

E. NEW BUSINESS

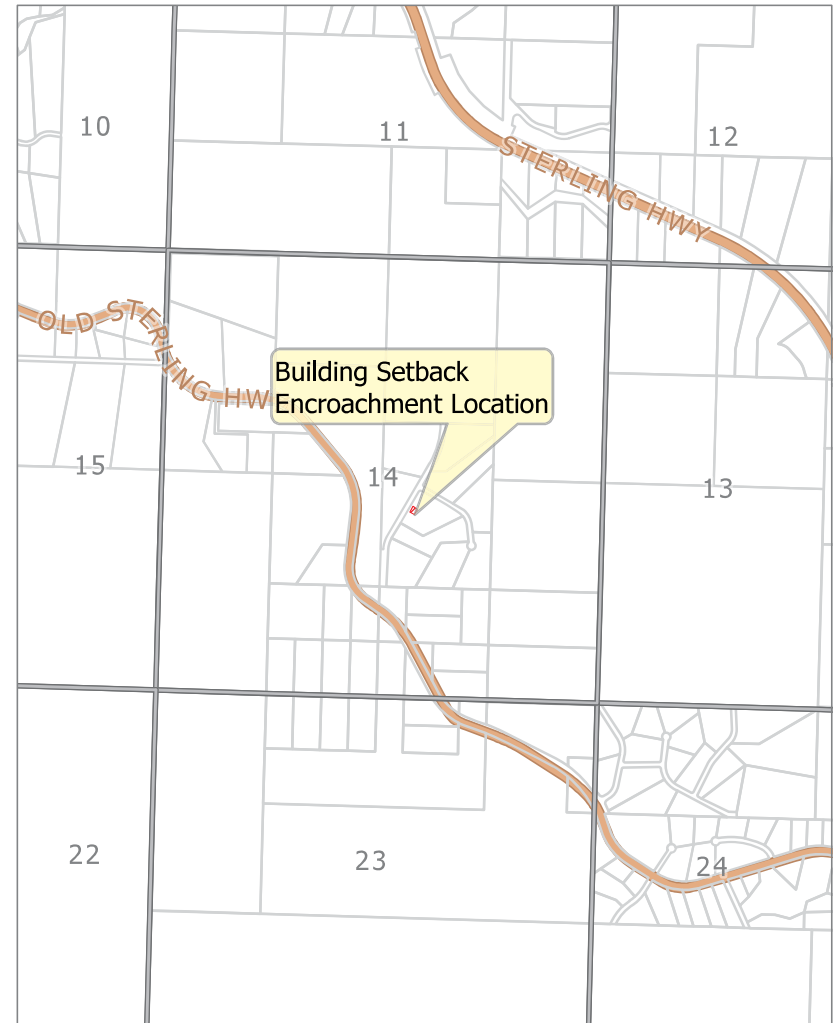
