

SUBJECT: TO VACATE A 2,068 SQ. FT. PORTION OF THE 33' WIDE SECTION LINE EASEMENT WITHIN TRACT A, GINJEN, PHASE 1, PLAT #2002-23. LOCATED IN SECTION 09, TOWNSHIP 17 NORTH, RANGE 02 WEST, SEWARD MERIDIAN, ALASKA. ASSEMBLY DISTRICT 7: TAM BOEVE

AGENDA: FEBRUARY 5, 2019

ASSEMBLY ACTION:

Approved under the consent agenda 2-5-19

MANAGER RECOMMENDATION: Present to the assembly for consideration *(BOD)*

APPROVED *for* BY JOHN MOOSEY, BOROUGH MANAGER: *George Hays*

Route To:	Department/Individual	Initials	Remarks
	Originator	<i>FW</i>	
	Planning Director	<i>SP</i>	
	Borough Attorney	<i>NS</i>	
	Borough Clerk	<i>AM</i>	<i>1/20/19</i>

ATTACHMENT(S): Fiscal Note: Yes _____ No X
 Minutes
 Notification of Action
 Vicinity Map

(1 page)
 (3 pages)
 (1 page)

REASON FOR REQUEST: The request is to vacate a 2,068 sq. ft. portion of the 33' wide section line easement within Tract A, Ginjen, Phase 1, Plat #2002-23, to alleviate a structural encroachment. The vacated section line easement will be replaced with a 2,068 sq. ft. public use easement directly southeast of the vacated area.

SUMMARY STATEMENT: On January 4, 2019, (written decision January 9, 2019) the Platting Board approved the vacation of a 2,068 sq. ft. portion of the 33' wide section line easement within Tract A, Ginjen, Phase 1, Plat #2002-23 and the replacement public use easement. Petitioner has demonstrated that alternate equal or better access exists with the replacement public use easement and existing dedicated public access to adjoining lands and Golden Lake. Alaska Department of Natural Resources has provided a preliminary decision recommending approval of this section line easement vacation as required by MSB 43.15.040. The vacation is consistent with MSB 43.15.035(B)(1)(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" and MSB 43.15.035(B)(1)(c): The right-of-way is not being used, a road is impossible or impractical to construct and alternative access has been provided."

RECOMMENDATION OF ADMINISTRATION: Staff recommends the Assembly approve the vacation as the Platting Board's decision is consistent with MSB 43.15.035(B)(1)(a)&(c), 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 and the right-of-way is not being used, a road is impossible or impractical to construct and alternative access has been provided. Section line easement vacation is pursuant to AS 29.40.120 through 29.40.160, MSB 43.15.035 and MSB 43.15.040.

A. GINJEN PH 1 TRC A SLE

Chair Jordan Rausa read the case description into the record.

Theresa Taranto, Acting Clerk, provided the mailing report.

- Stated that 65 public hearing notices were mailed out on December 13, 2018.

Cheryl Scott, Platting Technician, provided a staff report:

- Gave an overview of the case, #2018-155.
- Answered questions from the board.

Chair Jordan Rausa

- Opened the public hearing and asked any members of the public wishing to speak to come forward. Seeing no members of the public wishing to speak, closed the public hearing.

Bonnie Kinne (Petitioner)

- Spoke on why the trade for the public use easement was adequate.
- Mentioned that the street name, Mariah was misspelled and the correct spelling is Moriah.

MOTION:

- Pugh moved to approve the Section Line Easement Plat Vacation, and the replacement of a Public Use Easement within Ginjen Phase 1, Tract A, with 9 recommendations and the removal of recommendation #5. The motion was seconded by Vau Dell.

RECOMMENDATIONS:

Remove recommendation #5.

VOTE:

- The motion passed with all in favor. There are 9 Findings.

TIME: 2:06 PM

CD: 1:01:55

AUDIENCE PARTICIPATION (*Three minutes per person, for items not scheduled for public hearing*)

- None

5. ITEMS OF BUSINESS & MISCELLANEOUS

A. Presentation by Law, John Aschenbrenner

- The board asked question during the presentation.

