
Marcus Mueller, Land Management Officer  
Bryan Taylor, Planner  
Derek Haws, Addressing Officer  
Ann Shirnberg, Administrative Assistant  
Julie Hindman, Platting Specialist

## AGENDA ITEM B. ROLL CALL

- \*3. Plat Granted Administrative Approval
  - a. Beaver Dam Estates Part Seven; KPB File 2021-025R1
  - b. FBO Subdivision No. 11; KPB File 2021-076
  - c. Marimac Subdivision Eischens Addition; KPB File 2021-044
  - d. Pipers Haven 2021 Replat; KPB File 2021-074
- \*6 Commissioner Excused Absences
  - a. Virginia Morgan, East Peninsula
  - b. Syverine Bentz, Anchor Point/ Ninilchik
  - c. Davin Chesser, Northwest Borough
  - d. Vacant, City Seat
- \*7 Minutes
  - a. August 23, 2021 Planning Commission Meeting Minutes

Chair Martin asked if anyone present wanted to speak to any of the items on the consent or regular agendas.

Ms. Shirnberg noted that Commissioners Bentz and Chessser had contacted her and informed her that they would not be able to attend tonight's meeting.

Hearing no one else wishing to comment, Chair Martin returned the discussion to the Commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Fikes to approve the consent agenda and the regular agenda.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Chessser, Morgan				

**AGENDA ITEM E. NEW BUSINESS**

Chair Martin asked Ms. Shirnberg to read the procedure for public testimony.

AGENDA ITEM E. NEW BUSINESS

**ITEM 1 – UTILITY EASEMENT VACATION  
TOWNSITE OF KENAI - KENAITZE COURTHOUSE REPLAT**

<b>KPB File No.</b>	2021-118V
<b>Planning Commission Meeting:</b>	September 13, 2021
<b>Applicant / Owner:</b>	Kenaitze Indian Tribe IRA of Kenai, Alaska
<b>Surveyor:</b>	Mark Aimonetti, Jason Young / Edge Survey and Design, LLC
<b>General Location:</b>	City of Kenai

Staff report given by Scott Huff.

**Specific Request / Purpose as stated in the petition:** The petition did not state a purpose but a plat has been submitted to remove interior lot lines. The request is to remove the platted utility easements that are located on the former lot lines within the new lot.

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

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

**Staff Analysis:** The preliminary plat supplied for the vacation of utility easements depicts several easements to be vacated. Per the submittal, the intent of the preliminary plat is to combine several lots into one 5 acre tract. Per the City of Kenai staff report, the Kenaitze Indian Tribe wishes to expand their tribal court building and provide additional parking. The extension of the building will not comply with city zoning and will encroach into a utility easement. The proposed changes will allow the building to be compliant.

The original plat, US Survey 2970, did not grant any utility easements. Plat KN 2012-11, Townsite of Kenai Kenaitze Addition Subdivision, vacated some of the right of ways in the area and granted some utility easements. Those easements were also depicted on Plat KN 2021-18, Townsite of Kenai 2021 Kenaitze Replat.

Along the northern boundary, adjacent to Lot 13A Block 5, a 10 foot utility easement, granted by KN 2012-11, centered over the existing underground line will remain as will a 5 foot utility easement granted by book and page.

Along the southeast are utility easements that were granted by KN 2012-11 atop a portion of the right of way vacation of Upland Way and Overland Way. This easement will remain. The easement is labeled as 10 foot utility easement but the width varies and in some areas not 10 feet. **Staff recommends** the label be corrected for the utility easement extending from Upland Street as the width of the easement is not 10 feet and varies with the former right of way width.

A utility easement extends from Overland Avenue into proposed Tract B-1. This request is to vacate the easterly approximately 125 feet. The remaining easement is approximately 13 feet wide and will be approximately 35 feet long.

Plat KN 2012-11 granted utility easements along the property lines in the southwest corner. The northern portion of the 10 foot utility easement adjoining the former lot line is requested to be vacated. When the easement extends to the southeast the width varies. Per KN 2012-11 a 20 foot utility easement was granted centered on the existing utility line. The plat only had the authority to grant the easement within the subdivision boundary. Staff did not find any record of the remaining 20 foot width being granted within Lot 5 Block 5. **Staff recommends** the depiction of the portion being vacated be corrected to match what was actually granted. **Staff recommends** this platting action grant the remaining width for the 20 foot wide utility easement that extends from Mission Avenue.

The City of Kenai Planning and Zoning Commission reviewed the plat at their regularly scheduled meeting on August 11, 2021. They approved the plat including the vacations subject to the Kenai City Council declaring the utility easements to be vacated are not needed for public purpose and approve the vacation as shown. If approved the Kenai City Council must consent or veto the vacation within 30 days from September 13, 2021.

The vacations are proposed to be finalized by plat Townsite of Kenai Kenaitze Courthouse Replat, KPB File 2021-118. The plat has been submitted and will be reviewed by the Plat Committee on September 13, 2021.

#### Utility provider review:

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

#### Findings:

1. The petition states a utility company does not use the utility easements proposed for vacation.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
3. Townsite of Kenai Kenaitze Addition Subdivision, Plat KN 2012-11, granted utility easements coinciding with portions of right of ways vacated by that plat.
4. Townsite of Kenai Kenaitze Addition Subdivision, Plat KN 2012-11, granted utility easements adjoining lot lines with the remainder of Lot 4 Block 5 and Lot 5 Block 5 of US Survey 2970.
5. A portion of the easement extending from Overland Avenue will be vacated with an approximately 35 foot segment to remain.
6. Additional utility easement will be granted within former Lot 5 Block 5 to allow the full 20 foot width centered on the existing electric overhead line.
7. No surrounding properties will be denied utilities.
8. The vacations are proposed to be vacated by plat, Townsite of Kenai Kenaitze Courthouse Replat.
9. The plat, if approved, will create a 5 acre lot with improvements owned by the Kenaitze Indian Tribe.
10. Per the City of Kenai staff report, the lot line removals and vacation of utility easements will allow

the Kenaitze Indian Tribe the ability to add an addition to an existing building and comply with city zoning code requirements.

