



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 20-050

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: APRIL 21, 2020

SUBJECT: VACATION OF A 33' SECTION LINE EASEMENT LOCATED WITH LOT 6A-1 VIRGINIA LYNN 2006 REPLAT (PLAT HM 2006-20) AND AS DEDICATED ON 6A-1 VIRGINIA LYNN 2006 REPLAT (PLAT HM 2006-20).

At their April 13, 2020 meeting, the Kenai Peninsula Borough Planning Commission approved the vacation of a 33' Section Line Easement located within Lot 6a-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW ½ of Section 16 Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2, Petitioner Virginia Tornes of Homer, Alaska.

Per AS 29.40.140, no vacation of a City right-of-way and/or easement may be made without the consent of the City Council.

The City Council has thirty days from April 13, 2020 in which to veto the decision of the Kenai Peninsula Borough Planning Commission.

The Homer Planning Commission forwarded a recommendation for approval regarding this vacation as reflected in the December 18, 2019 Notice of Action and minutes from the December 4, 2019 regular meeting.

RECOMMENDATION:

Voice non objection and consent to the vacation of a 33' Section Line Easement located within Lot 6a-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW ½ of Section 16 Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2.



Planning Department

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

Charlie Pierce
Borough Mayor

April 16, 2020

Homer City Council
491 East Pioneer Avenue
Homer, AK 99603-7645

RE: This plat vacates a 33' Section Line Easement located within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW1/4 of Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2 Petitioner: Virginia F Tornes of Homer, Alaska.

Dear Homer City Council Members:

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The KPB Planning Commission approved the referenced section line easement vacation during their regularly scheduled meeting of April 13, 2020. This petition is being sent to you for your consideration and action.

The City Council has 30 days from April 13, 2020 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Planning Commission will stand.

Attached are draft, unapproved minutes of the pertinent portion of the meeting and other related material.

Sincerely,

Max J. Best
Planning Director

MJB:jah

Attachments

F. PUBLIC HEARINGS

- 2. Section line easement vacation
KPB File 2020-021V2
Petitioners: Virginia F Tornes of
Homer, AK**

AGENDA ITEM F. PUBLIC HEARINGS

2. This plat vacates a 33' Section Line Easement located within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW1/4 of Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2

STAFF REPORT

PC Meeting: 4/13/2020

Purpose as stated in petition: The area of requested Section Line Easement Vacation is on lot 6A-1, Virginia Lynn 2006 Replat (Plat HM 2006-20). The Section Line Easement has been vacated from adjacent lots and a portion of the subject lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) by previous Section Line Easement Vacation Plat No.'s HM 2008-9 and HM 85-109. We are requesting to vacate the entire remaining Section Line Easement within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The subject Section Line Easement is not used for any access nor has it been used as an access. The house encroaches 14.3' and the deck encroaches 12.9' into the Section Line Easement, which will be vacated and finalized by Section Line Easement Vacation Plat associated with Virginia Lynn 2006 Replat, KPB 2020-021V2. .

Petitioners: Virginia F. Tornes of Homer, AK

Notification: Public notice appeared in the March 12 issue of the Homer News as a separate ad. The public hearing notice was published in the March 19 issue of the Homer News as part of the Commission's tentative agenda.

21 certified mailings were sent to owners of property within 300 feet of the proposed vacation. 16 receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 42 owners within 600 feet of the proposed vacation.

19 public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to 6 KPB staff/Departments via a shared database.

Notices were mailed to the Homer Post Office and Homer Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comment, recommendations or objections.

KPB Addressing: Any address changes will be updated by the City of Homer.

KPB Planning: No material site or local option zone issues. A review is not required for property inside city limits.

KPB River Center: Within City of Homer.

KPB Roads Department: Out of jurisdiction, no comments.

Homer Advisory Planning Commission: Recommend to adopt the Homer City staff report and recommend approval of the preliminary plat to vacate the section line easement across Lot 6A-1 Virginia Lynn 2006 Replat.

State Parks: No comments.

Staff Discussion:

The petition submitted is requesting to vacate a remaining portion of 33 foot wide section line easement lying wholly within Lot 6A-1, Virginia Lynn 2006 Replat 2006-20 HRD. Lot 6A-1 fronts on City maintained and dedicated Mattox Road. The portion of section line easement to be vacated is no longer than 64 feet in length. The entire section line easement to the west has been vacated per plat 85-109 HRD and 2008-9 HRD, but a small portion remained.

Staff is not sure why this small section of section line easement was not vacated previously, but maybe the owner of Lot 6A-1 did not participate at the time the other section line easement was petitioned for vacation.

This portion of section line easement does not provide an access to public lands, is not part of a continuous access, and is not used by the public for access.

If approved, a section line easement vacation (SLEV) plat associated with Lot 6A-1 Virginia Lynn 2006 Replat will finalize the proposed right of way vacations. The SLEV Plat has not been submitted at the time the staff report was prepared.

KPB 20.70 – Vacation Requirements.

Platting staff comments: *Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:*

D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

Platting Staff Comments: The proposed vacation was reviewed and approved by the Homer Advisory Planning Commission at the meeting of December 4, 2019.

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, 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 in KPB 20.70.110.

Platting Staff Comments: A Section Line Easement Vacation plat has not been submitted at this time.

Staff recommendation: *Submit a Section Line Easement Vacation Plat for KPB review as well as submittal to AK DNR survey section.*

20.70.160. Partial vacation allowed. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

Platting Staff Comments: The proposed vacation will complete the vacation of the entire section line easement between Mattox Road and Pennock Street.

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: The public is not using this portion of SLE for vehicular access as it does not provide access to public lands or a continuing right of way.

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

Platting Staff Comments: Mattox Road is a 60 foot wide dedicated right of way, which has been improved, and is currently maintained by the City of Homer. Mattox Road provided public access to this parcel and neighboring parcels.

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public 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 public utility easement be granted in place of the right-of-way.

Platting Staff Comments: Utilities are currently in place. A 20 foot utility easement adjoining Mattox Road provides access for utility providers.

20.30.220. Section line easement vacations. Section line easement vacation petitions must comply with the requirements of KPB 20.70.040, 20.70.050 and 20.70.060. A fee is required in compliance with KPB 20.70.060. Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120. The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements. The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Platting Staff Comments: A SLEV plat has not been submitted to KPB Planning Department.

Staff recommendation: *Submittal of a SLEV plat to the KPB Planning Department and the State of AK DNR – Survey Section.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends approval of the vacations as petitioned, subject to:

1. Consent by Homer City Council / KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Homer City Council and 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 20.70.110:

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council.

The Homer 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 by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly.

The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

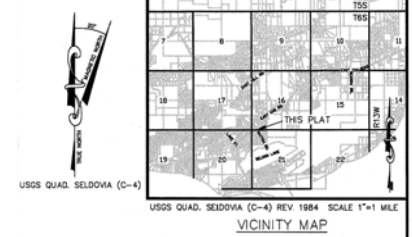
KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, 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.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

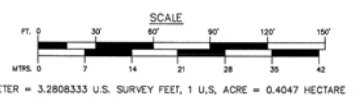
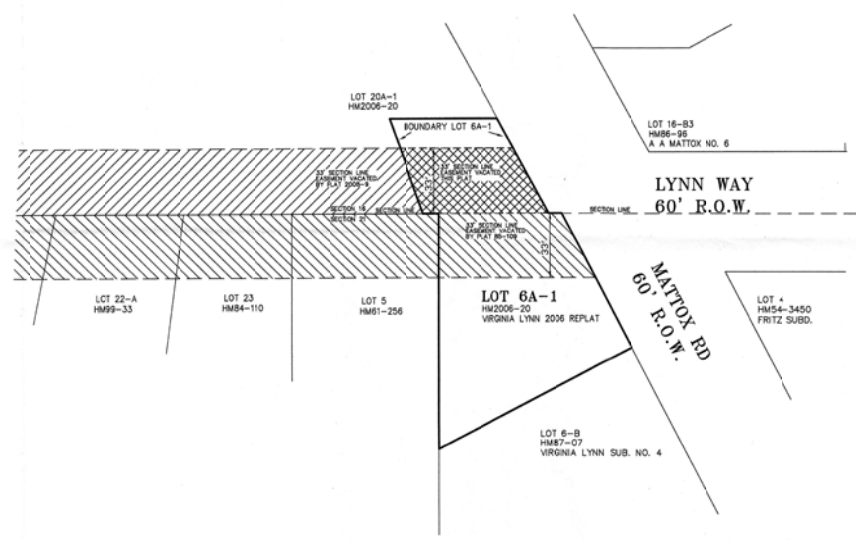
END OF STAFF REPORT



CERTIFICATE OF OWNERSHIP:
 I, THE UNDERSIGNED, CERTIFY THAT I AM
 THE OWNER OF THE DESCRIBED PROPERTY,
 AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE
 EASEMENT VACATION PLAT.

DATE: _____ VIRGINIA F TORNES
 PH BOX 2487
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
 For VIRGINIA F TORNES
 Acknowledged before me this _____ day of _____, 2020.
 Notary public for Alaska _____ My Commission Expires _____



SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL
 RECOMMENDATION
 STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
 THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE
 REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL
 BY THE COMMISSIONER.
 RECOMMENDED BY: _____ DATE _____
 TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT (SOUTHCENTRAL OFFICE)

STATE OF ALASKA DIVISION OF MINING, LAND & WATER
 THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE
 DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL
 BY THE COMMISSIONER.
 RECOMMENDED BY: _____ DATE _____
 TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF
 THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE
 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY
 STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES
 ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE
 EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 18.13.010
 (SPECIFIC AREA DELINEATED BY DIAGONAL HATCHING ON THIS PLAT)
 DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF TRANSPORTATION AND
 PUBLIC FACILITIES
 DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF NATURAL RESOURCES

- NOTES
- CHECKERD HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN LOT 6A-1, VIRGINIA LYNN 2006 REPLAT (HM2006-20), SECTION 19 T.8 R.13W, S.M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
 - NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM PLATS OF RECORD AS LISTED.
 - THIS VACATION IS IN COMPLIANCE WITH STATE PLATING RESOLUTION NO. _____ APPROVED _____, EV-3-303 AND AS 29.40.120 -140. (w)
 - THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED _____.
- PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION
 AT THE MEETING OF _____
 AUTHORIZED BOROUGH OFFICIAL _____

- LEGEND:
- SECTION-LINE EASEMENT VACATED BY THIS PLAT.
 - SECTION-LINE EASEMENT VACATED BY HM2008-9
 - SECTION-LINE EASEMENT VACATED BY HM85-109



SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND
 LICENSED TO PRACTICE LAND SURVEYING IN THE STATE
 OF ALASKA AND THAT THIS PLAT WAS DRAFTED UNDER
 MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN
 HEREON IS TRUE AND CORRECT AS COMPILED FROM
 EXISTING RECORD INFORMATION.
 DATE: _____ REGISTERED LAND SURVEYOR: _____ REGISTRATION NO. 7810-S

DATE OF SURVEY Beginning NO FIELD SURVEY Ending _____	NAME OF SURVEYOR GARY NELSON 152 DEHEL AVE. HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with VIRGINIA LYNN 2006 REPLAT Located within Surveyed Section 16, T6S, R13W, S.M., AK HOMER RECORDING DISTRICT	
DRAWN BY: G.N.	APPROVAL RECOMMENDED
DATE: 02/03/2020	STATEWIDE PLATTING SUPERVISOR _____ DATE _____
SCALE: 1"= 30'	CHECKED: DNR FILE NO.
SHEET 1 OF 1	G. N. EV-3-303

KPB 2020-021V2

AS-BUILT SURVEY

NOTES

LINE	BEARING	DISTANCE
L1	S89°56'30"E	7.84'
L2	S89°56'30"W	6.88'

1. THIS PLAT SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN FINANCING REQUIREMENTS.

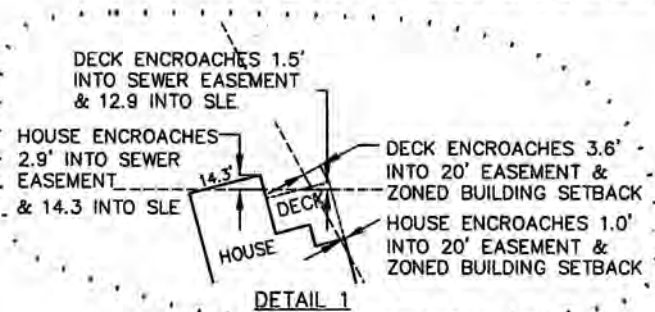
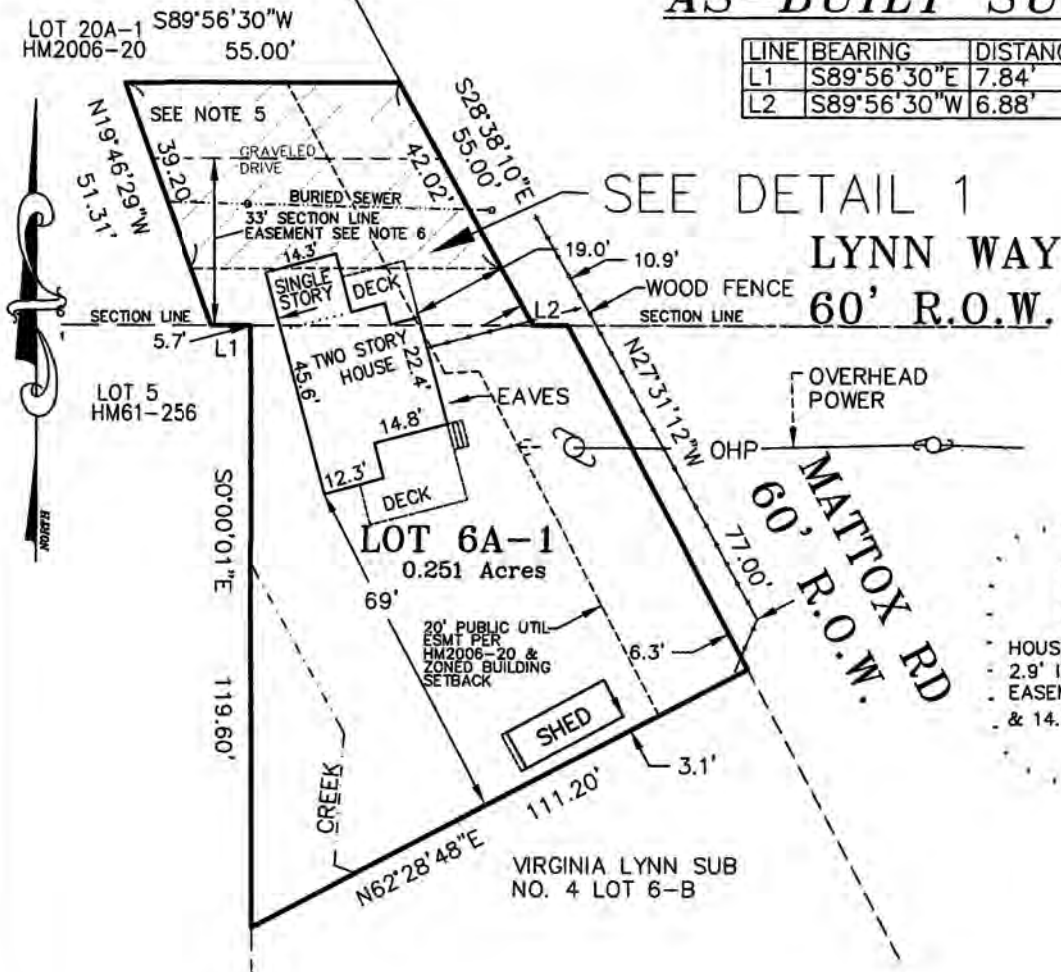
2. DIMENSIONS TO PROPERTY LINES ARE FROM THE EXTERIOR FACE OF BUILDING WALL UNLESS OTHERWISE SHOWN. ROOF EAVES EXTEND 1.5'.

3. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS OR RESTRICTIONS THAT DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT. HM2006-20 CITES RESTRICTIVE COVENANTS RECORDED SERIAL NUMBERS 2005-000128 & 2005-000136 IN HOMER RECORDING DISTRICT.

4. I HAVE SURVEYED THE FOLLOWING DESCRIBED PROPERTY: LOT 6A-1 VIRGINIA LYNN 2006 REPLAT, FILED AS PLAT NUMBER 2006-20 IN THE HOMER RECORDING DISTRICT. THE IMPROVEMENTS SITUATED THEREON ARE LOCATED AS SHOWN ON THIS PLAT AND THERE ARE NO OTHER VISIBLE ABOVE GROUND IMPROVEMENTS OR ENCROACHMENTS ON SAID PROPERTY EXCEPT AS INDICATED HEREON.

5. DIAGONAL HATCH PATTERN DEPICTS A UTILITY EASEMENT TO SERVICE EXISTING SEWER LINE PER HM2006-20.

6. A 33 FEET WIDE SECTION LINE EASEMENT (SLE) EXISTS ACROSS LOT 6A-1 ADJACENT TO THE SECTION LINE SHOWN,

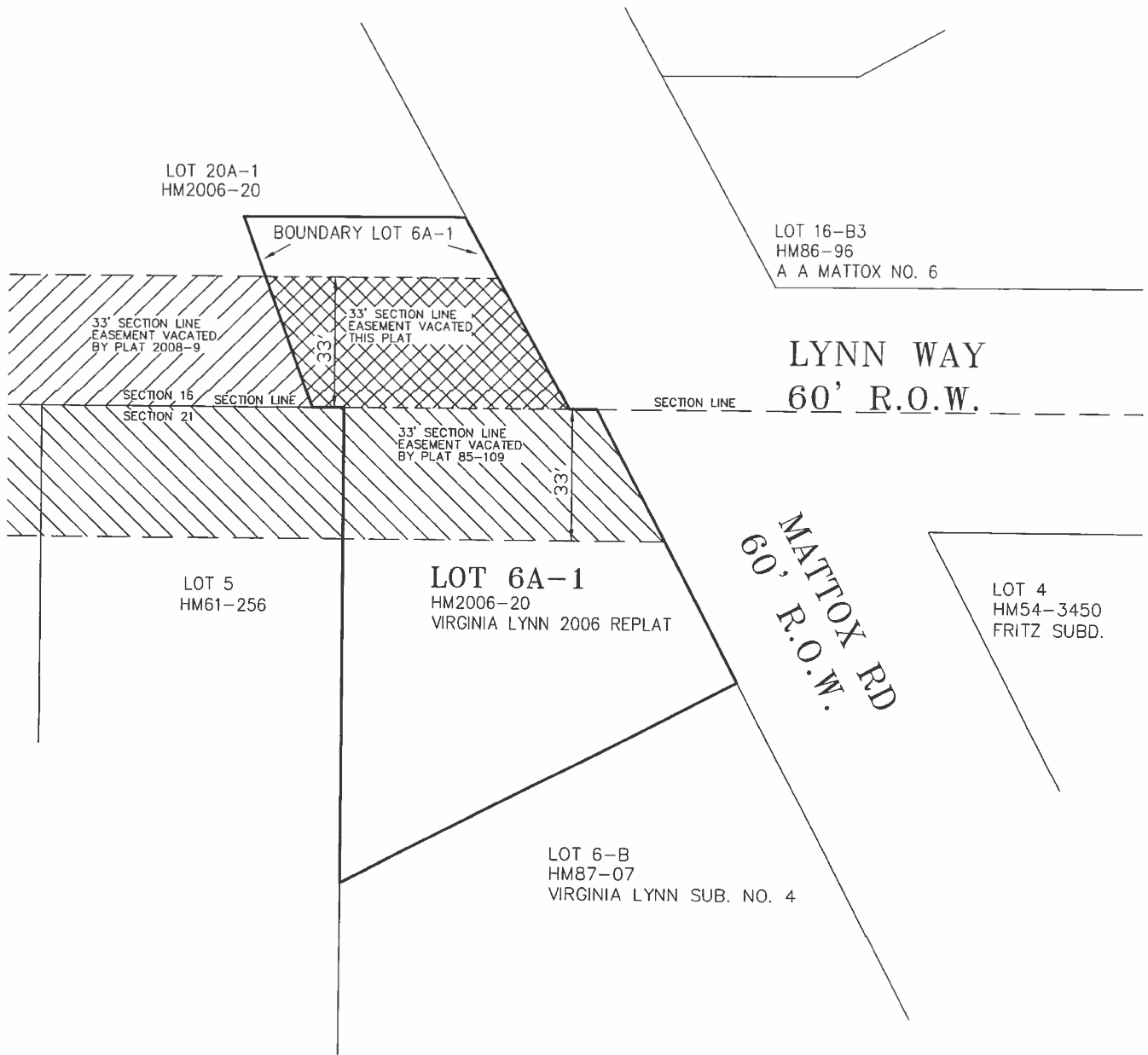


DATE	1/15/2020
JOB No.	5060
DWG	510JASBLT.DWG
SCALE	1" = 30'
TAX PARCEL	17906106
PLAT No.	HM 2006-20
SECTION	21
TOWNSHIP	T6S
RANGE	R13W (SM)

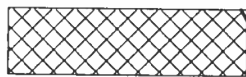
LOT 6A-1
VIRGINIA LYNN 2006 REPLAT
 LOCATED IN THE NW 1/4 OF SEC. 21, T6S, R13W, S.M.
 WITHIN THE CITY OF HOMER
 HOMER RECORDING DISTRICT

ABILITY SURVEYS
 REGISTERED LAND SURVEYORS
 (907) 235-8440
 152 DEHEL AVE., HOMER, ALASKA 99603

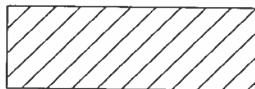
KPB 2020-021V2



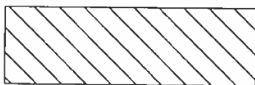
LEGEND:



SECTION-LINE EASEMENT VACATED BY THIS PLAT.



SECTION-LINE EASEMENT VACATED BY HM2008-9



SECTION-LINE EASEMENT VACATED BY HM85-109

NOTES

1. BASIS OF BEARING IS $S 28^{\circ}38'10" E$ BETWEEN THE NE AND SE CORNERS OF LOT 20-MATTOX SUBD. BIRCH TERRACE REPLAT PLAT #2005-55, H.R.D.
2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. THERE IS A 20 FOOT PUBLIC UTILITY EASEMENT ALONG MATTOX ROAD RIGHT-OF-WAY.
4. THERE ARE RESTRICTIVE COVENANTS THAT MAY AFFECT THIS PLAT, SERIAL NUMBERS: 2005-000128 & 2005-000136 RECORDED IN THE HOMER RECORDING DISTRICT, STATE OF ALASKA.
5. THIS LOT WILL BE SERVED BY CITY WATER AND SEWER.
6. WETLANDS ENCOMPASS ALL AREAS IN SUBDIVISION EXCEPT SOUTH OF WETLAND LINE SHOWN ON LOT 20-2-1.
7. THERE IS AN UTILITY EASEMENT AFFECTING LOT 6A-1 TO SERVICE THE EXISTING SEWERLINE. SEE DETAIL FOR DIMENSIONS.

WASTEWATER DISPOSAL

PLANS FOR WASTEWATER DISPOSAL THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

LEGEND

- ① END 2 1/2" AL 7908-S, 2005
- ② END 2 1/2" AL 7908-S, 2006
- ③ SET 2 1/2" AL 7908-S, 2006
- ④ RECOVERED OLD MONUMENT 1918.
- ⑤ END RT-BAR
- UTILITY EASEMENT AROUND EXISTING SEWER SYSTEM
- (C) 04 CULVERT
- (R) RECORD, PLAT #87-7 H.R.D.

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT I HEREBY ACCEPT THIS PLAT OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

Virginia F. Tornes
 VIRGINIA F. TORNES
 P.O. BOX 2497
 HOMER, ALASKA 99603



NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 18 DAY OF April, 2006.
 FOR: VIRGINIA F. TORNES
 NOTARY PUBLIC FOR ALASKA
Mary Jo Paine
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES 7-30-06



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT I HEREBY ACCEPT THIS PLAT OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

Steven L. Rouse
 STEVEN L. ROUSE, EXECUTIVE DIRECTOR
 KENAI PENINSULA HOUSING INITIATIVES, INC.
 332 PIONEER AVE #2
 HOMER, ALASKA 99603

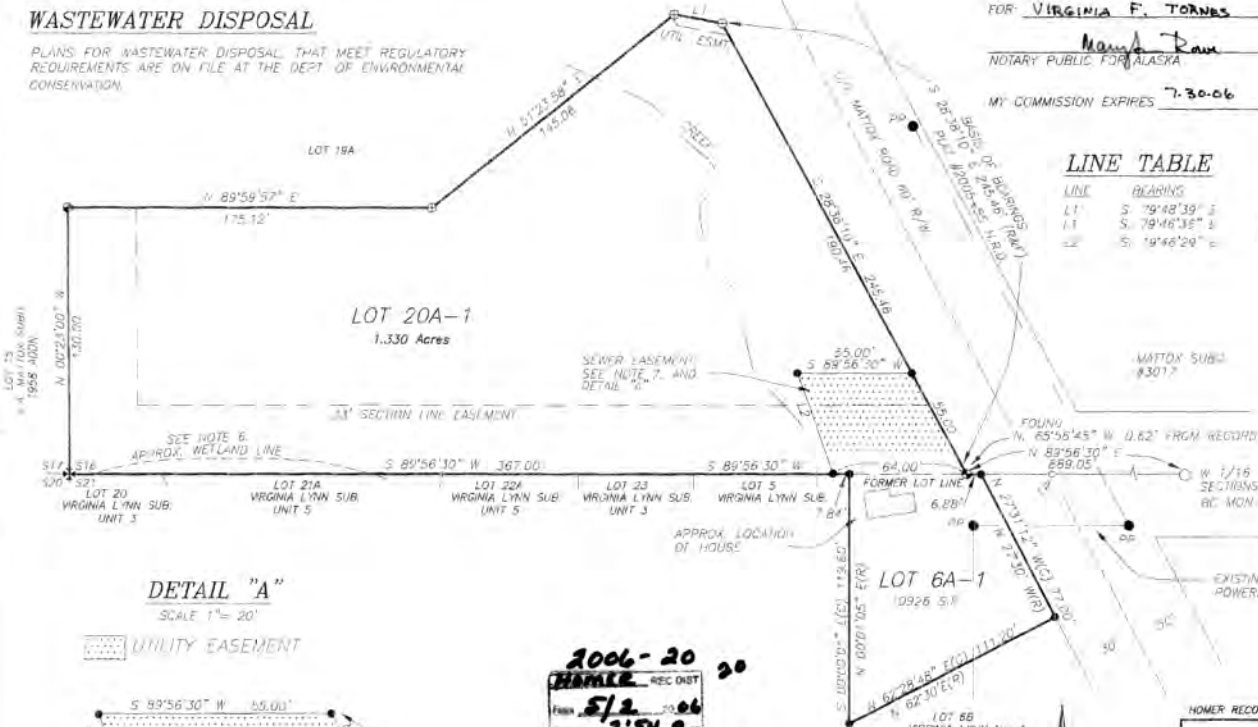
NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF April, 2006.
 FOR: Steven L. Rouse
 NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES June 1, 2007



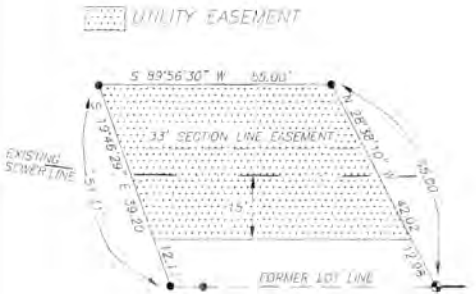
LINE TABLE

LINE	BEARING	DIST
L1	S 79°48'39" E	20.16' (P)
L1	S 79°48'36" E	24.60' (R)
L2	S 19°48'29" E	5.13' (C)



DETAIL "A"

SCALE 1" = 20'



2006-20
 HOMER REC DIST
 FILED 5/2 2006
 2:54 P
 Seabright

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF 2/13/2006

KENAI PENINSULA BOROUGH

BY: *Marc Best*
 AUTHORIZED OFFICIAL

SCALE 1" = 40'

HOMER RECORDING DISTRICT KPB FILE No. 2006-025

VIRGINIA LYNN 2006 REPLAT
 A REPLAT OF LOT 5A, VIRGINIA LYNN No. 4 (PLAT #87-7 H.R.D.)
 SEC. 21, T. 6 S., R. 13 W., S.M.
 AND LOT 20A, MATTOX SUBD. BIRCH TERRACE REPLAT (PLAT #2005-55 H.R.D.)
 SEC. 16, T. 6 S., R. 13 W., S.M.
 WITHIN THE CITY OF HOMER, STATE OF ALASKA
 CONTAINING 1.581 ACRES

SEABRIGHT SURVEYING
 1044 EAST END ROAD, SUITE A
 HOMER, ALASKA 99603
 (907) 235-4247 PHONE & FAX
 seabright@alaska.net

DRAWN BY: R.B.	DATE: 4/12/06	SCALE: 1" = 40'
CHECK BY: R.B.	JOB #05-7A	SHEET 1 OF 1

SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE CENTRAL REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: Mike Hattman DATE: 1/16/08

TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT

STATE OF ALASKA DIVISION OF MINING, LAND & WATER

THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: Paul J. Myles DATE: Jan 11, 2008

TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 19.10.010 (SPECIFIC AREA DELINEATED BY DIAGONAL HATCHING ON THIS PLAT)

DATE: 1/16/08 APPROVED: Thomas R. Ebert
COMMISSIONER
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

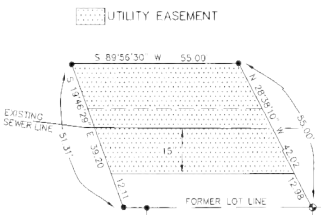
DATE: Jan 11, 2008 APPROVED: Paul J. Myles
COMMISSIONER
DEPARTMENT OF NATURAL RESOURCES

ACCEPTANCE OF DEDICATION

THE DIRECTOR OF THE DIVISION OF MINING, LAND, AND WATER, ON BEHALF OF THE STATE OF ALASKA, HEREBY ACCEPTS FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY DEDICATED TO THE PUBLIC BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND ROADWAYS SHOWN ON THIS PLAT. THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

to: Paul J. Myles Jan 10, 2008
DIRECTOR, DIVISION OF MINING, LAND AND WATER

DETAIL "A"
SCALE 1" = 30'



NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16, T. 06 N., R. 13 W., S. M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM THE PLAT OF MATTOX SUBDIVISION BIRCH TERRACE REPLAT ON FILE AT THE HOMER RECORDING DISTRICT AS PLAT NO. 2005-55 H.R.D. AND VIRGINIA LYNN REPLAT (2006-20).
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED JULY 14, 2006.
- PURSUANT TO AS 19.30.410 THE ALTERNATE ACCESS REPLACING THE SECTION-LINE EASEMENTS BEING VACATED BY THIS PLAT IS THE EAST END ROAD AND MATTOX ROAD RIGHTS-OF-WAY AND THE EXISTING 33-FOOT WIDE SECTION-LINE EASEMENT EXTENDING NORTH THROUGH LOTS 19-A AND 18 TO ITS INTERSECTION WITH EAST END ROAD.
- THIS PLAT IS SUBJECT TO THE NOTES SHOWN ON THE PLAT OF MATTOX SUBD. BIRCH TERRACE REPLAT, PLAT NO. 2005-55 H.R.D. AND VIRGINIA LYNN REPLAT (2006-20).

