



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Planning Commission

Jeremy Brantley, Chair – Ridgeway/Funny River/Sterling District
Pamela Gillham – Kalifornsky/Kasilof District
Virginia Morgan, Parliamentarian – Cooper Landing/Hope/East Peninsula District
Dawson Slaughter – South Peninsula District
Jeffery Epperheimer - Nikiski District
Diane Fikes – City of Kenai
Franco Venuti – City of Homer
Paul Whitney – City of Soldotna
Troy Staggs – City of Seward

Monday, October 28, 2024

7:30 PM

Betty J. Glick Assembly Chambers

Zoom Meeting ID: 907 714 2200

Remote participation will be available through Zoom, or other audio or video means, wherever technically feasible

The hearing procedure for the Planning Commission public hearings are as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDA

All items marked with an asterisk () are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.*

If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.

1. Time Extension Request - None
2. Planning Commission Resolutions - None
3. Plats Granted Administrative Approval

- [KPB-6408](#)
- a. Alexander Wilson Homestead 2024 Addition; KPB File 2024-023
 - b. Bear Cove Airpark Addition; KPB File 2024-014
 - c. Butterfly Meadows No. 3; KPB File 2023-056
 - d. SLEV Plat Associated w/ the South 400' of the East 400' of Gov. Lot 1; KPB File 2019-025V

Attachments: [C3. Admin Approvals](#)

4. Plats Granted Final Approval (KPB 20.10.040)

- [KPB-6409](#)
- a. Mariners Walk Subdivision 2022 Replat; KPB File 2022-085R1
 - b. River View Subdivision 2024 Replat; KPB File 2023-135
 - c. Stoneburr Subdivision Holben Replat; KPB File 2024-044

Attachments: [C4. Final Approvals](#)

5. Plat Amendment Request - None
6. Commissioner Excused Absences - None

7. Minutes

[KPB-6410](#) October 14, 2024 PC Minutes

Attachments: [C7. 10-14-24 PC Minutes](#)

D. OLD BUSINESS - None**E. NEW BUSINESS**

1. [KPB-6411](#) Building Setback Encroachment Permit; KPB File 2024-102
PC Resolution 2024-16
Segesser Surveys / Milliron
Request: Permits a portion of a shed to remain within the 20' setback & allows for the construction of a 32' x 36' garage within the same setback on Lot 1, Block 5 on Willow Brook North Addition, Plat KN 98-42
Location: Northridge Drive, Kalifornsky Area
Attachments: [E1. BSEP Willow Brook North Add](#)
2. [KPB-6412](#) Building Setback Encroachment Permit; KPB File 2024-110
PC Resolution 2024-17
Peninsula Surveying / Spillet
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
Attachments: [E2. BSEP Lukes Wilderness Acres Packet](#)
3. [KPB-6413](#) Ordinance 2024-19-18: Authorizing the acquisition of real property located adjacent to the Chapman School Campus in Anchor Point for future school use, and appropriating \$850.00 from the general fund for the purchase.
Attachments: [E3. ORD 2024-19-18](#)
4. [KPB-6414](#) Ordinance 2024-XX: Amending the Diamond Willow – Fairfield Local Option Zoning District to create the Diamond Willow – Kenai Wellness Estates Addition Local Option Zoning District by changing three parcels from a Single Family Residential District (R-1) to a Mixed-Use District (C-3)
Attachments: [E4. ORD 2024-XX Kenai Wellness Estates Packet](#)

F. PLAT COMMITTEE REPORT - Plat Committee will review 7 plats**G. OTHER****H. PUBLIC COMMENT/PRESENTATION**

(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)

I. DIRECTOR'S COMMENTS**J. COMMISSIONER COMMENTS****K. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS****NO ACTION REQUIRED****NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING**

The next regularly scheduled Planning Commission meeting will be held Monday, November 18, 2024 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

CONTACT INFORMATION**KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: planning@kpb.us

website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

C. CONSENT AGENDA

***3. Plats Granted Administrative Approval**

- a. Alexander Wilson Homestead 2024 Addition; KPB File 2024-023**
- b. Bear Cove Airpark Addition; KPB File 2024-014**
- c. Butterfly Meadows No. 3; KPB File 2023-056**
- d. SLEV Plat Associated w/ the South 400' of the East 400' of Gov. Lot 1; KPB File 2019-025V**



ADMINISTRATIVE APPROVAL

Subdivision: Alexander Wilson Homestead 2024 Addition
KPB File 2024-023
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on March 25, 2024. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, October 16, 2024.

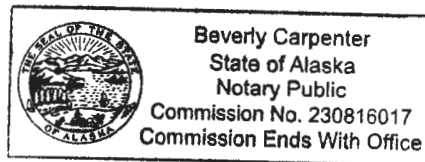
Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 16 day of October 2024 by
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



ADMINISTRATIVE APPROVAL

Subdivision: Bear Cove Airpark Addition
KP File 2024-014
HM Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on February 26, 2024. Approval for the plat is valid for two years from the date of approval.

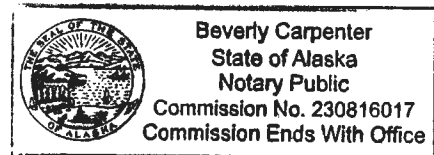
The final plat complied with conditions of preliminary approval and KP Title 20 (Subdivisions); therefore, per KP 20.60.220, administrative approval has been granted by the undersigned on Tuesday, October 15, 2024.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 15 day of October 2024 by Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: with office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KP official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



ADMINISTRATIVE APPROVAL

Subdivision: Butterfly Meadows No 3
KPB File 2023-056
Homer Recording District

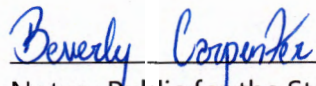
The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on June 12, 2023. Approval for the plat is valid for two years from the date of approval.

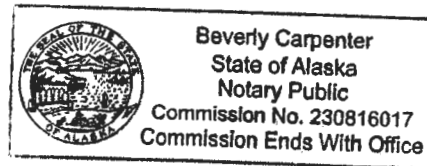
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Friday, October 11, 2024.


Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2024 by
Vince Piagentini.


Notary Public for the State of Alaska



My commission expires: with office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



ADMINISTRATIVE APPROVAL

Subdivision: Section Line Easement Vacation Plat associated with the South 400 Feet of the East 400 Feet of Government Lot 1
KPB File 2019-025V
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 25, 2019. Approval for the plat is valid for four years from the date of approval. A time extension request was received and approved that extended the preliminary approval to November 25, 2025.

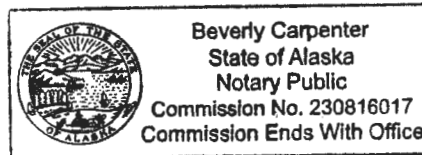
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Friday, October 11, 2024.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2024 by Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: with office

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C. CONSENT AGENDA

***4. Plats Granted Final Approval**

- a. Mariners Walk Subdivision 2022 Replat; KPB File 2022-085R1**
- b. River View Subdivision 2024 Replat; KPB File 2023-135**
- c. Stoneburr Subdivision Holben Replat; KPB File 2024-044**



FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

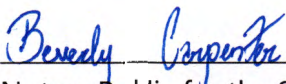
Subdivision: Mariners Walk Subdivision 2022 Replat
KPB File 2022-085R1
Homer Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on Friday, October 11, 2024.

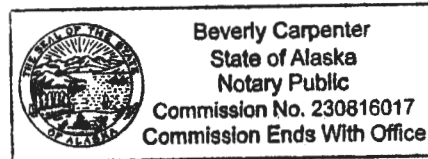

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2024 by
Vince Piagentini.


Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: River View Subdivision 2024 Replat
KPB File 2023-135
Kenai Recording District

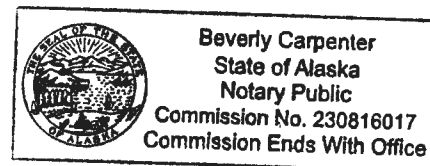
The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on Friday, October 11, 2024.

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 11 day of October 2024 by
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: with office

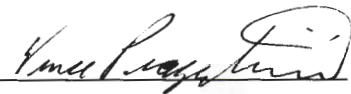
The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

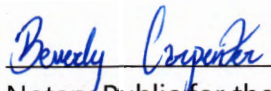
Subdivision: Stoneburr Subdivision Holben Replat
KP File 2024-044
Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KP Title 20; therefore, final approval has been granted by the undersigned on Friday, October 18, 2024.

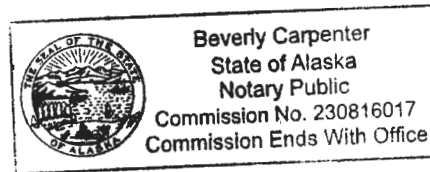

Vince Piagentini
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 18 day of October 2024 by Vince Piagentini.


Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KP official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

C. CONSENT AGENDA

***7. Minutes**

a. October 14, 2024 Planning Commission Meeting

Kenai Peninsula Borough Planning Commission

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

OCTOBER 14, 2024
7:30 P.M.
UNAPPROVED MINUTES

AGENDA ITEM A. CALL TO ORDER

Commissioner Brantley called the meeting to order at 7:30 p.m.

AGENDA ITEM B. ROLL CALL

Commissioners Present

Jeremy Brantley, Sterling / Funny River
Virginia Morgan, Cooper Landing/Hope/Eastern Peninsula District
Pamela Gillham, Kalifornsky/Kasilof District
Jeffery Epperheimer, Nikiski District
Dawson Slaughter, South Peninsula District
Diane Fikes, City of Kenai
Paul Whitney, City of Soldotna
Franco Venuti, City of Homer

With 8 members of a 9-member seated commission in attendance, a quorum was present.

Staff Present

Robert Ruffner, Planning Director
Walker Steinhage, Deputy Borough Attorney
Vince Piagentini, Platting Manager
Jennifer Robertson, LMD Administrative Assistant
Ann Shirnberg, Planning Administrative Assistant

AGENDA ITEM C. CONSENT & REGULAR AGENDA

- *3. Plats Granted Administrative Approval**
- *6. Commissioner Excused Absences**
 - a. City of Soldotna – Vacant
- *7. Minutes**
 - a. September 23, 2024 Planning Commission meeting minutes

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record. He then asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no one wishing to comment, Chair Brantley brought it back to the commission for a motion.

MOTION: Commissioner Epperheimer moved, seconded by Commissioner Morgan to approve the consent and regular agendas.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Whitney, Venuti,
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**ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT
PETALUMA ACRES KOONZ ADDITION LOT 1-D**

KPB File No.	2024-103
Planning Commission Meeting:	October 14, 2024
Applicant / Owner:	Kevin Wondzell & Tyler & Mackenzie Kreitinger
Surveyor:	Johnson Surveying
General Location:	Canoe Avenue & Francis Street, Sterling Area
Parent Parcel No.:	065-240-44
Legal Description:	T 05N R 08W SEC 14 Seward Meridian KN 2023033 Petaluma Acres Koonz Addn Lot 1-D
Assessing Use:	Residential
Zoning:	Unrestricted
Resolution	2024-15

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Brock McKee; 29473 Canoe Ave. E., Sterling, AK 99672: Mr. McKee is a neighboring landowner and spoke in opposition to approving this permit. He stated that the structures are on pilings and could easily be moved.

Jeffrey Veal; 29366 Bing Dr., Sterling AK 99672: Mr. Veal is a neighboring landowner and spoke in opposition to approving this permit.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Morgan moved, seconded by Commissioner Whitney to adopt Planning Commission Resolution 2024-15, granting a building setback encroachment permit to a portion of the 20-foot building setback on Lot 1-D Petaluma Acres Koonz Addition, Plat KN 2023-033, adopting and incorporating by reference the staff report, staff recommendation and citing findings 1and 5-8 in support of standard one, findings 2-4, 6 & 8 in support of standard two and findings 2-8 in support of standard three.

Commissioner Venuti asked staff if they had given the applicant any options regarding ways to remedy the encroachment. Platting Manager Piagentini stated the applicant informed him that the builder did not do a survey before building the structure and made a mistake and built it in the setback. When the applicant had an as-built done it was then discovered that a portion of the structure was built in the setback. The applicant wants to remedy the situation and this was the option he chose.

Commissioner Morgan asked if staff does a site visit as a part of the application process. Platting Manager Piagentini stated that site visits are not required. Applicant's must submit a recent as-built showing where the structures are located. Commissioner Morgan replied the two testifiers stated the structures were on pilings. She doesn't see any reason why the structures can't be moved. She then stated she is not inclined to support this request.

Commissioner Slaughter stated he understands that the contractor did not do his due diligence. If the structures had been built years ago and not just recently, he might be inclined to support the request. However, these structures were recently built and are on pilings and can be moved. He wishes the applicant had been in attendance so that he could have asked some additional questions to gather more information but he is not. He stated that he is not inclined to support this request.

Commissioner Brantley stated that code gives three standards that must be met in order to approve a permit. Findings are then supplied showing that those three standards are met. None of the standards address whether or not we need to take into consideration how long the structure has been there. It can be frustrating when code does not address some areas of concern. He then stated he doesn't see any findings that oppose the request.

Commissioner Whitney noted that the neighboring property has structures even father into the setback. Platting Manager Piagentini stated those structures were permitted under PC Resolution 2002-16.

Commissioner Epperheimer stated he appreciated Commissioner Brantley bringing up the three standards, after reviewing the standards, he believes the findings supplied by the applicant do meet them. As much as he doesn't approve of individuals building outside of borough standards, he is inclined to support this request.

Commissioner Fikes asked if the commission has taken into consideration that the road here is not fully developed. Maybe the encroachment doesn't create issues with how the road is now, but it might create issues in the future. Does the commission have to take this into consideration? Commissioner Brantley replied that the commission has the leeway to take into consideration future road development. He then stated looking at how Canoe Street is platted he doesn't believe that the permit would create any major issues. He noted that Canoe Street is pretty straight and the surrounding area is pretty level. He didn't see any sightline or road maintenance issues.

Commissioner Epperheimer noted that one of the testifiers had concerns about the encroachment going into the right-of-way. The encroachments are 9.2 feet back from the edge of the right-of-way. The encroachments do go into the utility easement but the utilities have not objected to the permit. Even if the road were to be fully developed the encroachment would be about 30' back from the road edge.

Commissioner Brantley asked if the commission choose to deny the permit would we have to supply findings in support of the denial. Or can the commission just state that they don't believe that the findings submitted by the applicant meet the standards.

Borough Attorney Walker Steinhage replied the threshold question is whether or not the applicant has met the burden of proof showing that each of the three standards have been met. If the planning commission determines that the applicant has not met the burden of proof that all three standards have been met, the denial can be based on that. If the planning commission wishes to supply additional findings in support of the denial, they may but the commission is not required to do so. Building setback encroachment permits are an exception to the code. Since they are an exception, they should only be approved after due consideration of the standards and substantial evidence has been supplied that they are met.

Commissioner Whitney stated that his first inclination is to deny the permit. However, taking into consideration that a previous planning commission approved an even larger encroachment permit on the property next door, he is somewhat divided and leaning toward possibly approving the request.

Commissioner Morgan noted that the encroachment permit on the property next door was granted 22 years ago. If in another 22 years this road is built, we will have helped create an even bigger problem rather than stopping it when we should have. Just because a road has not yet been built, it doesn't mean that we should not be thinking about the future. The burden of proof is on the applicant and if something hasn't been constructed yet, she doesn't know if they can prove it.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION FAILED BY MAJORITY VOTE:

No - 5	Fikes, Morgan, Slaughter, Whitney, Venuti,
Yes - 3	Brantley, Epperheimer, Gillham

**ITEM #2 – ORDINANCE 2024-28
ADOPTING THE UPDATED 2024 KENAI PENINSULA BOROUGH HAZARD MITIGATION PLAN, A
MULTI-JURISDICTIONAL PLAN INCLUDING THE CITIES OF SELDOVIA & SEWARD**

Staff report given by Mary Toll

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

MOTION: Commissioner Gillham moved, seconded by Commissioner Morgan to forward to the Assembly a recommendation to adopt Ordinance 2024-28 adopting the updated 2024 Kenai Peninsula Borough Hazard Mitigation Plan, a multi-jurisdictional plan including the cities of Seldovia and Seward.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Whitney, Venuti
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AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham report that the committee reviewed and granted preliminary approval to 9 plats.

