



## CITY OF WASILLA

290 E. HERNING AVE.  
WASILLA, ALASKA 99654-7091  
PHONE: (907) 373-9050  
FAX: (907) 373-9085

### COUNCIL MEMORANDUM NO. 97-41

From: Duane Dvorak, City Planner 

Date: May 21, 1997

Subject: Planning Commission review of a request to vacate a 33 foot section line easement, and a 15 foot utility and public access easement along the rear of Lot 2, Block 6, Wasilla Estates Subdivision.

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The Wasilla Planning Commission considered this issue at its May 20, 1997, regular meeting. The Commission adopted Resolution No. 97-27, recommending that the Council consent to the Mat-Su Borough Platting Boards decision to vacate a 33 foot section line easement and a 15 foot utility easement on Lot 2, Block 6, Wasilla Estates Subdivision. The Commission did not make a recommendation to consent or veto the vacation of a 15 foot public access easement described on Plat 74-4, which created the subdivision in which Lot 2 is located.

The Mat-Su Borough Platting Board has addressed this request by making three separate decisions. The 33 foot section line easement was approved for vacation with specific findings and conditions. The 15 foot public utility and access easement was similarly approved in two separate decisions, each with its own set of findings and conditions.

The Platting Board essentially approved the vacation of the easements in all three decisions. The decision to vacate the 15 foot public access easement, however, was condition upon the resolution of an objection by the Wasilla Trails Advisory Sub-Committee. The Commission's decision did not make a recommendation on this issue one way or the other.

The Council can consent or veto the MSB Platting Boards decisions in this case, per AS 29.40.140. Council consent to all three vacations would resolve the objection of the Wasilla Trails Advisory Sub-Committee. The Council can, at its discretion deal with all three decisions together or, consider each decision separately as the Platting Board has done. In each instance, however, the Council can only consent or veto the decision.

Staff has included the background information that was presented to the Planning Commission with this memo. If the Council has any questions about this request, please contact the Planning Office staff at 373-9094 for more information.



## CITY OF WASILLA

290 E. HERNING AVE.  
WASILLA, ALASKA 99654-7091  
PHONE: (907) 373-9050  
FAX: (907) 373-9085

### WASILLA PLANNING COMMISSION RESOLUTION NO. 97-27

A RESOLUTION OF THE WASILLA PLANNING COMMISSION OF THE CITY OF WASILLA, ALASKA, RECOMMENDING THE CITY COUNCIL CONSENT TO A VACATION OF A 33 FOOT SECTION LINE EASEMENT AND A 15 FOOT UTILITY EASEMENT ON LOT 2, BLOCK 6, WASILLA ESTATES SUBDIVISION, PER MAT-SU BOROUGH PLATTING BOARD APPROVAL ON MAY 15, 1997.

WHEREAS, this review was specifically requested by the City Administration; and,

WHEREAS, staff has investigated this issue and suggested several options; and,

WHEREAS, the Wasilla Planning Commission (WPC) routinely recommends the vacation of public utility and access easements when it can find that the easement to be vacated does not appear to provide a benefit to the public and that the vacation will not cause a cost to the public in the future when access or utilities might be more feasible or desirable;

W, THEREFORE, BE IT RESOLVED, that the Wasilla Planning Commission of the City of Wasilla, hereby recommends that the City Council consent to the Mat-Su Borough Platting Boards vacation of a 33 foot section line easement and a 15 foot public utility easement along the rear lot line of Lot 2, Block 6, Wasilla Estates Subdivision

I certify that a resolution in substantially the above form was passed by a majority of those voting at a duly called and conducted meeting of the Wasilla Planning Commission this 20<sup>th</sup> day of May 1997.

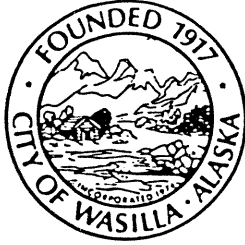
ATTEST:

APPROVED:

\_\_\_\_\_  
Helen Y. Kaye, Planning Clerk

\_\_\_\_\_  
Daniel Kelly, Acting Chair

(SEAL)



## CITY OF WASILLA

290 E. HERNING AVE.


WASILLA, ALASKA 99654-7091

PHONE: (907) 373-9050

FAX: (907) 373-9085

New Business Item 9-A

### PLANNING COMMISSION MEMORANDUM - 97-13

DATE: May 15, 1997  
TO: Wasilla Planning Commission  
FROM: Duane Dvorak, City Planner   
SUBJECT: Information for the May 20, 1997, Regular Meeting

RE: Request to vacate a 33 foot section line easement and a 15 foot easement for utilities, pedestrian walkways and any motorized or non-motorized use, lying along the south (rear) lot line of Lot 2, Block 6, Wasilla Estates.

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#### Background

The Mat-Su Borough Platting Department referred this request to the City of Wasilla on March 24, 1997. Upon receipt, Planning Office staff distributed copies of the request to other City departments for comment. The only comments received were from the Public Works Department (see attachment).

Staff forwarded those comments to the Borough Platting Department on April 15, 1997. Shortly afterward, staff was contacted by prospective purchasers of the property regarding the easement issue. Staff was informed by the couple that they had made an offer on the property to the current property owner/petitioner. The offer to purchase was indicated to be contingent upon the complete vacation of both the 33 foot section line easement and the 15 foot utility and public access easement.

In response to questions, staff indicated that the recommendation of staff was based on the possibility that the easements might have an, as-yet, unrealized value to the public for access. Staff indicated that this recommendation did not mean that the easement could never be vacated, only that the City would need more time to determine the practical value of easement for public access. The petition indicates that the area is fully developed, presumably from a platting perspective. There are still many vacant lots in this and adjoining subdivisions, however. From a practical standpoint, the area is far from fully developed.

What makes this request so unique is because the easement accesses so many properties and because the easement intersects with public right-of-way at several

places. To vacate a portion out of the middle would set a precedent for further vacations and eliminate the value and benefit of the easement for public access and for neighboring property owners to access areas of their lot that may be topographically restricted. Staff's intent in making comment was to indicate that vacation of the public access easement is premature until the City has had adequate time to study the issue.

Short of holding a public hearing and notifying other residents of the area, staff felt that the Trail Advisory Sub-Committee, that was recently recognized by the City Council, could provide some insight as to the potential benefit of these easements for public access.

In the interest of time, for both the lot purchasers and getting a response to the MSB Platting Department, the Chair of the Trails Advisory Sub-Committee was contacted and the issue was scheduled for review at the next Sub-Committee meeting on May 7, 1997. Members of the Sub-Committee did go and look at the easement area. The Sub-Committee Chair walked the entire length of the easement and prepared materials for the other members of the Sub-Committee to review. City Planning staff attended this meeting primarily to observe and offer technical assistance to the Sub-Committee, as staff has done since the inception of the Sub-Committee. While staff may have provided options for discussion, it was not staff's intent to promote a certain "agenda" or to make firm recommendations to the Sub-Committee members.

At that meeting, the Sub-Committee determined that the 33 foot section line easement on Lot 2 was clearly in excess of the public's need for access in this area. While Public Works had previously determined that the 15 foot easement was not needed for any future utility installation planned by the City, the Sub-Committee recommended that the 15 foot easement should remain for public access as originally platted in 1974 and described as "pedestrian walkways and any motorized or non-motorized use not prohibited by local ordinance".

This case was referred to the Planning Commission by the Administration at the request of a Councilmember. In the letter to the Administration, dated May 14, 1997, the Councilmember indicates that Planning Commission review would afford the lot purchasers due process. Staff does not believe this to be the case. Any appeal of this decision would have to go back to the Mat-Su Borough as the recognized Platting Authority under Title 29 Alaska Statutes. Under Title 29, the City's involvement in platting actions is considered to be advisory only, until a decision is made by the Platting Authority. Then the City Council must consent or veto the decision within 30 days. If the Council takes no action within this time frame then consent is presumed to be given and the decision of the Platting Board becomes official.

Title 29 allows for delegation of platting authority. This would make the City responsible for the due process requirements of reviewing subdivision and vacation requests. As it currently stands with requests to vacate public utility and access easements, the City is more akin to a property owner with a vested interest in the easement or right-of-way than a governmental entity.

According to WMC 16.43.602, no land use permit or review is required for vacation requests. When a permit is required for subdivision actions, it is intended to be a staff review, with notification to all property owners within 1,200 feet for the purpose of obtaining comment. For the purposes of this section, a subdivision is defined as:

..."any division of land which results in the creation or elimination of lots for development and requiring a review by the Matanuska Susitna Borough Platting Board. A survey that does not result in the creation or elimination of lots, such as lot-line adjustments are exempt from this definition."

