

HANDOUTS

February 15, 2024
Meeting

Matthew Goddard

From: Annisa Christensen <akdragonlady44@gmail.com>
Sent: Thursday, February 8, 2024 5:08 PM
To: MSB Platting
Subject: Settlers Bay South

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

I live on Calista Dr. in Settlers Bay, my home is on L10B12. I am one of the homeowners that will be affected if you allow Olympic Investments to vacate the 33' easement behind our homes. We understand that eventually we will have people that will be living behind us, although we're not happy about that, it was bound to happen. We are however concerned how this will affect our privacy in our backyards, the level of noise we will have to endure with neighbors being so close to us. One of the reasons I chose my lot was for the beautiful view of the woods, the quiet of the street, and the fact no one would be building behind me. I along with many other homeowners are asking the borough to keep the 33' easement in place and to deny this request from Olympic Investments.

Thank you
Annisa Christensen

MATANUSKA-SUSITNA BOROUGH
PLATTING DIVISION
350 EAST DAHLIA AVENUE
PALMER, ALASKA 99645

6612B15L005 61
MICHAUD MICHAEL E
PO BOX 879143
WASILLA AK 99687-9143

NOTIFICATION OF PUBLIC HEARING

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

PETITIONER/OWNER: OLYMPIC INVESTMENTS, INC.

REQUEST: The request is to create 53 lots, two tracts from Parcel #3, created by Waiver Resolution #2000-80PWm, and vacate a 33' wide section line easement on the east boundary of the property to be known as **SETTLERS BAY SOUTH**, containing 76.66 acres +/- . Tract B will be a green space tract to serve as ~~Creek~~ ^{Crocker} separation on the eastern boundary of the proposed subdivision. The property is located west of Cottonwood Creek, north of Settlers Bay Park, and directly south and east of S. Knik Goose Bay Road (Tax ID # 16N02W04A008); within the NE 1/4 Section 04, Township 16 North, Range 02 West, Seward Meridian, Alaska.

The Matanuska-Susitna Borough Platting Board will hold a public hearing in Assembly Chambers at the Dorothy Swanda Jones Building, 350 E. Dahlia Avenue, Palmer, Alaska on the proposed Subdivision. The public hearing is scheduled for February 15, 2024, starting at 1:00 p.m. We are sending you this notice as required by State Law and Borough Ordinances.

For comments regarding the proposed action, this form may be used for your convenience by filling in the information below and mail this notice to the MSB Platting Division, 350 E. Dahlia Avenue, Palmer, Alaska 99645 or e-mail: plattling@matsugov.us. Comments received from the public after the platting packet has been written will be given to the Platting Board in a "Hand-Out" the day of the meeting. All public comments are due one (1) day prior, by 12:00 p.m. To request additional information please contact the Platting Technician, Matthew Goddard at (907) 861-7881. To view the agenda or meeting packet please go to the following link: www.matsugov.us/boards/platting.

[] No Objection Objection Concern

Name: Michael Michael Address: 7080 W Bortgo Dr.

Comments: This neighborhood already has poor traffic flow on roads in need of repair. Also the recent repair to Settlers Bay Dr Hill entering the neighborhood has caused increased safety issues. What is the traffic mitigation plan for adding an additional 53 lots? Additionally what is the environmental mitigation plan for Crocker not Cottonwood Creek which is a salmon stream?

Case # 2023-094 / 095 MG

Note: Vicinity map Located on Reverse Side

HANDOUT #2
SETTLERS BAY SOUTH
CASE # 2023-094 / 095
MEETING DATE: FEBRUARY 15, 2024

RIGHT-OF-WAY OR PUBLIC USE EASEMENT VACATION POSTING AFFIDAVIT

In accordance with MSB 43.10.065(G), I hereby certify that I posted, and have maintained for 30 days prior to the public hearing, the prescribed vacation notice along the boundary of the property at all common points of access to that portion of the right-of way or easement that is subject of the application.

Date Posted: 12/26/2023

Platting Case #: 2023-094/095

Owen Dicks, PLS (Bull Moose Surveying)
Printed Name


Signature


200 E. Hygrade Ln.; Wasilla, AK 99654
Mailing Address

907-357-6957
Phone Number

NOTARY CERTIFICATION

State of Alaska)
)ss
Third Judicial District)

SUBSCRIBED and SWORN to (or affirmed) before me this 14th day of February
2024, by Owen Dicks
(name of signers(s))


(signature and seal of notary)
My commission expires: 9/01/2025



Matthew Goddard

From: Ellery Gibbs <ellery@bullmoosesurveying.com>
Sent: Friday, February 2, 2024 3:15 PM
To: Matthew Goddard
Cc: Carl Jerue; Bull Moose Surveying; Owen Dicks
Subject: Re: FW: Settlers Bay South
Attachments: Ohlson - (1 of 4) notice from truck.JPG; Ohlson - (2 of 4) looking south.JPG; Ohlson - (3 of 4) looking east.JPG; Ohlson - (4 of 4) notice close-up.JPG

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Good Groundhog's Day Matthew,

Please find attached the first of two emails with current pictures of the notices for Settlers Bay South taken yesterday afternoon. We can fill out and notarize the affidavit now or just before the Platting Board meeting - whichever you prefer. As a question on the affidavit - should Carl Jerue for Olympic Investments fill it out or can we at Bull Moose do so?