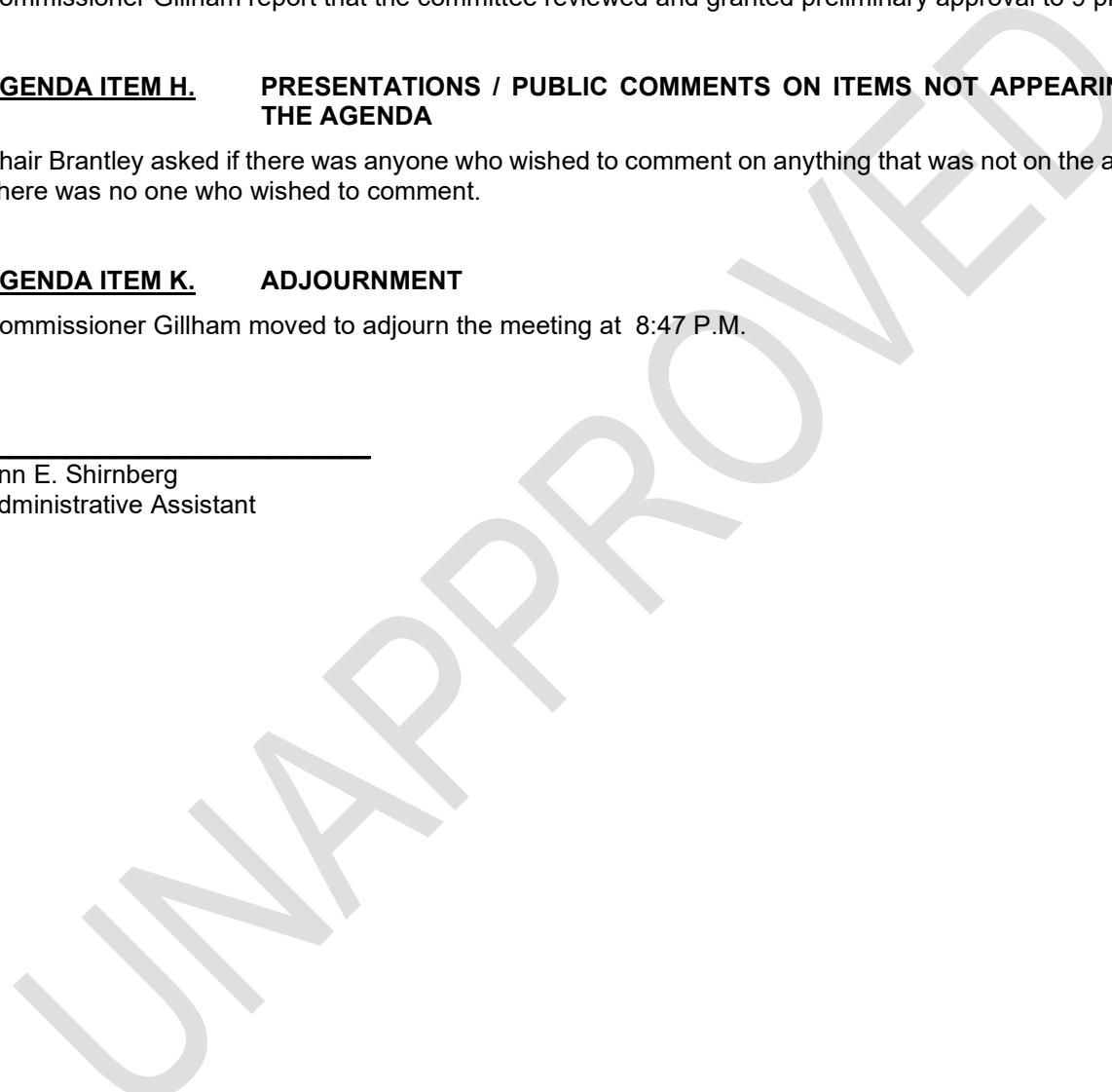
AGENDA ITEM H. PRESENTATIONS / PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA

Chair Brantley asked if there was anyone who wished to comment on anything that was not on the agenda. There was no one who wished to comment.

AGENDA ITEM K. ADJOURNMENT

Commissioner Gillham moved to adjourn the meeting at 8:47 P.M.

Ann E. Shirnberg
Administrative Assistant



E. NEW BUSINESS

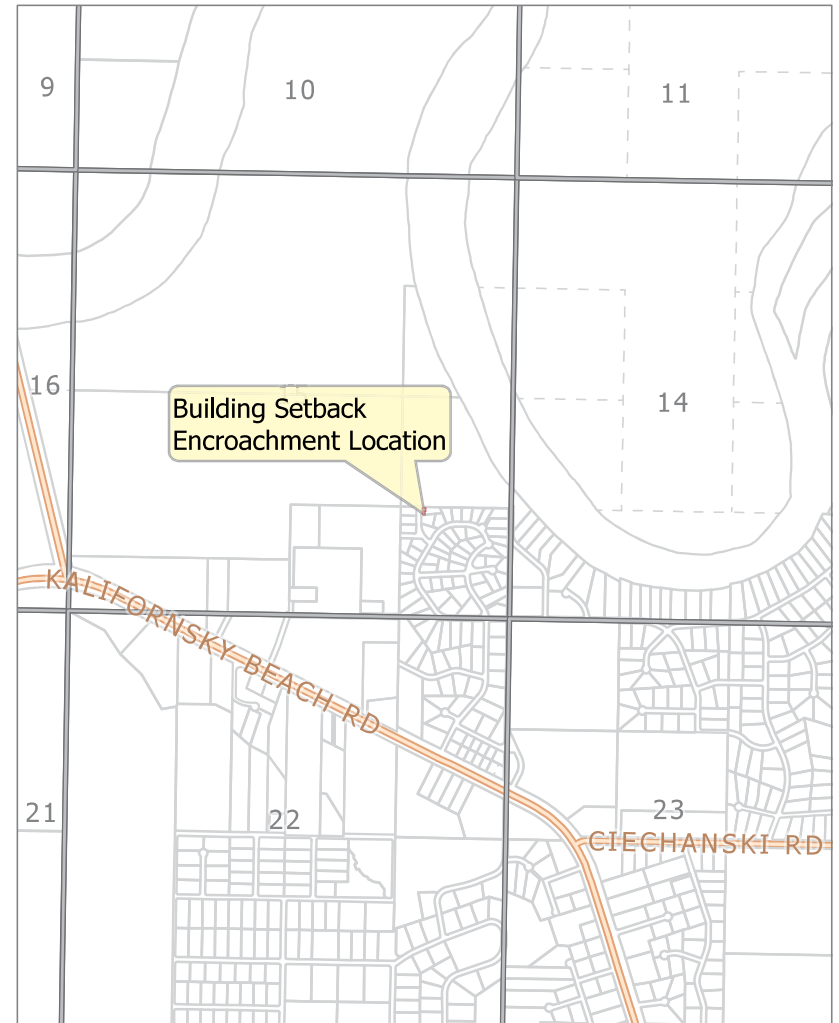
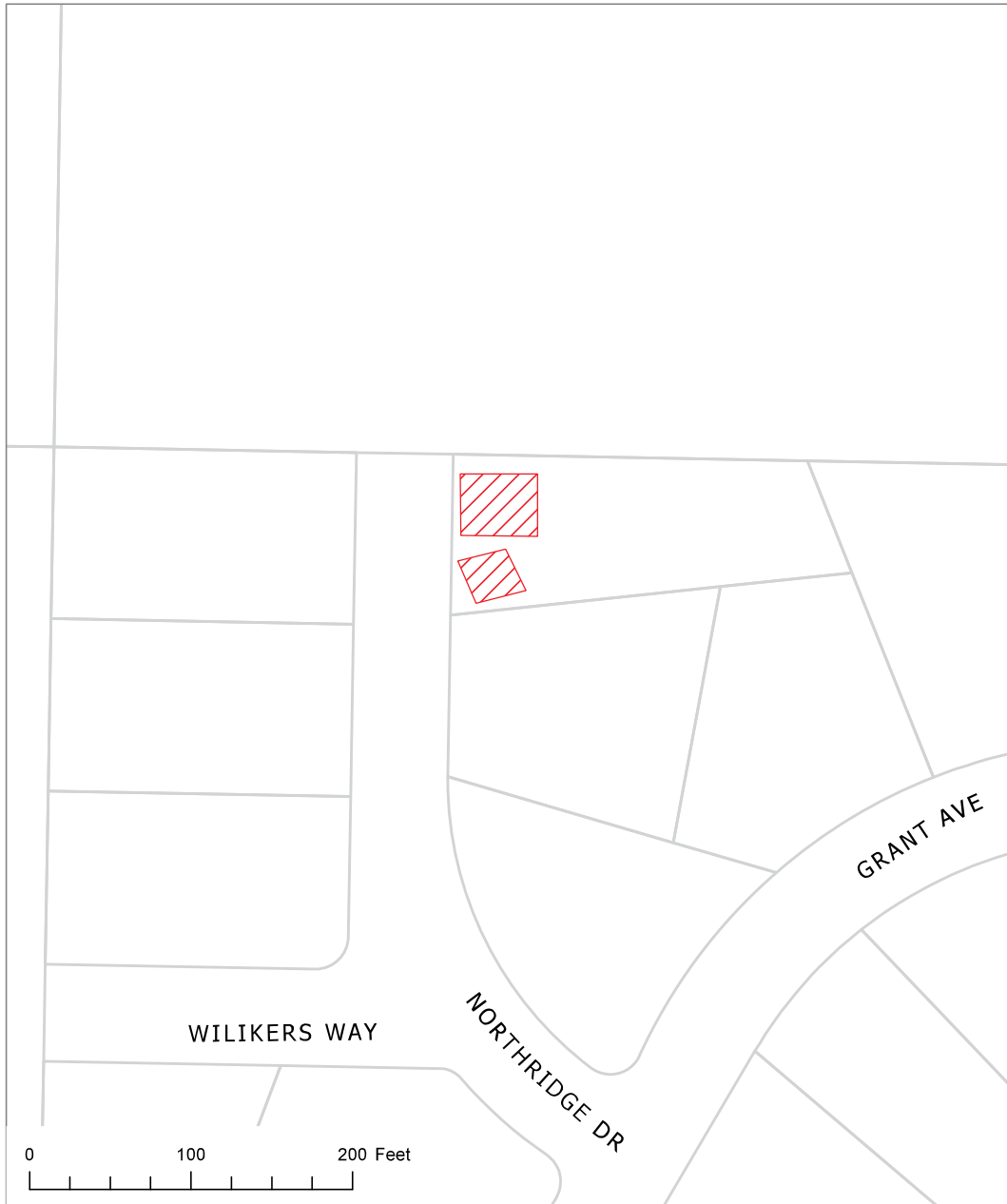
1. Building Setback Encroachment Permit

KPB File 2024-102PC Resolution 2024-16

Segesser Surveys / Milliron

Request: Permits a portion of a shed to remain within the 20' setback & allows for the construction of a 32' x 36' garage within the same setback on Lot 1, Block 5 on Willow Brook North Addition, Plat KN 98-42

Location: Northridge Drive, Kalifornsky Area



KPB File 2024-102
T 05N R 11W SEC 15
Kalifornsky

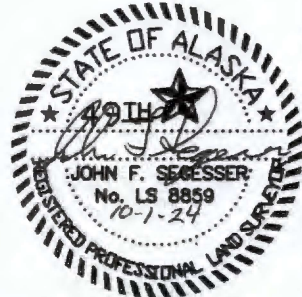
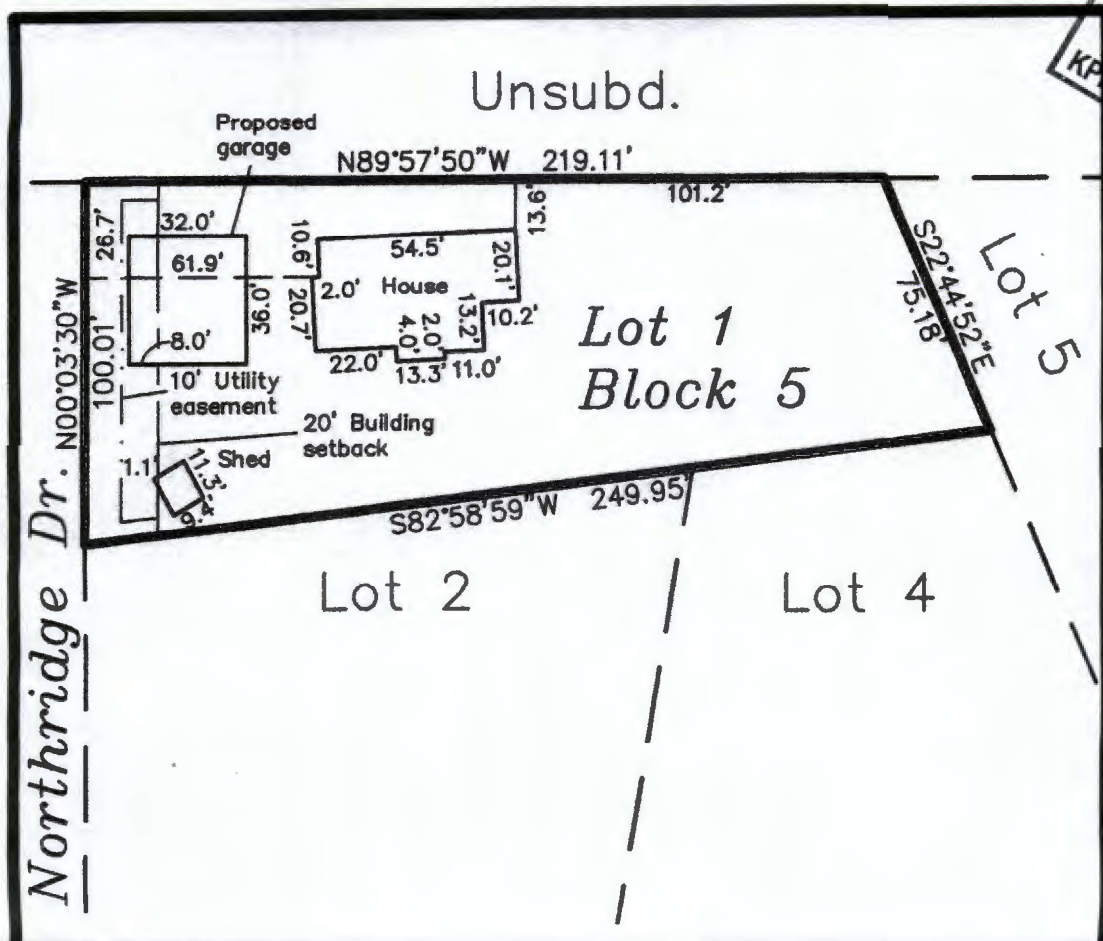


Aerial Map



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

RECEIVED
OCT 03 2024
KPB PLANNING DEPT.



ASBUILT CERTIFICATION

LEGEND		
● Found Rebar		
KENAI RECORDING DISTRICT		Plat: 98-42
Date: 10-1-24	Scale: 1"=50'	Drawn: JFS
Job: 24174	Book: 24-2	
SEGESSER SURVEYS 30485 ROSLAND ST. SOLDOTNA, AK 99669 (907) 262-3909		

I hereby certify that I have surveyed the following described property:

Lot 1 Block 5

Willow Brook North Addition

and that no encroachments exist except as indicated.

Exclusion Note:
It is the responsibility of the Owner to determine the existence of any easements, covenants, or restrictions which do not appear on the recorded subdivision plat. Under no circumstances should any data hereon be used for construction or for establishing boundary or fence lines.

AGENDA ITEM E. NEW BUSINESS

ITEM #1. – BUILDING SETBACK ENCROACHMENT PERMIT
WILLOW BROOK NORTH ADDITION LOT 1 BLOCK 5

KPB File No.	2024-102
Planning Commission Meeting:	October 28, 2024
Applicant / Owner:	Steve & Randy Milliron / Soldotna
Surveyor:	John Segesser / Segesser Surveys
General Location:	North of Kalifornsky Beach Rd off of Even Ln

Parent Parcel No.:	055-041-19
Legal Description:	Lot 1 Block 5 Willow Brook North Addition KN 98-42
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Resolution	2024-16

STAFF REPORT

Specific Request / Purpose as stated in the petition:

The existing right-of-way on the west side of the property is wooded land between the end of the Northridge Dr. and State Park land. The purpose for “building setback” does not apply to this section of the right-of-way.

Site Investigation:

There is an existing house and shed on the property. The shed is shown on the as-built as encroaching into the 20’ building setback line. The shed is 1.1’ into the building setback line.

There is a proposed garage shown encroaching across the building setback line. No distance across is given, but it looks to be approximately 9 feet into the building setback as it does not touch the 10’ utility easement.

According to KPB GIS data Northridge Dr stops at the south edge of Lot 1 Block 5. At the south edge of Lot 1 Block 5 and Lot 1 Block 7 across the street the road stops and continues as driveways into the respective properties. It appears borough maintenance stops with the road. No traffic can go through the right-of-way beyond the south end of Lot 1 Block 5 all traffic must turn around.

To the north of Lot 1 Block 5 and the entire north line of this subdivision is land owned by the State of Alaska DNR abutting to the Kenai River. This is one of two access points to the high side of the property, the rest is along the flats.