This definition is intended to eliminate the perceived duplication of effort that was common to subdivision actions previously required to go through the MSB platting process, as well as, to obtain a permit from the City. It was recognized at the time the code was developed that this would place more responsibility on staff to review routine requests that fell below the threshold for permit review. It was believed that by relying on the staff to be responsible for the day-to-day operations of the City, reviews could be done in a more efficient, timely and cost-effective manner. It was also understood that the revised code would require the City to have staff that could be trusted to uphold the public's interests, without requiring that every single request be reviewed by the Planning Commission, Administration and City Council.

Prior to the revised development code, the previous Administration agreed to a policy with the MSB Code Compliance Department that vacation requests in the City would not be required to undergo the major development permit process other subdivisions were required to undergo. The City Administration commented on these requests and was responsible for determining what internal or public review the City would do with each request. When the Planning Office was created in 1994, the previous Administration delegated the responsibility for coordinating these in-house reviews to the planning staff to coordinate.

## Analysis

The 1996, Wasilla Comprehensive Plan does not identify the location of the subject easements for future trail use. The section line easement has existed since the adoption of state statutes providing for section line easements. It is believed that the federal government had similar provisions in place prior to statehood. What is not clear is why the section line easement was not vacated at the time the subdivision process was completed in 1974.

The 15 foot trail system was created (i.e. platted) by the original developer of the subdivision in February, 1974 (Plat No. 74-4). These easements were not required at that time by any City or Borough regulation. It appears that the purpose of the easements was to create neighborhood access within and around the subdivision for the benefit of the public, be it pedestrian, motorized or non-motorized in nature.

The petition characterizes the area as being fully developed. From the subdivision standpoint, this may be true. From the community standpoint, however, there are still a large percentage of undeveloped lots in the area. In addition, it appears that most residents are unaware of the easements. As the owner of the public access easement rights, the City, most likely the Public Works Department, would be responsible for permitting use and development of any trail or walkway in the easement. This would be done in a manner similar to the way Public Works administers streets, rights-of-way, driveways and encroachments of same.

Other vacation requests in this subdivision have been recommended for approval because the easements did not intersect with other easements or rights-of-way, or were considered to be redundant because of other easements or right-of-way in the area. Where easements access only a small number of properties and those property owners request vacation, staff has indicated non-objection.

Once public access easements are vacated, it is unlikely that they can be restored without considerable expense to the community to reacquire the rights to pass over private property. This would essentially leave only the existing street rights-of-way in the area to provide for all roads, sidewalks, drainage, trails, etc.

Prior to recommending or consenting to the vacation of a public utility or access easement, the Commission, and ultimately the City Council, should find that the easement has no present/future value or benefit to the public for its stated purpose. In addition, the Commission/Council should also find that the vacation will not incur a cost

to the public, in the present or in the future, for the acquisition or provision of similar utility or access rights in the same area.

Short of vacating the 15 foot public access easement, the City Council could agree to restrict the scope of its potential use by amending the recommendation of the Trails Advisory Sub-Committee to eliminate motorized and non-motorized access to that the easement could be maintained for pedestrian walkways only. In many Alaskan communities pedestrian access easements are improved with boardwalks and stairways to provide for access to residential areas where traditional sidewalks are not feasible or appropriate because of topography, soils conditions, space availability, etc. This easement may also benefit property owners along the south side of Briar Drive if the 15 foot public access allows motorized access to the rear yard of the lots that might otherwise be unreachable if not for the ability to pass over their neighbors property. This might allow for access to the first floor of two story dwelling built into the hillside or an accessory building built in the rear yard.

According to Plat 74-4, the public utility and access easement goes from the west side of Lot 1, Block 6, Wasilla Estates, to an intersection between Lots 6 and 7 of the same block. The easement then extends further west to Lone Cub Drive and between a number of lots to the north.

Platted easements can only be vacated by using the same platting process that is used to create them originally. The Mat-Su Borough is the Platting Authority which is a mandatory Borough function that is conferred under Title 29, Alaska Statutes. When a right-of-way or public access easement is dedicated in the City of Wasilla, the City obtains an ownership interest in the land so designated. This is spelled out in WMC 7.04, Real Property Acquisition. Because the state recognizes the City's interest in all rights-of-way and public access easements in the City, on behalf of its residents, the City Council is afforded an opportunity to veto Platting Authority approval to vacate a street or public access within 30 days from the date of a decision. If the Council does not take any action within this time period, consent is considered to have been given. (see Sec. 29.40.140 Alaska Statutes)

### Platting Board Decision

The MSB Platting Board approved the requested vacation at its May 15<sup>th</sup>, 1997 regular meeting. Since the vacation of the 15 foot public access is the only point presently at issue, several conditions were placed on the approval of this portion of the vacation request as follows:

1. Resolve the objections of the Wasilla Trails Advisory Sub-Committee;
2. Wasilla City Council approval within 30 days of the date of written notification of action;
3. Record a vacation resolution.

Vacation of the 15 foot public access easement is based on a finding that, among other things, "extreme terrain prohibits construction of a trail heading east to Nelson Avenue along the section line easement". The complete findings as recommended to the Platting Board are attached for review. It does not appear that the Borough did any engineering or survey investigation in making this finding.

In an apparent delegation of Platting Authority, the MSB Platting Board is giving the City discretion in deciding the status of the 15 foot public access easement. According to the recommendation of the MSB platting staff, the decision of the Platting Board has essentially been made to vacate this easement, subject to resolving the objection of the Wasilla Trails Advisory Sub-Committee (WTASC). It is not intended to refer this issue back to the WTASC in order to do this. The Planning Commission should consider the WTASC recommendation in terms of developing its own recommendation to the Council which will have the final say on this issue.

### Options

Staff has developed several options for the Commission and City Council to consider regarding this vacation request. Under Title 29 Alaska Statutes, the City has 30 days from notification to consent or veto the approval of the MSB Platting Board. Staff has limited the following options what it considers to be most appropriate, however the Commission and Council are free to exercise their judgment and discretion in developing additional options. In addition, the Commission and Council should consider the recommendation of the Wasilla Trails Advisory Sub-Committee in order to resolve this issue as part of this review process.

- Option 1. Consent to the vacation of a 33 foot section line easement and 15 foot utility and public access easement as approved by the MSB Platting Board.
- Option 2. Consent to the vacation of a 33 foot section line easement and 15 foot utility easement, and ~~uphold the recommendation of the Wasilla Trails Advisory Sub-Committee regarding the 15 foot public access easement.~~

