

SUBJECT: VACATE A PORTION OF A 50' WIDE PUBLIC ACCESS EASEMENT UPLAND FROM AND ALONG THE ORDINARY HIGH WATER MARK OF HORSESHOE LAKE ON LOT 2, US SURVEY 3519 RESERVED BY A 2003 BOROUGH QUITCLAIM DEED. LOCATED IN SECTION 12, TOWNSHIP 17 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, ALASKA. ASSEMBLY DISTRICT 5: MOKIE TEW

AGENDA: FEBRUARY 16, 2021

ASSEMBLY ACTION:

approved under the current agenda. 2/16/21 KBJ

MANAGER RECOMMENDATION: Present to the assembly for consideration.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER: *UMB*

Route To:	Department/Individual	Initials	Remarks
	Originator	<i>FW</i>	
	Planning Director	<i>(S)</i>	
	Borough Attorney	<i>John N.S.</i>	
	Borough Clerk	<i>Jan 2/8/21</i>	<i>KBJ</i>

ATTACHMENT(S): Fiscal Note: Yes _____ No X

Minutes (6 pages)
 Notification of Action (10 pages)
 Vacation Exhibit (1 page)
 Vicinity Map (1 page)

SUMMARY STATEMENT: On January 21, 2021 (written decision January 31, 2021) the Platting Board approved a subdivision plat of Latitude 62 North and a vacation of a portion of a 50' wide public access easement upland from and along the ordinary high water mark of Horseshoe Lake on Lot 2, US Survey 3519. The easement only runs along the shoreline; it does not extend to a public road. Platting Board approved to vacate only that portion described as from the south terminus of Line 12 to the east terminus of Line 5 as shown on the preliminary plat (see vacation exhibit). The portion approved for vacation surrounds an existing cabin and outbuilding that received a Borough Shoreline Setback Exemption in September 2003. The Platting Board's decision is consistent with MSB 43.15.035(B)(2)(b), The Platting Board shall not ordinarily approve vacations of public interests in land if the vacation is of a public right-of-way providing access to a lake, river, or other area with public interest or value, unless alternate or better access is provided or exists. The Platting Board found the remaining easement provides an existing alternate access.

RECOMMENDATION OF ADMINISTRATION: Staff recommends the assembly approve the vacation of the 50' public access easement upland from and along the ordinary high water mark of Horseshoe Lake on Lot 2, US Survey 3519 as shown on the vacation exhibit and approved by the Platting Board.

MOTION: Platting Member Cottini moved to approve the preliminary plat for Riverside Alley & the vacation of the 4' X 63' portion of the alleyway, with 7 recommendations. The motion was seconded by Platting Member Shadrach.

Discussion by the platting board on the alleyway.

Mr. Meneses, City of Palmer Planning Commission Representative, explained to the board that alleyways are public access not a fire access road.

VOTE: The motion passed with all in favor by roll call vote. (Fernandez, Cottini, Bush, Vau Dell, Shadrach, and Anderson). There are 7 Findings of fact.

TIME: 1:27 P.M.
CD: 0:23:01

Platting Board Member Shadrach recused himself from Latitude 62 North.

B. **LATITUDE 62 NORTH:** The request is to create 6 lots from US Survey 3519 Lots 1, 2, & 27 and Lacher Subdivision Lots 1 & 2, Block 1 to be known as **Latitude 62 North**, containing 18 acres +/- . This plat will mitigate the substandard nature of three of the original lots. S. Horseshoe Lake Road, new internal rights-of-way (ROW), and construction of borough standard roads will provide legal and physical access to the new lots. Petitioners request vacations of: (1) Two public ROWs being replaced by proposed access; (2) A 50' public ROW on US Govt. Lot 3 (Tax Parcel A1) and; (3) A 50' public ROW along the shore of Horseshoe Lake. The property is located along the north shore of Horseshoe Lake (Tax ID #U03519000L01, U03519000L02, U03519000L27, 2636B01L001, 2636B01L002, 17N04W12A001); lying within the N½ Section 12, Township 17 North, Range 04 West, Seward Meridian, Alaska. In Community Council: Big Lake and in Assembly District: #5 Dan Mayfield. Continued from November 19, 2020 & December 17, 2020 platting board hearing. (Owner/Petitioner: Russell & Janet Whitfield, Jack & Lona Sims, and Scott Sterling; Surveyor: Whitfield; Staff: Peggy Horton)

Chair Anderson:

- Read the statement regarding Ex-Parte & Interest on quasi-judicial actions into the record.
- Platting Board Member Vau Dell had contact with a neighbor near this action. He stated he has no financial gain and can be impartial; there was no objection noted by the platting board.
- Read the case title and description into the record.

