

SUBJECT: VACATE THE 83' WIDE NORTH-SOUTH SECTION LINE EASEMENT WITHIN TAX PARCEL 16N02W01B006 AND TRACT A, TIDEWATER STREAM (PLAT 2013-105) IN SECTIONS 1 & 2, TOWNSHIP 16 NORTH, RANGE 2 WEST, SEWARD MERIDIAN, ALASKA TO ALLEVIATE A STRUCTURAL ENCROACHMENT. ASSEMBLY DISTRICT 5: DAN MAYFIELD

AGENDA: June 20, 2017

ASSEMBLY ACTION:

AM 17-061 Approved under consent agenda w/o objection @ 6/20/17 RM

MANAGER RECOMMENDATION: Present to the assembly for consideration.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER: _____

Route To:	Department/Individual	Initials	Remarks
	Originator	FW	
	Planning Director	EP	
	Borough Attorney	NS	Form Only
	Borough Clerk	JRM	6/12/17

ATTACHMENT (S) : Fiscal Note: Yes _____ No X
 Minutes (2 pages)
 Notification of Action (3 pages)
 Vicinity Map (1 page)
 As-built (1 page)

REASON FOR REQUEST: The request is to vacate the 83' wide North-South Section Line Easement (SLE) located within Tax Parcel 16N02W01B006 AND Tract A, Tidewater Stream (PLAT 2013-105). This vacation provides greater useable area for the owners of the affected lot and alleviates a structural encroachment in the section line easement.

SUMMARY STATEMENT: On June 1, 2017 (written decision June 7, 2017), the Platting Board approved the vacation of the Section Line Easement. The State Department of Natural Resources, Division of Mining, Land and Water Survey Section, provided a preliminary decision in support of this vacation. Alternate access route is provided via the constructed right-of-way of S. Hayfield Road, partially constructed W. Upstream Drive, unconstructed Section Line Easements and proposed public use easements along the northern border which allow connection to both ends of the portion of the Section Line Easement proposed to be vacated. Petitioner has demonstrated that alternate equal or better access exists.

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)&(c) and 43.15.040(B)(8) as equal or better access exists. Vacation is pursuant to AS 29.40.120 through 29.40.160 and MSB 43.15.035 and MSB 43.15.040.

3. UNFINISHED BUSINESS

None

4. PUBLIC HEARINGS

A. OLD KNIK ROAD

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

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

- Stated that 118 public hearing notices were mailed out on September 1, 2016 and was continued from April 6, 2017 platting board hearing.

Peggy Horton, Platting Technician, provided a staff report:

- Gave an overview of the case, # 2016-091/093/094.
- Petitioner would like to continue the case till August 17, 2017.

Chair Jay Van Diest

- 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, kept the public hearing open.

MOTION:

- Gillespie moved to continue Old Knik Road to August 17, 2017. The motion was seconded.

VOTE:

- The motion passed with all in favor.

TIME: 1:12 P.M.

CD: 0:09:30

B. STANNARD & SLEV

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

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

- Stated that 43 public hearing notices were mailed out on May 10, 2017.

Cheryl Scott, Platting Technician, provided a staff report:

- Gave an overview of the case, # 2017-032/033.

Chair Jay Van Diest

- 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.

The Petitioner and the Petitioner's Representative were not present at the meeting.

MOTION:

- Johnson moved to approve the preliminary plat and vacation of a portion of the Section Line Easements for Stannard. The motion was seconded.

VOTE:

- The motion passed with all in favor. There are 13 findings.

TIME: 1:25 P.M.

CD: 0:21:24

C. FISHER'S CORNER & VACATION

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

- Stated that 243 public hearing notices were mailed out on May 10, 2017.

Amy Otto Buchanan, Platting Technician, provided a staff report:

- Gave an overview of the case, # 2017-038/039.

Chair Jay Van Diest

- 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.

Paul Hulbert (Petitioner's Representative)

- Does not agree with recommendation #5.

MOTION:

- Johnson moved to approve the preliminary plat and the partial vacation of the 20' wide alley for Fisher's Corner. The motion was seconded. Modify finding #9 and Add #12.

DISCUSSION:

- Discussion on zoning.

MOTION TO AMEND:

- Anderson moved to amend the motion to remove Recommendation #5 for Fisher's Corner. The motion was seconded.

VOTE:

- The motion failed with 3 in favor (Anderson, Gillespie, and Van Diest) and 1 against. (Johnson)

FINDINGS:

- Modify #9: A geotechnical report was not required, pursuant to MSB 43.15.025(B). The parcel is served by the City of Palmer Water and Sewer.
- Add #12: The City of Palmer Planning and Zoning Commission has recommended the rezoning of the parcels from R-2 to G-C. The recommended approval will be sent to the



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

June 7, 2017

John & Janet Stannard
6000 S. Hayfield Road
Wasilla, AK 99623

Case #: 2017-032/033

Case Name: STANNARD & SLEV

Action taken by the Platting Board on June 1, 2017 is as follows:

THE PRELIMINARY PLAT AND VACATION OF A PORTION OF THE SECTION LINE EASEMENT FOR STANNARD WAS APPROVED AND WILL EXPIRE ON JUNE 7, 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

All Points North
Max Schillinger
PO Box 99645

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

CONDITIONS of APPROVAL:

The Platting Board approved the Preliminary Plat and Vacation of a portion of the Section Line Easements for Stannard, 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. Obtain DNR Final Decision of Approval for the Section Line Easement Vacation.
4. Provide triangular public use easement on the eastern corner to allow for an intersection to meet the Subdivision Construction Manual requirements.
5. 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.
6. Taxes and special assessments must be current prior to the recording, 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 vacation is pursuant to AS 29.40.120 through AS 29.40.140, MSB 43.15.035 *Vacations and MSB 43.15.040 Section Line and State-Recognized RS-2477 Easement Vacations*.
2. 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.
3. SOA DNR has issued a preliminary decision approving the vacation of the section line easements (EV-3-219).
4. The petitioner is proposing the vacation because they own both parcels and the Section Line Easement isn't needed for public access. Also, it would alleviate a structural encroachment.
5. The surveyor posted a public notice of the vacation for 30 days prior to the public hearing. An affidavit of the posting was provided to Platting staff, pursuant to MSB 43.10.065(G)
6. 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 conducted.

7. There are no utilities in the vacation area according to DNR's Preliminary Decision and Field Inspection Report.
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. The petitioner is dedicating the portion of S. Hayfield Road that lies within the proposed parcel and a 17' public use easement on the north boundary and a triangular radius return in the western corner meeting the requirements for MSB 43.15.035(B)(1)(a) & (c).
10. Department of Public Works is requesting an additional public use easement in the eastern corner to provide for an intersection to meet SCM requirements.
11. The existing section line easements are not constructed. Construction of the proposed public use easements is not required; however, a road plan and profile was submitted showing constructability within the right-of-way at no less than a 70 degree angle with a 100' tangent to the centerline of S. Hayfield Road.
12. A soils report was not required since the lots are to be combined and Tract A was previously certified to contain 10,000 sq. ft. of useable septic area and 10,000 sq. ft. of useable building area.
13. There are no objections from borough departments, outside agencies, or the public.

O'BRIEN CREEK 03 MAP

Am17-061
EXHIBIT A-1