Consent

Veto →

Amend the Resolution



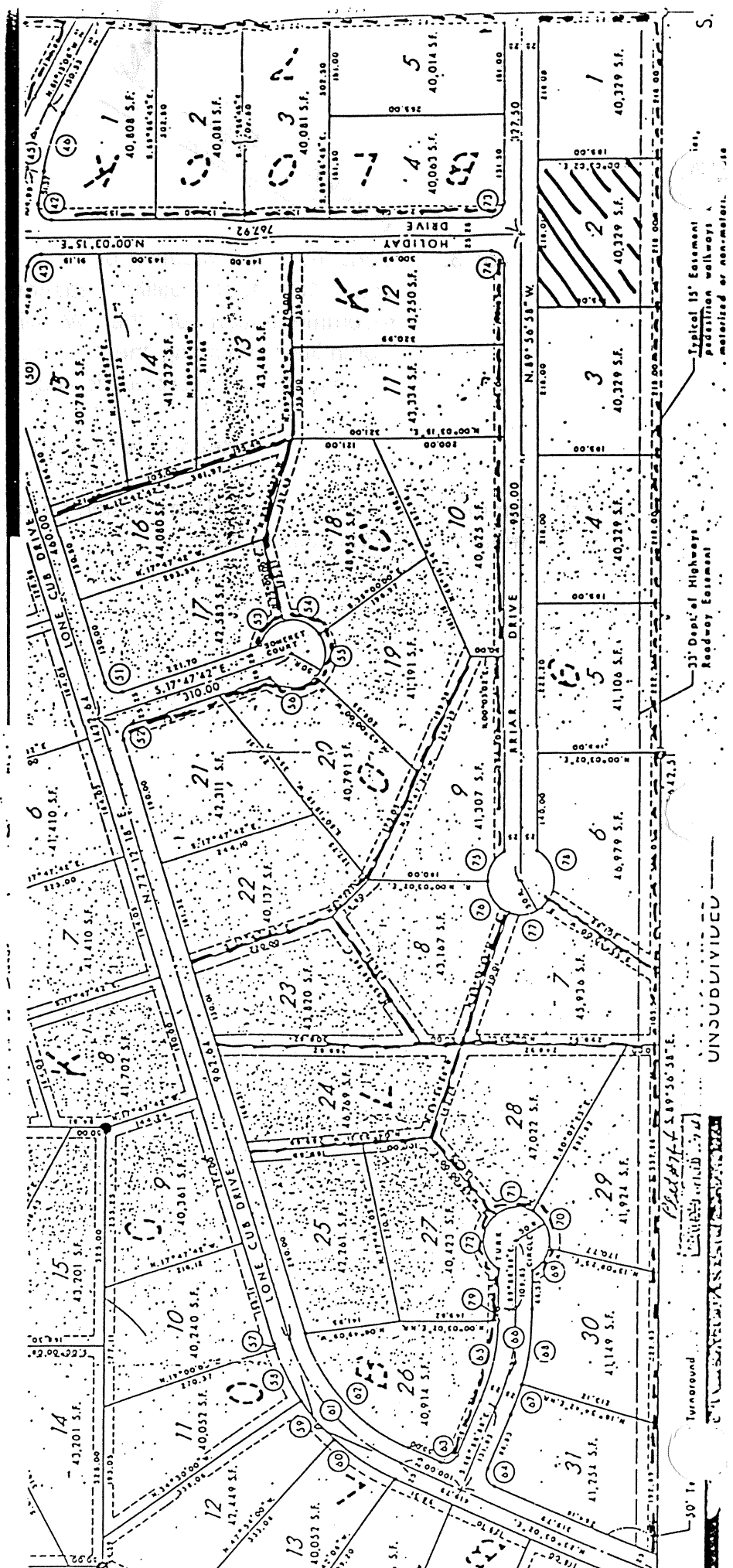
Probably Not Feasible

- Option 3. Consent to the vacation of a 33 foot section line easement and 15 foot utility easement and uphold the recommendation of the Wasilla Trails Advisory Sub-Committee regarding the 15 foot public access easement, but restrict the 15 foot public access to pedestrian use only.

#### Recommendation

Staff recommends that the Planning Commission forward a recommendation to the City Council regarding this vacation request.

--- Contiguous Utility and Public Accessment  
 Per Plat 74-4.



UNSUBDIVIDED

33' Dept'l Highway Roadway Easement

Typical 15' Easement pedestrian walkways metered or non-metered

30' Tr

Background

Plat 74-4

Lot 74-4

MATANUSKA-SUSITNA BOROUGH  
PLANNING DEPARTMENT



TO: Dwane Dirzwil

FROM: Paul Halbert

FAX: 373.9072

FAX: (907) 745-9876

PHONE: \_\_\_\_\_

PHONE: (907) 745-9 B72

COMMENTS: Approved as presented

NUMBER OF PAGES: 4 (counting this cover sheet)

SENT: DATE 5-15-07 TIME 2:22

Review of the topo map shows that a steep bluff runs parallel to Nelson Avenue and the back of Lot 2 is 75' to 80' higher than the road. (Exhibit E)

The bluff prevents a road from being constructed along the section line easement.

DOT/PF Anchorage, has no objections to the vacation of the 33' section line easement nor does the borough Dept of Public Works.

The city of Wasilla planning department initially recommended denial as a newly formed Wasilla Trails Committee had not reviewed the proposal but relented as the trails committee had no objection to the vacation of the section line easement.

The Wasilla Trails Advisory Committee recommended denial of the vacation of the 15' easement for utilities, pedestrian walkways, etc, and should be retained.

The MSB Recreational Services Manager also removed his objection when it was pointed out to him that a bike path had been built along the north side of Nelson Avenue.

MEA, MTA and Enstar have no objections to vacating the utility portion of the easement. Utility easements are across the street, Briar Drive.

No public objections have been received as a result of the public notification process.

According to Dwayne Dvorak, city planner for Wasilla, the city setbacks are different from the borough. In this case a setback from the section line easement and pedestrian walkway will not be applied.

CONCLUSION

The section line easement vacation and utility easement is consistent with MSB 16.15.035(B)(1)(b) the surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed.

The objection to the vacation of the 'pedestrian' part of the 15' easement needs to be resolved prior to the city council meeting.

RECOMMENDATION for VACATION OF 33' SECTION LINE EASEMENT

Staff recommends the platting board approve the vacation of the 33' section line easement on the south side of Lot 2 Block 6, Wasilla Estates pursuant to AS 29.40.120 through AS 29.40.160 and MSB 16.15.035 contingent on the following:

1. Wasilla City Council approval within 30 days of the written notification of action, (NOA);

\* MSB Platting Staff Recommendation  
Approved by Board on 5/15/97

2. Submit a final *section line easement vacation plat* to the State of Alaska, DNR/DL for sign-off and recording. The section line easement vacation plat needs to be signed by all persons holding a beneficial interest in the property. The state will send the plat to the borough Platting Division for borough sign-off and recording.

**FINDINGS in support of VACATION OF SECTION LINE EASEMENT**

- FINDING The vacation is made pursuant to AS 29.40.120 through AS 29.40.160.
- FINDING The action sought is consistent with MSB 16.15.035(B)(1)(a).
- FINDING The plats of Wasilla Estates and Wasilla Airport Heights dedicates roads on either side of this vacation request.
- FINDING Extreme topography prevents construction of a borough standard road within the section line easement.
- FINDING The state DOT&PF does not object to the vacation.
- FINDING MSB Dept of Public Works has no objection.
- FINDING The city of Wasilla has no objections.
- FINDING MEA, MTA and Enstar have no objections.
- FINDING No public objections have been received as a result of the public hearing mailing.
- FINDING Vacation of the section line easement does not impact adjacent properties as they presently have legal and physical access.
- FINDING The Wasilla Trails Advisory Committee has no objection.

**RECOMMENDATIONS for VACATION OF PEDESTRIAN EASEMENT**

Staff recommends the platting board approve the vacation of the 15' pedestrian walkway and any motorized or non-motorized use not prohibited by local ordinance on the south side of Lot 2 Block 6 Wasilla Estates. Pursuant to AS 29.40.120 through AS 29.40.160 and MSB 16.15.035 contingent on the following:

1. Resolve the objections of the Wasilla Trails Advisory Committee;
2. Wasilla City Council approval within 30 days of the date of written notification of action;
3. Record a vacation resolution.

FINDINGS in support of VACATION OF THE PEDESTRIAN EASEMENT

- FINDING This vacation is consistent with AS 29.40.120 through AS 29.40.160.
- FINDING The objection by the Wasilla Trails Advisory Committee has been considered.
- FINDING A paved bike path exists along the north side of Nelson Avenue.
- FINDING Extreme terrain prohibits construction of a trail heading east to Nelson Avenue along the section line easement.
- FINDING No public objections have been received as a result of the public hearing mailing.
- FINDING The borough Recreation Services Dept has no objections to the vacation.
- FINDING The easement does not continue to Nelson Avenue.

RECOMMENDATIONS for ELIMINATION OF THE UTILITY EASEMENT

Staff recommends the platting board eliminate the 'utility' portion of the 15' easement along the south boundary of Lot 2 Block 6, Wasilla Estates contingent on the following:

1. City Council Approval within 30 days of the written notification of action;
2. Recordation of a resolution eliminating the utility easement.

FINDINGS for ELIMINATION OF UTILITY EASEMENT

- FINDING The utility companies have no objection.
- FINDING Utility access to adjacent properties is provided in different locations.
- FINDING The utility easement is not being used by the utility companies.
- FINDING The application is consistent with MSB 16.15.032.
- FINDING No public objections have been received as a result of the public hearing notice.

TO: John Cramer  
Deputy Administrator  
City of Wasilla

SENT BY FAX: 373-9092  
May 13, 1997

RECEIVED

MAY 14 1997

Planning Department

RE: Vacation Request, Lot 2, Block 6, Wasilla Estates Subdivision

John:

Thank you for taking the time today to discuss the unfortunate situation the City has caused for Mr. and Mrs. Hardy regarding their request for vacation of section line easement on Lot 2, Block 6, Wasilla Estates Subdivision.

Upon your suggestion, I have contacted Mrs. Hardy and advised her that the City Council will address this issue at the regular council meeting on May 28, 1997. It is my understanding that you have contacted the City Clerk and requested this item be placed on the official agenda.