Ms. Von Gunten provided the mailing report:

- Stating that 29 public hearing notices were mailed out on October 29, 2020 from the original platting board hearing on November 19, 2020.

Ms. Peggy Horton:

- Gave an overview of the case, #2020-153/155-158.
- Staff recommends approval of Action A and the Plat.
- Staff Does not approve Action B and Action C.
- Answered questions from the platting board.

Chair Anderson asked staff on the procedure for processing the case file. Staff answered his question and clarified what is the best process to do for the case file.

Chair Anderson invited the petitioner and/or the petitioner's representative to give a brief overview.

Mr. Russell Whitfield, the petitioner, gave a brief overview of the case.

Chair Anderson:

- Opened the public hearing for public testimony.

The following person spoke regarding their concerns regarding road site distance and location on the new placement. Would like to see the easements improved and a fire pump station put in if these easements go through: Mr. Darcy Quan.

The following person spoke regarding their concerns regarding access, road grading, and placement of a water pump: Mr. Frank Paulson.

The following person spoke regarding their concerns regarding the access grading on a portion of the roadway. Would like to see the road upgraded and maintained: Mr. Eric Quan.

Chair Anderson:

- There being no one else to be heard, the chair closed the public hearing.
- Invited the petitioner or their representative to provide their comments.

Mr. Scott Sterling, a co-petitioner, gave his briefing on the case action.

The Petitioner, Ms. Janet Whitfield, asked for additional time to present their case. The platting chair granted her request, adding 2 more minutes to the petitioner's.

Ms. Janet Whitfield, a co-petitioner, explained more on the action being brought to the platting board, talked about the access on the properties, and answered questions from the platting board.

The Clerk Announced for those calling by Telephone that public comments have been closed by the chair for this case.

TIME: 2:15 P.M.

CD: 01:12:21

Break to fix technical difficulties of the phone line and microphones.

TIME: 2:49 P.M.

CD: 01:45:38

Chair Anderson moved to the Platting Board for a motion.

ACTION A

MOTION: Platting Member Cottini moved to approve the vacation of the 50' public access easement upland from and along the shore of proposed Lots 1 & 2, Block 1, for Latitude 62 North, with 2 recommendations and 15 findings. The motion was seconded by Platting Member Vau Dell.

Platting Board discussed with staff and law on the objection from the State of Alaska's Fish and Game Office and the 50' public access easement.

VOTE: The motion passed with all in favor by roll call vote. (Fernandez, Cottini, Bush, Vau Dell, Shadrach, and Anderson). There are 15 Findings of fact.

TIME: 3:03 P.M.

CD: 02:02:16

ACTION B

MAIN

MOTION: Platting Member Cottini moved to approve the vacation of the 50' wide Roadway and Public Utility Easement along the west side of Govt. Lot 3, as stated on the U.S. Patent 1235307 for Latitude 62 North, with 4 recommendations and 27 findings. The motion was seconded by Platting Member Vau Dell.

Platting Board discussed the case regarding the petitioners changes on the findings and recommendations.

Amended

MOTION: Platting Member Cottini moved to amend the motion to add recommendation #B5. The amended motion was seconded by Platting Member Vau Dell.

RECOMMENDATIONS:

- Add B5: Obtain consent from the State of Alaska Department of Natural Resources for the vacation of the U.S. Patent Reservation Easement 1235307.

Amended

VOTE: The amended motion passed with all in favor by roll call vote. (Bush, Cottini, Anderson, Fernandez, Vau Dell).

Main Motion

VOTE: The main motion failed by roll call vote with all voting no. (Bush, Cottini, Vau Dell, Fernandez, Anderson).

TIME: 3:28 P.M.

CD: 02:23:58

Break for the platting board to write the findings of facts for the failed motion.

TIME: 3:31 P.M.

CD: 02:36:00

FINDINGS of FACTS for DENIAL:

- B1 to B27
- B28: Findings as noted in staff report concerning Vacation #2 do not support approval of the requested vacation.
- B29: Objections from three adjoining property owners; Quams, Palin, & Gage for the vacation of the 50' Patent reservation easement, as it is being used and provides future access to Horseshoe Lake.
- B30: Better lake alternate access is not provided. A road along the proposed vacation is possible. Public comments indicate to keep the access to Horseshoe Lake.

MOTION: Platting Member Vau Dell moved to approve the failed findings of facts. The motion was seconded by Platting Member Cottini.

VOTE: The motion to approve the failed findings passed with all in favor by general consent.

TIME: 3:42 P.M.