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF MARCH 13, 2006 & Feb 24, 2007

Max J. Best KPB File 07-38 Feb. 14, 2008
AUTHORIZED OFFICIAL, KENAI PENINSULA BOROUGH DATE

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPILED FROM EXISTING RECORD INFORMATION.

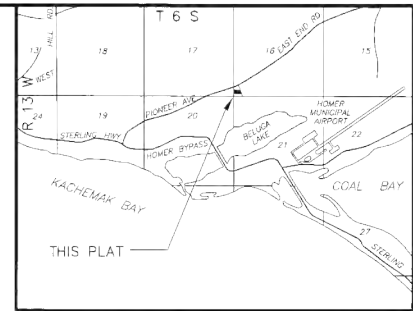
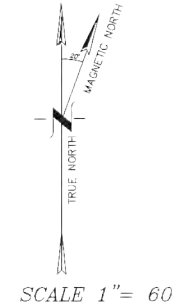
12/10/07 Kenton T. Johnson LS-7968
DATE REGISTERED LAND SURVEYOR REGISTRATION NO.

2008-9
3/25/08 REC DGT
Date: 3/25 2008
Name: 3108 P.M.
BY: Blanca



LEGEND:

- 3" BRASS CAP ON A 2 1/2" IRON PIPE AS APPROVED IN BLM FIELD NOTES FOR T16 N., R.4 W., S. M., AK. APPROVED MAY 20, 1957.
- RECORD 2" AL-CAP 1301-S 1996
- RECORD 2" AL-CAP 7968-S 2005
- SECTION-LINE EASEMENT VACATED BY THIS PLAT.
- SECTION-LINE EASEMENT PREVIOUSLY VACATED. PER EV-2-298 (PLAT NO. 80-97)



USGS QUAD: SEIDOVA (C-5) REV. 1952 SCALE 1"=1 MILE

VICINITY MAP

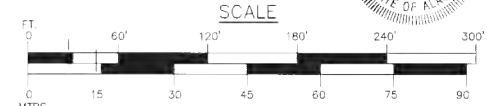
CERTIFICATE OF OWNERSHIP AND DEDICATION:

I, THE UNDERSIGNED, CERTIFY THAT I AM THE OWNER OF LOTS 19-A MATTOX SUBD. BIRCH TERRACE REPLAT AND 20A-1 VIRGINIA LYNN 2006 REPLAT, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT AND DEDICATE OR RESERVE FOR PUBLIC OR PRIVATE USE, AS NOTED, ALL EASEMENTS, PUBLIC UTILITY AREAS, AND RIGHTS-OF-WAY AS SHOWN ON THIS PLAT.

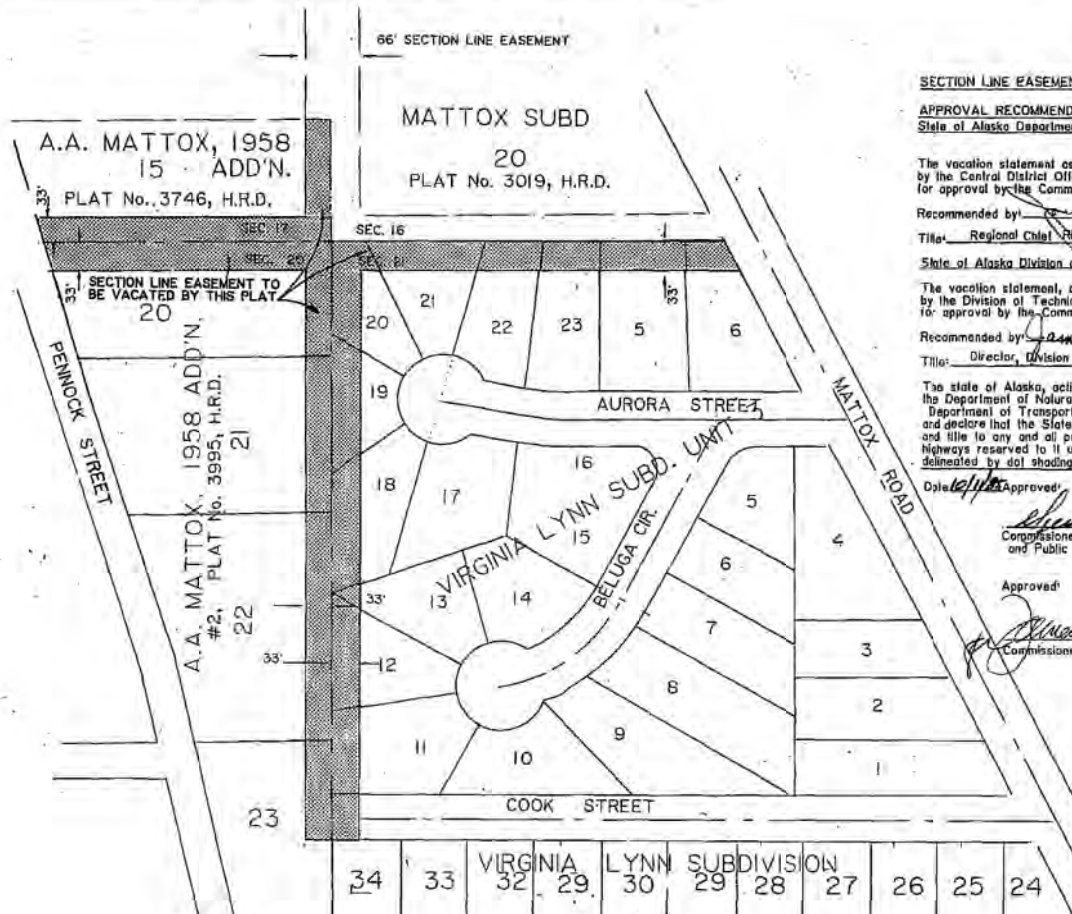
DATE: Dec. 7, 2007 Steve L. Rouse
STEVE L. ROUSE, EXECUTIVE DIRECTOR
KENAI PENINSULA HOUSING INITIATIVES, INC.
232 E. PIONEER AVENUE, STE B
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGEMENT
SUBSCRIBED AND SWORN TO BEFORE ME THIS 7 DAY OF Dec, 2007

BY: Steve L. Rouse
Steve L. Rouse
NOTARY FOR THE STATE OF ALASKA
MY COMMISSION EXPIRES 8/10/2010



DATE OF SURVEY Beginning <u>NO FIELD SURVEY</u> Ending _____	SEABRIGHT SURVEYING 1044 EAST END ROAD, STE A HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with LOT 20A-1 VIRGINIA LYNN 2006 REPLAT (PLAT NO. 2006-20) AND PEDESTRIAN EASEMENT DEDICATION WITHIN LOT 19-A MATTOX SUBD. BIRCH TERRACE REPLAT (PLAT NO. 2005-55)	
Located within Surveyed Sec. 16, T.6 S., R.13 W., S. M., STATE OF ALASKA, HOMER RECORDING DISTRICT	
DRAWN BY: <u>JS</u>	APPROVAL RECOMMENDED
DATE: <u>08/03/06</u>	STATEWIDE PLATTING SUPERVISOR DATE: <u>Jan 10, 2008</u>
SCALE: <u>1" = 60'</u>	CHECKED: <u>K.B.</u> DNR FILE NO. <u>EV-3-018</u>



66' SECTION LINE EASEMENT
 MATTOX SUBD
 20
 PLAT No. 3019, H.R.D.

A.A. MATTOX, 1958
 15 - ADD'N.
 PLAT No. 3746, H.R.D.

SECTION LINE EASEMENT TO
 BE VACATED BY THIS PLAT
 20

A.A. MATTOX, 1958 ADD'N.
 #2, PLAT No. 3995, H.R.D.

AURORA STREET

MATTOX ROAD

VIRGINIA LYNN SUBD. UNIT
 BELUGA CIR.

COOK STREET

34 33 VIRGINIA LYNN SUBDIVISION 30 29 28 27 26 25 24

- NOTES:
1. DOT SHADED AREA INDICATES THE SECTION LINE EASEMENT BEING VACATED BY THIS PLAT.
 2. NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION LINE VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM THE PLATS OF VIRGINIA LYNN SUBD., A.A. MATTOX SUBD., AND A.A. MATTOX SUBD., 1958 ADD'N.
 3. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.

OWNERSHIP TABLE

GARY & JANET HALL - LOT 20, A.A. MATTOX 1958 ADD'N.
 JOHN COOPER - LOT 21, A.A. MATTOX 1958 ADD'N.
 ELDEEN MERIDETH - LOT 22, A.A. MATTOX 1958 ADD'N.
 ELDEEN JACKSON - LOT 23, A.A. MATTOX 1958 ADD'N.
 HUGH GELLERT, dba BEAR FRITZ LAND CO. - LOTS 12, 13, 18, 19, 20, 21, & 22, VIRGINIA LYNN UNIT 3
 MANUEL J. SOARES - LOT 5, VIRGINIA LYNN SUBDIVISION
 VIRGINIA TORRES - LOT 6, VIRGINIA LYNN SUBDIVISION
 SCOTT ADAMS - LOT 15, A.A. MATTOX SUBDIVISION, 1958 ADD'N.
 ANDREW MCCLAIN LOT 11, VIRGINIA LYNN UNIT 3
 JOHN F. & ROBIN L. ADAMS, LOT 23 VIRGINIA LYNN UNIT 3
 DANIEL B. & CINDY S. WEATHERLY, ALSO LOT 23 VIRGINIA LYNN UNIT 3

SECTION LINE EASEMENT VACATION CERTIFICATE

APPROVAL RECOMMENDATION
 State of Alaska Department of Transportation and Public Facilities

The vacation statement as shown hereon has been reviewed by the Central District Office and is hereby recommended for approval by the Commissioner.

Recommended by: *[Signature]* Date 10-9-85
 Title: Regional Chief, Right-of-Way Agent

State of Alaska Division of Technical Services

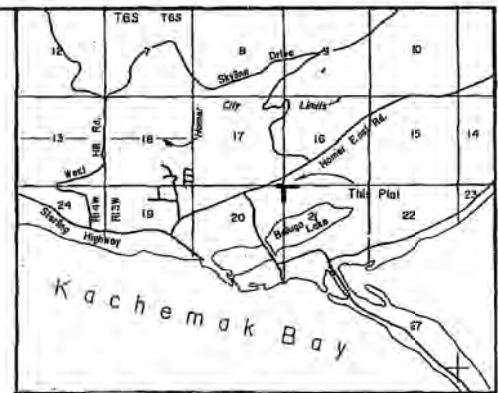
The vacation statement, as shown hereon, has been reviewed by the Division of Technical Services and is hereby recommended for approval by the Commissioner.

Recommended by: *[Signature]* Date 10/8/85
 Title: Director, Division of Technical Services

The state of Alaska, acting by and through the Commissioner of the Department of Natural Resources and the Commissioner of the Department of Transportation and Public Facilities, does hereby state and declare that the State of Alaska vacates and releases all rights and title to any and all portions of section line easements for public highways reserved to it under AS 19.10.010, (specific area delineated by dot shading on this plat).

Date 10/15/85 Approved: *[Signature]*
 Commissioner, Department of Transportation and Public Facilities

Date 10-16-85 Approved: *[Signature]*
 Commissioner, Department of Natural Resources



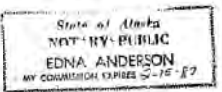
USGS QUAD. SELDOVIA C-4, 1976
 USGS QUAD. SELDOVIA C-5, 1967
 SCALE: 1"=1 MILE

CERTIFICATE OF OWNERSHIP
 We hereby certify that we are the owners of the property shown and described hereon and that we hereby approve of the vacation of the section line easements as shown hereon.

JERRY ANDERSON, BOX 378 HOMER, ALASKA 99603
 ATTORNEY IN FACT FOR: GARY & JANET HALL
 AS RECORDED ON: JOHN COOPER
 10-8-1985 IN THE ELDEEN MERIDETH
 HOMER RECORDING DIST. ELDEEN JACKSON
 BK. ONE Pg. 98-016, THE BEAR FRITZ LAND COMPANY
 SCOTT ADAMS
 Andrew McClain
 John F. & Robin L. Adams
 Daniel B. & Cindy S. Weatherly

NOTARY'S ACKNOWLEDGMENT
 Subscribed and sworn to before me this 15th day of Oct, 1985

Edna Anderson
 NOTARY PUBLIC FOR ALASKA
 2-15-87
 My Commission Expires

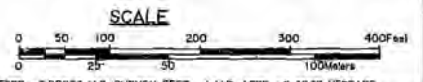


SURVEYOR'S CERTIFICATE
 I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, and that this plat was drafted under my direct supervision, and that all data shown hereon is true and correct as compiled from existing record information.