### **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. Consent by Kenai City Council.
2. Grant utility easements requested by the Kenai City Council and utility providers.
3. 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

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ruffner 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.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

### AGENDA ITEM E. NEW BUSINESS

#### ITEM 2 - RIGHT OF WAY VACATION

#### VACATE SHANE RAE CIRCLE RIGHT OF WAY RUNNING (60' X 645.10') AS SHOWN AND DEDICATED ON S & S SUBDIVISION (PLAT KN 86-112)

<b>KPB File No.</b>	2021-112V
<b>Planning Commission Meeting:</b>	September 13, 2021
<b>Applicant / Owner:</b>	Jessica A and Cole B Young of Soldotna, Alaska
<b>Surveyor:</b>	None at this time
<b>General Location:</b>	Located off of Riggs Avenue from Mackey Lake Road.
<b>Legal Description:</b>	Shane Rae Circle right of way, S & S Sub KN 86-112 E1/2 W1/2 SW1/4 SW1/4, Section 22 Township 5 North Range 10 West Kenai Recording District

Staff report given by Scott Huff.

#### Specific Request / Purpose as stated in the petition:

*We are requesting to vacate Shane Rae Circle. We own all five of the lots in the S & S Subdivision. We are proposing the following changes to the plat:*

- Lot 1 currently has access from Riggs Ave. Lot 1 would continue to share the current driveway for access.*
- Lot 2 & 3 to be combined and absorb the Shane Rae Circle land. The combined Lots 2 & 3 will share the current driveway access from Riggs Avenue.*
- Lot 4 is double frontage lot with Shane Rae Circle and Heath Circle. As it is served by both accesses, there will be no impact when Shane Rae Circle is vacated. As it is now, an exception had to be made for the construction of Heath Circle due to the depth of the lot.*
- The back 4.86 unsubdivided acreage of the S & S Subdivision sits on the cul-de-sac of Heath Circle. Vacating Shane Rae Circle will have no impact on this lot. Currently the Shane Rae Circle access is only platted and not fully constructed. The access via Heath Circle is onto an established gravel cul-de-sac.*

*As we operate a business with valuable equipment and machinery parked outside, we placed a gate*

*and fence on our driveway for security reasons. We own all of the surrounding lots, so there is not a reason for anyone to travel down Shane Rae Circle. Vacating Shane Rae Circle will not have a negative impact on future owners or require amendments to the plat because all the properties have accessible entry points.*

**Notification:** Public notice appeared in the September 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the September 9, 2021 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

The public noticed was placed on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Soldotna  
Post Office of Sterling

Nineteen certified mailings were sent to owners of property within 300 feet of the proposed vacation. Thirteen receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 14 owners within 600 feet of the proposed vacation.

Nineteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish & Game	ENSTAR Natural Gas
State of Alaska DNR	General Communication Inc. (GCI)
State of Alaska DOT	Homer Electric Association (HEA)
State of Alaska DNR Forestry	Alaska Communication Systems (ACS)
Central Emergency Services	

**Legal Access (existing and proposed):** Shane Rae Circle is off Riggs Avenue (originally Spruce Avenue) and is located approximately 920 feet west from the intersection of Riggs Avenue and Mackey Lake Road. Mackey Lake Road is a state maintained right of way. The Kenai Peninsula Borough maintains Riggs Avenue.

Riggs Avenue is the boundary between the Kenai Peninsula Borough (located to the north) and the City of Soldotna (located to the south).

Lots 1 and 2 front Riggs Avenue and Shane Rae Circle. Lot 3 fronts Shane Rae Circle. Lot 4 and the unsubdivided remainder front on Shane Rae Circle and Heath Circle. No other lots use Shane Rae Circle for access.

An overall preliminary design has not been submitted at this time. Per the comments with the vacation petition, no additional right of way is proposed to be dedicated.

KPB Roads Dept. comments	Within KPB jurisdiction, no comments.
SOA DOT comments	No comments.

**Site Investigation:** The area within the right of way vacation, including the abutting lots, is relatively flat. There are some low wet areas located within the Heath Circle cul-de-sac bulb.

Shane Rae Circle appears to be improved with a driveway but has not been constructed to KPB standards.

Floodplain Hazard Review	Not located within a floodplain.
Anadromous Waters Habitat Protection District Review	Not affected by a Habitat Protection District.
State Parks Review	No comments.

**Staff Analysis:** Shane Rae Circle is a 60 foot wide by 645 foot long right of way dedicated by S & S Subdivision, Plat KN 86-112.

The right of way was given a suffix of Circle. Per KPB Code 14.10.070, circle is “any right of way laying in a north-south direction and ending in a cul-de-sac.” Based on the naming convention used it would appear there was intent to further subdivide and extend the right of way. Per current code KPB 20.30.100(A), cul-de-sacs are to be permanently closed and no more than 1,000 feet long.

The block is closed but the block length is not compliant. There are numerous dedications in the area that would have improved block length requirements but many end in cul-de-sacs. Due to wetlands and area configurations, the ability to obtain a compliant block length with a continuation of Shane Rae Circle will be difficult.

If the unsubdivided parcel at the north end of Shane Rae Circle were to be subdivided, a right of way connection between Shane Rae Circle and Heath Circle would be required.

Heath Circle, located to the west, received exceptions for length as the right of way was dedicated to avoid wetland areas. A dedication along the section line easement was not required as the section line easement is affected by low wet areas.

From the intersection of Mackey Lake Road and Riggs Avenue to the dedication of Heath Circle, there are three right of way dedications within approximately 1,400 feet. All three are designated at Circles and two currently end with bulbs, Shane Rae Circle is the only one without a bulb or turnaround area dedicated.

KPB GIS imagery shows Shane Rae Circle is partially constructed. Per the submittal, the constructed portion is used as their driveway as all the lots that have access from Shane Rae Circle are under common ownership. Per 2021 imagery, Heath Circle is constructed.

The parent plat granted a 10 foot utility easement adjoining the west side of Riggs Avenue. The application did not indicate any request to vacate the utility easements. Per the submittal, the vacated Shane Rae Circle right of way will be combined into Lot 2 and Lot 3. Lot configurations for Lot 1 and Lot 4, including the utility easement will remain unchanged. There is a 5 x 10 easement on the shared lot line for Lots 2 and 3. If Shane Rae Circle is approved to be vacated, an additional easement will be required to provide a connection to the easement in Lot 1 and Lot 4.

The remainder portion of the S&S Subdivision, and Lot 4 would have legal access on Heath Circle only. The unsubdivided portion is 4.86 acres. The 4.8 acre parcel has 117 feet of frontage on Heath Circle. Lot 4 has 104 feet of frontage on Heath Circle.

The owners of the lands around Shane Rae Circle installed a gate to protect their business equipment. They have been contacted by the Roads Department and were told the gate would need to be removed. If the vacation is approved, the gate may remain but if denied the gate will be required to be removed. Staff would like to note that even if approved, the vacation is not final until the recording of the plat. Compliance issues should be worked out with the Roads Department and Code Compliance.

