

SUBJECT: VACATE A PORTION OF THE SECTION LINE EASEMENT AND VACATE A PORTION OF THE MCLEOD ROAD RIGHT-OF-WAY WITHIN TRACT C-2 SKY RANCH AT PIONEER PEAK ADDITION 1; LOCATED IN SECTION 20, TOWNSHIP 17 NORTH, RANGE 2 EAST, SEWARD MERIDIAN, ALASKA. ASSEMBLY DISTRICT 2: MATTHEW BECK

AGENDA: DECEMBER 3, 2019

ASSEMBLY ACTION:

*Approved under the Consent agenda* 12/3/19

MANAGER RECOMMENDATION: Present to the assembly for consideration.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

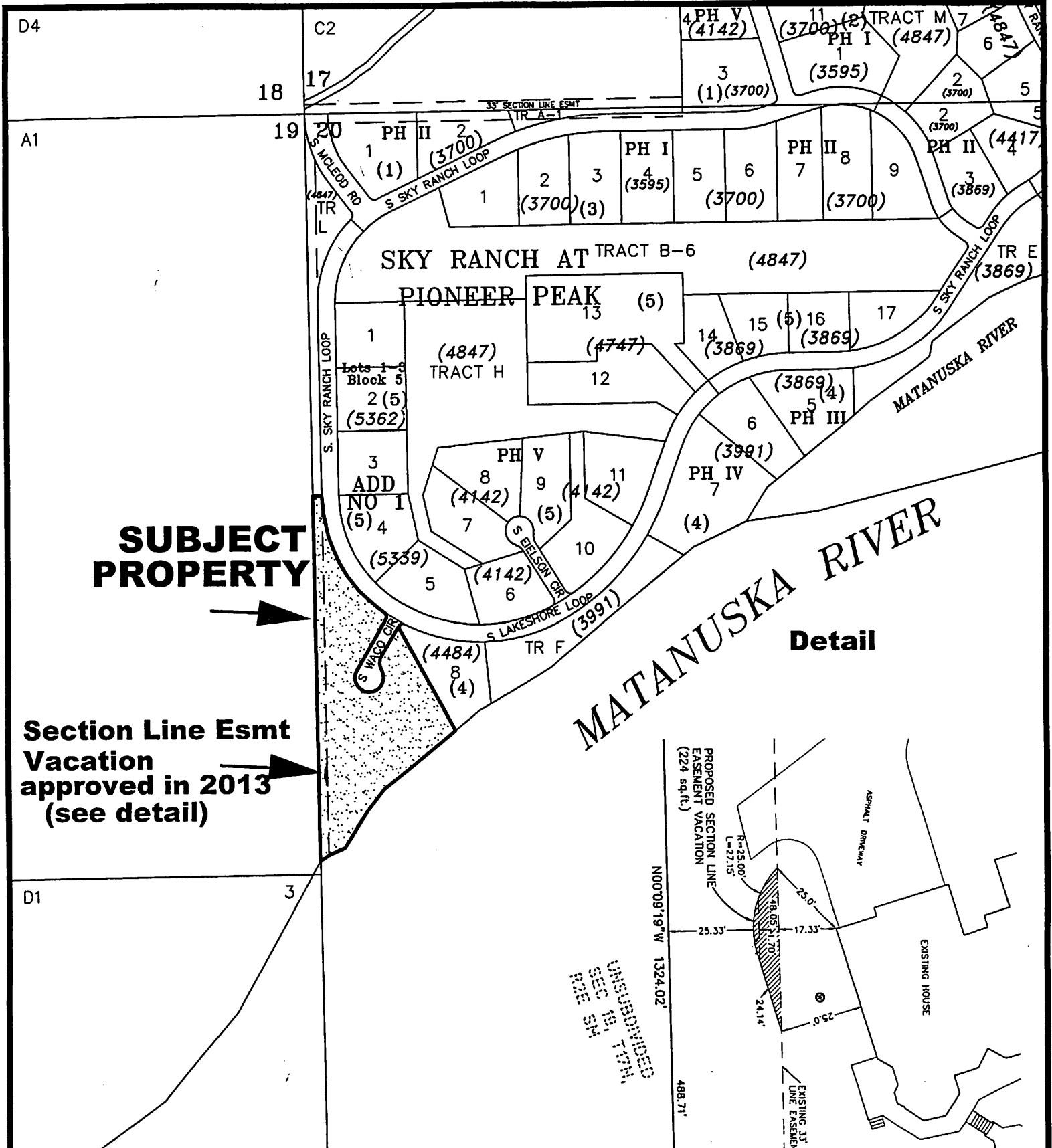
Route To:	Department/Individual	Initials	Remarks
	Originator	<i>FW</i>	
	Planning Director	<i>EP</i>	
	<i>Finance</i> Borough Attorney	<i>IS</i>	
	Borough Clerk	<i>JMM</i>	11/25/19 <i>BSM</i>

