



# Kenai Peninsula Borough

144 North Binkley Street  
Soldotna, AK 99669

## Meeting Agenda Planning Commission

*Jeremy Brantley, Chair – District 5 Sterling/Funny River*  
*Blair Martin, Vice Chair – District 2 Kenai*  
*Pamela Gillham – District 1 Kalifornsky*  
*Virginia Morgan, Parliamentarian – District 6 East Peninsula*  
*John Hooper – District 3 Nikiski*  
*Michael Horton – District 4 Soldotna*  
*VACANT – District 7 Central*  
*David Stutzer – District 8 Homer*  
*Dawson Slaughter – District 9 South Peninsula*  
*Diane Fikes – City of Kenai*  
*Franco Venuti – City of Homer*  
*Charlene Tautfest – City of Soldotna*  
*Troy Staggs – City of Seward*  
*VACANT – City of Seldovia*

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Monday, December 12, 2022

7:30 PM

Betty J. Glick Assembly Chambers

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**Zoom Meeting ID: 907 714 2200**

The hearing procedure for the Planning Commission public hearings are as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

#### **A. CALL TO ORDER**

#### **B. ROLL CALL**

#### **C. APPROVAL OF CONSENT AND REGULAR AGENDA**

*All items marked with an asterisk (\*) are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.*

*If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.*

1. Time Extension Request
2. Planning Commission Resolutions
3. Plats Granted Administrative Approval

##### [KPB-4782](#)

- a. Barker Subdivision #2, KPB File 2021-055
- b. Coles Corner No. 3; KPB File 2022-052
- c. Eker Estates Lujan 2022 Replat; KPB File 2022-045
- d. Kachemak Vista Subdivision; KPB File 2021-023
- e. Kachemak Wilderness Avrams Replat Phase 1; KPB File 2021-165P1
- f. Katamar Subdivision 2022; KPB File 2022-020
- g. Kenaitze Government Lots Replat; KPB File 2022-009
- h. Kustatan Estates TKC Addition; KPB File 2021-140
- i. Moose Acres; KPB File 2022-087
- j. Mott's Subdivision 2022 Addition; KPB File 2022-059
- k. Pipers Haven Unit 3 2021 Replat; KPB File 2021-115
- l. Saddle Ridge subdivision 2022 Replat; KPB File 2022-036

##### Attachments:

[C3. Admin Approvals Packet](#)

4. Plats Granted Final Approval (KPB 20.10.040)
5. Plat Amendment Request

## 6. Commissioner Excused Absences

## 7. Minutes

[KPB-4783](#)

November 14, 2022 Planning Commission Meeting Minutes

Attachments:[C7. 11-14-22 PC Meeting Minutes](#)**D. OLD BUSINESS****E. NEW BUSINESS**

1. [KPB-4784](#) Utility Easement Vacation; KPB 2022-169V  
Johnson Surveying / Martinez  
Request: Vacate entire 10' utility easement along the west boundary of Lot 4, Block 2, Bruhn Subdivision, Plat KN 86-143  
Location: Sterling Area

Attachments:[E1. UEV Bruhn Sub Packet](#)

2. [KPB-4785](#) Right-Of-Way Vacation; KPB File 2022-172V  
Johnson Surveying / Ancient Basements, LLC  
Request: Vacate a 2' X 222.78' portion of an alley located between Mission Ave. & Bayview Street as dedicated on USS 3036 HM 65-55  
Location: Ninilchik Area

Attachments:[E2. ROWV Mission Ave-Bayview St Packet](#)[E2. ROWV Comment Halloran\\_PC](#)

3. [KPB-4786](#) Ordinance 2022-43: Authorizing a subsurface oil & gas lease at twelve & one-half percent (12.50%) royalty to Hilcorp Alaska, LLC, in the Ninilchik Unit under Township 03 South, Range 14 West, Seward Meridian, Section 30, in the North 2/5 of Govt Lot 1 Lying East of the Sterling Highway Right-Of-Way

Attachments:[E3. ORD Hilcorp Lease Packet](#)**F. PLAT COMMITTEE REPORT****G. OTHER****H. PUBLIC COMMENT/PRESENTATION**

*(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)*

**I. DIRECTOR'S COMMENTS****J. COMMISSIONER COMMENTS****K. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS****NO ACTION REQUIRED**

[KPB-4787](#)      Advisory Planning Commission (APC) Meeting Minutes;  
Hope/Sunrise APC  
Moose Pass APC  
Nikiski APC

Attachments:      [Misc. Info. Cover Page](#)

**NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING**

The next regularly scheduled Planning Commission meeting will be held Monday, January 9, 2023 at 7:30 P.M. The Planning Commission meeting will not be physically open to the public. The meeting will be held via Zoom. The Planning Commission and staff will be attending via Zoom.

**CONTACT INFORMATION****KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: [planning@kpb.us](mailto:planning@kpb.us)

website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, 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.



## **C. CONSENT AGENDA**

### **\*3. Plats Granted Administrative Approval**

- a. Barker Subdivision #2, KPB File 2021-055
- b. Coles Corner No. 3; KPB File 2022-052
- c. Eker Estates Lujan 2022 Replat; KPB File 2022-045
- d. Kachemak Vista Subdivision; KPB File 2021-023
- e. Kachemak Wilderness Avrams Replat Phase 1; KPB File 2021-165P1
- f. Katamar Subdivision 2022; KPB File 2022-020
- g. Kenaitze Government Lots Replat; KPB File 2022-009
- h. Kustatan Estates TKC Addition; KPB File 2021-140
- i. Moose Acres; KPB File 2022-087
- j. Mott's Subdivision 2022 Addition; KPB File 2022-059
- k. Pipers Haven Unit 3 2021 Replat; KPB File 2021-115
- l. Saddle Ridge subdivision 2022 Replat; KPB File 2022-036



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Barker Subdivision #2  
KPB File 2021-055  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 10, 2021. Approval for the plat is valid for two years from the date of approval.

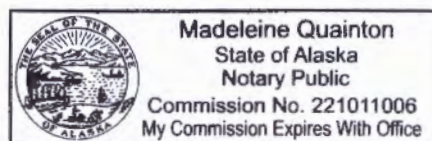
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Monday, November 28, 2022.

Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 28 day of November 2022 by  
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: With office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

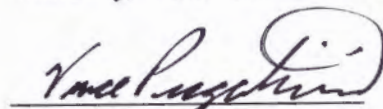
Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Coles Corner No 3  
KPB File 2022-052  
Kenai Recording District

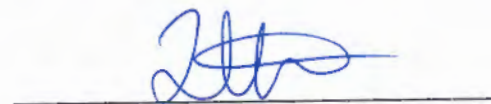
The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 9, 2022. Approval for the plat is valid for two years from the date of approval.

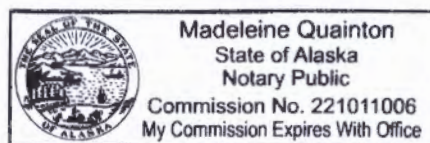
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, December 1, 2022.

  
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 1 day of December 2022 by  
Vince Piagentini.

  
Notary Public for the State of Alaska



My commission expires: With office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.





## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Eker Estates Lujan 2022 Replat  
KPB File 2022-045  
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 9, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Tuesday, November 22, 2022.

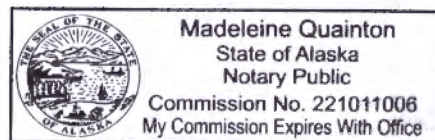
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 22 day of November 2022 by  
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With Office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Kachemak Vista Subdivision 2021  
KPB File 2021-023  
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 12, 2021. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Thursday, November 17, 2022.

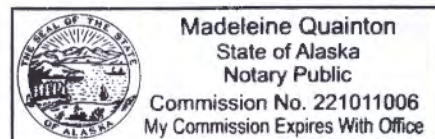
Robert Ruffner  
Planning Director

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 17 day of November 2022 by  
Robert Ruffner.

Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.





## Planning Department

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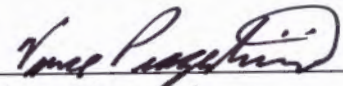
Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Kachemak Wilderness Avrams Replat Phase 1  
KPB File 2021-165P1  
Homer Recording District


The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 10, 2022. Approval for the plat is valid for two years from the date of approval.

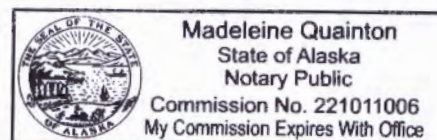
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on November 30, 2022.

  
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 30 day of November 2022  
by Vince Piagentini.

  
Notary Public for the State of Alaska



My commission expires: With office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Katamar Subdivision 2022  
KPB File 2022-020  
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on March 21, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Monday, November 28, 2022.

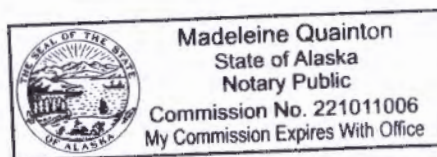
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 28 day of November 2022 by  
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: With office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.





## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Kenaitze Government Lots Replat  
KPB File 2022-009  
Kenai Recording District

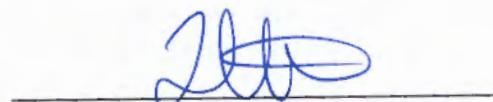
The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on February 28, 2022. Approval for the plat is valid for two years from the date of approval.

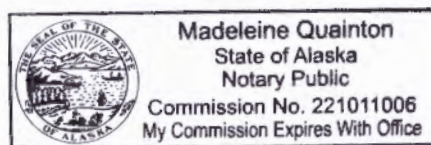
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, November 30, 2022.

  
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 30 day of November 2022 by  
Vince Piagentini.

  
Notary Public for the State of Alaska



My commission expires: with office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.





## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Kustatan Estates TKC Addition  
KPB File 2021-140  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 29, 2021. Approval for the plat is valid for two years from the date of approval.

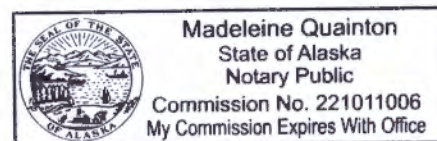
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Monday, November 28, 2022.

Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 28 day of November 2022 by  
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: With office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Moose Acres  
KPB File 2022-087  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on July 18, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Friday, November 18, 2022.

Robert Ruffner  
Planning Director

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 18 day of November 2022 by  
Robert Ruffner.

Notary Public for the State of Alaska



Madeleine Quainton  
State of Alaska  
Notary Public  
Commission No. 221011006  
My Commission Expires With Office

My commission expires: With office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.





## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Mott's Subdivision 2022 Addition  
KPB File 2022-059  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 23, 2022. Approval for the plat is valid for two years from the date of approval.

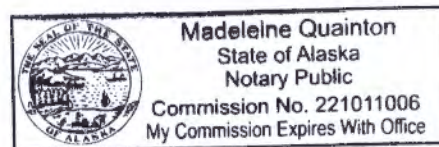
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, November 23, 2022.

Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 23 day of November 2022 by  
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: With office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Pipers Haven Unit 3 2021 Replat  
KPB File 2021-115  
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on September 13, 2021. Approval for the plat is valid for two years from the date of approval.

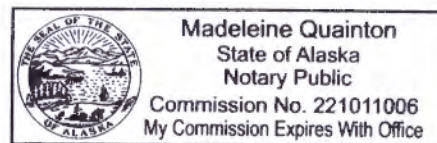
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Tuesday, November 8, 2022.

Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 8 day of November 2022 by  
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: with office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.





## Planning Department

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Mike Navarre  
Borough Mayor

### ADMINISTRATIVE APPROVAL

Subdivision: Saddle Ridge Subdivision 2022 Replat  
KPB File 2022-036  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 25, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Friday, November 18, 2022.

Robert Ruffner  
Planning Director

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 18 day of November 2022 by Robert Ruffner.

Notary Public for the State of Alaska

My commission expires: With office



Madeleine Quinton  
State of Alaska  
Notary Public  
Commission No. 221011006  
My Commission Expires With Office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

## **C. CONSENT AGENDA**

### **\*7. Minutes**

- a. November 14, 2022 Planning Commission Meeting

# 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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November 14, 2022  
7:30 P.M.  
UNAPPROVED MINUTES

## **AGENDA ITEM A.      CALL TO ORDER**

Vice Chair Martin called the meeting to order at 7:50 p.m.

## **AGENDA ITEM B.      ROLL CALL**

### *Commissioners Present*

Pamela Gillham, District 1 – Kalifornsky  
John Hooper, District 3 – Nikiski  
Michael Horton, District 4 – Soldotna  
Blair Martin – District 2, Kenai  
Virginia Morgan, District 6 – East Peninsula  
Troy Staggs, City of Seward  
Dawson Slaughter, District 9 – South Peninsula  
David Stutzer, District 8 - Homer  
Charlene Tautfest, City of Soldotna  
Franco Venuti, City of Homer

With 10 members of a 12-member seated commission in attendance, a quorum was present.

### *Staff Present*

Robert Ruffner, Planning Director  
Walker Steinhage, Deputy Borough Attorney  
Marcus Mueller, Land Management Officer  
Morgan Aldridge, Resource Planner  
Madeline Quainton, Platting Technician  
Ann Shirnberg, Planning Administrative Assistant  
Rhonda Foster-Deskins, LMD Administrative Assistant.

## **AGENDA ITEM C.      CONSENT & REGULAR AGENDAS**

### **\*3.      Plats Granted Administrative Approval**

- a. Clam Gulch Heights 2021 Addition; KPB File 2021-150
- b. Collins Tustumena Subd; KPB File 2021-116
- c. Diamond Storage Subdivision; KPB File 2020-105
- d. Doyle Estates Subdivision Sixth Addition; KPB File 2022-062
- e. Konovalof Lake Subdivision 2022 Addition; KPB File 2022-010
- f. Mimi's Ridge; KPB File 2022-032
- g. Tutl'uh Subdivision Carmody Addition; KPB File 2022-068

### **\*4.      Plats Granted Final Approval**

- a. Fort Raymond Subdivision Replat No. 1 2022 Addition; KPB File 2022-041
- b. Iyuptulla Subdivision Lewis Replat; KPB File 2022-142
- c. K-B Subdivision Part Thirteen; KPB File 2022-122

**\*6. Commissioner Excused Absences**

- a. Jeremy Brantley, District 5 – Sterling/Funny River
- b. Diane Fikes, City of Kenai
- c. City of Seldovia, Vacant
- d. District 7 – Central, Vacant

**\*7. Minutes**

- a. October 24, 2022 Planning Commission meeting minutes.

Vice Chair Martin asked Ms. Shirnberg to read the consent agenda items into the record.

Vice Chair Martin asked if anyone wished to speak to any of the items on the consent agenda.

Hearing no one wishing to comment Vice Chair Martin brought it back to the commission for a motion.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Horton to approve the regular and consent agendas.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Taufest, Venuti
Absent - 2	Brantley, Fikes

**AGENDA ITEM E. NEW BUSINESS**

Vice Chair Martin asked Ms. Shirnberg to read into the record the procedures for public hearings.

**ITEM E1 – RIGHT OF WAY VACATION  
PUBLIC ACCESS EASEMENT CREATED BY  
QUESTA WOOD SUBDIVISION SOUTHERN ADDITION PLAT SW 98-01**

<b>KPB File No.</b>	2022-159V
<b>Planning Commission Meeting:</b>	November 14, 2022
<b>Applicant / Owner:</b>	James and Leann Unrein of Seward, Alaska
<b>Surveyor:</b>	Ken Lang / Lang & Associates, Inc.
<b>General Location:</b>	Roundtable Drive, Salmon Creek Road, Bear Creek
<b>Legal Description:</b>	Public Access Easement shown as a section line easement along Tract H, Questa Woods Subdivision Southern Addition, Plat SW 98-01

Staff report given by Planning Director Robert Ruffner.

Vice Chair Martin opened the item for public comment.

Travis Wilson, Land & Associates; 11500 Daryl Ave., Anchorage, AK 99515: Mr. Wilson was the surveyor on this project and made himself available for questions.

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

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Horton 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.



Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

**ITEM E2 - RIGHT OF WAY VACATION  
VACATE THE EAST-WEST PORTION OF BIG D ROAD AND A SMALL PORTION OF CINNAMON STREET AND ASSOCIATED UTILITY EASEMENTS**

<b>KPB File No.</b>	2022-155V
<b>Planning Commission Meeting:</b>	November 14, 2022
<b>Applicant / Owner:</b>	Gene, Linda, and George Friendshuh all of Soldotna, Alaska
<b>Surveyor:</b>	James Hall / McLane Consulting Inc.
<b>General Location:</b>	Derks Lake Road, Ridgeway
<b>Legal Description:</b>	Big D Road, Derk's Lake Subdivision, Plat KN 74-9, Section 13, Township 5 North, Range 10 West. Cinnamon Street, Tatum Subdivision, Plat KN 2021-15 and Denise Lake Estates Part Two, Plat KN 94-27, Sections 14 and 23, Township 5 North, Range 10 West.

Staff report given by Planning Director Robert Ruffner. Director Ruffner noted that a request from the surveyor had been received asking to postpone action on this item.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Horton to postpone action on this item until brought back by staff.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

**ITEM E3 - RIGHT OF WAY VACATION  
VACATE A 17 FOOT WIDTH AND PART OF A CUL-DE-SAC BULB FOR A 373 FOOT PORTION OF LUPINE AVENUE AND ASSOCIATED UTILITY EASEMENTS**

<b>KPB File No.</b>	2022-156V
<b>Planning Commission Meeting:</b>	November 14, 2022
<b>Applicant / Owner:</b>	Eric Ranguette of Soldotna, AK
<b>Surveyor:</b>	Jason Young, Mark Aimonetti / Edge Survey and Design, LLC
<b>General Location:</b>	Lupine Avenue, Keeven Lane, Nikiski area
<b>Legal Description:</b>	Lupine Avenue, Lot 1 Block 2, Centennial Shores Subdivision Number 1, Plat KN 85-157

Staff report given by Planning Director Robert Ruffner

Vice Chair Martin opened the item for public comment.

Jason Young, Edge Survey & Design; P.O. Box 208, Kasilof, AK 99610: Mr. Young was the surveyor on this project and made himself available for questions.

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

**MOTION:** Commissioner Horton moved, seconded by Commissioner Gillham 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.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

**ITEM E4 – CONDITIONAL USE PERMIT  
ANADROMOUS WATERS HABITAT PROTECTION DISTRICT  
PC RESOLUTION 2022-41**

<b>KPB File No.</b>	2022-41
<b>Planning Commission Meeting:</b>	November 14, 2022
<b>Applicant</b>	Alaska Railroad Corporation
<b>Mailing Address</b>	327 W Ship Creek Ave, Anchorage AK 99501
<b>Legal Description</b>	T 4N R 1W SEC 13 SEWARD MERIDIAN SW 0880002 ALASKA STATE LAND SURVEY 86-176 TRACT A EXCEPT ASLS 86-6
<b>Physical Address</b>	MP 25.7 of the Seward Highway
<b>KPB Parcel Number</b>	12516022

Staff report given by Resource Planner Morgan Aldridge.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Staggs to adopt PC Resolution 2022-41 granting a conditional use permit for the construction of a bridge within the 50-foot Habitat Protection District of Trail Creek.

Commissioner Stutzer asked staff if they knew when the work was going to commence on the bridge. He wanted to know if the work would be limited to certain timeframes, reducing the impact to salmon in the stream. Planner Aldridge replied that the State is the permitting authority for activities happening in the water, the borough oversees permitting for activities in the 50' habitat protection district which goes to the water's edge.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 12	Brantley, Fikes, Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
No - 0	

**ITEM E5 – STREET NAMING RESOLUTION 2022-04  
RENAMING A CERTAIN PUBLIC RIGHT-OF-WAY WITHIN SECTION 02, T04N, R11W; SEWARD  
MERIDIAN; WITHIN EMERGENCY SERVICE NUMBER (ESN) 302 & NAMING A CERTAIN PUBLIC  
RIGHT-OF-WAY WITHIN SECTION 33, T05S, R14W; SEWARD MERIDIAN; WITHIN EMERGENCY  
SERVICE NUMBER (ESN) 401**

Staff report given by Planning Director Robert Ruffner.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Staggs to adopt SN Resolution 2022-04 renaming a certain public right-of-way in the Kalifornsky community, within ESN 302, to Hazy Lane; and renaming a certain public right-of-way in the Anchor Point community, within ESN 401, to Janey Street.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

**ITEM E6 – RESOLUTION 2022-XX**

**A RESOLUTION AUTHORIZING THE ACQUISITION BY DONATION OF 3 LOTS OF LAND LOCATED IN THE SEWARD AREA ON BEHALF OF THE SEWARD BEAR CREEK FLOOD SERVICE AREA**

Staff report given by Land Management Office Marcus Mueller.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

**MOTION:** Commissioner Staggs moved, seconded by Commissioner Slaughter to forward to the Assembly a recommendation to adopt Resolution 2022-XX authorizing the acquisition by donation of three lots of land located in the Seward area on behalf of the Seward Bear Creek Flood Service Area.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 10	Gillham, Horton, Hooper, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
Absent - 2	Brantley, Fikes

**ITEM E7 – ORDINANCE 2022-XX**

**AMENDING THE KENAI PENINSULA BOROUGH HAZARD MITIGATION PLAN BY DELETING EXISTING ANNEX B, CITY OF KACHEMAK HAZARD MITIGATION PLAN 2015, AND ADOPTING 2022 KACHEMAK CITY LOCAL HAZARD MITIGATION PLAN UPDATE AS THE NEW ANNEX B**

Staff report given by Planning Director Robert Ruffner. Director Ruffner noted no action was required on this item. Code allows for the Mayor to approve amendments to the Hazard Mitigation plan administratively. However since the item was advertised for a public hearing, he recommended that it be opened for public comment.

Vice Chair Martin opened the item for public comment. Seeing and hearing no one wishing to comment, public closed.

**AGENDA ITEM F. PLAT COMMITTEE REPORT**

Commissioner Gillham reported the plat committee reviewed & granted preliminary approval to eleven plat and postponed action on one plat.