#### **20.65.050 – Action on vacation application**

D. The planning commission shall consider the merits of each vacation request and in all cases, the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;

**Staff comments:** The owners are currently using it as access to their property. All surrounding parcels are under common ownership. If the vacation of right of way is approved, a plat will be

- required to alter the property boundaries so that all lots in S and S Subdivision front on a dedicated right of way.
2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The right of way is able to be constructed to KPB standards. I subdivision plat will be required to change the parcel boundaries so that Heath Circle and Riggs Avenue will provide legal access to all lots.
  3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The surrounding area is generally developed. The 4.6 acre parcel to the north of Shane Rae Circle can be further subdivided. All nearby lots have legal access.
  4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** Shane Rae Circle right of way does not provide access to public interest lands or water bodies.
  5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** Due to the design of lots, existing structures, wetlands, and nearby right of ways, the ability to connect, or extend, right of ways is limited. The vacation may have an impact on the northern lot, as the access will be reduced to 128 feet along Heath Court. A connection between Shane Rae Circle and Heath Circle would be required if the 4.6 acre parcel were subdivided.
  6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:** All the parcels that front on Shane Rae Circle are currently under common ownership. Shane Rae Circle does not provide a benefit to the public.
  7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.  
**Staff comments:** There is a 10 foot utility easement along the eastern boundary of Lot 1 and Lot 4 that will remain in place and the petitioner will need to work with the utility providers if additional utility easements are needed.
  8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.  
**Staff comments:** A code compliant plat will be required that changes the boundaries so that all lots will have adequate access and utility easements.

A plat has not been submitted at this time. A plat will be required to be submitted for review by the Plat Committee and a final recorded within one year of the vacation consent. Staff notes that exceptions to block length (20.30.170) and depth to width ratio (20.30.190) may be required.

If approved, the vacation is subject to consent or veto by the Kenai Peninsula Borough Assembly. The vacation is tentatively scheduled for the September 21, 2021 Assembly meeting.

**KPB department / agency review:**

Planner – Bryan Taylor	<p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>There are not any material site issues with this proposed plat.</p>
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Code Compliance – Eric Ogren	Code Compliance review not available.
Addressing – Derek Haws	<p>Affected Addresses: 42924 SHANE RAE CIR 42960 SHANE RAE CIR</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names: SHANE RAE CIR</p> <p>Existing Street Name Corrections Needed: SPRUCE AVE should be RIGGS AVE</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: 42924 RIGGS AVE will remain with new combined lot. 42960 RIGGS AVE will be deleted.</p>
Assessing – Matt Bruns	No concerns from Assessing Dept.

**Utility provider review:**

HEA	
ENSTAR	<p>ENSTAR has reviewed the proposed vacation of Shane Rae Circle under KPB 2021-112V S&amp;S Subdivision and advises that natural gas facilities are installed within the existing right of way as shown on the attached sketch labeled Exhibit B. ENSTAR objects to approval unless one of the following conditions are met.</p> <ul style="list-style-type: none"> <li>- Owner grant ENSTAR document easement for a fifteen feet (15 FT) wide natural gas easement centered on the existing natural gas pipeline facilities.</li> <li>- Add a note to the plat that says, "There is a fifteen feet (15 FT) wide natural gas easement centered on the existing main.", draw in the approximate location of the main on the plat map and add "Approximate location of natural gas main and centerline of fifteen feet (15 FT) wide natural gas easement."</li> </ul>
ACS	No objections.
GCI	Approved as shown.

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(F) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by utility providers.
4. 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).

**KPB 20.65.050 – Action on vacation application**

**H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or**

city council unless city code specifically provides otherwise.

- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.
- J. A planning commission decision denying a vacation application is final. 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.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter 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 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*
  - 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.*

*Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough*

- *Focus Area: Transportation*
  - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
    - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
    - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

## END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

Cole Young, Petitioner; POB 723, Soldotna, AK 99669: Mr. Young stated that he operates a business on these parcels with valuable equipment and machinery parked outside. They have placed a gate and a fence on their driveway for security reasons. They own all of the lots surrounding Shane Rae Circle, so he

does not believe there is a reason for anyone to travel down this road. He then made himself available for any questions from the commission.

Hearing no else one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Ruffner 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.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

AGENDA ITEM E.      NEW BUSINESS

**ITEM 3 - RIGHT OF WAY VACATION  
VACATE A PORTION OF KUCHTA STREET AND ADJOINING 5' UTILITY EASEMENT  
KUCHTA ESTATES HANSEN ADDITION**

<b>KPB File No.</b>	2021-119V
<b>Planning Commission Meeting:</b>	September 13, 2021
<b>Applicant / Owner:</b>	Daniel Hansen and Hara Hansen-Biesiot of Kenai, Alaska
<b>Surveyor:</b>	Mark Aimonetti, Jason Young / Edge Survey and Design LLC
<b>General Location:</b>	Nikiski
<b>Legal Description:</b>	Kuchta Street / Kuchta Estates Subdivision Part One, KN 77-33, and Kuchta Estates Subdivision Part Two, KN 77-189, Kenai Recording District, Section 28, Township 7 North, Range 11 West, S.M.

Staff report given by Scott Huff.

**Specific Request / Purpose as stated in the petition:** Justification was not included with the petition. A preliminary plat design was submitted as part of the application showing the intent to combine 3 lots into one 8.6 acre parcel. Kuchta Street is between two of the lots. The subdivision plat depicts a new right of way being dedicated on the north and east boundary.

**Notification:** Public notice appeared in the September 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the September 9, 2021 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

- Library of Nikiski
- Post Office of Nikiski

Ten certified mailings were sent to owners of property within 300 feet of the proposed vacation. Zero receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to ten owners within 600 feet of the proposed vacation.

Nineteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish & Game	Nikiski Community Council
State of Alaska DNR	Alaska Communications Systems (ACS)
State of Alaska DOT	ENSTAR Natural Gas
State of Alaska DNR Forestry	General Communications Inc. (GCI)
Nikiski Emergency Services	Homer Electric Association (HEA)
KPB Land Management Division	

**Legal Access (existing and proposed):** Kuchta Street is access from Baun Drive which is located near mile 2.5 of state maintained Holt Lamplight Road. Baun Drive is a 60 foot wide borough maintained right of way.

Additional access is available from the Escape Route Road via Muskrat Street and Betty Warren Avenue/Lynx Avenue. Betty Warren Avenue/Lynx Avenue is an unconstructed east-west right of that is not constructed. Muskrat Street is a right of way that runs north-south and is not constructed south of Betty Warren Avenue/Lynx Avenue.

