




KENAI PENINSULA BOROUGH

144 N. BINKLEY SOLDOTNA, ALASKA 99669-7520
BUSINESS (907) 262-4441 FAX (907) 262-1892

JOHN J. WILLIAMS
MAYOR

MEMORANDUM

TO: Ron Long, Assembly President
Kenai Peninsula Borough Assembly Members

FROM:  Max Best, Planning Director

DATE: April 28, 2006

SUBJECT: Vacate that portion of a 66-foot section line easement centered on the line common to Sections 20 and 21, beginning 33 north of the corner common to Sections 20, 21, 28 and 29, and extending to the south shore of Hall Lake Sangster Subdivision Hall Lake Addition (Plat KN 2006-11); within Sections 20 and 21, Township 5 North, Range 9 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-061; Petitioners: John Stevens of Australia and Kenneth S. Merkes of Sterling, Alaska; Location: South of Hall Lake in Sterling

In accordance with AS 29.40.140, no vacation of a Borough right-of-way and/or easement may be made without the consent of the Borough Assembly. The Planning Commission approved the referenced vacation during their regularly scheduled April 24, 2006 meeting.

A motion to grant the vacation as petitioned and adopting the ten findings passed by majority consent. (Bryson, Yes; Clark, Yes; Foster, No; Gross, Yes; Heimbuch, No; Hohl, No; Hutchinson, Absent; Isham, Yes; Johnson, Yes; Martin, Yes; Massion, Yes; Petersen, Yes; Tauriainen, Yes) This petition is being sent to you for your consideration and action.

The Assembly has 30 days from April 24, 2006 in which to veto the decision of the Planning Commission. If the Commission receives no veto within the 30-day period, the decision of the Commission will stand.

Draft, unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacate that portion of a 66-foot section line easement centered on the line common to Sections 20 and 21, beginning 33 north of the corner common to Sections 20, 21, 28 and 29, and extending to the south shore of Hall Lake Sangster Subdivision Hall Lake Addition (Plat KN 2006-11); within Sections 20 and 21, Township 5 North, Range 9 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-061; Petitioners: John Stevens of Australia and Kenneth S. Merkes of Sterling, Alaska; Location: South of Hall Lake in Sterling

Staff Report reviewed by Max Best

PC Meeting: 4/24/06

Purpose as stated in petition: Section line runs through six lots on the new subdivision. A new ROW is being dedicated to replace the section line easement.

Petitioners: John Stevens of Australia and Kenneth S Merkes of Sterling, Alaska.

Public notice appeared in the April 6 and April 13, 2006 issues of the Peninsula Clarion.

Five (5) certified mailings were sent to adjoining owners; one (1) receipt was returned. One certified notice was returned as undeliverable.

Ten (10) notices were sent by regular mail to interested parties. Seven (7) departmental notices were distributed. Notices were mailed to the Soldotna Post Office and Soldotna Community Library to be posted in public locations. The notice and maps were posted on the Borough web site and bulletin board.