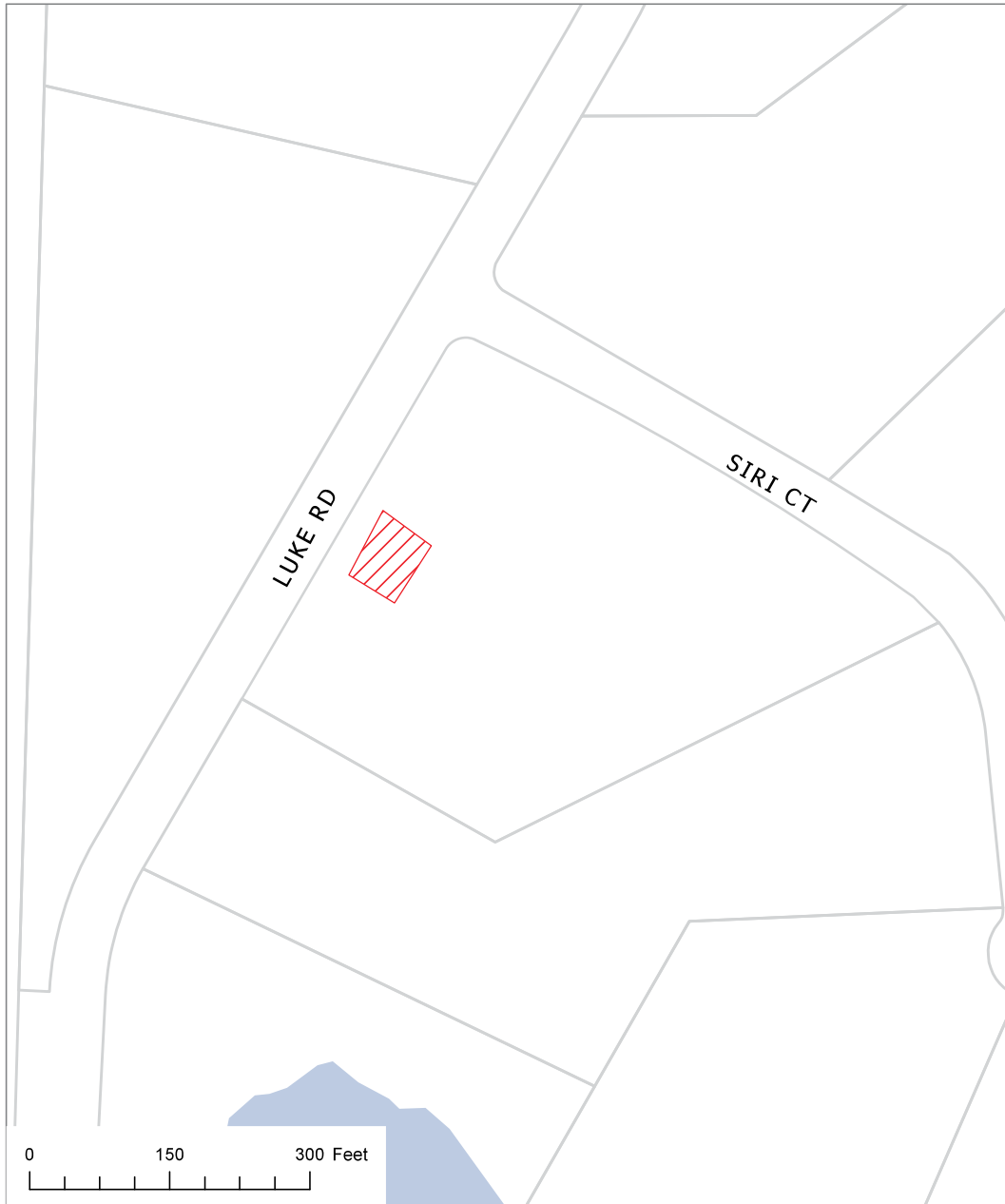
2. Building Setback Encroachment Permit

