




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: May 24, 2006

SUBJECT: Vacate Trenchant Street, a 60-foot right of way, dedicated by Miller Homestead Subdivision (Plat KN 96-05); within Section 19, Township 7 North, Range 11 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-092; NOTE: Alternate Right of Way is proposed to be dedicated; Petitioners: Sharon K. Lamm of Salem Oregon, Sandra Jones, Johnnie Stolz & Philip Stolz of Nikiski, Alaska; Location: South of Bastien Drive in Nikiski

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 May 22, 2006 meeting.

A motion to grant the vacation as petitioned and adopting the twelve findings passed by unanimous consent. This petition is being sent to you for your consideration and action.

The Assembly has 30 days from May 22, 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.

cc: petitioners w/minutes only

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacate Trenchant Street, a 60-foot right of way, dedicated by Miller Homestead Subdivision (Plat KN 96-05); within Section 19, Township 7 North, Range 11 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-092; NOTE: Alternate Right of Way is proposed to be dedicated; Petitioners: Sharon K. Lamm of Salem Oregon, Sandra Jones, Johnnie Stolz & Philip Stolz of Nikiski, Alaska; Location: South of Bastien Drive in Nikiski

Staff Report reviewed by Max Best

PC Meeting: 5/22/06

Purpose as stated in petition: The owner of Tract 5 wishes to utilize an area in the southwesterly portion of the parcel for construction. The current road configuration will require not only the construction of Trenchant Street, but will also necessitate the construction of a 1500' driveway across the tract to provide access to the desired building site. Vacating Trenchant Street and providing new access across the easterly portions of Tracts 3 and 4 is the preferred alternative and the concurrence of all affected property owners.

Petitioners: Sharon K. Lamm of Salem Oregon, Sandra Jones, Johnnie Stolz & Philip Stolz of Nikiski, Alaska.

Public notice appeared in the May 4 and May 11, 2006 issues of the Peninsula Clarion.

Fourteen (14) certified mailings were sent to owners of property within 300 feet of the parcels; thirteen (13) of the receipts have been returned.

Twelve (12) regular mailings were sent to agencies and interested parties; seven (7) notices were sent to KPB Departments. Notices were mailed to Kenai Community Library and the Nikiski Post Office to post in public locations. The notice and maps were posted on the Borough web site and bulletin board.

Statement(s) of non-objection/no comment

Homer Electric Association
ACS

Staff discussion

This is a situation that the landowner has been working on for quite a while. Essentially, the right-of-way is being relocated to a location that is acceptable to all the affected landowners.

Findings:

1. Sufficient rights-of-way exist or are being dedicated to serve the surrounding properties.
2. No surrounding properties will be denied access.
3. Per the submittal, the right-of-way proposed for vacation is not in use for access.
4. Per the submittal, the right-of-way proposed for vacation has not been constructed.
5. Per the submittal, the right-of-way proposed for vacation is not in use for utilities.
6. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
7. Per the submittal, an alternative right-of-way is being dedicated off Darby Avenue.
8. Per the submittal, the alternative right-of-way crosses an existing 100-foot overhead transmission line.
9. Homer Electric Association and ACS submitted 'no comments' and 'non-objection' statements.
10. Per the submittal, a low wet area is within the alternative right-of-way being dedicated.
11. KPB 20.20.080 requires the subdivider to demonstrate that streets can be readily constructed in accordance with current borough road standards.
12. Per KPB 14.06.080, a right-of-way construction permit prior to construction is required.

STAFF RECOMMENDATION: Based on Findings 1-7 and 9-12, staff recommends approval of the vacation as petitioned, subject to:

1. Submittal of a preliminary plat in accordance with Chapter 20 of the KPB Code (submittal of a final plat within one year of vacation approval).

If the vacation is approved, the Kenai Peninsula Borough Assembly has thirty days in which they may veto Planning Commission approval of the vacation.