CD: 02:42:40

ACTION C

MOTION: Platting Member Cottini moved to approve the vacation of the 50' Roadway and Public Utility Easement on the east side of Lot 27, U.S. Survey 3519, as stated on the U.S. Patent 1227124 and vacation of the 25' platted right-of-way on Lacher Subdivision, Plat 83-289 for Latitude 62 North, with 2 recommendations and 18 findings. The motion was seconded by Platting Member Vau Dell.

Platting Board discussed 50' roadway and Public Utility Easement. Discussion on removing C12 and replacing it with a different finding.

Amended

MOTION: Platting Member Cottini moved to amend the motion to remove C12 and add a new finding for C12. The motion was seconded by Platting Member Vau Dell.

FINDINGS:

- Modify and Change C12 to read: Mr. Brian Gage objects to changes to the easements.

Amended

VOTE: The motion passed with all in favor by roll call vote. (Bush, Cottini, Fernandez, Vau Dell, Anderson).

Amended

MOTION: Platting Member Cottini moved to add recommendation C3. The motion was seconded by Platting Member Vau Dell.

RECOMMENDATIONS:

- Add C3: Obtain consent from the State of Alaska Department of Natural Resources for the vacation of the U.S. Patent Reservation Easement 1227124.

Amended

VOTE: The motion passed with all in favor by roll call vote. (Anderson, Fernandez, Vau Dell, Bush, Cottini).

Main Motion

VOTE: The main motion failed by roll call vote with all voting no. (Bush, Vau Dell, Fernandez, Anderson, Cottini).

FINDINGS of FACTS for DENIAL:

- Add C1 to C18, remove C12, and add new recommendation in place of C12.

MOTION: Platting Member Vau Dell moved to approve the failed findings of facts C1 to C18 with removing C12 and Adding new recommendation for C12. The motion was seconded by Platting Member Cottini.

VOTE: The motion passed with all in favor by roll call vote. (Vau Dell, Fernandez, Bush, Cottini, Anderson).

TIME: 4:03 P.M.

CD: 03:03:08

ACTION D

MAIN

MOTION: Platting Member Cottini moved to approve the preliminary plat of Latitude 62 North with 10 recommendations and 12 findings. The motion was seconded by Platting Member Bush.

Platting Board and staff discussed recommendation D2 on the curve radius.

Mr. Ashenbrenner gave explanations on law and code.

FINDINGS:

- Modify D12: Three owners of property object to the new access road and have concerns about additional traffic and road noise.

VOTE: The motion passed with 4 in favor by roll call vote (Cottini, Bush, Fernandez, Anderson) and 1 against (Vau Dell). There are 12 Findings of fact.

TIME: 4:26 P.M.

CD: 03:22:30

Break

TIME: 4:33 P.M.

CD: 03:29:28:03

Platting Member Shadrach returned to his Seat on the Board.

C. **PARADISE RIDGE**: The request is to create a 41-lot, 5-phase master plan from Tax Parcels C3 & C4 to be known as **Paradise Ridge**, containing 120.0 acres +/- . Interior streets will be dedicated and constructed to borough standards and a public use easement is proposed. The property is located north of E. Paradise Lane, west of N. Wasilla-Fishhook Road, southwest of E. Pamela Drive and east of N. Bull Moose Drive (Tax ID # 18N01W24C003 & 18N01W24C004); lying within the SW ¼ Section 24, Township 18 North, Range 01 West, Seward Meridian, Alaska. Community Council: N/A and in Assembly District #6: Jesse Sumner. (*Owner/Petitioner: Patterson Construction, LLC; Surveyor: Keystone; Staff: Cheryl Scott*)

Chair Anderson:

- Read the statement regarding Ex-Parte & Interest on quasi-judicial actions into the record;
- Platting Member Shadrach knows one of the petitioners and did not have a conversation with them. He can be impartial and make a fair decision.
- There was no objection noted by the platting board.
- Read the case title and description into the record.

Ms. Von Gunten provided the mailing report:

- Stating that 91 public hearing notices were mailed out on December 30, 2020.

Ms. Cheryl Scott:

- Gave an overview of the case, #2020-168.
- Staff recommends approval of the case with findings of fact and conditions.
- Need to modify finding #4 and #12 and modify recommendation #8.

Chair Anderson invited the petitioner and/or the petitioner's representative to give a brief overview.

Mr. Gary LoRusso, the petitioner's representative, Mr. Steve Kidle and Mr. Don Patterson, the petitioner's, and Mr. Holler, the Engineer, gave a brief overview of the case.