ATTACHMENT(S): Fiscal Note: Yes \_\_\_\_\_ No X

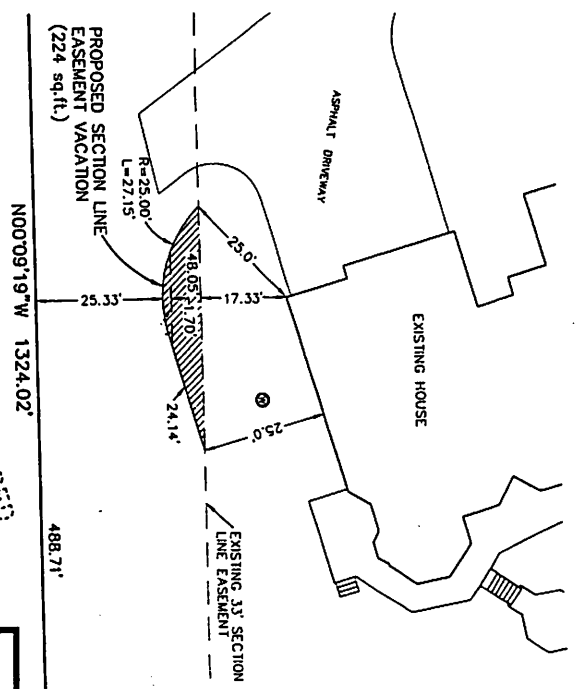
2013 Vacation Approval Map	(1 page)
Notification of Action	(3 pages)
Minutes	(2 pages)
SLE Vacation Vicinity Map	(1 page)
DNR Approved Plan for SLE Vacation	(1 page)

SUMMARY STATEMENT: On April 30, 2013, the Assembly approved a keyhole vacation of a Section Line Easement (SLE) for a structural setback encroachment. Since that time, State of Alaska Dept. of Natural Resources and the petitioner have discovered additional right-of-way needs to be vacated to eliminate the setback violation and worked out a solution that adheres to the state and borough vacation regulations. On November 7, 2019 (written decision November 15, 2019) the Platting Board approved the vacation of a separate portion of the SLE and a vacation of the McLeod Road right-of-way within Tract C-2, Sky Ranch at Pioneer Peak Addition 1. The neighboring parcel owner, Granite Construction, will grant a replacement public use easement, providing equal or better access to the Matanuska River. Platting Board's decision to vacate the SLE and McLeod Road right-of-way is consistent with MSB 43.15.035(B)(1)(c) and 43.15.035(B)(2)(b) as the vacation area is not being used, a road is impossible or impractical to construct, and alternative access will exist providing access to the river.

RECOMMENDATION OF ADMINISTRATION: Staff recommends the assembly approve the vacation of portions of the SLE and McLeod Road rights-of-way within Tract C-2, Sky Ranch at Pioneer Peak Addition 1.