The proposed plat indicates the intention to dedicate two new right of ways. Biesiot Avenue will be a 60 foot wide right of way that extends east along the north boundary. At the east end of Biesiot Avenue a proposed 30 foot wide dedication extending south and connecting to the end of the Lynx Avenue dedication. Both of those right of ways will require street names approved by the Kenai Peninsula Borough Addressing Officer.

Currently only one of the parent lots is within a closed block. The proposed dedication will allow the entire subdivision to be within a closed and compliant block.

Per staff records, a 33 foot section line easement is located south of Lynx Avenue that runs from the Muskrat Street dedication and to the east. A 50 foot section line easement is present to the east of the subdivision running east-west.

KPB Roads Dept. comments	Within KPB jurisdiction. A portion of this vacate is maintained by the RSA. The current turnaround will be vacated, which will create an issue of maintenance.
SOA DOT comments	No comments.

**Site Investigation:** The area is relatively flat and not affected by low wet areas.

Floodplain Hazard Review	Not within a flood hazard area.
Anadromous Waters Habitat Protection District Review	Not within a HPD.
State Parks Review	No comments.

**Staff Analysis:** The lots associated with the vacation and the right of way being vacated were created by two plats. Kuchta Estates Subdivision, Part One, Plat KN 77-33, dedicated the western 30 foot width for Kuchta Street and created Lot 4 Block 4. A 5 foot utility easement adjoins the right of way within Lot 4 Block 4. Kuchta Estates Subdivision, Part Two, Plat KN 77-189, dedicated the eastern 30 feet of Kuchta Street and created Lots 4 and 5 Block 3. The plat did not grant utility easements along Kuchta Street.

Per KPB GIS data, Kuchta Street is constructed and a portion is maintained by the borough. The access map prepared by staff indicates the approximate location road maintenance ends. Per KPB GIS imagery, there are structures possibly within the right of way, building setback, or are very close to the right of way.

Lot 4 Block 4 and Lots 4 and 5 Block 3 are all under the same ownership. The owners are attempting to combine their three lots and allow right of way access to be provided surrounding the north and east edge of their property versus going through the middle.

To the east is a 40 acre lot owned by the Bureau of Indian Affairs. If the vacation and dedication is approved, a matching 30 foot dedication will be required with any future subdivision. To the south of Lynx Avenue is a 465 acre parcel owned by Salamatof Native Association. If the parcel is subdivided, a minimum 30 foot wide dedication will be required along Lynx Avenue.

Plat KN 77-33, granted a 5 foot utility easement along the western boundary of Kuchta Street as well as along Lynx Avenue. Plat KN 77-189 did not grant any easements along Kuchta Street but did grant a 5 foot utility easement along Lynx Avenue. The petition does request to vacate the associated 5 foot easement where adjoining the Kuchta Street vacation. The plat is proposing to grant 15 foot utility easements along new and existing right of way dedications.

Homer Electric Association did comment that they have an existing distribution line along or within the west portion of Kuchta Street. They are requesting a 20 foot wide easement centered on the existing line.

#### 20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
9. The right-of-way or public easement to be vacated is being used;  
**Staff comments:** The portion being vacated is being used but appears to only be providing access to the lots adjacent to the vacation area and does not appear to be used for access to neighboring parcels.
  10. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The area to be vacated can be constructed to comply with KPB road standards. An alternative access is being dedicated to allow the construction of a new roadway around the applicant's property.
  11. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The area to the north and west has been subdivided with legal access to all lots. The areas to the east and south remain unsubdivided and will be required to provide a matching right of way dedication with subdivided in the future.
  12. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** The right of way does not provide access to water body or other public interest area.
  13. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** The vacation will not deny any access as the new dedications will create a complete and compliant block. Large acreage lots to the east and south will be able to dedicate right of ways that fit their design plan.
  14. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:** Other public access is feasible within the vacation area but it does not appear to be used by the public at this time. Sufficient right of ways exist for public access.
  15. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists,

the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.

**Staff comments:** A power line is located on the west side of the vacation. Homer Electric Association is requesting an easement over an existing line. The proposed plat will be granting a 20 foot utility easement on the existing overhead line as well as 15 foot utility easements adjoining all right of ways.

16. Any other factors that are relevant to the vacation application or the area proposed to be vacated.

**Staff comments:** From aerial imagery it appears that the applicant has improvements within the right of way, or within the 20 foot building setback. The vacation and replat will remove any encroachment issues.

If approved, Kuchta Estate Hansen Addition will finalize the proposed right of way vacations. The Plat Committee is scheduled to review the plat on September 13, 2021.

Finalizing the vacation is subject to consent or veto by the Kenai Peninsula Borough Assembly within 30 days. The vacation is tentatively scheduled for the September 21, 2021 Assembly meeting.

**KPB department / agency review:**

Planner – Bryan Taylor	There are no local option zoning district issues or material site issues associated with this right of way vacation.
Code Compliance – Eric Ogren	Review not available.
Addressing – Derek Haws	<p>Affected Addresses: 47071 KUCHTA ST 47050 KUCHTA ST</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: KUCHTA ST LYNX AVE</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names: BIESIOT AVE</p> <p>List of Street Names Denied: CARIBOU RUN ST is denied because CARIBOU is on the prohibited names list.</p> <p>Comments: 47071 KUCHTA ST will be deleted. 47050 KUCHTA ST will remain with new Lot 4A. CARIBOU RUN is denied, please contact dhaws@kpb.us for any questions regarding street naming.</p>
Assessing – Matt Bruns	Comments: No concerns from Assessing Dept.
Advisory Planning Commission	N/A

**Utility provider review:**

HEA	Approximate location shown on map of HEA Overhead Powerline, centerline of a 20 foot wide electrical distribution line easement is requested.
ENSTAR	Approved as shown
ACS	No objections
GCI	No objections

### **RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(F) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. 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).

#### **KPB 20.65.050 – Action on vacation application**

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.**
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.**
- J. A planning commission decision denying a vacation application is final. 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.**
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter 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 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*
  - 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.*

**Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough**

- **Focus Area: Transportation**
  - o **Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.**
    - **Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.**
    - **Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.**

### END OF STAFF REPORT

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Ruffner 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.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

#### MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

### AGENDA ITEM E. NEW BUSINESS

#### ITEM 4 - RIGHT OF WAY VACATION VACATE A PORTION OF DERKS LAKE ROAD AND ASSOCIATED UTILITY EASEMENTS

<b>KPB File No.</b>	2021-122V
<b>Planning Commission Meeting:</b>	September 13, 2021
<b>Applicant / Owner:</b>	Gene, George, and Linda Friendshuh of Soldotna, Alaska
<b>Surveyor:</b>	James Hall / McLane Consulting, Inc
<b>General Location:</b>	Ridgeway Area
<b>Legal Description:</b>	Derks Lake Road as dedicated on Denise Lake Estates Part Two, KN 94-27 and Tatum Subdivision, KN 2021-15, Kenai Recording District, Sections 14 and 23 Township 05 North Range 10 West S.M.