Date 9-30-85
 JERRY ANDERSON RLS #3686-S

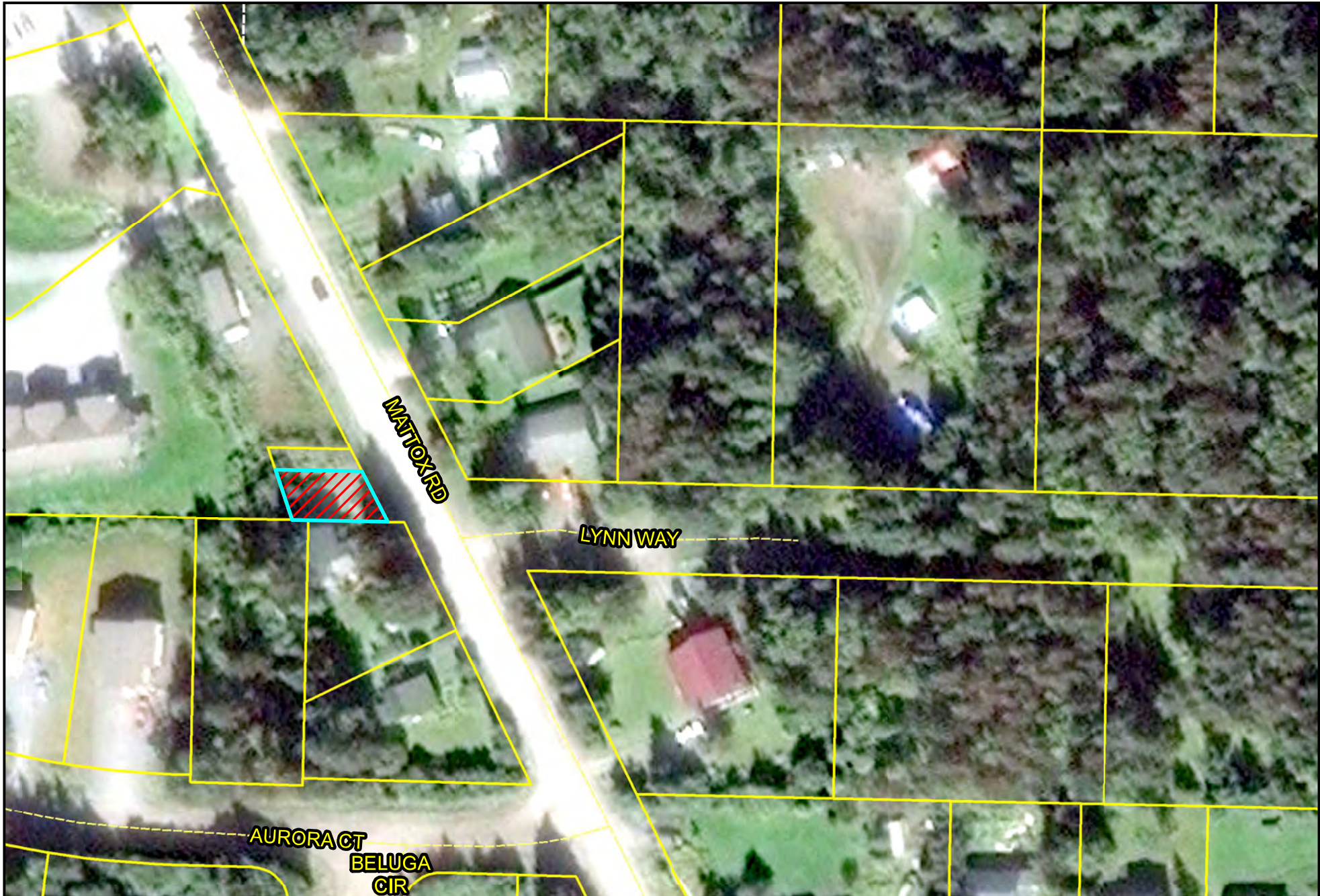
PLAT APPROVAL
 This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of SEPT. 9, 1985
 KENAI PENINSULA BOROUGH

By: *[Signature]*
 Authorized Official



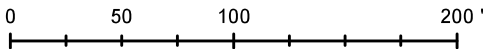
85-109
 RECORDED - FILED
 Homer REC. DIST.
 DATE 10-14-85
 TIME 10:36 A.M.
 BY Ability Survey
 Homer

METER = 328033 U.S. SURVEY FEET U.S. ACRE = 0.4047 HECTARE	
DATE OF SURVEY Beginning: 100 FIELD SURVEY Ending:	NAME OF SURVEYOR Ability Surveys Box 378 Homer, Alaska 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF TECHNICAL SERVICES ANCHORAGE, ALASKA	
SECTION LINE EASEMENT VACATION PLAT ASSOCIATED WITH VIRGINIA LYNN SUBDIVISION, UNIT 3, A.A. MATTOX, 1958 ADD'N., & A.A. MATTOX SUBDIVISION, SITUATED WITHIN SECTIONS 17, 20 & 21 T6S, R33W, S4M, ALASKA AND WITHIN THE CITY OF HOMER.	
DRAWN BY: S. SCHOLLENBERG DATE: 7-23-85	APPROVAL RECOMMENDED: <i>[Signature]</i> 10/8/85 CMM Central Surveyor Date
SCALE: 1" = 100'	CHECKED: J.A.H. FILE NO.: EV-2-298



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.

Aerial View



33' Section Line Easement Vacation

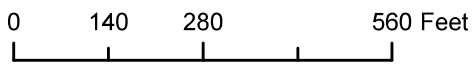
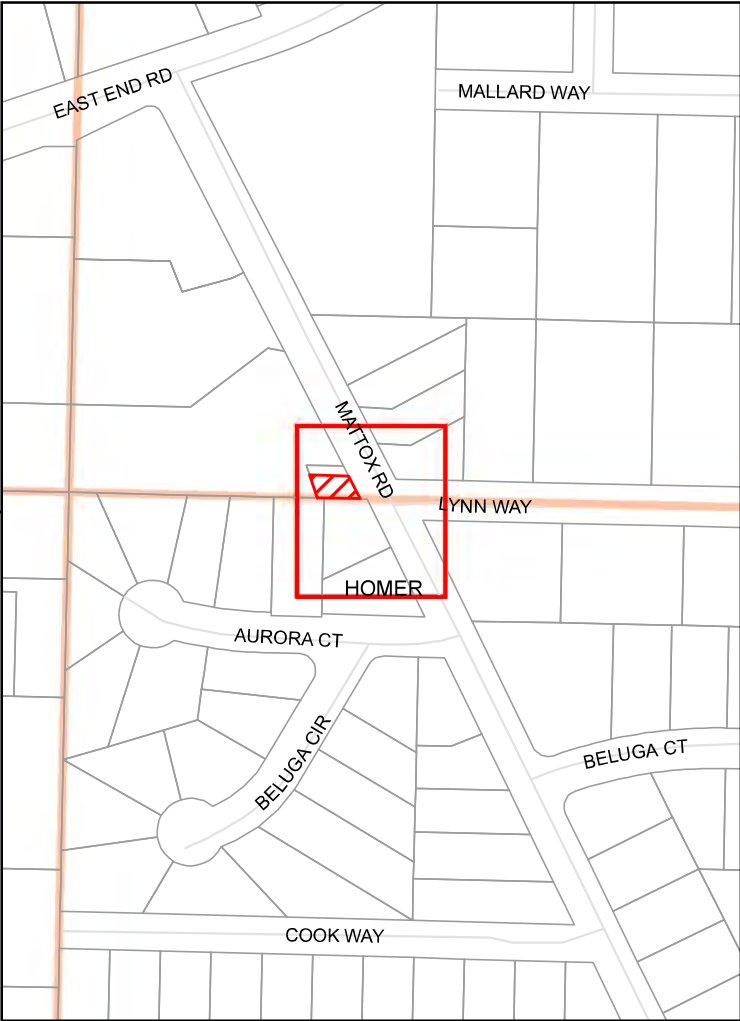
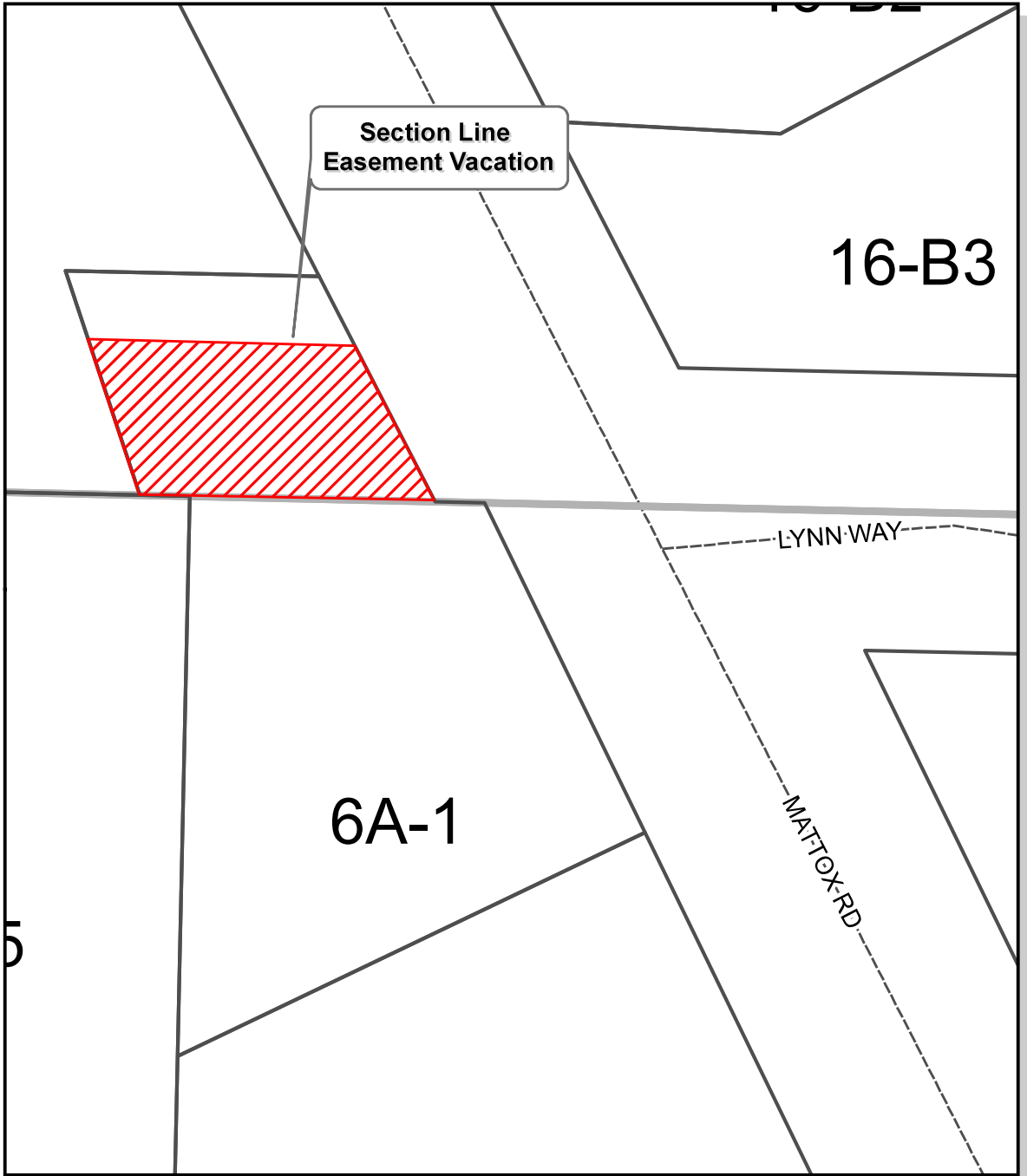
PClements, KPB
 Date: 2/19/2020
 Imagery: 2016 Homer



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.

SECTION LINE EASEMENTS (SLE)

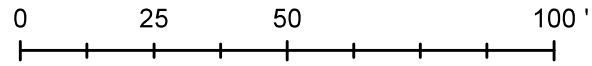
Date: 3/6/2020



KPB 2020-021V2
T06S R13W S21
HOMER



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.



PClements, KPB
 Date: 2/19/2020



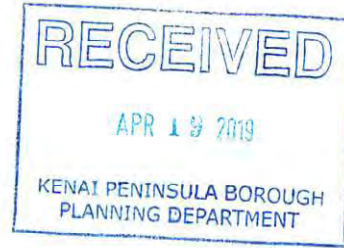
THE STATE
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Survey Section

550 West 7th Avenue, Suite 650
Anchorage, Alaska 99501-3576
Main: 907.269.8523
TDD: 907.269.8411
Fax: 907.269.8916



April 16, 2019

KPB
Scott Huff
144 N. Binkley Street
Soldotna, AK 99669

Dear Mr. Huff:

Subject: EV-3-303 Preliminary Decision and Public Notice

The proposed action consists of vacating the 33-foot wide section-line easement (SLE) lying within Lot 6A-1, Virginia Lynn 2006 Replat (Plat 2006-20, Homer Recording District). This action lies in Section 16, T6S, R13W, SM.

Also enclosed is a copy of the *Public Notice of Preliminary Decision* which will be published on the State of Alaska Online Public Notices website, <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>.

Any comments concerning the proposed action must be submitted in writing to DNR -- DMLW by **5 PM on May 17, 2019**. Contact DNR with questions at 907-375-7733 or joseph.poydack@alaska.gov or Stan Brown 269-8521 or stanley.brown@alaska.gov by May 17th.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Poydack", written over a horizontal line.

Joe Poydack
DNR Adjudicator

Enc: Copy PD & Public Notice

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER



Preliminary Decision

Petitioners: Virginia Tornes

Section Line Easement Vacation

EV-3-303

Petitioned Action:

The proposed action consists of vacating the 33-foot wide section-line easement (SLE) lying within Lot 6A-1, Virginia Lynn 2006 Replat (Plat 2006-20, Homer Recording District). This action lies in Section 16, T6S, R13W, SM, as depicted in Attachment A.

The reasons cited by the applicant:

- Bring home into compliance with local zoning code, part of the home is located within the easement.

Legal Authority:

AS 19.10.010, AS 19.30.410, AS 38.05.035, AS 38.05.945, 11 AAC 51.025, 11 AAC 51.065 and 11 AAC 51.100

The Alaska Department of Transportation and Public Facilities (DOT/PF) and the Department of Natural Resources (DNR) have concurrent authority for approving the vacation of SLEs.

Administrative Record:

The DNR Survey Case File EV-3-303 constitutes the administrative record used for the basis of this decision.

Borough:

The proposed action is located within the Kenai Peninsula Borough (KPB).

State Easement Interest:

33-foot wide section-line easement exists within the subject property pursuant to Chapter 19, SLA 1923. (See Discussion 1).

Underlying Interest:

The petitioner owns the estate underlying the SLE proposed for vacation.

Alternate Route:

The proposed alternate access is via the constructed Mattox Road right-of-way. Access to adjacent parcels is via the existing dedicated rights-of-way. Public access to the adjoining and adjacent parcels is not negatively affected by this action.

Land Management Policies:

1) Pursuant to AS 19.30.410 the Department of Natural Resources, the Department of Transportation and Public Facilities, or another agency of the state may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932 unless:

- a reasonably comparable, established alternate right-of-way or means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses.

2) Pursuant to 11 AAC 51.065, before any vacation, modification, or relocation of a public easement, the petitioner must demonstrate to the satisfaction of the department that equal or better access is available. Equal or better access must be access that is:

- protected by an easement of record that is adequately wide for the purpose; if the easement of record is new, the petitioner must arrange for a note in the vacation document to be recorded that identifies the new easement as a replacement for the vacated easement; and,
- at least equally usable, considering length, type of terrain, and level of improvement, as the easement to be vacated; if development or improvement is needed to make the replacement easement at least equally usable, the petitioner must arrange for the development or improvement to be completed before the vacation takes effect.
- the department will determine if the vacation is in the State's best interest

Public Use Patterns:

The subject SLE is unconstructed. A field inspection was not conducted; however, the petitioner states "there is no current or historical use of anyone other than me". The petitioners home encroaches 15' more or less into the SLE.

