

**SUBJECT:** VACATE THE RIGHT-OF-WAY OF N. CHICKALOON AVENUE, CREATED BY PLAT NO. 10-308, CHARLES C. BRIX SUBDIVISION, LOCATED IN SECTION 34, TOWNSHIP 18 NORTH, RANGE 01 EAST, SEWARD MERIDIAN, ALASKA. ASSEMBLY DISTRICT 1: JIM SYKES

**AGENDA:** AUGUST 1, 2017

**ASSEMBLY ACTION:**

*Approved under the Consent Agenda 8-1-17*

**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>RP</i>	
	Borough Attorney	<i>AS</i>	<i>Form only</i>
	Borough Clerk	<i>JAM</i>	<i>7/24/17</i>

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

Minutes (2 pages)  
Notification of Action (3 pages)  
Vicinity Map (2 pages)

**REASON FOR REQUEST:** The request is to vacate the right-of-way of N. Chickaloon Avenue, between Lot 10, Block 2 and Lot 8, Block 3, of Charles C. Brix Subdivision, Plat No. 10-308. This is the only remaining portion of N. Chickaloon Avenue. Access for adjoining property to the north is provided by N. Thor Avenue on the south and north, E. Walhalla Street on the south and E. Chugach Street on the north.

**SUMMARY STATEMENT:** On July 6, 2017 (written decision July 12, 2017), the Platting Board approved the vacation of N. Chickaloon Avenue.

**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(A)(1) which notes a "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 (1)(a); the surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed (1)(b); and the right-of-way is not being used, a road is impossible or impractical to construct, and alternative access has been provided (1)(c)." Equal or alternate access to the adjoining parcel exists, the surrounding area is fully developed and this section of right-of-way is not being used as a street, it is improbable a street would be constructed due to topographical constraints and available alternate legal access exists.

**A. ASLS 2015-11**

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

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

- Stated that 18 public hearing notices were mailed out on September 14, 2016 from the Platting Board meeting of October 6, 2016 and January 5, 2017 that was continued.

Cheryl Scott, Platting Technician, provided a staff report:

- Gave an overview of the case, # 2016-110.
- The Petitioner would like to continue the case for 6 months until January 18, 2018 due to a re-write and revisions to the lot layout of the subdivision.

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.

The Petitioner or the Petitioner's Representative was not present.

MOTION:

- Anderson moved to approve the continuance for 6 months until January 18, 2018 for ASLS 2015-11. The motion was seconded.

VOTE:

- The motion passed with all in favor.

TIME: 1:09 P.M.

CD: 0:08:02

**B. N. CHICKALOON AVE. VACATION**

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

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

- Stated that 48 public hearing notices were mailed out on June 14, 2017.

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

- Gave an overview of the case, # 2017-056.
- Need to modify finding #4 and recommendation #1.

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.

Jerry Lewis (Petitioner's Representative)

- Agrees with all the recommendations.



MOTION:

- Rausa moved to approve the partial vacation of N. Chickaloon Avenue. The motion was seconded. Modify finding #4 and recommendation #1.

DISCUSSION:

- Clarified on what the vacation will do to the lots and how it will look.

RECOMMENDATIONS:

- Modify #1: Obtain approval from the Assembly for the vacation of a portion of the 60' wide right-of-way.

FINDINGS:

- Modify #4: One objection was received from the general public in response to the Notice of Public Hearing; one non-objection was received.

VOTE:

- The motion passed with all in favor. There are 14 Findings.

TIME: 1:31 P.M.

CD: 0:29:22

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

**5. ITEMS OF BUSINESS & MISCELLANEOUS**

**6. RECONSIDERATIONS/APPEALS**

**7. PLATTING STAFF & OFFICER COMMENTS**

- There are 3 cases to be heard at the next Platting Board Meeting.
- There will be a joint meeting with the planning commission on July 31, 2017 starting at 6:00 p.m. in the Assembly Chambers.