KPB File 2024-110; PC Resolution 2024-17

Peninsula Surveying / Spillett

Request: Permits a portion of a 20' x 16.2' shop to remain in the 20' building setback on Lot 8, Luke's Wilderness Acres, Plat HM 96-42

Location: Luke Road, Anchor Point Area



KPB File 2024-110
T 05S R 15W SEC 14
Anchor Point

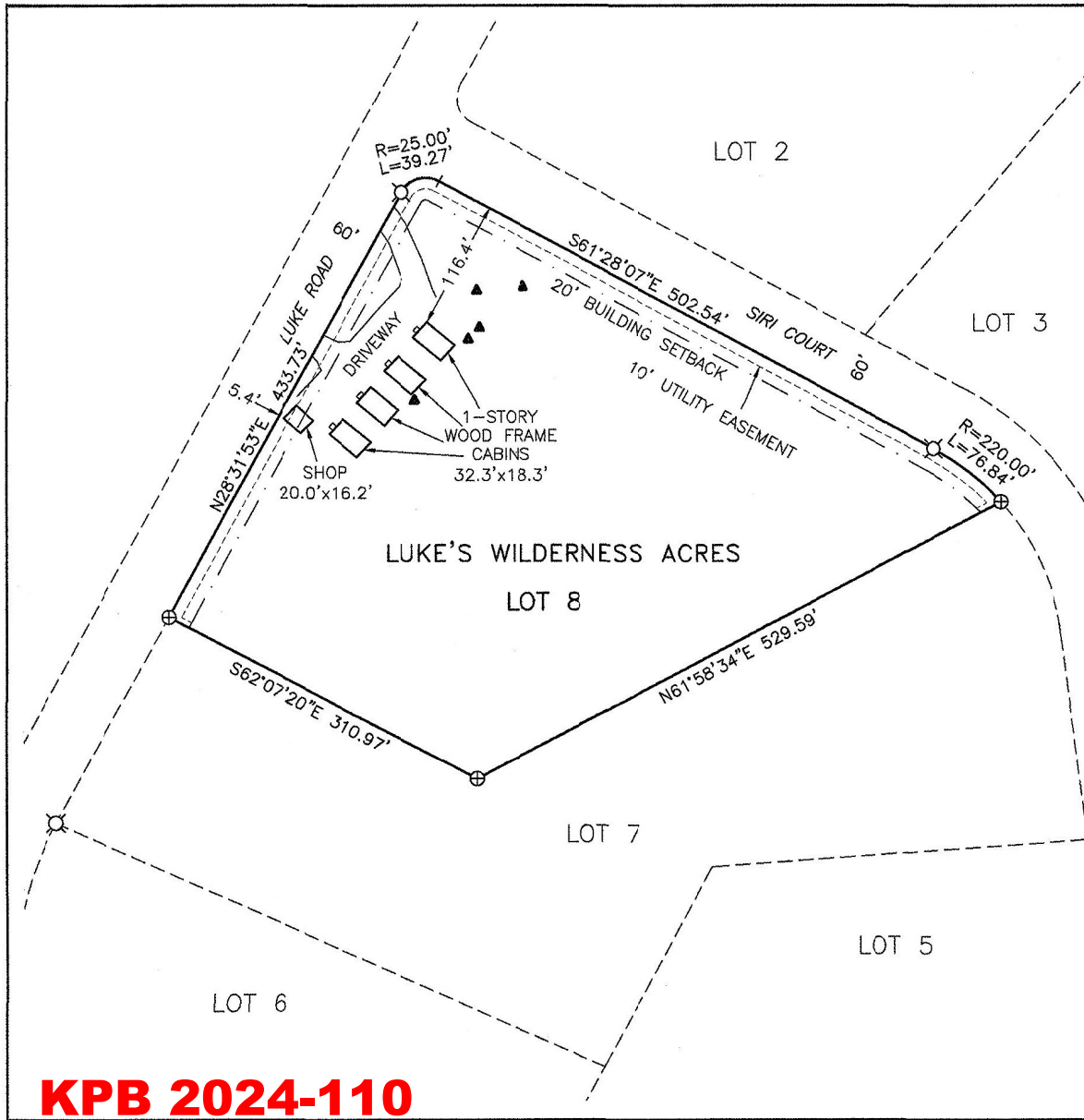
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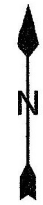
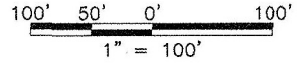
Aerial Map



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KPB 2024-110



LEGEND

- ⊗ FOUND 1/2" REBAR
- ⊕ FOUND 2" ALUMINUM CAP
- ▲ SEPTIC STANDPIPE

NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. DIMENSIONS ARE TO THE FACE OF THE BUILDINGS.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT HM 92-42.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT AN AS-BUILT SURVEY WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION ON THE PROPERTY SHOWN HEREON, AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY ON 09/26/2024.