Staff report given by Scott Huff.

**Specific Request / Purpose as stated in the petition:** Lots along south side of Derks Lake Road are pressed between right of way and Soldotna Creek. By re-routing Derks Lake Road the additional property gained will allow the owners space to build homes.

**Notification:** Public notice appeared in the September 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the September 9, 2021 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

A petition has also been received for section line easement vacations that coincide with the right of way  
Kenai Peninsula Borough

vacation. Public notices posted and mailed contained the information for each item so only one notice was required. The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

- Library of Soldotna
- Post Office of Sterling

Fifteen certified mailings were sent to owners of property within 300 feet of the proposed vacation. Six receipt had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to eight owners within 600 feet of the proposed vacation. Nineteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish & Game  
State of Alaska DNR  
State of Alaska DOT  
State of Alaska DNR Forestry  
Advisory Planning Commission

Alaska Communication Systems (ACS)  
ENSTAR Natural Gas  
General Communications Inc. (GCI)  
Homer Electric Association (HEA)  
Central Emergency Services

**Legal Access (existing and proposed):** Legal access to Derks Lake road is via Mackdy Lake Road to Denise Lake Road. An alternate route is from Denise Lake to Aksala Lane and Arctic Tern Road.

Nearby right of ways Goldeneye Avenue, Big D Road, and Cinnamon Street provide additional access. Cinnamon Street does not appear to be improved. Bid D Road appears to have a constructed road. Neither right of way is maintained by KPB.

Per KPB GIS data, Derks Lake Road maintenance stops approximately 200 feet east of Arctic Tern Road and the portion being requested for vacation is not constructed or maintained. The preliminary plat design shows a realignment of Derks Lake Road. KPB GIS Imagery appears to show a roadway that angles to the north of the dedication and connects to Big D Road. The proposed dedication does not appear to follow the existing trail or drive.

The proposed vacation has an underlying section line easement and a petition has been received to vacate the corresponding area. The public hearing for the section line easement vacation will be heard at the same meeting as this petition.

The parent subdivision Tatum Denise Subdivision, KN 2021-15, did receive an exception for block length. The preliminary plat to finalize the vacation will also need to request an exception for block length.

KPB Roads Dept. comments	Within KPB jurisdiction. The RSA has no comments at this time.
SOA DOT comments	No comments.

**Site Investigation:** There are no low wet areas or steep terrain within the right of way vacation or within the proposed dedication areas. The area proposed to be vacated and dedicated appear to be relatively flat.

Floodplain Hazard Review	Not within a flood hazard area.
Anadromous Waters Habitat Protection District Review	Not within a HPD.
State Parks Review	No comments.

**Staff Analysis:** Per the petition, the lots south of Derks Lake Road have limited buildable area due to restrictions associated with Soldotna Creek wetlands and the existing right of way. The realignment of Derks Lake Road will provide additional square footage to develop the lots.

Denise Lake Estates Part Two, KN 94-27, and Tatum Subdivision, KN 2021-15 originally dedicated the portion of Derks Lake Road proposed for vacation. Both of those subdivisions dedicated 50 foot wide right

of way atop 50 foot wide section line easements to create a 100 foot wide right of way. To the west of the 100 foot wide dedication the right of way width is reduced to 66 feet and coincides with section line easements.

This petition is requesting the vacation of the east approximately 1000 feet of Derks Lake Road, and the north 17 foot wide by approximately 570 foot section of Derks Lake Road.

A new dedication for Derks Lake Road is proposed to curve northeasterly and connect to Cinnamon Street. KPB GIS imagery shows a constructed road in this area but it will not align with the new right of way. The location of the proposed right of way will allow the best subdivision design with usable area for all lots.

A 10 foot wide utility easement will adjoin all dedicated right of ways within the proposed subdivision. The vacation of the right of way includes the vacation of associated utility easements. There does appear to be Homer Electric Association utilities running parallel to the proposed vacation. The line appears to be approximately 15 feet from the right of way. The parent plat only granted a 10 foot utility easement along the right of way. **Staff recommends** the utility easement association with the right of way be vacated and the applicant work with the utility provider to determine an agreeable width and grant an easement centered over the existing powerline line.

Approval of the vacation will be subject to consent or veto by the Kenai Peninsula Borough Assembly. The petition to vacate is tentatively scheduled for the September 21, 2021 Assembly meeting.

#### 20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;  
**Staff comments:** The portion of right of way being vacated is not being used for vehicular or pedestrian access. An overhead electric line is located to the south of the right of way.
  2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The area being vacated is constructible as a roadway. A new right of way dedication is being provided to the north of the vacation and will provide a connection.
  3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The surrounding area has been subdivided, or will be subdivided with this plat. All needed right-of-ways and utility easements have been provided.
  4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** The right of way proposed to be vacated does not provide access to public areas.
  5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** A proposed right of way dedication in conjunction with the proposed right of way vacation will provide connectivity of the roads and utility easements for nearby parcels.
  6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:**

7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.  
**Staff comments:** Utility easements will be granted to adjoin the proposed dedicated right of way.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.  
**Staff comments:** A proposed realignment will provide continuation of the right of way.

If approved, Tatum Denise Subdivision Phase 1 will finalize the proposed right of way vacations. A separate action to vacate the section line easement is proposed to finalize the section line easement vacations. The Plat Committee is scheduled to review Tatum Denise Subdivision Phase 1 on September 27, 2021.

**KPB department / agency review:**

Planner – Bryan Taylor	There are not any Local Option Zoning District issues with this proposed plat.  There are not any material site issues with this proposed plat.
Code Compliance – Eric Ogren	Code compliance review not available.
Addressing – Derek Haws	Affected Addresses: None  Existing Street Names are Correct: Yes  List of Correct Street Names: DERKS LAKE RD CINNAMON ST BIG D RD  Existing Street Name Corrections Needed:  All New Street Names are Approved: No  List of Approved Street Names:  List of Street Names Denied:  Comments: No addresses affected by this subdivision.
Assessing – Matt Bruns	No concerns from Assessing Department.

**Utility provider review:**

HEA	
ENSTAR	
ACS	
GCI	Approved as shown.

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(F) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.

3. Grant utility easements requested by the utility providers.
4. 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).