Statement of No Comment

Homer Electric Association

Staff discussion

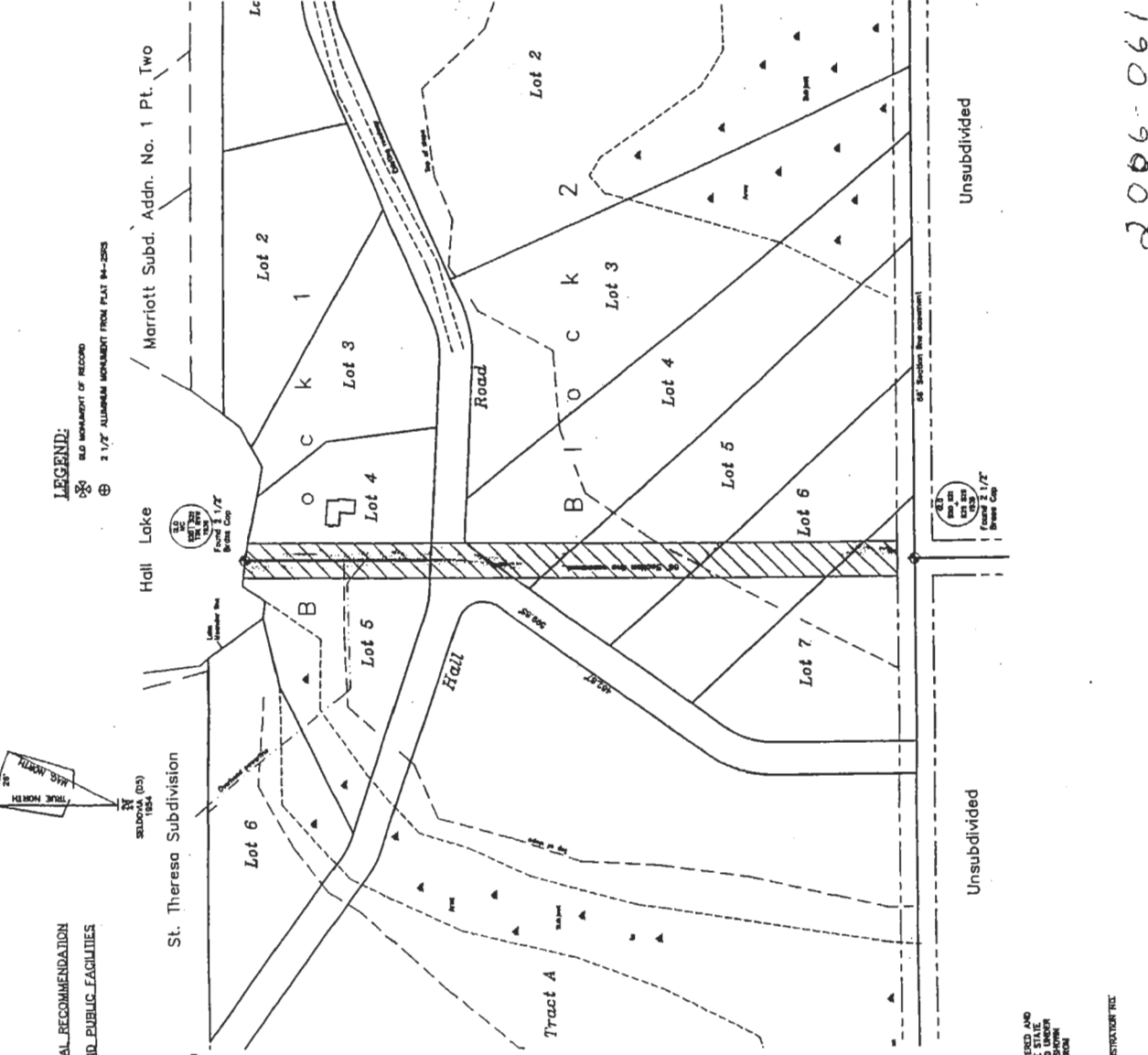
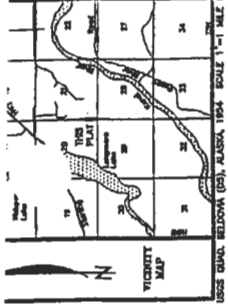
Sangster Subd. Hall Lake Addn. preliminary plat, which showed the subject section line, was distributed to adjoining owners, interested parties, and agencies during the fall of 2005. The State Department of Transportation and Public Facilities submitted a request for the applicant to vacate the 66-foot section line easement that divided Section 20 and 21.