**AGENDA ITEM H. PUBLIC COMMENT/PRESENTATIONS**

Chair Brantley asked if there was anyone from the public who would like to comment on anything not appearing on the agenda. No one wished to comment.

**AGENDA ITEM K. ADJOURNMENT**

Commissioner Gillham moved to adjourn the meeting at 8:39 PM.

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Ann E. Shirnberg  
Administrative Assistant

## **E. NEW BUSINESS**

**1. Utility Easement Vacation; KPB 2022-169V**

**Johnson Surveying / Martinez**

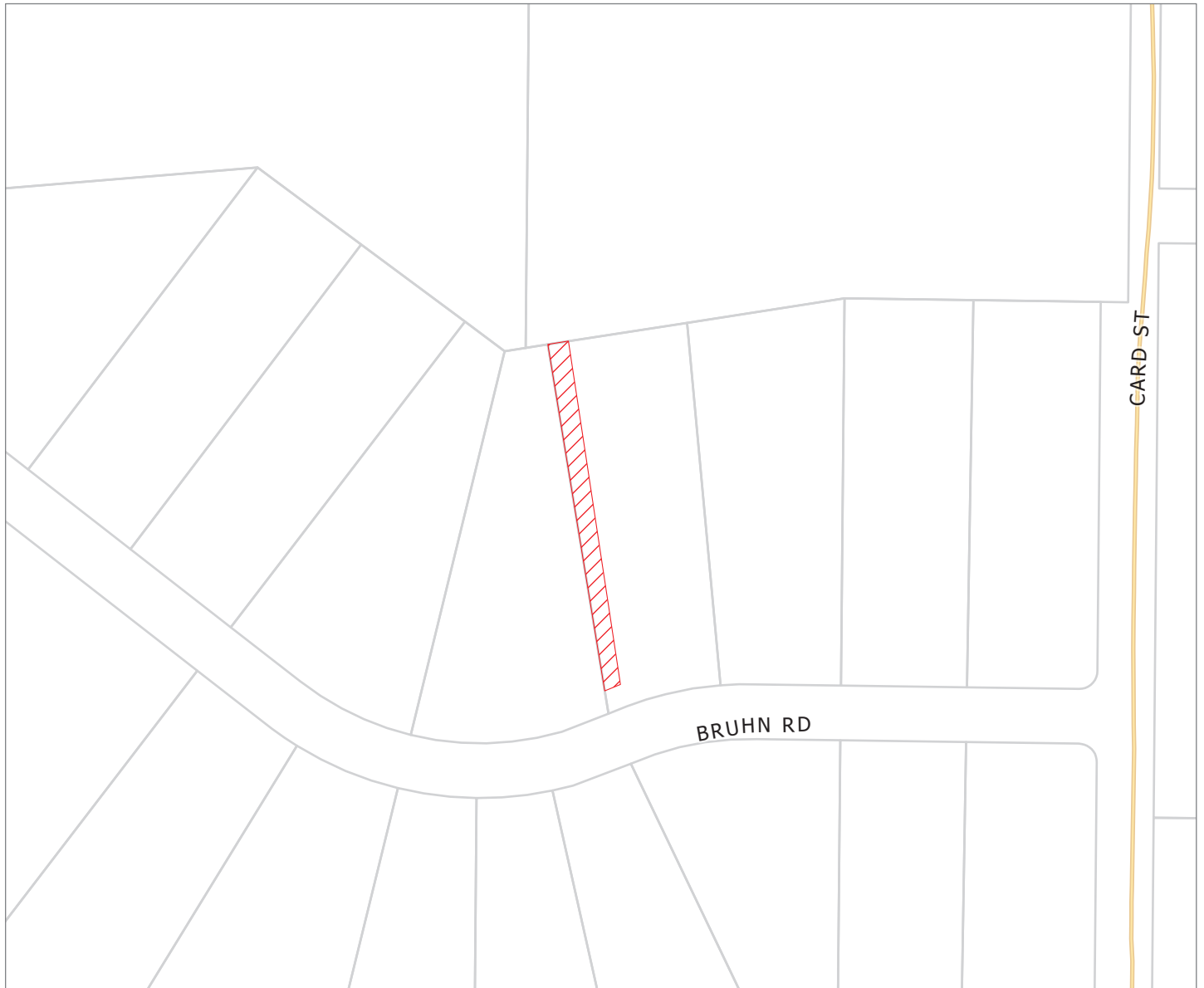
**Request: Vacate entire 10' utility easement along the west boundary of Lot 4, Block 2, Bruhn Subdivision, Plat KN 86-143**

**Location: Sterling Area**



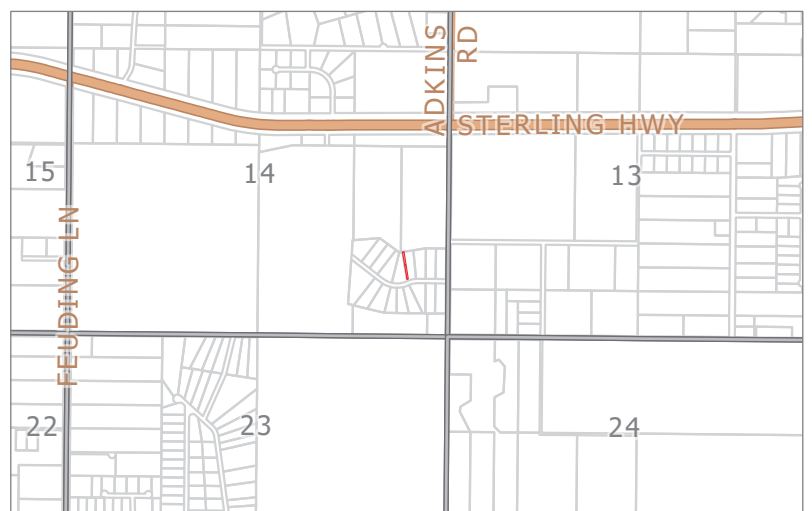
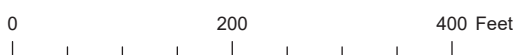
# Kenai Peninsula Borough Planning Department

## Vicinity Map



KPB File 2022-169V  
T 05N R 08W SEC 14  
Sterling

11/18/2022









3	2 Bear Rd	1 T5N R8W SM
10	11 Atkins Rd	12 Johns Rd
STERLING		HIGHWAY
15 Lot Location	14	13

VICINITY 1" = 1 mile MAP

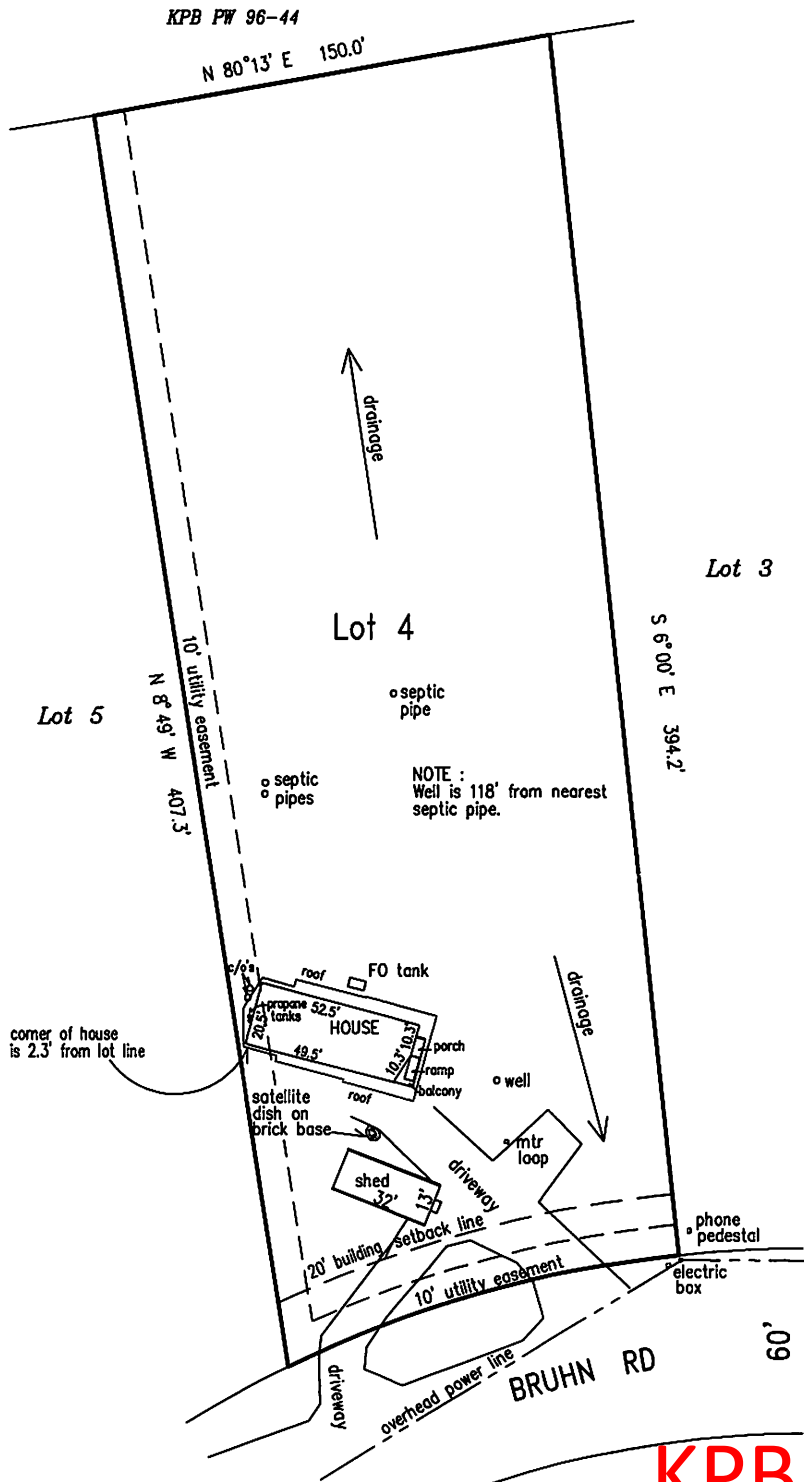
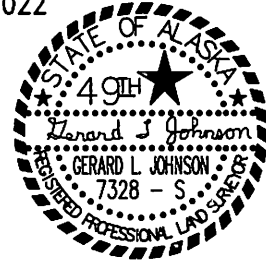
# Bruhn Subd. Lot 4 Block 2 As-Built Survey

Located in the SE1/4 Section 14, T5N R8W, SM, Alaska.  
Kenai Peninsula Borough Kenai Recording District plat 86-143

Prepared for  
Kim Gomez Tiffany Clyde  
Century 21 Freedom Realty  
170 N Birch Ste 102  
Soldotna, AK 99669

Prepared by  
Johnson Surveying  
P.O. Box 27  
Clam Gulch, Ak 99568

SCALE 1" = 40' 1 October, 2022



KPB 2022-169

AGENDA ITEM E. NEW BUSINESS

ITEM 1 – UTILITY EASEMENT ALTERATION  
BRUHN SUBDIVISION LOT 4 BLOCK 2

KPB File No.	2022-169V
Planning Commission Meeting:	December 14, 2022
Applicant / Owner:	Tanley Martinez of Sterling, AK
General Location:	Bruhn Road, Sterling

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STAFF REPORT

**Specific Request / Purpose as stated in the petition:** Owner requests alteration on utility easement due to home being built within the utility easement.

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

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

**Staff Analysis:** This is a utility easement alteration for Lot 4 Block 2 of Bruhn Subdivision, Plat KN 86-143. There were no prior subdivisions for the property within Bruhn Subdivision. The plat created a 20 foot wide utility easement that was centered along the shared lot line of Lots 4 and 5 of Block 2. 10 foot utility easements were also granted adjacent to the dedicated right-of-way, Bruhn Road, as well as the creation of a 20 foot building setback.

A petition to vacate this utility easement was heard at the June 27, 2022 Planning Commission meeting. The Planning Commission denied the alteration due to several violations to KPB Code. The violations included structures within the Bruhn Road dedication and structures within the building setback and utility easements along Bruhn Road. Lot 4 also had encroachments onto the neighboring Lot 5. Objections were received by the owner of Lot 5 and by the Kenai Peninsula Roads Department. Per KPB Code 20.65.070(E), a reapplication of a denial is not allowed within one calendar year unless there is new evidence or circumstances. Per the as-built provided that is dated October 1, 2022, the encroachments into the neighboring property as well as within and along Bruhn Road have been resolved.

The as-built shows that the house is 7.7 feet into the 10 foot utility easement along the western boundary. This platting action will be to remove the entire 10 foot wide utility easement along the western boundary of Lot 4 Block 2 of Bruhn Subdivision with the exception of the front 20 feet along Bruhn Road. A 10 foot utility easement will remain along Bruhn Road that will increase to 20 feet within 10 feet of the side lot line. The 10 foot utility easement is still in place along the eastern lot line of Lot 5 Block 2.

A new drawing that is prepared by a licensed land surveyor will need to be prepared that visually shows the areas approved for vacation. That drawing will be recorded with the resolution to finalize the alteration.

**Utility provider review:**

HEA	HEA does not object to the vacation of the 10 foot wide utility easement adjoining the west boundary of Lot 4 Block 2, excluding the 20 feet segment adjoining Bruhn Road. HEA objects to the vacation of any portion of the 10 foot utility easement adjoining Bruhn Road.
ENSTAR	No comments or recommendations
ACS	We have no objection
GCI	Approved as shown

**KPB department / agency review:**

Addressing	Reviewer: Haws, Derek
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	<p>Affected Addresses: 29108 BRUHN RD</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: BRUHN RD</p> <p>Existing Street Name Corrections Needed:</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: 29108 BRUHN RD will remain with lot 4.</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: Compliance case issues resolved, by Martinez.</p>
Planner	<p>Reviewer: Raidmae, Ryan</p> <p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather</p> <p>Comments: No comment</p>
KPB Roads Department	<p>Out of Jurisdiction: No</p> <p>Roads Director: Uhlin, Dil</p> <p>Comments: No comments</p>

#### Findings:

1. The petition states that the utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation but a portion shall remain along Bruhn Road.
3. Bruhn Subdivision, Plat KN 86-143, granted a 20 foot wide utility easement centered along the shared lot line of Lots 4 and 5.
4. Bruhn Subdivision, Plat KN 86-143, created a 20 foot building setback along Bruhn Road.
5. Bruhn Subdivision, Plat KN 86-143, created a 10' utility easement along Bruhn Road.
6. A 10 foot wide utility easement will remain along the common lot line and will be within Lot 5.

#### **RECOMMENDATION:**

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends if the utility easement alteration as petitioned is approved that it be subject to:

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

- b. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
  - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
  - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
  - iii. The Planning Department is responsible for filing the Planning Commission resolution.

#### **20.65.070 Alteration of platted utility easements**

- E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.**
- F. An appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

*Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.*

- *Focus Area: Energy and Utilities*
  - 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.*

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

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2022-48  
KENAI RECORDING DISTRICT**

Vacate a portion of a 10' utility easement along the west boundary of Lot 4 Block 2 Bruhn Subdivision, Plat KN 86-143, granted by Bruhn Subdivision KN 86-143 (KN0860143); within S14, T05N, R08W, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2022-169V

WHEREAS, a request has been received from Tanley Jo Martinez of Sterling, AK to vacate a portion of a 10' utility easement along the west boundary of Lot 4 Block 2 Bruhn Subdivision, Plat KN 86-143 granted by Bruhn Subdivision KN 86-143 (KN0860143); and

WHEREAS, affected utility companies have provided written non-objection to the proposed vacation; and

WHEREAS, the Kenai Peninsula Borough Roads Department provided written comment that they had no objection; and

WHEREAS, the easement is not in use by the utility companies; and

WHEREAS, no surrounding properties will be denied utilities; and

WHEREAS, on December 14, 2022, the Kenai Peninsula Borough Planning Commission addressed all concerns about the proposed vacation; and

WHEREAS, the Planning Commission has found that vacating the utility easement will not be detrimental to the public interest; and

WHEREAS, 20.70.140 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish vacations by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the above described 10 foot utility easement along the west boundary of Lot 4 Block 2 Bruhn Subdivision, Plat KN 86-143, excluding the front 20 feet along Bruhn Road, is hereby vacated.

Section 2. That an as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the locations of the portions of the utility easements being vacated be attached to, and made a part of this resolution, becoming page 2 of 2.

Section 3. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

Section 4. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Jeremy Brantley, Chairperson  
Planning Commission

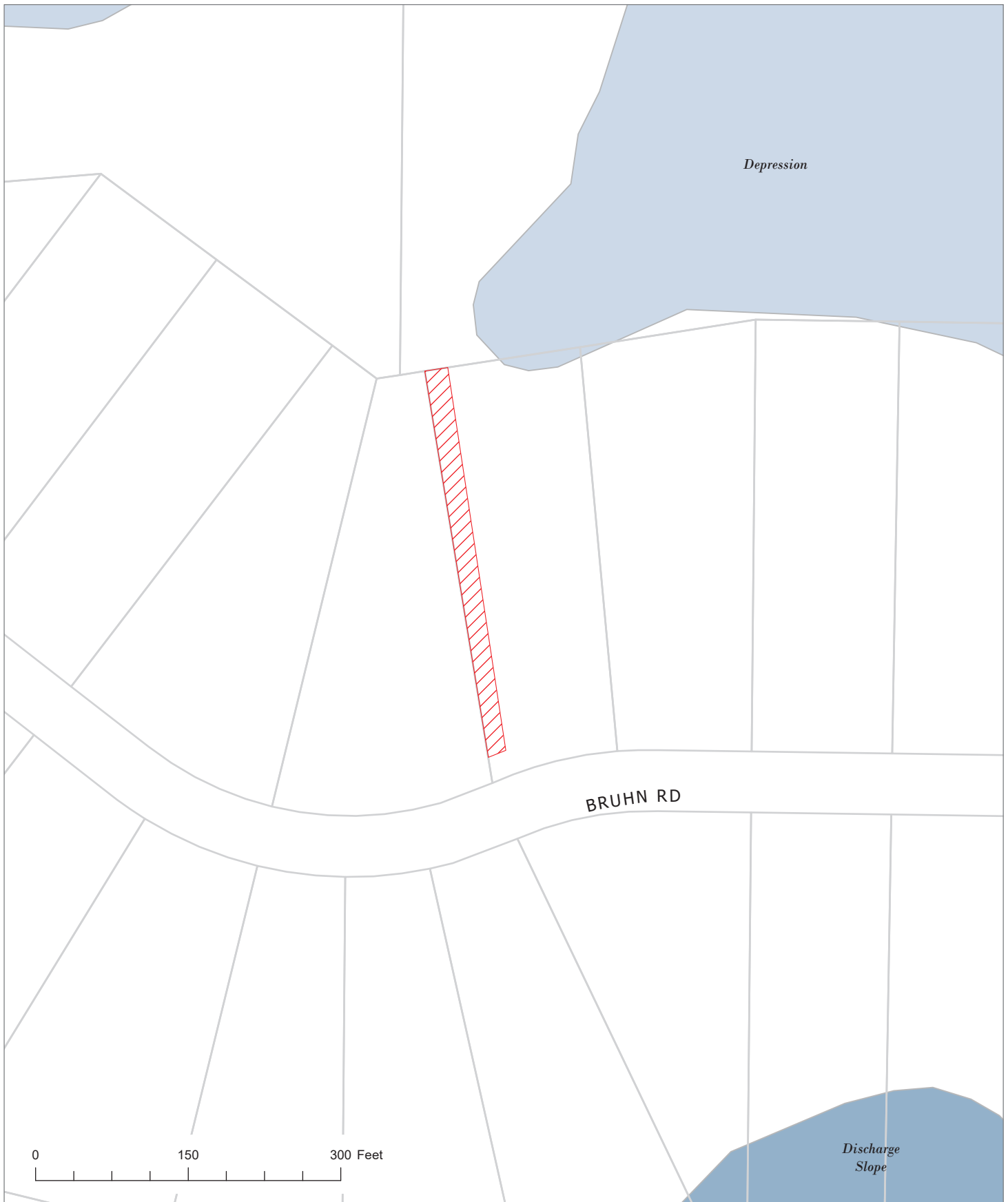
ATTEST:

\_\_\_\_\_  
Ann Shirmberg,  
Administrative Assistant

Return to:  
Kenai Peninsula Borough Planning Department  
144 N. Binkley Street  
Soldotna, Alaska 99669



**Wetlands**







Aerial with 5-foot Contours







**\*6. Commissioner Excused Absences**

- a. Pamela Gillham, District 1 – Kalifornsky
- b. District 7 – Central, Vacant
- c. City of Seldovia, Vacant

**\*7. Minutes**

- a. June 13, 2022 Planning Commission meeting minutes.

Chair Martin asked if anyone wished to speak to any of the items on the consent agenda. Hearing no one wishing to comment he asked Ms. Shirnberg to read into the record the consent agenda items.

**MOTION:** Commissioner Brantley moved, seconded by Commissioner Tautfest to approve the consent and regular agendas.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 11	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Staggs, Stutzer, Tautfest
Absent - 1	Gillham

Commissioner Venuti, attending via Zoom, lost connection and did not participate in the vote regarding the approval of the consent and regular agendas. He rejoined the meeting several minutes later at 7:34 PM.

**AGENDA ITEM E. NEW BUSINESS**

**ITEM E1 – UTILITY EASEMENT ALTERATION  
BRUHN SUBDIVISION LOT 4 BLOCK 2**

<b>KPB File No.</b>	2022-070V
<b>Planning Commission Meeting:</b>	June 27, 2022
<b>Applicant / Owner:</b>	Tanley Martinez of Sterling, AK
<b>General Location:</b>	Bruhn Road, Sterling

Chair Martin asked Ms. Shirnberg to read into the record the rules for public hearing.

Staff report was given by Platting Specialist Julie Hindman.

Chair Martin opened the item for public comment.

Greg Pickens; 8411 Blackberry Street, Anchorage, AK 99502: Mr. Pickens is a neighboring landowner and the applicant has numerous encroachments on to his land in the area where the utility easement is being vacated. These encroachments do not allow him to develop his land in the way he wants to. He would like to see the encroachments resolved before he supports this utility easement vacation.

