

SUBJECT: VACATE THE 50-FOOT WIDE SECTION LINE EASEMENTS LYING WITHIN LOTS 19, 20, & 25, US SURVEY 4590. LOCATED ON THE WEST SHORE OF SUSITNA LAKE WITHIN SECTIONS 22 & 27, TOWNSHIP 8 NORTH, RANGE 8 WEST, COPPER RIVER MERIDIAN, ALASKA. ASSEMBLY DISTRICT 1: JIM SYKES

AGENDA: DECEMBER 5, 2017

ASSEMBLY ACTION: *Approved under the consent agenda 12-5-17*

MANAGER RECOMMENDATION: Present to the assembly for consideration.

APPROVED *for* BY JOHN MOOSEY, BOROUGH MANAGER: *[Signature]*

Route To:	Department/Individual	Initials	Remarks
	Originator	<i>FW</i>	
	Planning Director	<i>EP</i>	
	Borough Attorney	<i>AS</i>	
	Borough Clerk	<i>[Signature]</i>	<i>11/27/17</i>

ATTACHMENT (S) : Fiscal Note: Yes No X
 Minutes (2 pages)
 Notification of Action (4 pages)
 Vicinity Map (1 page)
 Preliminary Vacation Plat (1 page)

REASON FOR REQUEST: *The request is to vacate the 50-foot wide Section Line Easements lying within Lots 19, 20, & 25, US Survey 4590 to unencumber the potential building sites and allow for better, more efficient use of the property. Alternate public access and utility easements exist and are also being reserved on the vacation plat along property lines.*

SUMMARY STATEMENT: On November 2, 2017 (written decision November 9, 2017), the Platting Board approved the vacation of the 50-foot wide Section Line Easements, contingent on Assembly approval. The State will dedicate alternate public access easements within Lots 5, 6, 14-16, 19, 20 & 23-27 on the final plat to maintain public access. The state is also dedicating utility easements along property lines and depicting the existing 50-foot wide public access easements upland from Susitna Lake within Lots 1-6, 13, 16-21, & 23-27. The alternate access easements are equal or better as they provide public access from Susitna Lake to state land and provide legal access to currently land locked lots 14 & 15.

RECOMMENDATION OF ADMINISTRATION: Staff recommends the Assembly approve the vacation as the Platting Board's decision to vacate is consistent with MSB 43.15.035(B)(1)(a) and (B)(2)(b) and 43.15.040(B)(8) as equal or better access to all areas affected by the vacation is provided and alternate or better access to Susitna Lake and to previously land locked parcels is provided and a preliminary finding of approval was obtained from the State of Alaska, Department of Natural Resources. Vacation is pursuant to AS 29.40.120 through 29.40.160 and to MSB 43.15.035 and MSB 43.15.040.

A. US SURVEY 4590

Chair Jay Van Diest read the case description into the record.

Sloan Von Gunten, Administrative Specialist, provided the mailing report.

- Stated that 10 public hearing notices were mailed out on August 16, 2017.

Peggy Horton, Platting Technician, provided a staff report:

- Gave an overview of the case, #2017-085.

Chair Jay Van Diest

- Opened the public hearing and asked any members of the public wishing to speak to come forward.

LeMay Hupp

- Appreciates the board in accepting the new material in the packet in making a better decision on the platting action.

Jean Holt

- Asked for clarification on the utility easement placement on the lots.

Chair Jay Van Diest

- Closed the public hearing.

Cliff Baker, SOA (Petitioner)

- Gave a brief background on the property.
- Answered questions from the board on the easement and placement of utility lines & lot lines.
- Agrees with all the recommendations.

MOTION:

- Johnson moved to approve the vacation of Section Line Easements within Lots 19, 20, and 25, US Survey 4590 with replacement public access and utility easement as shown on the preliminary section line easement vacation place. The motion was seconded by Rausa.