Staff Analysis:

The subdivision of Willow Brook North Addition KN98-42 was platted from the SE1/4 SE1/4 Section 15 and a part of NE1/74 NE1/4 Section 22 both in Township 5 North, Range 11 West, SM, Kenai Recording District, Kenai Peninsula Borough, Alaska. Lot 1 Block 5 is located on the northern border of the subdivision.

The terrain of Lot 1 Block 5 is relatively flat with a slight slope to the north towards the DNR land.

The plat is in the Kalifornsky APC which is not currently active.

Applicant Findings:

1. East side of property contains the septic tank and leech field
2. Cost of extending the driveway to the east side of the lot
3. Lot is narrower on the east side and would limit the size of garage.

Staff Findings:

4. No traffic goes past property
5. Road is straight along this segment, not a sight distance issue
6. Garage location will not be a hazard to the public.
7. Shed should be moved to be out of setback
8. There looks to be room from house to garage, to place garage closer to house outside setback.
9. Road stops short of lot, only driveways in front of lot.
10. Setback line was created by Willow Brook North Addition KN98-42

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 4, 6 & 9 appear to support this standard.
 2. The building setback encroachment may not interfere with sight lines or distances.
Findings 5 & 9 appear to support this standard.
 3. The building setback encroachment may not create a safety hazard.
Findings 5, 6 & 9 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: The RSA does not manage setback. The allowance presents little impact to the current level of development other than limited maintenance equipment turnaround space. However, Northridge Dr. termination provides access for the development of unsubdivided parcel 05503107 to the North and likely a portion of 05503101 to its West. This appears to be property prime for potential development, raising the likelihood of future ROW extension.
SOA DOT Comments	No comment
KPB River Center review	A. Floodplain Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: Per the new FEMA maps, this is not within a flood hazard area. B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments
State of Alaska Fish & Game	

Addressing	Reviewer: Leavitt, Rhealyn Affected Addresses: 37254 NORTHRIDGE DR 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
Code Compliance	Reviewer: Ogren, Eric Comments: No new construction should be allowed in the 20ft set back. The existing shed should be moved from the setback. The new construction should be designed as to preserve the setback.
Planner	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.
Assessing	Reviewer: Windsor, Heather Comments: No comment
Advisory Planning Commission	

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 grant approval for the portion of structures within the 20 foot building setback as shown on the 2024 as-built survey, subject to:

1. Compliance with KPB 20.10.110 sections F and G.
2. Providing a current as-built to be used as an exhibit drawing prepared, signed, and sealed by a licensed land surveyor after construction is complete.
3. The recording fees be submitted to the Kenai Peninsula Borough Planning Department for the recording of the resolution.
4. Failure to provide an as-built so that it may be recorded within one year approval will result in a new application, hearing, and approval.
5. Additional encroachments found on the new as-built will require a new hearing.

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 2024-16
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR LOT 1 BLOCK 5, WILLOW BROOK NORTH ADDITION, (KN 0980042); IN NE 1/4 S15, T05N, R11W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2024-102

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, Stephen D and Randy M Milliron of Soldotna, AK requested a building setback encroachment permit to the 20-foot building setback granted by Willow Brook North Addition, (KN 0980042); 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 KN 0980042 Lot 1 Block 5 is hereby excepted to accommodate only the encroaching portion of the 11.3 X 9.4 shed and 32 X 36 proposed garage.

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.

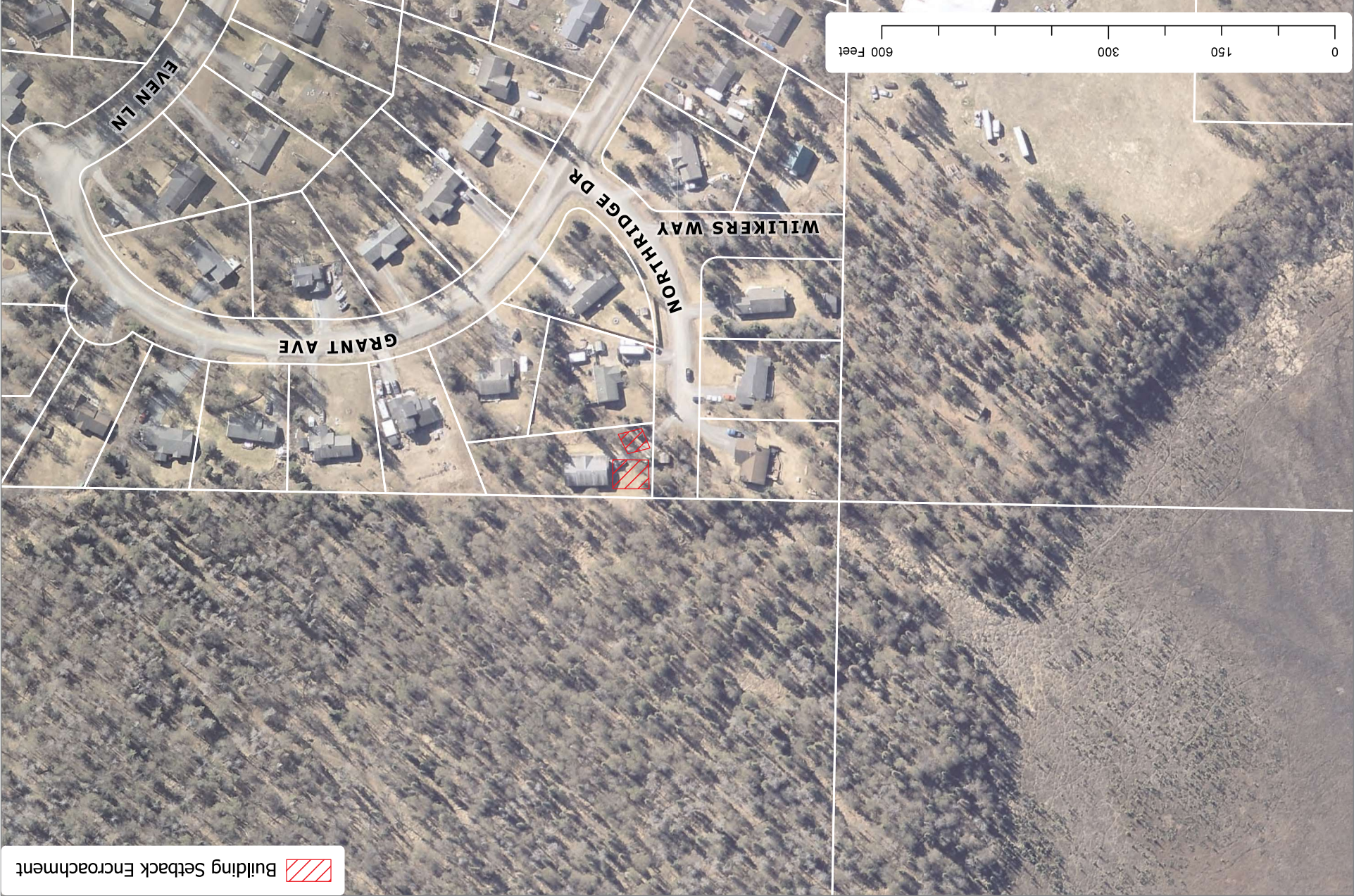
Section 6. That this resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fees.