DENIAL OF A VACATION PETITION IS A FINAL ACT FOR WHICH NO FURTHER CONSIDERATION SHALL BE GIVEN BY THE KENAI PENINSULA BOROUGH. APPEALS TO PLANNING COMMISSION DENIAL OF A VACATION MUST BE TAKEN WITHIN THIRTY (30) DAYS TO SUPERIOR COURT AT KENAI, ALASKA PURSUANT TO PART VI OF THE ALASKA RULES OF APPELLATE PROCEDURES. [20.28.110 AS AMENDED BY KENAI PENINSULA BOROUGH ORDINANCE 99-43].

END OF STAFF REPORT

Chairman Bryson read the rules by which public testimony is taken.

Chairman Bryson opened the meeting for public comment. Seeing and hearing no one wishing to speak, Chairman Bryson closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Gross moved, seconded by Commissioner Tauriainen to approve the vacation of Trenchant Street citing the twelve findings by staff.

Hearing no discussion or comments, the commission proceeded to vote.

VOTE: The motion passed by unanimous consent.

BRYSON YES	CLARK YES	FOSTER YES	GROSS YES	HEIMBUCH ABSTAIN	HOHL YES	HUTCHINSON ABSENT
ISHAM YES	JOHNSON ABSENT	MARTIN YES	MASSION YES	PETERSEN YES	TAURIAINEN YES	11 YES 2 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

3. Ordinance 2006-24; Authorizing Negotiated Leases of Space at the Kenai River Center Building With the State of Alaska, Department of Natural Resources, and the United States Environmental Protection Agency Through the General Services Administration.

Memorandum reviewed by Marcus Mueller

PC Meeting: 5/22/06

The Kenai River Center has operated at its current location since 2000 primarily with government appropriations and under informal agreements with the non-borough agencies who co-occupy the borough facility. In July 2005, the funding sources which have supported the facilities operation were discontinued. The borough, the DNR and EPA realize that it is in the public best interest to arrange formal agreements for operation and also to share in the annual operation and management costs for the facility. The parties have also proposed to share in the long-term capital maintenance of the facilities, beginning in July 2006. Ordinance 2005-18 authorized the borough to enter into lease and shared services agreements with DNR and EPA. Since that time EPA has informed the borough that it must work through the General Services Administration (GSA), resulting in a significant delay and a reworking of the documents.

Attached for your consideration is an ordinance to authorize the lease of a negotiable amount of office space at the Kenai River Center to DNR and also to GSA on behalf of EPA. The ordinance would also provide authorization for the Mayor to negotiate a shared service agreement with the parties to allocate costs for shared operation, maintenance and projected long-term maintenance of the facilities. Although the resulting documents are not "substantially similar", they are functionally equivalent to those approved by Ordinance 2005-18.

END OF STAFF REPORT



**Kenai Peninsula Borough
Planning Department
144 North Binkley
Soldotna, Alaska 99669-7599
907-714-2200**

toll free within the Borough 1-800-478-4441, extension 2200

FAX 907-262-8618

email: planning@borough.kenai.ak.us

May 24, 2006

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION

MEETING OF MAY 22, 2006

RE: Vacate Trenchant Street, a 60-foot right of way, dedicated by Miller Homestead Subdivision (Plat KN 96-05); within Section 19, Township 7 North, Range 11 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-092; NOTE: Alternate Right of Way is proposed to be dedicated; Petitioners: Sharon K. Lamm of Salem Oregon, Sandra Jones, Johnnie Stolz & Philip Stolz of Nikiski, Alaska; Location: South of Bastien Drive in Nikiski

The Kenai Peninsula Borough Planning Commission approved the proposed vacation during their regularly scheduled meeting of May 22, 2006.

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 proposed vacation will be forwarded to the Borough Assembly. The Assembly shall have 30 calendar days from the date of approval in which to veto the Planning Commission decision. If the Planning Director receives no veto within the specified period, the Borough shall be considered to have given consent to the vacation.

Please contact the Borough Clerk's office (907-714-2160 or 1-800-478-4441 toll-free within the borough) to verify the date the subject vacation will be reviewed by the Assembly.