Sharon Brown; 211 W. 123<sup>rd</sup> Ave., Anchorage, AK 99515: Ms. Brown is a neighboring landowner. Ms. Brown supports Mr. Pickens' request that the encroachments on to his property be resolved before approving the vacation of the utility easement.

Kevin Brown; 211 W. 123<sup>rd</sup> Ave., Anchorage, AK 99515: Mr. Brown is a neighboring landowner. Mr. Brown supports Mr. Pickens' request that the encroachments on to his property be resolved before approving the vacation of the utility easement.

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

**MOTION:** Commissioner Brantley moved, seconded by Commissioner Fikes to approve the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, subject to staff recommendations and compliance with borough code.

Commissioner Stutzer stated that the vacation of the utility easement is not the main issue here. The applicant has several structures encroaching on the neighbor's property that he believes should be resolved first. He would not support the vacation request until the encroachments are remedied.

Chair Martin asked staff if the commission would need to develop findings if they chose to deny the vacation request. Ms. Hindman replied that the applicant is in violation of multiple KPB codes and those violations have not been resolved at this time. She noted some of the encroachments do go into the neighbor's utility easement. A denial in this case would not require findings, but if this matter were to be reviewed at a later date, any findings the commission has to support their denial would be appreciated.

Commissioner Horton asked staff if the applicant would still be required to petition for a vacation if they purchased the lot they are encroaching on. Ms. Hindman replied should the applicant purchase the neighboring lot they would not be required to petition for the vacation. They could choose not to put any utilities in those easements. Where there would be issues is if they were to seek bank financing, the bank may require that the encroachments into the utility easements be resolved before financing the purchase.

Director Ruffner noted when it comes to quasi-judicial matters like these it is helpful for the commission to attach findings to support their decision. The commission could review and cite findings supplied by staff to support their decision, but it also could be helpful for the commission to develop additional findings, should a decision be appealed. The commission could vote on the motion on the floor now, and if needed could go into an adjudicative session to develop additional findings or the commission could develop additional findings on the floor.

Commissioner Brantley noted that findings 7 & 8 from the staff report support a denial.

Commissioner Bentz added an additional finding that the neighboring owner on Lot 5 objects to the vacation as the encroachments negatively impact the utility easement on his property.

Commissioner Brantley moved, seconded by Commissioner Fikes to attach the following findings in support of a denial.

- i. Several violations to KPB Code exist due to the shed shown within Bruhn Road, the building setback, and the utility easement.
- ii. Encroachments appear to exist within Lot 5.
- iii. The owner of neighboring lot, Lot 5, objects as the encroachments effect his ability to bring utilities on to his property.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION FAILED BY UNANIMOUS VOTE:**

No - 11	Bentz, Brantley, Fikes, Hooper, Horton, Martin, Morgan, Staggs, Stutzer, Taufest, Venuti
Absent - 1	Gillham

**ITEM E2 - RIGHT OF WAY VACATION  
VACATE A PORTION OF HOUGH ROAD AND ASSOCIATED UTILITY EASEMENTS**

<b>KPB File No.</b>	2022-076V
<b>Planning Commission Meeting:</b>	June 27, 2022
<b>Applicant / Owner:</b>	C. Michael and Shila A. Hough of Homer Alaska
<b>Surveyor:</b>	Stephen Smith / Geovera, LLC
<b>General Location:</b>	East End Road, Hough Road, City of Homer
<b>Legal Description:</b>	Hough Road, Tract F of Stream Hill Park Unit 2, HM 2008-048 and Tract 1 of Christensen Tracts 2009 Addition, HM 2006-44, Section 16, Township 6 South, Range 13 West.

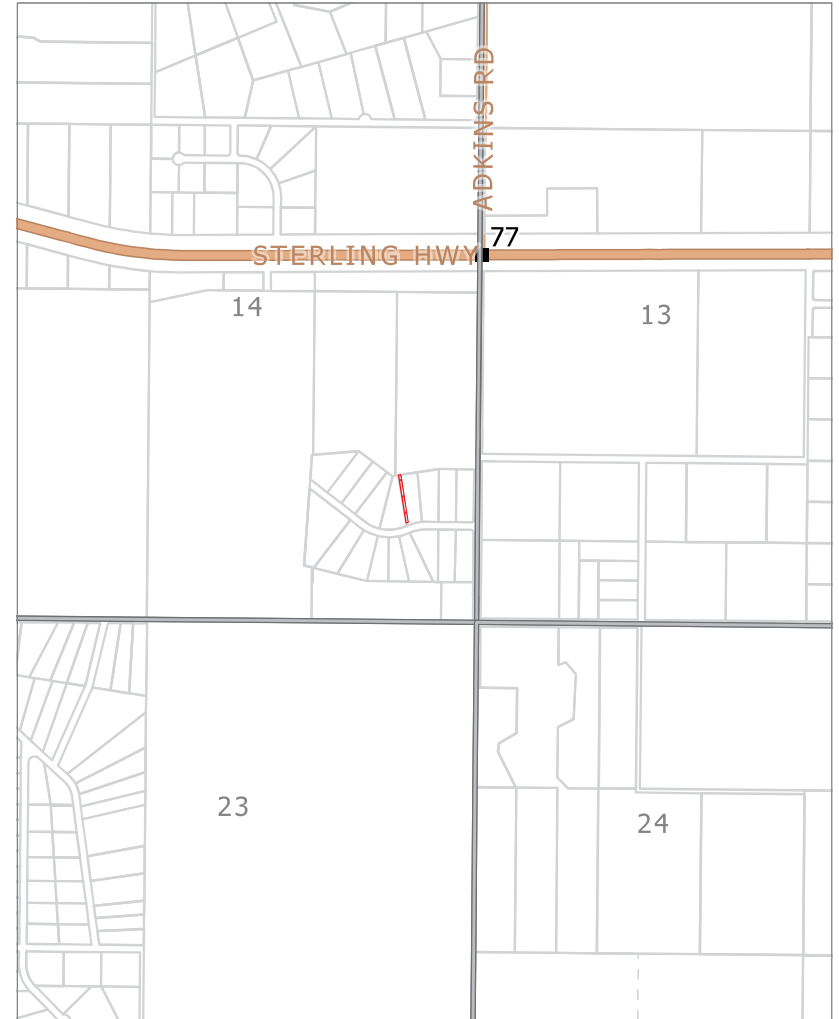
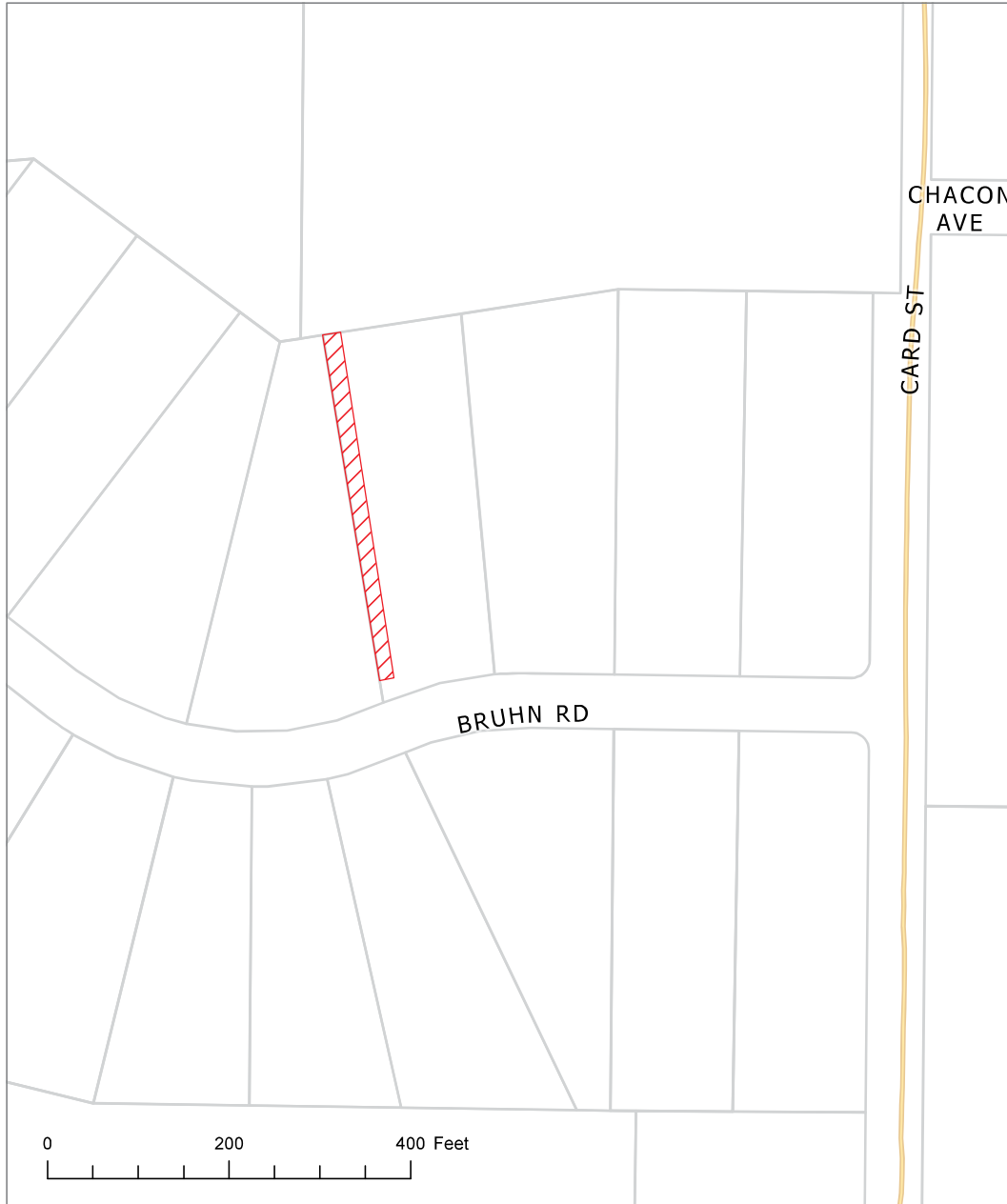


## **June 27, 2022 Packet Materials**

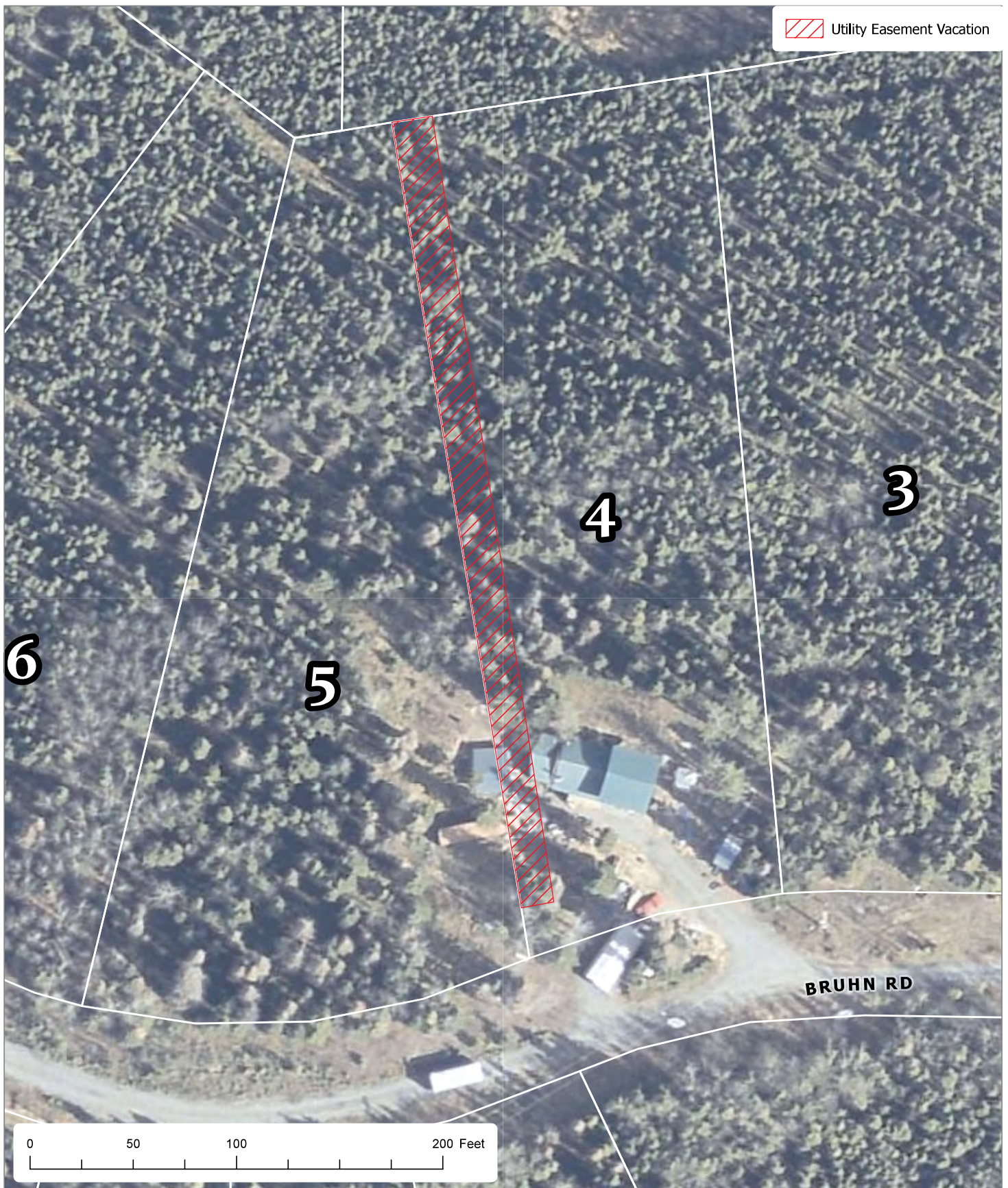
### **E. NEW BUSINESS**

**1. Utility Easement Vacation; KPB File 2022-070V**

**Request: Vacate a portion of a 10' utility easement along the west boundary of Lot 4, Block 2, Bruhn Subdivision, Plat KN 86-143**



KPB File # 2022-070V  
S14 T05N R08W  
Sterling







**ITEM 1 – UTILITY EASEMENT ALTERATION  
BRUHN SUBDIVISION LOT 4 BLOCK 2**

<b>KPB File No.</b>	2022-070V
<b>Planning Commission Meeting:</b>	June 27, 2022
<b>Applicant / Owner:</b>	Tanley Martinez of Sterling, AK
<b>General Location:</b>	Bruhn Road, Sterling

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** Owner requests alteration on utility easement due to home being built within the setback. HEA has signed off on vacating the west boundary. ENSTAR has no gas out there, therefor no objection.

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

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

**Staff Analysis:** This is a utility easement alteration for Lot 4 Block 3 of Bruhn Subdivision, Plat KN 86-143. There were no prior subdivisions for the property within Bruhn Subdivision. The plat created a 20 foot wide utility easement that was centered along the shared lot line of Lots 4 and 5 of Block 2. 10 foot utility easements were also granted adjacent to the dedicated right-of-way, Bruhn Road, as well as the creation of a 20 foot building setback.

The as-built that was submitted with the requests indicates a house within the western utility easement. A shed is also present within the setback, utility easement, and right-of-way dedication of Bruhn Road. The comment submitted with the application and comments from the utility providers indicate that the petition is to resolve the encroachment within the western utility easement.

This platting action will be to remove the entire 10 foot wide utility easement along the western boundary of Lot 4 Block 2 of Bruhn Subdivision with the exception of the front 20 feet along Bruhn Road. A 10 foot utility easement will remain along Bruhn Road that will increase to 20 feet within 10 feet of the side lot line. The 10 foot utility easement is still in place along the eastern lot line of Lot 5 Block 2.

The as-built indicates that there are structures associated with this lot within the neighboring lot. The depiction of the neighboring utility easement is not present but it appears that the shop and connex may be within the utility easement. The owner of Lot 5 Block 2 should contact the owners of Lot 4 Block 2 to resolve any encroachment issues if there is not an agreement in place.

KPB Code Compliance has gone to the site to review the encroachments along Bruhn Road and verified the KPB Code violations. A cease and desist notice is being prepared to be sent by certified mail.

A new drawing that is prepared by a licensed land surveyor will need to be prepared that visually shows the areas approved for vacation. That drawing will be recorded with the resolution to finalize the alteration.

The petition is for the western utility easement only. As this action is to alter an easement for utility providers use for the benefit of land owners there are several options available to the Planning Commission in there review of this item.

1. Approve the alteration and adopt PC Resolution 2022-026.
2. Approve the alteration by granting a one year approval and a resolution to be presented in the future for adoption. The approval would be subject to:
  - a. KPB Code violations being resolved and the following are demonstrated;



- b. KPB Road Department acknowledges in writing to the planning department all encroachment issues are resolved,
  - c. KPB Code Compliance acknowledges in writing that the violations have been resolved and the owners are no longer in violation of KPB Code,
  - d. A new as-built be provided that demonstrates code violations have been resolved to the satisfaction of the terms agreed upon.
3. Open public hearing and table the item. Direction on when or what will warrant the item to be brought back should be provided to staff.
4. Deny the petition to alter the utility easement if found to be in the public's best interest to not grant approval.

**Utility provider review:**

HEA	HEA does not object to the vacation of the 10 foot wide utility easement adjoining the west boundary of Lot 4 Block 2, excluding the 20 feet segment adjoining Bruhn Road. HEA objects to the vacation of any portion of the 10 foot utility easement adjoining Bruhn Road. HEA notes that the as-built drawing depicts a shed located within the easement. HEA reserves the right to have the landowner remove the shed from the easement at the expense of the homeowner.
ENSTAR	No comments or recommendations
ACS	No objection to the vacation or encroachment of the utility easement on the west side of Lot 4 with the exception of the front 10 feet along the ROW.
GCI	Approved as shown

**KPB department / agency review:**

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 29108 BRUHN RD</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names: BRUHN RD</p> <p>Existing Street Name Corrections Needed: ATKINS RD on vicinity map should be ADKINS RD. 3 JOHNS RD on vicinity map should be THREE JOHNS ST.</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: 29108 BRUHN RD will remain on lot 4.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: It appears that there are structures in the ROW and 20ft Set back both issues are code violations. Additionally structures on the neighboring property</p>
Planner	<p>Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>

Assessing	Reviewer: Wilcox, Adeena Comments: Parcel appears to have improvements encroaching on adjoining parcel 06516405.
KPB Roads Department	Out of Jurisdiction: No  Roads Director: Uhlin, Dil Comments: The as-built indicates that there is an active unauthorized encroachment of the Bruhn Road ROW and the utility easement. I recommend that all platting action is tabled until the encroachments are fixed.

#### **Findings:**

1. The petition does not state that the utility easement proposed to be vacated is not in use by a utility company.
2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation but a portion shall remain along Bruhn Road.
3. Bruhn Subdivision, Plat KN 86-143, granted a 20 foot wide utility easement centered along the shared lot line of Lots 4 and 5.
4. Bruhn Subdivision, Plat KN 86-143, created a 20 foot building setback along Bruhn Road.
5. Bruhn Subdivision, Plat KN 86-143, created a 10' utility easement along Bruhn Road.
6. A 10 foot wide utility easement will remain along the common lot line and will be within Lot 5.
7. Several violations to KPB Code exist due to the shed shown within Bruhn Road, the building setback, and the utility easement.
8. Encroachments appear to exist within Lot 5.

#### **RECOMMENDATION:**

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends if the utility easement alteration as petitioned is approved that it be subject to:

1. Grant utility easements requested by the utility providers.
2. Finalizing the approval of the easement alteration by either;
  - a. The recording of a subdivision plat within 12 months or,
  - b. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
    - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
    - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
    - iii. The Planning Department is responsible for filing the Planning Commission resolution.

#### **20.65.070 Alteration of platted utility easements**

**E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.**

**F. An appeal of the planning commission decision under this section must be filed in the superior**

Page 3 of 4

**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.*

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**END OF STAFF REPORT**

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2022-026  
KENAI RECORDING DISTRICT**

Vacate a portion of a 10' utility easement along the west boundary of Lot 4 Block 2 Bruhn Subdivision, Plat KN 86-143, granted by Bruhn Subdivision KN 86-143 (KN0860143); within S14, T05N, R08W, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2022-070V

WHEREAS, a request has been received from Tanley Jo Martinez of Sterling, AK to vacate a portion of a 10' utility easement along the west boundary of Lot 4 Block 2 Bruhn Subdivision, Plat KN 86-143 granted by Bruhn Subdivision KN 86-143 (KN0860143); and

WHEREAS, affected utility companies have provided written non-objection to the proposed vacation; and

WHEREAS, the Kenai Peninsula Borough Roads Department provided written comments to table the item until other encroachment issues are resolved; and

WHEREAS, the easement is not in use by the utility companies; and

WHEREAS, no surrounding properties will be denied utilities; and

WHEREAS, on June 27, 2022, the Kenai Peninsula Borough Planning Commission addressed all concerns about the proposed vacation; and

WHEREAS, the Planning Commission has found that vacating the utility easement will not be detrimental to the public interest; and

WHEREAS, 20.70.140 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish vacations by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the above described 10 foot utility easement along the west boundary of Lot 4 Block 2 Bruhn Subdivision, Plat KN 86-143, excluding the front 20 feet along Bruhn Road, is hereby vacated.

Section 2. That an as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the locations of the portions of the utility easements being vacated be attached to, and made a part of this resolution, becoming page 2 of 2.