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



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

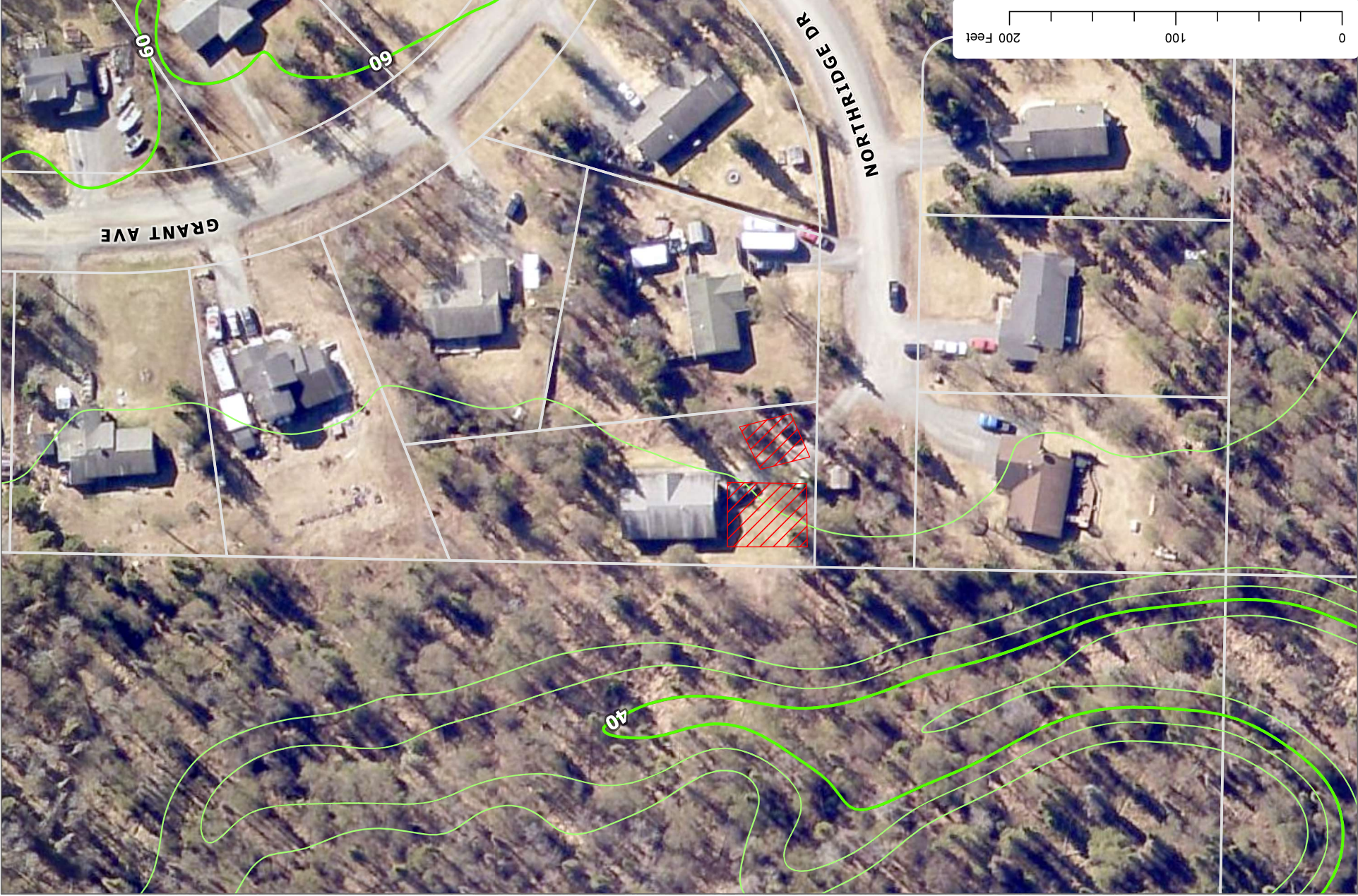


Kenai Peninsula Borough
Planning

E1-9

Aerial with 5-foot Contours

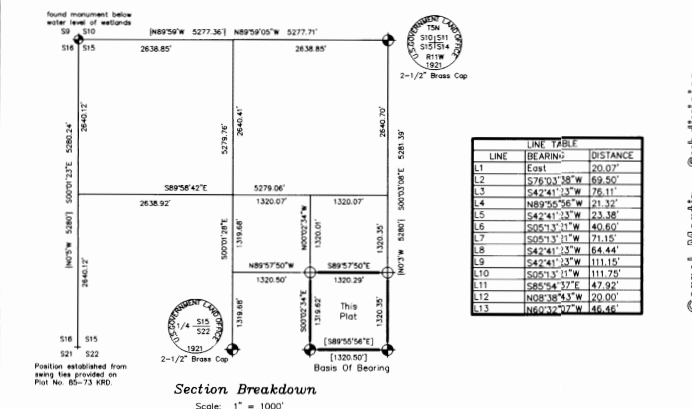
KPB File 2024-102
10/8/2024



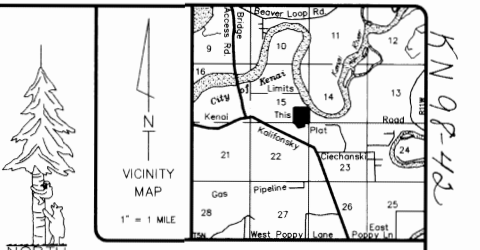
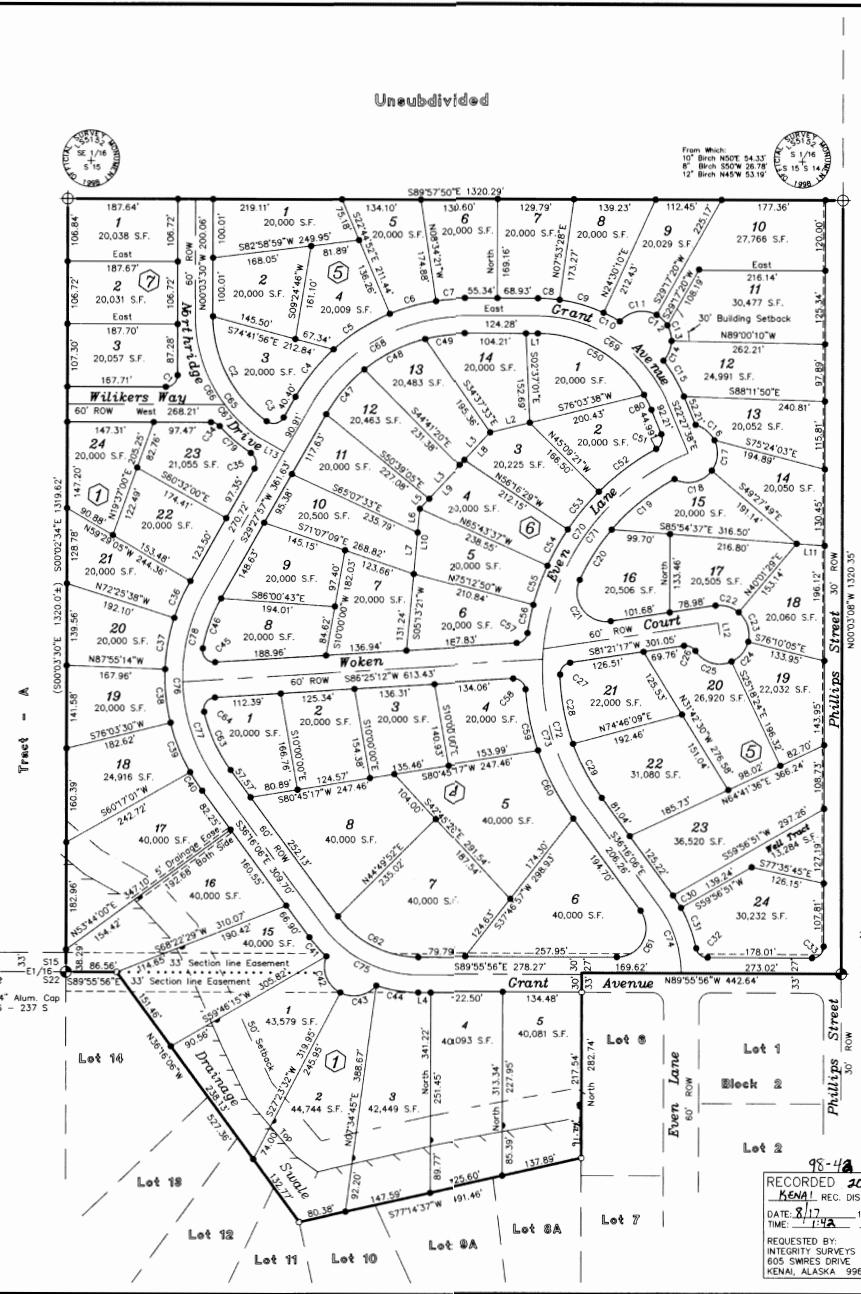
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD LENGTH	CHORD BEARING	CURVE	DELTA	RADIUS	LENGTH	CHORD LENGTH	CHORD BEARING
C1	90°32'30"	20.00'	31.44'	28.30'	N44°58'19"E	C41	10°51'50"	230.00'	43.61'	43.54'	S41°42'01"E
C2	54°22'19"	220.00'	208.77'	201.03'	S27°14'40"E	C42	83°04'38"	50.00'	72.50'	66.31'	S21°34'09"E
C3	96°06'14"	20.00'	53.55'	39.25'	N77°31'04"E	C43	83°04'38"	50.00'	67.06'	62.15'	N78°58'07"E
C4	18°01'44"	330.00'	103.84'	103.41'	S38°28'49"W	C44	18°04'44"	230.00'	72.57'	72.27'	S80°53'34"E
C5	19°45'28"	330.00'	113.90'	113.23'	S57°22'24"W	C45	103°45'02"	20.00'	36.22'	31.47'	S41°42'17"E
C6	14°10'30"	330.00'	81.84'	81.43'	S74°20'24"W	C46	191°74'37"	270.00'	90.93'	90.50'	S19°20'05"W
C7	08°34'21"	330.00'	49.37'	49.33'	S85°42'49"W	C47	217°02'56"	270.00'	100.60'	100.02'	S40°08'25"W
C8	07°53'28"	270.00'	37.19'	37.16'	N86°03'18"W	C48	244°22'24"	270.00'	116.66'	115.75'	S63°31'34"W
C9	16°38'42"	270.00'	78.28'	78.01'	N73°34'11"W	C49	142°54'45"	270.00'	88.00'	67.87'	S62°47'07"W
C10	06°03'02"	270.00'	33.34'	33.32'	N62°19'19"W	C50	94°55'26"	210.00'	210.00'	209.25'	N60°07'05"W
C11	79°11'44"	50.00'	69.11'	63.74'	S79°38'09"W	C51	83°37'14"	20.00'	29.19'	26.67'	N19°20'58"E
C12	30°02'41"	50.00'	26.22'	25.92'	N45°44'37"W	C52	161°85'27"	430.00'	122.45'	122.04'	S53300'07"W
C13	31°43'06"	50.00'	27.68'	27.33'	N51°01'44"W	C53	141°51'44"	20.00'	83.44'	63.31'	S5397'105"W
C14	42°36'16"	50.00'	37.19'	36.33'	N21°15'17"E	C54	09°27'08"	430.00'	70.94'	70.86'	S5389'37"W
C15	15°03'10"	270.00'	70.83'	70.73'	N24°59'13"W	C55	09°29'13"	430.00'	71.20'	71.12'	S113'30'47"W
C16	48°38'03"	50.00'	42.73'	41.44'	N51°06'25"W	C56	06°32'22"	430.00'	49.08'	49.05'	S113'30'47"W
C17	62°48'40"	50.00'	54.81'	52.11'	N04°46'56"E	C57	78°10'24"	20.00'	27.49'	23.27'	N47°20'00"E
C18	81°33'35"	50.00'	71.17'	66.30'	N76°58'04"E	C58	89°00'58"	20.00'	31.07'	28.04'	N49°04'26"W
C19	21°26'54"	370.00'	138.51'	137.70'	S50°51'19"W	C59	141°11'34"	430.00'	106.52'	106.24'	S113'39'57"E
C20	19°45'28"	370.00'	101.76'	101.44'	S42°15'07"W	C60	17°30'22"	430.00'	131.38'	130.67'	S27°30'56"E
C21	12°30'06"	50.00'	102.35'	87.89'	S37°08'10"E	C61	178°20'10"	50.00'	110.25'	89.27'	N48°53'59"E
C22	48°40'12"	50.00'	42.47'	41.21'	N74°18'37"W	C62	55°39'50"	170.00'	159.22'	153.47'	S63300'01"E
C23	63°48'26"	50.00'	55.68'	52.85'	N18°04'18"W	C63	23°20'51"	270.00'	109.26'	109.26'	S2435'40"E
C24	54°30'15"	50.00'	45.82'	44.43'	N40°05'07"E	C64	92°20'27"	20.00'	34.88'	30.49'	S384'44'58"W
C25	79°38'29"	50.00'	69.60'	64.04'	S73°50'34"E	C65	26°24'59"	250.00'	246.14'	236.32'	S28115'00"E
C26	64°37'23"	20.00'	22.26'	21.38'	N66°20'02"E	C66	37°24'35"	250.00'	161.78'	158.97'	S18354'47"E
C27	82°43'01"	20.00'	28.87'	26.43'	S39°59'46"W	C67	19°20'04"	250.00'	84.36'	83.96'	S4648'07"E
C28	18°41'39"	370.00'	120.72'	120.19'	S10°42'34"E	C68	60°32'03"	300.00'	316.96'	302.32'	S694356'W
C29	161°42'43"	370.00'	104.69'	104.34'	S28°09'44"E	C69	71°02'29"	240.00'	282.91'	266.81'	N5613'49"W
C30	08°14'24"	230.00'	25.05'	25.04'	N33°08'54"W	C70	65°03'33"	400.00'	454.20'	430.19'	S3500'35"E
C31	18°27'46"	230.00'	74.11'	73.79'	N20°47'48"W	C71	62°32'58"	400.00'	436.60'	415.25'	S3816'12"E
C32	72°22'00"	20.00'	27.36'	26.27"	S50°44'24"E	C72	41°18'09"	400.00'	286.11'	281.63'	S15388'05"E
C33	90°11'00"	20.00'	31.48'	28.33'	N45°02'24"E	C73	88°44'42"	400.00'	270.50'	265.39'	S1835'20"E
C34	47°57'10"	20.00'	16.24'	16.25"	N66°01'28"W	C74	35°21'32"	200.00'	123.43'	121.48'	N1835'20"E
C35	80°56'06"	20.00'	30.00'	27.26"	N133°06'06"W	C75	54°39'50"	200.00'	187.32'	180.55'	S63306'01"E
C36	11°33'35"	330.00'	68.60'	68.38"	S23°33'19"W	C76	65°44'03"	300.00'	344.18'	325.62'	S30234'05"E
C37	15°29'36"	330.00'	89.23'	88.96"	S09°49'34"W	C77	34°29'18"	300.00'	180.58'	177.87'	S19101'27"E
C38	16°01'16"	330.00'	92.27'	91.97"	S05°55'52"E	C78	31°14'45"	300.00'	163.60'	161.88"	S1350'34"E
C39	15°46'29"	330.00'	90.88'	90.57"	S21°49'44"E	C79	14°29'19"	280.00'	70.48'	70.27"	S4819'30"E
C40	06°33'07"	330.00'	37.74'	37.72"	S32°58'33"E	C80	07°46'32"	210.00'	78.90'	78.43"	N0820'04"W



- LEGEND:**
- MONUMENT (found this survey)
 - 2-1/2" Alum. Cap. Monument (set)
 - 1-1/2" Alum. Cap Prop. Corner (found)
 - 5/8" Rebar (set)
 - Witness Corner 5/8" Rebar (set)
 - () Record Datum - Corral Martin Subdivision Plot #96-148 KRD
 - [] Record Datum - Willow Brook Subdivision Phase 1 Plot #96-36 KRD
 - | | | Record Datum - GLO accepted 6/13/23
 - 1 Block Number
 - 33' Section Line Easement Line
- NOTES:**
- 1) Proposed land uses are recreational, residential, agricultural, and commercial.
 - 2) Building Setback - A setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission.
 - 3) Front 10 ft. adjacent to rights-of-way along with an additional 10 ft. within 5 ft. of the side lot lines is a utility easement. No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.
 - 4) No structures permitted within panhandle portions of flag lot 10 and the Well Tract within Block 5.
 - 5) Portions of this subdivision is served by a communly water system approved by Alaska Department of Conservation on 1998. Public Water Service ID # 248434 & 248442.
 - 6) **WASTEWATER DISPOSAL** Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer, registered to practice in Alaska, and the design must be approved by the Alaska Dept. of Environmental Conservation.
- M. J. [Signature]*
 License # 3320-E
 Date: 11/26/1998



CERTIFICATE OF OWNERSHIP and DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER(S) OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

I FURTHER CERTIFY THAT DEED(S) OF TRUST AFFECTING THIS PROPERTY DO NOT CONTAIN RESTRICTIONS WHICH WOULD PROHIBIT THIS REPEAT, OR REQUIRE SIGNATURE AND APPROVAL OF BENEFICIARY(IES).

[Signature]
 Kenai, Alaska 99611

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 24 DAY OF July 1998 FOR *[Signature]* Hall.

Kenai, Alaska 99611

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF May 26, 1998

KENAI PENINSULA BOROUGH
[Signature]
 AUTHORIZED OFFICIAL

CERTIFICATE OF SURVEYOR

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska. This plat represents a survey made by me or under my direct supervision, the monuments shown hereon actually exist as described, and all dimensions and other details are correct to the normal standards of practice of land surveyors in the State of Alaska.

[Signature]
 REGISTERED LAND SURVEYOR

KPB FILE No 98-086

Willow Brook North Addition

Located within the SE1/4 SE1/4 Sec. 15 & NE1/4 NE1/4 Sec. 22, T5N, R11W, S. M., Kenai Recording District, Kenai Peninsula Borough, Alaska.
 Containing 45,607 Acres

Integrity Surveys

605 Swires Drive Kenai, Alaska 99611-8363
 PHONE - (907) 283-9647 FAX - (907) 283-3075
 SURVEYORS PLANNERS

RECORDED 20 KENAI REC. DIST. DATE 8/17 TIME 1:14 1998

REQUESTED BY INTEGRITY SURVEYS 605 SWIRES DRIVE KENAI, ALASKA 99611

JOB NO: 98049 REF: 16046 DRAWN: 17 June, 1998 CB
 SURVEYED: April-August, 1998 SCALE: 1" = 100'
 FIELD BK: 98-3 DISK: \D\5\Willow Brook

E. NEW BUSINESS

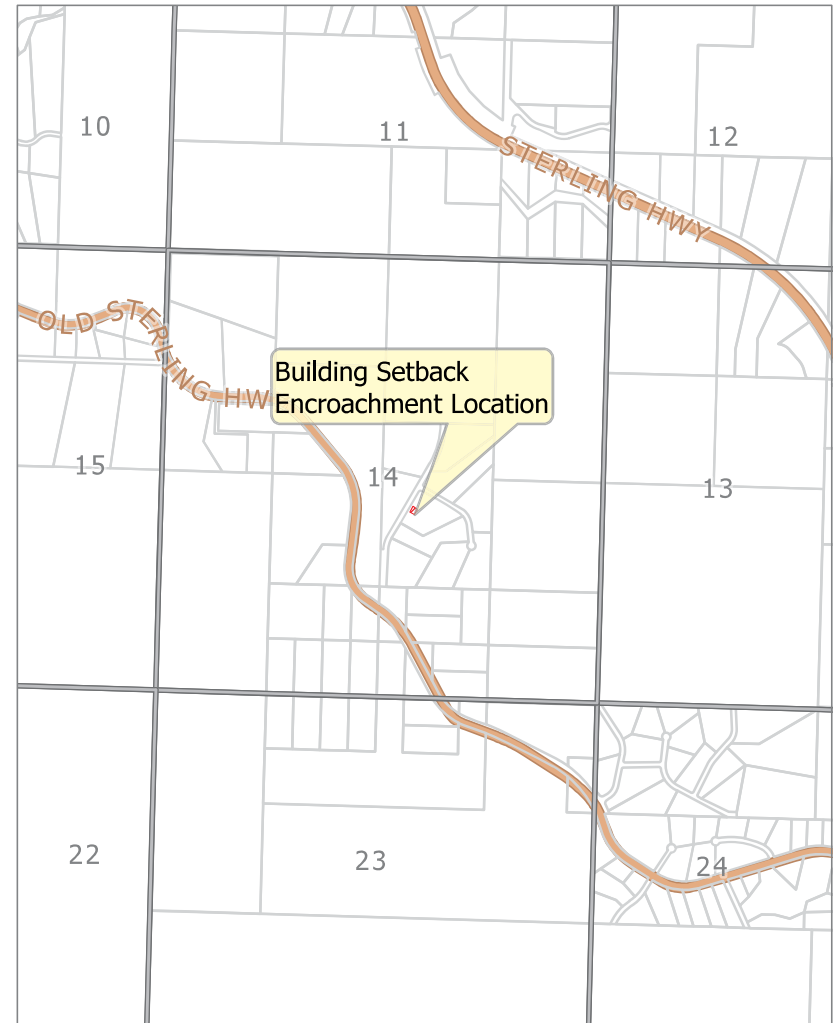
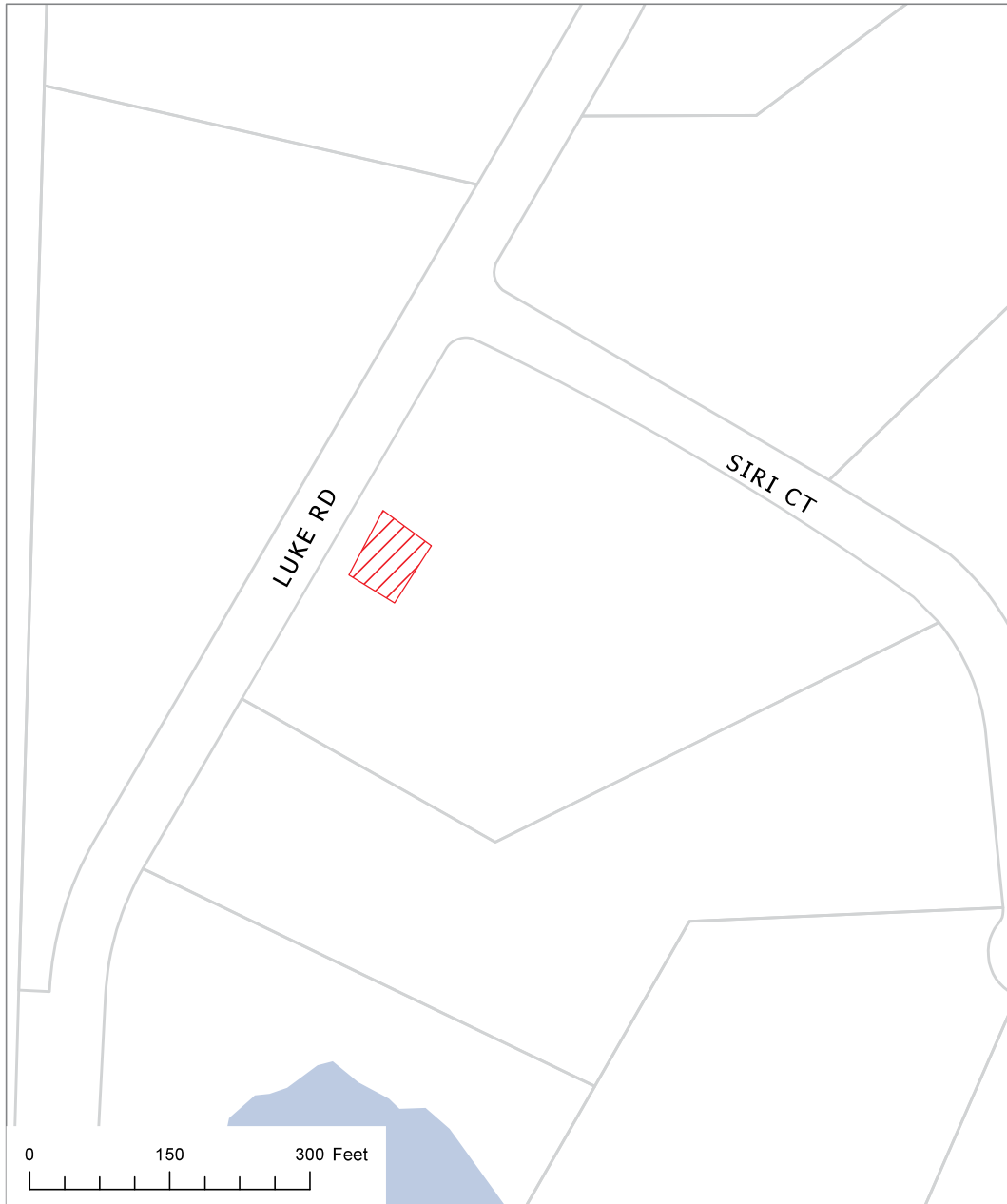
2. Building Setback Encroachment Permit