You volunteered to contact John Duffy, MSB, to have the MSB Platting Board hearing scheduled for May 15th postponed until the City had given this request proper consideration. Your efforts to resolve this situation are appreciated. However, in speaking with the Hardy's engineering consultant, Mr. Campbell, I have learned that the objection submitted to the MSB Platting Board by Mr. Urban, MSB, Board has been rescinded and it has been determined that the May 15th hearing should not be postponed. Mr. Campbell will request the Platting Board approve the 33' section line easement and stipulate that the utility/walkway easement vacation be resolved by the City and the Hardys.

To afford Mr. and Mrs. Hardy due process of their petition, please place this item on the agenda of the regular meeting of the Wasilla City Planning Commission for May 20, 1997. The City Planner, Mr. Dvorak, should present all pertinent information to the WC Planning Commission for their consideration of this vacation request. This will enable the Commission to have a recommendation available to the WC Council on the 28th.

If you have any questions please feel free to contact me at work, 269-5749 or after 6 p.m. at 376-3662.

Sincerely,

K. Darlene Langill  
Councilmember

cc: Mr. & Mrs. Hardy

COPY

May 9, 1997

Paul Hulbert, Platting Technician  
Mat-Su Borough Platting Department  
350 E. Dahlia Ave.  
Palmer, AK 99645

Re: VACATION REQUEST, LOT 2, BLOCK 6, WASILLA ESTATES SUBDIVISION.

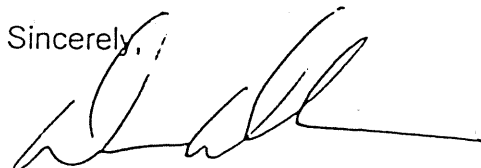
Dear Mr. Hulbert:

Thank you for the opportunity to comment on the above referenced request. This issue has been reviewed by the Wasilla Trails Advisory Subcommittee which has now provided a revised recommendation as shown on the attached letter dated May 9, 1997.

In light of this new information, the City hereby revises its earlier comments in favor of the attached recommendation.

If you have a question about the above comments, or if you require additional information, please contact the Wasilla Planning Office at 373-9094.

Sincerely,



Duane Dvorak, City Planner

cc: Administration  
Jack Felton, Public Works Director



CITY OF WASILLA  
TRAILS ADVISORY SUBCOMMITTEE

May 9, 1997

Paul Hulbert, Platting Technician  
Mat-Su Borough Platting Department  
350 E. Dahlia Ave.  
Palmer, AK 99645

RECEIVED  
MAY 10 1997  
Planning Department

Re: Vacation Request, Lot 2, Block 6, Wasilla Estates Subdivision

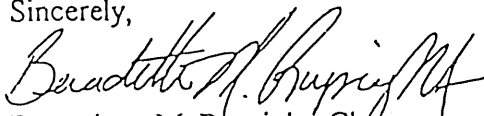
Dear Mr. Hulbert:

On May 7, 1997, the Trails Advisory Subcommittee (TASC) reviewed the vacation easement request for L2, B6 Wasilla Estates during our regular meeting time. Mr. And Mrs. Hardy were notified of the meeting and were present. After much deliberation and discussion among the committee members, which included open comments and suggestions from the Hardys, it was motioned that the 33' section line be vacated and the 15' easement for utilities, pedestrian walkways and any motorized or non-motorized use be retained.

In short, the reasoning behind this decision was the fact that due to the terrain and road access already existing, it was not foreseen a road access would not be necessary, but it was deemed a trail access may be necessary sometime in the future, especially noting the fact it heads at the proposed Old Airport Site Park. Also weighing heavily in the decision was the fact that a vacation on one lot sets a precedent for any other vacation requests in the subdivision.

We believe this to be a fair and equitable solution. A TASC committee member will be attending the public hearing to clarify our position or answer any other questions the Borough Platting Board Commissioners may have.

Sincerely,

  
Bernadette M. Rupright, Chair  
Trails Advisory Subcommittee  
(907) 745-2450

cc: Mr. and Mrs. Hardy  
CW Planning Office  
CW Public Works

WASILLA PARKS AND RECREATION COMMISSION

DATE: April 30, 1997  
TO: Duane Dvorak, City Planner  
FROM: Wasilla Parks and Recreation Commission  
REF: Vacation Request, Lot 2 Block 6, Wasilla Estates  
Subdivision

The WPRC wishes to express concern that the requested action is premature.

With the recent establishment of the Trails Advisory Subcommittee, the WPRC is becoming more actively involved in the trails development issue. Any action to vacate existing easements should be delayed until the WPRC has reviewed and updated the existing trail system plan for the City.

Thank you for your April 15, 1997 response to the Mat-Su Borough Platting Department.

If you have need of further information feel free to contact me at work at 745-7571 or at home at 376-3935.

Sincerely,

  
Ron Rucker  
Chairperson

RECEIVED

MAY 01 1997

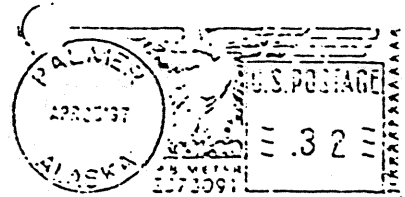
Planning Department

Planning Department  
Platting Division  
350 East Dahlia Avenue  
Palmer, Alaska 99645

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APR 28 1997

Planning Department



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WASILLA CITY OF

290 E HERNING AVE  
WASILLA AK 99654

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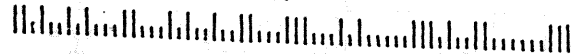
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APR 28 1997

CITY OF WASILLA, ALASKA

# NOTICE OF PUBLIC HEARING

996547091



## AMENDED NOTIFICATION OF PUBLIC HEARING

The Matanuska-Susitna Borough Platting Board will consider the following:

PETITIONER: MARY JOHNSON  
(OWNER)

REQUEST: To vacate the 33' section line easement on the south side of Lot 2 Block 6, Wasilla Estates. Reasons for this vacation request are: "the property is restricted from the north (ROW line) and the south (33' SLE) with a 25' building line setback. This area is fully developed and access has been provided for by an existing subdivision road. Also requesting vacation of the 15' easement for utilities, pedestrian walkways and any motorized or non-motorized use lying on the south boundary of Lot 2 within the 33' section line."

TOTAL AREA: N/A Acres LOCATION: w/in SE 1/4 SW 1/4 Section 4, T17N, R1W, SM AK lying SW of the W Briar Drive/N Holiday Drive intersection.

COMMUNITY COUNCIL AREA: CITY of WASILLA

The Matanuska-Susitna Borough Platting Board will hold a public hearing on the proposed vacation of section line, utility & pedestrian walkway at 8:30 A.M. on May 15, 1997 in the Assembly Chambers located in the Borough Offices, 350 East Dahlia Ave., Palmer, AK.