Section 3. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

Section 4. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

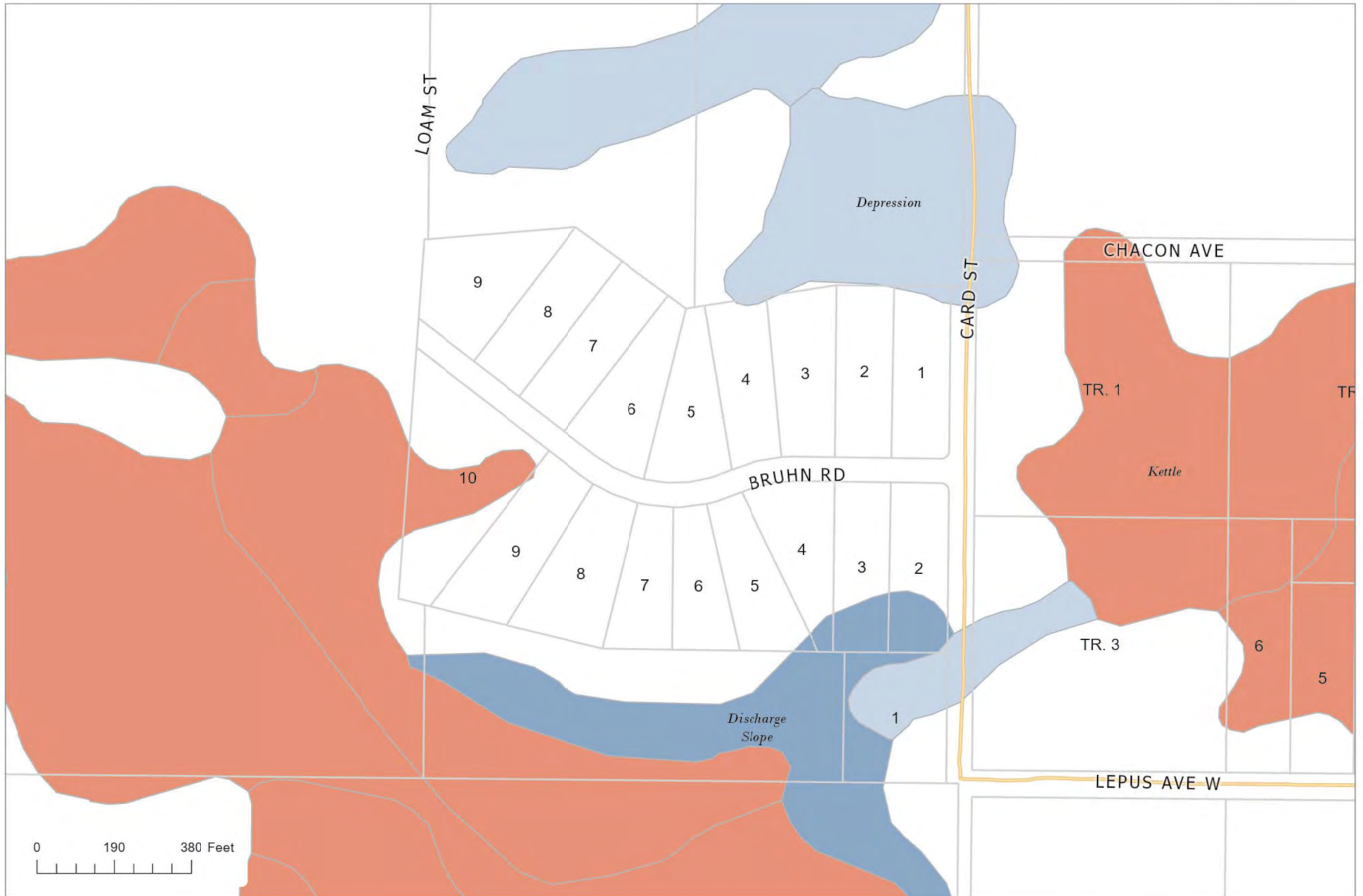
\_\_\_\_\_  
Blair J. Martin, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirmberg,  
Administrative Assistant

Return to:  
Kenai Peninsula Borough Planning Department  
144 N. Binkley Street  
Soldotna, Alaska 99669





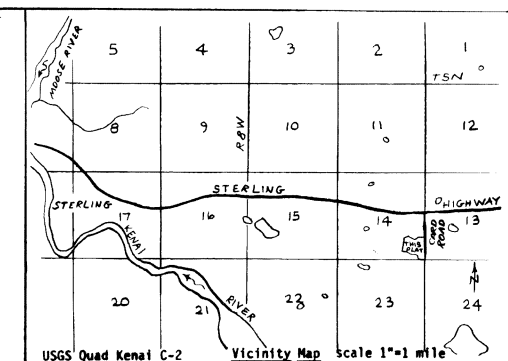
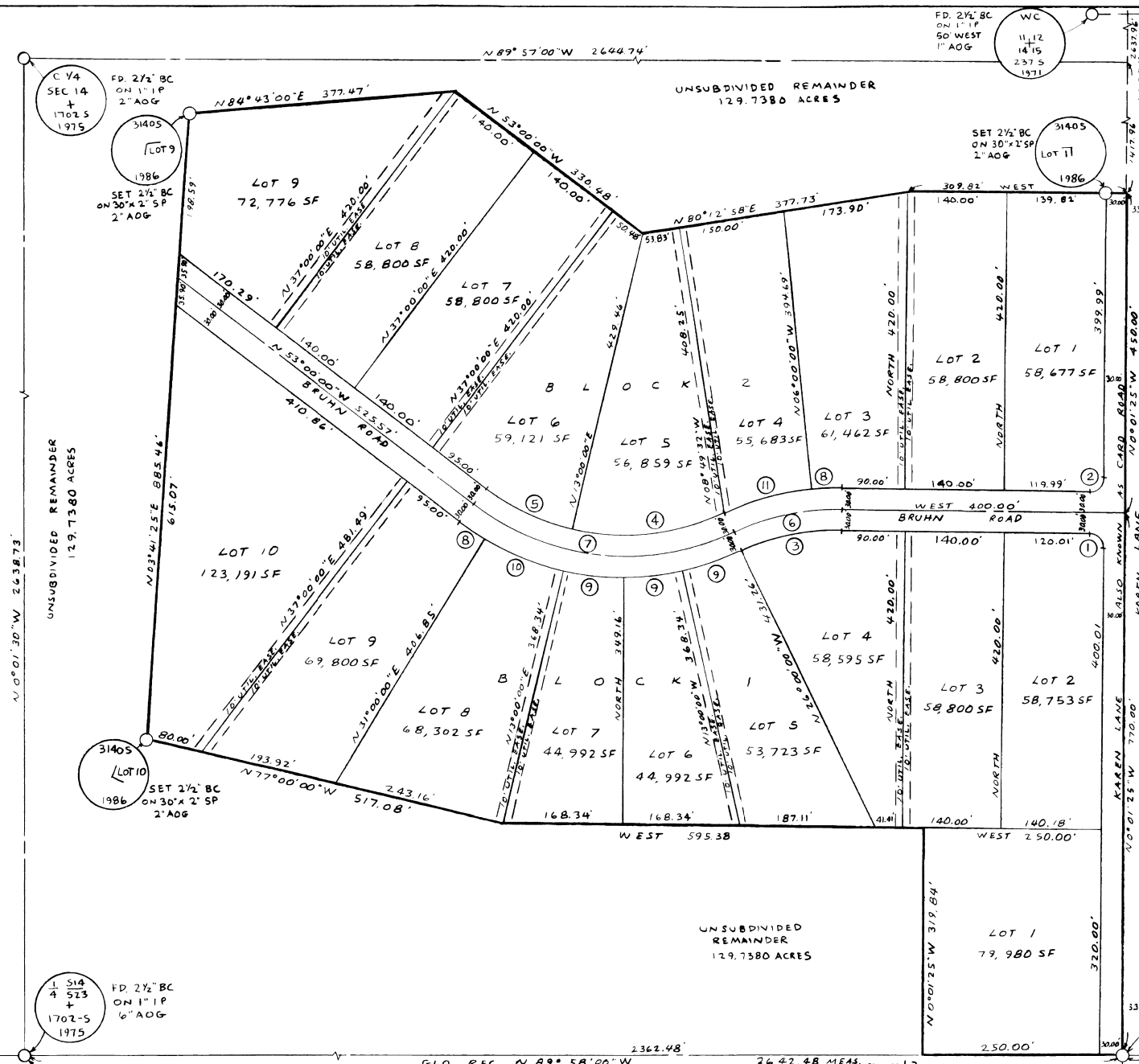
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





**Certificate of Ownership and Dedication**

We hereby certify that we are the owner of the property shown and described hereon and that we hereby adopt this plan of subdivision and dedicate all rights of way to public use and grant the easements for utility use.

*Bert and Blanche Bruhn* June 14, 1986

**Notary's Acknowledgement:** Subscribed and sworn to before me this 14th day of June, 1986 by Bert and Blanche Bruhn

Notary Public for Alaska  
my commission expires December 27, 1986.

**Plat Approval**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of February 10, 1986.

Kenai Peninsula Borough  
by *Richard D. Truitt*  
Authorized Official

**Approval Certificate by Alaska Environmental Conservation Dept.**

This subdivision has been reviewed in accordance with 18AAC72.065 and is approved, subject to any noted restrictions.

*Richard D. Truitt* A.E.C.D. (title) June 13, 1986

**Notes**

1. Building Setback: a setback of 20 feet is required from all street rights of way unless a lesser standard is approved by resolution of the appropriate planning commission.
2. Easements: the front 10 feet of the building setback shall also be a utility easement.
3. 30" x 45" rebar: rebar is required at all corners.
4. Soils on these lots may or may not be suitable for conventional on-site waste disposal systems. No person may construct, install, maintain, or operate a pressurized water system or a waterborne waste disposal system unless approval of the Alaska Department of Environmental Conservation is obtained.

**curve data**

No.	radius	angle	tangent	length
1	20.00'	89°58'35"	19.99'	31.41'
2	20.00'	90°01'25"	20.01'	31.42'
3	320.00'	26°00'00"	73.88'	145.21'
4	320.00'	39°00'00"	113.32'	217.82'
5	320.00'	24°00'00"	68.02'	134.04'
6	350.00'	26°00'00"	80.80'	158.82'
7	350.00'	63°00'00"	214.48'	384.85'
8	380.00'	6°00'00"	19.91'	39.79'
9	380.00'	13°00'00"	43.30'	86.22'
10	380.00'	18°00'00"	60.19'	119.38'
11	380.00'	20°00'00"	67.00'	132.65'

**WIT. MARKS:** 28' 9" SSW TO COR. 6" x 6" POST FOR SEC. COR. 50' 6" W. TO E. SIDE SLASHED 6" S.P. 49' 8" NW TO S.E. FACE SLASHED 4" ALDER 43' 6" SE TO NW SIDE POWER POLE

**GLO TSN R&W**  
SM 513  
523 524  
1939

**FD 2 1/2" BC**  
ON 1" IP  
2" AOG  
1939

**GLO**  
1/4 513  
524  
1939

**RECORDED FILED**

**Kenai**

**DATE** 6/27/86

**FILE** 3-36

**BY** BUK

**NO. 3140-S**



**Basis of Bearings**

30.3804 acres; 19 lots

A subdivision of a portion of SE1 Section 14, TSN, R&W, Seward Meridian

Kenai Recording District, Kenai Peninsula Borough, Alaska

Bert & Blanche Bruhn, owners, 1529 Juneau St., Anchorage Ak. 99501

Doug Stark, land surveyor, 957 Westbury Dr., Anchorage, Ak. 99503

KPB File No. 86-034 sheet 1 of 1 scale 1"=100' June 30, 1986

On May 17, 2022, at 3:10 PM, Tanley Martinez <[tanleymartinez@rocketmail.com](mailto:tanleymartinez@rocketmail.com)> wrote:

Thank you so much. No I don't think I need them anymore. Thanks again.

Tanley Martinez

Sent from my iPhone

On May 16, 2022, at 4:00 PM, Huff, Scott <[shuff@homerelectric.com](mailto:shuff@homerelectric.com)> wrote:

Ms. Martinez,

Please find attached the utility review to vacate the 10 foot wide utility easement that adjoins the west boundary of Lot 4 Block 2. HEA does agree to the vacation of the utility easement on the west boundary common with Lot 5, but does not agree to the vacation of the utility easement on the south boundary common with Bruhn Road right of way. The asbuilt drawing depicts a shed within the 10 foot utility easement on the south boundary. HEA reserves the right to have the homeowner remove the shed from the utility easement at the homeowner's expense.

Please let me know if you would like for me to send you the paper copies back to you, or you can stop by and pick them up, or if the paper copies are not needed any more.

Thank you,

**SCOTT HUFF** | Land Management Officer – Land Surveyor

**Homer Electric Association, Inc.**

280 Airport Way | Kenai, Alaska 99611

office 907.335.6209 | toll free 800.478.8551 | [www.homerelectric.com](http://www.homerelectric.com)

**Your Member-Owned Electric Cooperative**

**CONFIDENTIALITY NOTICE:** The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential and/or privileged information and may be legally protected from disclosure.

<Bruhn Subd Lot 4 Block 2.pdf>



3	2	1
	Rear Rd	T5N R8W SM
10	11	12
	Atkins Rd	Johns Rd
STERLING		HIGHWAY
15	14	13
Lot Location	Card St	

VICINITY 1" = 1 mile MAP

# Bruhn Subd. Lot 4 Block 2 As-Built Survey

Located in the SE1/4 Section 14, T5N R8W, SM, Alaska.  
Kenai Peninsula Borough Kenai Recording District plat 86-143

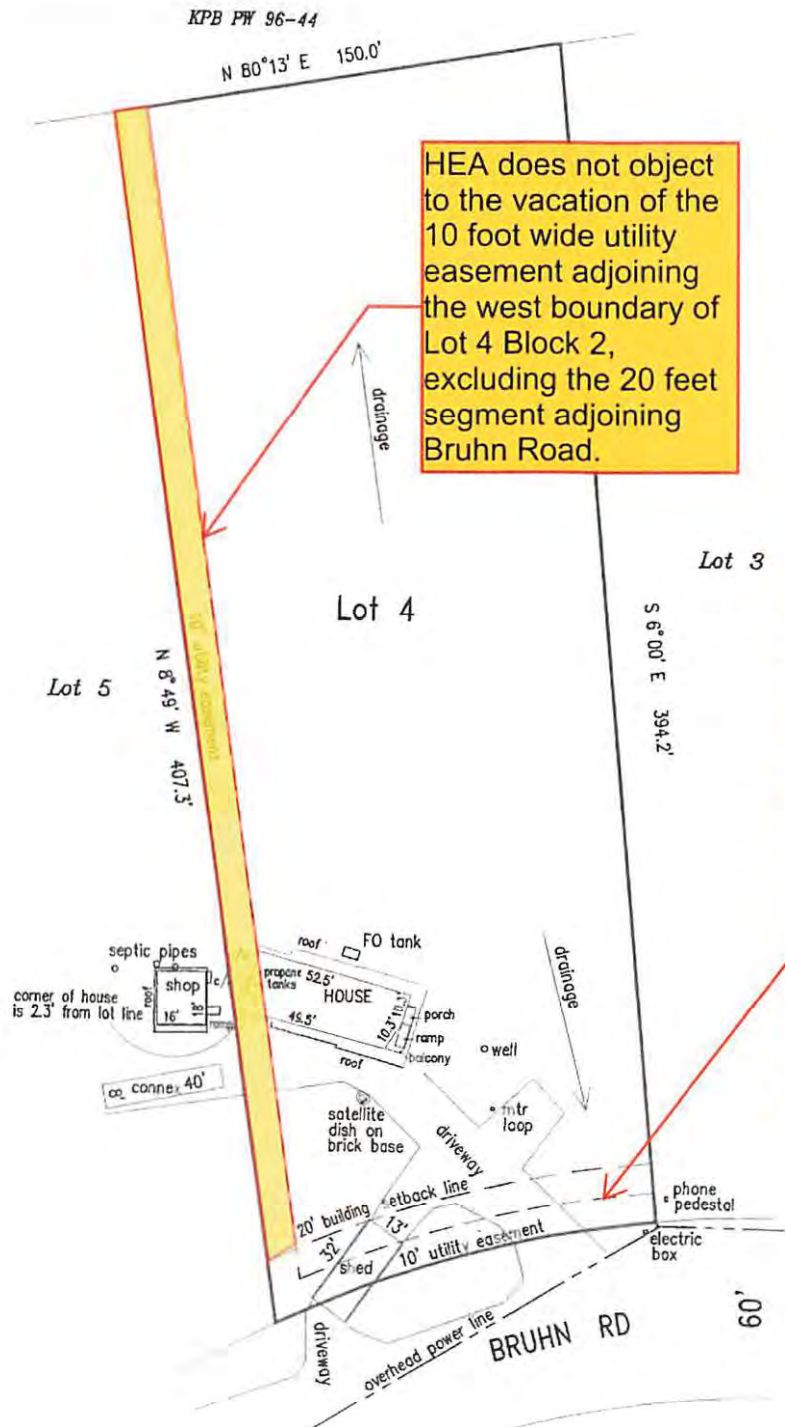
Prepared for  
Kim Gomez Tiffany Clyde  
Century 21 Freedom Realty  
170 N Birch Ste 102  
Soldotna, AK 99669

Prepared by  
Johnson Surveying  
P.O. Box 27  
Clam Gulch, AK 99568

SCALE 1" = 40' 13 May, 2022



Digitally signed by Huff, Scott  
DN: cn=Huff, Scott  
e=shuff@HomerElectric.com  
Reason: I am the author of  
this document  
Location:  
Date: 2022-05-16  
15:52:08:00



HEA does not object to the vacation of the 10 foot wide utility easement adjoining the west boundary of Lot 4 Block 2, excluding the 20 feet segment adjoining Bruhn Road.

HEA objects to the vacation of any portion of the 10 foot utility easement adjoining Bruhn Road. HEA notes that the asbuilt drawing depicts a shed located within the easement. HEA reserves the right to have the landowner remove the shed from the easement at the expense of the homeowner.

Owner requests alteration on utility easement due to home being built within the setback. HEA has signed off on vacating west boundary(see attached email from Scott Huff along with as-built alterations). Enstar has no gas out there therefore no objection.

## **E. NEW BUSINESS**

2. Right-Of-Way Vacation; KPB File 2022-172V  
Johnson Surveying / Ancient Basements, LLC  
Request: Vacate a 2' X 222.78' portion of an alley located  
between Mission Ave. & Bayview Street as dedicated on USS  
3036 HM 65-55  
Location: Ninilchik Area



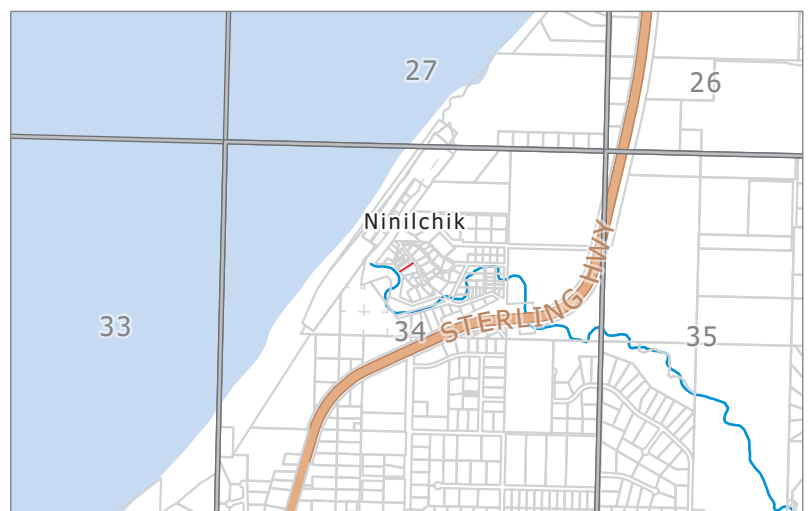
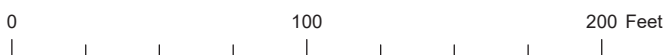
# Kenai Peninsula Borough Planning Department

## Vicinity Map



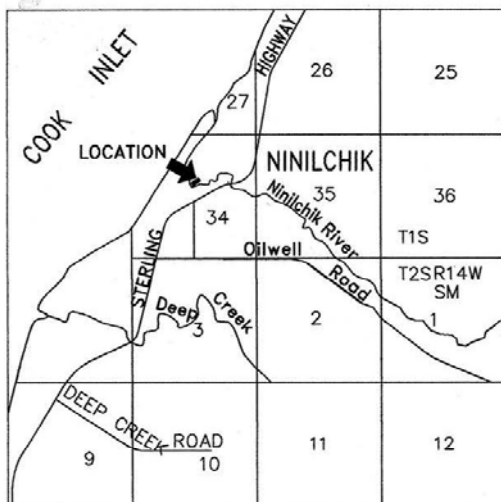
KPB File 2022-172V  
T 01S R 14W SEC 34  
Ninilchik