#### **KPB 20.65.050 – Action on vacation application**

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.**
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.**
- J. A planning commission decision denying a vacation application is final. 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.**
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter 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.*

*Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough*

- *Focus Area: Transportation*

- *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
  - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
  - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

### END OF STAFF REPORT

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ruffner moved, seconded by Commissioner Ecklund 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.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

### AGENDA ITEM E.      NEW BUSINESS

#### ITEM 5 – SECTION LINE EASEMENT VACATION VACATE SECTION LINE EASEMENTS ASSOCIATED WITH SE1/4 SE1/4 OF SECTION 14 AND NE1/4 NE1/4 OF SECTION 23, TOWNSHIP 5 NORTH RANGE 10 WEST S.M.

<b>KPB File No.</b>	2021-123V
<b>Planning Commission Meeting:</b>	September 13, 2021
<b>Applicant / Owner:</b>	Gene, George, and Linda Friendshuh of Soldotna, Alaska
<b>Surveyor:</b>	James Hall / McLane Consulting, Inc
<b>General Location:</b>	Ridgeway Area
<b>Legal Description:</b>	50 foot section line easements associated with the SE1/4 SE1/4 of Section 14 and the NE1/4 NE1/4 of Section 23 Township 05 North Range 10 West S.M.

Staff report given by Scott Huff.

**Specific Request / Purpose as stated in the petition:** Lots along south side of Derks Lake Road are pressed between R/W and Soldotna Creek. By re-routing Derks Lake Road the additional property gained will allow the owners space to build homes.

**Notification:** Public notice appeared in the September 2, 2021 issue of the Peninsula Clarion as a separate ad. The public hearing notice was published in the September 9, 2021 issue of the Peninsula Clarion as part of the Commission's tentative agenda.

A petition has also been received for right of way vacations that coincide with the section line easement vacations. Public notices posted and mailed contained the information for each item so only one notice was required. The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

- Library of Soldotna
- Post Office of Sterling

Fifteen certified mailings were sent to owners of property within 300 feet of the proposed vacation. Six receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to eight owners within 600 feet of the proposed vacation.

Nineteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish & Game	Alaska Communication Systems (ACS)
State of Alaska DNR	ENSTAR Natural Gas
State of Alaska DOT	General Communications Inc. (GCI)
State of Alaska DNR Forestry	Homer Electric Association (HEA)
Advisory Planning Commission	Central Emergency Services

**Legal Access (existing and proposed):** Legal access to Derks Lake road is via Mackay Lake Road to Denise Lake Road. An alternate route is from Denise Lake to Aksala Lane and Arctic Tern Road.

Nearby right of ways Goldeneye Avenue, Big D Road, and Cinnamon Street provide additional access. Cinnamon Street does not appear to be improved. Bid D street appears to have a constructed road. Neither right of way is maintained by KPB.

The proposed vacation has associated right of way dedications and a petition has been received to vacate that area and is scheduled for the September 13, 2021 Planning Commission meeting.

KPB Roads Dept. comments	Within KPB jurisdiction. The RSA has no comments at this time.
SOA DOT comments	No comments.

**Site Investigation:** There are no low wet areas or steep terrain within the right of way vacation or within the proposed dedication areas. The area proposed to be vacated and dedicated appear to be relatively flat.

Floodplain Hazard Review	Not within a flood hazard area
Anadromous Waters Habitat Protection District Review	Not within a HPD.
State Parks Review	No comments

**Staff Analysis:** Per the petition, the lots south of Derks Lake Road have limited buildable area due to restrictions associated with Soldotna Creek wetlands and the existing right of way. The realignment of Derks Lake Road will provide additional square footage to develop the lots.

This petition is requesting to vacate approximately 1,300 feet of two 50 foot section line easements.

A new dedication for Derks Lake Road is proposed to curve northeasterly and connect to Cinnamon Street. KPB GIS imagery shows a constructed road in this area but it will not align with the new right of way. The location of the proposed right of way will allow the best subdivision design with usable area for all lots.

Approval of the vacation will be subject to consent or veto by the Kenai Peninsula Borough Assembly. The petition to vacate is tentatively scheduled for the September 21, 2021 Assembly meeting.

The State of Alaska has final jurisdiction over the section line easements. Per KPB Code 20.65.020, the planning commission, as the platting authority, has no authority to vacate public easements under the jurisdiction of the state. The planning commission may provide a recommendation to the state on the vacation.

## **20.65.050 – Action on vacation application**

D. The planning commission shall consider the merits of each vacation request and in all cases the

planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;  
**Staff comments:** The portion of section line easement being vacated is not being used for vehicular or pedestrian access. An overhead electric line is located to the south of the section line easement.
2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The area being vacated is constructible as a roadway. A new right of way dedication is being provided to the north of the vacation and will provide a connection.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The surrounding area has been subdivided, or will be subdivided with this plat. All needed right-of-ways and utility easements have been provided.
4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** The section line easement proposed to be vacated does not provide access to public areas.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** A proposed right of way dedication in conjunction with the proposed section line easement vacation will provide connectivity of the roads and utility easements for nearby parcels.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:**
7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.  
**Staff comments:** Utility easements will be granted to adjoin the proposed dedicated right of way.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.  
**Staff comments:** A proposed realignment will provide continuation of the right of way.

If approved, a Section Line Easement Vacation Plat will finalize the proposed section line easement vacations. Per KPB Code 20.10.080, if the sole purpose of the plat is to depict an area approved for vacation the plat does not require review by the planning commission. It will be reviewed as a final plat by the Planning Department.

The plat Tatum Denise Subdivision Phase 1 is proposed to finalize the right of way vacation and is scheduled to be heard by the Planning Commission on September 27, 2021.

**KPB department / agency review:**

Planner – Bryan Taylor	There are not any Local Option Zoning District issues with this proposed plat. There are not any material site issues with this proposed plat.
Code Compliance – Eric Ogren	Code Compliance review not available.
Addressing – Derek Haws	Affected Addresses: None  Existing Street Names are Correct: Yes  List of Correct Street Names: DERKS LAKE RD CINNAMON ST BIG D RD  Existing Street Name Corrections Needed:  All New Street Names are Approved: No  List of Approved Street Names:  List of Street Names Denied:  Comments: No addresses Affected by this Subdivision.
Assessing – Matt Bruns	No concerns from Assessing Department.

**Utility provider review:**

HEA	
ENSTAR	
ACS	
GCI	Approved as shown.

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(F) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by KPB Assembly.
2. Approval by the State of Alaska.
3. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
4. Grant utility easements requested by the utility providers.
5. Submittal of a final plat within a timeframe such that the plat can be recorded within four years of vacation consent (KPB 20.25.110).

**KPB 20.65.050 – Action on vacation application**

**H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.**

**I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit**

a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.

