

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

**Preliminary Decision
EV-3-386**

**Replat of Windy Court Replat, Plat 2022-2
Including the Vacation of Public Access and Utility Easements**

Petitioners: Summit Lake Holdings (Jim Dieringer and Nancy Dieringer)

Petitioned Action:

The proposed action is located 137 miles SE of Fairbanks, Alaska. The petitioner is requesting the vacation of the 20-foot public access and utility easement, and a replat (i.e. elimination) of all interior lot lines (Lots 1-17) within Windy Court Replat, Plat 2022-2, Chitina Recording District. More particularly, the petitioner requests to eliminate all interior boundary lines, including all lots & blocks, and vacate the 20-foot public access and utility easements created and dedicated by Plat 2022-2. The petitioners are proposing to replat the entire subdivision, as shown on Attachment A, a preliminary plat of Summit Lake South Subdivision. The replat consists of creating 18 lots and dedicating two 30-foot rights-of-way for public use (Dieringer Drive and Paulson Place). This action falls within the NW¹/₄ of protracted Section 8, Township 21 South, Range 12 East, Fairbanks Meridian., Alaska.

The vacation/replat [voiding] reason cited by the applicant:

- “For a more practical use of the property and to dedicate a public road versus just an easement.”

Legal Authority:

AS 29.03.030, AS 38.05.035(e), AS 38.05.945, AS 40.15.070, AS 40.15.300-.380, 11 AAC 51.065, 11 AAC 53.630-730.

The Alaska Department of Natural Resources (DNR) is the platting authority for the State in the Unorganized Borough.

Administrative Record:

The DNR Survey Case File EV 3-386 constitutes the administrative record used for the basis of this decision.

Borough:

The proposed action is located within the Unorganized Borough (UoB).

State Easement Interest:

As Platting Authority in the UoB, and pursuant to AS 40.15.305(e) & (f) and 11 AAC 53.730 the DNR has the authority to vacate said public access and utility easements and approve the replat of this subdivision.

Underlying Interest:

The petitioner owns the estate underlying the entirety of Windy Court Replat Subdivision.

Alternate Route:

The alternate access route will be dedicated as a part of Summit Lake South Subdivision. The landowner is dedicating two 30-foot rights-of-way identified as Dieringer Drive and Paulson Place. These two ROWs will be centrally located within Summit Lake South Subdivision and will provide access to the 18 lots within the new subdivision, as shown in Attachment A. 30-foot wide public utility easements also will be dedicated within the 30-foot rights-of-way (Dieringer Drive and Paulson Place), as described in preliminary plat note #15. The current utility easement has never been utilized. Utilities were never installed within Plat 2022-2. The closest utility installation is approximately 70 miles away.

Land Management Policies

1) Pursuant to 11 AAC 51.065, before any vacation, modification, or relocation of a public easement, the petitioner must demonstrate to the satisfaction of the department that equal or better access is available. Equal or better access must be access that is:

- Protected by an easement of record that is adequately wide for the purpose; if the easement of record is new, the petitioner must arrange for a note in the vacation document to be recorded that identifies the new easement as a replacement for the vacated easement; and,
- At least equally usable, considering length, type of terrain, and level of improvement, as the easement to be vacated; if development or improvement is needed to make the replacement easement at least equally usable, the petitioner must arrange for the development or improvement to be completed before the vacation takes effect.
- The department will determine if the vacation is in the State's best interest.

Public Use Patterns:

A field inspection was not conducted. Looking at aerial imagery there is an unnamed road entering the subject area from the Richardson Highway. There appear to be structures located within Lots 1, 2, 3, 7, 14, 15, 16, 17 of Windy Court Replat, Plat 2022-2. These lots are utilizing the unnamed road for ingress and egress from the Richardson Highway near milepost 191.