MATANUSKA-SUSITNA BOROUGH

Platting Division

350 East Dahlia Avenue • Palmer AK 99645
Phone (907) 861-7874 • Email: platting@matsugov.us

PLATTING BOARD ACTION LETTER

January 31, 2021

Whitfield, Sima & Sterling
PO Box 520882
Big Lake, AK 99652

Case #: 2020-153, 155-158

Case Name: LATITUDE 62 NORTH

Action taken by the Platting Board on January 21, 2021 is as follows:

ACTION A

THE VACATION OF THE 50' PUBLIC ACCESS EASEMENT UPLAND FROM AND ALONG THE SHORE OF PROPOSED LOTS 1 & 2, BLOCK 1 FOR LATITUDE 62 NORTH WAS APPROVED AND WILL EXPIRE ON JANUARY 31, 2027 SUBJECT TO THE ATTACHED CONDITIONS OF APPROVAL. FINDINGS OF FACT SUPPORTING THIS DECISION ARE ALSO INCLUDED.

ACTION B

THE VACATION OF THE 50' WIDE ROADWAY AND PUBLIC UTILITY EASEMENT ALONG THE WEST SIDE OF GOVT. LOT 3, AS STATED ON THE U.S. PATENT 1235307 FOR LATITUDE 62 NORTH WAS DENIED. FINDINGS OF FACT FOR DENIAL SUPPORTING THIS DECISION ARE ALSO INCLUDED.

ACTION C

THE VACATION OF THE 50' ROADWAY AND PUBLIC UTILITY EASEMENT ON THE EAST SIDE OF LOT 27, U.S. SURVEY 3519, AS STATED ON THE U.S. PATENT 1227124 AND VACATION OF THE 25' PLATTED RIGHT-OF-WAY ON LACHER SUBDIVISION, PLAT 83-289 FOR LATITUDE 62 NORTH WAS DENIED. FINDINGS OF FACT FOR DENIAL SUPPORTING THIS DECISION ARE ALSO INCLUDED.

ACTION D

THE PRELIMINARY PLAT FOR LATITUDE 62 NORTH WAS APPROVED AND WILL EXPIRE ON JANUARY 31, 2027 SUBJECT TO THE ATTACHED CONDITIONS OF APPROVAL. FINDINGS OF FACT SUPPORTING THIS DECISION ARE ALSO INCLUDED.

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ALL DECISIONS OF APPROVAL OR DISAPPROVAL BY THE PLATTING AUTHORITY SHALL BE FINAL UNLESS APPEALED TO THE BOARD OF ADJUSTMENT AND APPEALS, MSB 15.39. A PETITION WHICH IS TABLED BY THE BOARD SHALL BE DEEMED DENIED UNLESS THE APPLICANT BRINGS THE MATTER BACK BEFORE THE BOARD WITH ALL CONDITIONS MET WITHIN THE TIME ALLOWED BY THE BOARD OR BY LAW.

If this is in reference to a plat application, recordation at the appropriate District Recorder's Office of the plat is required before any transfer of title can occur. Should you have any questions or require a copy of the minutes of the meeting, please feel free to contact this office.

Kindest regards,



Mr. Fred Wagner, PLS
Platting Officer

sv

cc: DPW – Jamie Taylor

Russell Whitfield, PLS
PO Box 520882
Big Lake, AK 99652

Additional Plat Reviews After 2nd Final are \$100.00 Each

Brian McJunkin
3209 S. Horseshoes Lake Rd
Wasilla, AK 99623

Jeffrey Justice
7446 Foxridge Way #A
Anchorage, AK 99518

Todd Palin
#218
31620 23rd Ave S
Federal Way, WA 98003

Eric & Darcy Quan
2511 S Sky Ranch Loop
Palmer, AK 99645

Frank Paulson
13693 W Holly Loop
Big Lake, AK

Brian Gage
18745 W. Seclusion Cir.
Big Lake, AK 99652

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ACTION A
FINDINGS of FACT:

- A1. The requested vacation is consistent with MSB 43.20.035, Vacations.
- A2. The petitioner requested a vacation of all that portion of the 50' wide public access easement upland from and along the ordinary high water mark of Horseshoe Lake on USS 3519 Lots 2 reserved on a quitclaim deed recorded at 2003-031215-0.
- A3. USS 3519 Lots 1 & 2 are two of the parent parcels of this portion of the plat.
- A4. The State of Alaska Patent No. 16124 to the MSB for Lots 1 & 2, USS 3519, recorded December 1997, stated that as a result of a settlement agreement between the State and the Borough, the Borough agreed not to reserve a public access if a dedicated public access easement already exists within a distance of not more than one mile.
- A5. The Borough, in October 2003, deeded Lots 1 & 2, USS 3519 and reserved a 50' wide public access easement upland from and along the ordinary high water mark of Horseshoe Lake Alaska.
- A6. A developed year-around Public Boat Launch and Lake Access with dry fire hydrant for Emergency Services is provided to Horseshoe Lake on Lot 2, North Horseshoe Lake Plat #2003-64, and is located approximately one-half mile from subject property.
- A7. The petitioner contends the Public Boat Launch, and the other public accesses to Horseshoe Lake from the public road system show alternate or better access exists as required by MSB 43.15.035(B)(2)(b).
- A8. MSB 43.15.035(B)(2)(b) states the Platting Board shall not ordinarily approve vacations of public interests in land if the vacation is of a public right-of-way providing access to a lake, river, or other area with public interest or value, unless alternate or better access is provided or exists.
- A9. MSB 43.15.035(B)(2)(d) states the Platting Board shall not ordinarily approve vacations of public interests in land if objections to the vacation are made by persons with an interest in land adjacent to or affected by the vacation, or by any government agency or department which has a responsibility to the public which may be affected by the vacation;
- (i) the platting board may approve the vacation if the following conditions are met:
 - (aa) there are currently no existing improvements within the subject easement of the easement beneficiary or a portion of the easement will remain which includes the improvements;
 - (bb) if necessary a substitute easement is provided; and
 - (cc) findings of facts support granting the vacation;
- A10. MSB 43.15.035(B)(3): In other cases, the platting board shall review requested vacations on a case-by-case basis to determine whether the property is necessary or desirable for present or future public use. Public rights-of-way in areas shall be assumed to have a public use unless proven otherwise.

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- A11. ADF&G objects to vacating this easement. They state the vacation would eliminate a potential opportunity to fish along this shoreline. The shoreline provides suitable habitat for pike.
- A12. ADF&G stated an anadromous stream enters Horseshoe Lake through Lots 1 & 2 as shown on the topographic map.
- A13. Proposed Lot 2, Block 1 has existing structures along the lake as described in MSB Shoreline Setback Exemption 2003-025828-0, recorded September 2003. These structures are within the public access easement.
- A14. Borough staff supports vacating an area surrounding the existing cabin and 10'x14' building on proposed Lot 2, Block 1.
- A15. The petitioners states the shoreline is wet, unstable and inaccessible by foot traffic. It is habitat for fish, nesting birds and waterfowl. It is accessible only by small-unmotorized watercraft as it borders a shallow lily pad infested cove.

CONDITIONS of APPROVAL:

The Platting Board approved the vacation of the 50' public access easement upland from and along the shore of proposed Lots 1 & 2, Block 1 for Latitude 62 North, contingent upon the following:

- A1. Show the vacation of the easement only from the south terminus of Line 12 to the east terminus of Line 5 as shown on the preliminary plat, for the existing cabin and outbuilding shown on the topographic map on proposed Lot 2, Block 1. No other portion of the easement will be vacated.
- A2. Obtain Assembly approval for the vacation within 30 days of the written notification of Platting Board decision in accordance with MSB 43.10.065(F).

ACTION B

FINDINGS of FACT for DENIAL:

- B1. The vacation is pursuant to AS 29.40.120 through AS 29.40.140 and MSB 43.15.035 Vacations.
- B2. The petitioner submitted a petition to vacate a 50' wide roadway and public utility easement on the western boundary of Govt. Lot 3, as stated on U.S. Patent 1235307.
- B3. MSB 43.15.035(B)(1) The platting board shall ordinarily approve vacations of public rights-of-way if:
- (a) the vacation is conditioned upon the final approval of a plat affecting the same land which provides equal or better access to all areas affected by the vacation; or
 - (b) the surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed; or
 - (c) the right-of-way is not being used, a road is impossible or impractical to construct, and alternative access has been provided;