Practicality of Use:

The 33' SLE proposed to be vacated is an isolated 55' +/- long portion of SLE lying between the Mattox Road ROW and SLEs that were previously vacated in 1985 by EV-2-298 and in 2008 by EV-3-018. The subject SLE only provides access to three parcels; one of which has only 7.84' of SLE access; and all of which are currently accessing their parcels via the Mattox Road or Aurora Street rights-of-way. Sufficient dedicated public access exists that provides access to all adjacent parcels.

Agency Review:

Initial Agency review of the proposed action began on January 29, 2019 and concluded February 28, 2019. Agencies notified included Department of Transportation/Public Facilities (DOT/PF) Central Region, Alaska Department of Fish and Game (ADFG), DNR Division of Mining, Land and Water – South Central Regional Office (SCRO), Alaska Mental Health Trust Land Office (MHTLO) and DNR Division of Parks and Outdoor Recreation (DPOR).

Agency Comments:

1. All agencies submitted comments of non-objection.
2. No other comments or objections on the proposed action were received.

Discussion:

1. **Determination of the existence of the Section-Line Easements:**

- a. The Rectangular Survey Plat for Township 6 South, Range 13 West, Seward Meridian, Alaska was approved on June 28, 1918 and accepted by the General Land Office on July 15, 1918.
- b. The lands underlying the SLE proposed to be vacated were conveyed into private ownership by Patent No. 1112758. The date of entry (application filed) according to the case file abstract for BLM case file AKA 8354 was February 25, 1935.
- c. BLM Historical Index:
 - i. Research verified that the subject lands were included in lands withdrawn for the Chugach National Forest by Proclamation No. 852 dated February 23, 1909. This National Forest withdrawal remained in effect until Proclamation No. 1519 dated April 16, 1919 eliminated certain lands from Chugach National Forest and restored said lands – including the subject lands – to entry. The subject lands were seemingly restored to homestead entry under applicable federal laws 84 days after the date Proclamation 1519 was signed (April 16 + 84 days = July 9, 1919); however,
 - ii. Research also verified that the subject lands were included in lands purportedly "reserved from sale or settlement for the support of common schools" by the Act of March 4, 1915 [i.e. Sections 16 & 36] - subject to being "surveyed under the direction of the Government of the United States". The survey of the subject land was approved and accepted by the GLO in 1918 (refer to above item "a"). *However, this ACT contains language stating in part "...or where the same may have been sold or otherwise appropriated by or under the authority of any Act of Congress [i.e. the Chugach National Forest reservation], or are wanting or fractional in quantity, other lands may be designated and reserved on lieu thereof in the manner provided by the Act of Congress dated February twenty-eight, eighteen hundred and ninety-one..."* With that said, The Act of February 28, 1891 states in part "*Where any State is entitled to said sections sixteen and thirty-six, or where said sections are embraced within a military, Indian, or other reservation [i.e. the Chugach National Forest reservation], the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory to compensate deficiencies for school purposes...*" Since the subject lands were already withdrawn as part of the Chugach National Forest prior to said Act of March 4, 1915 (refer to above item "i"), the Territory would be allowed to select from other designated lands. Therefore; on July 9, 1919 (refer to above item "c(i)") said lands became open to entry.
- d. **For surveyed land owned by the Territory of Alaska at any time on or after April 6, 1923 through January 17, 1949, or for surveyed federal land that was**

unappropriated and unreserved at any time during that period, the width identified in Ch. 19, SLA 1923 for any section-line easement is 33 feet (11 AAC 51.025, editor's note #2).

2. The proposed alternate access is reasonably comparable and meets the requirements for vacation of the subject section-line easement pursuant to AS 19.30.410 and 11 AAC 51.065. The proposed alternate route is adequately wide to satisfy all present and reasonable foreseeable uses. Continued access to adjacent lands is ensured by the dedicated and constructed ROWs and the remaining unconstructed SLEs in the vicinity.
3. Pursuant to 11 AAC 51.065(e)(1), the department will give consideration to the recommendations of the KPB Platting Board regarding this action when a copy of the Approved Minutes are received at DNR.

Approval of the proposed action is contingent upon the following conditions:

1. Pursuant to AS 38.05.945, a Public Notice must be completed. The Department of Natural Resources may modify the decision after analyzing public comments. The advertising cost for Public Notice is at the expense of the applicant.
2. Comply with KPB's conditions of approval unless waived by the Director, DMLW.
3. A final plat (owner signed / surveyor sealed Mylar) must be submitted to DNR within two years from the date of approval of the Final Decision unless extended by DMLW, Survey Section.
4. Submittal of a Certificate to Plat, current within 90-days, with the final plat.

Recommendation:

Based on our findings, the applicant meets DNR's requirements to vacate the subject section-line easement. The proposed vacation may be in the state's best interest. Therefore, the Division of Mining, Land and Water, Survey Section recommends approval of this action and may proceed with adjudication and public notice in accordance with AS 38.05.945.

Prepared by:



Joseph L. Poydack, RWA
Adjudicator

4/16/2019
Date

Approved by:



Gwen M. Gervelis, PLS
Chief, Survey Section

4/16/2019
Date

PUBLIC NOTICE:

**Notice of Preliminary Decision
Section Line Easement Vacation
EV-3-303**

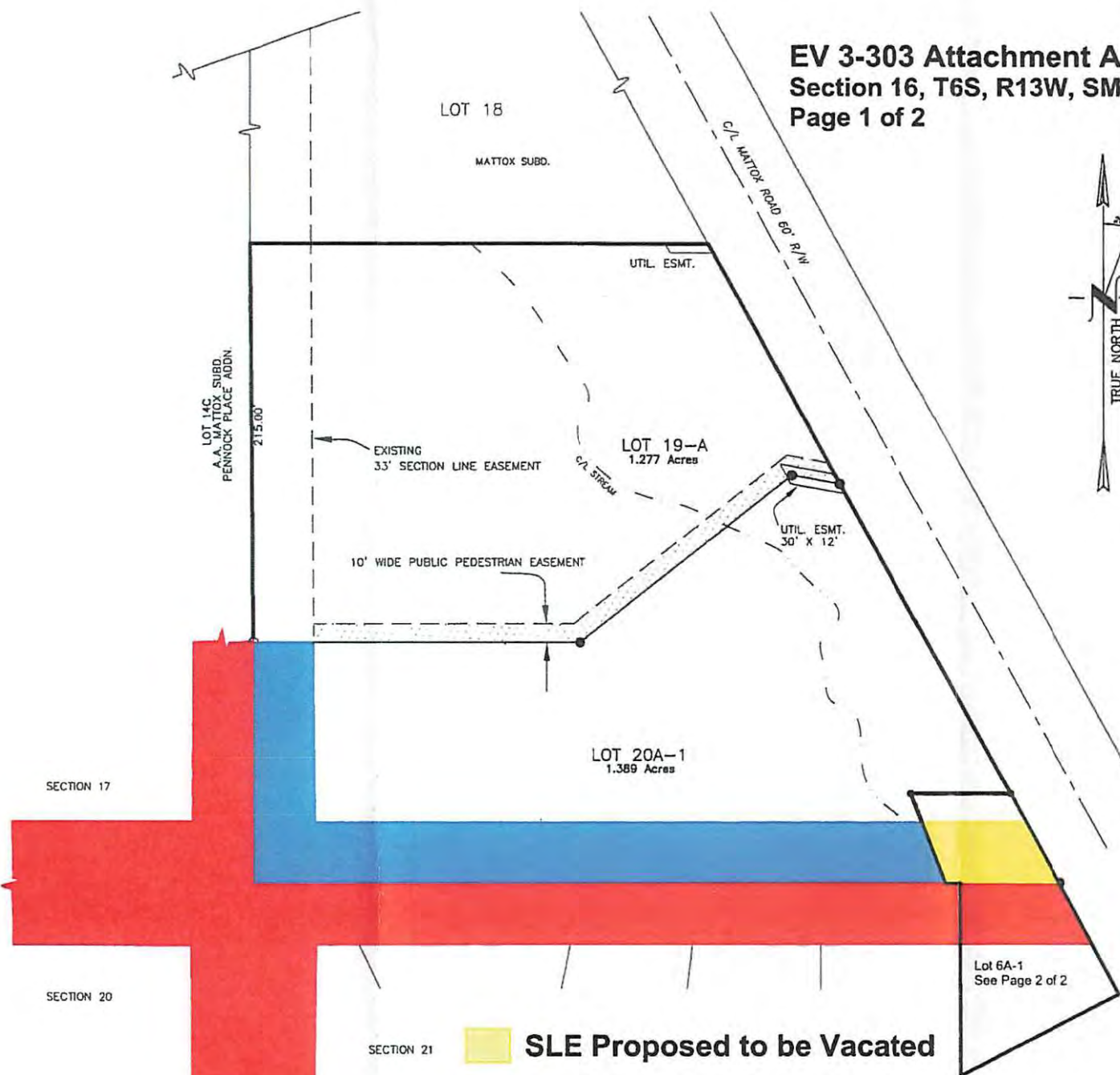
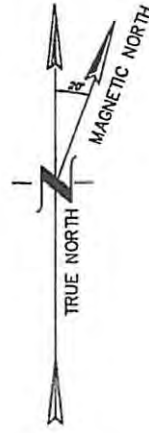
Per AS 19.30.410 & 11 AAC 51.065, the Department of Natural Resources, Division of Mining, Land and Water has made a Preliminary Decision (PD) giving contingent approval to a petition vacating the 33-foot wide section-line easement (SLE) lying within Lot 6A-1, Virginia Lynn 2006 Replat (Plat 2006-20, Homer Recording District). This action lies in Section 16, T6S, R13W, SM.

The public is invited to comment on the PD. Copies are available from DMLW, 550 W. 7th Avenue, Suite 650, Anchorage, AK 99501-3576 or <https://aws.state.ak.us/OnlinePublicNotices/Login.aspx>. All comments must be received in writing at DMLW by 5:00 p.m. on May 17, 2019. **To be eligible to appeal, one must respond in writing during the comment period.** If public comment analysis indicates the need for significant changes to the PD, additional public notice will be given. If no significant change is required, the PD, including any minor changes, will be issued as a Final Decision (FD). To obtain PD/FD copy, reference case number EV-3-303; include date, your email and mailing address and telephone number. If you have any questions, contact DNR, Joseph L. Poydack, 375-7733 or joseph.poydack@alaska.gov.




DMLW reserves the right to waive technical defects in this publication.

Those with audio impairments may call Anchorage DNR Public Information Center, 10-5, M-F, TDD#269-8411.

EV 3-303 Attachment A
Section 16, T6S, R13W, SM
Page 1 of 2

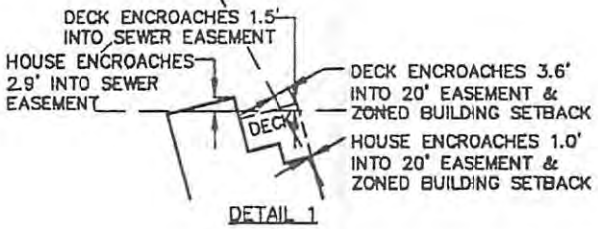
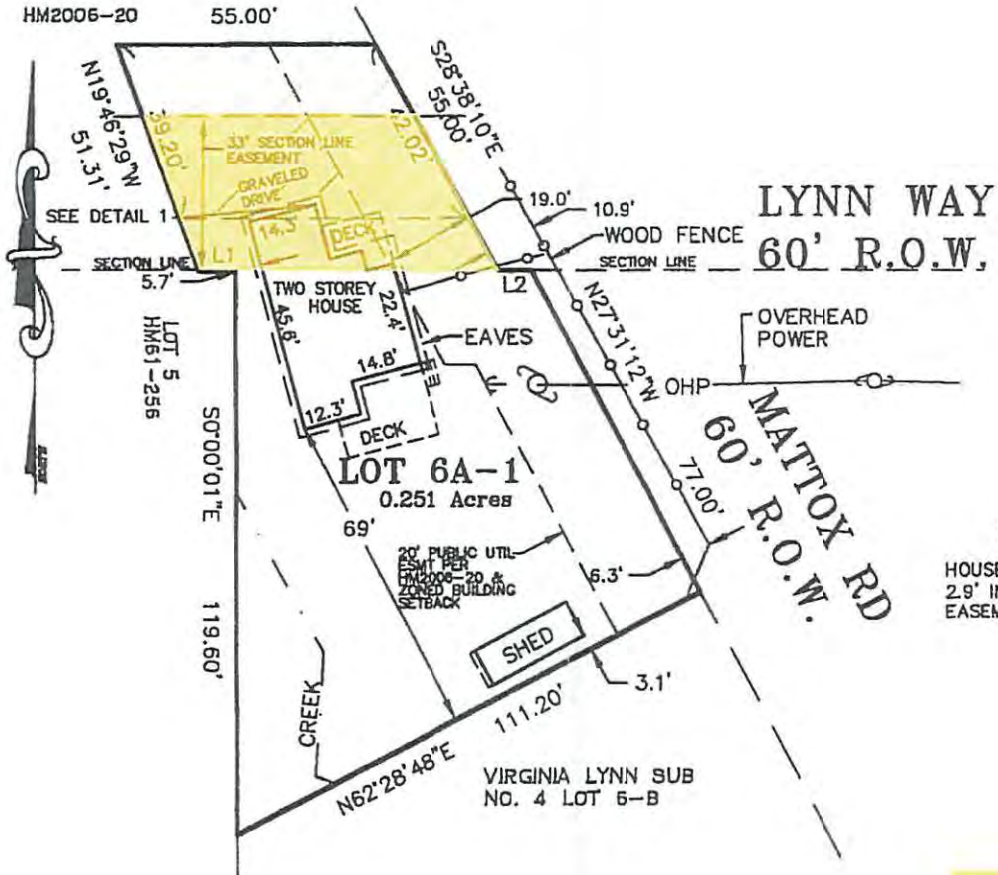


SECTION 21

-  SLE Proposed to be Vacated
-  SLEs Vacated by EV 3-018
-  SLEs Vacated by EV 2-298

Lot 6A-1
See Page 2 of 2

EV 3-303 Attachment A
Section 16, T6S, R13W, SM
Page 2 of 2



- SLE Proposed to be Vacated
- Sewer Easement, Managed by City of Homer



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

December 18, 2019

Homer Advisory Planning Commission

Notice of Action

Request: Approval of Virginia Lynn Section Line Easement Vacation Plat Preliminary Plat

Applicants:

Virginia Tornes
4097 Mattox Rd.
Homer, AK 99603

Gary Nelson RLS
Ability Surveys
152 Dehel Ave.
Homer, AK 99603

At the regular meeting of December 4, 2019 the Homer Advisory Planning Commission forwarded a **recommendation for approval** of the preliminary plat with staff recommendations and the attached minutes to the Kenai Peninsula Borough Planning Commission.