- J. A planning commission decision denying a vacation application is final. 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.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter 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.*

*Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough*

- *Focus Area: Transportation*
  - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
    - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
    - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

## END OF STAFF REPORT

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ruffner moved, seconded by Commissioner Ecklund 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.

Commissioner Ruffner stated he believes the alternative access being provided by the petitioner does

provide equal or better access, so that is why he supports these two vacation requests.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

AGENDA ITEM E.      NEW BUSINESS

**ITEM 6 – Marijuana Cultivation Facility License**

**Applicant:** Alaska Off Grid Cannabis Co.  
**Landowner:** Shawn McDonough  
**Parcel ID#:** 165-113-19  
**Legal Description:** T 4S R 14W SEC 13 SEWARD MERIDIAN HM 2000048 - RS CAMPO DE ORO SUB TRACT 19  
**Location:** 30992 Ram Rack Road, Nikolaevsk, AK  
 Staff report given by Bryan Taylor.

**BACKGROUND INFORMATION:** On November 17, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Standard Marijuana Cultivation Facility license. On December 14, 2020, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed marijuana cultivation facility on the above-described parcel. The AMCO notified the borough that the application was complete on August 3, 2021. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.
2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.
3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.
5. The proposed facility is not located where there is sufficient ingress and egress for traffic to the parcel.
  - During a site visit on August 19, 2021, staff measured the width of the driveway accessing Ram Rack Road, a dedicated, unmaintained KPB right-of-way, at 12 feet. A perimeter fence around the property allows an opening for access of only 15 feet at the same location.
  - KPB KPB 7.30.020(C)(1)(a) requires that, except for limited cultivation facilities, marijuana establishments shall be located where an approach meeting a borough right-of-way had a minimum width of 24 feet.
  - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
  - The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely.
  - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway.
6. The signed acknowledgement form indicates that the proposed facility will not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises,

between the hours of 2:00 a.m. and 8:00 a.m.

KPB 7.30.020(E) allows the recommendation of additional conditions on a license to meet the following standards:

- protection against damage to adjacent properties,
- protection against offsite odors,
- protection against noise,
- protection against visual impacts,
- protection against road damage,
- protection against criminal activity, and
- protection of public safety.

The Alaska Marijuana Control Board will impose a condition that a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable (3 ACC 306.060b). If the Planning Commission recommends additional conditions, additional findings must be adopted to support the conditions.

PUBLIC NOTICE: Public notice of the application was mailed on August 20, 2021, to the 13 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the September 1, 2021, & September 8, 2021, issues of the Peninsula Clarion.

#### **STAFF RECOMMENDATION**

Staff recommends that the planning commission forward this application to the assembly with the findings contained in this staff report and with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The approach from the property onto Ram Rack Road be constructed to a minimum width of 24 feet as required by KPB 7.30.020(C)(1)(a) in order to maintain public safety and protect against road damage.
2. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
3. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
4. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

#### **END OF STAFF REPORT**

Commissioner Ecklund stated that she understands this property is subject to inspections by AMCO but wanted to know if the borough receives a complaint, such as odors or lack of cameras; can the borough also inspect the property? Mr. Taylor replied the borough would report the complaints to AMCO and if requested could possibly coordinate with AMCO regarding inspecting the facility. He also noted if the complaint had to do with the road access that would be under the borough's authority to inspect, since that is condition being requested by the borough. Commissioner Ecklund then asked if the borough received a complaint regarding odor, could he not go out, determine there is an issue, and then report it to AMCO? Mr. Taylor replied that if it was not a condition placed by the borough they would not send someone out to inspect complaint but they would report it to AMCO.

Commissioner Ruffner stated that he is familiar with this area and he doubts that some of these roads would even be 24' wide and some are in pretty rough shape. He then asked staff if they believed that 24' is sufficient to provide access given that the roads in the area are not in the best condition. Mr. Taylor replied that depending on the size of the delivery trucks it could be a bit constricted. Because this is a cultivation facility, the Planning Department does review ingress and egress into the facility for sufficiency. This facility will not be open to the general public so the condition of the road was not considered a problem. He then noted the existing road is 12' wide and the petitioners are planning to widen the road to a minimum of 24' wide to meet borough standards.

Chair Martin opened the meeting for public comment.

Wayne Owens; POB 411, Anchor Point, AK, 99556: Mr. Owens noted that the commission seem concerned about the condition of the road and whether it could handle the traffic of deliver trucks. He also believed there are other concerns to be considered.

Nicole Donham; POB 1263 Homer, AK 99603: Ms. Donham noted several individuals in the neighborhood had sent a letter to commission expressing their concerns and asked if it had been received. Chair Martin replied the letter had been received and was in the meeting packet. Ms. Donham expressed concerns about the roads in the area and how the traffic associated with the facility could affect her road. She asked if they would receive a plan from the applicant stating how the area roads would be maintained or is the borough planning to provide maintenance. Mr. Taylor replied Kostino St., which runs into to Ram Rack Rd., is not a borough-dedicated right-of-way and would not be maintained by the borough. He also noted that there is not a requirement that the applicant be responsible for maintaining Ram Rack Rd. Ms. Donham then stated that there has been a lot of firearm use on this property and that too is a concern of hers since she has small children.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ruffner moved, seconded by Commissioner Fikes to forward to the Assembly the application for a marijuana cultivation facility license for Alaska Off Grid Cannabis Company with staff's findings and recommending the four conditions be placed on the state license.

Commissioner Ruffner noted again that the commission did receive and read the letter from the area residents expressing their concerns. The concerns expressed related to contamination, odor, road conditions and noise are not things that we have authority over so we cannot consider them when reviewing the application. The areas staff mentions in the report such as access and fencing are things that the commission considers.

Commissioner Ecklund stated that the firearm use on this property is of concern and encouraged the area residents to report this to the State Troopers when it happens. The formal report could then possible have some bearing on stopping this problem.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

AGENDA ITEM E. NEW BUSINESS

**ITEM 7 – SN RESOLUTION 2021-04**

An unnamed private road in Section 24, T04S, R11W; Seward Meridian, Kenai Peninsula Borough, AK; in the Fox River Community; ESN 202

Staff report given by Derk Haws.

Applicant: David Reutov of Homer, AK

Existing right-of-way names: None

Name proposed by petitioner: Silver Falls Dr.

Reason for Change: Private road that will serve multiple addresses

Background:

Name	Unnamed
ESN	202
Community	Fox River
YR Named	n/a
Constructed	Yes
Total Lots	2
Residential	2
Commercial	0
E911 Address	1
Mailing	1

Review and Comments:

Notice was sent by mail to the owners of the two parcels fronting the unnamed private road, as listed on the KPB tax roll.