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

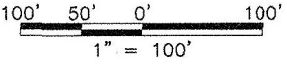
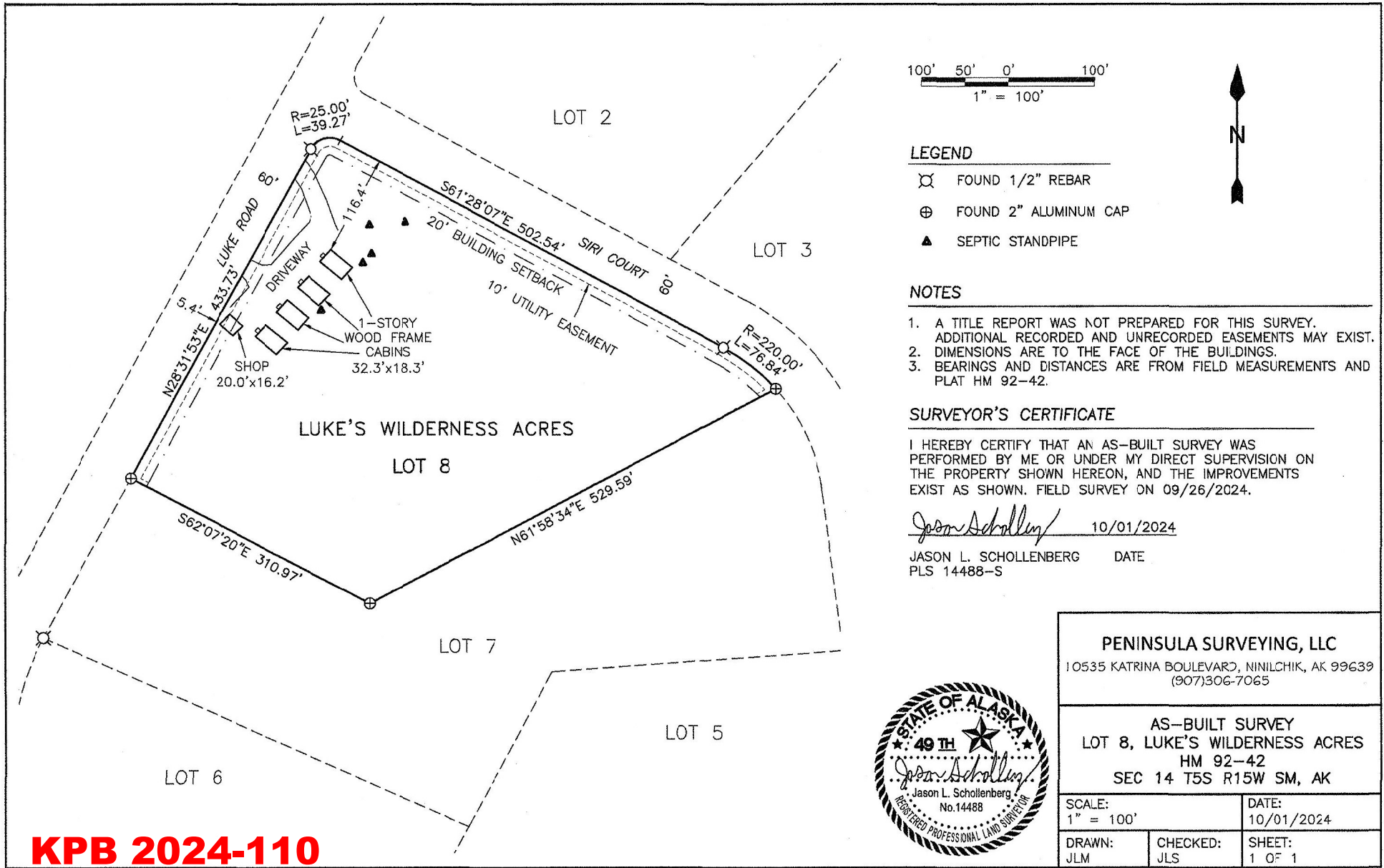
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Aerial Map



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



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



KPB 2024-110

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	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
Code Compliance	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.
Planner	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.
Assessing	Reviewer: Windsor, Heather Comments: No comment
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



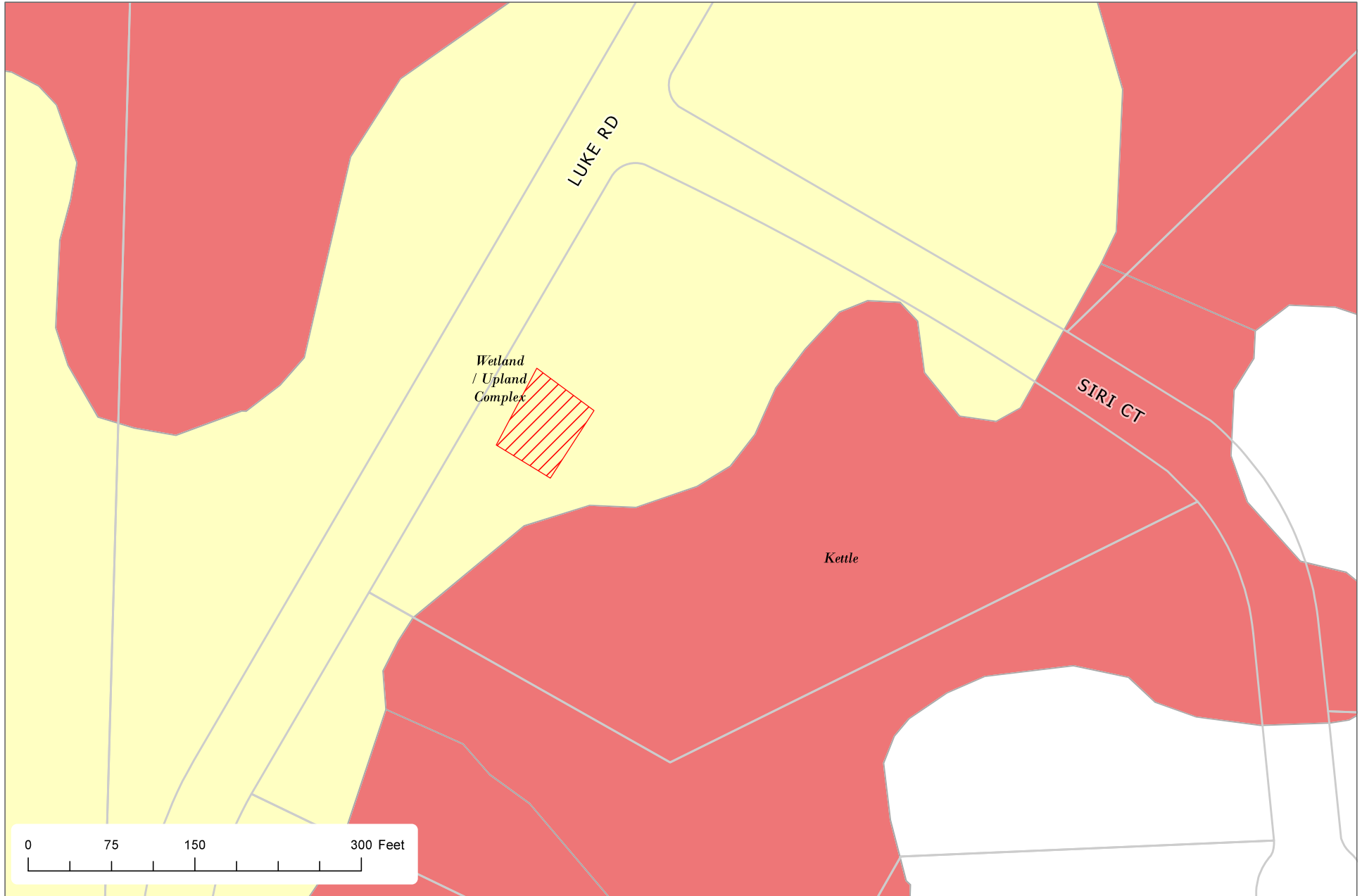
Aerial Map



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Wetlands



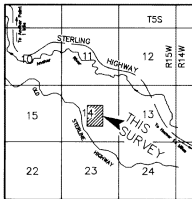
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Aerial with 5-foot Contours



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



VICINITY MAP
SCALE: 1" = 1 mile USGS Selside 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 III, Tony Neal
2396 Kachemak Bay Drive, Homer, AK 99603

Notary's Acknowledgement

Subscribed and sworn before me this 18 day of August, 1996 for Paul Neal III.

Notary Public for Alaska
My Commission Expires 6-18-99

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



LUKE'S WILDERNESS ACRES

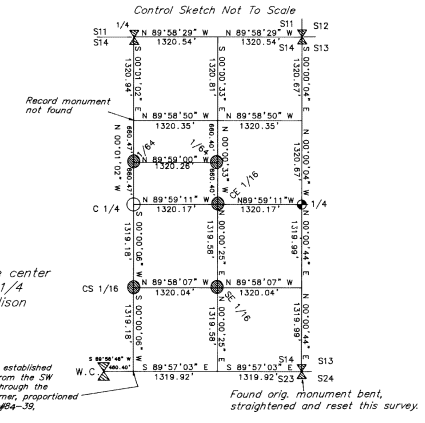
The south 1/2 of the southwest 1/4 of the northeast 1/4 (S1/2 SW1/4 NE1/4) AND the northwest 1/4 of the southeast 1/4 (NW1/4 SE1/4) of Section 14, T55, R15W, Seward Meridian, Homer Recording District, Third Judicial District, Alaska.
Containing 60,000 Acres

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

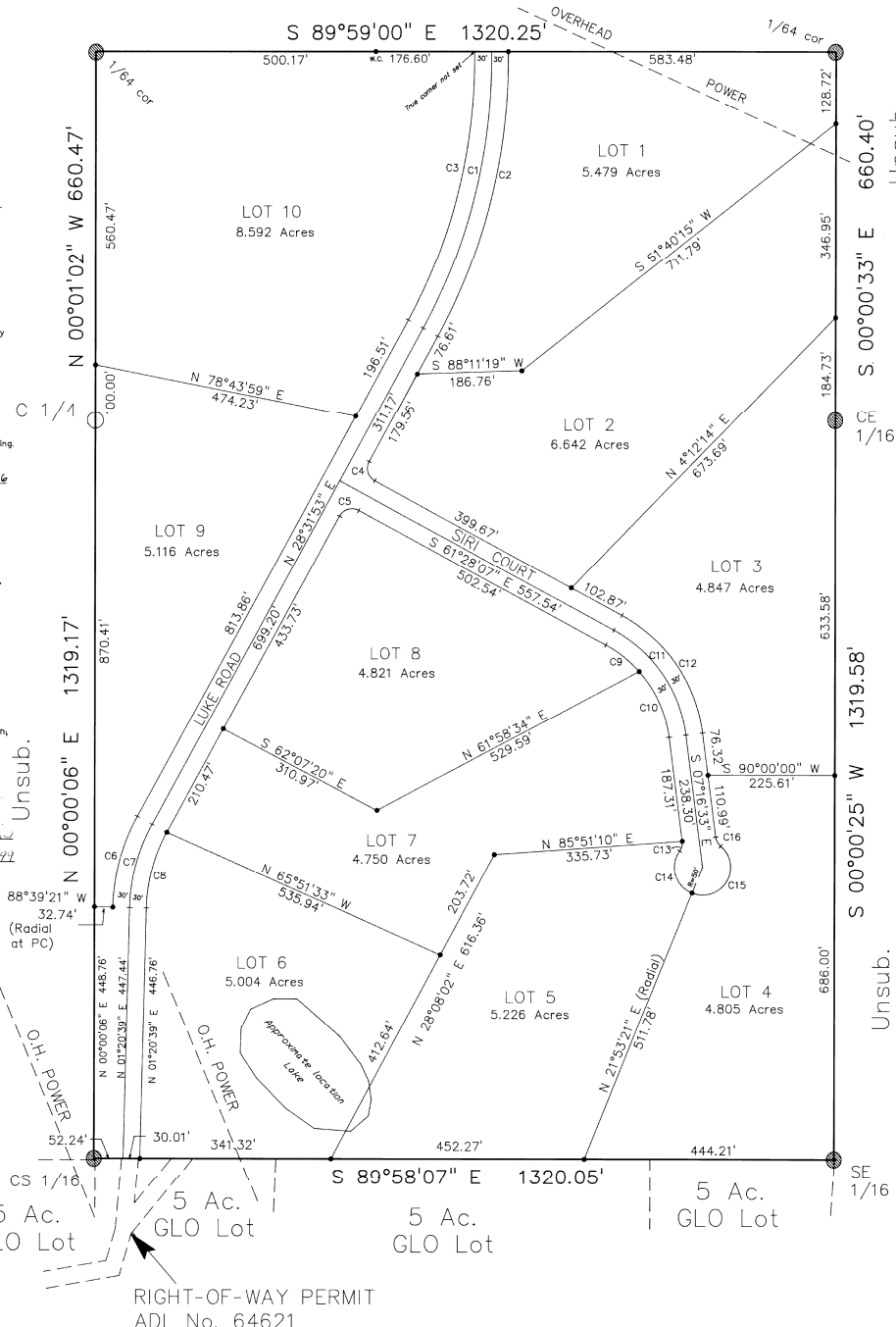
DATE: May 1996 SCALE: 1" = 100' DRAWN: TM
Fb# 127 DWG: neal K.P.B. File No. 96-100

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

E. NEW BUSINESS

- 3. Ordinance 2024-19-18: Authorizing the acquisition of real property located adjacent to the Chapman School Campus in Anchor Point for future school use, and appropriating \$850.00 from the general fund for the purchase.**

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: KPB Assembly President
Members, KPB Assembly

THRU: Peter A. Micciche, Mayor *PM*
Brandi Harbaugh, Finance Director *BH*
Robert Ruffner, Planning Director *RR*

FROM: Aaron Hughes, Land Management Officer *AH*

DATE: October 10, 2024

RE: Ordinance 2024-19-____, Authorizing the Acquisition of Real Property Located Adjacent to the Chapman School Campus in Anchor Point for Future School Use, and Appropriating \$850,000 from the General Fund for the Purchase (Mayor)

The Kenai Peninsula Borough School District (KPBSD) provides K-8 educational instruction at the Chapman School facility in Anchor Point. The existing school campus consists of a 4.51- acre parcel of KPB-owned land. Presently, future expansion and management of the site is limited because the campus parcel is bounded by private land holdings, and the Chapman School is experiencing new challenges related to the efficient and safe use of the existing campus. The proposed acquisition of the four parcels comprising a total of 6.6 acres would secure the additional space necessary for the proactive long-term planning for this important school site.

The proposed purchase price of \$800,000 is consistent with market comparables in the area. An additional \$50,000 is being proposed to cover due diligence costs and closing fees related to the acquisition. The Purchase Agreement provides for a closing on or before December 31, 2024.

This Ordinance would authorize the purchase of the subject parcels and appropriate \$850,000 from the Kenai Peninsula Borough General Fund to cover the costs associated with the purchase. The Ordinance also provides for the classification of the subject properties as “Government”.

Your consideration is appreciated.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Account:	<u>100.27910</u>
Amount:	<u>\$850,000.00</u>
By: <u><i>CJ</i></u>	Date: <u>10/10/2024</u>

Introduced by: Mayor
Date: 10/22/2024
Hearing: 11/12/2024
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2024-19-**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY
LOCATED ADJACENT TO THE CHAPMAN SCHOOL CAMPUS IN ANCHOR POINT
FOR FUTURE SCHOOL USE, AND APPROPRIATING \$850,000.00 FROM THE
GENERAL FUND FOR THE PURCHASE**

WHEREAS, the Kenai Peninsula Borough School District (KPBSD) currently provides K-8 educational instruction at the Chapman School in Anchor Point; and

WHEREAS, the existing school campus consists of a 4.51- acre parcel, bounded by private land holdings, limiting future management and potential expansion of the school facility; and

WHEREAS, a need exists for additional land adjacent to the school for potential expansion of the campus; and

WHEREAS, the proposed acquisition consists of four parcels comprising a total of 6.6 acres located immediately adjacent to the Chapman School Campus; and

WHEREAS, acquisition of the additional properties is necessary to proactively secure adjacent lands for future management options involving this KPB-owned school facility; and

WHEREAS, the KPB Planning Commission, at its regular meeting of October 28, 2024, recommended_____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That pursuant to KPB 17.10.040, the assembly finds that purchasing the subject parcel, which is the following-described real property, is in KPB’s best interests as it secures additional school campus utility, planning and growth:

LOT 3-A-1 AND TRACTS 3B-2, 3B-3 AND 3B-4, ANCHOR RIVER
S.J. CHAPMAN SUBDIVISION, JEPPESEN 2021 REPLAT,
ACCORDING TO THE OFFICIAL PLAT THEREIOF, FILED

UNDER PLAT NUMBER 2021-41, RECORDS OF THE HOMER
RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF
ALASKA.
(PARCEL NO'S. 16906108, 16906109, 16906110, AND 16906111)

SECTION 2. That the terms and conditions substantially in the form of the Purchase Agreement accompanying this ordinance are hereby approved.

SECTION 3. That the purchase price will be \$800,000.00 for the subject parcels, plus closing and due diligence costs, not to exceed \$50,000.00.

SECTION 4. That the subject parcels will be classified as "Government" pursuant to KPB 17.10.080.

SECTION 5. That the Mayor is authorized to execute any and all documents necessary to purchase the subject parcels described in Section 1 in accordance with the terms and conditions contained in this ordinance and the accompanying Purchase Agreement, consistent with applicable provisions of KPB Chapter 17.10.

SECTION 6. That up to \$850,000.00 is appropriated from the General Fund fund balance to be transferred to Account No. 400.71010.CHLND.49999 for the purchase of the subject parcels located in Anchor Point, Alaska, and estimated closing costs.