**Detail**



### VICINITY MAP

FOR SKY RANCH AT PIONEER PEAK ADD 1  
PARTIAL SECTION LINE EASEMENT VACATION  
LOCATED WITHIN  
SECTION 20, T17N, R2E, SEWARD MERIDIAN,  
ALASKA  
PALMER 13 MAP

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# MATANUSKA-SUSITNA BOROUGH

## Platting Division

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

### NOTIFICATION OF ACTION

November 15, 2019

Rexford & Ingeborg Turner  
PO Box 3489  
Palmer, AK 99645

Case #: 2019-144/145 & 2013-018/019

Case Name: SKY RANCH AT PIONEER PEAK ADD 1 TRACT C-2/SLE/PUE

Action taken by the Platting Board on November 7, 2019 is as follows:

THE VACATION OF A PORTION OF THE SECTION LINE EASEMENT, THE VACATION OF A PORTION OF THE MCLEOD ROAD RIGHT-OF-WAY AND THE REPLACEMENT PUBLIC USE EASEMENT FOR SKY RANCH AT PIONEER PEAK ADDITION 1, TRACT C-2 WAS APPROVED AND WILL EXPIRE ON NOVEMBER 15, 2025 SUBJECT TO THE ATTACHED CONDITIONS OF APPROVAL. FINDINGS OF FACT SUPPORTING THIS DECISIONS ARE ALSO INCLUDED.

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,

*Jordan Rausa*

Mr. Jordan Rausa  
Platting Board Chairman

SV

cc: DPW – Jamie Taylor  
Besse Engineering, 1890 W. Jaime Marie Circle, Wasilla, AK 99654  
**Additional Plat Reviews After 2<sup>nd</sup> Final are \$100.00 Each**

Gary Gearhart, 2750 S. Sky Ranch Loop, Plamer, AK 99645

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### **FINDINGS of FACT:**

1. The vacation plat of Sky Ranch at Pioneer Peak Addition #1 T/C-2 is consistent with AS 29.40.070 *Platting Regulations*.
2. The vacation is pursuant to AS 29.40.120 through AS 29.40.140 and MSB 43.15.035 *Vacations*.
3. The vacation meets the requirements of MSB 43.15.040 *Section Line and State-Recognized RS-2477 Easement Vacations*.
4. The public use easement meets the requirements of MSB 43.15.021 *public Use Easement Acceptance Procedure*.
5. The vacation is consistent with MSB 43.15.035(B)(1)(c) and MSB 43.15.035(B)(2)(b) as the vacation is not being used, a road is impossible or impractical to construct and alternative access will exist providing access to the river.
6. SOA DNR has issued a preliminary decision approving the vacation of the section line easements (EV-3-191).
7. ADOT&PF submitted a letter approving the right-of-way vacation of McLeod Road with the replacement public use easement. (Relinquishment Application R267.002)
8. The vacation requested is to alleviate a structural setback encroachment on Tract C-2, Sky Ranch at Pioneer Peak, Addition 1.
9. All setback requirements will be met pursuant to MSB 17.55 with the approval of the section line easement vacation and the right-of-way vacation.
10. The subject SLE and ROW is unconstructed. A field inspection was conducted and there is no evidence that vehicles, pedestrians or other public interests have been or are currently using those portions of the SLE or ROW.
11. There were no objections from outside agencies, borough departments or the public.

### **CONDITIONS of APPROVAL:**

The Platting Board approved the vacation of a portion of the Section Line Easement, the vacation of a portion of the McLeod Road Right-of-way and the replacement Public Use Easement for Sky Ranch at Pioneer Peak, Addition 1, Tract C-2, contingent upon the following:

1. Pay postage and advertising fees.
2. Taxes and special assessments must be paid in full through 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.
3. Provide updated Certificate to Plat executed within 7 days of recording and submit Beneficiary Acknowledgement for any holder of a beneficial interest.

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4. Show or list all easements of record.
5. Obtain DNR Final Decision of Approval for the Section Line Easement Vacation (EV-3-191).
6. Obtain ADOT&PF final approval for the Omnibus McLeod Road right-of-way (Relinquishment Application R267.002).
7. Provide final plat to include the state of Alaska's specifications for the section line easement vacation plats along with ADOT&PF and DNR certificates.
8. Obtain the Borough Assembly approval of the vacations 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.
9. Remove the flood hazard area on the final plat, as this parcel is no longer in a flood hazard development area according to the flood maps adopted on September 27, 2019.
10. Provide signatory authority for Granite Construction Company.
11. Submit recording fee payable to State of Alaska, Department of Natural Resources (SOA/DNR).
12. Submit final plat in full compliance with Title 43.