11/21/2022









# Ninilchik Townsite Preliminary Ancient Basements Replat Plat

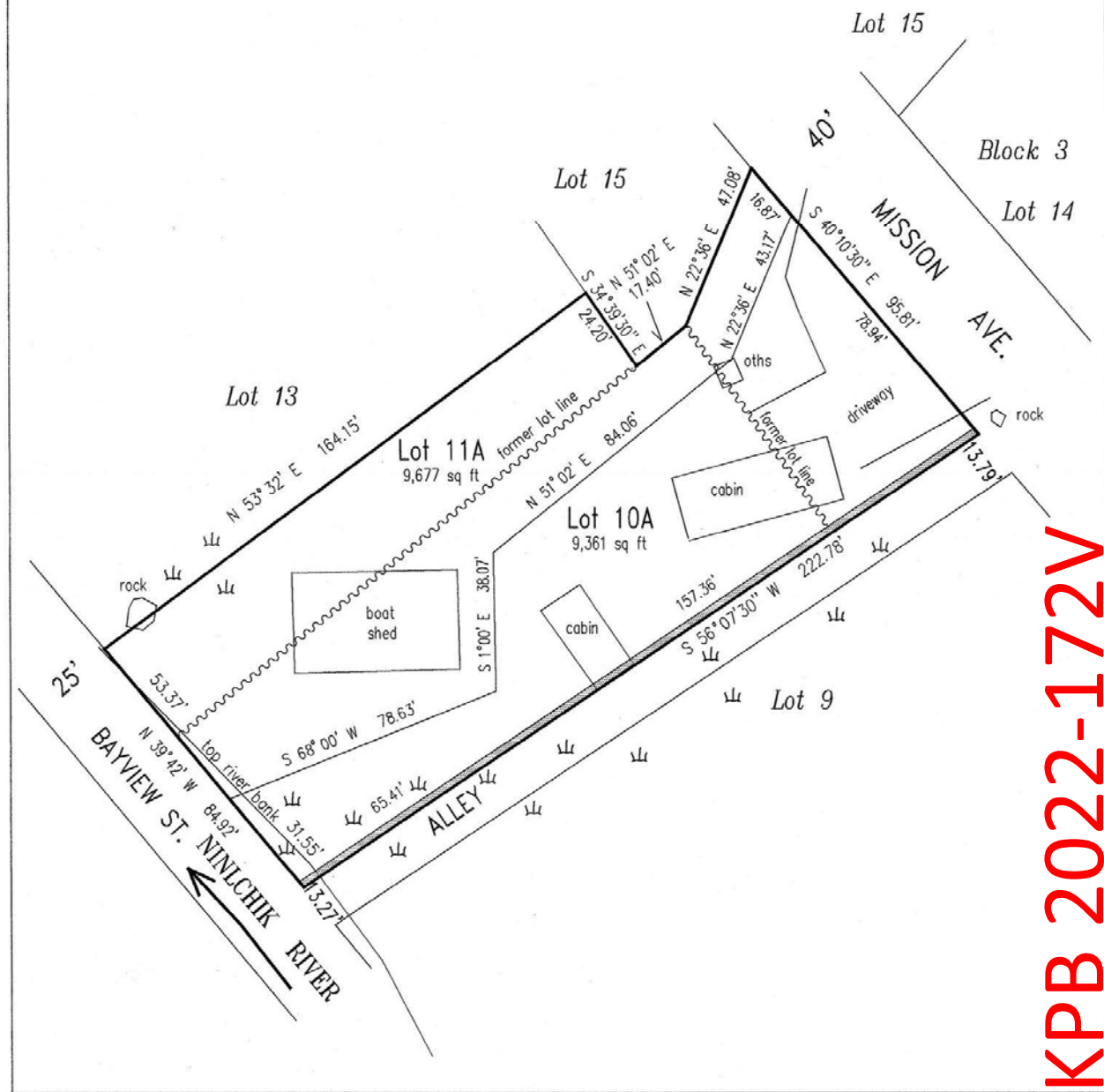
A replat of Lots 10, 11, & 12 Block 4 Ninilchik TWS, USS 3036, HRD 65-55, including a partial vacation of an alley. Located in the NW1/4 Section 34, T1S R14W, SM, Alaska. Homer Recording District Kenai Peninsula Borough

Prepared for  
Ancient Basements, LLC  
P.O. Box 1025  
Kasilof, AK 99610

Prepared by  
Johnson Surveying  
P.O. Box 27  
Clam Gulch, Ak 99568

SCALE 1" = 30' AREA = 19,038 sq ft  
15 November, 2022

- indicates 2' wide ROW area proposed for vacation.  
 - indicates swamp



AGENDA ITEM E. NEW BUSINESS

ITEM 2 - RIGHT OF WAY VACATION  
VACATE A 2 FOOT WIDTH OF A 15 FOOT WIDE ALLEY

<b>KPB File No.</b>	2022-172V
<b>Planning Commission Meeting:</b>	December 12, 2022
<b>Applicant / Owner:</b>	Ancient Basements, LLC of Kasilof, Alaska
<b>Surveyor:</b>	Jerry Johnson / Johnson Surveying
<b>General Location:</b>	Mission Avenue, Bayview Street, Ninilchik
<b>Legal Description:</b>	Alley adjacent to Lots 10 and 11, Block 4, Ninilchik Townsite, USS 3036, Plat HM 65-55

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STAFF REPORT

**Specific Request / Purpose as stated in the petition:** Currently there are 3 buildings located on these lots. The existing lot line run through 2 of these buildings. We would like to replat the lots so that the lot lines do not bisect the buildings.

Two of these buildings were homes of original settlers of Ninilchik Village. They were built in the mid-to-late 1800's and more than a century later were moved to their present location in order to preserve them. Ninilchik Village records show that Leontii Ostrogin (aka Peg-Leg John) moved to Ninilchik in 1851. He was known as the village carpenter and helped build many homes including the smaller of the two houses. Unfortunately the roof line of his cabin extends into the southeast alley by about 18 inches. This cabin will not withstand another move, and is currently sitting on a concrete pad with new foundational logs to stabilize it and keep it off the ground.

We are asking the Borough to grant a 24 inch vacation of the alleyway so this historical building can be preserved.

Thank you for your consideration of this vacation.

**Notification:** The public hearing notice was published in the December 7, 2022 issue of the Homer News 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 Ninilchik

Post Office of Ninilchik

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

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

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

State of Alaska Dept. of Fish and Game  
State of Alaska DNR  
State of Alaska DOT  
State of Alaska DNR Forestry  
Ninilchik Emergency Services

Ninilchik Traditional Council  
Alaska Communication Systems (ACS)  
ENSTAR Natural Gas  
General Communications Inc, (GCI)  
Homer Electric Association (HEA)



**Legal Access (existing and proposed):** Currently there is an approximate 15 foot wide alley that connects Mission Avenue to Bayview Street. Mission Avenue was dedicated as a 40 foot wide right-of-way and is constructed and maintained by the State of Alaska. Bayview Street was dedicated as 25 feet wide and abuts the Ninilchik River. There is no constructed portion of Bayview Street. The new lot configuration proposed will allow for the new lots to have access from Mission Avenue. The proposal is to only vacate the area needed to allow for the historic building and an approximate 13 foot wide alley will remain for access to the adjacent lots.

The alley was dedicated by United States Survey No 3036, Plat HM 65-55. That plat laid out the design for the Ninilchik Townsite. The alley width is shown as 15.88 feet at Mission Avenue that narrows to 15.36 feet at Bayview Street. The proposal will vacate 2 feet of the alley and leave a portion that is 13.79 feet that narrows to 13.27 feet.

The alley provides access to Bayview Street from Mission Avenue. Bayview Street is a dedication that abuts/contains the Ninilchik River. Additional access to Bayview Street/Ninilchik River is located further north, also named Bayview Street and having a 50-foot access. Further south Lunker Avenue is dedicated as 50 foot wide and provides additional access to Bayview Street/Ninilchik River.

The Bayview Street to the north, Mission Avenue, the alley, and Bayview Street on the West define the block. KPB Code states that blocks shall not be less than 330 feet. The block does not comply and the partial vacation does not improve the block.

KPB Roads Dept. comments	Out of Jurisdiction: No  Roads Director: Uhlin, Dil Comments: Does not affect road maintenance
SOA DOT comments	

**Site Investigation:** The alley as well as the adjacent rights-of-way are all considered wetlands with a designation of Riverine. The Ninilchik River, an anadromous stream, abuts and runs along a portion of the property and the ally ends at the river.

The terrain within the alley is relatively flat with slight slopes towards the Ninilchik River. The property is within a floodplain and proper notes will be required on the plat that finalizes the vacation.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: IS in flood hazard area Comments: Flood Zone: AE,Floodway,X (shaded) Map Panel: 02122C-1620E In Floodway: False Floodway Panel:</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD Comments: i:0#.w\kpb\maldrige</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
Alaska State Fish and Game	Public access to public lands and waters will not be affected by the proposed ROW vacation.



**Staff Analysis:** U.S. Survey 3036 subdivided the Ninilchik Townsite. The area was surveyed in 1950, signed by U.S. Department of the Interior in 1951, and recorded in 1965. The Townsite was created with small lots and narrow dedications.

The owners of the property are wishing to reconfigure three lots into two lots. Based on the proposed design some exceptions will be required but the design does improve the lots square footage and access to constructed rights-of-way.

The justification states the intent is preserve historical structures that may not be able to endure another relocation due to their state. The justification also states the request is to accommodate a roof line that extends into the right-of-way. Per KPB Code, 14.40.390, encroachments is a structure or object placed in, on, under, or over a right-of-way. The owners wish to vacate two feet to accommodate the roof line and allow an approximate 13 foot wide alley to remain for access to the Ninilchik River.

The Kenai Peninsula Borough Comprehensive Plan 2019 contains as Goal 3, "Preserve and improve quality of life in the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services." One of the focus areas under that goal is Historic Preservation with objectives that include efforts to protect cultural history and resources in borough communities and also to maintain the character of historic towns and districts. Reviewing the proposal with the goals and objections within the Comprehensive Plan this petition fits with preserving the structures but also not impacting the historic character of the Ninilchik Townsite.

#### **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 alley is not constructed but using KPB GIS Imagery a foot trail may be present.
2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** The road is not compliant in width for borough maintenance, the road provides access to the Ninilchik River and other access points exist within the Townsite. A portion will remain to continue providing access to the river.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** The area is heavily developed with lots smaller than current code allows and some limited access in areas.
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 alley does provide access to the Ninilchik River. The alley will still provide such access but at a reduced width. Additional access is found approximately 300 feet to the northwest and approximately 600 feet to the southeast.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** The proposed redesign will improve access as one of the lots has dedicated access but the location of the Ninilchik River only provides water access.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;

**Staff comments:** The alley can continue to provide access to the lots abutting as well as public access to Ninilchik River but due to size even prior to partial vacation would not be able to be part of the borough road maintenance program.

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:** With proper permitting the remaining portion of the alley may be used for utility purposes. Any requested easements should be granted or an agreement made with the utility providers.

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

**Staff comments:** This is a narrow alley that will continue to provide access. The vacation is to accommodate the roof line of a historic building that the owners are trying to limit major impacts in order to keep the structure intact.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly will hear the vacation at their scheduled January 3, 2023 meeting.

If approved, Ninilchik Townsite Ancient Basements Replat will finalize the proposed right of way vacations. The application for the plat has not been received and will be scheduled for review in accordance with KPB Code once a complete application is received.

**KPB department / agency review:**

Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.  Material Site Comments: There are not any material site issues with this proposed plat.
Code Compliance	Reviewer: Ogren, Eric Comments: a portion of one structure is in the proposed ROW to be vacated.
Addressing	Reviewer: Haws, Derek Affected Addresses: 15332 BAYVIEW ST  Existing Street Names are Correct: Yes  List of Correct Street Names: BAYVIEW ST MISSION AVE  Existing Street Name Corrections Needed:  All New Street Names are Approved: No  List of Approved Street Names:

	List of Street Names Denied:  Comments: 15332 BAYVIEW ST will be deleted and replaced with a MISSION AVE address.
Assessing	Reviewer: Windsor, Heather Comments: No comment

**Utility provider review:**

HEA	No comments
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(D) 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*
  - 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.*

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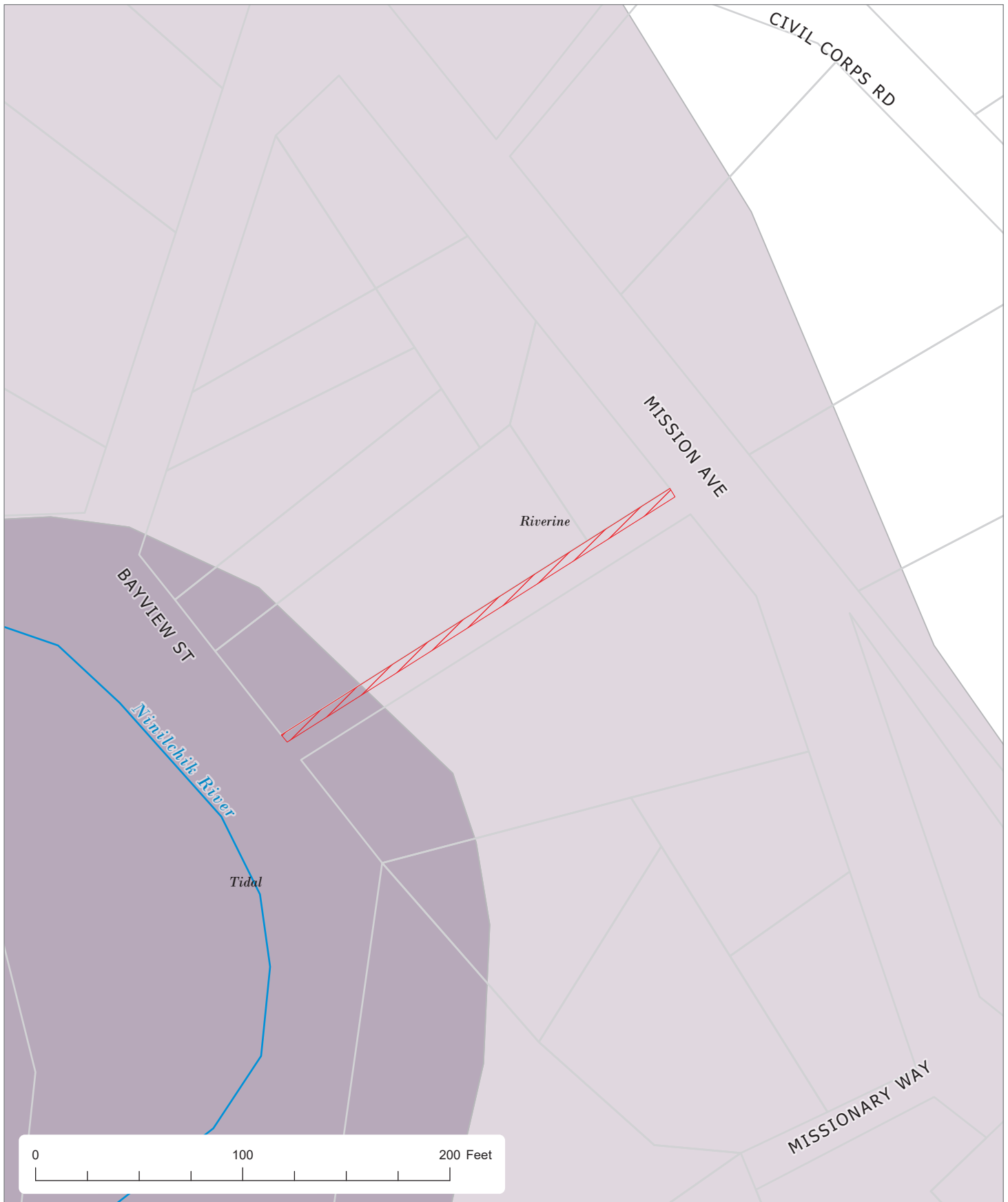
**END OF STAFF REPORT**







**Wetlands**









HOMER

Serial No. 65-55

# U. S. SURVEY No. 3036A (BOUNDARIES) AND 3036 B (SUBDIVISION)

TRACT A and TRACT B  
TOWNSITE OF NINILCHIK, ALASKA

NET AREA TRACT A: 47.648 ACRES

AREA U. S. SURVEY No. 307, Tract B: 0.216 ACRES

TRACT C: 0.310 ACRES

Total: 48.174 ACRES

AREA TRACT B: 3.039 ACRES

LATITUDE 60°02'52"N, LONGITUDE 151°30'43"W,  
AT CORNER No. 1, TRACT A

SCALE IN FEET

SURVEYED BY ELLIOTT PEARSON, AUGUST 26 TO SEPTEMBER 14, 1950

RECORDED - FILED

Homer REC. DIST.

DATE 1-26-1965

TIME 1:40 P.M.

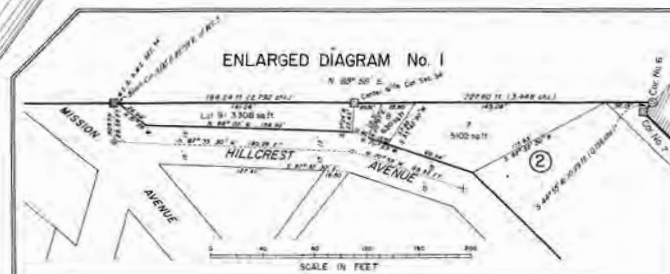
Requested by B. J. M.

Address

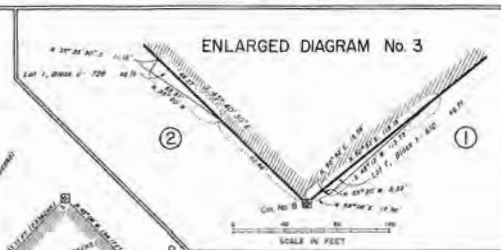
ENLARGED DIAGRAM No. 2



ENLARGED DIAGRAM No. 1



ENLARGED DIAGRAM No. 3



COOK INLET

## LEGEND

- Brass cap 10 to 12 inches below surface of ground (18 inch concrete column 26 inches long)
- 2 1/2 inch iron post 28 inches long in concrete base and within 10 inches diameter and 6 inches thick with brass cap 10 to 12 inches below surface of ground
- ✕ Copper pin set in column of concrete below surface of ground
- ◆ A stake 2 inches above ground marked as described in official record
- ◆ Brass cap flush with ground surface in 10 x 12 inch mass of concrete on granite boulder
- Monument described in field notes of Departmental survey of portion of Section 34, T. 1 S., R. 14 W., S. M.
- Monument described in field notes of U. S. Survey No. 3036 A & B, Boundaries & Subdivision, Townsite of Ninilchik, Alaska

Note: All other block and lot corners were marked with 2 x 4 x 18 inch wooden stakes

\* All monuments within streets, except Cor. No. 8, were set 4 to 12 inches below the surface

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Washington, D. C., Aug. 7, 1951

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and regulations of this bureau, is hereby accepted.

For the Director:

William H. Richards

Chief Branch of Surveys







# U. S. SURVEY No. 3036A (BOUNDARIES) AND 3036 B (SUBDIVISION)

## TRACT A and TRACT B TOWNSITE OF NINILCHIK, ALASKA

NET AREA TRACT A:----- 47.648 ACRES  
AREA U. S. SURVEY No. 367, Tract B:----- 0.216 "  
Tract C:----- 0.310 "  
Total----- 48.174 "

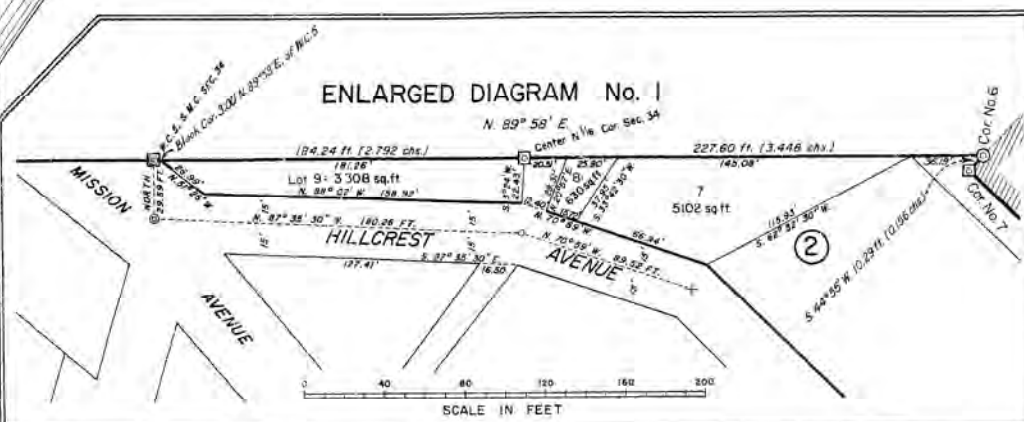
AREA TRACT B ----- 3.039 ACRES

LATITUDE 60°02' 52" N., LONGITUDE 151° 30' 43" W.,  
AT CORNER No. 1, TRACT A

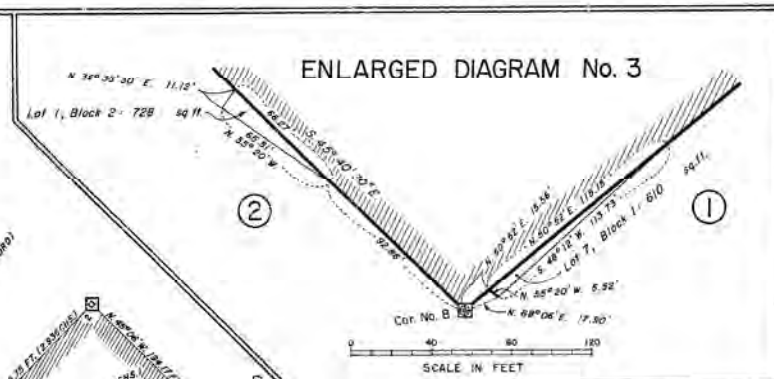
0 80 160 240 320 400 480 560 640  
SCALE IN FEET

SURVEYED BY ELLIOTT PEARSON, AUGUST 26 TO SEPTEMBER 14, 1950

ENLARGED DIAGRAM No. 1



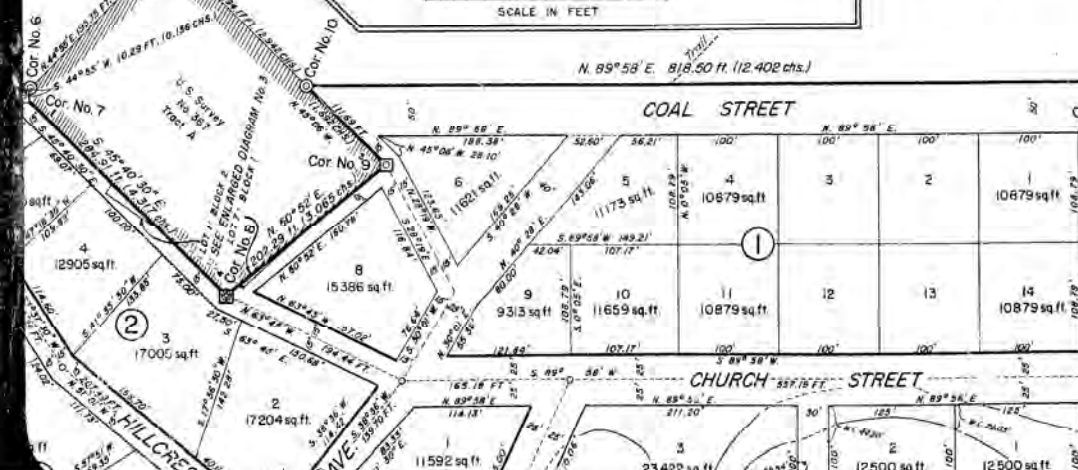
ENLARGED DIAGRAM No. 3



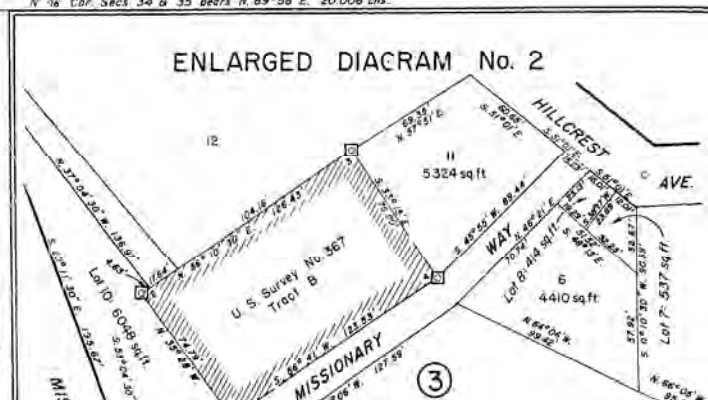
T. / S., R. 14 W., S. M.  
Lot 1, Sec. 34 NE 1/4, NE 1/4, Sec. 34