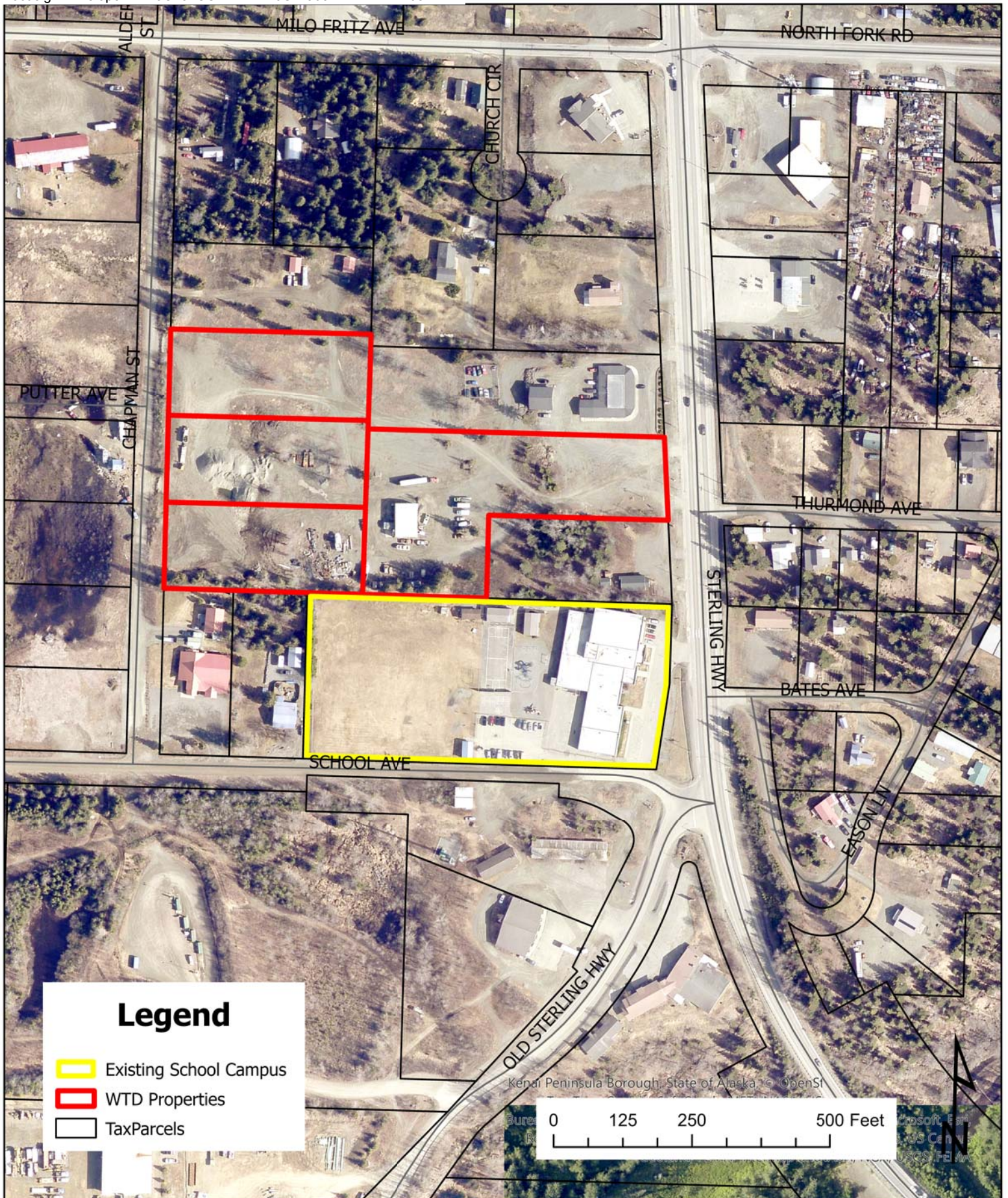
SECTION 7. That this ordinance shall be effective immediately.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS ____
DAY OF _____, 2024.**

_____, Assembly President

ATTEST:

Michele Turner, CMC, Borough Clerk



WTD Properties Acquisition Anchor Point, AK

PURCHASE AGREEMENT

This Purchase Agreement (Agreement) is made by and between WTD Properties, LLC, as seller, whose address is 3800 Sterling Highway, Homer, AK 99603, (Seller) and the Kenai Peninsula Borough, an Alaska municipal corporation, as buyer, whose address is 144 North Binkley Street, Soldotna, Alaska 99669 (KPB) (together, the Parties).

WHEREAS, Seller is the owner of that real property located in the Kenai Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

LOT 3-A-1 AND TRACTS 3B-2, 3B-3 AND 3B-4, ANCHOR RIVER S.J. CHAPMAN SUBDIVISION, JEPPESEN 2021 REPLAT, ACCORDING TO THE OFFICIAL PLAT THEREIOF, FILED UNDER PLAT NUMBER 2021-41, RECORDS OF THE HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.
(PARCEL NO'S. 16906108, 16906109, 16906110, AND 16906111) (the Property); and

WHEREAS, KPB has offered to buy, and Seller is willing to sell the Property as evidenced by this Agreement;

NOW THEREFORE, in consideration of the conditional promises herein contained, Seller hereby agrees to sell to KPB, and KPB hereby agrees to buy from Seller, the Property on the terms and conditions as set forth below:

1. **PURCHASE PRICE**

The purchase price of the Property is EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00). The purchase price must be paid by KPB at time of closing. The purchase of the Property and appropriation of funding for the purchase are subject to approval by the KPB Assembly.

2. **PERSONAL PROPERTY:**

Existing improvements currently located on the Property identified as a coffee hut, portable office building, and shop building are to be considered personal property, with the ownership retained by Seller. Said personal property must be removed in a professional, workmanlike manner prior to closing. Any damage to the remaining real property caused by the removal of the personal property identified in this Section must be repaired by Seller at Seller's expense and to KPB's satisfaction prior to closing.

3. **ACCESS EASEMENT:**

As a condition of the sale, Seller requests a 20 foot access easement be retained originating

from the Sterling Highway and located along the North Property boundary of Lot 3-A-1 for the specific benefit of the existing office building improvement located on Lot 4-A-1. Seller, and its successors and/or assigns, hereby agree to terminate the access easement upon a formal road right-of-way dedication in the event of a future platting action.

4. EXPIRATION OF OFFER

Sellers must sign and return this Agreement to KPB on or before **September 20, 2024, at 11:00am**; otherwise, this offer will terminate.

5. TITLE

Title must be delivered at time of closing by statutory warranty deed, which must be issued to KPB. Sellers warrant and covenant that at the time of closing there will be no liens or judgments recorded against Sellers in the same recording district in which the Property subject to this Agreement is situated. Title must be clear of liens and encumbrances except title is subject to reservations, easements, rights-of-way, covenants, conditions and restrictions of record as agreed to by KPB.

6. ESCROW AND CLOSING COSTS

KPB agrees to pay for all buyer-related closing costs not otherwise addressed in this Agreement to include buyer closing, and recording fees. Seller agrees to pay for seller-related closing costs, not otherwise addressed in this Agreement to include the ALTA Standard Owners Title Insurance policy, and seller closing and recording fees. Property taxes for the current year, if any, will be prorated to the date of closing. Seller is responsible for realtor's commission, if any; all unpaid taxes for prior years, if any; and all unpaid outstanding assessments, if any. All costs will be paid in full at the time of closing.

7. CLOSING

Unless otherwise agreed to in writing, closing will occur on or before **December 31, 2024**, or as specifically agreed to by the Parties. At closing, KPB will pay the balance of the purchase price. The Parties will execute all documents required to complete the Agreement and, if applicable, establish an escrow account.

8. POSSESSION

Possession will be delivered to KPB at time of recording unless otherwise agreed to in writing by the Parties.

9. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL

Purchase of the Property by KPB is subject to authorization by the KPB Assembly and appropriation of funds. If the KPB Assembly fails to authorize the purchase of the Property and appropriate funds, this Agreement will terminate without penalty.

10. EXCHANGE

If Seller intends for this transaction to be part of a Section 1031 like-kind exchange, KPB agrees to cooperate in the completion of the like-kind exchange provided KPB does not incur any additional liability or cost in doing so. If Seller intends for this transaction to be part of a Section 1031 like-kind exchange, Seller may assign its rights under this Agreement to a qualified intermediary or any entity expressly created for the purposes of completing a Section 1031 like-kind exchange.

11. DISCLOSURES

Seller hereby agrees to provide written property disclosures including any and all information regarding known defects, deficiencies, legal matters, environmental issues or hazards that may be personally known by Seller. If said written disclosures present a matter unsatisfactory to KPB, KPB may terminate this Agreement without penalty.

12. CONTINGENT ON INSPECTION / REVIEW

Closing is contingent upon the satisfactory completion of an environment review of the Property. The review will be completed on or before **December 15, 2024**. All inspections and related due diligence required under this Section will be conducted solely at KPB's expense.

13. HAZARDOUS MATERIAL

Seller covenants to the best of Seller's knowledge that, as of the date of this Agreement, except as specifically identified herein, the Property is free of all contamination from petroleum products or any hazardous substance or hazardous waste, as defined by applicable state or federal law, and there are no underground storage tanks or associated piping on the Property. Seller agrees that no hazardous substances or wastes will be located on, nor stored on the Property or any adjacent property owned or leased by Seller or its contractors, nor will any such substance be owned, stored, used, or disposed of on the Property or any adjacent property by Seller, its agents, employees, contractors, or invitees, prior to KPB's ownership, possession or control of the Property.

14. ENVIRONMENTAL CONTINGENCY

If, during the course of KPB's due diligence inspection/review of the Property pursuant to Section 12, KPB discovers the presence of environmental hazards on or released from the Property in any quantity or concentration exceeding the limits allowed by applicable law, or that is deemed undesirable by KPB, KPB will have the right to give notice to Sellers accompanied by a copy or copies of the third-party report(s) disclosing and confirming the presence of such hazardous materials. The notice and accompanying third-party report must be given no later than 60 days from receipt of said report. The notice under this Section must state:

- (i) that KPB is terminating this Agreement due to the presence of such hazardous materials on or adversely affecting the Property; OR
- (ii) provide Seller 30 days from notice to provide a mitigation plan outlining steps taken by Seller to remedy said hazards to KPB's satisfaction at Seller's expense.

Following the notice and report described in this Section, the Parties may negotiate other resolutions as may be agreeable to the Parties in writing to be included as a part of this Agreement. In the event the Parties cannot agree in writing on a resolution to remedy any environmental concerns within 90 days of the notice, this Agreement will automatically terminate.

It is expressly understood that by execution of this Agreement, Seller hereby indemnifies KPB for any and all CERCLA-related claims, liabilities or matters, unless otherwise provided for in this Agreement. Said indemnification will survive closing and termination of this Agreement. Upon successful close of escrow said indemnification will continue for a period of not less than 12 months, from the date of closing unless otherwise provided for in this Agreement.

If this Agreement is terminated pursuant to any report detailing environmental conditions that may or may not exist on the Property, such report(s) will remain confidential and proprietary. The report(s) will be marked as confidential and will not be released to a private individual, entity, or non-profit without express agreement of the Parties. Notwithstanding, the report will be released pursuant to a valid court order and may be released to the State of Alaska upon request.

15. ENTIRE AGREEMENT

This Agreement and the documents referred to herein contain the entire agreement of the Parties with respect to the subject matter hereof. Any changes, additions or deletions hereto must be made in writing and signed by both KPB and Seller or their respective successors in interest. Provisions of this Agreement, unless inapplicable on their face, will be covenants constituting terms and conditions of the sale, and will continue in full force and effect until the purchase price is paid in full or this Agreement is earlier terminated.

16. BREACH REMEDY

Prior to closing of the sale, in the event that KPB or Sellers fail to make any payment required, or fail to submit or execute any and all documents and papers necessary for closing and transfer of title within the time period specified in this Agreement, the Sellers or KPB may terminate this Agreement.

17. MISCELLANEOUS

- A. Time. Time is of the essence in performance of this Agreement.
- B. Cancellation. This Agreement, while in good standing, may be canceled in whole or in part, at any time, upon mutual written agreement by Seller and the KPB Mayor. This Agreement is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts. KPB may cancel this Agreement without penalty in the event additional contracts required of this project are not secured.
- C. Notice. Any notice or demand which, under the terms of this Agreement or under any statute must be given or made by the Parties, must be in writing, and

KS DS

be given or made by registered or certified mail, addressed to the other Party at the address shown on the contract. However, either Party may designate in writing such other address to which such notice of demand may thereafter be so given, made or mailed. A notice given hereunder will be deemed received when deposited in a U.S. general or branch post office by the addressor.

- D. Interpretation. This Agreement will be deemed to have been jointly drafted by the Parties. It will be construed according to the fair intent of the language as a whole, not for or against either Party. The interpretation and enforcement of this Agreement will be governed by the laws of the State of Alaska. Any lawsuit brought arising from this Agreement must be filed in the superior court of the Third Judicial District, State of Alaska, located in the City of Kenai, Alaska. The titles of sections in this Agreement are not to be construed as limitations of definitions but are for identification purposes only.
- E. Condition of Property.
Seller will deliver the Property in its as-is condition.
- F. Confidentiality. This Agreement will be considered proprietary to the Parties until closing occurs. Following closing, this Agreement may be considered a public record.
- G. Counterparts. This Agreement may be executed in counterpart, and may be executed by way of copy, facsimile or verified electronic signature in compliance with AS 09.80, and if so, each of which will be deemed an original but all of which together will constitute one and the same instrument

BUYER:
KENAI PENINSULA BOROUGH:

SELLER:
WTD PROPERTIES, LLC

Peter A. Micciche, Mayor (Date)

Daniel Stanislaw 15/2024

Daniel Stanislaw (Date)

Ka Sandra Stainslaw 15/2024

KaSandra Stainslaw (Date)

ATTEST:

Michele Turner, CMC
Borough Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

A. Walker Steinhage
Deputy Borough Attorney (Date)

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

- 4. Ordinance 2024-XX: Amending the Diamond Willow – Fairfield Local Option Zoning District to create the Diamond Willow – Kenai Wellness Estates Addition Local Option Zoning District by changing three parcels from a Single Family Residential District (R-1) to a Mixed-Use District (C-3)**

Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Peter Ribbens, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Peter A. Micciche, Borough Mayor
Robert Ruffner, Planning Director
Samantha Lopez, River Center Manager

FROM: Ryan Raidmae, Planner

DATE: November 12, 2024

RE: Ordinance 2024-XX, Amending KPB 21.46.070 to Create the Kenai Wellness Estates Addition Local Option Zoning District Mixed-Use Commercial District (C-3) and Granting an Exception to the Minimum Twelve-Lot Requirement in KPB 21.44.044(A) (Mayor)

On July 24, 2024, Consolidated Development and Management (Applicant) submitted an application to rezone three parcels within the existing Diamond Willow-Fairfield Single-Family Residential (R-1) LOZD to create a new Mixed-Use (C-3) LOZD. The Applicant also requests an exception to the minimum twelve-lot requirement in KPB 21.44.044(A). The proposed LOZD includes three lots, encompasses 4.86 acres, and is adjacent to Ciechanski Road off Kalifornsky Beach.

In 2018, the Applicant re-platted a forty-acre undeveloped parcel within the Diamond Willow-Fairfield LOZD and this replat led to litigation between the Applicant and the Diamond Willow Homeowners Association (DW-HOA). KPB was not a party to that litigation. The litigation between the Applicant and DW-HOA was resolved by entering into a comprehensive settlement agreement wherein DW-HOA agreed to support an application to rezone for commercial use a portion of the existing Diamond Willow-Fairfield Single-Family Residential (R-1) LOZD.

A petition with the required number of signatures supporting the proposed Mixed-Use (C-3) LOZD was submitted to the Planning Department within the allotted timeframe. Public notice was sent to property owners within the LOZD to notify them of upcoming public hearings.

Per KPB 21.44.060(A), “The assembly shall approve, disapprove, or modify the proposed LOZD. The assembly, in its legislative capacity, may disapprove an LOZD notwithstanding the district's meeting the criteria of this chapter.”

Your consideration of the ordinance is appreciated.