TIME 2:38:10

6. RECONSIDERATIONS/APPEALS

- None



MATANUSKA-SUSITNA BOROUGH

Platting Division

350 East Dahlia Avenue • Palmer AK 99645

Phone (907) 861-7874 • Fax (907) 861-8407

NOTIFICATION OF ACTION

January 9, 2019

Bonnie Kinne
601 N. Moriah Circle
Wasilla, AK 99623

Case #: 2018-155

Case Name: GINJEN PHASE 1 TRACT A (SLE)

Action taken by the Platting Board on January 3, 2019 is as follows:

THE SECTION LINE EASEMENT VACATION PLAT AND THE REPLACEMENT PUBLIC USE EASEMENT FOR GINJEN PHASE 1, TRACT A, WAS APPROVED AND WILL EXPIRE ON JANUARY 9, 2025 CONTINGENT UPON THE FOLLOWING CONDITIONS / REASONS (see attached).

ALL DECISIONS AS TO APPROVAL OR DISAPPROVAL BY THE PLATTING BOARD OR OFFICER 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. Jordan Rausa
Platting Board Chairman

sv

cc: DPW – Jamie Taylor
Farmer Surveying
9131 E. Frontage Road
Palmer, AK 99645

Additional Plat Reviews After 2nd Final are \$100.00 Each
John Tunley, 3748 Mount Blanc Circle, Anchorage, AK 99508
Patricia Griffith, PO Box 298737, Wasilla, AK 99687

CONDITIONS of APPROVAL:

The Platting Board approved the Section Line Easement Vacation Plat and the replacement Public Use Easement for Ginjen Phase 1 Tract A, contingent upon the following:

1. Pay Postage and Advertising fee.
2. Provide proof that the shed has been removed from the 25' setback of the section line easement and the conex containers removed from ARRC ROW and setback.
3. Obtain DNR Final Decision of Approval for the Section Line Easement Vacation.
4. Obtain the Borough Assembly approval of the vacation within 30 days of Platting Board's written Notification of Action. MSB Assembly has 30 days from the date of the Platting Board decision to deny the request.
5. Provide updated Certificate to Plat executed within 7 days prior to recording and provide beneficiary affidavits from holders of legal and equitable interest, if any.
6. Taxes and special assessments must be paid in full for the year of recording prior to recording the plat, pursuant to MSB 43.15.053(F) and AS 40.15.020. Pay taxes and special assessments (LIDs) by certified funds or cash.
7. Submit recording fee payable to State of Alaska, Department of Natural Resources.
8. Submit final plat in full compliance with Title 43.

FINDINGS:

1. The section line easement vacation plat and public use easement is pursuant to AS 29.40.120 through AS 29.40.140, MSB 43.15.035 *Vacations*, MSB 43.15.040 *Section Line and State-Recognized RS-2477 Easement Vacations* and MSB 43.15.021 *Public Use Easements Acceptance Procedure*.
2. SOA DNR has issued a preliminary decision approving the vacation of the section line easements (EV-3-219).
3. The vacation is consistent with MSB 43.15.035(B)(1)(a) as 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; and (c) the right-of-way is not being used and alternative access has been provided. The petitioner is granting a public use easement of equal square footage located within the same lot as the proposed vacation.
4. The petitioner is proposing the vacation due to a structural encroachment and the Section Line Easement isn't needed for public access as alternate access exists via from N. Blue Sky Drive ROW, the N. Rainbow Park Drive ROW and the park on Lot 13, Block 1, Rainbow Park Estates and the remaining portion of 33' SLE not being vacated and the adjoining 33' SLE in Section 4.
5. The existing section line easement is not constructed. Construction of the proposed public use easement is not required.

6. The petitioner posted a public notice of the vacation for 30 days prior to the public hearing. At the time of this staff report, the affidavit was not yet submitted.
7. MSB Assembly approval of the vacation is required pursuant to MSB 43.15.035(D).
8. The preliminary plat prepared by a surveyor and the preliminary decision to vacate by DNR has provided documentation of the existence of the section line easements within the area to be vacated and adjoining section lines as required by MSB 43.15.040(B)(2).
9. There are no objections from borough departments, outside agencies, or the public.