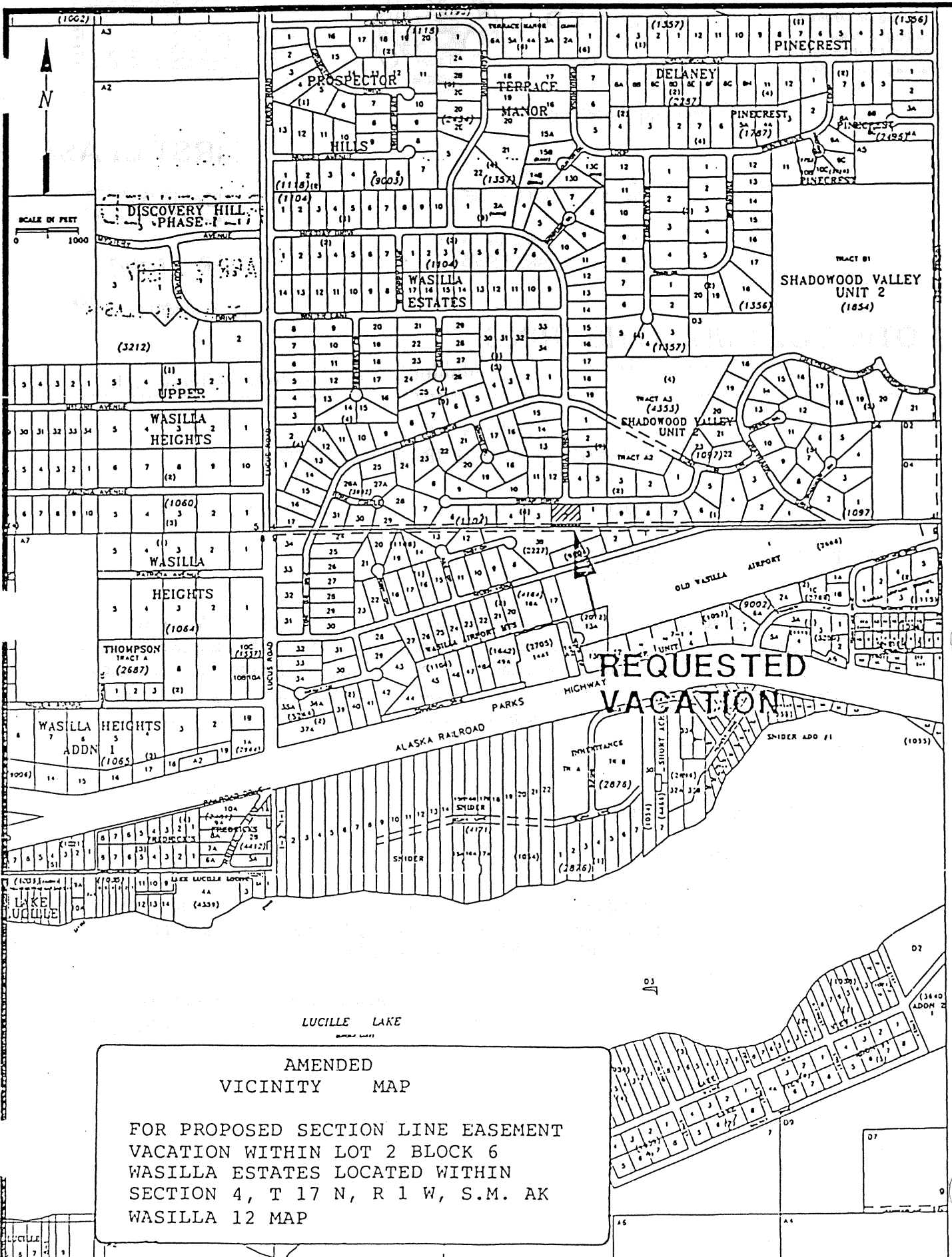
We are sending you this notice as required by State Law and Borough Ordinances because your property is within the subdivision or within 600' of the petition area. This will be the only public hearing before the PLATTING BOARD and you are invited to appear.

If you would like to send us comments regarding the proposed action, this form may be used for convenience by filling in the information below and mailing this notice to the Matanuska-Susitna Borough, Platting Division, 350 E. Dahlia, Palmer, Alaska. If there is not enough room below please attach this sheet to a separate piece of paper.

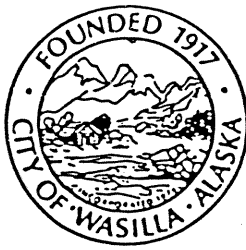
NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

COMMENTS:



AMENDED  
 VICINITY MAP  
 FOR PROPOSED SECTION LINE EASEMENT  
 VACATION WITHIN LOT 2 BLOCK 6  
 WASILLA ESTATES LOCATED WITHIN  
 SECTION 4, T 17 N, R 1 W, S.M. AK  
 WASILLA 12 MAP



## CITY OF WASILLA

290 E. HERNING AVE.

WASILLA, ALASKA 99654-7091

PHONE: (907) 373-9050

FAX: (907) 373-9085

April 15, 1997

Paul Hulbert, Platting Technician  
Mat-Su Borough Platting Department  
350 E. Dahlia Ave.  
Palmer, AK 99645

Re: VACATION REQUEST, LOT 2, BLOCK 6, WASILLA ESTATES SUBDIVISION.

Dear Mr. Hulbert:

Thank you for the opportunity to comment on the above referenced request. We have circulated this request among other City departments in order to obtain the widest possible review. In response, the City offers the following comments:

1. The Wasilla Public Works Department (WPWD) believes that there may be a future need for a trail in the area requested for vacation. This subject warrants further review by the City, therefore, it appears that the vacation may be premature at this time. WPWD recommends that the easements not be vacated at this time. (See attachment for complete comments.)

The Wasilla City Council recently recognized a new Wasilla Trails Advisory Committee, which is responsible for working with the City Parks and Recreation Commission to study the issue of multi-use trails in the City. Because the committee is so new, they have not had a chance to review this request and consider the implications of this action on future trail plans. For this reason, the City believes that the request to vacate the 33' Section Line Easement and the 15' Public Access Easement is premature at this time.

If you have a question about the above comments, or if you require additional information, please contact the Wasilla Planning Office at 373-9094.


Sincerely,

Duane Dvorak, City Planner

cc: Administration  
Jack Felton, Public Works Director

# MEMORANDUM

To: Duane Dvorak, City Planner

From: Jack Felton, Public Works Director/City Engineer 

Date: April 5, 1997

Subject: Vacation Request  
Lots 2, Block 6, Wasilla Estates Subdivision

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The Public Works Department has reviewed the proposed request for vacation of the pedestrian and section line easements. While there is no direct public works function involved in this activity, we feel that there may be a future need for a trail in this area. Specifically, the snowmachine bypass trail through the City. We feel this subject warrants further review and that vacating this easement is premature. There maybe no need for it in the future, but we have not seen the documents that show no need or alternate access in replacement of this easement.

The PWD recommends that this easement not be vacated at this time.



**MATANUSKA-SUSITNA BOROUGH**

• PLATTING DIVISION •

350 EAST DAHLIA AVENUE, PALMER, ALASKA 99645-6488  
PHONE 745-9874 • FAX 745-9876

RECEIVED

RECEIVED

MAR 24 1997

CITY OF WASILLA, ALASKA

MAR 24 1997

March 19, 1997

Planning Department

STATUS: VACATION OF SECTION LINE EASEMENT & PEDESTRIAN ESMT

DISTRIBUTION LIST

AK Dept. of Fish & Game  
AK Dept. of Transportation  
AK Dept. of Transp.- Aviation  
AK Dept. of Transp.- Palmer  
AK DNR, Division of Land  
AK DNR, Division of Water  
Corp of Engineers  
Alaska Railroad  
City of WASILLA  
Fire Service Area: WASILLA LAKES  
Community Council: WASILLA LAKES

MSB - Cultural Resources  
MSB - E.M.S.  
MSB - Recreation Services  
MSB - Dept. Of Public Works  
MSB - Code Compliance Division  
MSB - Land Management Division  
MSB - Planning Division

M.E.A  
M.T.A.  
Enstar Natural Gas

TAX MAP: WA 12  
TITLE: WASILLA EST, Lot 2, Block 6, SLEV & PED ESMT  
LEGAL: SEC. 04, T17N, R01W, Seward Meridian, Alaska  
PETITIONER: MARY E. JOHNSON  
ADDRESS: PO BOX 878070, WASILLA, AK 99687  
SURVEYOR: ALASKA RIM ENGINEERING  
ADDRESS: PO BOX 2749, PALMER, AK 99645

To whom it may concern:

Attached is a copy of a petition which has been received by the Matanuska-Susitna Borough Platting Division for the proposed vacation of section line & pedestrian easements on subject property.

The request is to vacate the 33' section line easement on the south side of Lot 2, Block 6, Wasilla Estates. The reasons for this vacation are, "The property is restricted from the north (ROW line) and the south (33' SLE) with a 25' building line setback. This area is fully developed and access has been provided for by an existing subdivision road. Also requesting vacation of the 15' easement for pedestrian walkways and any motorized or non-motorized use lying on the south boundary of Lot 2 within the 33' section line easment.