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- B4. MSB 43.15.035(B)(2) The platting board shall not ordinarily approve vacations of public interests in land if:
- (a) the surrounding area in which the vacation is sought is undeveloped or is developing and equivalent or better access is not provided;
 - (b) the vacation is of a public right-of-way providing access to a lake, river, or other area with public interest or value, unless alternate or better access is provided or exists;
- B5. MSB 43.15.035(B)(2) The platting board shall not ordinarily approve vacations of public interests in land if:
- (d) Objections to the vacation are made by persons with an interest in land adjacent to or affected by the vacation, or by any government agency or department which has a responsibility to the public which may be affected by the vacation;
 - (i) the platting board may approve the vacation if the following conditions are met:
 - (aa) there are currently no existing improvements within the subject easement of the easement beneficiary or a portion of the easement will remain which includes the improvements;
 - (bb) if necessary a substitute easement is provided; and
 - (cc) findings of facts support granting the vacation;
- B6. MSB 43.15.035(B)(3) In other cases, the platting board shall review requested vacations on a case-by-case basis to determine whether the property is necessary or desirable for present or future public use. Public rights-of-way in areas shall be assumed to have a public use unless proven otherwise.
- B7. Govt. Lot 3 is a 7-acre parcel with lake frontage on Horseshoe Lake and road frontage along S. Horseshoe Lake Road. Lot 25, US Survey 3519 is a 6.16-acre parcel with lake frontage also. Both properties are largely undeveloped.
- B8. The existing access road from S. Horseshoe Lake Road into the neighborhood lies within this ROW providing a potential secondary access route in and out of the area if the proposed roads are constructed. Dedication and construction of Banyan Street and Batten Place would be contingent upon the vacation.
- B9. The proposed ROWs will provide better road access to the proposed parcels within the subdivision as the petitioner would construct them to residential standards and they would receive borough maintenance.
- B10. The Subdivision Construction Manual does not require a secondary access to serve this neighborhood. The Average Daily Traffic (ADT) potential with the current proposal is less than 200. If over 200 ADT, a secondary access or loop street would be required.
- B11. International Fire Code D107.1: One or Two-Family dwellings in a Residential development. Fewer than 30 dwelling units require only one fire apparatus access road.
- B12. Proposed W. Banyan Street aligns with the 20' wide right-of-way of S. Horseshoe Lake Place should the owner of Lot 25, US Survey 3519 wish to increase the right-of-way width of S. Horseshoe Lake Place in the future.

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- B13. Tawnya Hightower, West Lakes Fire Chief believes the subdivision, and ROW vacations along with the new improved road will improve their ability to respond and arrive to all affected properties. West Lakes Fire Dept. supports the petitioners and has no fire safety concerns. As discussed with the West Lakes Fire Chief, the petitioners stated that if the vacation were approved, they would put a Knox Box on the eastern side of W. Batten Place to allow for emergency access to the existing road.
- B14. The existing driveway to the structure on proposed Lot 3, Block 3 runs within this easement. The petitioner proposes to provide a private easement to allow the driveway to remain in place.
- B15. A developed, year-around Public Boat Launch and Lake Access with dry fire hydrant for Emergency Services is provided to Horseshoe Lake on Lot 2, North Horseshoe Lake Plat #2003-64 and is located approximately one-half mile from subject property. This easement provides equal or better access to the lake as it is developed and well used.
- B16. The petitioner provided evidence of six (6) other 50-foot wide dedicated rights-of-way to the lake.
- B17. Petitioner proposes granting a 15' wide utility easement along the western side of Govt. Lot 3. There is an existing Enstar natural gas line in that location.
- B18. According to the petitioner, access to the lake is not used and the topographic evidence shows a steep slope along the lake.
- B19. On a site visit 1/8/2021, the Platting Officer found a gate blocking access to the lake.
- B20. The aerial imagery with topographic contours shows docks constructed along the water frontage of proposed Lot 3, Block 3, and Govt. Lot 3, providing evidence that the access is traversable although possibly not constructible for boat launch or parking.
- B21. There is a 2-story cabin lying within the 50' public access easement on Govt. Lot 3. The petitioner stated the cabin would be moved.
- B22. Todd Palin, owner of two lots in this area, objects to the proposed vacations of the public right-of-way to the lake and the to the proposed W. Banyan Street as the straight in, 60' wide MSB maintained road would increase traffic and jeopardize the safety of the quite (sic), low traffic subdivision. The petitioner stated Mr. Palin's structures are more than 900 feet south and lower in elevation of W. Batten Place.
- B23. Eric & Darcy Quam, owners of three lots in this area, object to the removal of the existing access route and to the proposed new road due to increase in traffic, road noise. They also noted that removal of the easement would remove one of the few lake access easements that currently remain on the lake. They further stated the existing three easements, when combined provide a decent sized public lake access. The petitioner stated the Quam's structures are more than 400' south and lower in elevation of W. Batten Place.
- B24. Jeffry D. Justice wrote in support of the proposed right-of-way vacations. The terrain is not easily accessible, is steep, and does not provide safe access to the lake.