Take care,

Ellery
Project Manager
Bull Moose Surveying
200 Hygrade Lane, Wasilla, AK. 99654
Business Phone: 907-357-6957 Business Fax: 907-357-6977
emails: ellery@bullmoosesurveying.com
tim@bullmoosesurveying.com
office@bullmoosesurveying.com

On 1/31/2024 11:58 AM, Matthew Goddard wrote:

Hello,

Please find attached the Staff Report Packet for the proposed Settlers Bay South Subdivision.

This case is scheduled for the February 15, 2024 Platting Board meeting.

Please ensure that the posting affidavit certifying that the notice of vacation has been maintained for at least 30 days prior to the hearing is submitted to the Platting division before the meeting.

Feel free to contact me if you have any questions.

Have a great day,
Matthew Goddard
Platting Technician
907-861-7881

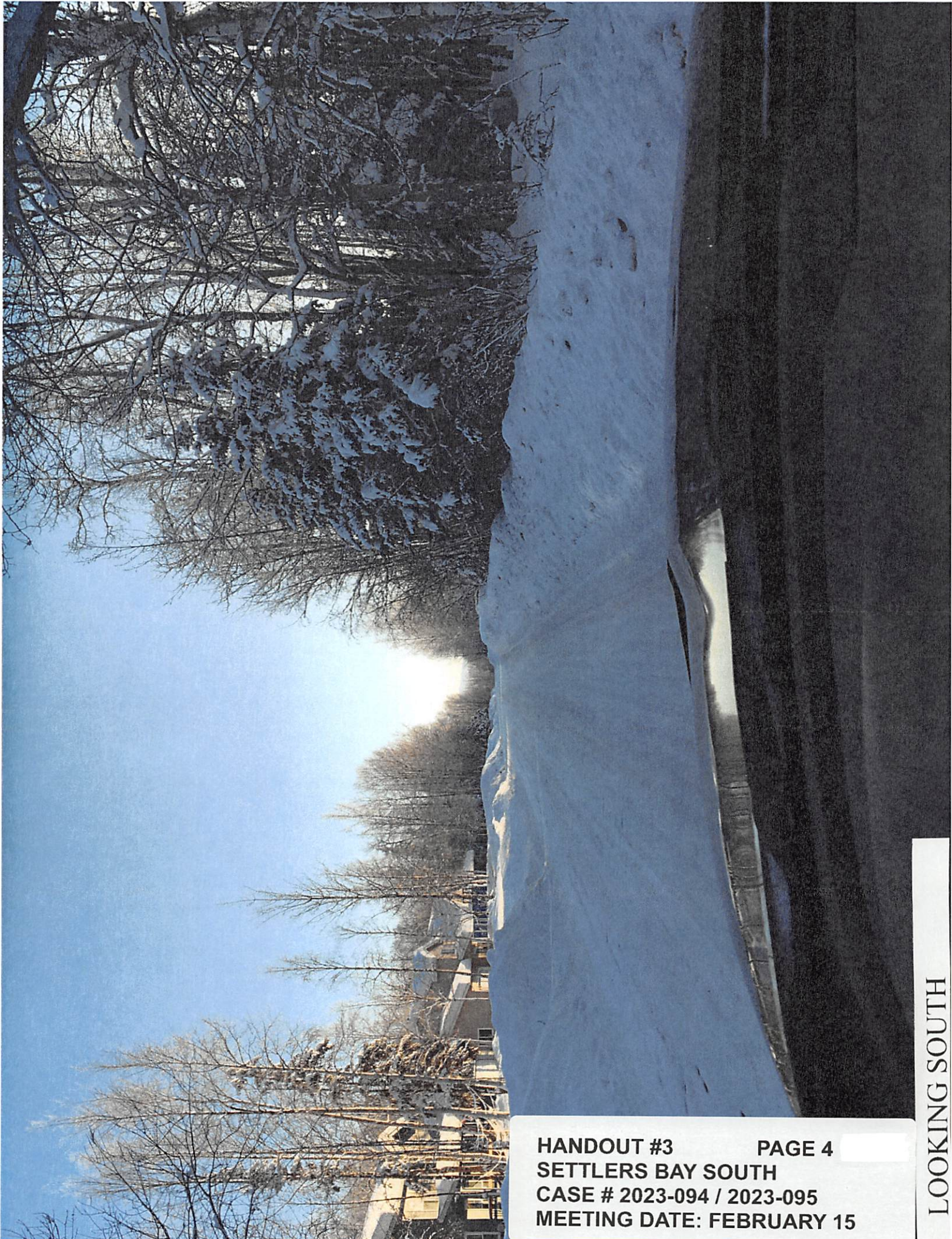
Matthew.Goddard@matsugov.us

HANDOUT #3 PAGE 2
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15



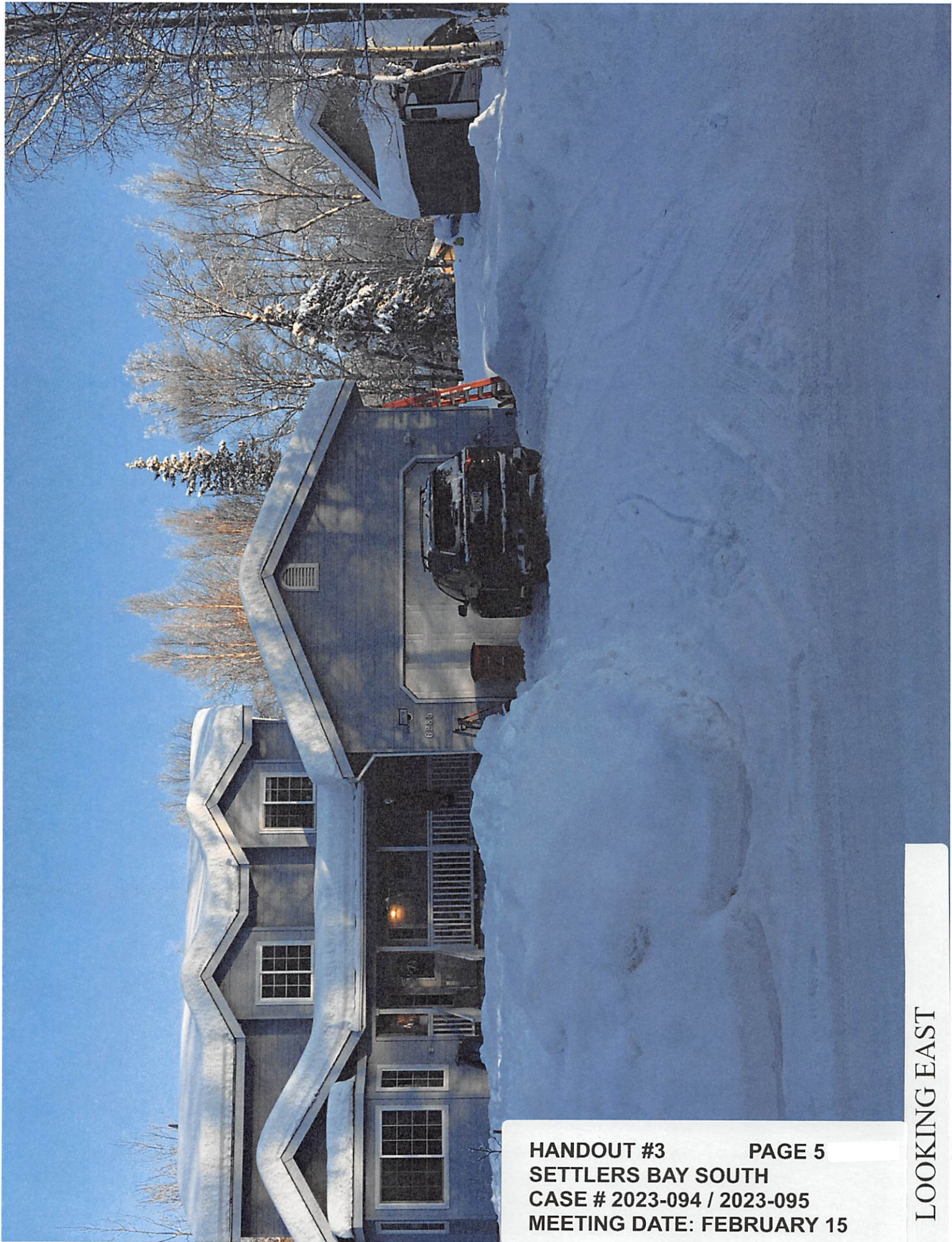
NOTICE FROM TRUCK

HANDOUT #3 PAGE 3
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15



HANDOUT #3 **PAGE 4**
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15

LOOKING SOUTH



HANDOUT #3 PAGE 5
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15

LOOKING EAST



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

**PUBLIC NOTICE OF
VACATION OF A PUBLIC