Findings:

1. Per the petition, the section line easement has not been constructed.
2. Per the petition, the section line easement is not being used.
3. Section line easements are under the regulation of the State of Alaska.
4. AS 19.30.410 and 11 AAC 51.065 require equal or better access prior to vacation, modification, or relocation of a public right-of-way.
5. Alternative right-of-way was provided by Sangster Subdivision Hall Lake Addition (KN 2006-11).
6. The alternative right-of-way is superior due to design, location and terrain.
7. On September 20, 2005, the State Department of Transportation and Public Facilities requested the applicant to vacate the 66-foot section line easement.
8. Homer Electric Association reviewed the proposed vacation and had no comment.
9. Section line easement vacations are finalized with a State easement vacation plat.
10. The State of Alaska must sign the section line easement vacation plat.

STAFF RECOMMENDATION: Based on the above findings, staff recommends granting the vacation as approved, subject to:

1. Compliance with any State requirements for the section line easement vacation.
2. Vacation approval to be granted for 2 years to allow the State of Alaska DNR sufficient time to process the applicant's request.
3. Submittal of a preliminary plat in compliance with Borough Codes (submittal of a final plat within two



SECTION LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATION
STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
 THE VACATION SECTION LINE EASEMENT HAS BEEN REVIEWED BY THE
 REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL
 BY THE COMMISSIONER.

RECOMMENDED BY _____ DATE _____
 TITLE: REGIONAL OFFICE DIRECTOR (CENTRAL & SOUTHEASTERN OFFICE)

STATE OF ALASKA DIVISION OF MINING, LAND, & WATER
 THE VACATION SECTION LINE EASEMENT HAS BEEN REVIEWED BY THE
 REGIONAL OFFICE AND IS HEREBY RECOMMENDED FOR APPROVAL
 BY THE COMMISSIONER.

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

THE STATE OF ALASKA, ACTING BY AND THROUGH THE COMMISSIONER OF
 THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DOES HEREBY
 STATE AND DECLARE THAT THE SECTION LINE EASEMENT VACATION PLAT
 IS IN ACCORDANCE WITH THE REQUIREMENTS OF AS 40.15, AS 40.16,
 AND AS 40.17, AND THAT THE SECTION LINE EASEMENT VACATION
 EASEMENTS FOR PUBLIC RIGHTS RESERVED TO IT UNDER AS 40.15, 40.16,
 AND 40.17 ARE CORRECT AS COMPILED FROM
 COSTLY RECORD INFORMATION.

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

DATE _____ APPROVED: _____ DATE _____
 COMMISSIONER
 DEPARTMENT OF NATURAL RESOURCES

PLAT APPROVAL
 THIS PLAT IS APPROVED BY THE COMMISSIONER OF THE DEPARTMENT OF NATURAL
 RESOURCES OR THE COMMISSIONER'S DELEGATE, IN ACCORDANCE WITH A.S. 40.15.

COMMISSIONER _____ DATE _____

NOTES:

- 1) SHADOWED HATCHED AREA INDICATES THE SECTION LINE EASEMENT
 WHICH IS NOT THE INTENT OF THIS PLAT TO VACATE ANY OTHER
 PUBLIC RIGHTS-OF-WAY OR EASEMENTS.
- 2) THE VACATION OF THIS SECTION LINE EASEMENT WAS APPROVED BY THE
 KEENA PENINSULA BOROUGH ASSOCIAT AT THE MEETING OF



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 IS ACCORDING
 HEREIN IS TRUE AND CORRECT AS COMPILED FROM
 COSTLY RECORD INFORMATION.

DATE _____ REGISTERED LAND SURVEYOR REGISTRATION NO. _____

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SIGNED BEFORE ME THIS _____ DAY OF _____
 FOR KENNETH ARDINE HERKES AND KENNETH HERKES POA.

 NOTARY PUBLIC FOR ALASKA
 BY COMMISSION EXPIRES _____

CERTIFICATE OF OWNERSHIP

THIS PLAT HAS BEEN PREPARED BY ME AND THE COMMISSIONER
 OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF ALASKA
 AND I HEREBY CERTIFY THAT THE SECTION LINE EASEMENT VACATION PLAT
 IS IN ACCORDANCE WITH THE REQUIREMENTS OF AS 40.15, AS 40.16,
 AND AS 40.17, AND THAT THE SECTION LINE EASEMENT VACATION
 EASEMENTS FOR PUBLIC RIGHTS RESERVED TO IT UNDER AS 40.15, 40.16,
 AND 40.17 ARE CORRECT AS COMPILED FROM
 COSTLY RECORD INFORMATION.