Jason Schollenberg 10/01/2024

JASON L. SCHOLLENBERG DATE
PLS 14488-S



PENINSULA SURVEYING, LLC		
10535 KATRINA BOULEVARD, NINILCHIK, AK 99639 (907)306-7065		
AS-BUILT SURVEY LOT 8, LUKE'S WILDERNESS ACRES HM 92-42 SEC 14 T5S R15W SM, AK		
SCALE: 1" = 100'	DATE: 10/01/2024	
DRAWN: JLM	CHECKED: JLS	SHEET: 1 OF 1

AGENDA ITEM E. NEW BUSINESS

**ITEM #2. – BUILDING SETBACK ENCROACHMENT PERMIT
LUKE’S WILDERNESS ACRES LOT 8 / BRITTANY SPILLETT**

KPB File No.	2024-110
Planning Commission Meeting:	October 28, 2024
Applicant / Owner:	Brittany & Nick Spillett / Anchor Point, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Old Sterling Highway and Luke Rd / Anchor Point area

Parent Parcel No.:	169-134-08
Legal Description:	Lot 8 Luke’s Wilderness Acres
Assessing Use:	Residential
Zoning:	Unrestricted
Resolution	2024-17

STAFF REPORT

Specific Request / Purpose as stated in the petition:

We are hoping to get a building setback encroachment permit based off of the following standards listed in KPB 20.10.110 E

Site Investigation:

There are four one-story cabins located on the property along with a shop as shown on the included as-built. The shop shows to be sitting across the building setback line by 14.6 feet, leaving 5.4 feet to the property line. No new structures are being indicated and additional construction to the shop was not indicated either. It will be recommended that any addition to the shop will need to conform to code, which would be behind the 20’ building setback line.

Lot 8 has two road adjacent to it with Luke Rd on the west and Siri Ct on the north, both are 60’ dedication developed but not to borough standards and not borough maintained.

Staff did not visit the site, but viewing KPB GIS data the shop looks to be sitting behind a row of trees separating the driving portion of the road from the shop. These trees look to keep the shop hidden from the road as can also be scene on the as-built. With the trees blocking the shop staff does not see that the shop would be an issue for sight distance driving down the road at this time.

Staff Analysis:

Luke’s Wilderness Acres HM 96-42 was platted from the S1/2 SW1/4 NE1/4 and the NW1/4 SE1/4 of Section 14, Township 5 South Range 15 West SM, Homer Recording District, Third Judicial District, Alaska. The plat created in each lot along the rights-of-way a 10’ utility easement and a 20’ building setback line.

There are two houses along Luke Rd besides the cabins on this lot and four houses along Siri Ct. Luke Rd continues out to a gravel pit and what looks to be an old air strip not in use.

The terrain near the road slightly sloping from lot 8 towards the road. The shop looks to be sitting on the high side of a small hill and the driveway coming up a draw in the slope to the high side. The lower road reduces the chance of the shop contributing to site distance issues and the fact it is along a straight portion of the road.

Applicant Discussion:

We are hoping to get a building setback encroachment permit based off of the following standards listed in KPB 20.10.110 E

Applicant Findings:

1. Luke Rd is currently an unmaintained road. I don't foresee this changing anytime in the near future
2. Where the existing road is now the shop is far enough off the road that it does not interfere with being able to see as you pull out of our driveway. There are no other driveways close by.
3. The shop is currently far enough off of the existing road that I do not foresee any sort of safety hazards that could be presented with the location of the shop.

Staff Findings:

4. Here is a row of trees between the road and shop.
5. The shop is sitting higher than the road.
6. The shop is sitting along a straight portion of the road away from intersections.

20.10.110. – Building setback encroachment permits.

E. The following standards shall be considered for all building setback encroachment permit applications. Staff recommends the Commission select the findings they determine are applicable to the standards and vote on them:

1. The building setback encroachment may not interfere with road maintenance.

Findings 1 & 4 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.

Findings 2, 5 & 6 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.

Findings 3 appear to support this standard.