**8. BOARD COMMENTS**

- Johnson appreciates having a joint meeting with the planning commission.

**9. ADJOURNMENT**

- With no further business to come before the Platting Board, Chair Jay Van Diest adjourned the meeting at 1:50 p.m. (CD: 0:47:41 )

Attest:

\_\_\_\_\_  
Jay Van Diest, Chair

\_\_\_\_\_  
Sloan Von Gunten, Administrative Specialist



## 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

July 12, 2017

Timothy Holm  
PO Box 120  
Palmer, AK 99645

Case #: 2017-056

Case Name: N. CHICKALOON AVENUE VACATION

Action taken by the Platting Board on July 6, 2017 is as follows:

THE PARTIAL VACATION OF N. CHICKALOON AVENUE WAS APPROVED  
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

Jerry Lewis

Wolf Lake Land Surveyors

4900 N. Skyvan Circle

Wasilla, AK 99654

**Additional Plat Reviews After 2<sup>nd</sup> Final are \$100.00 Each**

Ted Bartko  
PO Box 4206  
Palmer, AK 99645

**CONDITIONS of APPROVAL:**

The Platting Board approved the partial Vacation of N. Chickaloon Avenue, contingent upon the following:

1. Obtain approval from the Assembly for the vacation of a portion of the 60' wide right-of-way.
2. 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.
3. Pay mailing and advertising fees.
4. Provide updated Certificate to Plat executed within 90 days of recording and submit Beneficiary Acknowledgement for any holder of a beneficial interest.
5. Show or list all easements of record on final plat.
6. Submit recording fee payable to State of Alaska, Department of Natural Resources (SOA/DNR).
7. Submit final plat in full compliance with Title 43.

**FINDINGS:**

1. The vacation of N. Chickaloon Avenue – Partial is consistent with AS 29.40.070 Platting Regulations, MSB 43.15.016 Preliminary Plats, and MSB 43.15.035 Vacations.
2. MSB 43.15.035 notes:
  - a. (B)(1)(a) “a vacation is conditioned upon the final approval of a plat affecting the same land which provide equal or better access to all areas affected by the vacation;”
  - b. (B)(1)(b) “the surrounding area is fully developed and all planned or needed rights of way and utilities are constructed;” and
  - c. (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.”
3. There were no objections from any federal or state agencies, Borough departments, or utilities.
4. One objection was received from the general public in response to the Notice of Public Hearing; one non-objection was received.
5. At the time of staff report write-up, there were no responses to the Request for Comments (RFC) from US Army Corps of Engineers; ADF&G; Lazy Mountain Community Council; Fire Service Area #136 Greater Palmer; Road Service Area #19 Lazy Mountain; MSB Emergency Services, Cultural Resources, Assessments, Planning, Permit Center and Pre-Design Division; GCI, Enstar or MEA.

6. Lot sizes and useable area are consistent with MSB 43.20.281 Area
7. Frontage for the subdivision exists pursuant to MSB 43.20.320 Frontage.
8. Legal and physical access are provided to the proposed lots, consistent with MSB 43.20.100 Access Required, MSB 43.20.120 Legal Access, and MSB 43.20.140 Physical Access.
9. A geotechnical report was not required, pursuant to MSB 43.15.025(B).
10. Petitioner posted and maintained notification of the vacation for 30 days prior to the public hearing.
11. Petitioner provided an affidavit of the vacation posting to Platting staff, pursuant to MSB 43.10.065(G).
12. The Platting Board approved the plat of Holm Acres and partial vacation of N. Chickaloon Avenue on September 5, 2013 (written notification September 9, 2013).
13. The Assembly denied the vacation of the right-of-way, due to objection of adjoining landowner.
14. Petitioner has since purchased adjoining lot. Adjoining lot has alternate legal access from N. Thor Avenue to the south and E. Chugach Street from the north.