Practicality of Use:

11 AAC 51.065(f), requires an equal or better alternate route. Summit Lake South Subdivision will dedicate Dieringer Drive and Paulson Place as alternate access. The 20-foot public access and utility easements proposed to be vacated within Windy Court Replat, Plat 2022-2, will be replaced by Dieringer Drive and Paulson Place, 30-foot dedicated public rights-of-way with 30-foot public utility easements that will provide legal access to all of the new lots. The 20-foot-wide public access and utility easements are being replaced by the newly configured 30-foot-wide dedications of Dieringer Drive and Paulson Place. Plat note #15 addresses the dedication of 30-foot public utility easements within the dedicated rights-of-way.

Public Notice:

Public Notice (AS 38.05.945 and AS 40.15.305[e]). Public notice of this action will be provided to and paid for by the applicants. Public notice will include publication in a newspaper of general

circulation. The notice will be sent by certified mail to property owners within 500 feet of the subject land, as well as other affected individuals and agencies. The Post Office in Glennallen and Delta will be requested to post the notice per AS 38.05.945(b)(3)(C). The notice will also be posted in the Alaska Online Public Notice System.

Notice is hereby given that the Department of Natural Resources, under the authority of 11 AAC 51.065(b) and AS 40.15.305, shall hold a public hearing. The hearing concerns the vacation of the 20-foot public access and utility easements and a replat (i.e. elimination) of all interior lot lines within Windy Court Replat, Plat 2022-2, Chitina Recording District, as discussed in this preliminary decision. The public hearing will be held via teleconference at 11:00am on January 17, 2025. Persons wishing to attend the public hearing must call 1-800-315-6338; at the prompts enter access code 98627 and #.

This decision is subject to both public and agency comments, and all written comments received by the comment deadline will be considered in the FFD. Pursuant to 11 AAC 02.010(d), DNR is restricting appeal rights to those who meaningfully participate as well as the applicant. If public comments result in significant changes to the Preliminary Decision, additional public notice will be given.

Agency Review:

Agency Review of the proposed action began on March 5, 2024 and concluded April 18, 2024. Agencies notified included Department of Transportation and Public Facilities (DOT&PF); Alaska Department of Fish and Game (ADFG), DNR Division of Mining, Land and Water – Northern Region Office (NRO), Alaska Mental Health Trust Land Office (MHTLO) and DNR Division of Parks and Outdoor Recreation (DPOR).

All Agencies submitted comments of non-objection.

Discussion:

1. This property was surveyed as Alaska State Land Survey 73-105, recorded in the Chitina Recording District as Plat 73-758 on November 20, 1973.
2. 20-foot public road easement was platted and dedicated to public use by Windy Court Estates, recorded September 8, 1988, in the Chitina Recording District as Plat 88-24.
3. Windy Court Estates was vacated and replatted in 2022 as Windy Court Replat, recorded as Plat 2022-2 in the Chitina Recording District on March 10, 2022. This replat vacated the 20-foot public road easement and dedicated 20-foot public access and Utility easements along the exterior of Lot 1, as replatted by Plat 2022-2.
4. The proposed Summit Lake South Subdivision will vacate and replat Windy Court Replat, Plat 2022-2. Pursuant to 11 AAC 61.065, the proposed alternate access route is equally useable and will be adequate to satisfy all present and foreseeable uses.
5. No public utilities have been constructed within Plat 2022-2, Windy Court Replat Subdivision, as noted by Plat note #9. Plat note #15 must remain on the proposed EV plat which dedicates the 30-foot public utility easements within the two rights-of-way.
6. Pursuant to 11 AAC 51.065(e)(1), the Department will give consideration to the recommendations of the Unorganized Borough Platting Authority regarding this action.

Approval of the proposed action is contingent upon the following conditions:

1. Pursuant to AS 38.05.945, public notice of the proposed action must be completed. The Department of Natural Resources may modify the decision based upon public comments. The advertising cost for public notice is at the expense of the applicant.
2. Dedication of the 30-foot rights-of-way identified as Dieringer Drive and Paulson Place on the preliminary plat for Summit Lake South Subdivision.
3. Include Plat Note #15 on the final EV plat to dedicate 30-foot public utility easements within Dieringer Drive and Paulson Place.
4. Approval of a Final Finding & Decision.
5. Approval of a State Platting Resolution.
6. A final plat (owner signed/surveyor sealed mylar) must be submitted within 18-months from the date of the vacation approval. The survey plat must be filed in accordance with the provisions of AS 40.15.300-380 and in compliance with the provisions of 11 AAC 53.600-.900.
7. Submittal of a Certificate to Plat current within 90-days with the final mylar submittal.

