



## 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 *MB*

**DATE:** September 13, 2006

**SUBJECT:** Vacate a portion of Skywagon Street right-of-way dedicated by Paradise Airpark (Plat KN 2005-91), within Section 13, Township 5 North, Range 10 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-207; Petitioner: Kent C. Bangerter of Soldotna, Alaska; Location: North of Sterling Highway on Skywagon Street in Soldotna

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 September 11, 2006 meeting.

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

The Assembly has 30 days from September 11, 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 a portion of Skywagon Street right-of-way dedicated by Paradise Airpark (Plat KN 2005-91), within Section 13, Township 5 North, Range 10 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-207; Petitioner: Kent C. Bangerter of Soldotna, Alaska; Location: North of Sterling Highway on Skywagon Street in Soldotna

Staff Report reviewed by Mary Toll

PC Meeting: 9/11/06

Purpose as stated in petition: Portion of ROW vacated to be added to adjacent lots to increase usable area. New road construction has moved the travel way east 50 feet.

Petitioner: Kent C. Bangerter of Soldotna, Alaska

Public notice appeared in the August 24 and August 31, 2006 issues of the Peninsula Clarion.

Nine (9) certified mailings were sent to owners of property within 300 feet of the parcels; six (6) of the receipts have been returned.

Twelve (12) regular mailings were sent to agencies and interested parties; six (6) notices were sent to KPB Departments. Notices were mailed to the Soldotna Community Library, Soldotna Post Office, and Sterling Post Office to be posted in public locations. The notice and maps were posted on the Borough web site and bulletin board.

Statement(s) of non-objection or no comment

Alaska Communications Systems  
Homer Electric Association

**Findings:**

1. Sufficient rights-of-way exist to serve the surrounding properties.
2. No surrounding properties will be denied access.
3. The right-of-way proposed for vacation does not appear to be in use for utilities.
4. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
5. To date, two utility companies have provided letters of non-objection or no comment.
6. Per the submittal, the constructed road has been moved 50 feet to the east.
7. The proposed vacation will eliminate a jog in the right-of-way.
8. The Plat Committee granted approval to the final plat on August 28, 2006.
9. Per the submittal, the right-of-way proposed for vacation is in use for access.
10. Per the submittal, the right-of-way proposed for vacation has been constructed.

STAFF RECOMMENDATION: Based on the above Findings 1-8, staff recommends approval of the vacation as petitioned, subject to:

1. Submittal of a final plat in accordance with Chapter 20 of the KPB Code 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 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 Hutchinson moved, seconded by Commissioner Isham to grant the vacation citing Findings 1-8 with staff recommendations.

**Findings:**

1. Sufficient rights-of-way exist to serve the surrounding properties.
2. No surrounding properties will be denied access.
3. The right-of-way proposed for vacation does not appear to be in use for utilities.
4. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
5. To date, two utility companies have provided letters of non-objection or no comment.
6. Per the submittal, the constructed road has been moved 50 feet to the east.
7. The proposed vacation will eliminate a jog in the right-of-way.
8. The Plat Committee granted approval to the final plat on August 28, 2006.

Chairman Bryson called for discussion.

Commissioner Hohl asked about Findings 9-10 but realized those two findings did not apply to the approval of the vacation.

There being no further questions or comments, the commission proceeded to vote.

**VOTE:** The motion passed by unanimous consent.

BRYSON YES	CARLUCCIO YES	CLARK ABSENT	FOSTER YES	GROSS YES	HEIMBUCH YES	HOHL YES
HUTCHINSON YES	ISHAM YES	JOHNSON YES	MARTIN YES	PETERSEN YES	TAURIAINEN YES	12 YES 1 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

3. Vacate a portion of Cardwell Road and all of Puckerbrush Street 33-foot rights-of-way dedicated by Shannon Subdivision (Plat KN 80-72) and associated public utility easements, within Section 33, Township 4 North, Range 11 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-209; Petitioners: Jack R. and Sarah H. Hill of Soldotna, Alaska; Location: West of Sterling Highway in Soldotna

Staff Report reviewed by Mary Toll

PC Meeting: 9/11/06

Purpose as stated in petition: No matching dedication possible due to lake.

Petitioners: Jack R. and Sarah H. Hill of Soldotna, Alaska.

Public notice appeared in the August 24 and August 31, 2006 issues of the Peninsula Clarion.