FORRESTER S. EDWARDS
 STATE OF ALASKA
 STURGEON, AK 99572

NEWLY REGISTERED BY KENNETH HERKES POA.
 A.S. REG. 3172
 EXPIRES NOV. 22ND AUSTRALIA

SCALE
 FEET 0 200 400 600 800
 METERS 0 100 200 300 400

DATE OF SURVEY	August 2002
DATE OF RECORDING	March 2002
STATE OF ALASKA	DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, & WATER	SECTION LINE EASEMENT VACATION PLAT
LOCATED WITHIN	TOWNSHIP 8 NORTH, RANGE 9 WEST
SECTION	20
COUNTY	KEENA PENINSULA BOROUGH, ALASKA
REGISTERED BY	FORRESTER S. EDWARDS
REGISTRATION NO.	3172
EXPIRES	NOV. 22ND AUSTRALIA
SCALE	1" = 100'

2006-061



The information depicted herein is for graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any use of this map.

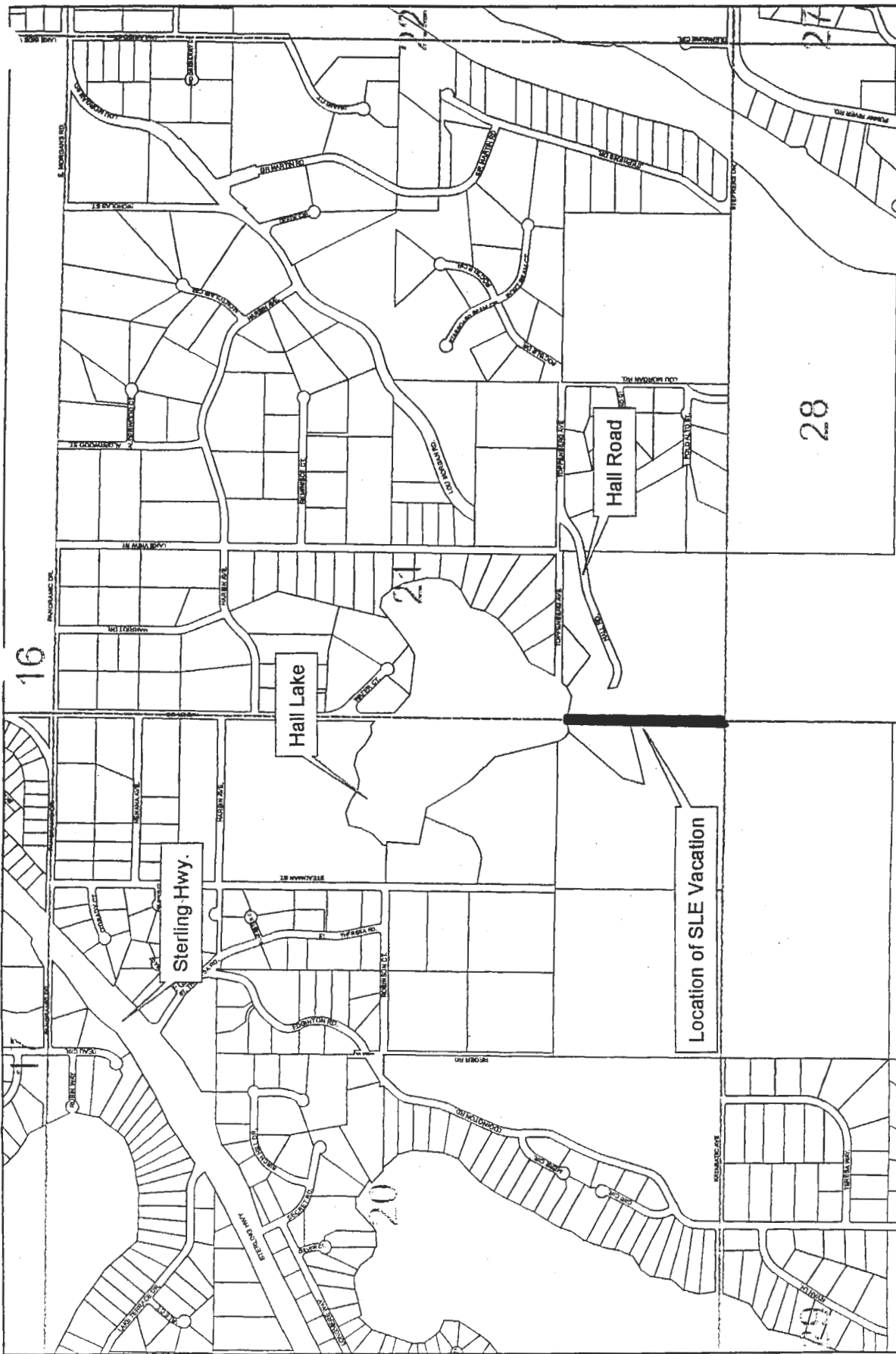


Kenai Peninsula Borough Planning Department

3/28/06

City Map





3/9/2006



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

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

CENTRAL REGION - PLANNING

FRANK H. MURKOWSKI, GOVERNOR

4111 AVIATION AVENUE
P.O. BOX 196900
ANCHORAGE, ALASKA 98518-6900
(907) 269-0520 (FAX 269-0521)
(TTY 269-0473)

September 20, 2005

RE: Kenai Plat Review

Ms. Mary Toll
Kenai Peninsula Borough
144 N. Binkley
Soldotna, Alaska 99669-7599

Dear Ms. Toll:

The Alaska Department of Transportation and Public Facilities (ADOT&PF, the Department) has reviewed the following plat cases and has no comment:

2005-249 - Clearwater Subd Miller Addn
2005-258 - Razdolna Subd 2005 Addn
2005-SEP - Coyote Alley #2
2005-SEP - Barnett's South Slope Subd Quiet Creek Park Prelim Plat

Comments:

2002-149 - Big Spruce Ranch Subdivision: The Department requests the applicant dedicate to PLO line or Vacate or purchase property between existing right-of-way and PLO line. The Department also requests the following plat note: "Additional vehicular access to the Sterling Highway from Lot 3 is prohibited." Access to Lot 3 is provided by existing access.