Introduced by: Mayor
Date:
Hearing:
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2024-XX**

**AN ORDINANCE AMENDING KPB 21.46.070 TO CREATE THE KENAI WELLNESS
ESTATES ADDITION LOCAL OPTION ZONING DISTRICT MIXED-USE (C-3)
DISTRICT AND GRANTING AN EXCEPTION TO THE MINIMUM TWELVE-LOT
REQUIREMENT IN KPB 21.44.044(A)**

- WHEREAS,** in 2018, Consolidated Development and Management (Applicant) re-platted a 40-acre, undeveloped parcel within the Diamond Willow-Fairfield Local Option Zoning District (LOZD); and
- WHEREAS,** this replat led to litigation between the Applicant and the Diamond Willow Homeowners Association (DW-HOA), to which litigation the Kenai Peninsula Borough (KPB) was not a party, and
- WHEREAS,** the litigation between the Applicant and DW-HOA was resolved by entering into a comprehensive settlement agreement (Agreement); and
- WHEREAS,** pursuant to the Agreement, DW-HOA agreed to support an application to rezone for commercial use a portion of the existing Diamond Willow-Fairfield Single-Family Residential (R-1); and
- WHEREAS,** on July 24, 2024, the Applicant submitted an application to rezone three parcels within the existing Diamond Willow-Fairfield Single-Family Residential (R-1) LOZD to create a new Mixed-Use (C-3) LOZD; and
- WHEREAS,** on August 14, 2024, the Planning Department held a community meeting regarding the LOZD application at the Donald E. Gilman River Center; and
- WHEREAS,** on September 23, 2024, a petition supporting the proposed Mixed-Use (C-3) LOZD was submitted to the Planning Department with signatures of at least 60

percent of the owners of parcels within the existing Diamond Willow-Fairfield Single-Family Residential (R-1) LOZD; and

WHEREAS, Goal 2, Focus Area: Land Use, Objective A of the Kenai Peninsula Borough's 2019 Comprehensive Plan is to establish policies that better guide land use to minimize land use conflicts, maintain property values, protect natural systems and support individual land use freedoms; and

WHEREAS, the Kenai Peninsula Borough Planning Commission reviewed the proposed Mixed-Use (C-3) LOZD at its regularly scheduled meeting of October 28, 2024 and recommended_____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the assembly finds the adoption of the Kenai Wellness Estates Addition Mixed-Use (C-3) LOZD to be consistent with surrounding land uses and the 2019 Kenai Peninsula Borough Comprehensive Plan.

SECTION 2. That KPB 21.46.070 is hereby amended as follows:

21.46.070. Mixed Use (C-3) Districts.

A. The following Mixed Use (C-3) districts and official maps are hereby adopted:

1. Diamond Willow – Kenai Wellness Estates Addition, described as Kenai Wellness Estates Addition Lots A3, A4, and A5, according to Plat 2023-60.
 - a. The local option zone applies to any further replats of Diamond Willow – Kenai Wellness Estates Addition Subdivision.

SECTION 3. That the assembly grants an exception to the minimum twelve-lot requirement in KPB 21.44.044(A).

SECTION 4. That Diamond Willow – Kenai Wellness Estates Addition LOZD shall be recorded in the proper recording district.

SECTION 5. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS DAY OF _____, 2024.

Peter Ribbens, Assembly President

ATTEST:

Michele Turner, Borough Clerk



Planning

Local Option Zoning District (LOZD), Proposed Rezone, Diamond Willow - Kenai Wellness Estates Addition, Mixed Use (C-3)



Project Area

River Miles

Tax Parcels

Existing LOZD Diamond Willow - Fairfield

New District, Proposed

Vicinity: Kalifornsky



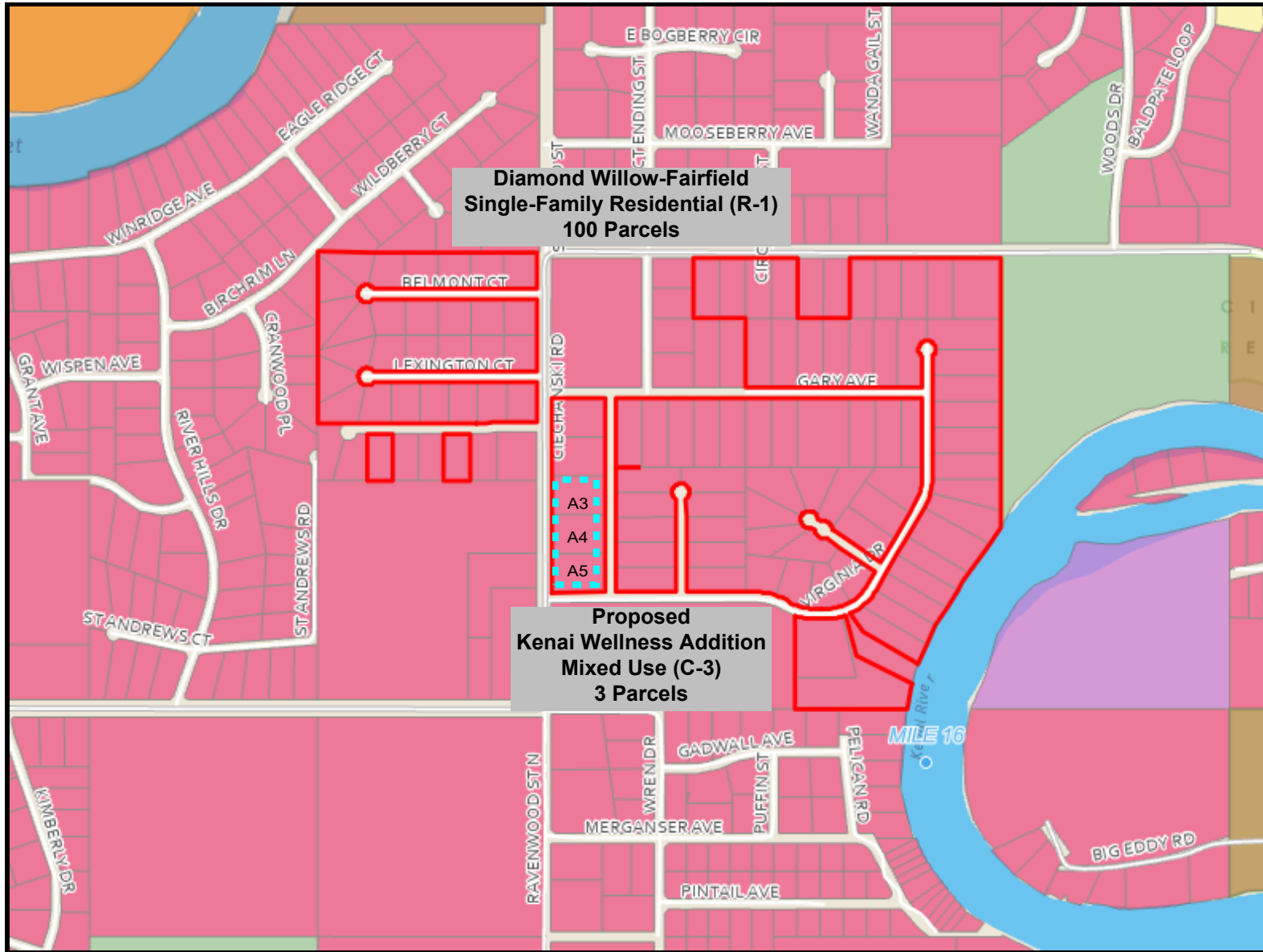
Map created on Monday, September 16, 20



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

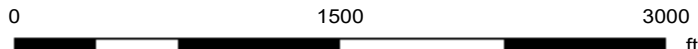


Local Option Zoning District (LOZD), Proposed Rezone, Diamond Willow - Kenai Wellness Estates Addition, Mixed Use (C-3)



- Project Area**
- Existing LOZD Diamond Willow - Fairfield
- New District, Proposed
- River Miles
- River Miles
- Parcel Ownership Type**
- Borough
- Federal
- Native
- Municipal
- Private
- State

Map created on Monday, September 16, 2024



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



LOCAL OPTION ZONING DISTRICT APPLICATION

(KPB 21.44)

Kenai Peninsula Borough
Planning Department
144 N. Barkley St.
Soldotna, AK 99669
907-714-2200
1-800-478-4441 ext 2200
Full Fee within Borough

This is an application to create, repeal, rezone, or modify existing boundaries of the zoning districts formed under KPB 21.44, Local Option Zoning. Pursuant to KPB 21.44.030(A), this application requires the signatures of the owners of record of at least six lots within the proposed area. The proposed area must contain a minimum of 12 lots. A \$1,000.00 application fee must accompany this application.

Once a completed application has been submitted, the planning department will hold a meeting in a public facility regarding the application. At the meeting, the planning department will distribute a summary statement of the proposed zoning amendment. The summary statement will provide for property owner signature for those in favor of the zoning amendment (rezoning). Per KPB 21.44.060(C), 60 percent of the parcels within the area proposed for rezoning must be in favor of the amendment. Introduction of the application before the assembly must be scheduled within 90 days of submission of the completed application to the planning department.

Please fill in the following information.

- Create Zoning District
- Modify Zoning District
- Repeal Zoning District

APPLICATION POINT OF CONTACT INFORMATION	
Name: Consolidated Development & Mgmt, LLC	Mailing Address: 200 W. 34th Ave, Ste 367 Anchorage, Alaska 99503
Contact Phone: 907-301-5185	Agent: Gina DeBardelaben, McLane Consulting, Inc. 907-283-4218 ginatebar@mcclanecg.com
Email: mgrtotravel@aol.com	

CURRENT ZONING DISTRICT		
<input checked="" type="checkbox"/> R-1 Single-Family Residential District	<input type="checkbox"/> R-2 Small Lot Residential District	<input type="checkbox"/> R-R Rural Residential District
<input type="checkbox"/> R-W Residential Waterfront District	<input type="checkbox"/> R-M Multi-Family Residential District	<input type="checkbox"/> R-M Multi-Family Residential District (Percy Hope)
<input type="checkbox"/> R-M Multi-Family Residential District (Discovery Park)	<input type="checkbox"/> C-3 Mixed Use District	
<input type="checkbox"/> None		

PROPOSED ZONING DISTRICT		
<input type="checkbox"/> R-1 Single-Family Residential District	<input type="checkbox"/> R-2 Small Lot Residential District	<input type="checkbox"/> R-R Rural Residential District
<input type="checkbox"/> R-W Residential Waterfront District	<input type="checkbox"/> R-M Multi-Family Residential District	<input checked="" type="checkbox"/> C-3 Mixed Use District
<input type="checkbox"/> Rural District (Repeal of LOZD)		

CERTIFICATION STATEMENT

The information contained on this form and the attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit request.

PROPERTY INFORMATION AND SIGNATURES OF OWNERS	
LOT 1	
KPB Parcel ID # (000-000-00):	055-272-97
Physical Address:	36570 Virginia Drive
Legal Description	Diamond Willow Estates Subd Part 11 Lot B2
Property Owner(s) of Record:	Ray Oyemi
Signature(s) of Property Owner(s):	
	Date: 7/18/24

PROPERTY INFORMATION AND SIGNATURES OF OWNERS (CONTINUED)

LOT 2

KPB Parcel ID # (000-000-00): **055-270-47**

Physical Address: **None**

Legal Description **Diamond Willow Estates Subd Part 10 Lot 2**

Property Owner(s) of Record:
Consolidated Development & Mgmt, LLC

Signature(s) of Property Owner(s): *Ray Oyemi*

Date: *7/18/24*

LOT 3

KPB Parcel ID # (000-000-00): **055-270-96**

Physical Address: **none**

Legal Description **Diamond Willow Estates Subd Part 11 Lot A2**

Property Owner(s) of Record:
Consolidated Development & Mgmt, LLC

Signature(s) of Property Owner(s): *Ray Oyemi*

Date: *7/18/24*

LOT 4

KPB Parcel ID # (000-000-00): **055-270-95**

Physical Address: **36590 Virginia Drive**

Legal Description **Diamond Willow Estates Subd Part 11 Lot 1A**

Property Owner(s) of Record:
Ray Oyemi

Signature(s) of Property Owner(s): *Ray Oyemi*

Date: *7/18/24*

LOT 5

KPB Parcel ID # (000-000-00): **055-272-04**

Physical Address: **None**

Legal Description **Diamond Willow Estates Subd Sunville Acres Addn No2 Lot 1A**

Property Owner(s) of Record:
Consolidated Development & Mgmt, LLC

Signature(s) of Property Owner(s): *Ray Oyemi*

Date: *7/18/24*

LOT 8

KPB Parcel ID # (000-000-00): **055-272-03**

Physical Address: **None**

Legal Description **Diamond Willow Estates Subd Sunville Acres Addn No2 Lot 1B**

Property Owner(s) of Record:
Consolidated Development & Mgmt, LLC

Signature(s) of Property Owner(s): *Ray Oyemi*

Date: *7/18/24*

PROPERTY INFORMATION AND SIGNATURES OF OWNERS (CONTINUED)	
LOT 2 7	
KPB Parcel ID # (000-000-00): 055-272-02	
Physical Address: None	
Legal Description Diamond Willow Estates Subd Sunville Acres Addn No2 Lot 2A	
Property Owner(s) of Record: Consolidated Development & Mgmt. LLC	
Signature(s) of Property Owner(s): <i>Ray Dyemi</i>	Date: <i>7/18/24</i>
LOT 2 8	
KPB Parcel ID # (000-000-00): 055-272-21	
Physical Address: None	
Legal Description Diamond Willow Kenai Wellness Estates Addition Lot 6	
Property Owner(s) of Record: Consolidated Development & Mgmt. LLC	
Signature(s) of Property Owner(s): <i>Ray Dyemi</i>	Date: <i>7/18/24</i>
LOT 4 9	
KPB Parcel ID # (000-000-00): 055-272-16	
Physical Address: None	
Legal Description Diamond Willow Kenai Wellness Estates Addition Lot 1	
Property Owner(s) of Record: Consolidated Development & Mgmt. LLC	
Signature(s) of Property Owner(s): <i>Ray Dyemi</i>	Date: <i>7/18/24</i>
LOT 5 10	
KPB Parcel ID # (000-000-00): 055-272-11	
Physical Address: None	
Legal Description Diamond Willow Kenai Wellness Estates Addition Tract A1	
Property Owner(s) of Record: Consolidated Development & Mgmt. LLC	
Signature(s) of Property Owner(s): <i>Ray Dyemi</i>	Date: <i>7/18/24</i>
LOT 5 11	
KPB Parcel ID # (000-000-00): 055-272-12	
Physical Address: None	
Legal Description Diamond Willow Kenai Wellness Estates Addition Tract A2	
Property Owner(s) of Record: Consolidated Development & Mgmt. LLC	
Signature(s) of Property Owner(s): <i>Ray Dyemi</i>	Date: <i>7/18/24</i>

PROPERTY INFORMATION AND SIGNATURES OF OWNERS (CONTINUED)

LOT 3 12

KPB Parcel ID # (000-000-00): **055-272-13**

Physical Address: **None**

Legal Description **Diamond Willow Kenai Wellness Estates Addition Tract A3**

Property Owner(s) of Record: **Consolidated Development & Mgmt, LLC**

Signature(s) of Property Owner(s): *Kay Oyemi*

Date: *7/18/24*

LOT 3 13

KPB Parcel ID # (000-000-00): **055-272-14**

Physical Address: **None**

Legal Description **Diamond Willow Kenai Wellness Estates Addition Tract A4**

Property Owner(s) of Record: **Consolidated Development & Mgmt, LLC**

Signature(s) of Property Owner(s): *Kay Oyemi*

Date: *7/18/24*

LOT 4 14

KPB Parcel ID # (000-000-00): **055-272-15**

Physical Address: **None**

Legal Description **Diamond Willow Kenai Wellness Estates Addition Tract A5**

Property Owner(s) of Record: **Consolidated Development & Mgmt, LLC**

Signature(s) of Property Owner(s): *Kay Oyemi*

Date: *7/18/24*

LOT 5

KPB Parcel ID # (000-000-00):

Physical Address:

Legal Description

Property Owner(s) of Record:

Signature(s) of Property Owner(s):

Date:

LOT 6

KPB Parcel ID # (000-000-00):

Physical Address:

Legal Description

Property Owner(s) of Record:

Signature(s) of Property Owner(s):

Date:

Local Option Zoning District Application Supplemental Information

Applicant Consolidated Development & Management, LLC, the owner of a significant number of the lots located Diamond Willow - Fairview R-1 Local Option Zone is applying for rezoning of Lots A3, A4 and A5 of Diamond Willow Kenai Wellness Estates Addition (Plat No. 2023-60), comprising 4.5 acres, to create a C-3 Local Option Zone. While this is in variance with the standards provided in the KPB Code of Regulations, specifically the requirement of a minimum of 12 lots to create a Local Option Zone, the special circumstances here warrant an exception to that rule against spot zoning.

In 2018, a dispute arose between Consolidated and the Diamond Willow Homeowners Association (which included about 60% of the voting members of the Diamond-Willow -Fairview R-1 LOZ) over the replatting of what had been a large undeveloped parcel of over 40 acres previously included in that LOZ. While this dispute ended up in litigation, the parties resolved their differences by entering into a comprehensive settlement agreement governing the development and use of all of Consolidated's property within the Diamond Willow Subdivision. This settlement agreement was intended to give effect to the intent of the developer at the time the CC&Rs were originally filed that approximately 6 acres at the corner of Ciechanski Road and Virginia Drive would be reserved for commercial use. This settlement included a provision in which the parties agreed that the Diamond Willow HOA would support a rezoning of that property from R-1 to C-3. A copy of the Judgment entered to effectuate the settlement has been made available to the KPB Planning Department.