Eleven (11) certified mailings were sent to owners of property within 300 feet of the parcels; seven (7) of the receipts have been returned.

Twelve (12) regular mailings were sent to agencies and interested parties; six (6) notices were sent to KPB Departments. Notices were mailed to the Soldotna Community Library and Soldotna Post Office to be posted in public locations. The notice and maps were posted on the Borough web site and bulletin board.

Comments Received

Homer Electric Association reviewed the proposed vacation and has no comment.



**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](mailto:planning@borough.kenai.ak.us)**

September 14, 2006

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
NOTICE OF DECISION**

**MEETING OF SEPTEMBER 11, 2006**

**RE:** Vacate a portion of Skywagon Street right-of-way dedicated by Paradise Airpark (Plat KN 2005-91), within Section 13, Township 5 North, Range 10 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-207; Petitioner: Kent C. Bangerter of Soldotna, Alaska; Location: North of Sterling Highway on Skywagon Street in Soldotna

The Kenai Peninsula Borough Planning Commission approved the proposed vacation during their regularly scheduled meeting of September 11, 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 September 14, 2006 to:

Segesser Surveys  
30485 Rosland Street  
Soldotna, AK 99669

Kent Bangerter  
PO Box 2737  
Soldotna, AK 99669

Kent Bangerter  
4255 Commerce Street #4  
Salt Lake City, UT 84107-1404

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacate a portion of Skywagon Street right-of-way dedicated by Paradise Airpark (Plat KN 2005-91), within Section 13, Township 5 North, Range 10 West, Seward Meridian, Alaska; and within the Kenai Peninsula Borough; KPB File 2006-207; Petitioner: Kent C. Bangerter of Soldotna, Alaska; Location: North of Sterling Highway on Skywagon Street in Soldotna

STAFF REPORT

PC Meeting: 9/11/06

Purpose as stated in petition: Portion of ROW vacated to be added to adjacent lots to increase usable area. New road construction has moved the travel way east 50 feet.

Petitioner: Kent C. Bangerter of Soldotna, Alaska

Public notice appeared in the August 24 and August 31, 2006 issues of the Peninsula Clarion.

Nine (9) certified mailings were sent to owners of property within 300 feet of the parcels; six (6) of the receipts have been returned.

Twelve (12) regular mailings were sent to agencies and interested parties; six (6) notices were sent to KPB Departments. Notices were mailed to the Soldotna Community Library, Soldotna Post Office, and Sterling Post Office to be posted in public locations. The notice and maps were posted on the Borough web site and bulletin board.

Statement(s) of non-objection or no comment

Alaska Communications Systems  
Homer Electric Association

**Findings:**

1. Sufficient rights-of-way exist to serve the surrounding properties.
2. No surrounding properties will be denied access.
3. The right-of-way proposed for vacation does not appear to be in use for utilities.
4. All subdivision plats finalizing vacations are sent to utility companies for review and easement requirements.
5. To date, two utility companies have provided letters of non-objection or no comment.
6. Per the submittal, the constructed road has been moved 50 feet to the east.
7. The proposed vacation will eliminate a jog in the right-of-way.
8. The Plat Committee granted approval to the final plat on August 28, 2006.
9. Per the submittal, the right-of-way proposed for vacation is in use for access.
10. Per the submittal, the right-of-way proposed for vacation has been constructed.

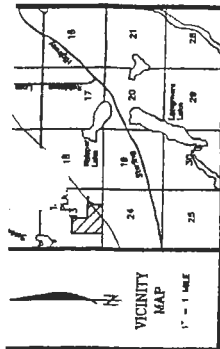
STAFF RECOMMENDATION: Based on the above Findings 1-8, staff recommends approval of the vacation as petitioned, subject to:

1. Submittal of a final plat in accordance with Chapter 20 of the KPB Code 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



**CERTIFICATE OF OWNERSHIP  
and DEDICATION**

THE SURVEY, MAP, PLAN, SPECIFICATIONS, CONDITIONS, AND RESTRICTIONS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ALL RIGHTS THEREIN ARE HEREBY OFFERED TO THE PUBLIC AND BY OUR FREE CONSENT DEEDS TO ALL RIGHTS OF THE PUBLIC TO PUBLIC USE AND GOVT ALL EASEMENTS TO THE USE SHOWN.