2005-259 - Lind Replat James Addn: The Department requests the applicant dedicate 33-foot section line easement on the south end of the property.

2005-260 - Sangster Subd Hall Lake Addn: The Department requests the applicant vacate the 66-foot section line easement dividing sections 20 and 21.

A driveway permit is needed to access onto a state road. To initiate the application, the owner should contact Right-of-Way Agent Lynda Hummell at 269-0698 or visit the Department's website at www.dot.state.ak.us and click on *ePermits*.

Thank you for the opportunity to comment on these plats. If you have any questions, please

"Providing for the movement of people and goods and the delivery of state services."

PETITION TO VACATE

PUBLIC RIGHT-OF-WAY/SECTION LINE EASEMENT

PUBLIC HEARING REQUIRED

Receipt of complete application with fees and all required attachments; a public hearing before the Planning Commission 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.

- Fees - \$300 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to vacation fees.
- City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- Name of public right-of-way proposed to be vacated is _____; dedicated by plat of _____ Subdivision, filed as Plat No. _____ in _____ Recording District.
- Are there associated utility easements to be vacated? Yes No
Are easements in use by any utility company; if so which? _____
- Easement for public road or right-of-way as set out in (specify type of document) _____ as recorded in Book _____ Page _____ of the _____ Recording District. (Copy of recorded document must be submitted with petition)
- Section Line Easement. Width of easement must be shown on sketch.
- Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11 x 17 inches in size. In the case of public right-of-way the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.