Should you have any questions, please contact the planning office at 235-3106.

Chair Venuti opened the Public Comment period. Seeing no one come forward to comment he closed the comment period and opened the floor to questions from the Commission.

Commissioner Smith inquired if this property would be considered within the area under a moratorium.

City Planner Abboud responded that it is considered within that area designated but the moratorium does not apply to this action.

Chair Venuti requested a motion hearing no further comments or questions from the commission.


BENTZ/RUBALCAVA MOVE TO ADOPT STAFF REPORT 19-97 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT WITH COMMENTS 1 AND 2:

1. DEPICT A FIFTEEN FOOT UTILITY EASEMENT ALONG ALL ADJACENT RIGHTS-OF-WAY.
2. REMOVE PLAT NOTE STATING, "THERE ARE NO WET AREAS ON THE PROPERTY."

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- 
- B. Staff Report 19-101, Section-line Easement Vacation Plat Preliminary Plat associated with Virginia Lynn 2006 Replat

Chair Venuti introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 19-101 noting that the Kenai Peninsula Borough informed the Planning Staff that a Preliminary Plat review is required.

Gary Nelson, surveyor for the applicant provided some clarification on the action requested to vacate the section line noting that it was a small holdover section.

Chair Venuti opened the Public Comment period. Seeing no one come forward to comment he closed the comment period and opened the floor to questions from the Commission.

Commissioner Davis requested some clarification on the process of vacating the section line easement and then doing a preliminary plat after the fact.

City Planner Abboud tried to provide some clarification of the process and stated that if this action was done in error it can be corrected after the fact. He reiterated that the Planning staff received the direction from the Borough.

Mr. Nelson provided information that the Department of Natural Resources requires the action by plat.

Chair Venuti requested a motion hearing no further questions or comments from the Commission.

BENTZ/SMITH MOVED TO ADOPT STAFF REPORT 19-101 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO VACATE THE SECTION LINE EASEMENT ACROSS LOT 6A-1 VIRGINIA LYNN 2006 REPLAT.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. Staff Report 19-100, Nomar 2019 Replat Preliminary Plat

Chair Venuti introduced the item by reading of the title.

City Planner Abboud reviewed Staff Report 19-100 from the Commission noting the review of the nonconforming status.

There was no applicant present.

Chair Venuti opened the Public Comment period. Seeing no one come forward to comment he closed the comment period and open the floor for questions from the Commission.

There was no questions from the Commission.

Chair Venuti requested a motion.

RUABLCAVA/DAVIS MOVED TO ADOPT STAFF REPORT 19-100 AND RECOMMEND APPROVAL OF THE PRELIMINARY PLAT TO REMOVE A COMMON LOT LINE WITH THE FOLLOWING COMMENT:

1. DEDICATE A 15 FOOT UTILITY EASEMENT ALONG RIGHTS-OF-WAY WHERE BUILDINGS DO NOT ENCROACH

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PENDING BUSINESS



City of Homer

www.cityofhomer-ak.gov

Planning
 491 East Pioneer Avenue
 Homer, Alaska 99603

Planning@ci.homer.ak.us
 (p) 907-235-3106
 (f) 907-235-3118

Staff Report 19-101

TO: Homer Advisory Planning Commission **19-101**
FROM: Julie Engebretsen, Deputy City Planner
THROUGH: Rick Abboud, City Planner
DATE: December 4, 2019
SUBJECT: Virginia Lynn Section Line Easement Vacation Plat

Requested Action: Approval of a preliminary plat to vacate the section line easement. The easement vacation is considered under a separate action.

General Information:

Applicants:	Virginia Tornes 4097 Mattox Rd Homer AK 99603	Gary Nelson RLS 152 Dehel Ave Homer AK 99603
Location:	West side of Mattox Rd, across from Lynn Way, north of Aurora Court	
Parcel ID:	17906106	
Size of Existing Lot(s):	0.25 acres	
Size of Proposed Lots(s):	Same. No lot line changes are proposed.	
Zoning Designation:	Urban Residential District	
Existing Land Use:	Residential	
Surrounding Land Use:	North: Multifamily residential South: Residential East: Residential West: Vacant/Residential	
Comprehensive Plan:	Chapter 4 goal 1-C-1 Promote infill development in all housing districts.	
Wetland Status:	Wetlands and a creek may be present on the lot. See staff comments below on the purpose of this plat.	
Flood Plain Status:	Zone D, flood hazards undetermined.	
BCWPD:	Not within the Bridge Creek Watershed Protection District.	
Utilities:	City water and sewer are available	

Public Notice:	Notice was sent to 15 property owners of 17 parcels as shown on the KPB tax assessor rolls.
----------------	---

Analysis: This subdivision is within the Urban Residential District. This plat depicts the section line easement vacation. Staff notes it is rare for Homer to have a vacation that does not involve a lot line change. Usually when the Homer Planning Commission reviews a plat, it also includes granting of utility easements or lot line changes. The plat under consideration here is regulated by state DNR requirements for section line easement vacations. This plat is not where one would see any other information about the land. Staff conferred with the Kenai Peninsula Borough that yes, a preliminary plat review is required. The question of whether to vacate the section line easement was addressed in a prior plat during a public hearing. This staff report only addresses the paper plat that depicts the vacation action.

Preliminary Approval, per KPB code 20.25.070 Form and contents required. The commission will consider a plat for preliminary approval if it contains the following information at the time it is presented and is drawn to a scale of sufficient size to be clearly legible.

- A. Within the Title Block:
 - 1. Names of the subdivision which shall not be the same as an existing city, town, tract or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
 - 2. Legal description, location, date, and total area in acres of the proposed subdivision; and
 - 3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor;

Staff Response: The plat meets these requirements.

- B. North point;

Staff Response: The plat meets these requirements.

- C. The location, width and name of existing or platted streets and public ways, railroad rights-of-way and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;

Staff Response: The plat meets these requirements.

- D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries and prominent natural and manmade features, such as shorelines or streams;

Staff Response: The plat meets these requirements.

- E. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in

the proposed subdivision, together with the purposes, conditions or limitation of reservations that could affect the subdivision;

Staff Response: The plat meets these requirements.

- F. The names and widths of public streets and alleys and easements, existing and proposed, within the subdivision; [Additional City of Homer HAPC policy: Drainage easements are normally thirty feet in width centered on the drainage. Final width of the easement will depend on the ability to access the drainage with heavy equipment. An alphabetical list of street names is available from City Hall.]

Staff Response: The plat meets these requirements. Easement information is not applicable.

- G. Status of adjacent lands, including names of subdivisions, lot lines, lock numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff Response: The plat meets these requirements.

- H. Approximate location of areas subject to inundation, flooding or storm water overflow, the line of ordinary high water, wetlands when adjacent to lakes or non-tidal streams, and the appropriate study which identifies a floodplain, if applicable;

Staff Response: The plat meets these requirements.

- I. Approximate locations of areas subject to tidal inundation and the mean high water line;

Staff Response: The plat meets these requirements.

- J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

Staff Response: The plat meets these requirements.

- K. Within the limits of incorporated cities, the approximate location of known existing municipal wastewater and water mains, and other utilities within the subdivision and immediately abutting thereto or a statement from the city indicating which services are currently in place and available to each lot in the subdivision;

Staff Response: The plat meets these requirements. Not applicable to this vacation.

- L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;

Staff Response: The plat meets these requirements.

- M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;

Staff Response: The plat meets these requirements.

- N. Apparent encroachments, with statement indicating how the encroachments will be resolved prior to final plat approval; and

Staff Response: Plat note 5 states that the single family home encroaches by 16 feet into the easement. Vacation of the easement will resolve this encroachment.

- O. If the subdivision will be finalized in phases, all dedications for through streets as required by KPB 20.30.030 must be included in the first phase.

Staff Response: The plat meets these requirements.

Public Works Comments: No comments.

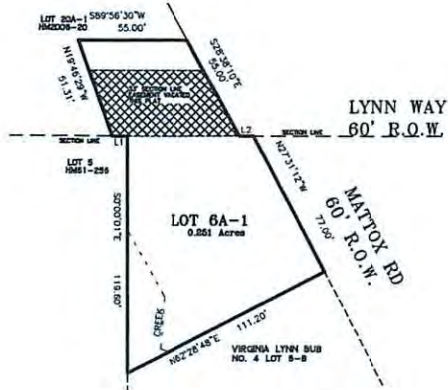
Staff Recommendation:

Planning Commission recommend approval of the preliminary plat prepared for the purpose of vacating the section line easement vacation.

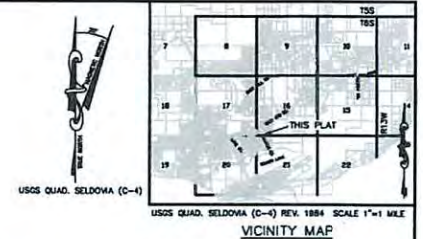
Attachments:

1. Preliminary Plat
2. Surveyor's Letter
3. Public Notice
4. Aerial Map

LEGEND:
 SECTION-LINE EASEMENT VACATED BY THIS PLAT.



LINE BEARING	DISTANCE
L1	589°56'30\"/>
L2	158°52'30\"/>



CERTIFICATE OF OWNERSHIP:
 I THE UNDERSIGNED CERTIFY THAT I AM THE OWNER OF THE DESCRIBED PROPERTY, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT.

DATE _____ VIRGINIA F TORNES
 PO BOX 2497
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
 For VIRGINIA F TORNES
 Acknowledged before me this _____ day of _____ 2019.
 Notary Public for Alaska _____ My Commission Expires _____

RECEIVED
 OCT 21 2019
 CITY OF HOMER
 PLANNING/ZONING

SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE _____
 TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT (SOUTHCENTRAL OFFICE)

STATE OF ALASKA DIVISION OF MINING, LAND & WATER THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE _____
 TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 18.10.010 (SPECIFIC AREA DELINEATED BY DIAGONAL HATCHING ON THIS PLAT)

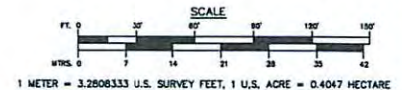
DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF NATURAL RESOURCES

NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16 T6 R13W S.M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM PLATS OF RECORD AS USED.
- THIS VACATION IS IN COMPLIANCE WITH STATE PLATTING RESOLUTION NO. _____ APPROVED _____, EV-2-_____ AND AS 28.40.120 -140. (or)
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED _____.
- BUILDINGS ARE DRAWN FROM AN AS-BUILT SURVEY BY GARY D. NELSON (LSF7810), DATED 8/15/2018. HOUSE ROOF EAVE OVERSHOOTS 18 FEET INTO SECTION LINE EASEMENT.

PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____
 AUTHORIZED BOROUGH OFFICIAL _____



SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPILED FROM EXISTING RECORD INFORMATION.

DATE _____ REGISTERED LAND SURVEYOR "REGISTRATION NO." 7810-S _____

DATE OF SURVEY Beginning <u>NO FIELD SURVEY</u> Ending _____		NAME OF SURVEYOR GARY NELSON 152 DEHEL AVE. HOMER, ALASKA 99603	
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA			
SECTION-LINE EASEMENT VACATION PLAT Associated with VIRGINIA LYNN 2006 REPLAT			
Located within Surveyed Section 16, T6S, R13W, S.M., AK HOMER RECORDING DISTRICT			
DRAWN BY: G.N.		APPROVAL RECOMMENDED	
DATE: 01/10/2019		STATEWIDE PLATTING SUPERVISOR _____ DATE _____	
SCALE: 1" = 30'		CHECKED: DNR FILE NO. _____	
SHEET 1 OF 1		G. N. EV-	

ABILITY SURVEYS

MEASURING MAPPING & REPORTING ON ALASKA'S INFRASTRUCTURE SINCE 1976

152 DEHEL AVE., HOMER, AK 99603 PH. 907-235-8440

email; gary@abilitysurveys.com

October 18, 2019

Homer Planning Dept.
491 E. Pioneer Ave.
Homer, AK 99603

Re: Submittal of Section Line Easement Vacation and Utility Easement Vacation applications for Virginia Tornes.

Enclosed herewith please find the SLE Vacation and the Utility Easement Vacation applications. Julie requested two checks in the amount of \$300, one being for a "plat". I question this fee because the City and Borough will only be processing the Easement Vacations. The plat is required by and will only be processed by Alaska DNR. The SLEV plat is only a DNR function and is not processed by KPB or Homer as such. The borough as platting authority will not be processing the SLEV plat. I have included check for both of her requests but believe one may not be necessary.

Please ask any questions or deliver any comments via my cell phone (907-299-1184) because I will be out of state until Nov. 2, 2019.

I hope you find the applications adequate. Thank You for your assistance.

Sincerely,



Gary Nelson, PLS

RECEIVED

OCT 21 2019

CITY OF HOMER
PLANNING/ZONING

**PUBLIC HEARING NOTICE
&
NOTICE OF SUBDIVISION**

Public notice is hereby given that the City of Homer will hold a public hearing by the Homer Advisory Planning Commission on Wednesday, December 04, 2019 at 6:30 p.m. at Homer City Hall, 491 East Pioneer Avenue, Homer, Alaska, on the following matter:

A REQUEST TO VACATE A 33 FOOT WIDE SECTION LINE EASEMENT ACROSS LOT 6A-1 VIRGINIA LYNN 2006 REPLAT, NW ¼, SEC. 21, T. 6 S., R. 13. W, S.M. HM 2006020, KNOWN AS 4097 MATTOX ROAD.

Public notice is hereby given that a preliminary plat has been received proposing to subdivide or replat property. You are being sent this notice because you are an affected property owner within 500 feet of a proposed subdivision and are invited to comment.

The proposed subdivision under consideration is described as follows:

Section-line Easement Vacation Plat associated with Virginia Lynn 2006 Replat Preliminary Plat

A public meeting will be held by the Homer Advisory Planning Commission on Wednesday, December 04, 2019 at 6:30 p.m. at Homer City Hall, Cowles Council Chambers, 491 East Pioneer Avenue, Homer, Alaska.

Anyone wishing to present testimony concerning these matters may do so at the meeting or by submitting a written statement to the Homer Advisory Planning Commission, 491 East Pioneer Avenue, Homer, Alaska 99603, by 4:00 p.m. on the day of the meeting.