RIGHT-OF-WAY**

LEGAL DESCRIPTION: Parcel #3, MSB Waver 2000-80-PWm

POSTING DATE: 12/26/2023 MSB Platting Division Case # 2023-094 & 095

Applicant: Olympic Investments
Mailing Address: PO Box 873688 NE 1/4 Sec. 4
Wasilla AK 99687 T16N, R2W

To Whom It May Concern:

In accordance with MSB 43.10.065(G), the posting of this letter is to give the public every opportunity to comment on the above action prior to and/or at the public hearing. Please contact the Matanuska-Susitna Borough Platting Division for more information concerning this action.

The applicant, in accordance with MSB 43.10.065(G) is required to place a sign, notifying the public of the date, time, and place of the public hearing, at all common points of access to that portion of the easement or right-of-way that is subject of the application for 30 days prior to the public hearing.

THE PLATTING BOARD WILL CONVENE AT 1:00 P.M., 2/15/24, in the Assembly Chambers of the Dorothy Swanda Jones Building, 350 E. Dahlia Avenue, Palmer, Alaska. Please send any comments regarding the proposed action to MSB, Platting Division, 350 E. Dahlia Ave., Palmer AK 99645. Comments received from the public after the platting board packet has been written and sent to the board will be given to the Platting Board in a "Hand Out" packet the day of the meeting.