F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. Comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: No RSA comments.
SOA DOT Comments	No comment
KPB River Center Review	A. Floodplain Reviewer: Hindman, Julie Floodplain Status: IS in flood hazard area Comments: Property is within the non-regulatory D Zone. The area has an undetermined flood risk. Plat note should be present but no depiction Flood Zone: D Map Panel: 02122C-1960E In Floodway: False Floodway Panel: B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments

State of Alaska Fish & Game	
Addressing	<p>Reviewer: Leavitt, Rhealyn Affected Addresses: 36576 LUKE RD Existing Street Names are Correct: Yes List of Correct Street Names: Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: No other comments</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: The issuance of a permit allowing the 20ft set back encroachment would be acceptable, as the current substandard road way is not impacted. If not approved, a plan to address the issue would need to be routed to Code Compliance within 30 days of Planning Commission action.</p>
Planner	<p>Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather Comments: No comment</p>
Advisory Planning Commission	No quorum present

Utility provider review:

HEA	
ENSTAR	
ACS	
GCI	
SEWARD ELECTRIC	
CHUGACH ELECTRIC	
TELALASKA	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2024-17, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2024-17
HOMER RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR LOT 8, LUKE'S WILDERNESS ACRES (HM 0960042); IN NE 1/4 S14, T05S, R15W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2024-110

WHEREAS, per KPB 20.30.240 – Building Setbacks, a minimum 20-foot building setback shall be required for fee simple non-arterial rights-of-way in subdivisions located outside incorporated cities; and

WHEREAS, Brittany and Nicholas Spillet of Soldotna, AK requested a building setback encroachment permit to the 20-foot building setback granted by Luke's Wilderness Acres (HM 0960042); and

WHEREAS, per the petition; and

WHEREAS, the encroaching structure does not affect sight distance along the right-of-way; and

WHEREAS, on Monday, October 28, 2024, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed exception; and

WHEREAS, the Planning Commission found that granting the building setback encroachment permit will not be detrimental to the public interest; and

WHEREAS, 20.10.110 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish building setback encroachment permits by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the 20-foot building setback limit on HM 0960042 Lot 8 is hereby excepted to accommodate only the encroaching portion of the 16.2 X 20 shop.

Section 2. That any new, replacement, and/or additional construction will be subject to the 20-foot building setback limit.

Section 3. That the 20-foot building setback limit shall apply to the remainder of said lot.

Section 4. That a current as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the location of the encroachment within the building setback be attached to, and made a part of this resolution, becoming page 2 of 2.

Section 5. That this resolution is void if not recorded in the appropriate Recording District within 90 days of adoption.

Section 6. That this resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fees.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____, 2024.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST: _____
Ann Shimberg,
Administrative Assistant