No comments from property owners were received by the writing of this staff report.

The road name request has been emailed to the Kenai Peninsula Borough Road Maintenance for review. The KPB Roads Department supplied a statement that the Road Service Area has no objections at this time.

Staff Discussion:

A petition was received from one of the property owners accessed by the 1,800 ft. unnamed private road. The petition included signatures from 2 out of 2 landowners fronting the private road.

The unnamed private road can be found in the Fox River area and currently provides access to one E911 address. The property owner anticipates several additional family homes will be added to this property in the future. The petitioner has stated that the unnamed private road has been constructed and that the name Silver Falls Dr has been used informally for many years.

The petition contained no additional suggested names. Silver is on the prohibited names list because there are 19 instances of the word silver used for street naming within the Borough; however, none are within neighboring ESNs. The petitioner has stated that the chosen name meets borough code and the requirements of the borough street naming procedure which do not reference the prohibited names list.

On August 3<sup>rd</sup>, the petitioner called requesting to postpone the resolution until the next planning commission meeting on August 23<sup>rd</sup> due to a schedule conflict.

**STAFF RECOMMENDATION:** Choose a different road name (staff preference) or name the unnamed private road **Silver Falls St** due to north-south direction by the adoption of Resolution SN 2021-04.

**END OF STAFF REPORT**

Chair Martin opened the meeting for public comment.

David F. Reutov, Petitioner; POB 3609 Homer, AK 99603: The petitioner noted that there are no streets in the area that have Silver in the name. They have been using the road name Silver Falls for years and they would now like it to be the official name.

Commissioner Ruffner asked since staff is not recommending that the Silver be used in the street name does he have another name suggestion. Mr. Reutov replied that he did not have another name. They wish to use the name Silver Falls Road.

Commissioner Ecklund stated that due to the direction of the road the borough would request that street be used instead of road. She then asked the petitioner if he had a problem with using street instead of road. Mr. Reutov replied using street would be fine.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Fikes adopt SN Resolution 2021-04 Naming a certain private road within Section 24, Township 4 South, Range 11 West, Seward Meridian; within emergency service number 202 to Silver Falls Street.

Commissioner Ecklund stated since there are no other roads in this or the neighboring ESN that use Silver in the name she could support using the name Silver Falls Street. She believed keeping the name that has been used for years would be good for the community.

Commissioner Fikes stated she supports staff recommendation to choose a different name since there are already 19 streets that contain Silver in their name. Even though there are not any in this area, it still could be confusing to emergency services. If part of name is dropped off during the call, it could be difficult identifying where the correct location is.

Commissioner Brantley stated he knows that all 911 calls come into a main call center but he does not understand how dispatcher track the location of emergency call. Do they use GPS or triangulate calls? He asked if staff could explain the process.

Mr. Hawes replied calls come into a centralized dispatch in Soldotna. If the call is within a city limits, they will pass that call on to the city. If the calls come in from a landline, the system will automatically pull up the physical address. If the call comes from cell phone, there are different phases that could lead up to triangulation. However due to the remote nature of many areas within the borough likely that most calls will not get to the triangulation phase. The majority of the time dispatchers have to rely on the street name that they receive over the phone. While the name Silver Falls is not a named used in any other location, there are over 19 different road names with Silver in them. When the dispatcher begins to type the name of the street into the system, it automatically pulls up all the various streets with that word in the name. Having 19 street names with Silver in them makes for a long list to choose from. Commissioner Brantley then replied that while there may not be a street name with Silver in it from within this ESN it still could be problematic for dispatch. Commissioner Brantley then stated that because of this issue he would not be supporting this request.

Commissioner Ruffner then stated would it make sense to postpone action on this and allow the petitioner to come up with another suitable street name. If the commission will not support using Silver in the street name and the petitioners do not have another suggestion ready it would be difficult to come up with another name on the fly. Mr. Hawes then stated that he could support postponement.

Commission Ecklund asked Mr. Hawes if she was correct in understanding that there are only two homes on this street and that both landowner wanted the name to remain Silver Falls. Mr. Hawes replied that she was correct.

Ms. Hindman suggested that since the owners were adamant on the name Silver Falls it might make sense to vote on this name and if it is denied, and then the commission could make a motion to postpone action until staff brings it back with a different name.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION FAILED BY MAJORITY VOTE:**

No	4	Yes	3	Absent	3
No	Brantley, Fikes, Ruffner, Venuti				
Yes	Ecklund, Gillham, Martin				
Absent	Bentz, Chesser, Morgan				

**MOTION:** Commissioner Fikes moved, seconded by Commissioner Ecklund to bring back to the commission the renaming of the private road along with other name suggestions.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

**AGENDA ITEM E. NEW BUSINESS****ITEM 8 – RESOLUTION 2021-\_\_**

A resolution authorizing the acquisition by bequeath of 41.75 acres of land located in the Nikiski area.

Staff report given by Marcus Mueller.

The Estate of Thomas A. Toloff bequeathed to the Kenai Peninsula Borough a 41.75-acre tract of land in the Nikiski Area “for wildlife preservation”. KPB does not have specific wildlife management programming and cannot commit funds to actively managing the property for wildlife preservation. The borough does however manage land of a similar character and has land classifications that can account for a wide variety of resource management purposes and values. The property, in its current state, has a variety of wildlife habitats. At the same time, the deed provided by the Estate is without any restrictions.

The resolution would authorize the borough to accept the title to Tract B, Thomas Toloff Subdivision, 2018 Addition.

**END OF STAFF REPORT**

Chair Martin opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Venuti moved, seconded by Commissioner Ecklund to forward to the assembly a recommendation to adopt Resolution 2021-\_\_, a resolution authorizing the acquisition by bequeath of 41.75 acres of land located in the Nikiski area.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	7	No	0	Absent	3
Yes	Brantley, Ecklund, Fikes, Gillham, Martin, Ruffner, Venuti				
Absent	Bentz, Chesser, Morgan				

**AGENDA ITEM F. PLAT COMMITTEE REPORT**

Commissioner Ecklund informed the commission the plat committee approved 9 preliminary plats.

**AGENDA ITEM G. OTHER**

1. Plat Committee members for September 27, 2021 Plat Committee meeting.
  - Gillham, Brantley, Ecklund, Ruffner, Venuti

**AGENDA ITEM I.           DIRECTOR'S COMMENTS - None**

**AGENDA ITEM J.           COMMISSIONER COMMENTS – None**

**AGENDA ITEM M.           ADJOURNMENT** – Commissioner Ecklund moved to adjourn the meeting at 8:52 p.m.

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Ann E. Shirnberg  
Administrative Assistant