In order to be eligible to file an appeal from a decision of the Platting Board, a person must be designated an *interested party* Pursuant to MSB 15.39.010. An *interested party* means, (a) the applicant before the Platting Board; or (b) any person affected by the decision who appeared before the Platting Board and made an oral or written presentation. The procedures governing appeals to the Board of Adjustment & Appeals are contained in MSB 15.39.010-250, which is available on the borough Internet home page located at (<http://www.matsugov.us>), or at various libraries within the borough.

S:\Planning\Platting\FORMS & LETTERS\Title 43 Forms\SLEV Vacation Posting\Posting notice SLEV-RS2477.doc

Platting

HANDOUT #3 PAGE 6
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15

NOTICE CLOSE UP

Matthew Goddard

From: Ellery Gibbs <ellery@bullmoosesurveying.com>
Sent: Friday, February 2, 2024 3:16 PM
To: Matthew Goddard
Cc: Carl Jerue; Bull Moose Surveying; Owen Dicks
Subject: Re: FW: Settlers Bay South
Attachments: Borigo - (1 of 5) notice from truck.JPG; Borigo - (2 of 5) looking west.JPG; Borigo - (3 of 5) looking south.JPG; Borigo - (4 of 5) notice close-up.JPG; Borigo - (5 of 5) looking south from notice.JPG

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Hi Matthew,

Second email with pictures of the Vacation Notices for Settlers Bay South.

Take care,

Ellery
Project Manager
Bull Moose Surveying
200 Hygrade Lane, Wasilla, AK. 99654
Business Phone: 907-357-6957 Business Fax: 907-357-6977
emails: ellery@bullmoosesurveying.com
tim@bullmoosesurveying.com
office@bullmoosesurveying.com

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Platting Technician
907-861-7881