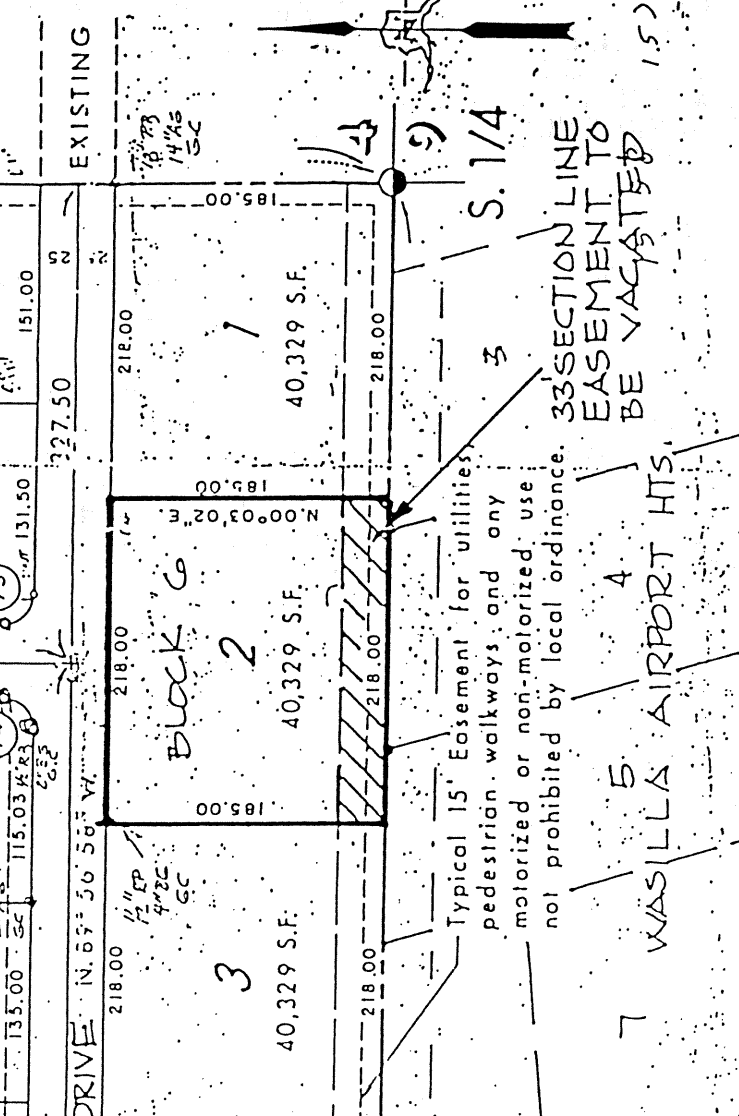
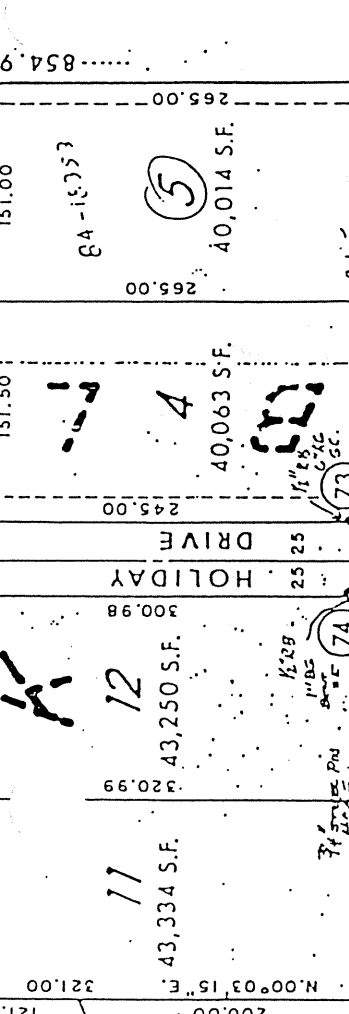
Please submit your comments in writing, specifying any easements or other requirements that your department or agency may need or any data which you feel should be incorporated on the vacation of section line & pedestrian easements to help us more effectively enforce our subdivision regulations.

All existing files and correspondence that you may have relating to this case must be submitted to the Platting Division by April 17, 1997 so that we may incorporate this information into our recommendations to the Platting Board on May 1, 1997.

Kindest Regards,

*RM* Rick Brown  
Platting Officer

SHADOWCUT



REGISTERED SURVEYOR  
 registered professional  
 plat represents the  
 or my direct supervision;  
 wn, thereon actually  
 all, dimensional and

WASILLA AIRPORT HTS.

SECTION LINE VACATION  
 WASILLA ESTATES  
 LOT 2 BLOCK 6  
 LOCATED IN THE S.W. 1/4 SECTION 4, T17N, R17W, S.M. ALASKA  
 CONTAINS 160 ACRES

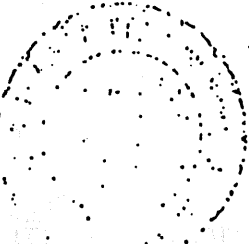
CONTRACTING ENGINEERS & ASSOC.  
 1801 STANTON AVE. ANCHORAGE, ALASKA 99504

# Certification Of Approval By The Commission

I hereby certify that the Subdivision Plat shown hereon has been found to comply with the Subdivision Regulations of the State of Alaska - Subdivision Planning Commission, and the said Plat has been approved by the Commission by Plat Resolution No. 74-11, dated 1974, and that the Plat shown hereon has been approved for recording in the office of the Recorder, Palmer, Alaska.

1974  
 CHAIRMAN  
 MATANUSKA-SUSITNA BOROUGH  
 PLANNING COMMISSION

ATTESTED:  
 CLERK



REGISTERED SURVEYOR

DRAWN: J.M. Mc	DATE: JAN. '74	DWG. NO.
CHECKED R.J.	GRID ANCHORAGE C-7	SHEET 1 of 2

My commission expires 11/17/74  
 NOTARY OF ALASKA



CHAPTER 7.04REAL PROPERTY ACQUISITIONSECTIONS:

7.04.010	Acquisition and Ownership - Authority
7.04.020	Real Property - Defined
7.04.030	Acquisition - Form
7.04.040	Ownership - Form
7.04.050	Acquisition and Ownership - Rights and Powers
7.04.060	Acquisition - Dedication by Plat
7.04.070	Industrial Sites
7.04.080	Federal and State Aid
7.04.090	Real Property and Security Property

7.04.010 Acquisition and Ownership - Authority. The City may acquire, own and hold real property within or outside the City boundaries by purchase, gift, devise, grant, dedication, exchange, redemption, purchase or equity or redemption, operation of law, tax or lien foreclosure, adverse possession, condemnation or declaration of taking, annexation, or by any other lawful means or conveyances. (Ord. 85-18 §3 1985)

7.04.020 Real Property Defined. As used in this chapter, "Real Property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title, or interest in land or building. (Ord. 85-18 §3 1985)

7.04.030 Acquisition Form

A. The City may acquire, own and hold real property by warranty or quitclaim deed, easement, grant, permit, license deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will, or any other lawful method or mode of conveyance or grant. Real property shall be held in the name of "The City of Wasilla." Any instrument requiring execution by the City shall be signed by the Mayor and attested by the City Clerk. The form of any conveyance shall be approved by the City Attorney.

B. Upon specific resolution of the Council, the Mayor may act on its behalf in the acquisition of real property or interest in real property when that property to be acquired is for a valuable consideration or as part of a program of grants under which the City may receive only a limited amount of acreage. The resolution shall set forth the terms, conditions and manner of acquisition.

C. No Council approval is necessary to acquire any easement, right-of-way, permit, license, or other interest in real property if necessary for a utility or public improvement where the utility or public improvement has been authorized and approved by the Council.

D. Prior to approval, the Mayor is to furnish the Council with an abstract of title, the value assessed by the borough tax assessor or other appraisal of the real property, and a review of any problems in acquisition, but the failure to furnish the Council any such material shall not affect the validity of any acquisition or purchase of real property by the City.

E. Unless otherwise provided by Council, the City shall purchase marketable title in the real property. Unless otherwise provided by ordinance or resolution, or upon Council approval of a purchase, the Mayor is authorized to obtain title insurance, to execute any instruments and to take all steps necessary to complete and close the purchase and acquisition of the real property. (Ord. 85-18 §3 1985)

7.04.040 Ownership Form.

A. The City may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy, with any other person or governmental body for any public purpose. The City may hold real property in trust for any public purpose.