N. 89° 58' E. 818.50 ft. (12,402 chs.)

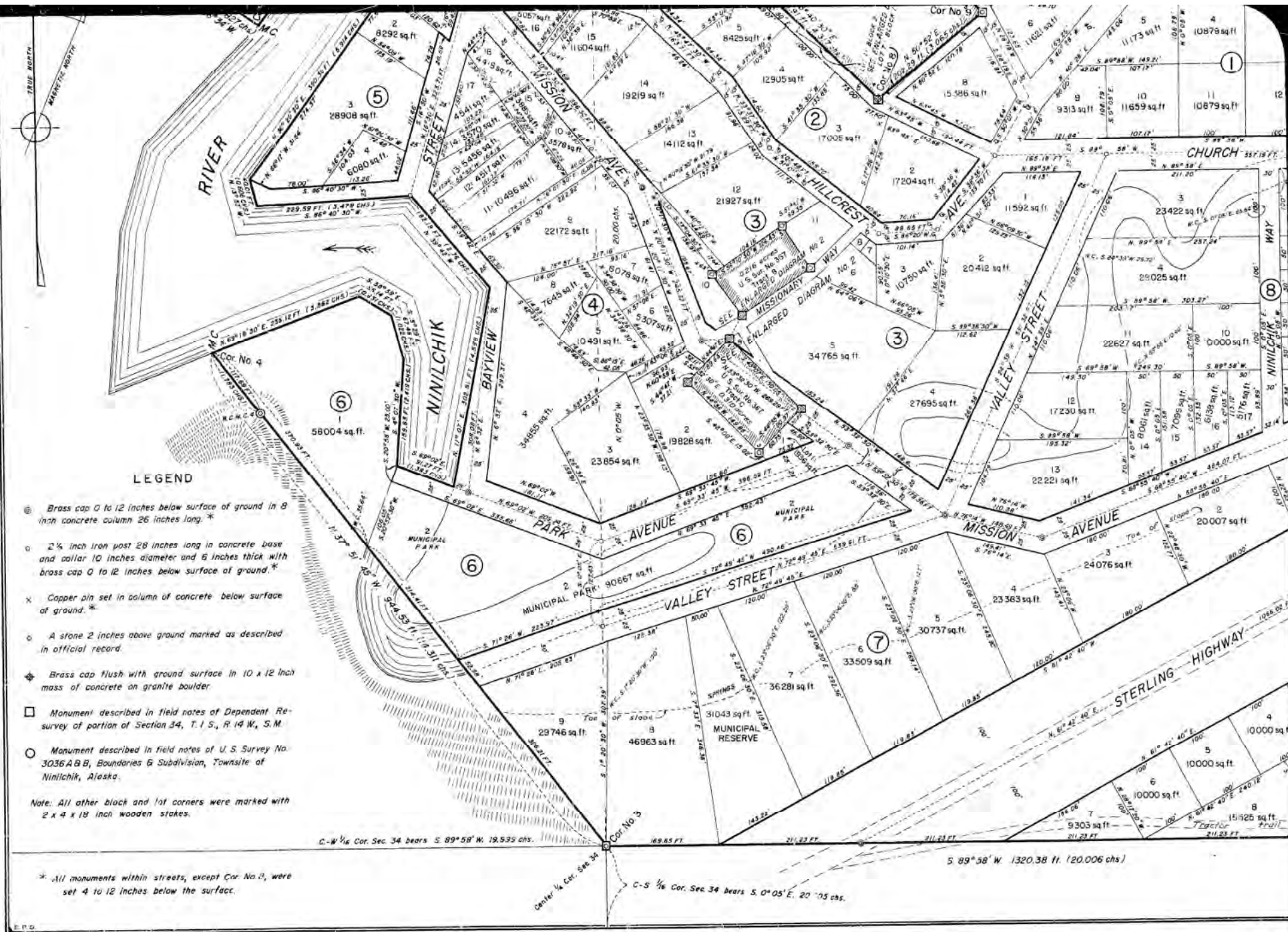
COAL STREET



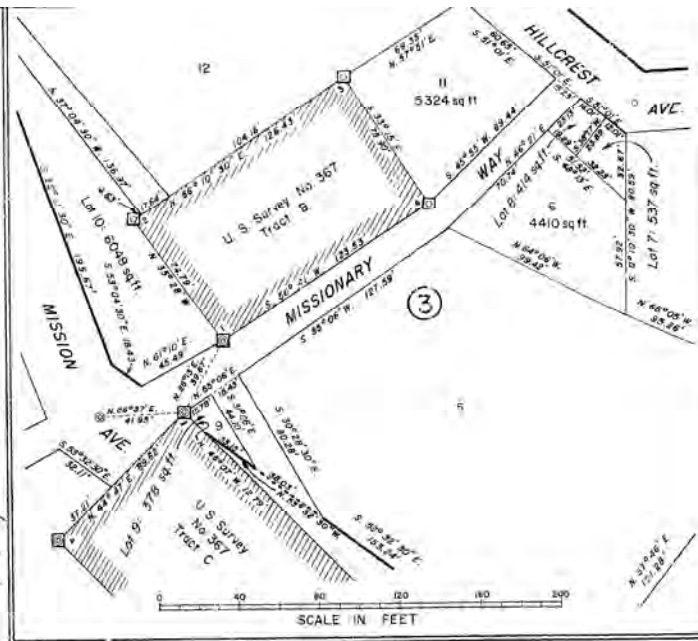
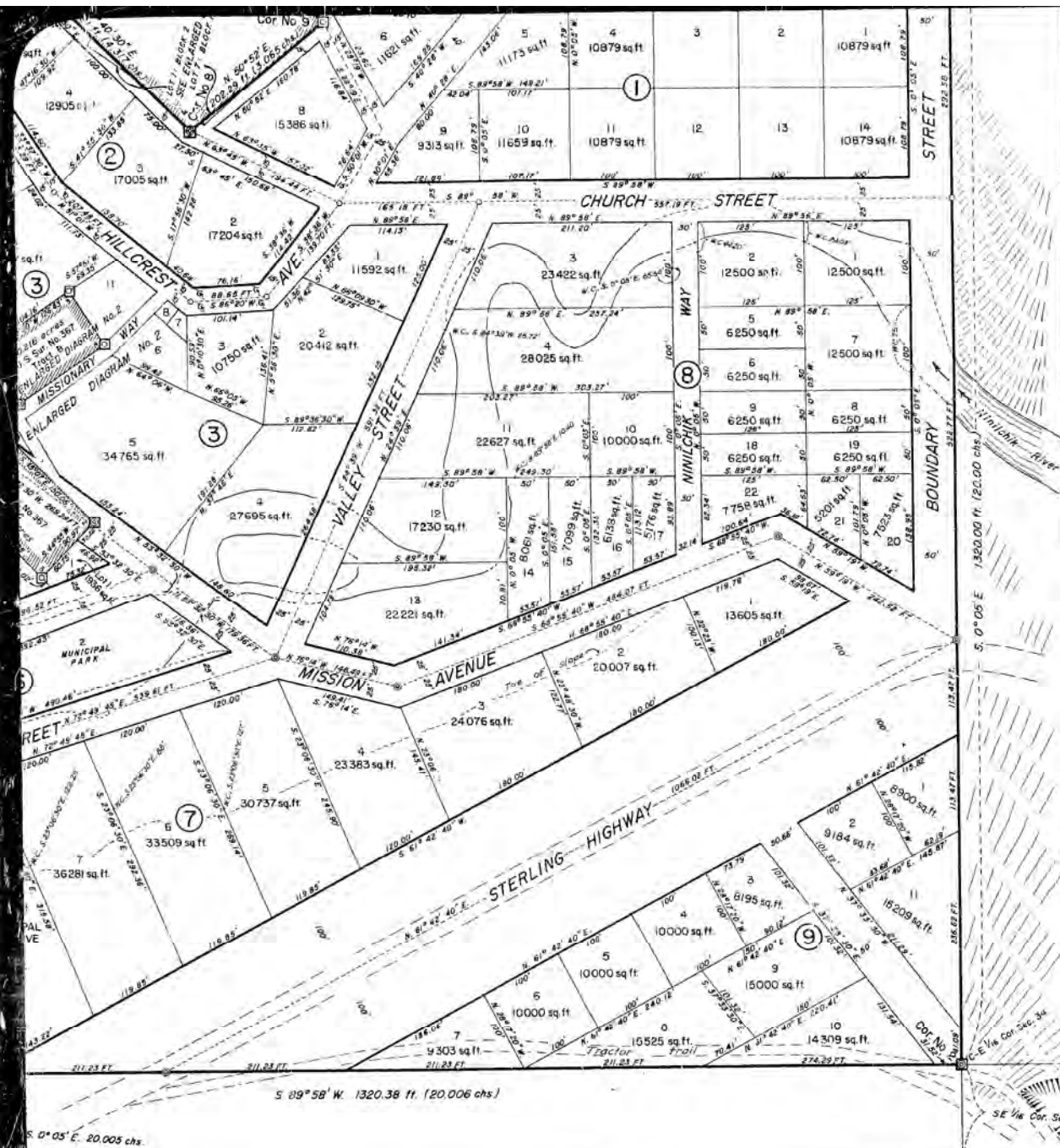
ENLARGED DIAGRAM No. 2











UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Washington, D. C., Aug. 7, 1951

This plat is strictly conformable to the approved field notes, and the survey, having been correctly executed in accordance with the requirements of law and regulations of this bureau, is hereby accepted.

For the Director:

*William F. Richards*

Chief, Branch of Surveys

1/4 Cor. Secs. 34 & 35 bears N. 89° 58' E. 20.006 chs.

SE 1/4 Cor. Sec. 34 bears S. 0° 05' E. 20.00 chs.

DATE JULY 5, 2013

THE RETRACEMENT AND DEPENDENT RESURVEY  
OF CERTAIN BOUNDARIES, RIGHT-OF-WAY LIMITS,  
AND LOTS, WITHIN TRACT A OF

**U.S. SURVEY NO.  
3036 A & B, ALASKA**

(THE BOUNDARIES AND SUBDIVISION,  
RESPECTIVELY, OF THE TOWNSITE  
OF NINILCHIK)

INCLUDING CONTIGUOUS PORTIONS OF THE  
SUBDIVISION OF SECTION LINES IN SECTION 34,  
TOWNSHIP 1 SOUTH, RANGE 14 WEST,  
SEWARD MERIDIAN

SITUATED  
SOUTHERLY OF THE STERLING HIGHWAY  
AT THE COMMUNITY OF NINILCHIK

WITHIN  
TOWNSHIP 1 SOUTH, RANGE 14 WEST  
SEWARD MERIDIAN, ALASKA

THE  
GEOGRAPHIC POSITION OF  
CORNER NO. 2, TRACT A, U.S. SURVEY NO. 3036 A & B  
(THE BOUNDARIES AND SUBDIVISION, RESPECTIVELY, OF  
THE TOWNSITE OF NINILCHIK), IDENTICAL WITH THE  
CENTER-EAST 1/16 SECTION CORNER OF SECTION 34  
TOWNSHIP 1 SOUTH, RANGE 14 WEST, SEWARD MERIDIAN  
IS:

LATITUDE: 60°02'48.860" NORTH  
LONGITUDE: 151°39'35.417" WEST  
NAD 83

SURVEYED BY  
CHRISTOPHER D. WILTA, CADASTRAL SURVEYOR  
JUNE 24 THROUGH JUNE 30, 2012  
UNDER SUPPLEMENTAL SPECIAL INSTRUCTIONS  
DATED MAY 8, 2012  
APPROVED MAY 10, 2012

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Anchorage, Alaska

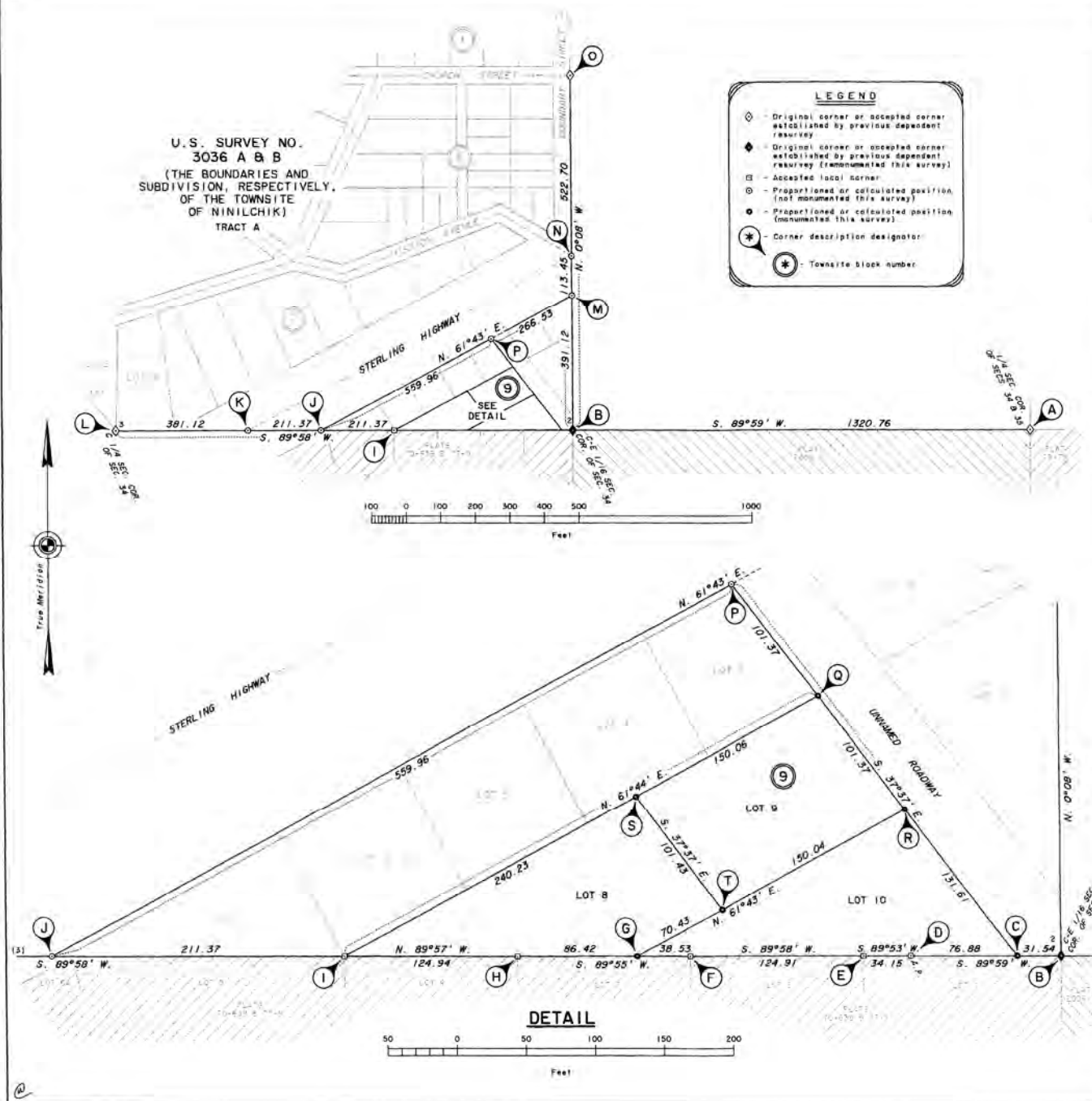
This plot is strictly conformable to the approved  
field notes, and the survey, having been correctly  
executed in accordance with the requirements of  
law and the regulations of this Bureau, is hereby  
accepted.

For the Director  
*Michael J. Allen* JUNE 7, 2013  
Date  
Chief Cadastrol Surveyor for Alaska

U.S. SURVEY NO.  
3036 A & B  
(THE BOUNDARIES AND  
SUBDIVISION, RESPECTIVELY,  
OF THE TOWNSITE  
OF NINILCHIK)  
TRACT A

**LEGEND**

- ◊ Original corner or accepted corner established by previous dependent resurvey
- ◆ Original corner or accepted corner established by previous dependent resurvey (monumented this survey)
- Accepted local corner
- Proportioned or calculated position (not monumented this survey)
- Proportioned or calculated position (monumented this survey)
- \* Corner description designator
- ⑨ Townsite block number



## Hindman, Julie

---

**From:** Planning Dept,  
**Sent:** Thursday, December 8, 2022 8:12 AM  
**To:** Quainton, Madeleine; Hindman, Julie  
**Subject:** FW: <EXTERNAL-SENDER>2022-172v

-----Original Message-----

From: Elaine Halloran <ekchalloran@gmail.com>  
Sent: Wednesday, December 7, 2022 5:08 PM  
To: Planning Dept, <planning@kpb.us>  
Subject: <EXTERNAL-SENDER>2022-172v

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

My name is Elaine Kay Cooper Halloran. I am a joint owner (listed as Elaine Cooper Williamson) on the property adjacent to the requested vacation of easement.

While I do not have any strong objection to the proposed vacation I would like to propose that the easement be totally vacated and split between the two adjacent properties. I do not recall this easement ever being used for public access. It is not maintained and would cause undue trespass on the two adjacent properties.

Sincerely  
Elaine KC Halloran  
907.240.0248

Sent from my iPhone



## **E. NEW BUSINESS**

3. Ordinance 2022-XX: Authorizing a subsurface oil & gas lease at twelve & one-half percent (12.50%) royalty to Hilcorp Alaska, LLC, in the Ninilchik Unit under Township 03 South, Range 14 West, Seward Meridian, Section 30, in the North 2/5 of Govt Lot 1 Lying East of the Sterling Highway Right-Of-Way.

# Kenai Peninsula Borough

## Land Management Division

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### MEMORANDUM

**TO:** Brent Johnson, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** Mike Navarre, Mayor *MN*  
Brandi Harbaugh, Finance Director *BH*  
Robert Ruffner, Planning Director *RR*  
Jon Marsh, WESA Fire Chief *JM*  
Marcus Mueller, Land Management Officer *mam*

**FROM:** Julie Denison, Land Management Technician *JD*

**DATE:** December 1, 2022

**RE:** Ordinance 2022-\_\_\_\_, Authorizing a Subsurface Oil and Gas Lease to Hilcorp Alaska, LLC, in the Ninilchik Unit (Mayor)

---

The Kenai Peninsula Borough (the "Borough" or "KPB") owns the surface and mineral estate in the North 2/5 of Govt Lot 1 lying east of the Sterling Highway right-of-way in Anchor Point. The property (KPB Parcel Number 159-200-02) was purchased jointly with Land Trust Fund and Anchor Point Fire & Emergency Medical Service Area ("APFEMSA") funding. In 2020, APFEMSA expanded services into Ninilchik and reorganized as the Western Emergency Service Area ("WESA").

Hilcorp Alaska, LLC ("Hilcorp") currently has oil and gas leaseholds of surrounding parcels and is working on production plans. Hilcorp seeks an oil and gas lease from the Borough, which has been negotiated consistent with KPB 17.10.100(J). The negotiated royalty rate is 12.50 percent (12.50%). Thirteen percent of the total lease royalty on production payments and other payments under the lease will be distributed to WESA. The remainder, equivalent to eighty-seven percent, of the total royalty on production payments and other payments under the lease will be distributed to the Land Trust Fund and provide an important revenue stream to the Land Trust Fund.

Pursuant to KPB 17.10.100(J), no surface uses are allowed under this proposed lease.

The WESA board will consider the Ordinance at its meeting to be held December 14, 2022. The Anchor Point Advisory Planning Commission will consider the Ordinance at its meeting to be held December 8, 2022. The Borough Planning Commission will consider the Ordinance at its meeting on December 12, 2022.

Your consideration is appreciated.