*Platting Board members may not receive or engage in ex-parte contact with the applicant, other parties interested in the application, or members of the public concerning the application or issues presented in the application.*

- A. SKY RANCH AT PIONEER PEAK, ADD 1 T/C-2:** The request is to amend **SKY RANCH AT PIONEER PEAK, ADDITION #1 T/C-2** by eliminating the subdivision request, vacating a portion of the section line easement (SLE) and vacating a portion of the right-of-way (ROW) within Tract C-2 to alleviate a structural setback encroachment. Petitioner is proposing to grant a replacement public use easement (PUE) on Tax Parcel A1. Sky Ranch at Pioneer Peak Addition #1 T/C-2 originally received approval from the Platting Board on April 4, 2013. This project is located southwest of S. Sky Ranch Loop and north of the Matanuska River (Tax ID # 4847000T00C-2 and 17N02E19A001); within the NE ¼, Section 19 & NW ¼ Section 20, Township 17 North, Range 02 East, Seward Meridian. Assembly District #2 Matthew Beck (Owner/Petitioner: Rexford & Ingeborg Turner/Granite Construction Co.; Surveyor: Besse; Staff: Cheryl Scott)

Chair Rausa:

- read the memorandum regarding quasi-judicial actions into the record;
- queried platting board members to determine if any of them have a financial interest in the proposed case;
- have had any ex parte contact with the applicant, members of the public, or interested parties in the proposed case; and
- if all platting board members are able to be impartial in a decision.

There was no objection noted.

Chair Rausa read the case title and description into the record.

Ms. Von Gunten provided the mailing report.

- Stating that 31 public hearing notices were mailed out on October 16, 2019.

Ms. Peggy Horton provided a staff report

- Gave an overview of the case, #2013-018/019 and 2019-144/145.
- Staff recommended approval of the case with findings of fact & conditions.

Chair Rausa invited the petitioner for a brief overview.

Mr. Rick Besse, the petitioner's representative, gave a brief overview.

Chair Rausa opened the public hearing for public testimony.

There being no one to be heard, Chair Rausa closed the public hearing.

Chair Rausa invited the petitioner or their representative to provide their comments.

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Mr. Rick Besse, the petitioner's representative, answered questions from the platting board.

Chair Rausa closed the petitioner's comments and discussion moved to the Platting Board.

MAIN

MOTION: Platting Member Anderson moved to approve the Sky Ranch at Pioneer Peak Addition 1, Tract C-2, the vacation of a portion of the Section Line Easement, the vacation of a portion of the McLeod Road Right-of-way and the replacement Public Use Easement, with 12 recommendations. The motion was seconded by Platting Member Vau Dell.

VOTE: The main motion passed with all in favor. There are 11 findings of fact.

TIME: 1:15 P.M.

CD: 0:13:48

## **5. RECONSIDERATIONS/APPEALS**

*(There are no Reconsiderations/Appeals)*

## **6. PUBLIC HEARINGS: Quasi-Judicial Matters**

*Platting Board members may not receive or engage in ex-parte contact with the applicant, other parties interested in the application, or members of the public concerning the application or issues presented in the application.*

**A. DEWY'S GARDEN ADDITON 6:** The request is to divide Tract A of Dewy's Garden Add 5, Plat 2018-24, into 18 lots to be known as **Dewy's Garden Add 6**, containing 22.64 acres +/- N. Yeti Street will be extended north to provide access to the lots. A variance to MSB 43.20.140, *Legal Access*, is requested to allow for a substandard residential subcollector intersection at N. Yeti Street and E. Maud Road Extension. This project is located west of N. Dewy's Street and north of E. Maud Road Extension (AKA Jim Lake Access Road) (Tax ID # 7742000T00A); within the SW¼ Section 06, Township 17 North, Range 03 East, Seward Meridian. Community Council: Butte and in Assembly District #1 Jim Sykes (*Owner/Petitioner: Justin Hatley; Surveyor: Edge; Staff: Peggy Horton*)

Chair Rausa:

- read the memorandum regarding quasi-judicial actions into the record;
- queried platting board members to determine if any of them have a financial interest in the proposed case;
- have had any ex parte contact with the applicant, members of the public, or interested parties in the proposed case; and
- if all platting board members are able to be impartial in a decision.