This notice and unapproved minutes of the subject portion of the meeting were sent May 24, 2006 to:

Sharon Lamm
3660 Croisan Creek Road S
Salem, OR 97302-9409

Philip Stolz
PO Box 7086
Nikiski, AK 99635-7086

Johni Stolz
PO Box 8114
Nikiski, AK 99635-8114

Sandra Jones
PO Box 7457
Nikiski, AK 99635-7457

Patrick Malone
C/O Box 1041
Kenai, AK 99611

AGENDA ITEM F. PUBLIC HEARINGS

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STAFF REPORT

PC Meeting: 5/22/06

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STAFF RECOMMENDATION: Based on Findings 1-7 and 9-12, staff recommends approval of the vacation as petitioned, subject to:

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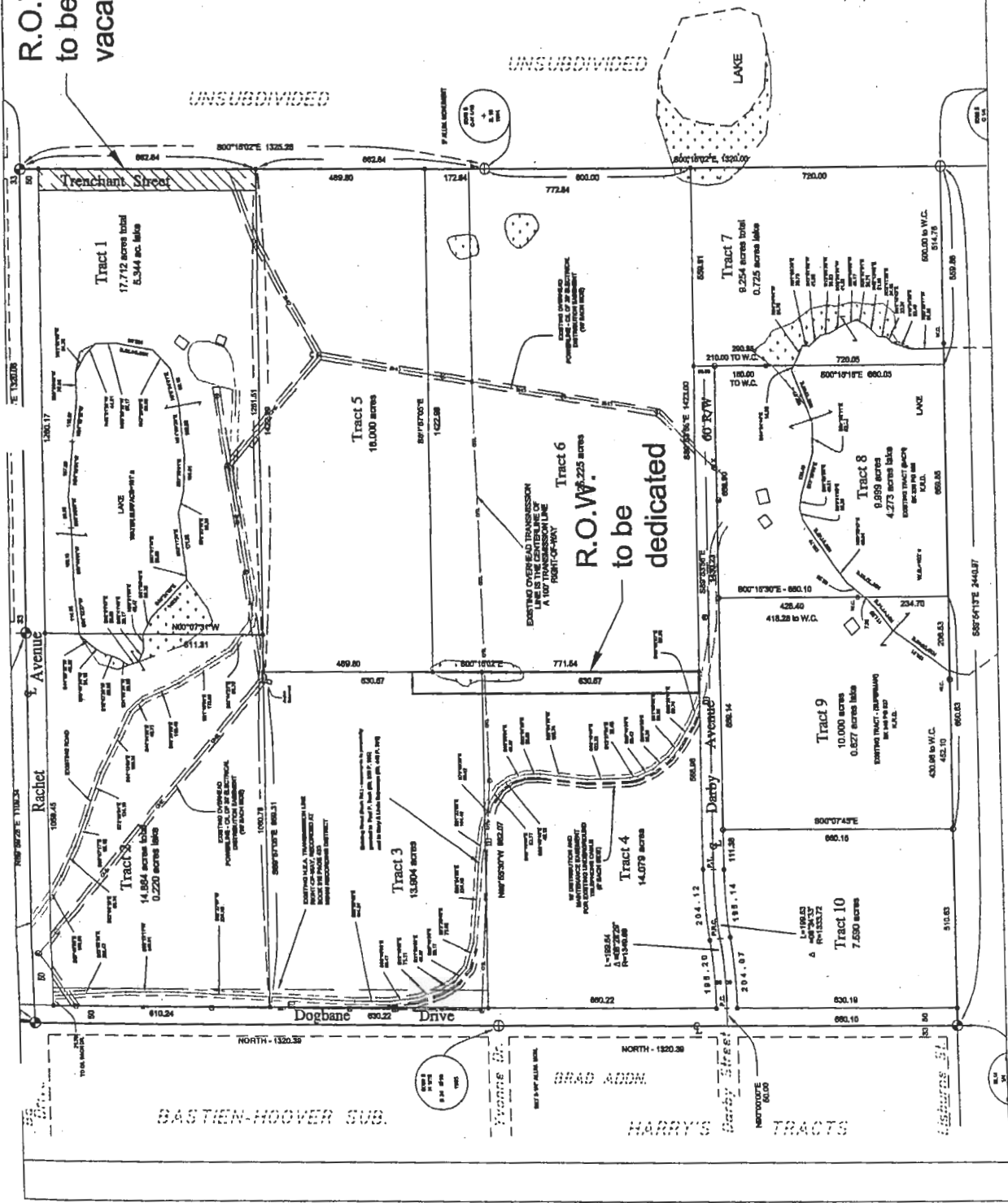
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END OF STAFF REPORT

R.O.W.
to be
vacated

MILLER HOMESTEAD
SUBDIVISION
KN0960005



BASTIEN-HOOVER SUB.