B. The Council may approve and authorize the purchase of real property by contract of sale, deed of trust, or mortgage. (Ord. 85-18 §3 1985)

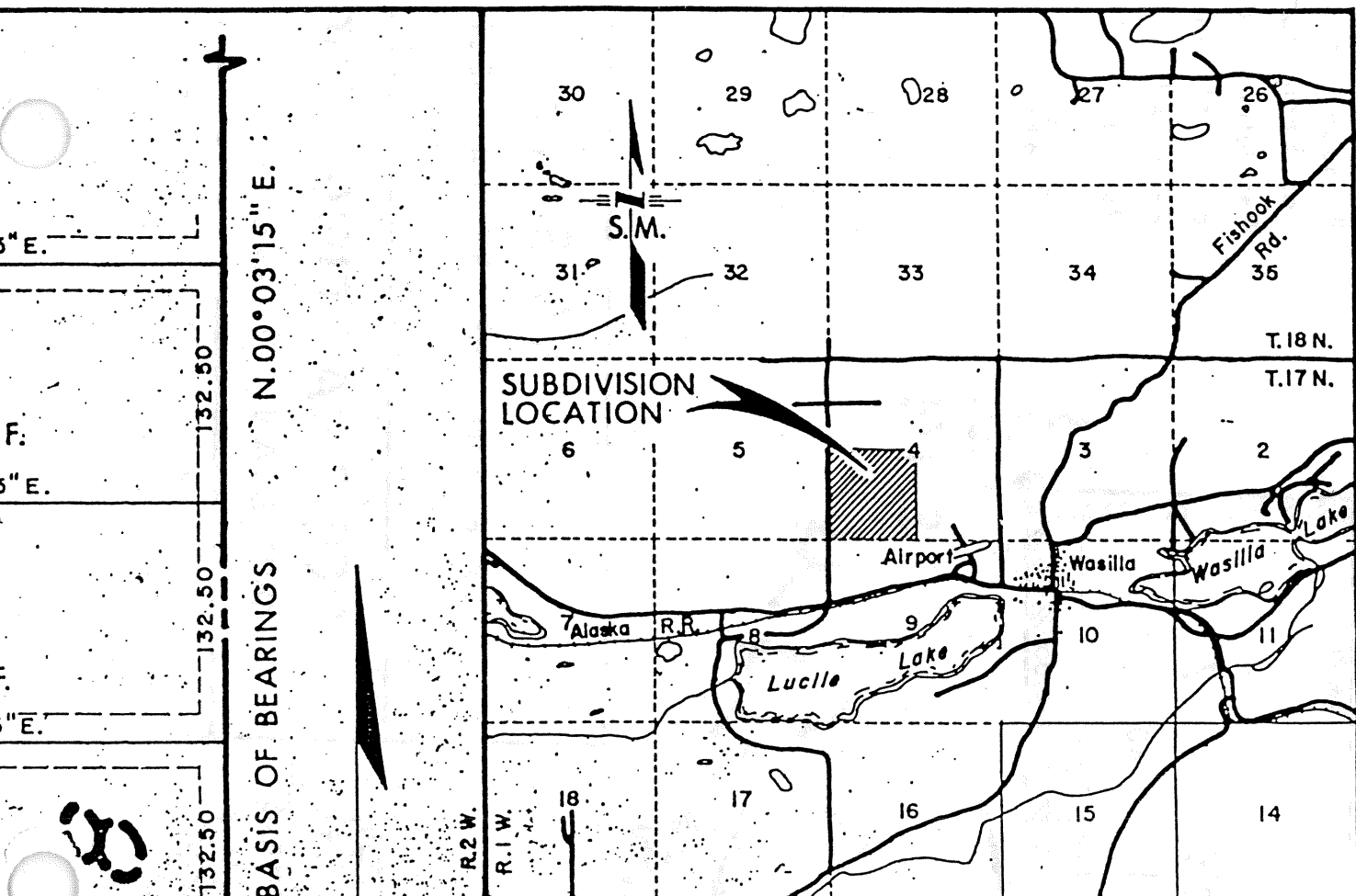
7.04.050 Acquisition and Ownership Rights and Powers. The City shall have and may exercise all rights and powers in the acquisition, ownership and holding of real property as if the City were a private person. (Ord. 85-18 §3 1985)

7.04.060 Acquisition Dedication by Plat. The City accepts ownership of all rights-of-way easements and other real property dedicated to the public. (Ord. 85-18 §3 1985)

7.04.070 Industrial Sites. The City may acquire, own and hold real property, either inside or outside the City boundaries, for sites available for new industries which will benefit the City. (Ord. 85-18 §3 1985)

7.04.080 Federal and State Aid. The City may apply for, contract, and do all things necessary to cooperate with the United States Government and the State of Alaska for the acquisition, holding, improvement or development of real property within and outside the City boundaries. (Ord. 85-18 §3 1985)

7.04.090 Real Property as Security. The Council may pledge, mortgage, or otherwise secure City real property for the payment of City bonded or other indebtedness when required, as authorized by law. (Ord. 85-18 §3 1985)



U.S.G.S. ANCH. C-7, 1950 (REV.62) 1:63,360

# VICINITY MAP

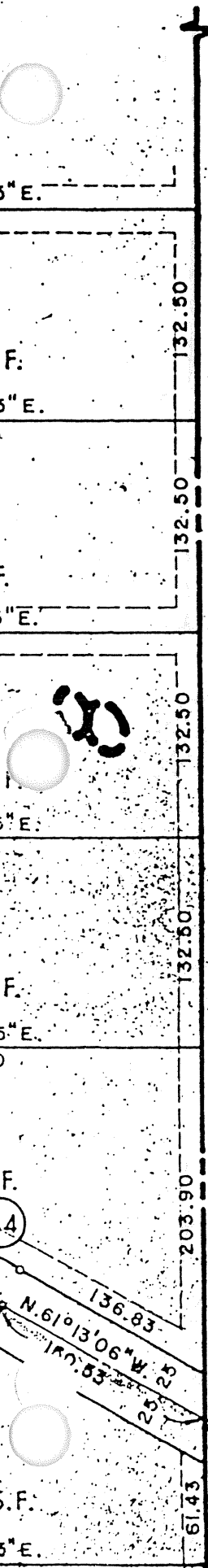
Scale: 1" = 1 Mile

*Plat 74-4*

## Certificate Of Ownership And Dedication

We hereby certify that we are the owners of the property shown and described hereon and that we hereby adopt this plan of subdivision with our free consent, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as show on this plat.

*February 5, 1974*



N.00°03'15" E.

BASIS OF BEARINGS

132.50

132.50

132.50

132.50

203.90

25.25

61.43

2641.95

EXISTING

5" E.

5" E.

5" E.

5" E.

5" E.

5" E.

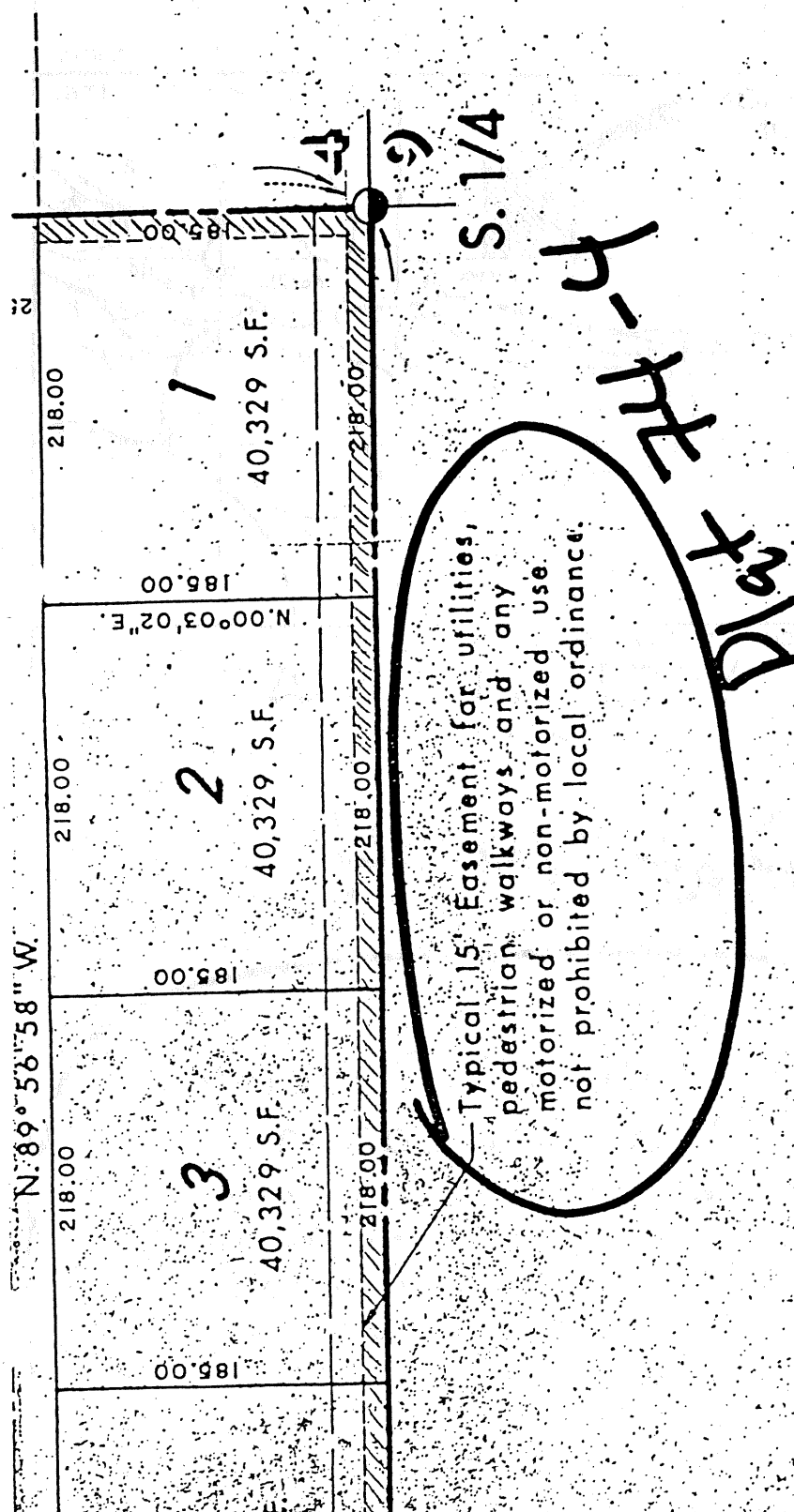
5" E.