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

RECEIVED
MAR 02 2006
KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

Petitioner must provide reasonable justification for the vacation.

Reason for vacating SECTION LINE RUN THROUGH 6 LOTS ON THE NEW SUBDIVISION. A NEW ROW IS BEING DEDICATED TO REPLACE THE SECTION LINE EASEMENT

The petition must be signed (written signature) by owners of majority of the front feet of land fronting part of right-of-way or section line easement proposed to be vacated. Each must include mailing address and legal description of his/her property.

Submitted by: Signature John Segeesser
Name JOHN SEGEESER as representative petitioner
Address 30485 ROSLAND ST
STERLING, AK 99669
Phone 262 3909

		Petitioners:	
Signature	<u>Kenneth J. Merkes</u>	Signature	_____
Name	<u>Kenneth J. Merkes</u>	Name	_____
Address	<u>Box 572</u>	Address	_____
Owner of	<u>Sterling AK 99672</u>	Owner of	_____
	<u>Singsler Subdivision</u>		
Signature	<u>John Stevens</u>	Signature	_____
Name	<u>John Stevens</u>	Name	_____
Address	<u>P.O. Box 3172</u>	Address	_____
Owner of	<u>Prims N.S.W. 2232 Australia</u>	Owner of	_____
	<u>Singsler Subdivision</u>		



April 18, 2006

Via Fax 907-262-8618
Hard Copy to Follow

Mary Toll
Platting Officer
Kenai Peninsula Borough
Planning Department
144 N. Binkley St.
Soldotna, Alaska 99669

SUBJECT: 2006-061 – Petition to Vacate Section Line Easement – Section Line Common to Sections 20 and 21, T5N, R9W, Seward Meridian CIRI 031,299.001

Dear Ms. Toll:

This letter is in response to the Notice of Public Hearing (scheduled for April 24, 2006), regarding the request by John Stevens and Kenneth Merkes to vacate a portion of the section line easement described above. The portion being vacated begins 33 feet north of the corner common to Sections 20, 21, 28 and 29 and extending to the south shore of Hall Lake. Cook Inlet Region Inc. owns 120 acres within the NW quarter of Section 28 listed above. This parcel is mostly low ground but there is a developable area located within the immediate area of the portion of section line easement to be vacated. The section line easement provides a straight path from CIRI's developable area to the shore of Hall Lake. We recognize that the terrain at the beginning of the section line easement vacation may be too steep to ever be developed into a right-of-way. Our concern is the new right-of-way dedicated in the Sangster Subdivision Hall Lake Addition. The Petition to Vacate Application describes the new right-of-way as a replacement for the section line easement vacation. The new right-of-way provides no alternate access to the shore of Hall Lake as the section line easement provides.

This letter serves as CIRI's objection to vacating that portion of the section line easement from the shore of Hall Lake to the new right-of-way named Hall Road within Sangster Subdivision Hall Lake Addition. As an owner of developable property within this area we believe it is in CIRI's best interest to retain a section line easement to the shore of Hall Lake as a future lake access route.

Sincerely,

COOK INLET REGION, INC.


Hazel J. Felton
Special Projects Manager
Land & Resources

0252 HJF BK

cc: Blake Kowal, CIRI



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7520
BUSINESS (907) 262-4441 FAX (907) 262-1892

JOHN J. WILLIAMS
MAYOR

April 24, 2006

Hazel Felton
CIRI Special Projects Manager
Land & Resources
FAX (907) 279-8836

RE: Section Line Easement Vacation
Sections 20 & 21, T5N, R9W, SM
Associated with Sangster Subdivision Hall Lake Addition

I have received your letter of objection to this vacation. I am faxing a copy of the recorded plat. I do not know if you have seen this, but the location of the dedication shown as Sangster Lane provided a dedication in a location that would more easily support construction of a road to Borough standards. I believe it is the intent of the subdivider to construct the roads and get them on the maintenance system. This dedication accesses a 33-foot section line easement along the south boundary, which provides access to the upland portion of your property. There is also a section line easement along the north boundary of the Borough property, and there may be one along your property, to increase the total easement width. Based upon this new access to the remaining easements, Borough staff was able to recommend the vacation south from Hall Road.