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- B25. ADF&G Comments: Horseshoe Lake is identified in ADF&Gs Anadromous Waters Catalog and providing rearing habitat for Coho salmon. Moderate fishing of trout and pike also occur in the lake. The petitioner points out, additional legal public access exists through Lot 2, Horseshoe Lake Subdivision, managed by ADF&G. While they generally oppose reducing the quantity or quality of public access, this parcel is well used and within a half mile of the proposed vacation and likely meets the standard of equal or better access required for ROW vacation.
- B26. Within the 2020 MSB Hazard Mitigation Plan, Appendix G is the Community Assessment and Wildfire Protection Plan (CWPP) for the Horseshoe Lake Road Area, which mentions protecting ingress/egress routes.
- B27. As the area requested to be vacated is outside of the subdivision plat, the vacation would be recorded as a platting board resolution with an exhibit depicting the vacated area, if approved.
- B28. Findings as noted in staff report concerning Vacation #2 do not support approval of the requested vacation.
- B29. Objections from three adjoining property owners; Quams, Palin, & Gage for the vacation of the 50' Patent reservation easement, as it is being used and provides future access to Horseshoe Lake.
- B30. Better Lake alternate access is not provided. A road along the proposed vacation is possible. Public comments indicate to keep the access to Horseshoe Lake.

ACTION C

FINDINGS of FACT for DENIAL:

- C1. The vacations are pursuant to AS 29.40.120 through AS 29.40.140 and MSB 43.15.035 Vacations.
- C2. The petitioner submitted a petition to vacate a 50' wide roadway and public utility easement on the eastern boundary of Lot 27, USS 3519 as stated on the U.S. Patent 1227124.
- C3. The petitioner submitted a petition to vacate a 25' platted ROW dedicated on the plat of Lacher Subdivision, Plat 83-289.
- C4. MSB 43.15.035(B)(1) The platting board shall ordinarily approve vacations of public rights-of-way if:
- (a) the vacation is conditioned upon the final approval of a plat affecting the same land which provides equal or better access to all areas affected by the vacation; or
 - (b) the surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed; or
 - (c) the right-of-way is not being used, a road is impossible or impractical to construct, and alternative access has been provided;

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- C5. MSB 43.15.035(B)(2) The platting board shall not ordinarily approve vacations of public interests in land if:
- (a) the surrounding area in which the vacation is sought is undeveloped or is developing and equivalent or better access is not provided;
 - (b) the vacation is of a public right-of-way providing access to a lake, river, or other area with public interest or value, unless alternate or better access is provided or exists;
- C6. MSB 43.15.035(B)(2) The platting board shall not ordinarily approve vacations of public interests in land if:
- (d) Objections to the vacation are made by persons with an interest in land adjacent to or affected by the vacation, or by any government agency or department which has a responsibility to the public which may be affected by the vacation;
 - (i) the platting board may approve the vacation if the following conditions are met:
 - (aa) there are currently no existing improvements within the subject easement of the easement beneficiary or a portion of the easement will remain which includes the improvements;
 - (bb) if necessary a substitute easement is provided; and
 - (cc) findings of facts support granting the vacation
- C7. MSB 43.15.035(B)(3) In other cases, the platting board shall review requested vacations on a case-by-case basis to determine whether the property is necessary or desirable for present or future public use. Public rights-of-way in areas shall be assumed to have a public use unless proven otherwise.
- C8. The plat of Lacher Subdivision dedicated the 25' wide ROW to provide access to Lot 27, USS 3519. That ROW is no longer necessary as the design of the proposed subdivision provides road frontage to all lots.
- C9. Govt. Lot 3 is a 7-acre parcel with lake frontage on Horseshoe Lake and road frontage along S. Horseshoe Lake Road. Lot 25, US Survey 3519 is a 6.16-acre parcel with lake frontage also. Both properties are largely undeveloped.
- C10. A developed year-around Public Boat Launch and Lake Access with dry fire hydrant for Emergency Services is provided to Horseshoe Lake on Lot 2, North Horseshoe Lake Plat #2003-64, and is located approximately one-half mile from subject property provides alternate or better access and is well used.
- C11. The petitioner provided evidence of six (6) other 50-foot wide dedicated rights-of-way to the lake.
- C12. Mr. Brian Gage objects to changes to the eaements.
- C13. The existing driveway to the structure on proposed Lot 3, Block 3 originates on the 50' roadway and public utility easement on the west side of Govt. 3. The petitioners stated they will record a private use easement for this access.
- C14. According to the petitioner, access to the lake is not used and the topographic evidence shows a steep slope along the lake.