Return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669



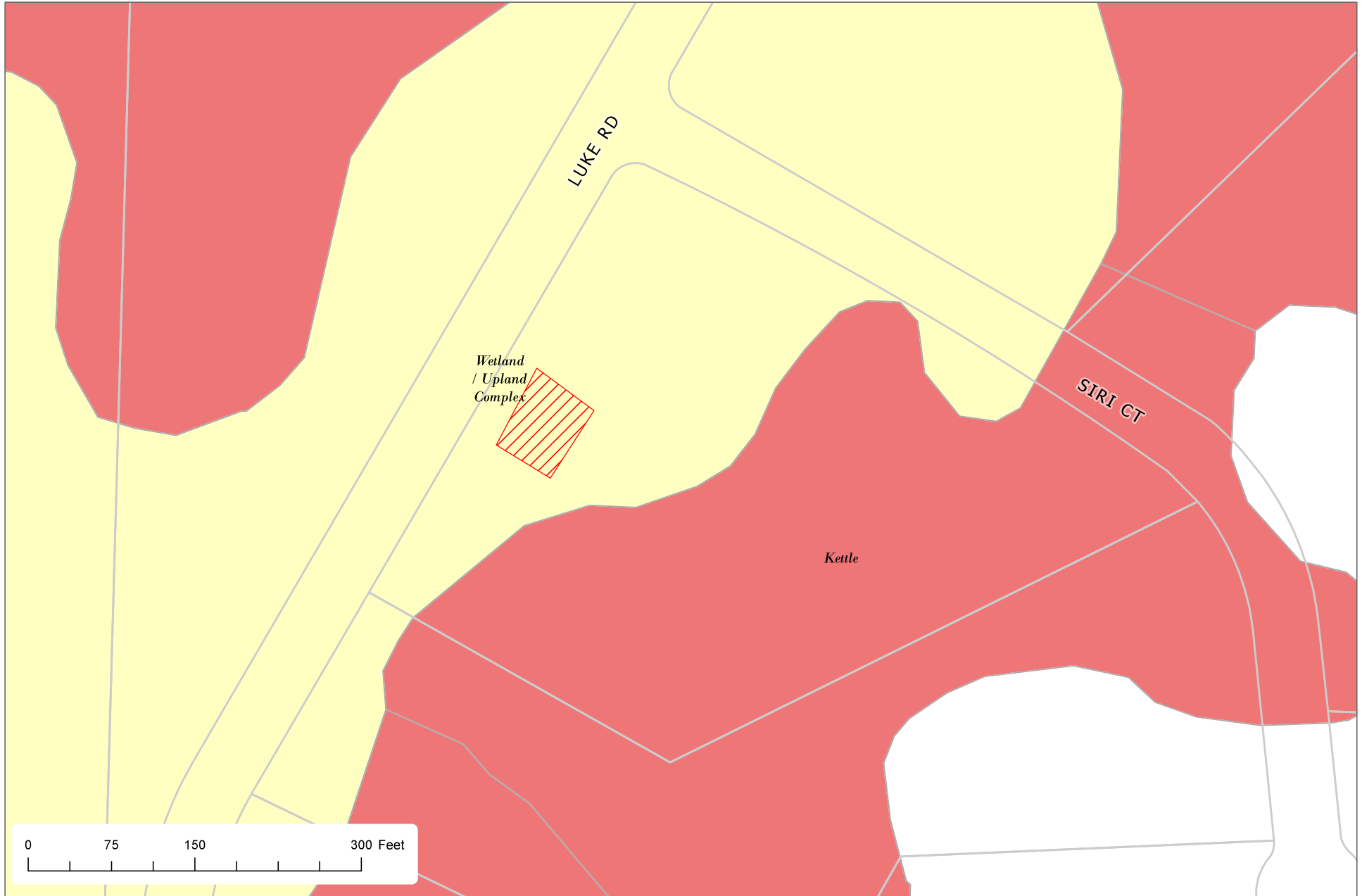
Aerial Map



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Wetlands



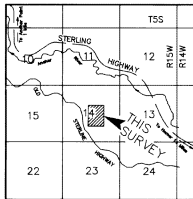
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Aerial with 5-foot Contours



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VICINITY MAP
SCALE: 1" = 1 mile USGS Seltovic C-4, C-5

LEGEND

- ✕ Found B.C. on G.I.P., GLO, 1918.
- Set 2 1/2" Alum. monument, 4469-S, 1996.
- Found B.C. on 2" pipe, TNH, 1974.
- ⊕ Found "X" in 18" diam. rock, GLO, 1918.
- Set 2" Al. Cap on 5/8" x 24" Rebar, 4469-S, 1996.
- † Set 5/8" x 24" Rebar, except at road centerline.

Notes

1. Building Setback: A setback of 20 ft. is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of the utility to use the easement.
3. No access to State maintained rights-of-way permitted unless approved by State of Alaska Dept. of Transportation.
4. Front 10 ft. of building setback and the entire building setback within 5 ft. of side lot lines is a utility easement.
5. The existing powerlines are the centerlines of 20 ft. wide electrical distribution line easements.
6. There is a general easement for electric lines or system and/or telephone lines together with the right to enter, maintain, repair and clear shrubbery defined on Page 150, Volume 21, Homer Recording District, no definite location.
7. **WASTEWATER DISPOSAL:** Conditions may not be suitable for onsite wastewater treatment and disposal. Any waste water treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

A septic tank, soil absorption system, vault or pit privy may not be placed within 100 ft., measured horizontally, of any natural or man-made lake, river, stream, slough or coastal water and must be placed a minimum of 4 ft. above the seasonally high ground water table.

Subject to any noted restrictions, the Alaska Department of Environmental Conservation approves this subdivision for plotting.