Vau Dell was trying to make a motion to add another recommendation, no second from the board. Platting board wanted to have discussion and then do an amendment.

DISCUSSION:

- Discussion on the setbacks and easements on the property.

MOTION TO AMEND:

- Pugh moved to amend the motion to add recommendation #7. The motion was seconded by Johnson

TIME: 1:53 P.M.

CD: 0:49:10

BREAK

TIME: 2:08 P.M.

CD: 0:49:12

MOTION TO WITHDRAW:

- Pugh withdrew his motion to amend on adding recommendation #7, Johnson agreed.

MOTION TO AMEND:

- Pugh moved to amend the motion to modify recommendation #4 and modify finding #16. The motion was seconded by Thompson.

RECOMMENDATIONS:

- **Modify #4:** Show the replacement public access and utility easements on the section line easement vacation plat as shown on the preliminary plat, excepting that within Lot 6, the east side of the 50' public access easement will begin 15' west of the meander point of lots 6 & 7 on Lake Susitna thence continue northwest to the point of intersection with the 50' access & utility easement on the north side of Lot 7.

FINDINGS:

- **Modify #16** in adding the wordage: . . . The State provided information that Lots 6, 13, 14, 15, & 16 within US Survey 4590 "were removed" from consideration for sale . . .

VOTE ON AMENDED MOTION:

- The motion passed with all in favor.

VOTE ON MAIN MOTION:

- The motion passed with all in favor. There are 19 findings.

TIME: 2:15 P.M.

CD: 0:52:30

B. US SURVEY 4591

Chair Jay Van Diest read the case description into the record.

Sloan Von Gunten, Administrative Specialist, provided the mailing report.

- Stated that 21 public hearing notices were mailed out on September 13, 2017.

Peggy Horton, Platting Technician, provided a staff report:

- Gave an overview of the case, #2017-104.

Chair Jay Van Diest

Opened the public hearing and asked any members of the public wishing to speak to come forward.



MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department
Platting Division

350 East Dahlia Avenue • Palmer AK 99645
Phone (907) 861-7874 • Fax (907) 861-8407

NOTIFICATION OF ACTION

November 9, 2017

State of Alaska
Dept of Natural Resources
Cliff Baker
550 W. 7th Ave, Ste. 650
Anchorage, AK 99501

Case #: 2017-085

Case Name: US SURVEY 4590

Action taken by the Platting Board on November 2, 2017 is as follows:

THE VACATION OF SECTION LINE EASEMENTS WITHIN LOTS 19, 20, & 25 FOR US SURVEY 4590 WITH REPLACEMENT PUBLIC ACCESS AND UTILITY EASEMENTS AS SHOWN ON THE PRELIMINARY SECTION LINE EASEMENT VACATION PLAT WAS APPROVED AND WILL EXPIRE ON NOVEMBER 9, 2023 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. Jay Van Diest
Platting Board Chairman

sv

cc: DPW – Jamie Taylor
LeMay Hupp
11920 Steeple Chase Circle
Anchorage, AK 99516

Anchorage Snowmobile Club, Inc
PO Box 232196
Anchorage, AK 99523

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

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CONDITIONS of APPROVAL:

The Platting Board approved the vacation of section line easements within lots 19, 20, & 25 for US Survey 4590 with replacement public access and utility easements as shown on the preliminary section line easement vacation plat, contingent upon the following:

1. Pay Postage and Advertising fee.
2. 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.
3. Submit final section line easement vacation plat, signed by the State and those with a legal and beneficial interest in full compliance with Title 43.
4. Show the replacement public access and utility easements on the section line easement vacation plat as shown on the preliminary plat, excepting that within Lot 6, the east side of the 50' public access easement will begin 15' west of the meander point of lots 6 & 7 on Lake Susitna thence continue northwest to the point of intersection with the 50' access & utility easement on the north side of Lot 7.
5. Obtain DNR Final Decision of Approval for the Section Line Easement Vacation.
6. Provide updated Certificate to Plat executed within 90 days prior to recording and provide beneficiary affidavits from holders of legal and equitable interest, if any.