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- C15. The aerial imagery with topographic contours shows docks constructed along the water frontage of proposed Lot 3, Block 3, and Govt. Lot 3 providing evidence that the access is traversable although possibly not constructible for boat launch or parking.
- C16. Todd Palin, owner of two lots in this area, objects to the proposed vacations of the public right-of-way to the lake and the to the proposed W. Banyan Street as the straight in, 60' wide MSB maintained road would increase traffic and jeopardize the safety of the quite (sic), low traffic subdivision. The petitioner stated Mr. Palin's structures are more than 900 feet south and lower in elevation of W. Batten Place.
- C17. Eric & Darcy Quam, owners of three lots in this area, object to the removal of the existing access route and to the proposed new road due to increase in traffic and road noise. They also noted that removal of the easement would remove one of the few lake access easements that currently remain on the lake. They further stated the existing three easements, when combined provide a decent sized public lake access. The petitioner stated the Quam's structures are more than 400' south and lower in elevation of W. Batten Place.
- C18. ADF&G Comments: Horseshoe Lake is identified in ADF&Gs Anadromous Waters Catalog and providing rearing habitat for Coho salmon. Moderate fishing of trout and pike also occur in the lake. The petitioner points out, additional legal public access exists through Lot 2, Horseshoe Lake Subdivision, managed by ADF&G. While they generally oppose reducing the quantity or quality of public access, this parcel is well used and within a half mile of the proposed vacation and likely meets the standard of equal or better access required for ROW vacation.

ACTION D
FINDINGS of FACT:

- D1. The plat of Latitude 62 North is consistent with AS 29.40.070 Platting Regulations; and MSB 43.15.016 Preliminary Plat Submittal and Approval.
- D2. Lot sizes and block lengths are consistent MSB 43.20.300(A), Lot and Block Design.
- D3. Frontage to all lots are consistent with MSB 43.20.320, Frontage.
- D4. A professional engineer stated useable area is available for wastewater disposal and building on Lots 1 & 2, Block 1, and Lot 1, Block 2 in compliance with MSB 43.20.281.
- D5. Lots 1, 2, & 3, Block 3 lot size, water frontage and road frontage will be up to current standards consistent with MSB 43.15.065, Waiver of Standards for Resubdivision of Substandard Lots.
- D6. Adjusting the lot line between Lot 2, Lacher Subdivision and Lot 27, USS 3519 alleviates a structural setback violation.
- D7. Petitioner is dedicating a 30' ROW for S. Horseshoe Lake Road, matching the 30' dedication on Muskrat Cove, Plat 2000-91.
- D8. The existing access road to the neighborhood lies within the 50' roadway and public utility easement on the west side of Govt. Lot 3 providing a potential secondary access route in and out of the area.

- D9. There is a 2-story cabin lying within the 50' public access easement on Govt. Lot 3. The petitioner stated the cabin would be moved.
- D10. West Lakes Fire Chief supports the petitions and has no fire safety concerns. She believes the subdivision, and ROW Vacations along with the new improved road will improve their ability to respond and arrive to all affected properties.
- D11. Three persons commented in support of the creation of the new road, enhancing safety and allowing for emergency vehicle access.
- D12. Three owners of property object to the new access road and have concerns about additional traffic and road noise.

CONDITIONS of APPROVAL:

The Platting Board approved the preliminary plat for Latitude 62 North, contingent upon the following:

- D1. Pay mailing and advertising fees.
- D2. Place a curve radius at the southeast corner of Lot 1 Block 2 to create an intersection angle greater than 70 degrees between Batten Place and the 50' roadway and public utility easement on Govt. Lot 3.
- D3. Move or remove the 2-story cabin no foundation on Govt. Lot 3 a minimum of 25 feet outside of any public access easement and also a minimum of 75 feet away from the ordinary high water mark of Horseshoe Lake or obtain a shoreline setback exemption. Provide surveyor's stamped letter or as-built as proof.
- D4. Submit construction cost estimate, schedule pre-construction meeting with Public Works Engineer, pay inspection fee, and obtain Notice to Proceed prior to any road or drainage construction in compliance with SCM, Section E.
- D5. Construct the interior roads to minimum residential standards. Provide engineer's final inspection report along with verification from an RLS that the constructed roadways are located within the proposed ROW per MSB 43.20.140 and obtain Public Works Engineer signoff.
- D6. Provide updated Certificate to Plat executed within 7 days, prior to recording the plat per MSB 43.15.053(E).
- D7. Submit an affidavit from any holders of beneficial interest, if any, to be recorded with the plat.
- D8. Submit recording fee, payable to the State of Alaska, DNR.
- D9. Taxes and special assessments must be paid in full through the year of recording, per MSB 43.15.053(F) and AS 40.15.020. Pay taxes and special assessments (LIDs) by certified funds or cash.
- D10. Submit final plat in full compliance with Title 43.

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