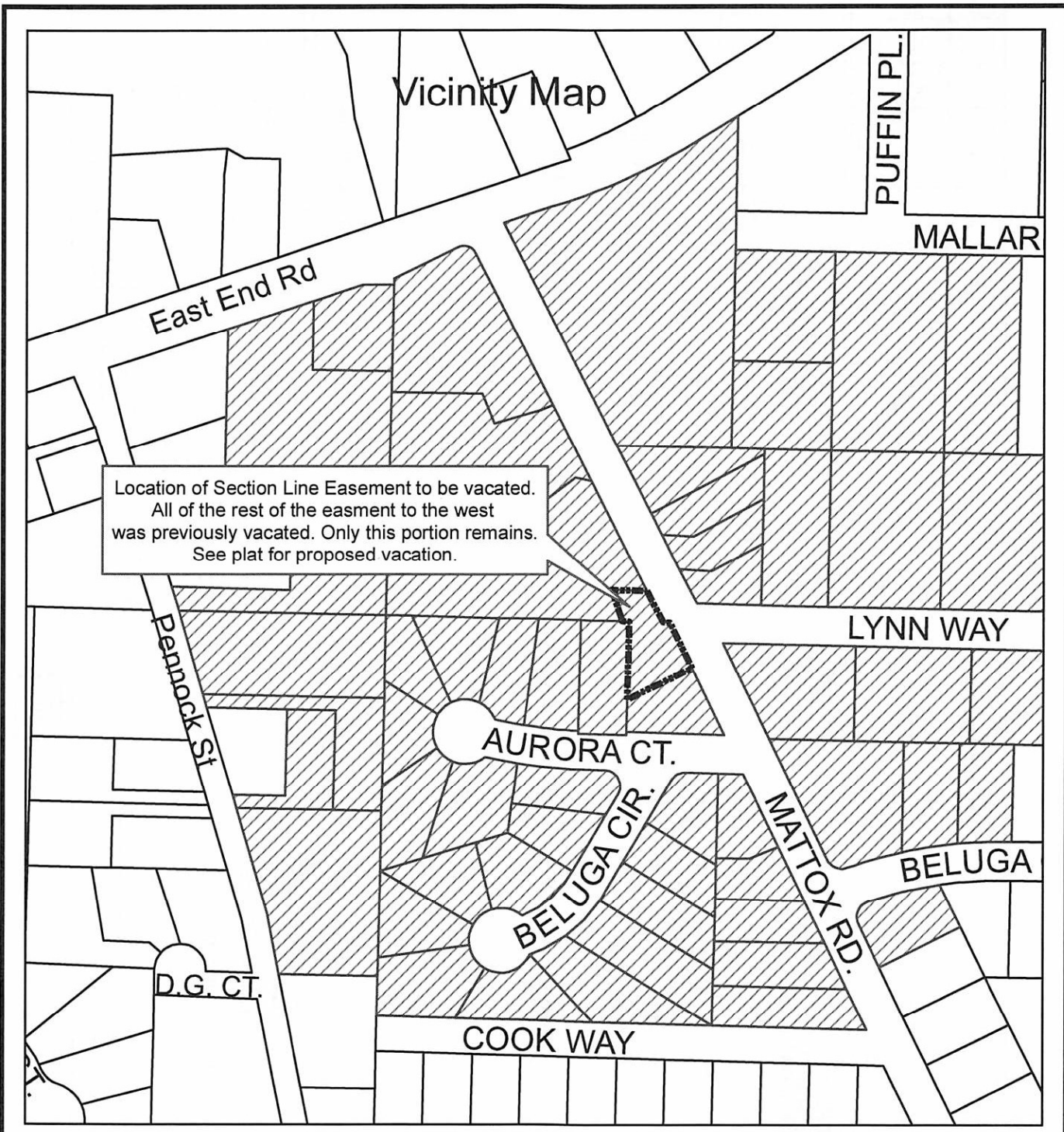
The complete proposal is available for review at the City of Homer Planning and Zoning Office located at Homer City Hall. For additional information, please contact Rick Abboud at the Planning and Zoning Office, 235-3106.

NOTICE TO BE SENT TO PROPERTY OWNERS WITHIN 500 FEET OF PROPERTY.


.....

VICINITY MAP ON REVERSE





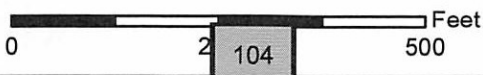
Location of Section Line Easement to be vacated.
 All of the rest of the easment to the west
 was previously vacated. Only this portion remains.
 See plat for proposed vacation.



City of Homer
 Planning and Zoning Department
 11/15/2019

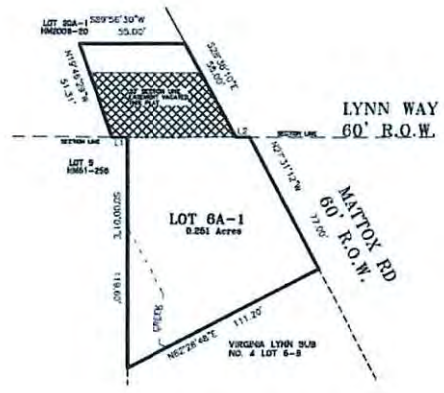
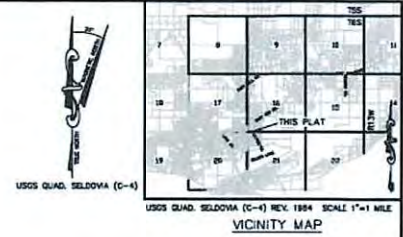
**Request for a
 Section Line Easement Vacation**

Marked lots are within 500 feet
 and property owners notified



Disclaimer:
 It is expressly understood the City of
 Homer, its council, board,
 departments, employees and agents are
 not responsible for any errors or omissions
 contained herein, or deductions, interpretations
 or conclusions drawn therefrom.

LEGEND:
 [Hatched Box] SECTION-LINE EASEMENT VACATED BY THIS PLAT.



DATE/REVISION	DISTANCE
L1 1559-26.10 W 116.88'	
L2 1559-26.10 W 116.88'	

CERTIFICATE OF OWNERSHIP:
 I, THE UNDERSIGNED, CERTIFY THAT I AM THE OWNER OF THE DESCRIBED PROPERTY, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT.

DATE: _____
 VIRGINIA F TORRES
 PO BOX 2457
 HOMER, AK 99603

NOTARY'S ACKNOWLEDGMENT
 For VIRGINIA F TORRES
 Acknowledged before me this _____ day of _____ 2019.
 My Commission Expires _____

RECEIVED
 OCT 21 2019
 CITY OF HOMER
 PLANNING/ZONING

SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE: _____
 TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT (SOUTH-CENTRAL OFFICE)

STATE OF ALASKA DIVISION OF MINING, LAND & WATER THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE DIVISION OF MINING, LAND & WATER AND IS HEREBY RECOMMENDED FOR APPROVAL BY THE COMMISSIONER.

RECOMMENDED BY: _____ DATE: _____
 TITLE: DIRECTOR, DIVISION OF MINING, LAND & WATER

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY STATE AND DECLARE THAT THE STATE OF ALASKA VACATES AND RELEASES ALL RIGHTS AND TITLE TO ANY AND ALL PORTIONS OF SECTION-LINE EASEMENTS FOR PUBLIC HIGHWAYS RESERVED TO IT UNDER A.S. 18.10.010 (SPECIFIC AREA Delineated BY DIAGONAL HATCHING ON THIS PLAT)

DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DATE: _____ APPROVED: _____
 COMMISSIONER
 DEPARTMENT OF NATURAL RESOURCES

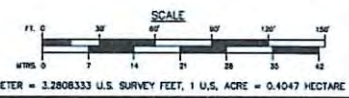
NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16 T6S, R13N, S3M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM PLATS OF RECORD AS LISTED.
- THIS VACATION IS IN COMPLIANCE WITH STATE PLATING RESOLUTION NO. _____ APPROVED _____, EV-2-_____ AND AS 28.40.100 -140 (M).
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED _____.
- BUILDINGS ARE DRAWN FROM AN AS-BUILT SURVEY BY GARY S. NELSON (LS87910), DATED 8/15/2018. HOUSE ROOF EAVE INCREASES 16 FEET INTO SECTION LINE EASEMENT.

PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF _____
 ADVISED BOROUGH OFFICIAL: _____



SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPILED FROM EXISTING RECORD INFORMATION.
 7610-S
 DATE: _____ REGISTERED LAND SURVEYOR REGISTRATION NO.



DATE OF SURVEY Beginning: <u>NO FIELD SURVEY</u> Ending: _____	NAME OF SURVEYOR GARY NELSON 152 DEHEL AVE. HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with VIRGINIA LYNN 2006 REPLAT Located within Surveyed Section 16, T6S, R13N, S3M., AK HOMER RECORDING DISTRICT	
DRAWN BY: <u>G.N.</u>	APPROVAL RECOMMENDED
DATE: <u>01/10/2019</u>	STATEWIDE PLATING SUPERVISOR: _____ DATE: _____
SCALE: <u>1" = 30'</u>	CHECKED: _____ DNR FILE NO. _____
SHEET 1 OF 1	G. N. EV-

**SECTION-LINE EASEMENT VACATION CERTIFICATE APPROVAL
RECOMMENDATION**

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
THE VACATION STATEMENT, AS SHOWN HEREON, HAS BEEN REVIEWED BY THE
CENTRAL REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL
BY THE COMMISSIONER.

RECOMMENDED BY: Mike Hatcher DATE: 1/16/08
TITLE: REGIONAL CHIEF RIGHTS-OF-WAY AGENT

STATE OF ALASKA
THE VACATION
DIVISION OF
BY THE COM
RECOMMEND
TITLE: DIRECTOR

DATE: 1/16/08

DATE: Jan 10, 2009

Note:

This document is a
previously recorded
plat that has been
modified by City of
Homer Planning Staff
for public notice
purposes

Nov. 20, 2019

REVIEWED BY THE
COMMISSIONER FOR APPROVAL

DATE: Jan 11, 2009

COMMISSIONER OF
THE DEPARTMENT OF
NATURAL RESOURCES
DOES HEREBY
S AND RELEASES
SECTION-LINE
A.S. 19.10.010
(S PLAT)

DATE: Jan 11, 2009

COMMISSIONER AND

DATE: Jan 11, 2009

COMMISSIONER
DEPARTMENT OF NATURAL RESOURCES

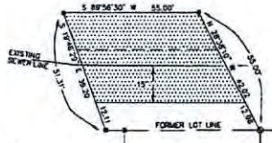
ACCEPTANCE OF DEDICATION

THE DIRECTOR OF THE DIVISION OF MINING, LAND, AND WATER, ON BEHALF
OF THE STATE OF ALASKA, HEREBY ACCEPTS FOR PUBLIC USES AND FOR
PUBLIC PURPOSES THE REAL PROPERTY DEDICATED TO THE PUBLIC BY THIS
PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND ROADWAYS
SHOWN ON THIS PLAT. THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR
FOR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING
BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

DATE: Jan 10, 2009
DIRECTOR, DIVISION OF MINING, LAND AND WATER

**DETAIL "A"
SCALE 1" = 30'**

UTILITY EASEMENT



NOTES

- DIAGONALLY HATCHED AREA INDICATES PORTIONS OF THE SECTION-LINE EASEMENTS BEING VACATED WITHIN SECTION 16, T. 08 N., R. 13 W., S. 4 M. IT IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER DEDICATED PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- NO FIELD SURVEY HAS BEEN CONDUCTED IN RELATION TO THE PREPARATION OF THIS SECTION-LINE EASEMENT VACATION PLAT. ALL DIMENSIONS AND OTHER DETAILS AS SHOWN HEREON ARE FROM THE PLAT OF MATTOX SUBDIVISION BIRCH TERRACE REPLAT ON FILE AT THE HOMER RECORDING DISTRICT AS PLAT NO. 2005-59 H.R.D. AND VIRGINIA LYNN REPLAT (2005-20).
- THIS SECTION-LINE EASEMENT VACATION IS IN COMPLIANCE WITH THE FINAL FINDING AND DECISION APPROVED JULY 14, 2006.
- PURSUANT TO AS 19.30.410 THE ALTERNATE ACCESS REPLACING THE SECTION-LINE EASEMENTS BEING VACATED BY THIS PLAT IS THE EAST END ROAD AND MATTOX ROAD RIGHTS-OF-WAY AND THE EXISTING 33-FOOT WIDE SECTION-LINE EASEMENT EXTENDING NORTH THROUGH LOTS 19-A AND 18 TO ITS INTERSECTION WITH EAST END ROAD.
- THIS PLAT IS SUBJECT TO THE NOTES SHOWN ON THE PLAT OF MATTOX SUBD. BIRCH TERRACE REPLAT, PLAT NO. 2005-59 H.R.D. AND VIRGINIA LYNN REPLAT (2005-20).

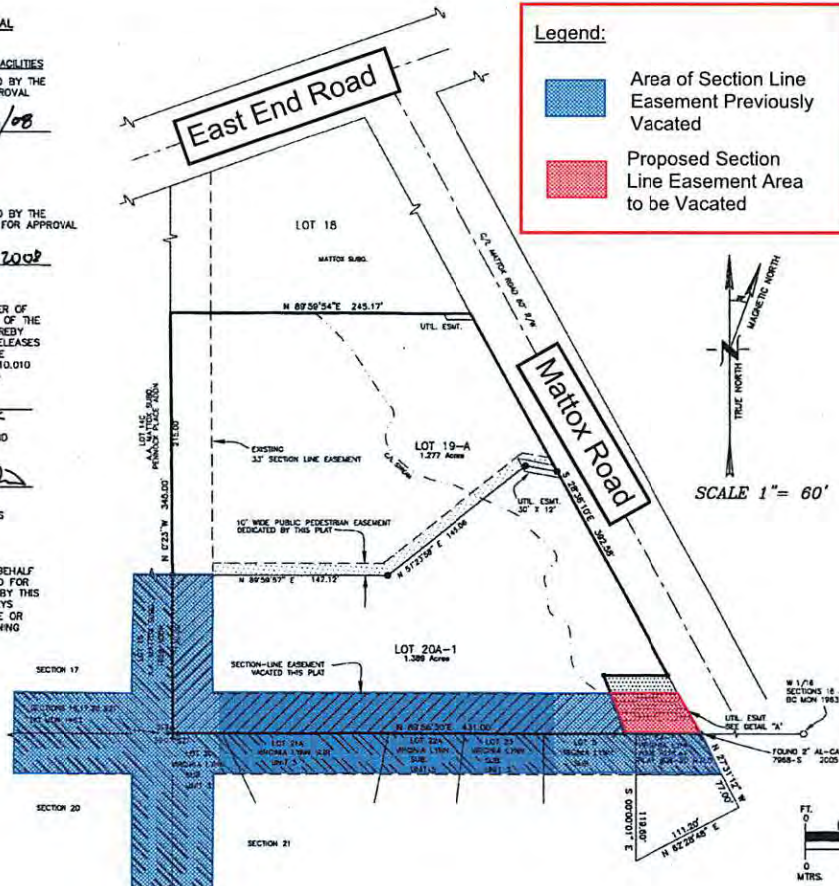
PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF MARCH 13, 2006 & Feb 24, 2007
DATE: Feb 11, 2008
AUTHORIZED OFFICIAL: KENAI PENINSULA BOROUGH