FINDINGS:

1. The vacation is pursuant to AS 29.40.120 through AS 29.40.140 and MSB 43.15.035 *Vacations*.
2. The vacation meets the requirements of MSB 43.15.040 *Section Line and State-Recognized RS-2477 Easement Vacations*.
3. The vacation is consistent with MSB 43.15.035(B)(1)(a) & 43.15.035(B)(2)(b) 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 alternate or better access to the lake is being provided or exists as shown on the plat.
4. SOA DNR has issued a preliminary decision approving the vacation of the section line easements (EV-3-269).
5. The vacations are requested to unencumber the potential building sites and allow for better, more efficient use of the property.
6. Public notice was posted for the section line easement vacation notifying the public of the date, time, and place of the public hearing.

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7. The properties are undeveloped at this time. DMLW, Survey Section has no known information that vehicles, pedestrians or other public interests have been or are using those portions of the SLE proposed to be vacated. A field inspection was not conducted. Summer and Winter aerial imagery was provided.
8. Petitioners' surveyor of record 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. The petitioner is dedicating 50-foot wide public access easements on Lots 5, 6, 14, 15, 16 19 & 20 and 30-foot wide public access easements on Lots 23 through 27 along with 15-foot and 20-foot wide public utility easements adjoining the property lines of several of the lots consistent with MSB 43.15.040(B)(8) and MSB 43.15.035(B)(2)(b).
10. A 50-foot wide public access easement upland of and contiguous with the ordinary high water line of Susitna Lake, will also be reserved on the plat within state owned lands in accordance with Alaska Statute 38.05.127.
11. The public access and utility easements being granted on the plat provide for equal or better access to Susitna Lake and adjacent lands.
12. The existing section line easements are not constructed. No construction of the replacement public access easement is required.
13. Public notices were sent to the Glennallen Postmaster, Copper Valley Community Library, Lake Louise Lodge, and Eureka Lodge for posting on the community bulletin boards. Notices were also mailed to the Lake Louise Snowmachine Club (also known as The Wolf Pack) and Anchorage Snowmobile Club. The state also has a posting requirement which included posting to the State Online Notices site, Newspaper ads, and copying the decision to various state and local agencies.
14. There are no objections from borough departments.
15. Anchorage Snowmobile Club, Inc. stated the extinguishment of this public easement is detrimental to public access to this heavily used area and they object. They did not comment on the additional easements being dedicated or reserved. DNR personnel tried to reach the president of the Anchorage Snowmobile Club, but was unsuccessful in obtaining a response. MSB 43.15.035(B)(4) states "The Platting Board shall not routinely approve any vacation of a public interest in land where objections to the vacation are made by persons with an interest in land adjacent to or affected by the vacation...excepting if the beneficiary of an easement refuses to authorize a vacation, the platting board may approve the vacation if the following conditions are met: (a) 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; (b) if necessary a substitute easement is provided by document on the plat; and (c) findings of fact support granting the vacation. Staff notes that the state confirmed there are no existing improvements, substitute easements are being provided on the plat and findings of fact support granting the vacation.

16. The State provided information that Lots 6, 13, 14, 15 & 16 within US Survey 4590 were removed from consideration for sale within the Lakes Subdivision ADL 231196's Final Finding and Decision signed by DNR Commissioner 21 November, 2012. Lot 13 was removed due to the large pond and Lots 14 & 15 were removed due to being land locked. There was no reason given for removing Lots 6 & 16. The State's decision not to sell the lots did not remove the lots indefinitely; any future offering of these parcels will require a separate decision process and public notice.
17. Predominant N-S winds support the reservation of a public access easement, providing Lots 5-8 with access from the protected cove on the north side of the peninsula. The State indicated the proposed location of the 50' Public Access Easement across the neck of the peninsula on the west side of Lots 7 & 13 is appropriate and in the best interest of the public. The aerial images provided by the State indicate the proposed location is useable throughout the year.
18. The proposed Public Access Easement adjoining the West sides of Lots 7 & 13 will provide access to Lots 14 & 15, which are currently land locked.
19. Adjacent land owners, Douglas and LeMay Hupp are concerned that the public will use the existing game trail that is on their property instead of the proposed easement. Also concerned that the proposed easement on the east side of Lot 6 will prohibit full use of their property. Options to post private property signs and clearing the new trail were presented to the owners.