5" E.

City of Wasilla  
 Borough Planning  
 has been approved  
 Resolution No. 74  
 and that the Plat  
 approved for reco  
 Recorder, Palmer

Feb. 8 1974

ATTESTED:  
*Debra J. Arvink*  
 CLERK



S. 1/4

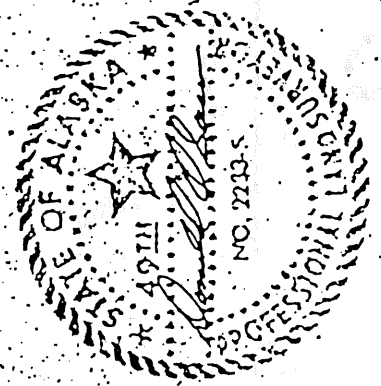
Typical 15' Easement for utilities,  
 pedestrian walkways and any  
 motorized or non-motorized use  
 not prohibited by local ordinance.

Plat 74-4

Of Registered Surveyor

that I am a registered professional  
 that this plat represents the  
 or under my direct supervision  
 shown thereon actually  
 and that all dimensional and  
 correct.

*David J. Palmer*  
 REGISTERED SURVEYOR



WASILLA ES

LOCATED IN THE S.W. 1/4, SECTION 4  
 CONTAINS 160 /

CONTRACTING ENGINEER  
 1801 STANTON AVE. ANCHOR

DRAWN: J.M.Mc.	DATE: JAN. "74	SCAL:
----------------	----------------	-------

CHAPTER 14.08ENCROACHMENTSSECTIONS:

14.08.010	Definitions
14.08.020	Permitted Encroachments
14.08.030	Relocation or Removal of Encroachment
14.08.040	Unauthorized Encroachments
14.08.050	Notice of Removal
14.08.060	Summary Removal
14.08.070	Removal after Noncompliance - Removal Expense
14.08.080	Actions by the City

14.08.010 Definitions.

A. "Encroachment" means and includes emulsive applications such as petroleum based or other semi-permanent liquefied, solid, loose, frozen, or crushed materials, including such materials as snow, gravel, topsoil, or vegetation; tower, pole, pole line, pipe, pipeline, driveway, private road, fence, billboard, stand or building, or a structure or object of any kind which is or has been placed in, on, under or over a portion of a city street or right-of-way within the City of Wasilla.

B. "City street or right-of-way", for the purposes of this section, means and includes all streets, roads, alley ways and rights-of-way within the boundaries of the City of Wasilla which are dedicated to the public or to the City of Wasilla. (Ord. W79-U-2 §1 1979; Ord. 88-26 §3 1988; Ord. 94-59 §3 1994)

14.08.020 Permitted Encroachments. An encroachment may be constructed, placed, changed or maintained across or along a city street or right-of-way only if permitted by City ordinance and a written permit has been issued by the Mayor or his designee. In determining to issue or deny a permit the Mayor may consider, as a minimum, the following facts.

A. The collateral impact of the requested encroachment upon other individuals, City maintenance efforts, the public in general and safety.

B. The overall beneficial or negative impacts on the use of the street or right-of-way by individuals or the public-at-large.

C. The Mayor may require the applicant to obtain reviews and or approvals of construction designs or materials from other State or Local Governmental Agencies. (Ord. W79-U-2 §2 1979; Ord. 88-26 §3 1988)

14.08.030 Relocation or Removal of Encroachment. If, incidental to the construction or maintenance of a city street, the city determines and orders that an encroachment previously authorized must be changed, relocated, or removed, the owner of the encroachment shall change, relocate or remove it at no expense to the City within a reasonable time set by the City. If the owner does not change, relocate or remove an encroachment within the time set by the City, the encroachment shall be considered an unauthorized encroachment and subject to the provisions of Sections .040 through .070 of this Chapter. (Ord. W79-U-2 §3 1979)



# Matanuska-Susitna Borough

350 E. DAHLIA AVE. PALMER, ALASKA 99645 • PHONE 748-4801

PLANNING DEPARTMENT

Post-It™ brand fax transmittal memo 7871		# of pages
To	Dawn Webster from John Stein	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	

**MEMORANDUM**

**DATE:** November 14, 1991

**TO:** John G. Stein, Mayor  
City of Wasilla

**FROM:** Dawn U. Webster, Code Compliance Officer *DW*

**SUBJECT:** INTERPRETATION OF WASILLA DEVELOPMENT CODE 17.43.460

A review of the Wasilla Development Code indicates that a Major Development Permit is required for a subdivision of land within the city. If the subdivision of land is processed by the Borough as a short plat, waiver, or contains four or fewer lots a Minor Development Permit is required. All other subdivision must obtain a major development permit.

The question has been raised as to whether the vacation of a section line easement is a subdivision of land. Section 17.43.202 does not define the term subdivision. Staff also checked in MSA Title 16 subdivisions and found that a vacation of a section line easement does not meet that definition of a subdivision.

Staff has determined that a Major Development Permit is not required for a vacation of a section line easement.

If you do not agree with our interpretation, please let us know immediately.

Thanks!

11/18/91

*I concur with your interpretation*

\*\*\*\*\*  
 FAX TRANSMITTAL MEMO  
 TO: Mayor Stein  
 DEPT: \_\_\_\_\_ FAX #: 748-0760  
 FROM: Dawn PHONE: 748-9861  
 CO: \_\_\_\_\_ FAX #: 748-9876  
 Post-It™ brand fax transmittal memo 7871

NO. OF PAGES
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(b) The platting authority shall state in writing its reasons for disapproval of a plat. If the platting authority approves a plat, the plat shall be acknowledged, filed, and recorded in accordance with AS 40.15.010 - 40.15.020. (§ 11 ch 74 SLA 1985; am § 4 ch 161 SLA 1988)

Effect of Amendments - The 1988 amendment, effective January 1, 1989, substituted "acknowledged, filed, and recorded" for "acknowledged and filed" in the second sentence in subsection (b).

Sec. 29.40.120. Alteration or replat petition. A recorded plat may not be altered or replatted except by the platting authority on petition of the state, the borough, a public utility, or the owners of a majority of the land affected by the alteration or replat. A platted street may not be vacated, except on petition of the state, the borough, a public utility, or owners of a majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting authority and shall be accompanied by a copy of the existing plat showing the proposed alteration or replat. (§ 11 ch 74 SLA 1985)

Sec. 29.40.130. Notice of hearing. The platting authority shall fix a time for a hearing on an alteration or replat petition that may not be more than 60 days after the petition is filed. Notice shall be published by the platting authority stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice must generally describe the alteration or replat sought. The platting authority shall also mail a copy of the notice to each affected property owner who did not sign the petition. (§ 11 ch 74 SLA 1985)



Sec. 29.40.140. Hearing and determination. (a) The platting authority shall consider the alteration or replat petition at a hearing and make its decision on the merits of the proposal.

(b) Vacation of a city street may not be made without the consent of the council. Vacation of a street in the borough area outside all cities may not be made without the consent of the assembly. The governing body shall have 30 days from the decision of the platting authority in which to veto a vacation of a street. If no veto is received by the platting authority within the 30-day period, consent is considered to have been given to the vacation. (§ 11 ch 74 SLA 1985)