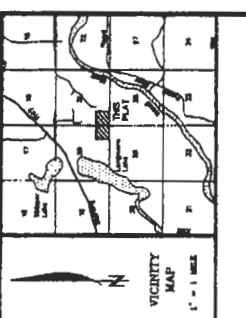
Borough staff was able to recommend vacation of the portion of the easement that accesses the lake based upon the dedicated and partially constructed Toppenberg Avenue located approximately 350 feet to the northeast along the lakeshore.

I do not know if this additional information will change your recommendation, but Borough staff endeavors to retain or improve feasible access to all lands.

Please feel free to contact me if you have any additional comments or questions.

Mary Toll
Platting Officer

Copy to: John Segesser (email)
Kenny Merkes PO Box 572 Sterling AK 99672



CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN ON THE ATTACHED PLAT AND THAT WE HAVE CONSENTED TO THE DEDICATION AND THE USE THEREOF AS SHOWN ON THE ATTACHED PLAT. WE HEREBY DEDICATE THE AREAS TO PUBLIC USE AND GRANT ALL RIGHTS TO THE PUBLIC IN THE AREAS SHOWN ON THE ATTACHED PLAT.

[Signature]
NOTARY PUBLIC
STATE OF MASSACHUSETTS
COMMISSION EXPIRES 12/31/2025

NOTARY'S ACKNOWLEDGEMENT

FORWARDED AND RETURNED TO THE NOTARY OF RECORD.

[Signature]
NOTARY PUBLIC
STATE OF MASSACHUSETTS
COMMISSION EXPIRES 12/31/2025

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE REGULAR PERIODIC REGULAR PLANNING COMMISSION AT THE MEETING OF THE 20th, 2020.