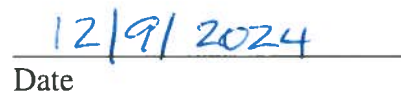
Recommendation:

Based on our findings, the applicant meets DNR's requirements to vacate the 20-foot public access and utility easements as well as replat (i.e., elimination of) all interior lot lines within Windy Court Replat, Plat 2022-2, Chitina Recording District. The proposed public access and utility easement vacation and replat action may be in the State's best interest. Therefore, the Division of Mining, Land and Water, Survey Section recommends approval of this action and may proceed with adjudication and public notice in accordance with AS 38.05.945 and 40.15.305(e).

Prepared by:

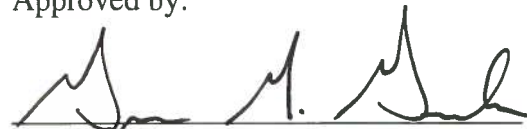


Victoria Braun
Natural Resource Specialist 2

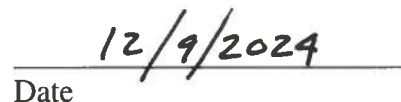


Date

Approved by:



Gwen M. Gervelis, PLS
Chief, Survey Section



Date

PUBLIC NOTICE:

**Notice of Preliminary Decision & Public Hearing
Replat of Windy Court Replat
Including the Vacation of Public Access and Utility Easements**

EV-3-386

Per 11 AAC 51.065, the Department of Natural Resources, Division of Mining, Land and Water has issued a Preliminary Decision (PD) giving contingent approval to a petition proposing to vacate the 20-foot public access and utility easement and replat (i.e., elimination) of all interior lot lines within Windy Court Replat, Plat 2022-2, Chitina Recording District. More particularly, to eliminate all boundary lines; including all lots & blocks and vacating the 20-foot public access and utility easement created and/or dedicated by Plat 2022-2. The petitioners are proposing to replat the entire subdivision. The replat consists of creating 18 lots and the dedication of 30-foot rights-of-way for public use (Dieringer Drive and Paulson Place). This action falls within the NW¼ of Section 8, T21S, R12E, F.M., Alaska.

The public is invited to comment on the PD. Copies are available from DMLW, 550 W. 7th Avenue, Suite 650, Anchorage, AK 99501-3576 or online at <https://aws.state.ak.us/OnlinePublicNotices/Login.aspx>. All comments must be sent to the attention of Victoria Braun at the address above and received in writing by January 16, 2025. If public comment analysis indicates the need for significant changes to the PD, additional public notice will be given. If no significant change is required, the PD, including any minor changes, will be issued as a Final Decision (FD). To obtain PD/FD copy, reference case number EV 3-386; include date, your email and mailing address and telephone number. If you have any questions, contact Victoria Braun at (907) 375-7733 or victoria.braun@alaska.gov.

Notice is hereby given that DNR, under the authority of AS 40.15.305, shall hold a public hearing to gather information and to obtain public input regarding the proposed easement vacation and replat action noted above. The public hearing will be held via teleconference at **11:00am on January 17, 2025**. Persons wishing to attend the public hearing must call 1-800-315-6338, when prompted enter access code 98627 and #. Persons attending or not attending the public hearing may submit comments in writing as noted above.

To be eligible to appeal under AS 38.05.035(i)(j), one must either provide timely written comment during the comment period or provide public hearing testimony.

DMLW reserves the right to waive technical defects in this publication.

Those with audio impairments may call Anchorage DNR Public Information Center, 10-5, M-F, TDD#269-8411.