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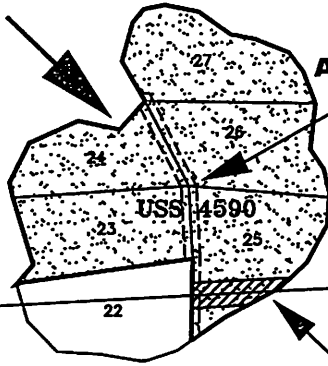
2
US 355

SUBJECT PROPERTIES

REPLACEMENT PUBLIC ACCESS TO BE CREATED

USS 4589
5

REPLACEMENT PUBLIC ACCESS TO BE CREATED



22 23
27 26

SECTION LINE ESMT TO BE VACATED

SECTION LINE ESMT TO BE VACATED

SUBJECT PROPERTIES

REPLACEMENT PUBLIC ACCESS TO BE CREATED

USS 4590
7 8 9

SUSITNA LAKE

13
USS 4587

VICINITY MAP

FOR PROPOSED USS 4590 SECTION LINE EASEMENT VACATION WITHIN SECTIONS 22 & 27, T8N, R8W COPPER RIVER MERIDIAN, ALASKA

27 26
34 35

EXHIBIT A

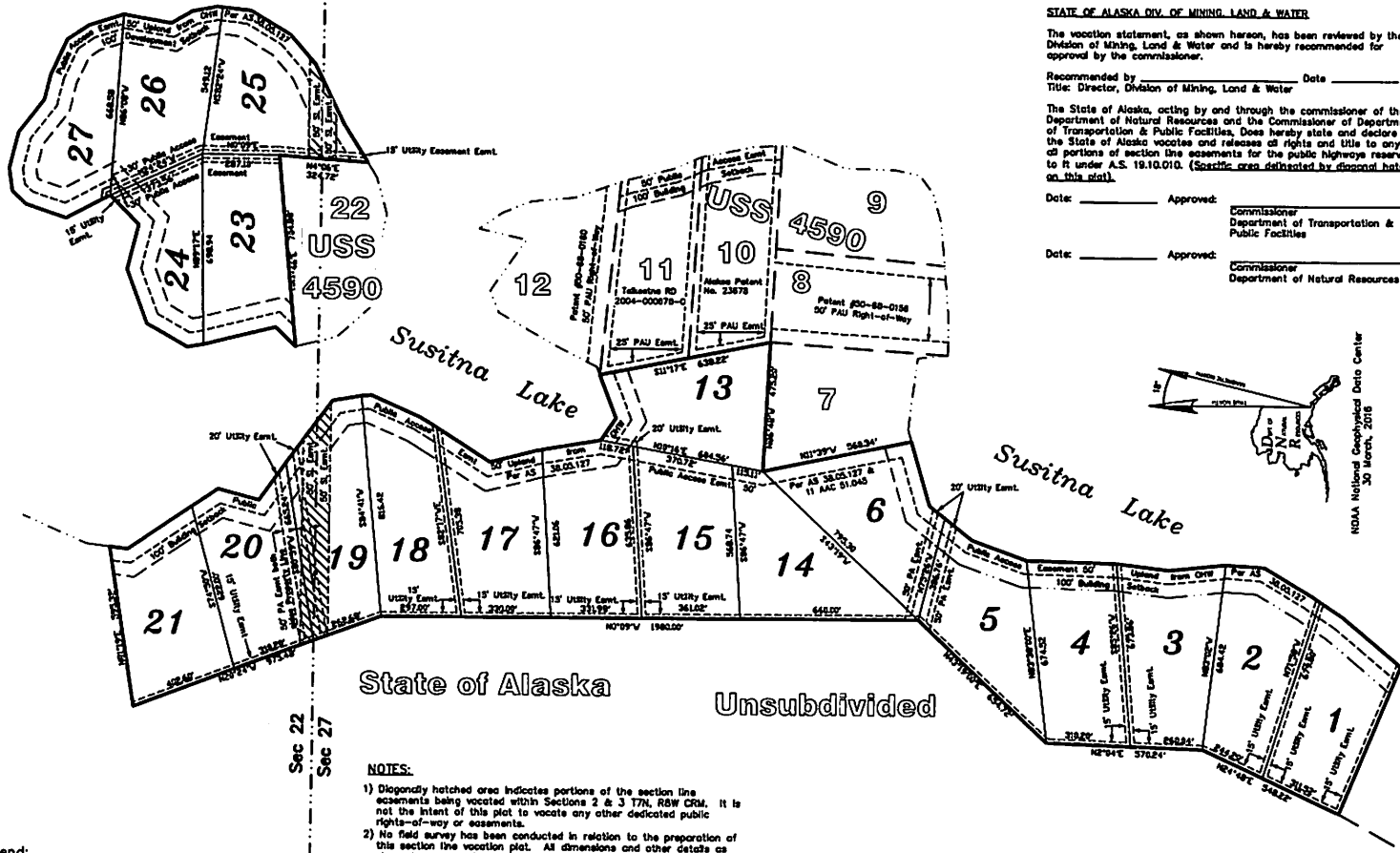
TYONE LAKE 14 MAP

SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, that this plat represents a survey made by me or under my direct supervision, that the monuments shown herein actually exist as described, and that all dimensions and other details are correct.

Dated _____ Registration Number _____

DAVID E. BAKER



Sec 22
Sec 27

Legend:

- ⊕ 3-1/4" Alum. Cap Monument (set)
- ⊕ 3-1/4" Alum. Cap Monument (found)
- Primary Monument of Record
- PAU Public Access & Utility
- SL Section Line
- Un-Surveyed Section Line
- ▨ Section Line Easement Voted this Plat

NOTES:

- 1) Diagonally hatched area indicates portions of the section line easements being vacated within Sections 2 & 3 T7N, R5W CRM. It is not the intent of this plat to vacate any other dedicated public rights-of-way or easements.