KENT E. BENDER  
4205 CHAMBERLAIN DR., STE. 4  
SALT LAKE CITY, UT 84114

**NOTARY'S ACKNOWLEDGEMENT**

SUBSCRIBED AND SWORN BEFORE ME THIS DAY OF \_\_\_\_\_ 2006

NOTARY PUBLIC FOR ALASKA  
BY COMMISSION EXPIRES \_\_\_\_\_

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF 18 JULY, 2005.

KENAI PENINSULA BOROUGH  
AUTHORIZED OFFICIAL

2006-207  
KPB FILE No. 0000-043

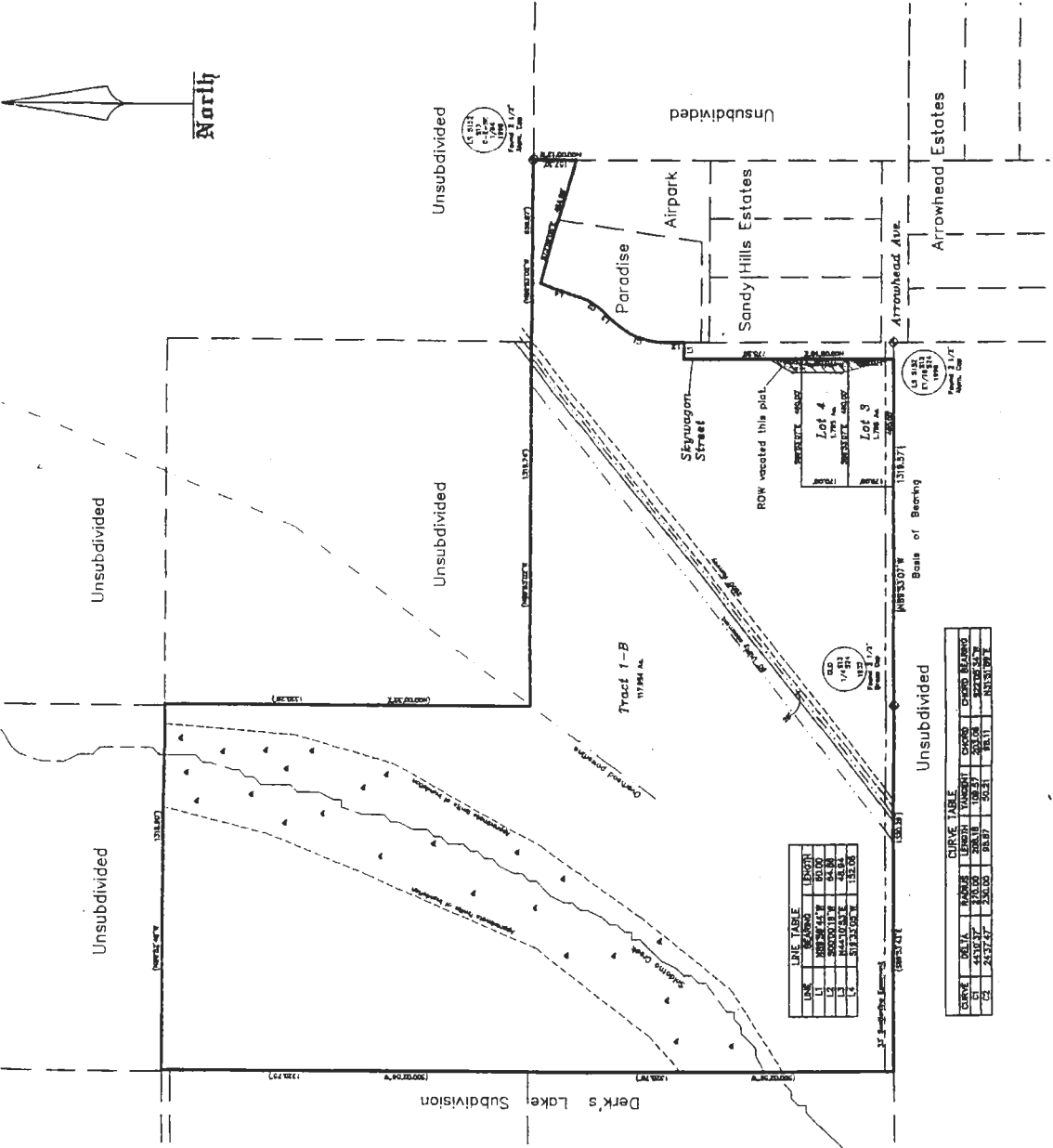
Paradise Airpark  
Addition No. 1

A re-subdivision of Tract 1-A, Paradise Airpark  
located within the S/2 SW/4, SW/4 SW/4 and the  
W/2 SW/4 SW/4 Sections 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, T4S, R10E, S4M, Kenai Borough, Kenai Peninsula Borough, Alaska.