BRAD ADDM.

HARRY'S TRACTS

Certificate of Ownership and Dedication

THE COUNTY OF DENALI, STATE OF ALASKA, BEING THE COUNTY OF THE REAL PROPERTY, KNOW AND RECORD that the following described land, together with all rights and interests therein, and all claims against the same, have been acquired by the County of Denali, Alaska, and are hereby dedicated to the public use of the State of Alaska, and the County of Denali, Alaska, to be held in trust for the benefit of the State of Alaska, and the County of Denali, Alaska, and to be known as the 'Miller Homestead Subdivision'.

IN WITNESS WHEREOF, I, the Clerk of the Court, have hereunto set my hand and the seal of the County of Denali, Alaska, at Fairbanks, Alaska, this 22nd day of July, 1994.

Notary Public for the State of Alaska, Notary Public, No. 22,247

Notary's Acknowledgment for Sharon K. Lemm

Notary's Acknowledgment for Gary Superman

Notary's Acknowledgment for Linda Superman

Notary's Acknowledgment for Paul P. Bach

Notary's Acknowledgment for Sandra Jones

Notary's Acknowledgment for [Name]

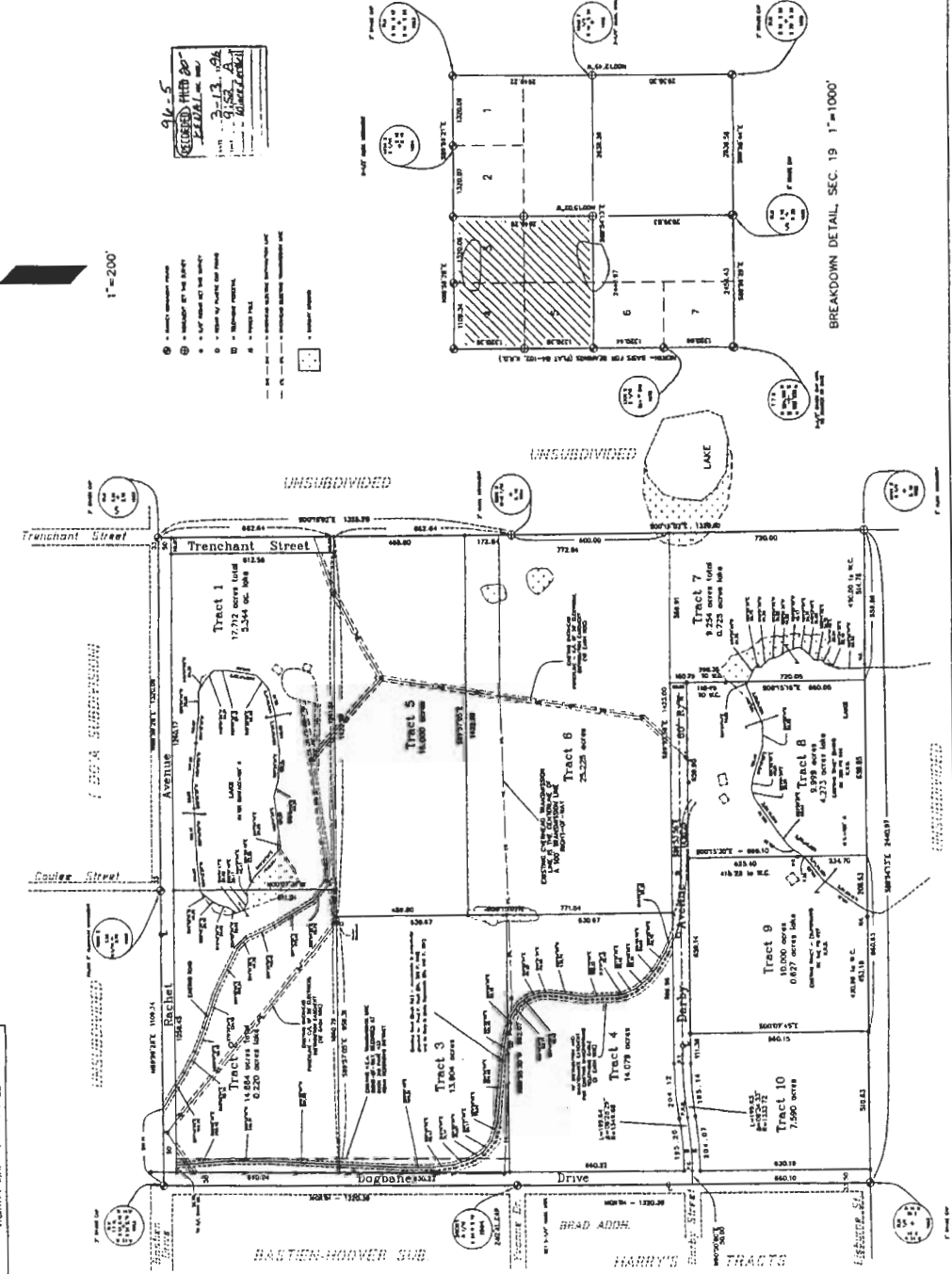
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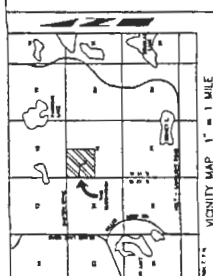
Borough Approval