- 2) No field survey has been conducted in relation to the preparation of this section line vacation plat. All dimensions and other details as shown herein are from US Survey 4584 accepted 18 September 1985.
- 3) This section line easement vacation is in compliance with the final decision EV-3-243 approved 17 October, 2016.
- 4) The Alternate Route in accordance with 11 AAC 51.065 is via the 25 and 50 ft. wide Public Access & Utility Easements being dedicated in Lots 1-8, 13-21, 23-25, existing rights-of-way granted by federal patent for roadway & public utility purposes in adjacent and adjoining lots, existing 25 ft. access & utility easements by Alaska patent, existing 25 ft. access & utility easement recorded serial #2004-000678-0 Talkeetna Recording District, and by the public waters of Susitna Lake.
- 5) 100 ft. building setback created by the ADL 231196 Final Finding Decision, effective date 21 November, 2012.
- 6) All parcels of land owned by the State of Alaska, located within 50 ft. of, or bisected by, a surveyed or protracted section line, are subject to a fifty ft. (50') easement, each side of the section line, which is reserved to the State of Alaska for public highways under A.S. 18.10.010.

SECTION LINE EASEMENT VACATION CERTIFICATE APPROVAL RECOMMENDATIONS

STATE OF ALASKA DEPT. OF TRANSPORTATION & PUBLIC FACILITIES

The vacation statement, as shown hereon, has been reviewed by the Northern Region office and is hereby recommended for approval by the commissioner.