Introduced by:	Mayor
Date:	12/13/22
Hearing:	01/03/23
Action:	
Vote:	

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-XX**

**AN ORDINANCE AUTHORIZING A SUBSURFACE OIL AND GAS LEASE TO  
HILCORP ALASKA, LLC, IN THE NINILCHIK UNIT**

- WHEREAS,** the Kenai Peninsula Borough (“Borough”) owns the surface and mineral estate in the 7.49-acre parcel described as: Township 03 South, Range 14 West, Seward Meridian, Section 30, the north 2/5 of Govt Lot 1 lying east of the Sterling Highway right-of-way, containing 7.49 acres more or less; and
- WHEREAS,** said Govt Lot 1 was purchased jointly by the Land Trust Fund and the Anchor Point Fire & Emergency Medical Service Area (“APFEMSA”) pursuant to Borough Ordinance 2015-19-05; and
- WHEREAS,** in 2020, APFEMSA reorganized as the Western Emergency Service Area (“WESA”); and
- WHEREAS,** the negotiated lease royalty on production rate is 12.50 percent (12.50%); and
- WHEREAS,** 13.0 percent (13%) of the total royalties received on production will be distributed as revenue to WESA, then the remaining royalties on production will be distributed to the Land Trust Fund; and
- WHEREAS,** in addition, the lease includes a 5-year renewal option in the amount of \$224.70, 13.0 percent (13%) of which will be distributed as WESA revenue with the remainder distributed to the Land Trust Fund; and
- WHEREAS,** Hilcorp Alaska, LLC (“Hilcorp”) currently has an oil and gas leasehold for 2,100 subsurface acres of adjoining and surrounding parcels comprising the Ninilchik Unit; and
- WHEREAS,** Hilcorp has already developed the off-site infrastructure necessary to extract natural gas from said lands; and
- WHEREAS,** the Borough and Hilcorp have negotiated a lease on said land for subsurface oil and gas extraction operations; and
- WHEREAS,** WESA at its regularly scheduled meeting of December 14, 2022, recommended \_\_\_\_\_; and



**WHEREAS,** the Anchor Point Advisory Planning Commission at its regularly scheduled meeting of December 8, 2022, recommended \_\_\_\_\_; and

**WHEREAS,** the Borough Planning Commission at its regularly scheduled meeting of December 12, 2022 recommended \_\_\_\_\_;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That the Assembly finds that granting a subsurface oil and gas lease to Hilcorp Alaska, LLC under Township 03 South, Range 14 West, Seward Meridian, Section 30 in the North 2/5 of Govt Lot 1 lying east of the Sterling Highway right-of-way, containing 7.49 acres more or less, pursuant to KPB 17.10.100(J), is in the best interests of the Borough.

**SECTION 2.** That this oil and gas lease provides no surface use pursuant to KPB 17.10.100(J) and is therefore excluded from the other provisions of KPB 17.10.

**SECTION 3.** That based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(J) to lease the oil and gas interests described in Section 1 to Hilcorp at the rate of 12.50 percent (12.5%) royalties on production paid to the Borough for a primary term of 5-years, with a 5-year option to extend the lease term. The authorization is for lease solely to Hilcorp, and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity. Once entered, the lease may be assigned or subleased pursuant to the terms of the lease agreement.

**SECTION 4.** The mayor is authorized to sign any documents necessary to effectuate this ordinance.

**SECTION 5.** Hilcorp must execute a lease document substantially similar to the attached lease within 180-days of the effective date of this ordinance.

**SECTION 6.** That 13.0 percent (13%) of the total lease royalty on production payments and other payments under the lease will be distributed to WESA. The remainder, equivalent to 87.0 percent (87%) of the total royalty on production payments and other payments under the lease, will be distributed to the Land Trust Fund.

**SECTION 7.** That this ordinance shall take effect immediately upon enactment

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \* DAY OF \* 2023.**

---

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC, Acting Borough Clerk

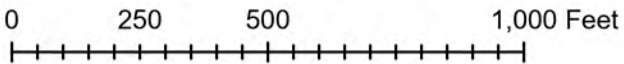
Yes:

No:

Absent:



SUBSURFACE LEASE WITH HILCORP ALASKA, LLC





**OIL AND GAS LEASE**  
**Paid-Up**

This Oil and Gas Lease ("Agreement") is made as of \_\_\_\_\_ day of \_\_\_\_\_, 2022, ("Effective Date") by and between **Kenai Peninsula Borough**, ("Lessor"), whose address is 144 N. Binkley St., Soldotna, AK 99669, and Hilcorp Alaska, LLC ("Lessee"), a Delaware limited liability company with offices located at 3800 Centerpoint Drive, Suite 1400, Anchorage, Alaska 99503.

**1. GRANT.**

For and in consideration of the sum of Ten Dollars (\$10.00), and other valuable consideration, receipt of which is hereby acknowledged, and of the covenants and agreements herein contained, Lessor does hereby grant, demise, lease, and let unto Lessee the lands described in Exhibit "A", with the exclusive rights of conducting geological, geophysical, and other exploratory work for oil, gas, and associated substances, and for exploring, investigating, prospecting, marketing, drilling and operating wells (including directionally drilled wells) for producing and marketing oil, gas, and associated substances, producing, owning, saving, storing, taking care of, venting, treating and transporting oil, gas, and associated substances therein, drilling and using wells for secondary and tertiary recovery methods, storing oil, gas, and associated substances on or below the surface, and, together with the non-exclusive rights to lay pipe, telephone and power lines, build and maintain roads and equipment, construct power stations, tanks and other facilities and structures, the right to remove all of said oil, gas, and associated substances, or water, or either of them, and the free and uninterrupted right and right-of-way into, through and under the said land at such points and in such manner as may be convenient or necessary for the purpose of conducting all said oil, gas, and associated substances operations on behalf of the lease, pool, or unit.

The premises leased hereby being that tract of land with any reversionary rights therein situated in the KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, STATE OF ALASKA. *See attached Exhibit "A"*

**2. TERM.**

**2.1 Primary Term.** Subject to the other provision herein contained, this lease shall be for a term of FIVE (5) years from the effective date and as long thereafter as oil or gas and associated substances is produced in paying quantities from the Leased Premises hereunder, or lands pooled or unitized herewith, or drilling or reworking operations for oil, gas, and associated substances, are conducted thereon as hereinafter provided ("Extended Term"), or Lessee makes shut-in royalty payments.

**2.2 Extension of Primary Term.** Lessee shall have the option, but not the obligation to extend the primary term of this lease for an additional FIVE (5) year period

from the expiration of the original primary term. This option may be exercised at any time prior to the end of the primary term by written notice to Lessor, which notice must be accompanied by a certified check or cashier's check in an amount equal to THIRTY dollars (\$30.00) per net mineral acre times the number of acres then comprising the leased premises or such portion of the leased premises designated by Lessee in said notice. Said option may be exercised on the entirety of the leased premises or such portion thereof. Should this option be exercised as herein provided, it shall be considered for all purposes as though this Lease, limited to the portion of the Leased Premises covered by Lessee's notice and payment, provided for a Primary Term of TEN (10) years.

### **3. ROYALTY ON PRODUCTION.**

**3.1 Royalty Rate.** Except for oil, gas, and associated substances used on the Leased Premises for exploration, development and production, or unavoidably lost, the Lessee shall pay to the Lessor as a royalty Twelve and One-Half Percent (12.50%) in amount or value of the oil, gas, and associated substances saved, removed, or sold from the Leased Premises.

**3.2 Valuation.** For the purpose of computing royalties due under this lease, the value of royalty oil, gas, or associated substances shall be the highest of:

- (A) The field price received by the Lessee for the oil, gas, or associated substances;
- (B) The Lessee's posted price in the field or area for the oil, gas, or associated substances; or
- (C) The arithmetic average of the three highest posted prices in the same field or area for oil of like grade and gravity, gas of like kind and quality, or associated substances of like kind and quality at the time the oil, gas, or associated substances are sold or removed from the Leased Premises or pooled or unit area; if there are less than three prices posted, the arithmetic average will be calculated using the lesser number of prices posted in the field or area.

### **3.3 Field Price.**

- (A) If oil, gas, or associated substances are sold away from the Leased Premises or pooled or unit area, the term "field price" in subparagraph (A) above will be the cash value of all consideration received by the Lessee or other producer from the purchaser of the oil, gas, or associated substances, less the reasonable costs of transportation away from the Leased Premises or pooled or unit area to the point of sale.

(B) In the event the Lessee does not sell in an arms' length transaction the oil, gas, or associated substances, the term "field price" in subparagraphs (B) and (C) above will mean the value utilized by the Lessee to pay royalty to the State for similar dispositions from State leases in the same field or area, minus reasonable costs of transportation away from the Leased Premises or pooled or unit area to the point of sale or other disposition.

**3.4 Deductions.** In computing the royalty, Lessee may deduct the costs of heating, sweetening, gathering, transporting, dehydrating, compressing, extracting, processing, manufacturing or any other postproduction cost.

**3.5 Shut-In Royalties.** Should Lessee complete a well on the Leased Premises capable of producing in commercial quantities which is shut-in from a lack of market or otherwise, or gas is not being used or sold therefrom, then Lessee within one hundred twenty (120) days after the date on which said well is shut-in, shall pay Lessor the sum of two dollars (\$2.00) per acre and shall thereafter pay as shut-in royalty to Lessor annually the sum of two dollars (\$2.00) per acre until said well is placed on production. It is understood that this payment shall hold the entire Leased Premises.

**3.6 Gas Extraction.** In the event Lessee shall extract in a plant other hydrocarbons from the gas produced from the Leased Premises, Lessee shall pay Lessor as royalty Forty Percent (40%) of the Lessor's royalty share of the value, as hereinabove defined, of the other hydrocarbons credited to the Leased Premises from the gas so treated.

#### **4. SUCCESSORS AND ASSIGNS AND CHANGE OF OWNERSHIP.**

The rights and estate of any party hereto may be assigned from time to time in whole or in part and as to any mineral or horizon. All of the covenants, obligations, and considerations of this lease shall extend to and be binding upon the parties hereto, their heirs, successors, assigns and successive assigns. No change or division in ownership of said land, royalties, or other monies, or any part thereof, howsoever affected, shall increase the obligations or diminish the rights of the Lessee. Notwithstanding any other actual or constructive knowledge or notice thereof of or to Lessee, its successors or assigns, no change or division in ownership of the Leased Premises or of the royalties, or other monies, or the right to receive the same, howsoever affected, shall be binding upon the Lessee of this lease until forty-five (45) days after there has been furnished to such Lessee at his or its principal place of business by Lessor or Lessor's heirs, successors, or assigns, notice of such change or division, supported by either originals or duly certified copies of the instruments which have been properly filed for record and which evidence such change or division, and of such court records and proceedings, transcripts, or other documents as shall be necessary in the opinion of such Lessee to establish the validity of such change of division.



## **5. LESSER OR GREATER INTEREST PROVISION.**

If Lessor owns a lesser interest in the oil, gas, and associated substances underlying the Leased Premises than the entire undivided fee simple estate, then the rentals and royalties hereunder shall be paid to Lessor only in the proportion which Lessor's interest bears to the whole and undivided fee; however, if title to any interest in the Leased Premises should become owned by or revert to Lessor, or his heirs, devisees, executors, administrators or his or their successors in interest, this lease shall cover such interest or reversion. If the true acreage of the Leased Premises shall be found to be less than the number of acres above recited, the rental and royalty hereunder shall be reduced proportionately, and Lessor hereby releases Lessee from payment of rental or royalty upon any acreage in excess of the true acreage of the Leased Premises.

## **6. FORCE MAJEURE.**

**6.1 Extension of Term.** If any operation permitted or required hereunder, or the performance by Lessee of any covenant, agreement or requirements hereof is delayed or interrupted directly or indirectly by any past or future acts, orders, regulations or requirements of the Government of the United States or any state or other governmental body, or any agency, officer, representative or authority of any of them, or by the elements, fire, storm, flood, volcano eruptions and flows resulting therefrom or because of delay or inability to secure materials in the open market, acts of war or conditions attributable to war or on account of any other similar or dissimilar causes beyond the control of Lessee, the period of such delay or interruption shall not be counted against the Lessee, and the Primary Term and Extended Term of this lease shall automatically be extended so long as the cause or causes for such delays or interruptions continue and such extended term shall constitute and shall be considered for the purposes of this lease as a part of the primary term hereof.

**6.2 Damages.** The Lessee shall not be liable to Lessor in damages for failure to perform any operation permitted, or required hereunder or to comply with any covenant, agreement or requirement hereunder during the time Lessee is prevented by acts beyond its control from complying with such covenants, agreements or requirements, except for the payments provided herein and in Section 3 hereof.

## **7. DEFAULT AND TERMINATION RIGHTS.**

**7.1 Failure to Perform.** This lease shall be subject to all valid federal, state and local laws, orders, rules and regulations and shall never be forfeited or terminated for failure of Lessee to perform in whole or in part any of its expressed or implied covenants, conditions or obligations until it shall have been first finally judicially determined that such failure exists, and Lessee shall have been given a reasonable time after such final determination within which to comply with any such covenants, conditions or obligations and shall have failed to comply.

**7.2 Retention.** In the event Lessee's rights hereunder shall terminate or be forfeited for any cause, Lessee shall be entitled to designate and retain the following acreage around each well producing, being worked on, or drilling:

- (A) if drilling or producing units have not been established for the field in which such acreage is located by order of any State or Governmental Authority, Lessee shall have the right to designate and retain six hundred and forty (640) acres around each well producing oil, gas, and associated substances, each well being worked on, and each well drilling for oil, gas, and associated substances, each such tract to be in as nearly the form of a square as possible with the well in as near the center thereof as practicable.
- (B) If drilling or producing units have been established by order of any State or Governmental Authority, Lessee shall be entitled to retain around each well so much of the Leased Premises as is included under such order in the unit on which such well is located.

**7.3 Cessation and Recommencement of Operations.** In the event Lessee shall cease to conduct continuous operations on the Leased Premises, the rights of Lessee hereunder shall terminate and be forfeited upon 180 days' written notice by Lessor, unless Lessee shall have resumed diligent operations within such 180 days.

## **8. LESSEE USE OF PREMISES.**

**8.1 Roads.** Should Lessee utilize any roads owned by Lessor on the Leased Premises, Lessee shall utilize such roads in a prudent manner and so as not to interfere with Lessor's use thereof and Lessee shall, pay all costs of any improvements thereto for its usage, said improvements requiring Lessor's written consent, and Lessee shall maintain said roads in good condition during such usage.

**8.2 Damages and Repairs.** Lessee assumes for itself, its agents and invitees, the liability for prompt payment to Lessor for any and all damages to Lessor's property, equipment, timber, water-wells and other improvements located on the Leased Premises which may be caused by the operations of Lessee, its agents and invitees on said lands. Lessee will repair all damage to the surface of the Leased Premises caused by the operations of itself, its agents, and its invitees, and Lessee shall restore the Leased Premises to a condition as near as reasonably practicable to its former condition. Lessee shall make a good faith effort to comply with Lessor's written request to bury a pipeline to a specified depth if it determines same to be reasonable.

## **9. WARRANTY OF TITLE.**

**9.1 Warranty.** Lessor hereby warrants and agrees to defend the title to the Leased Premises described and agrees that the Lessee, at its option, may pay and discharge in whole or in part any taxes, mortgages, or other liens existing, levied, or assessed on or against the Leased Premises and, in event it exercises such option, it shall be subrogated to the rights of any holder or holders thereof and may reimburse itself by applying to the discharge of any such mortgage, tax or other lien, any royalty occurring hereunder. Lessor warrants specifically only such title to the oil, gas, and associated substances withdrawn from the Leased Premises as it may have, if any. Lessee's sole and exclusive remedy shall be for any monies, royalties or other things of value received by Lessor for or on account of such oil, gas, and associated substances the title to which shall have failed.

**9.2 Third Party Claims.** In the event oil, gas, and associated substances under the Leased Premises, or any part thereof, or any interest in such oil, gas and associated substances or in the royalties payable hereunder with respect thereto, is claimed by others, Lessee shall have the right to withhold without liability for interest thereon, payment of such royalties to the extent of such claim, or to deposit in escrow such royalties in a court of competent jurisdiction until final determination of such claim; provided, however, that Lessor shall have the right, in case of any such adverse claim and the withholding of such royalties, to payment of same to it upon furnishing a bond or other security satisfactory to Lessee as indemnity against such claim until finally determined.

## **10. TERMINATION PROVISIONS.**

At such time as this lease or any portion thereof expires or is terminated, for any reason whatsoever, Lessee agrees to furnish Lessor, within sixty (60) days of request, a Quitclaim Deed or Release covering this lease or any portion of the Leased Premises so affected in appropriate form and duly executed, in order that the Quitclaim Deed or Release may be placed on public record. Lessee shall have a reasonable period of time from the date of said Quitclaim Deed or Release to remove therefrom any property or fixtures placed by Lessee on abandoned land. Any property or fixtures of Lessee left on the abandoned land after the appropriate removal date has lapsed shall, at the option of Lessor, become Lessor's property and fixtures or be removed from said land at the direction of Lessor but at the sole expense of Lessee.

## **11. NOTICES.**

All notices necessary to be given under the terms of this agreement shall be directed as follows:

**Lessor:** Kenai Peninsula Borough  
144 N. Binkley St.



Soldotna, AK 99669

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**Lessee:** Hilcorp Alaska, LLC  
3800 Centerpoint Dr., Suite 1400  
Anchorage, AK 99503  
ATTN: Land Manager  
Telephone: (907) 777-8300 // Fax: (907) 777-8301

or to such other address as each party hereto may designate by written notice to the other party. Notice shall be deemed given when actually received by the party entitled to notice or five (5) business days after being sent by certified mail, "return receipt requested," to the last known address of the party entitled to notice.

## **12. POOLING.**

Lessee at its option may pool or combine separate oil, gas, and associated substances in any part or parts of the Leased Premises with other leased lands to form a drilling unit, provided that there be no more than six hundred and forty (640) acres for such combined area, plus a tolerance of 10% thereof, and on each of such unit or units a well (or wells) has been or may be drilled. Notwithstanding anything to the contrary contained in this lease, the commencement of operations for the drilling of a well on any such drilling unit shall have the same force and effect in all respects as the commencement of operations for the drilling of a well on the Leased Premises hereby leased; and drilling or reworking operations conducted on any drilling unit or production of oil, gas, and associated substances anywhere from such drilling unit shall have the same force and effect as drilling or reworking operations conducted on or production obtained from the Leased Premises as to the extension of the term of this lease; provided, however, that in lieu of the royalties elsewhere herein specified, Lessor shall receive from production so pooled such portion of the royalties stipulated herein as the number of acres of the Leased Premises included in such unit bears to the total number of acres in such unit; provided, however, no reduction of shut-in royalties shall be made under this provision.

## **13. UNITIZATION.**

**13.1 Unitization.** The Lessee may unitize with others, jointly or separately, in collectively adopting and operating under a cooperative or unit agreement for the exploration, development, or operation of the pool, field, or like area or part of the pool, field, or like area that includes or underlies the Leased Premises or any part of the Leased Premises.

**13.2 Alteration of Lease Terms.** With the consent of the Lessee, and if the Leased Premises is committed to an approved unit agreement, the Lessor herein agrees that the state may establish, alter, change, or revoke drilling, producing, and

royalty requirements of this lease as the state determines necessary or proper. This lease will be extended automatically if all or part of the Leased Premises is committed to an approved unit agreement and will remain in effect for so long as all or part of the Leased Premises remains committed to that unit agreement.

#### **14. OFFSET WELLS.**

The Lessee shall drill such wells as a reasonable and prudent operator would drill to protect the Leased Premises from loss by reason of drainage resulting from production on other land. Without limiting the generality of the foregoing sentence, if oil or gas is produced in a well on land other than the Leased Premises, and that well is within 500 feet in the case of an oil well or 1,500 feet in the case of a gas well of lands then subject to this lease, and that well produces oil or gas for a period of 30 consecutive days in quantities that would appear to a reasonable and prudent operator to be sufficient to recover ordinary costs of drilling, completing, and producing an additional well in the same geological structure at an offset location with a reasonable profit to the operator, and that production from that well is draining this Leased Premises, then the Lessee shall within 60 days begin in good faith and diligently prosecute drilling operations for an offset well on the Leased Premises.

#### **15. DEFINITIONS.**

The following words have the following meanings unless the context unavoidably requires otherwise:

“Associated Substances” means all substances produced as an incident of production of oil or gas by ordinary production methods and not defined in this lease as oil or gas;

“Drilling” means the act of boring a hole to reach a proposed bottom hole location through which oil or gas may be produced if encountered in paying quantities, and include redrilling, sidetracking, deepening, or other means necessary to reach the proposed bottom hole location, testing, logging, plugging, and other operations necessary and incidental to the actual boring of the hole;

“Gas” means all natural gas (except helium gas) and all other hydrocarbons produced that are not defined in this lease as oil, including gas produced from coal formations or seams;

“Oil” means crude petroleum oil and other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, including liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

“Paying Quantities” means quantities sufficient to yield a return in excess of out-of-pocket operating costs, even if drilling and equipment costs may never be repaid and the

undertaking considered as a whole may ultimately result in a loss; quantities are insufficient to yield a return in excess of out-of-pocket operating costs unless those quantities, not considering the costs of transportation and marketing, will produce sufficient revenue to induce a prudent operator to produce those quantities.

“Reworking Operations” means all operations designed to secure, restore, or improve production through some use of a hole previously drilled, including, but not limited to, mechanical or chemical treatment of any horizon, plugging back to test higher strata, etc.

#### 16. **BINDING AGREEMENT.**

This lease states the entire agreement between the parties, and no representation, promise, verbal or written, on behalf of either party shall be binding unless contained herein. This agreement shall be binding upon each of the parties who shall execute the same, regardless of whether or not all of the parties named as Lessor shall execute it. This agreement may be executed in counterpart form and all counterparts together shall be considered as one instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Oil and Gas Lease to be executed the day and year first hereinabove written.

**LESSOR(S)**

**LESSEE: HILCORP ALASKA, LLC**

**Signature:**

**Signature:**

**Name:** \_\_\_\_\_

**Name:** Luke Saugier

**Title:** \_\_\_\_\_

**Title:** Senior Vice President

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature:**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

*Acknowledgments on Following Pages*



## ACKNOWLEDGEMENT OF LESSOR(S)

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_.

Notary Public in and for the State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_.

Notary Public in and for the State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## ACKNOWLEDGEMENT OF LESSEE

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Luke Saugier, Senior Vice President of Hilcorp Alaska, LLC, a Delaware limited liability company, on behalf of the limited liability company.

Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"****OIL AND GAS LEASE**

THIS OIL AND GAS LEASE made as of \_\_\_\_ day of \_\_\_\_\_, 2022, by and between **Kenai Peninsula Borough**, hereinafter called "Lessor", and Hilcorp Alaska, LLC, hereinafter called "Lessee".

**LEGAL DESCRIPTION**

Township 3 South, Range 14 West, Seward Meridian, Alaska

Section 30: THE NORTH 2/5 OF GOVT LOT 1 LYING EAST OF STERLING HWY

Containing 7.49 acres, more or less.

## MEMORANDUM OF OIL AND GAS LEASE

This Memorandum of Oil and Gas Lease ("Memorandum") is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022, pursuant to AS 40.17.120 and to the terms of that certain Oil and Gas Lease ("Lease") between the Parties.