Matthew.Goddard@matsugov.us

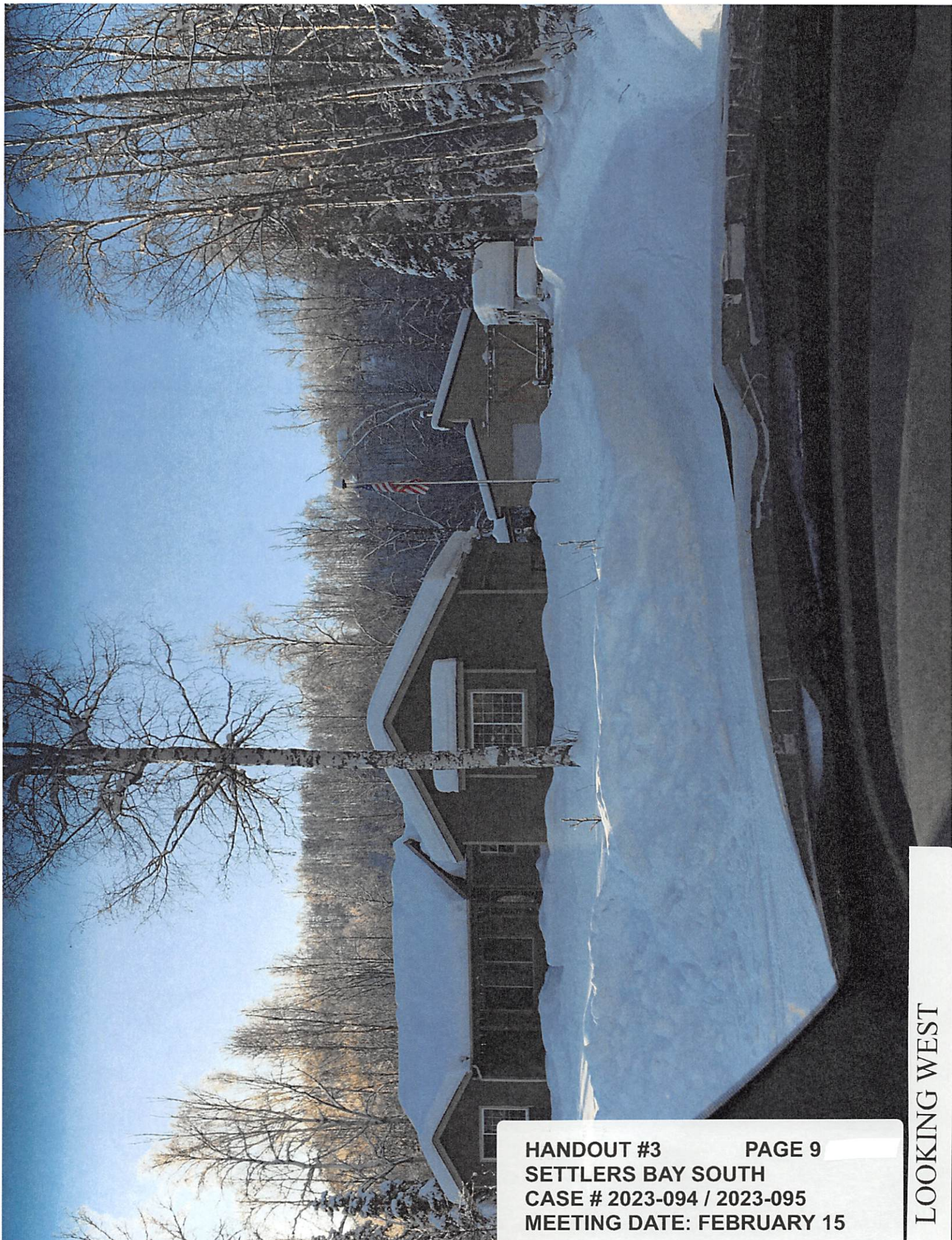


OBJECTS IN MIRROR ARE CLOSER THAN THEY APPEAR

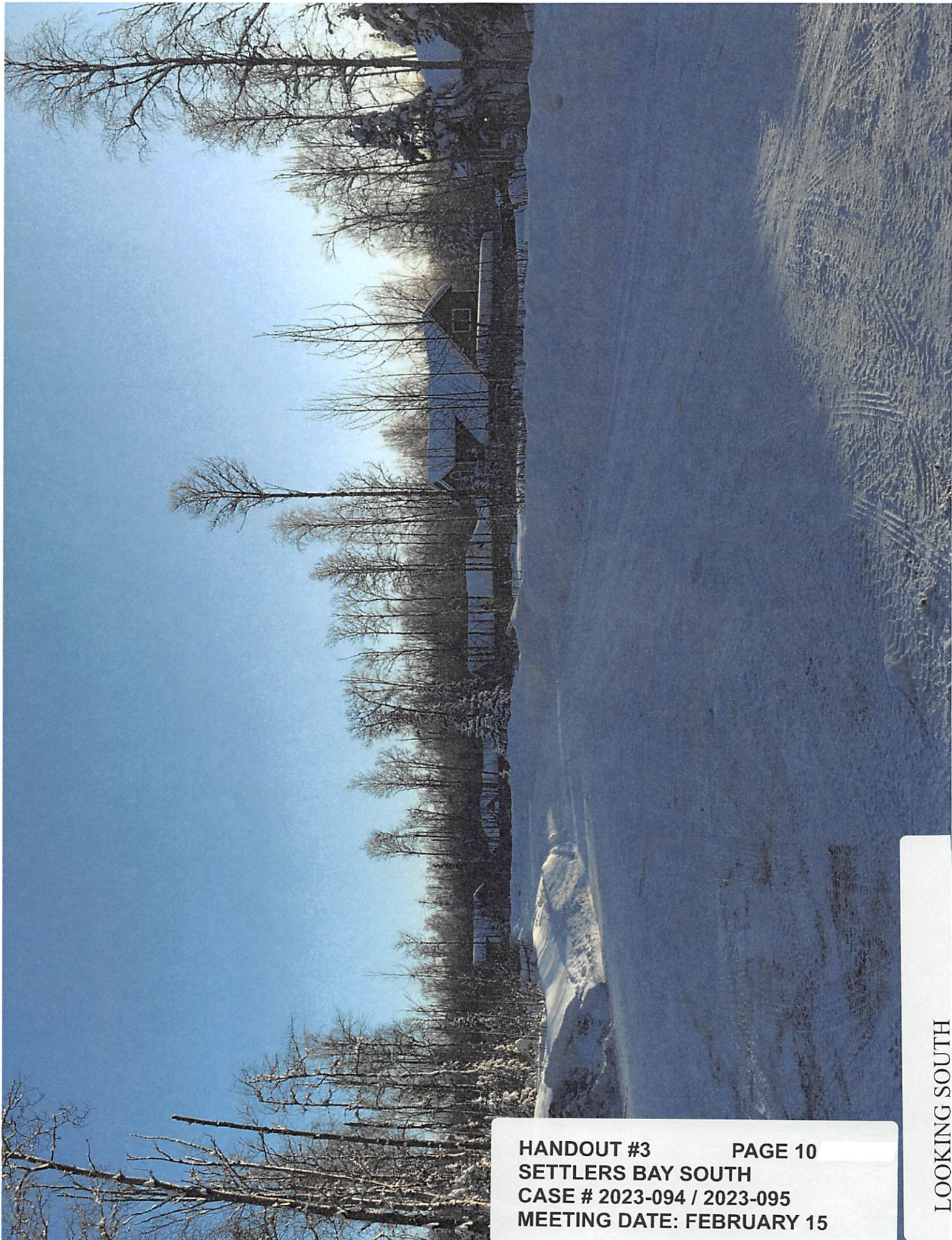
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HANDOUT #3 **PAGE 8**
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15

NOTICE FROM TRUCK



HANDOUT #3 **PAGE 9**
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15



HANDOUT #3 **PAGE 10**
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15

LOOKING SOUTH



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

PUBLIC NOTICE OF VACATION OF A PUBLIC RIGHT-OF-WAY

LEGAL DESCRIPTION: Parcel #3, MSB Waiver 2000-80-PWm

POSTING DATE: 12/26/2023 MSB Platting Division Case # 2023-094 & 095

Applicant: Olympic Investments NE 1/4, Sec. 4
Mailing Address: PO Box 873088 T16N, R2W
Wasilla, AK 99687

To Whom It May Concern:

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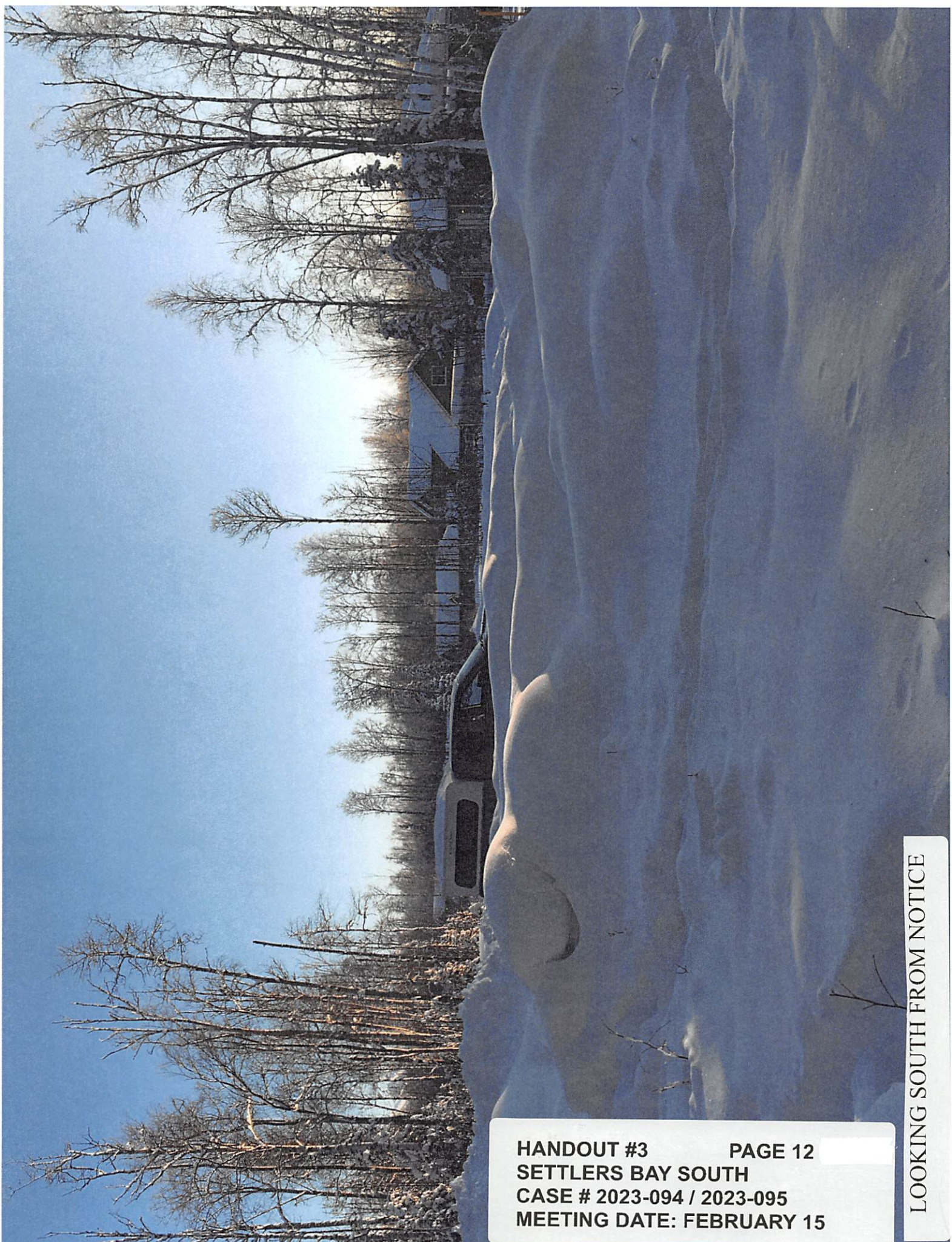
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S:\Planning\Platting\FORMS & LETTERS\Title 43 Forms\SLEV Vacation Posting\Posting notice SLEV-RS2477.doc

NOTICE CLOSE UP

HANDOUT #3 PAGE 11
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15



HANDOUT #3 PAGE 12
SETTLERS BAY SOUTH
CASE # 2023-094 / 2023-095
MEETING DATE: FEBRUARY 15

LOOKING SOUTH FROM NOTICE

REVISED RECOMMENDATIONS OF CONDITIONS OF APPROVAL

Suggested motion: I move to approve the variance request from MSB 43.20.140 Physical Access, the vacation of the section line easement, and the preliminary plat of Settlers Bay South, Section 04, Township 16 North, Range 02 West, Seward Meridian, Alaska, contingent on staff recommendations