Approval by the Alaska Department of Environmental Conservation

Miller Homestead Subdivision title block with Alaska Department of Natural Resources logo and map details.



1) LOTS 1 THROUGH 10... 2) LOTS 1 THROUGH 10... 3) LOTS 1 THROUGH 10...





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.



4/17/06

Vicinity Map

Kenai Peninsula Borough Planning Department

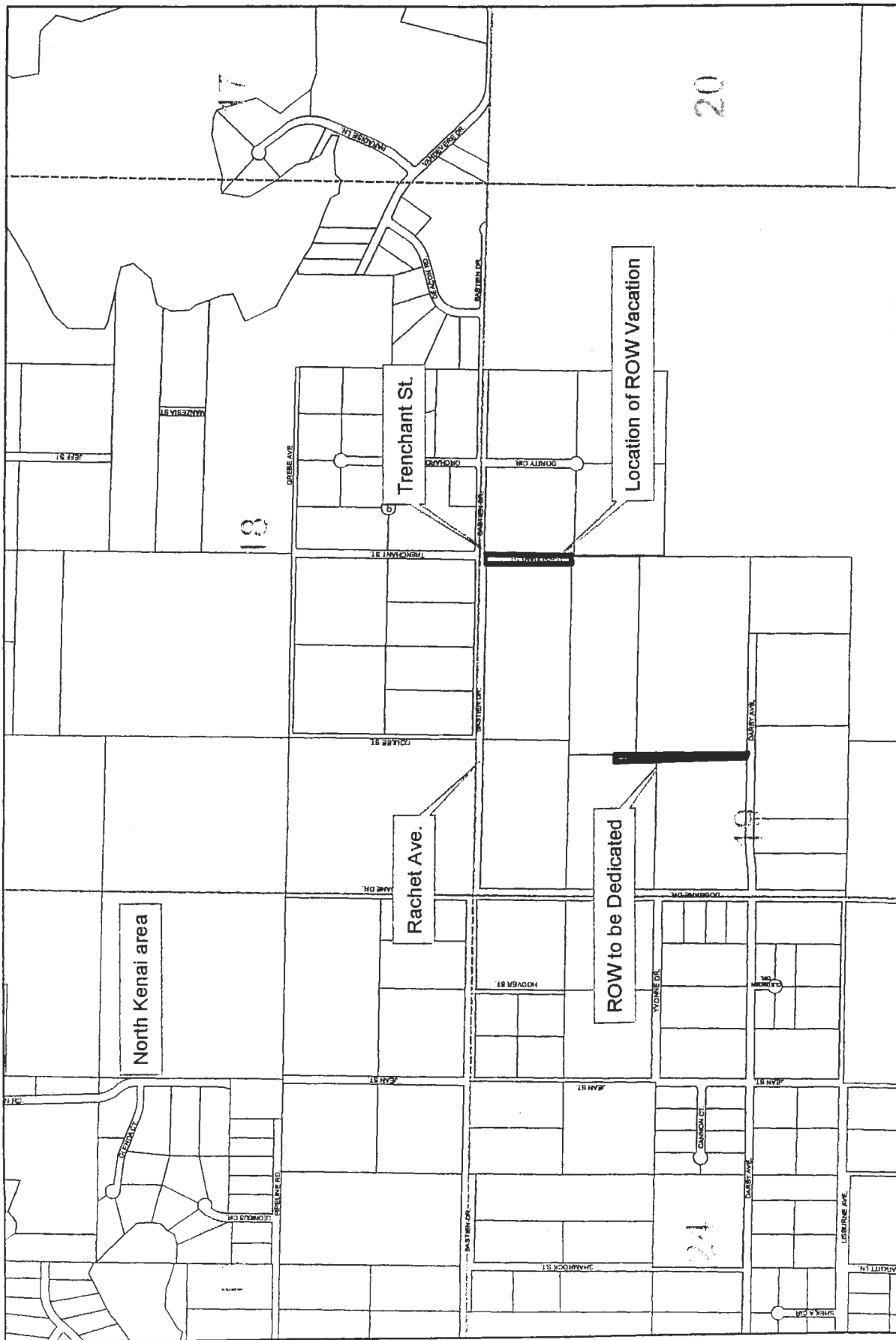




4/11/2006



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Kenai Peninsula Borough Planning Department
 144 North Binkley
 Soldotna, Alaska 99669-7599
 Toll free within the Borough 1-800-478-4441, extension 2200
 (907) 714-2200



Petition to Vacate Public Right-of-Way/Section Line Easement Public Hearing Required

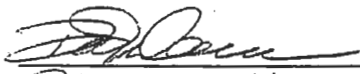
Upon receipt of complete application with fees and all required attachments a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute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

- 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 Trenchant Street; dedicated by plat of Miller Homestead Subdivision Subdivision, filed as Plat No. 96-05 in Kenai 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