### 1. Names and Addresses of the Parties:

Lessor: **Kenai Peninsula Borough**, whose address is 144 N. Binkley St., Soldotna, AK 99669.

Lessee: **Hilcorp Alaska, LLC**, whose address is 3800 Centerpoint Drive, Suite 1400, Anchorage, AK 99503.

### 2. Effective Date of the Lease: \_\_\_\_\_, 2022.

### 3. Description of the Real Property Leased ("Leased Premises"): See Exhibit A, attached hereto.

### 4. Rights Granted in the Lease: Lessor does grant, demise, lease, and let unto Lessee, and Lessee does hereby lease from Lessor, for the sum of Ten Dollars (\$10.00), and other good and valuable consideration for the Lease covering the Leased Premises, for the purposes of conducting oil and gas operations as provided in the Lease.

### 5. Term of the Lease: The primary term of the Lease commences the Effective Date of the Lease and expires after a primary term of five (5) years, unless extended as provided in the Lease.

### 6. Extension of Lease Term: The term of the lease may be automatically extended pursuant to the terms of the Lease upon the following conditions, all as further described in the Lease: (a) Production of hydrocarbons in paying quantities from the Leased Premises or a portion thereof; (b) Unitization or pooling of the Leased Premises or a portion thereof; (c) Drilling or reworking operations for hydrocarbons on any part of the Leased Premises; (d) Payment by Lessee of shut-in royalty payments; (e) Force Majeure as defined in the Lease; and (f) the Lessee exercises its option to extend the Lease for an additional FIVE (5) years.

### 7. Approval and Consent to Join a Pool or Unit Agreement: Lessor approves consents and allows the Lessee to pool or combine separate oil, gas, and associated substances in any part or parts of the Leased Premises with other leased lands to form a drilling unit, and/or to unitize with others, jointly or separately, in collectively adopting and operating under a cooperative or unit agreement, without further approval from Lessor.



All the terms, conditions, provisions, and covenants of the Lease are incorporated in this Memorandum by reference. In the event of any inconsistency between the provisions of this Memorandum and those of the Lease, the provisions of the Lease shall control.

IN WITNESS WHEREOF, the Parties have caused this Memorandum to be executed the day and year first herein above written.

**LESSOR(S)**

**LESSEE: HILCORP ALASKA, LLC**

**Signature:**

\_\_\_\_\_

By: \_\_\_\_\_

**Name:** \_\_\_\_\_

**Name:** Luke Saugier

**Title:** \_\_\_\_\_

**Title:** Senior Vice President

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature:**

\_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

*Acknowledgments on Following Pages*

**ACKNOWLEDGEMENT OF LESSOR**

STATE OF \_\_\_\_\_ )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
 2022, by \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public in and for the State of \_\_\_\_\_  
 My commission expires: \_\_\_\_\_

**ACKNOWLEDGEMENT OF LESSEE**

STATE OF ALASKA )  
 ) ss.  
 THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
 2022, by Luke Saugier, Senior Vice President of Hilcorp Alaska, LLC, a Delaware limited  
 liability company, on behalf of the limited liability company.

\_\_\_\_\_  
 Notary Public in and for Alaska  
 My Commission Expires: \_\_\_\_\_

(continued on next page)

**EXHIBIT A  
MEMORANDUM OF OIL AND GAS LEASE**

**Description of the Real Property Leased ("Leased Premises")**

THIS MEMORANDUM OF OIL AND GAS LEASE made as of \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between **Kenai Peninsula Borough**, hereinafter called "Lessor", and Hilcorp Alaska, LLC, hereinafter called "Lessee".

**LEGAL DESCRIPTION**

Township 3 South, Range 14 West, Seward Meridian, Alaska

Section 30: THE NORTH 2/5 OF GOVT LOT 1 LYING EAST OF STERLING HWY

Containing 7.49 acres, more or less.

**Record in the Homer Recording District**

**After Recording Return To:**

Hilcorp Alaska, LLC  
3800 Centerpoint Drive, Suite 1400  
Anchorage, Alaska 99503  
Attn: Land Manager

Memorandum of Oil and Gas Lease

4



# **MISC. INFORMATION**

**COOPER LANDING ADVISORY PLANNING COMMISSION  
REGULAR MEETING  
LOCATION: COMMUNITY HALL AND ZOOM TELECONFERENCE  
WEDNESDAY, DECEMBER 07, 2022  
6:00 PM  
UNAPPROVED MINUTES**

1. CALL TO ORDER – 6:00pm
2. ROLL CALL – J. Cadieux, C. Degernes, Y. Galbraith, L. Johnson, K. Recken, H. Harrison, D. Story present
  - a. Agency and Organization Attendees: Tim Weekly - KPB Office of Emergency Management; Nicki Schmitt, John Morton - Alaska Wildlife Alliance; Ruth D'Amico, Heather Thamm - USFS; Patrick Cotter, Megan Flory - RESPEC; Morgan Aldridge - KPB APC Liaison; Alvin Talbert, Jonathan Tymick - AK DOT&PF; Alice Rademacher, HDR;
  - b. Members of the Public: Phil Weber, Heather Pearson, Rhonda Rogalski, Weston
  - c. Election of officers – C. Degernes moves to retain officers. Y. Galbraith seconds, all approve by roll call vote.
3. APPROVAL OF AGENDA – L. Johnson moves to approve the agenda with addition of reference to BOG Proposal 145 in the Alaska Wildlife Alliance presentation. Y. Galbraith seconds. All approve by roll call vote.
4. APPROVAL OF MINUTES for October 05, 2022 – H. Harrison moves to approve the minutes as written. K. Recken seconds. All approve by roll call vote.
5. CORRESPONDENCE – none.
6. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE – none.
7. REPORT FROM BOROUGH
  - a. Introduction of Morgan Aldridge, KPB Planner and Habitat Specialist, new CLAPC liaison to the KPB Planning Department.
    - i. M. Aldridge said Nancy Carver is retiring soon and M. Aldridge will be stepping into the liaison role. She explained she has lived and worked in the area for a long time including duties for the KPB regarding area habitat concerns and looks forward to working with the community.
  - b. DOT&PF Sterling Hwy MP 45-60 Project report and questions/answers. Jonathan Tymick, PE, Project Manager, AKDOT&PF.
    - i. Signed agreements with all the land owners in Phase 1B.
    - ii. Permits for erosion repair in MP 57-58.
    - iii. Tracking expiration dates of permits.

- iv. Crossed the threshold for FHA major project which includes additional considerations for subsequent activities.
- v. Project will need to reroute Bean Creek and they are hoping the intricate trail systems will be staked next summer so folk can see it on the ground and make comment.
- vi. Meeting with snowmachine club soon to discuss winter access and parking.
- vii. Non-Sterling Highway MP 45-60 DOT project info:
  - 1. Quartz Creek Bridge replacement project has been awarded to Tutka LLC. The project will follow an aggressive timeline to fit between migratory bird and spawning salmon seasons and meet an anticipated completion date at the end of 2023.
    - a. J. Cadieux asked how the bridge design will accommodate bike/ped traffic.
    - b. J. Tymick said it may not fully accommodate that traffic but that he will send over the cross-section design. [See supporting documents.]
  - 2. There is a Sterling Y project coming up [at the junction with the Seward Highway] that will restructure the intersection as an interchange so no traffic has to stop.
- viii. Lodging in Cooper Landing is becoming a concern. They have disallowed use of travel trailers thus far but may need to have a “man camp” with trailers in the future. Including the KPB in determining solutions.
- c. Unit 395 update with Patrick Cotter, RESPEC
  - i. Updated the project website.
  - ii. Heard a lot of comments regarding desire to focus on recreation rather than housing.
    - 1. There is an effort to look for alternative parcels that might allow for housing focus.
      - a. J. Cadieux asked for any updated info on ordinance from the KPB that would allow for affordable housing.
        - i. P. Cotter said he does not have any info on that yet but that the group looking at the housing part of the project is reviewing the housing survey.
        - ii. He said that Information Insights, the Alaska Municipal League, and the KPB are all involved in an effort to determine language that may be used in affordable housing ordinances throughout the state.
    - 2. Geotechnical report is buttoned up and sent off to KPB.
    - 3. P. Cotter said that the KPB met with the State Historical Preservation Office (SHPO) and the project is remaining sensitive to cultural resources that may exist on the project lands.



- a. Lorraine Temple asked for a review on what they have found archeologically on the project and asked for him to expand on that.
      - i. P. Cotter said that three quarters of 395 falls within the Squilantnu Archeological District. The project has been seeking information from the DOT since much of the area was studied as a part of the MP 45-60 project. They will be including the DOT, SHPO, and Kenaitze Indian Tribe in survey of this area.
  - d. Tim Weekly, Program Manager at Office of Emergency Management.
    - i. Here to introduce himself and share that the OEM will be working with Chief Dan Osborn and CLES to survey the parcels in Cooper Landing for wildfire risk assessment including the urban/wildlands interface.
- 8. OLD BUSINESS – none.
- 9. NEW BUSINESS
  - a. CLAPC proposed budget will be needed soon. Discussion of needs.
    - i. K. Recken said she would like to see an improvement in the microphone or related technologies for these meeting services.
    - ii. D. Story said the existing system is homespun due to its simplicity and because it does not cost. He said that other systems are generally more expensive or more complicated or both and are outside of his expertise.
    - iii. Y. Galbraith said CLES and the Library may benefit from similar technologies. She said she will begin researching and bring this up to the CLCC board for the next agenda.
    - iv. H. Harrison said multiple agencies would benefit from an improved system.
    - v. M. Aldridge said that it is worth asking but that technological items are not generally approved by the KPB for APC budgets.
    - vi. K. Recken said that she will check with the Library grant writer to see about whether funding may be available through sources like the Rasmussen Foundation.
    - vii. Y. Galbraith moves to approve the budget as written with the addition of an open line for technology. C. Degernes seconds. All approve by roll call vote.

#### 10. PLAT REVIEW – none

#### 11. INFORMATION and ANNOUNCEMENTS

- a. John Morton, PhD Wildlife Ecology, Supervisory Biologist at KNWR retired, and Nicole Schmitt, Alaska Wildlife Alliance.
  - i. N. Schmitt said AK Wildlife Alliance is organized to give voice to wildlife. Works a lot in the Board of Game (BOG) arena since the

BOG makes a lot of decisions for the consumption of wildlife regarding seasons and methods and means.

- ii. She said Alaska Wildlife Alliance is seeking a letter of support for their Board of Game proposal (Proposal 145) from the CLAPC.
- iii. The proposal includes all specifically constructed wildlife crossings on the Sterling Highway MP 45-60 project where, when completed, will not be protected by regulations from harvest of wildlife. The Board of Game works on a three-year cycle. Kenai Peninsula is in this cycle and won't be considered again for three years. AK Wildlife Alliance hopes to get Proposal 145 approved before construction of MP 45-60 Project is complete so protections are ready and in place once it is ready for use.
- iv. J. Morton said that the Board of Game may not be the preferred method to enact these protections but is one method to do so.
- v. He said this was not an issue for the section of highway that has underpasses between Jim's Landing and Sterling because it is managed by the Kenai National Wildlife Refuge (KNWR) which meant these crossings inherited the protections already in place on KNWR lands.
  - 1. Aiming to amend the areas closed to hunting and trapping to include areas within ¼ mile of the crossings making it consistent with the other crossings that exist along the Sterling Highway on nearby KNWR lands.
  - 2. DOT is coming at this mostly to reduce wildlife collisions while AK Wildlife Alliance's focus is on the rest of the interactions.
- vi. N. Schmitt said the proposal is not to manage wildlife. It is to ensure that the multimillion-dollar crossings that are designed to safely funnel wildlife across the highway corridor can do just that. Without these protections it does the opposite.
- vii. She said, currently there are no setbacks in place from roads or crossings on state lands and that Board of Game Proposal 145 places protections for the Sterling Highway wildlife crossings.
- viii. J. Morton said that this is the least desirable of the three ways these protections can be put in place and described the three ways.
  - 1. MOU between USFS, USFWS, and DOT is being negotiated. This may not include these protections.
  - 2. United States Forest Service manages the land of most of these crossings [on the Sterling Highway MP 45-60 project] and has the capacity to do this on its own.
  - 3. DOT also has a mechanism to do so, State of Alaska agency to agency.
- ix. C. Degernes asked if it is too late to amend the proposal to include the two trails under the Juneau Creek Bridge.
  - 1. J. Morton said that part of the reason the bridge was not included is because they do not believe that those trails are mitigation for wildlife and so the proposal is written

narrowly to concentrate on those that are mitigation for wildlife.

2. Nikki said that the CL Safe Trails Committee also submitted BOG proposals for setbacks from trails including those mentioned and that individuals can also comment on any BOG proposals with amendments.
- x. J. Tymick said that wildlife will cross in many other locations too, including three upsized culverts. He said specific identifiers for those upsized culverts do not exist but the other locations may be referred to by their structure names.
  1. J. Morton said that the BOG pushes back on human used trails and so this proposal focuses on wildlife specific crossings.
- xi. N. Schmitt said amendments to the proposals are viable.
- xii. C. Degernes moves that the CLAPC support the BOG Proposal 145. L. Johnson seconds. All approve.
- xiii. C. Degernes moves to amend BOG Proposal 145 to include the additional locations/structures where likely wildlife passage will occur in the Sterling Highway MP 45-60 corridor including the following underpasses and upsized culverts:
  1. Slaughter Gulch
  2. Coyote Notch
  3. Resurrection Pass and Bean Creek Trails
  4. West Juneau Bench Road underpass in Unit 395
  5. MP 45-60 Project Upsized Culverts 1, 2, and 3 west of Juneau Creek Bridge.
- xiv. Y. Galbraith seconds. C. Degernes, Y. Galbraith, L. Johnson, K. Recken, D. Story, J. Cadieux approve. H. Harrison nay. Motion passes by roll call vote. J. Cadieux will write a letter to BOG indicating the results of these votes.
- xv. L. Temple mentioned that individual comments can be include on these BOG proposals.

## 12. COMMISSIONER'S COMMENTS

- a. C. Degernes thanked J. Cadieux, H. Harrison, and D. Story for continuing to serve in their officer roles.
- b. The first CLAPC meeting of 2023 will be on January 4<sup>th</sup>.

## 13. ADJOURNMENT – Y. Galbraith moves to adjourn. L. Johnson seconds. All approve. 7:35pm

For more information or to submit comments please contact:

David Story, Secretary Treasurer or Janette Cadieux, Chair, P.O. Box 694, Cooper Landing, 99572 [CooperLandingAPC@gmail.com](mailto:CooperLandingAPC@gmail.com)

Hope/Sunrise Advisory Planning Commission  
Meeting Approved Minutes  
7 P.M. October 5, 2022  
Hope Library and via Zoom

- A. The meeting was called to order at 7:00 P.M. by Jim Skogstad
- B Members present were Jessie Maguire, Derrick Jabaay, Jim Skogstad, Flip Foldager, Levi Hogan and Johnny Sorenson
- C. G. John Sorenson pledged the oath of office to defend both the U.S. and State Constitution while impartially performing his duties as a commission member.
- D. The agenda was approved.
- E. The minutes of September 14 were approved with a correction that the next meeting date was to be October 5 instead of published October 6.
- F. There was no public comment or presentation. Nancy Carver from the borough attended via Zoom.
- H. Report from the borough indicated the post card for community input will be pink and in the mail soon.
- I. Unfinished business: The survey will be mailed to each property owner in 99605 zip code. If two or more residents live at an address each person will be allowed to vote. If you have more than one property, you should only vote one time and not one vote for each property. It is on an honor system and can be turned in at the library or scanned from a phone. Jim Skogstad will mail the hard copies collected at the library to the borough to be entered into the data bank. The responses must be returned earlier than December 30, 2022. Renters or people who reside in Hope but do not own property will be able to pick up a survey and return the completed survey at the library.
- J. New business: The Commission will return to work on a community land use plan. The main necessary step is to summarize edits that have been submitted by commission members to be reviewed, discussed and then resolve differences before submitting to the community. No one on the committee has computer skills so Jesse Maguire volunteered to summarize the work. It is a big job and we thank her.
- K Results of the community survey will not be received until 2023 so earliest any community input could be included in any plan would be late spring of 2023.
- L. The next meeting will be November 9, 2022 at 7 P.M.
- M. The meeting was adjourned at 7:35 P.M.

Any questions, please contact: Chair Jim Skogstad at 907 229-1430 or email [akskogstad@aol.com](mailto:akskogstad@aol.com)



**MOOSE PASS ADVISORY PLANNING COMMISSION**  
**REGULAR MEETING**

Monica Adams, Jennifer Boyle, Kevin Dunham, Jeff Estes, Jeff Hetrick, Bruce Jaffa, David Pearson  
Thursday, November 10, 2022, – 6:00 PM

**APPROVED MINUTES**

1. CALL TO ORDER: 6:04pm
2. ROLL CALL: Bruce Jaffa, David Pearson, Jennifer Boyle, Monika Adam, Jeff Estes, Jeff Hetrick
3. APPROVAL OF MINUTES OF PREVIOUS MEETING October 06, Meeting: Postponed until next meeting.
4. APPROVAL OF AGENDA: Jeff Hetrick motion to approve, Jeff Estes 2<sup>nd</sup>. Unanimous approval.
5. ELECTION OF OFFICERS: Jeff Hetrick motion to retain existing officers, Jeff Estes 2<sup>nd</sup>. Unanimous approval.
6. CORRESPONDENCE
  - a. Cooper Landing Area 395: Jeff Hetrick contacted by Meghan Florey from RESPEC, the consulting firm hired by the borough to solicit community feedback regarding future management of unit 395. They are holding a public meeting in Cooper Landing on Nov 16 4:30-7:30 pm. Link to website: <https://www.unit395planning.com/>
7. PUBLIC COMMENT/PRESENTATION WITHOUT PREVIOUS NOTICE: None
8. PRESENTATION
  - a. ~~DNR/ Tukka LLC re Crown Point Rock Extraction~~—Bruce reached out to DNR to present on Crown Point Rock Quarry. They could not make it to the meeting tonight but said that the state had not yet received the complete application from Tukka (Still need to provide a blasting plan). Tukka will also need a DOT “crossing permit”. DOT Airport leasing division will also be very involved in the permitting process.
9. REPORT FROM THE BOROUGH: None
10. OLD BUSINESS
  - a. Survey Draft review. See attached PDF of latest version Survey draft. Would like to insert a question regarding the community management and the potential to be a second class city. The following link helps explain what that all means.  
[https://www.commerce.alaska.gov/web/Portals/4/pub/2015%20%20LOCAL%20GOVERNMENT%20IN%20ALASKA.pdf?TSPD\\_101\\_R0=0890181cafab2000fe63f4dfd246914996bfb424d39629313e62aefd867990da0521c158bd52e86f082eb0699414300094ef35b418b91e8cccd6c6bef5136515c5c3ab1b8339e9087135e68d764c3d56bc493f0524765d3f745941104a528934](https://www.commerce.alaska.gov/web/Portals/4/pub/2015%20%20LOCAL%20GOVERNMENT%20IN%20ALASKA.pdf?TSPD_101_R0=0890181cafab2000fe63f4dfd246914996bfb424d39629313e62aefd867990da0521c158bd52e86f082eb0699414300094ef35b418b91e8cccd6c6bef5136515c5c3ab1b8339e9087135e68d764c3d56bc493f0524765d3f745941104a528934)
11. NEW BUSINESS
  - a. Schedule to print and distribute Survey. Not ready to determine this yet.
12. ANNOUNCEMENTS: Jeff Hetrick mentioned consulting with the Sportsman’s Club regarding the survey and the updates to the comprehensive plan. This should get brought to the Sportsman’s club meeting next week. If we aim to roll out the survey by Jan/Feb the Sportsman’s club can schedule their next meeting to address the survey.  
-Monika Adam provided Bruce Jaffa with contact info for Moose Pass Base Camp LLC. Bruce will

attempt to contact them to have them join us at a future meeting.

13. NEXT MEETING December 8th, 2022
14. COMMISSIONERS' COMMENTS: None
15. ADJOURNMENT: 7:41 pm

pt/planning-commissions/moose-pass-apc

Participants may join By ZOOM or phone:

<https://us06web.zoom.us/j/5787372110>

To Attend the Zoom meeting by telephone,  
call toll-free **888 788 0099** or **877 853 5247**  
**Meeting ID: 578 737 2110**

**NIKISKI ADVISORY PLANNING COMMISSION REGULAR MEETING  
THURSDAY DECEMBER 1, 2022  
6:00 PM  
LOCATION: NORTH PENINSULA REC CENTER  
UNAPPROVED MINUTES**

1. PUBLIC COMMENT/PRESENTATION
  - a. Alaska Gasline Development Corp. Update
2. ROLL CALL
  - a. Patricia Williams, Jason Ross, Karen McGahan, Kelly Brewer, Lenora Niesen, Michael Peek in attendance
  - b. Robert Ruffner, Samantha Lopez, Morgan Aldridge and Ryan Raidmae from the KPB in attendance
3. OATHS OF OFFICE
  - a. Ryan Raidmae gave the oath of office to Jason Ross, Karen McGahan, Kelly Brewer, Lenora Niesen, Michael Peek
4. CALL TO ORDER – Call to order at 7:25pm
5. ELECTION OF OFFICERS
  - a. Chairman – Jason Ross by unanimous consent
  - b. Vice Chair – Lenora Niesen by unanimous consent
  - c. Secretary – Karen McGahan by unanimous consent
6. APPROVAL OF AGENDA - As shown
7. APPROVAL OF MINUTES - None
8. REPORT FROM BOROUGH – None
9. OLD BUSINESS - None
10. NEW BUSINESS - None
11. PLAT REVIEW - None
12. INFORMATION and ANNOUNCEMENTS
  - a. NEXT REGULAR MEETING: Thursday January 5, 2023 at 5:30 PM
    - i. APC Training from KPB
  - b. 2023 MEETING CALENDAR
13. COMMISSIONER COMMENTS - None
14. ADJOURNMENT – Meeting Adjourned at 8:15pm