Recommended by _____ Date _____
Title: Chief, Planning And Administration

STATE OF ALASKA DIV. OF MINING, LAND & WATER

The vacation statement, as shown hereon, has been reviewed by the Division of Mining, Land & Water and is hereby recommended for approval by the commissioner.

Recommended by _____ Date _____
Title: Director, Division of Mining, Land & Water

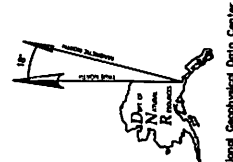
The State of Alaska, acting by and through the commissioner of the Department of Natural Resources and the Commissioner of Department of Transportation & Public Facilities, does hereby state and declare that the State of Alaska vacates and releases all rights and title to any and all portions of section line easements for the public highways reserved to it under A.S. 18.10.010. (Specific area delineated by diagonal hatching on this plat).

Date: _____ Approved: _____

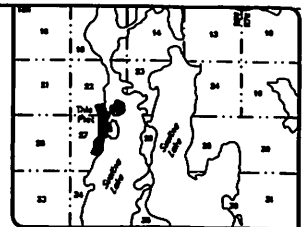
Commissioner
Department of Transportation & Public Facilities

Date: _____ Approved: _____

Commissioner
Department of Natural Resources



NDA National Geophysical Data Center
30 March, 2016



Gulkana (B-6), 1950, 1"=1 mile
CERTIFICATE OF OWNERSHIP & DEDICATION:
I, the undersigned, certify that I am the Director, Div. of Mining, Land & Water, and that the State of Alaska is the owner of Lots 3-5, 7, 9, 10, 12, 14 and 15 of U. S. Survey 4584, as shown on this plat. I hereby approve this section line easement vacation plat for the State of Alaska and dedicate or reserve for public or private use, as noted, all easements, public utility areas, and rights-of-way as shown and described hereon.

Date _____ Director, Division of Mining Land & Water

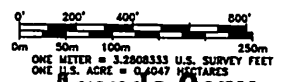
NOTARY'S ACKNOWLEDGMENT
Subscribed and sworn to before me this _____ day of _____ 20____
By: _____

Notary for the State of Alaska
My commission expires _____

CERTIFICATION OF PAYMENT OF TAXES

I hereby certify that current taxes and special assessments, through _____ 20____ against the property, included in the section line easement vacation plat, hereon have been paid.
_____ 20____

Tax Collection Official _____



ONE HETER = 3.2808333 U.S. SURVEY FEET
ONE U.S. ACRE = 0.4047 HECTARES

Agenda Copy

DATE OF SURVEY: SURVEY NO. 607-238-8333
RECORDING: No field DNLR, DALW, Survey Section
DRAWING: survey 550 W. 7th, Suite 650
ANCHORAGE, AK 99501

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, AND WATER
ANCHORAGE, ALASKA

SECTION-LINE EASEMENT VACATION PLAT
Associated with
Lots 19, 20 & 25, US Survey 4590

With Dedication of Public Access & Utility Easements
in Lots 1-8, 13-21 & 23-27 US Survey 4590

Located within
Protracted Sections 22 & 27
T. 8 N., R. 6 W.,
Copper River Meridian, Alaska
Talkeetna Recording District

Agenda Copy
RECEIVED
JUL 2 0 2017
PLATTING

PLANNING AND LAND USE DIRECTOR'S CERTIFICATE

I certify that this section the easement vacation plat has been found to comply with the land subdivision regulations of the Matanuska-Susitna Borough, and that the plat has been approved by the platting authority by plat resolution number _____ 20____, and that this plat has been approved for recording in the _____ 20____, and that Talkeetna Recording District, Third Judicial District, State of Alaska, in which this plat is located.

_____ 20____

Planning & Land Use Director _____

Attest: _____
Platting Clerk

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