1. Taxes and special assessments must be paid in full for the year of recording, pursuant to MSB 43.15.053(F) and AS 40.15.020. Pay taxes and special assessments (LIDs), by CERTIFIED FUNDS OR CASH.
2. Provide updated Certificate to Plat executed within seven (7) days of recording of plat and submit Beneficiary Affidavit for any holders of a beneficial interest.
3. Pay postage and advertising fees.
4. Construct interior street and cul-de-sac MSB residential street standards, construct/certify W. Ohlson Drive and S. Calista Drive to MSB residential Subcollector street standards according to the 2022 Subdivision Construction Manual (SCM):
 - a) Submit drainage report and construction plans to DPW for approval per SCM F01.2;
 - b) Arrange preconstruction conference with DPW per SCM F01.3, sign Subdivision Construction Plan, pay inspection fee, and obtain Notice to Proceed from Platting staff;
 - c) Install advanced warning signs prior to the intersection of Calista and Settler's Bay Drive. Type of sign and location to be reviewed and approved by PD&E at the Preconstruction Conference.
 - d) Extend the drainage easements on Lots 1 and 2, Block 1 to reach the back lot line to the west per PD&E's instructions.
 - e) Construct interior streets and cul-de-sacs to Residential Street standard according to the SCM.
 - f) Upgrade/Certify W. Ohlson Drive from the intersection of the proposed S. Olympic Drive to S. Calista Drive to MSB residential subcollector street standard according to the SCM.
 - g) Upgrade/Certify S. Calista Drive from W. Ohlson Drive to S. Settlers Bay Drive to MSB residential subcollector street standard according to the SCM.
 - h) Reclaim the existing cul-de-sac on W. Borigo Drive, per PD&E's instructions to be discussed at the pre-construction meeting.
 - i) Arrange Pre-Final and Final Inspections with DPW per SCM F01.6 and F01.7, submit Final Report to Platting per F01.8, and obtain Certificate of Construction Acceptance from DPW per F01.9;
 - j) Submit as-built of streets and drainage improvements once construction is complete; and
 - k) Obtain approval of street names from Platting Assistant.
5. Provide an updated geotechnical report once all reverification/regrading has been completed showing that all lots contain the minimum required 10,000 square feet of useable building area and 10,000 square feet of contiguous useable septic area.
6. Per MSB 43.15.049(I), construct the water lines, provide as-built drawing of the water system, and provide ADEC certificate to operate for the water system extension prior to recordation.
7. Add a plat note stating that no direct access shall be granted to Knik-Goose Bay Road unless otherwise authorized by the permitting authority.
8. Obtain approval of the vacation from the Assembly within 30 days of written decision.
9. Show all easements of record on final plat.
10. Submit recording fees, payable to Department of Natural Resources (DNR).
11. Provide final approval for the section line easement vacation from State of Alaska Department of Natural Resources, Division of Mining, Land & Water, Survey Section.
12. Submit plat in full compliance with Title 43 and State of Alaska Requirements.

QUASI-JUDICIAL PROCEEDINGS WORK SESSION

Conflicts, Ex Parte Contact,
Independent Investigations

Conflicts of interest,
ex parte contact, and
independent investigation:
Different but related
topics.

QUASI-JUDICIAL

“Quasi-judicial Action – a judicial action taken by a public person [an official] or body (*i.e.*, the planning commission) who is not a judge. It involves an official decision on the respective rights or claims of parties appearing before the body making the decision.”

See Alaska Planning Commission Handbook Glossary, p. 91, State of Alaska website: <http://www.commerce.state.ak.us> or direct document link: <https://www.commerce.alaska.gov/web/Portals/4/pub/Planning/Planning%20Commission%20Handbook%20Oct%202021.pdf>.

For the Platting Board, quasi-judicial actions include applications for approval of a plat, variances, 40-acre exemptions, replats.

Quasi-judicial decisions of the Platting Board are appealable to the Board of Adjustments and Appeals.

See MSB 15.39.030(A)(3).

LEGISLATIVE OR ADVISORY

The Platting Board also acts legislatively on vacations of public interests in land such as streets. For areas within the Borough, outside the incorporated cities, a Platting Board decision approving a vacation of a street is subject to veto by the MSB Assembly. For the vacation of a street within an incorporated city, a platting board decision approving a vacation is subject to veto by the city council where the street is located - either Wasilla, Palmer, or Houston. AS 29.40.140(b); MSB 43.15.035 Vacations. *See, generally, AS 29.40.120-.160.*

The Platting Board also acts legislatively when it accepts public use easements.

MSB 43.15.021 Public Use Easement Acceptance Procedure.

QUASI-JUDICIAL HEARINGS

The hearings of the Platting Board on plats, replats, and 40-acre exemption variances are quasi-judicial administrative hearings.

Due process is required for the participants in these administrative hearings, including the applicant, citizens, and other private entities.

The minimum requirements for due process in quasi-judicial administrative hearings are:

- Adequate notice, a meaningful opportunity to be heard, and a fair hearing;
- A right to appeal, which also requires preservation of the record.

Ex Parte . . .
[Latin “from the part”]

**“On or from one party only,
usually without notice to or
argument from the adverse party.”**

Black’s Law Dictionary 616 (8th ed. 2007)

**“Ex parte” is defined in
MSB 43.05.005 Definitions,
under the Platting Code.**

**“Ex parte” means by or for one
party; done for, on behalf of, or
on the application of one party
only; without notice to or the
presence of the other party.**

**MSB 43.10.055 CONFLICT OF INTEREST;
EX PARTE CONTACT.**

(A) A board member shall not participate in deliberation or vote on a question if:

(1) the board member or a member of the board member's immediate family has a substantial financial interest in any property affected by the decision; and

(2) the board member or a member of the board member's immediate family could foreseeably profit in any material way through a favorable or unfavorable decision.