SURVEYOR'S CERTIFICATE

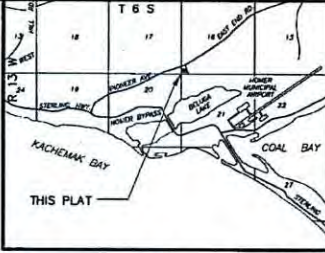
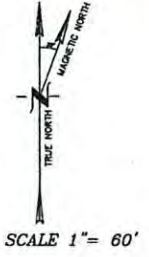
I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT WAS DRAFTED UNDER MY DIRECT SUPERVISION, AND THAT ALL DATA SHOWN HEREON IS TRUE AND CORRECT AS COMPRIED FROM EXISTING RECORD INFORMATION.
DATE: 12/10/07 REGISTERED LAND SURVEYOR
REGISTRATION NO. LS-7968

2008-9
KENTON T. BLOOM
DATE: 2/29/2008
NAME: KENTON T. BLOOM
CREDENTIAL NO.: LS-7968



Legend:

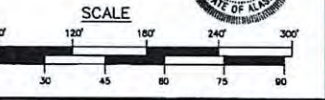
- Area of Section Line Easement Previously Vacated
- Proposed Section Line Easement Area to be Vacated



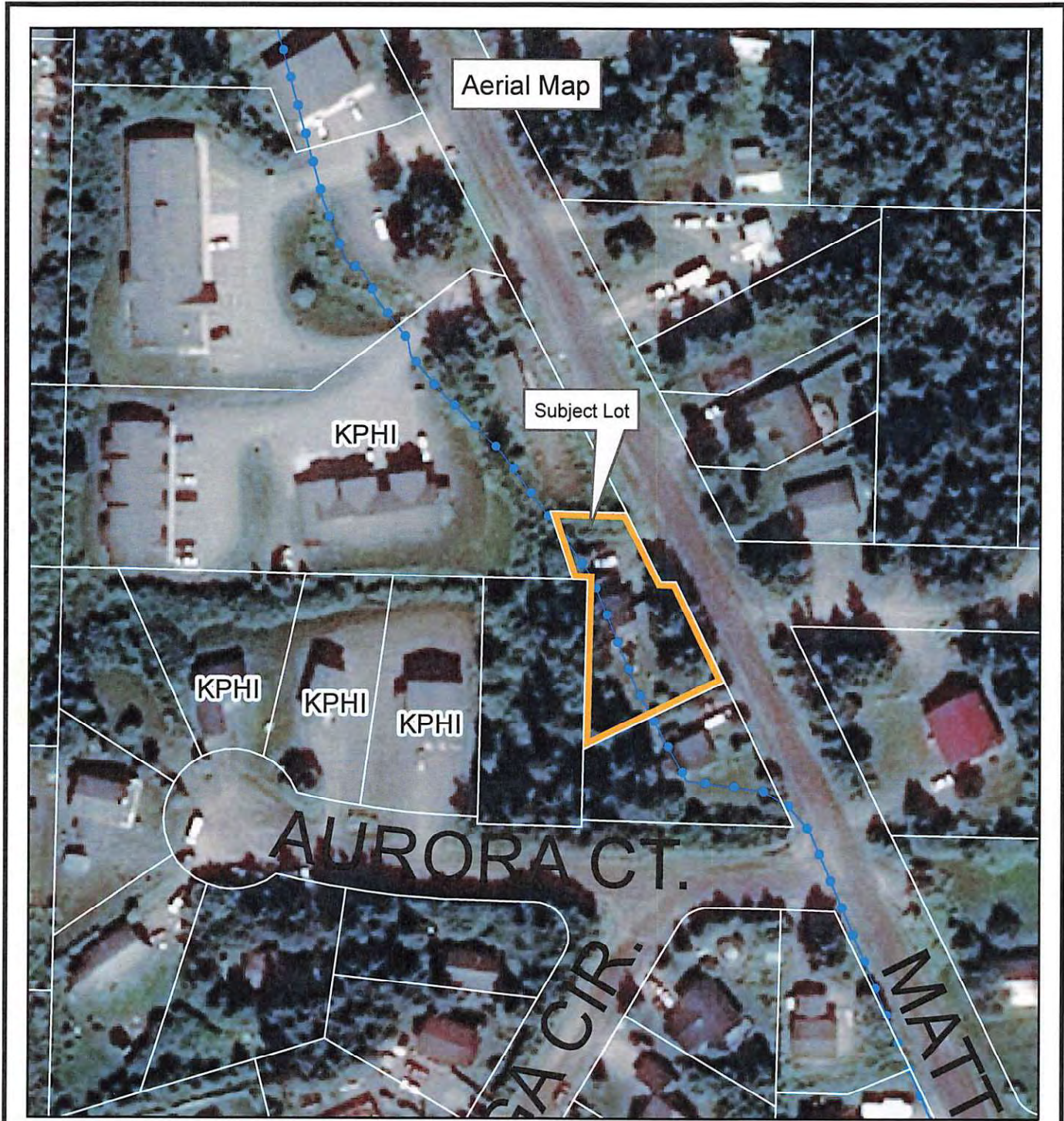
USGS QUAD. SELDOWNA (C-5) REV. 1902 SCALE 1"=1 MILE
VICINITY MAP

CERTIFICATE OF OWNERSHIP AND DEDICATION:
I THE UNDERSIGNED, CERTIFY THAT I AM THE OWNER OF LOTS 19-A MATTOX SUBD. BIRCH TERRACE REPLAT AND 20A-1 VIRGINIA LYNN 2006 REPLAT, AS SHOWN ON THIS PLAT. I APPROVE THIS SECTION-LINE EASEMENT VACATION PLAT AND DEDICATE OR RESERVE FOR PUBLIC OR PRIVATE USE, AS NOTED, ALL EASEMENTS, PUBLIC UTILITY AREAS, AND RIGHTS-OF-WAY AS SHOWN ON THIS PLAT.
DATE: Dec. 7, 2007
STEVE L. ROUSE, EXECUTIVE DIRECTOR
KENAI PENINSULA HOUSING INITIATIVES, INC.
333 E. PIONEER AVENUE, STE. B
HOMER, ALASKA 99603

NOTARY'S ACKNOWLEDGEMENT
SUBSCRIBED AND SWORN TO BEFORE ME THIS 7 DAY OF DEC, 2007
BY: Steve B. Rouse
NOTARY FOR THE STATE OF ALASKA
MY COMMISSION EXPIRES 7/18/2010



DATE OF SURVEY Beginning <u>NO FIELD SURVEY</u> Ending	SEABRIGHT SURVEYING 1044 EAST END ROAD, STE A HOMER, ALASKA 99603
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND & WATER ANCHORAGE, ALASKA	
SECTION-LINE EASEMENT VACATION PLAT Associated with LOT 20A-1 VIRGINIA LYNN 2006 REPLAT (PLAT NO. 2006-20) AND PEDESTRIAN EASEMENT DEDICATION WITHIN LOT 19-A MATTOX SUBD. BIRCH TERRACE REPLAT (PLAT NO. 2005-55)	
Located within Surveyed Sec. 16, T.8 S., R.13 W., S. 4 M., STATE OF ALASKA, HOMER RECORDING DISTRICT	
DRAWN BY: <u>JS</u>	APPROVAL RECOMMENDED
DATE: <u>08/03/08</u>	STATE PLATING SUPERVISOR DATE
SCALE: 1" = 60'	CHECKED: <u>KR</u> DNR FILE NO. <u>EV-3-018</u>



City of Homer
 Planning and Zoning Department
 11/15/2019

Request for a Section Line Easement Vacation

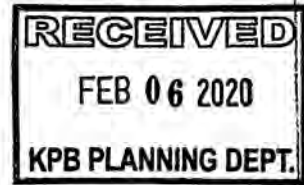
2017 Photo. Parcel lines not exact; use with care.



*Disclaimer:
 It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.*

2020-02W2

Kenai Peninsula Borough Planning Department
144 North Binkley Street
Soldotna, Alaska 99669-7520
Toll free within the Borough 1-800-478-4441, extension 2200 (907) 714-2200



Petition to Vacate Section Line Easement
Public Hearing Required

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

The Kenai Peninsula Borough is advisory to the State of Alaska Department of Natural Resources regarding Section Line Easement Vacations. The State of Alaska has the final authority regarding vacation of Section Line Easements.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Section Line Easement Vacation Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

ROW Vacation Plat

- \$500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.

- Are there associated utility easements to be vacated? Yes No *Somewhat*
- Are easements in use by any utility company? If so, which company *Homer Public Works, Separate Esmt.*
- Width of easement proposed to be vacated must be shown on the sketch.
- Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. Proposed alternative dedication is to be shown and labeled on the sketch.

- Has the section line easement been fully or partially constructed? Yes No
- Is the section line easement used by vehicles / pedestrians / other? Yes No
- Is alternative right-of-way being provided? Yes No *See Below*

The petitioner must provide reasonable justification for the vacation. Reason for vacating:
Quasi right of way is provided on adjacent lot ZDA-1 (adjacent West and North) via paved access to apartments that are public assistance housing operated by Kenai Peninsula Housing Initiatives, also Public Road Network.

The petition must be signed (written signature) by owners of a majority of the land affected by the section line easement proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By: Signature *Gary Nelson* As: No Yes
 Name *Gary Nelson* Petitioner Representative
 Address *152 Dehel Ave*
Homer, AK 99603
 Phone _____

Petitioners:

Signature *Virginia F. Tornes* Signature _____
 Name *VIRGINIA F. TORNES* Name _____
 Address *PO Box 2497* Address _____
HOMER, AK
99603
 Owner of *LOT 6A-1* Owner of _____

Signature _____ Signature _____
 Name _____ Name _____
 Address _____ Address _____

 Owner of _____ Owner of _____

AGENDA ITEM E. PUBLIC HEARINGS

2. This plat vacates a 33' Section Line Easement located within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) and as dedicated on 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The right-of-way being vacated contains a driveway for the residence constructed on Lot 6A-1 and located within the SW1/4 of Section 16, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-021V2

Staff Report given by Scott Huff

PC Meeting: April 13, 2020

Purpose as stated in petition: The area of requested Section Line Easement Vacation is on lot 6A-1, Virginia Lynn 2006 Replat (Plat HM 2006-20). The Section Line Easement has been vacated from adjacent lots and a portion of the subject lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20) by previous Section Line Easement Vacation Plat No.'s HM 2008-9 and HM 85-109. We are requesting to vacate the entire remaining Section Line Easement within Lot 6A-1 Virginia Lynn 2006 Replat (Plat HM 2006-20). The subject Section Line Easement is not used for any access nor has it been used as an access. The house encroaches 14.3' and the deck encroaches 12.9' into the Section Line Easement, which will be vacated and finalized by Section Line Easement Vacation Plat associated with Virginia Lynn 2006 Replat, KPB 2020-021V2. .

Petitioners: Virginia F. Tornes of Homer, AK

Notification: Public notice appeared in the March 12 issue of the Homer News as a separate ad. The public hearing notice was published in the March 19 issue of the Homer News as part of the Commission's tentative agenda.

21 certified mailings were sent to owners of property within 300 feet of the proposed vacation. 16 receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 42 owners within 600 feet of the proposed vacation.

19 public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to 6 KPB staff/Departments via a shared database.

Notices were mailed to the Homer Post Office and Homer Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ENSTAR: No comment, recommendations or objections.

KPB Addressing: Any address changes will be updated by the City of Homer.

KPB Planning: No material site or local option zone issues. A review is not required for property inside city limits.

KPB River Center: Within City of Homer.

KPB Roads Department: Out of jurisdiction, no comments.

Homer Advisory Planning Commission: Recommend to adopt the Homer City staff report and recommend approval of the preliminary plat to vacate the section line easement across Lot 6A-1 Virginia Lynn 2006 Replat.

State Parks: No comments.

Staff Discussion:

The petition submitted is requesting to vacate a remaining portion of 33 foot wide section line easement lying wholly within Lot 6A-1, Virginia Lynn 2006 Replat 2006-20 HRD. Lot 6A-1 fronts on City maintained and dedicated Mattox Road. The portion of section line easement to be vacated is no longer than 64 feet in length. The entire section line easement to the west has been vacated per plat 85-109 HRD and 2008-9 HRD, but a small portion remained.

Staff is not sure why this small section of section line easement was not vacated previously, but maybe the owner of Lot 6A-1 did not participate at the time the other section line easement was petitioned for vacation.

This portion of section line easement does not provide an access to public lands, is not part of a continuous access, and is not used by the public for access.

If approved, a section line easement vacation (SLEV) plat associated with Lot 6A-1 Virginia Lynn 2006 Replat will finalize the proposed right of way vacations. The SLEV Plat has not been submitted at the time the staff report was prepared.

KPB 20.70 – Vacation Requirements.

Platting staff comments: Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:

- D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

Platting Staff Comments: The proposed vacation was reviewed and approved by the Homer Advisory Planning Commission at the meeting of December 4, 2019.

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, 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 in KPB 20.70.110.

Platting Staff Comments: A Section Line Easement Vacation plat has not been submitted at this time.

Staff recommendation: Submit a Section Line Easement Vacation Plat for KPB review as well as submittal to AK DNR survey section.

20.70.160. Partial vacation allowed. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

Platting Staff Comments: The proposed vacation will complete the vacation of the entire section line easement between Mattox Road and Pennock Street.

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: The public is not using this portion of SLE for vehicular access as it does not provide access to public lands or a continuing right of way.

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

Platting Staff Comments: Mattox Road is a 60 foot wide dedicated right of way, which has been improved, and is currently maintained by the City of Homer. Mattox Road provided public access to this parcel and neighboring parcels.

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public 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 public utility easement be granted in place of the right-of-way.

Platting Staff Comments: Utilities are currently in place. A 20 foot utility easement adjoining Mattox Road provides access for utility providers.

20.30.220. Section line easement vacations. Section line easement vacation petitions must comply with the requirements of KPB 20.70.040, 20.70.050 and 20.70.060. A fee is required in compliance with KPB 20.70.060. Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120. The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements. The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and platting of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

Platting Staff Comments: A SLEV plat has not been submitted to KPB Planning Department.

Staff recommendation: *Submittal of a SLEV plat to the KPB Planning Department and the State of AK DNR – Survey Section.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends approval of the vacations as petitioned, subject to:

5. Consent by Homer City Council / KPB Assembly.
6. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
7. Grant utility easements requested by the Homer City Council and utility providers.
8. 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 20.70.110:

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council.

The Homer 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 by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly.

The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.
- B. Upon denial by the planning commission, 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.

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

Chair Martin opened the meeting for public comment.

1. Gary Nelson, 152 Dehel Avenue, Homer, AK
Mr. Nelson is the surveyor on the project and was available for questions.

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

MOTION: Commissioner Venuti moved, seconded by Commissioner Morgan, to approve the vacations as petitioned based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Commissioner Ecklund noted that there was a house built in the section line easement. She wanted to know if someone could legally build on a section line easement without asking for a vacation. Mr. Huff responded that staff always hopes that a house will not be built in a section line easement but it does happen. People many times do not realize there is a section line easement if it is not being used. They find out that there is a section line easement when the as-built is done.

MOTION PASSED BY UNANIMOUS VOTE: 10 Yes, 0 No, 2 Absent

Yes: Bentz, Carluccio, Ecklund, Ernst, Fikes, Martin, Morgan, Ruffner, Venuti, Whitney

No: --

Absent: Brantley, Foster