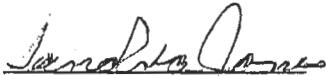
The petitioner must provide reasonable justification for the vacation. Reason for vacating:

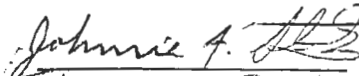
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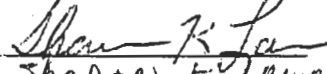
The petition must be signed (written signature) by owners of majority of the front feet of land fronting part of right-of-way or section line easement proposed to be vacated. Each must include mailing address and legal description of his/her property.

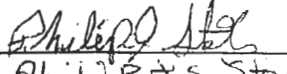
Submitted by: Signature  As: Petitioner Representative
Name PATRICK MALONE
Address c/o Box 1041
KENAI AK 99611
Phone 283-4672 (MSG)

Petitioners:

Signature  Signature
Name SANDRA JONES Name
Address P.O. Box 7457 Address
NIKISKI AK 99635
776-8871
Owner of TRACT 1 Owner of


Name JOHNNIE F. STOLZ
Address P.O. Box 8114
NIKISKI AK 99635
776-8875
Owner of TRACT 3

Signature  Signature
Name SHARON K. LAWMAN Name
Address 3661 CROISSANT Address
CREEK ROAD S
SALEM OREGON 97135
Owner of TRACT 5 Owner of


Name PHILIP S. STOLZ
Address POB 7086
NIKISKI, AK 99635
776-5182
Owner of TRACT 4