SRGESSEY SURVEYS  
30465 Rosland St.  
Soldotna, AK 99689

JOB NO. \_\_\_\_\_  
DATE \_\_\_\_\_  
SURVEYED May, 2005 SCALE 1"=200'  
FIELD BOOK: 05-1, 05-2 SHEET 1 of 1

RECORDED  
REC. DIST. \_\_\_\_\_  
DATE \_\_\_\_\_  
PAGE \_\_\_\_\_  
REGISTERED BY  
SRGESSEY SURVEYS  
30465 ROSLAND ST.  
SOLDOTNA, AK 99689



- LEGEND:**
- MONUMENT (found this survey)
  - 5/8" REBAR (found this survey)
  - 5/8" REBAR (not this survey)
  - 1" RECORD DATUM PLAT 2005-51, KPD
  - ( ) RECORD DATUM PLAT 2000-34, KPD

- NOTES:**
- 1) Rate of bearing taken from Paradise Apts., Plat 2005-01, Kenai Recording District.
  - 2) Building Sublot-A setback of 20 feet, is required from all street right-of-way unless a lesser standard is approved by resolution of the Kenai Planning Commission.
  - 3) All water drainage systems shall comply with existing laws at the time of construction.
  - 4) Portions of this subdivision are within the Kenai Peninsula Borough 2010 Building Code, Ordinance No. 2010-01, for residential use. All development of this subdivision.
  - 5) Easements must meet the design and construction standards established by the Borough in order to be considered for certification and inclusion in the Borough road maintenance program.
  - 6) 100% of the cost of the plat shall be paid by the owner. The setback of 5 feet of the plat shall be 4 feet, unless otherwise noted. The setback of 5 feet of the plat shall be 4 feet, unless otherwise noted.
  - 7) This plat is subject to existing easements granted to Alaska Electric Power and Light Company, Inc. by the Kenai Recording District, Third Judicial District, State of Alaska.
  - 8) Existing overhead power lines in the vicinity of a 20 foot wide easement shall be removed. The easement holder shall provide for the removal of overhead power lines in the vicinity of a 20 foot wide easement.
  - 9) Owners and building shall be responsible for the maintenance of the plat, including utility of way and easements, as contained in the Alaska Utility Code, Section 18.1771, and the Alaska Utility Code, Section 18.1771.
  - 10) Portions of this subdivision are subject to the easements recorded in Book 303 Page 021, R10.
  - 11) The easements are subject to the terms, conditions, and restrictions recorded in Book 303 Page 021, R10.
  - 12) **MATERIALS, METHODS, AND CONDITIONS:** Soil conditions, water table levels, and soil strength shall be determined by a registered professional engineer or geotechnical engineer and shall be used to design and construct all foundations and retaining walls and other structures. The design shall be approved by the Alaska Department of Environmental Conservation.

Surveyor License No. \_\_\_\_\_  
Kenai, AK 99511



**SURVEYOR'S CERTIFICATE**

I hereby certify that I am properly registered and licensed to practice as a surveyor in the State of Alaska and that the measurements herein have been taken by me or under my direct supervision and that the measurements have been carefully checked and are correct in all dimensions and other details or correct.

Date \_\_\_\_\_



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.