(B) Board members shall be impartial in all administrative decisions, both in fact and in appearance. No board member may receive or otherwise engage in ex parte contact with the applicant or appellant, or other parties interested in the application or appeal, or members of the public, concerning the application or appeal or issues presented in an application or notice of appeal, either before the hearing or during any period of time the matter is submitted for decision or subject to reconsideration.

MSB 43.10.055.

“[A]dministrative hearings must not only be fairly conducted, but must also give the appearance of complete fairness.”

State v. Lundgren, 603 P.2d 889, 895-96 (Alaska 1979).

**OK, so I had an ex parte
communication. What
now?**

Answer: It depends.

Example:

You encounter a neighbor in the supermarket, and he or she asks about a quasi-judicial matter presently before the board.

You say to the person: “I cannot talk about that - I am on the Platting Board.” There is no more conversation and no specific information was exchanged.

- Should this ex parte contact be disclosed?
- Can it be addressed?
- How?

Example:

You received your packet for the next meeting. You then receive an e-mail from a member of the public about one of the plats, with some data or other information in it.

- Should this ex parte contact be disclosed?
- Can it be addressed?
- How?

Example:

You were a seated board member who heard all of the public testimony on a plat. One of the parties calls you at home and asks you to consider his or her special appeal to reason before you make your decision. The party wants you to realize how important his or her position is and talk to you about some points that were raised in last night's hearing. You talk for an hour. The next meeting is planned for the board to deliberate.

- Should this ex parte contact be disclosed?
- Can it be addressed?
- How?

INDEPENDENT INVESTIGATION

Independent investigation is when a board member researches a matter on his or her own.

Is that O.K. as long as the commissioner or board member shares the information learned with the other commissioners at the next meeting and in public?

Why not?

SITE VISITS

What if I live next to the property which is the subject of a plat, and regularly pass it on my nightly walks?

What if I want to do a drive by?

What if I want to set up a meeting with the owner for a special viewing?

CONFLICTS OF INTEREST

A board member can have a conflict of interest in regard to either a legislative matter before the board (*i.e.*, vacation of a street; review of legislation on platting code), or a quasi-judicial matter (*i.e.*, a plat). In other words, conflicts of interest can arise with regard to any action upon which the board is empowered to act.

Conflicts of interest are covered by:

Alaska state law,

by Borough Platting Code,

by the Borough Ethics Code,

**and by basic principles of due process
and appearance of impropriety already
discussed in this presentation.**

What is a conflict of interest?

“A real or seeming incompatibility between one’s private interests and one’s public or fiduciary duties.”

Black’s Law Dictionary 319 (8th ed. 2007)

Under state law:

“A municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.”

AS 29.20.010(a)(4).

Borough Code also states:

“A board member shall not participate in deliberation or vote on a question if:

(1) the board member or a member of the board member’s immediate family has a substantial financial interest in any property affected by the decision; and

(2) the board member or a member of the board member’s immediate family could foreseeably profit in any material way through a favorable or unfavorable decision.”

MSB 43.10.055(A).

“Immediate family member’ means a municipal official’s grandparents, parents, children, grandchildren, siblings, spouse or domestic partner, spouse’s children, spouses of children, or a regular member of the official’s household.”

MSB 2.71.005.

“Financial interest means:

(1) an interest held by a person subject to this code or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or from which or as a result of which, a person has received or expects to receive a financial benefit in an amount of over \$1000; or

(2) holding a position in a business, such as an officer, director, trustee, partner, employee, or the like, or holding a position of management.”

MSB 2.71.005 Definitions.

Borough Code defines “Personal Interest” as:

“an interest held or involvement by a municipal official, or the officer’s immediate family member, including membership in any organization, whether fraternal, nonprofit, for profit, charitable, or political, from which, or as a result of which, a person or organization receives a benefit.”

MSB 2.71.005 Definitions.

“[S]tandards of ethical conduct for municipal officials need to distinguish between those minor and insubstantial conflicts that are unavoidable in a free society, and those conflicts of interests that are substantial and material.”

MSB 2.71.020(C)(3).

“Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a municipal official’s:

(1) financial interest in the matter is insubstantial, or of a type that is possessed generally by the public or a large class of persons to which the municipal officer belongs; or

(2) action or influence would have insubstantial or conjectural effect on the matter.

(3) A financial interest over \$1,000 is presumed substantial under this chapter. A lesser amount is presumed insubstantial.”

MSB 2.71.020(D).

The Borough Code of Ethics is broader than state law and broader than MSB 43.10.055.

- 1. MSB 2.71.120: Request for Board Opinion**
- 2. MSB 2.71.080: Recusal.**
- 3. MSB 2.71.070: Conflicts of Interests;
Prohibited Acts**

What if I had an ex parte contact, or believe I may have a conflict of interest, and I have read the statutes, Borough codes, and the definitions and am still unclear what I should do?

- 1) If time allows, you may request an advisory opinion from the Ethics Board. MSB 2.71.120(A).

If the matter is quasi-judicial, the chair can request that the parties state positions on the issue.

QUESTIONS?