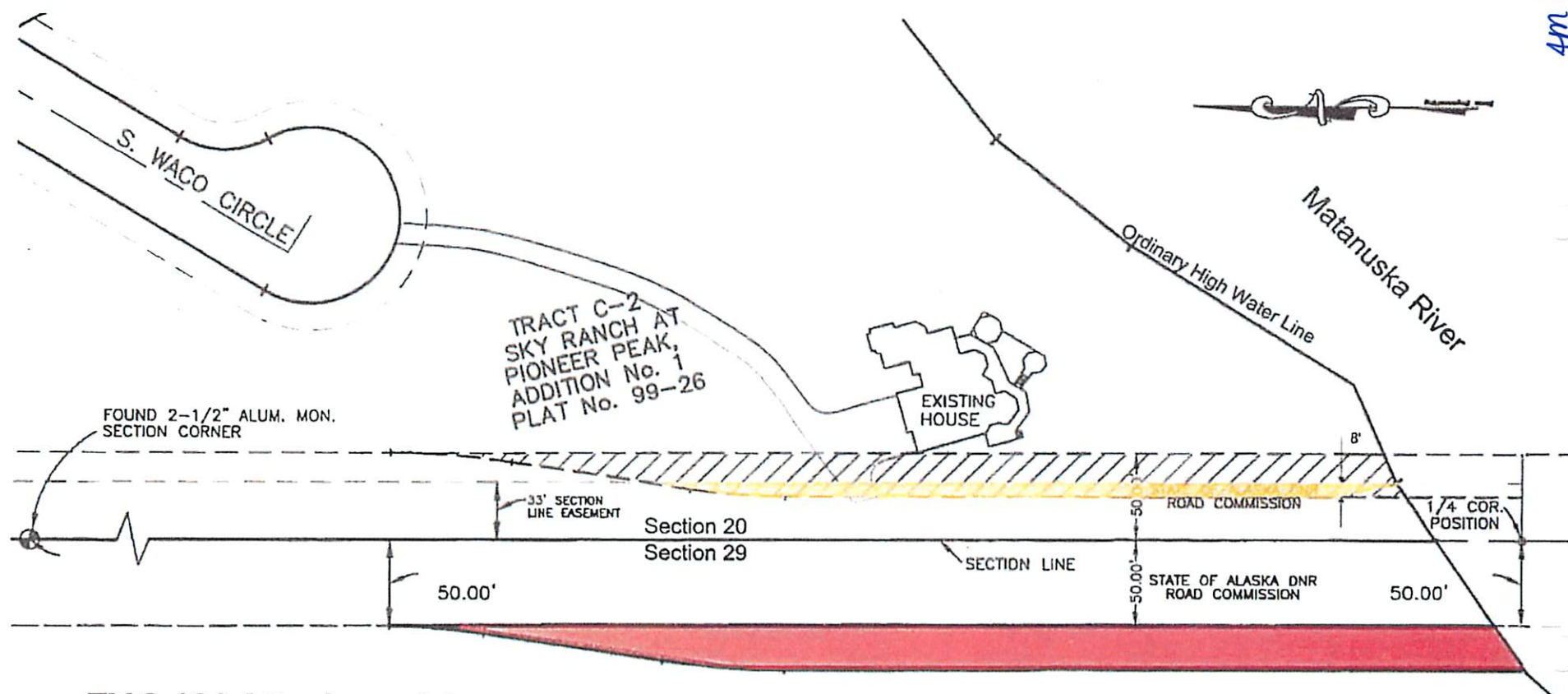
There was no objection noted.

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





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**EV 3-191 Attachment A**  
**Section 20, T17N, R2E, SM**

-  SLE Proposed to be Vacated (8')
-  Omnibus ROW McLeod Road
-  Proposed Public Access Easement to be Dedicated