[Signature] EEA 8-26-96
SIGNATURE TITLE DATE

Plot Approval

This plot was approved by the Kenai Peninsula Borough Planning Commission at the meeting of June 10, 1996.

By: *[Signature]*
Authorized Official

Certificate of Ownership and Dedication

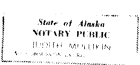
I hereby certify that I am the owner of the real property shown and described herein and that I hereby adopt this plan of subdivision and by my free consent dedicate all rights-of-way to public use and grant all easements to the use shown.

I further certify that Deeds of Trust affecting this property do not contain restrictions which would prohibit this subdivision, or require signature and approval of beneficiaries).

Paul Neal *[Signature]* Tony Neal
2396 Kachemak Bay Drive, Homer, AK 99603

Notary's Acknowledgement

Subscribed and sworn before me this 16 day of August, 1996 for Paul Neal III.



96-42
FILED
HOMER, REC. DIST. 20
DATE 10-7-1996
TIME 2:06 PM
Requested by MULLIKIN
Address HOMER, AK



LUKE'S WILDERNESS ACRES

The south 1/2 of the southwest 1/4 of the northeast 1/4 (S1/2 SW1/4 NE1/4) AND the northwest 1/4 of the southeast 1/4 (NW1/4 SE1/4) of Section 14, T55, R15W, Seward Meridian, Homer Recording District, Third Judicial District, Alaska.
Containing 60,000 Acres

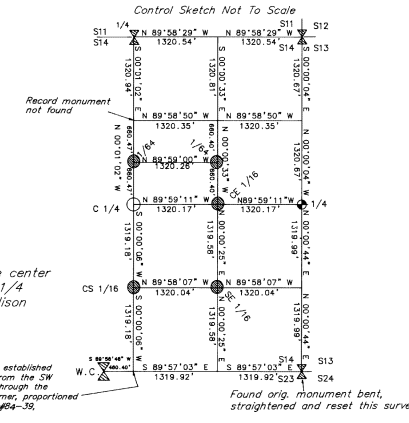
SURVEYOR: MULLIKIN SURVEYS
Donald E. Mullikin, R.L.S.
P.O. Box 790
Homer, AK 99603