[Signature]
LOCAL PERIODIC REGULAR PLANNING COMMISSION

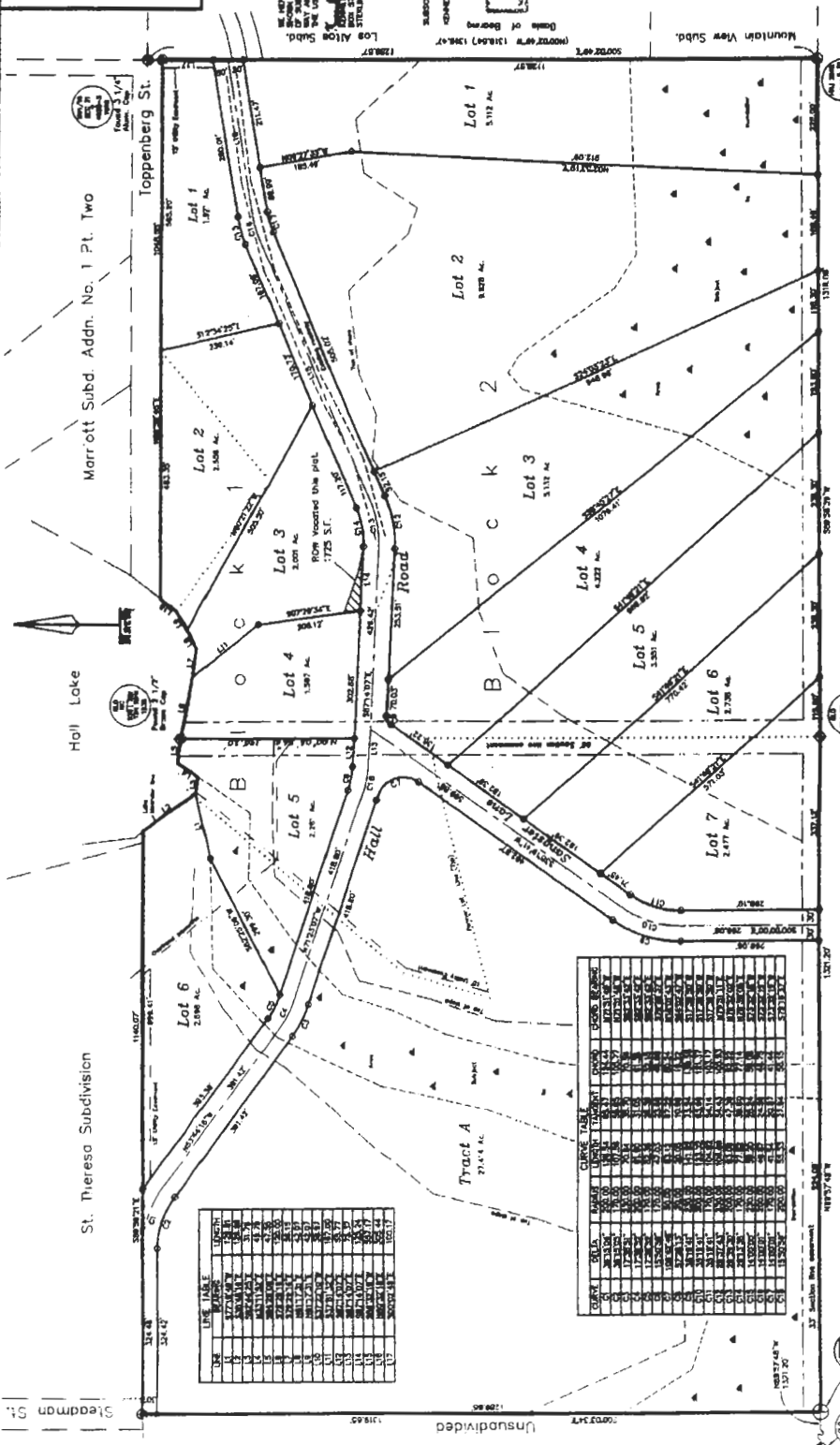
LEGEND:

- ⊙ MONUMENT (found on the survey)
- ⊙ MONUMENT (not on the survey)
- 5/8" REBAR (found on the survey)
- 3/4" REBAR (not on the survey)
- () RECORD DATUM FROM PLAT 2002-33 AND 2002-34

**Sangster Subdivision
Hall Lake Addition**

PROJECT NO. 2005-280
DATE: 08/20/2005
SCALE: 1"=400'
FIELD BOOK: 00-3 SHEET: 1 of 1

SEGESSER SURVEYS
30485 Roland St.
Saldanha, MA 01969



NOTES:

- 1) Proposed lot sizes are residential, residential.
- 2) Beds at bearing taken from Sangster Subdivision, Plat 2002-080.
- 3) Building setbacks as shown on 20 feet is required from all street frontages.
- 4) All utility easements shall comply with existing laws of the State of Massachusetts.
- 5) Items not shown on this plat were not shown on the subdivision plan in the Borough road subdivision program.
- 6) Tract 1, part of the 20 lot building setback and the entire setback shown on this plat is shown on the subdivision plan in the Borough road subdivision program.
- 7) The portion of the portion of the road shown on this plat is shown on this plat.
- 8) Existing proposed setbacks to the centerline of a 20 foot wide road are shown on this plat.
- 9) The values mentioned in the Mass High Speed Rail Act are shown on this plat.
- 10) Easements to 089 3030330 (Beds 1-6) and 1-2 (Beds 1) and 2-2 (Beds 2) are shown on this plat.

SURVEYOR'S CERTIFICATE

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey as shown on the attached plat.

[Signature]
SEGESSER SURVEYS

Unsubdivided
Unsubdivided
Unsubdivided