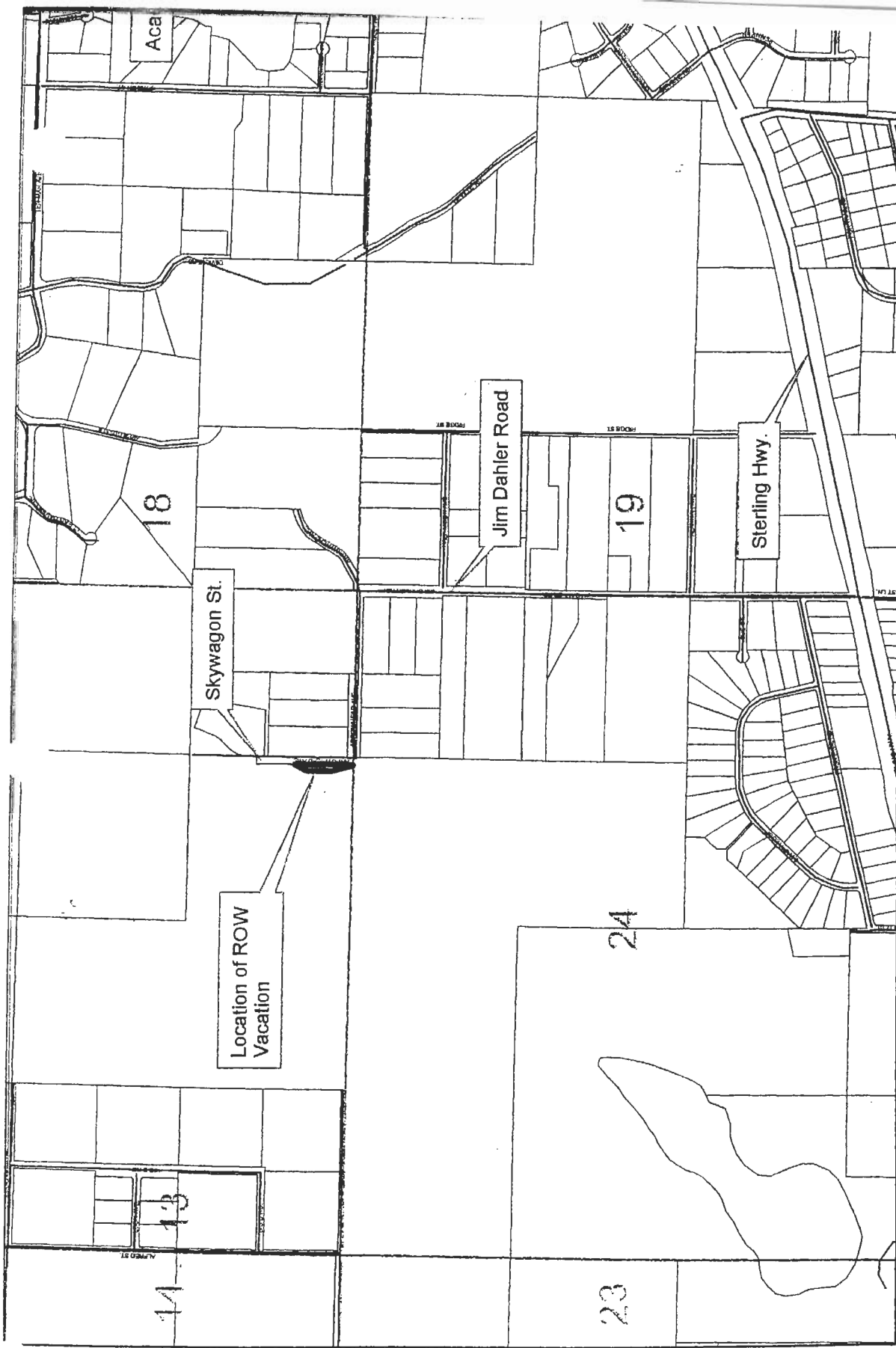


8/4/06

Kenai Peninsula Borough Planning Department

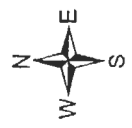
Vicinity Map





7/26/2006

0.2 0.1 0 0.2 Miles



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.



KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

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 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 SKYWAGON ST.; dedicated by plat of PARADISE AIRPARK Subdivision, filed as Plat No. 2005-91 in KENAI Recording District.
Are there associated utility easements to be vacated?
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.
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.

- Has right-of-way been fully or partially constructed?
Is right-of-way used by vehicles/pedestrians/other?
Has section line easement been constructed?
Is section line easement being used?
Alternative right-of-way being provided?

RECEIVED

JUL 24 2006

KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

The petitioner must provide reasonable justification for the vacation.

Reason for vacating PORTION OF ROW VACATED TO BE ADDED TO ADJACENT LOTS TO INCREASE USABLE AREA, NEW ROAD CONSTRUCTION HAS MOVED TRAVELWAY EAST +/- 50'

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 F. Segesser
Name JOHN F. SEGESSER as representative
Address 30485 ROSLAND ST SOLDOTNA AK 99669
Phone 262 3909

Petitioners: Signature Name Address Owner of
Signature Name Address Owner of