SURVEYED FOR: Tony Neal
2396 Kachemak Bay Dr.
Homer, AK 99603-8026

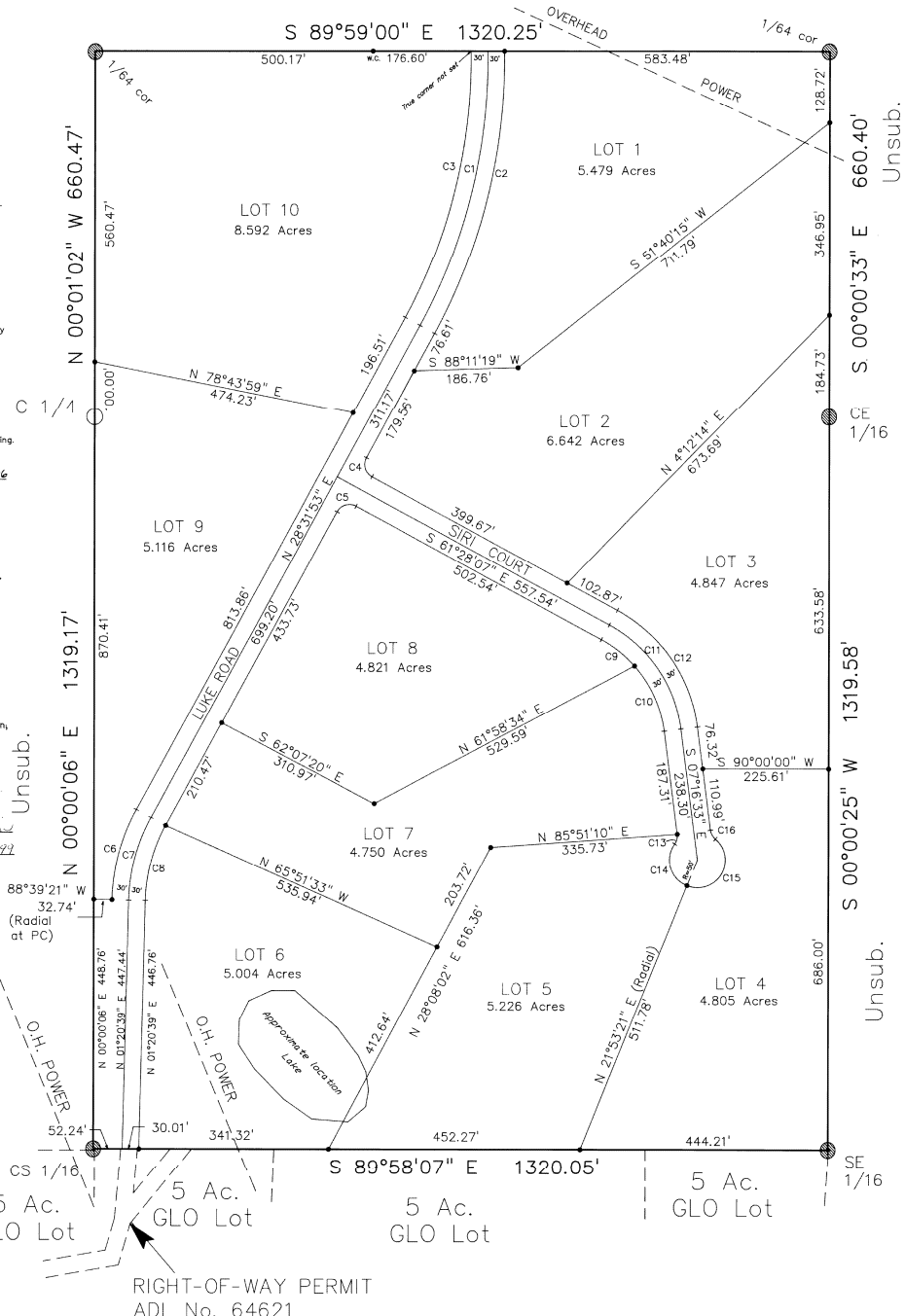
DATE: May 1996 SCALE: 1" = 100' DRAWN: TM
Fb# 127 DWG: neal K.P.B. File No. 96-100

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	1000.00'	514.93'	253.31'	509.28'	S13°46'47" W	29°30'21"
C2	1030.00'	529.86'	270.93'	524.04'	N13°47'39" E	29°28'28"
C3	970.00'	500.00'	255.69'	494.48'	N13°43'55" E	29°32'02"
C4	25.00'	39.27'	25.00'	35.36'	N73°51'53" E	90°00'00"
C5	25.00'	39.27'	25.00'	35.36'	N73°51'53" E	90°00'00"
C6	360.00'	170.82'	87.05'	169.22'	S14°56'16" W	27°11'14"
C7	330.00'	156.59'	79.80'	155.12'	S14°56'16" W	27°11'14"
C8	300.00'	142.35'	72.54'	141.02'	N14°56'16" E	27°11'14"
C9	220.00'	76.84'	38.82'	76.43'	S51°27'44" E	20°00'45"
C10	220.00'	131.24'	67.64'	129.31'	S24°21'57" E	34°10'49"
C11	250.00'	236.46'	127.91'	227.74'	S34°22'20" E	54°11'34"
C12	280.00'	264.84'	143.26'	255.07'	S34°22'20" E	54°11'34"
C13	25.00'	18.69'	9.81'	18.26'	N14°09'28" E	42°00'00"
C14	50.00'	90.47'	63.62'	78.62'	N16°16'36" W	103°40'07"
C15	50.00'	141.37'	315.66'	98.77'	N20°53'32" E	161°59'54"
C16	25.00'	18.69'	9.81'	18.26'	S28°41'53" E	42°00'00"

Basis of Bearing is from the computed line between the center 1/4 corner of Section 14 to the witness corner to the 1/4 corner common to Sections 14 and 23, according to Allison Subdivision, Plat #84-39, H.R.D.



Unsub.



HM 96-42