While development of the property could proceed if the affected property were to be merely removed from the Diamond Willow - Fairview LOZ, the Diamond Willow HOA has requested Consolidated seek a rezoning of the property to create an agreed C-3 LOZ. The Diamond Willow HOA understandably prefers that Consolidated be required to comply with the C-3 zoning as a part of any permitting process in the development of the lots. If the lots are removed from the R-1 LOZ and a C-3 LOZ is not created, then the Diamond Willow HOA would bear the entire responsibility for enforcing Consolidated's compliance with the equivalent of C-3 zoning. Consolidated agrees that creation of the requested C-3 LOZ for the three lots, as requested, will greatly reduce the possibility of future disagreements and foster a more harmonious relationship between it and its neighbors. For that reason, Consolidated requests the removal of three lots from the Diamond Willow - Fairview R-1 Local Option Zone and a variance from the requirements of KPB Code Chapter 21-44 to establish a C-3 LOZ comprised of those 3 lots.



Consolidated Development & Mgmt, LLC
LOZD Application
7/18/2024

Lot A3

Lot A4

Lot A5

Kenai Peninsula Borough
5000 · Consulting Job Expenses:5010 · LOZD Application

7/18/24

39428

1,000.00

Wells Fargo Checking LOZD Application

1,000.00

AGENDA ITEM E. NEW BUSINESS

ITEM #: Diamond Willow – Kenai Wellness Estates Addition, Local Option Zoning District

KPB File No: Ordinance #####-##
PC Meeting: October 28, 2023
Applicant: Consolidated Development & Management Llc
Land Owner: Consolidated Development & Management Llc
Parcel(s) No. 055-272-13, 14, 15
Legal Description: T 05N R 11W SEC 24 SEWARD MERIDIAN KN 2023060 DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT A3, A4, A5
General Location: About MP 1 of Ciechanski Road, between Gary Ave. and Soldotna, Alaska 99669
Zoning: Single Family Residential (R-1)
Exceptions Requested: 21.44.040(A) – 12 Lot Minimum

STAFF REPORT

BACKGROUND INFORMATION:

Ray Oyemi, owner of Consolidated Development and Management, has submitted an application to rezone 3 parcels within the Diamond Willow – Fairfield, Local Option Zoning District, from Single-Family Residential (R-1) to Mixed Use (C-3).

Per Kenai Peninsula Borough (KPB) 21.44.140, Amendments to LOZDs may be initiated to repeal a zone, change the type of zone or modify the boundaries of the zoning district by following the process for establishing a LOZD set forth in KPB 21.44.040. To establish an LOZD, per 21.44.040, the minimum area for an LOZD must be met, which is 12 lots. These 12 lots must be contiguous and separated only by a street, alley, right-of-way, or easement.

In 2018, Consolidated Development and Management, replatted a 40-acre, undeveloped parcel, within the Diamond Willow – Fairfield, Local Option Zoning District. This replat led to litigation between the Applicant and the Diamond Willow Homeowners Association (“DW-HOA”), which was resolved by entering into a comprehensive settlement agreement between the two parties. In the agreement, DW-HOA would support that a portion of the existing Single-Family Residential (R-1) LOZD be rezoned for commercial use. Due to the legal settlement, the proposed LOZD does not meet all the formation requirements of KPB 21.44.040, and the Petitioner is requesting an exception from the following requirements:

1. 21.44.040(A) – 12 lot minimum

On August 14, 2024, a community meeting was held, according to KPB 21.44.040(C), at the Donald E. Gilman River Center. The notice was sent to all property owners who live within the existing Diamond Willow - Fairfield LOZD.

On September 23, 2024, a petition supporting the proposed LOZD was submitted to the Planning Department, according to KPB 21.44.060(C), with signatures of at least 60 percent of parcel owners that reside within the LOZD.

The Planning Department has reviewed the application for the proposed district using the criteria contained in KPB 21.44.040(A) and other documentation submitted by the applicant. Based upon land use, location, access, soils, topography, availability of utilities, encumbrances, permits, judgements and exemptions staff has determined the boundaries of the proposed LOZD is appropriate as requested.

PUBLIC NOTICE:

Public notice of the hearing was mailed on or before October 09, 2024 to the owners of the 100 parcels within the boundaries of the LOZD and another 53 parcels within 300 feet of the proposed LOZD. A public hearing was held on the October 28, 2024 meeting of the Kenai Peninsula Borough Planning Commission.

ATTACHMENTS

Assembly Memo
Assembly Ordinance
Project Overview and Vicinity Map
Ownership Map
Application
Petition
Exception Request
Judgment on Stipulation of the Parties
Community Meeting Notice
Planning Commission Notice
Public Comment


STAFF RECOMMENDATION

Staff recommends that the planning commission forward this application to the assembly with the recommendation to approve the creation of the Mixed Use (C-3) District as described in the legal description above.

END OF STAFF REPORT

PETITION TO THE KENAI PENINSULA BOROUGH ASSEMBLY FOR ESTABLISHMENT OF A LOCAL OPTION ZONING DISTRICT

Pursuant to KPB 21.44, we, the qualified property owners residing within the boundaries of the proposed local option zoning district, hereby petition the Kenai Peninsula Borough Assembly for the establishment of a **Mixed Use (C-3)** local option zoning district as shown on the attached map.

	PARCEL	DATE	NAME	SIGNATURE	MAILING ADDRESS	LEGAL DESCRIPTION	PHYSICAL ADDRESS
1	05527014		AGOSTI TIMOTHY F	SEE CERTIFICATES - RCR	36894 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 4 LOT 14 BLK 1	36894 VIRGINIA DR
2	05527020		ALASKA GROWTH PROPERTIES LLC		1422 K ST ANCHORAGE, AK 99501	DIAMOND WILLOW ESTATES SUB PART 1 LOT 20 BLK 1	NONE
✓ 3	05542205	9-21-24	BARE CHARITY M	Charis Bare	47132 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 5	47132 BELMONT CT
✓ 4	05527094	9-20-24	BEVER MICHAEL G		46003 CIECHANSKI RD KENAI, AK 99611	T 5N R 11W SEC 24 SEWARD MERIDIAN KN E 285 FT M/L OF THE N 350 FT M/L OF NW1/4	46003 CIECHANSKI RD
5	05542202		BIRCHARD TRACI ANN		8140 LITTLE DIPPER AVE # B ANCHORAGE, AK 99504	FAIRFIELD ESTATES SUB LOT 2	47026 BELMONT CT
6	05527030	9-21-24	BLACKBURN WILLIAM F	Ben Blackburn	PO BOX 1472 KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 7 LOT 30-A BLK 1	46660 GARY AVE
7	05527060		BLANNING KELVIN M		46233 CIECHANSKI RD KENAI, AK 99611	DIAMOND WILLOW ESTATES PART 12 LOT B2 5	46233 CIECHANSKI RD
8	05527005		BOLES MELANIE LYNN		3361 N INSPIRATION LOOP WASILLA, AK 99654	DIAMOND WILLOW ESTATES SUB PART 1 LOT 5 BLK 1	36650 VIRGINIA DR
9	05542209		BRADEN MELINDA		47205 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 9	47205 BELMONT CT
10	05527008	9-20-24	BRINKMAN KURT A	Kurt A. Brinkman	36738 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 1 LOT 8 BLK 1	36738 VIRGINIA DR
11	05542215		CANNON TYLER J		47000 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 15	47000 LEXINGTON CT
12	05542228		CHANDLER DOUGLAS A & WYLIE		PO BOX 2367 SOLDOTNA, AK 99669	FAIRFIELD ESTATES SUB LOT 28	47005 LEXINGTON CT
13	05542217		CONNER CRYSTAL M		35555 KENAI SPUR HWY SOLDOTNA, AK 99669	FAIRFIELD ESTATES SUB LOT 17	47062 LEXINGTON CT
✓ 14	05527205	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	Ray Dyer	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 3B	NONE
✓ 15	05527047	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	Ray Dyer	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB PART 10 LOT 2	NONE
✓ 16	05527068	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	Ray Dyer	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN LOT 7	NONE
✓ 17	05527201	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	Ray Dyer	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 2B	NONE
✓ 18	05527203	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	Ray Dyer	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 1B	NONE

The person circulating this petition is: TBD *Travis Penrod*
 Contact: TBD
 Contact: TBD *(907) 301-5972*

PETITION TO THE KENAI PENINSULA BOROUGH ASSEMBLY FOR ESTABLISHMENT OF A LOCAL OPTION ZONING DISTRICT

Pursuant to KPB 21.44, we, the qualified property owners residing within the boundaries of the proposed local option zoning district, hereby petition the Kenai Peninsula Borough Assembly for the establishment of a **Mixed Use (C-3)** local option zoning district as shown on the attached map.

PARCEL	DATE	NAME	SIGNATURE	MAILING ADDRESS	LEGAL DESCRIPTION	PHYSICAL ADDRESS	
19	05527067	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN LOT 6	NONE
20	05527069	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN LOT 8	NONE
21	05527202	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 2A	NONE
22	05527210	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 5B	NONE
23	05527208	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 4B	NONE
24	05527209	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 5A	NONE
25	05527207	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 4A	NONE
26	05527206	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 3A	NONE
27	05527204	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW ESTATES SUB SUNVILLE ACRES ADDN NO 2 LOT 1A	NONE
28	05527211	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT A1	NONE
29	05527212	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT A2	NONE
30	05527213	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT A3	NONE
31	05527214	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT A4	NONE
32	05527215	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT A5	NONE
33	05527216	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 1	NONE
34	05527217	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 2	NONE
35	05527218	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 3	NONE
36	05527219	9/21/24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Dyer</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 4	NONE

The person circulating this petition is: TBD

Contact: TBD

Contact: TBD

PETITION TO THE KENAI PENINSULA BOROUGH ASSEMBLY FOR ESTABLISHMENT OF A LOCAL OPTION ZONING DISTRICT

Pursuant to KPB 21.44, we, the qualified property owners residing within the boundaries of the proposed local option zoning district, hereby petition the Kenai Peninsula Borough Assembly for the establishment of a **Mixed Use (C-3)** local option zoning district as shown on the attached map.

PARCEL	DATE	NAME	SIGNATURE	MAILING ADDRESS	LEGAL DESCRIPTION	PHYSICAL ADDRESS	
37	05527220	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 5	NONE
38	05527221	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 6	NONE
39	05527222	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 7	NONE
40	05527223	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 8	NONE
41	05527224	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 9	NONE
42	05527225	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 10	NONE
43	05527226	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 11	NONE
44	05527227	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 12	NONE
45	05527228	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 13	NONE
46	05527229	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 14	NONE
47	05527230	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 15	NONE
48	05527230	9-21-24	CONSOLIDATED DEVELOPMENT & MANAGEMENT LLC	<i>Ray Oyenni</i>	200 W 34TH AVE ANCHORAGE, AK 99503	DIAMOND WILLOW KENAI WELLNESS ESTATES ADDN LOT 15	NONE
49	05542220		COX KENNETH M & KIM S		47204 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 20	47204 LEXINGTON CT
50	05542207		CREIGHTON MICHAEL C		47208 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 7	47208 BELMONT CT
51	05542208		DAVIS JONATHAN R		47207 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 8	47207 BELMONT CT
52	05542227		FELTMAN JOSHUA COREY		47027 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 27	47027 LEXINGTON CT
53	05527042	9/18/24	FRANKLIN DANIEL	<i>Daniel Franklin</i>	PO BOX 2848 SOLDOTNA, AK 99669	DIAMOND WILLOW ESTATES SUB PART 9 LOT 39	NONE
54	05527041	9/20/24	FRANKLIN THERESA A	<i>Theresa A Franklin</i>	PO BOX 2848 SOLDOTNA, AK 99669	DIAMOND WILLOW ESTATES SUB PART 9 LOT 38	46731 GARY AVE

The person circulating this petition is: TBD

Contact: TBD

Contact: TBD

PETITION TO THE KENAI PENINSULA BOROUGH ASSEMBLY FOR ESTABLISHMENT OF A LOCAL OPTION ZONING DISTRICT

Pursuant to KPB 21.44, we, the qualified property owners residing within the boundaries of the proposed local option zoning district, hereby petition the Kenai Peninsula Borough Assembly for the establishment of a **Mixed Use (C-3)** local option zoning district as shown on the attached map.

	PARCEL	DATE	NAME	SIGNATURE	MAILING ADDRESS	LEGAL DESCRIPTION	PHYSICAL ADDRESS
✓	55	05527007	9-15-24	GEASE DENNIS E	<i>Dennis E. Gease</i>	36710 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 1 LOT 7 BLK 1 36710 VIRGINIA DR
	56	05542234		GIBBS JAMES E		PO BOX 1597 SOLDOTNA, AK 99669	J&P SUB AURORA ADDN LOT 6 NONE
	57	05542214		GRAHAM TEIRA MICHELE		47005 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 14 47005 BELMONT CT
	58	05527037	9-21-24	GRINNELL NATE	<i>Nathanael Grinnell</i>	46635 GARY AVE KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 9 LOT 34 46635 GARY AVE
	59	05527038	9-21-24	GRINNELL NATHANAEL	<i>Nathanael Grinnell</i>	46635 GARY AVE KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 9 LOT 35 46659 GARY AVE
	60	05527036		HEAVEN EDNA VAITOA		46621 GARY AVE NIKISKI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 9 LOT 33 36815 VIRGINIA DR, 46621 GARY AVE
	61	05527026		HEAVEN WINTER IAN KANE		PO BOX 1327 KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 5 LOT 26 BLK 1 NONE
✓	62	05542221	9-21-24	HENRY MICHAEL	<i>Michael G</i>	47208 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 21 47208 LEXINGTON CT
	63	05542212		HUDSON CHRISTOPHER L & KARI E		133 W MARYDALE AVE SOLDOTNA, AK 99669	FAIRFIELD ESTATES SUB LOT 12 47063 BELMONT CT
	64	05542226		JAMORA MADELINE		PO BOX 1327 KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 26 47063 LEXINGTON CT
	65	05527019		JONES CLAUDE		46091 CIECHANSKI RD KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 1 LOT 19 BLK 1 46091 CIECHANSKI RD
	66	05527032	9-18-24	KEYSAW HARRY F	<i>Harry F Key</i>	36903 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 7 LOT 32-A BLK 1 36903 VIRGINIA DR
	67	05542206		KNUTSON TARALEE		392 E 700 S UNIT F VERNAL, UT 84078	FAIRFIELD ESTATES SUB LOT 6 47192 BELMONT CT
✓	68	05527028	9-18-24	KOPPES ROGER A	<i>Roger A Koppes</i>	PO BOX 2739 KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 5 LOT 28 BLK 1 46710 GARY AVE
	69	05542216		KRACKE ANDREA M		PO BOX 745 KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 16 47026 LEXINGTON CT
	70	05527018		LAPLANTE JOHN M		33775 GAS WELL RD SOLDOTNA, AK 99669	DIAMOND WILLOW ESTATES SUB PART 1 LOT 18 BLK 1 46055 CIECHANSKI RD
	71	05542201		LECK PHILLIP R		47000 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 1 47000 BELMONT CT
✓	72	05542219	9-21-24	LINNELL DENNIS R	<i>Dennis R Linnell</i>	47146 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 19 47146 LEXINGTON CT

The person circulating this petition is: TBD

Contact: TBD

Contact: TBD

PETITION TO THE KENAI PENINSULA BOROUGH ASSEMBLY FOR ESTABLISHMENT OF A LOCAL OPTION ZONING DISTRICT

Pursuant to KPB 21.44, we, the qualified property owners residing within the boundaries of the proposed local option zoning district, hereby petition the Kenai Peninsula Borough Assembly for the establishment of a **Mixed Use (C-3)** local option zoning district as shown on the attached map.

	PARCEL	DATE	NAME	SIGNATURE	MAILING ADDRESS	LEGAL DESCRIPTION	PHYSICAL ADDRESS
73	05542213		MANKIN MARCIA		47027 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 13	47027 BELMONT CT
74	05542218		MAYNARD JAMES RUSSELL		47100 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 18	47100 LEXINGTON CT
✓ 75	05527011	9-18-24	MCGRADY TIM P & WENDY L	<i>Wendy P McGrady Tim McGrady</i>	PO BOX 1212 KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 2 LOT 11 BLK 1	NONE
✓ 76	05527012	9-18-24	MCGRADY TIMOTHY P & WENDY L	<i>Wendy P McGrady Tim McGrady</i>	PO BOX 1212 KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 4 LOT 12 BLK 1	36830 VIRGINIA DR
77	05542203		MONTOYA KEITH W		47062 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 3	47062 BELMONT CT
✓ 78	05527004	9/18/24	MORSE JEANNINE E LIVING TRUST	<i>Jeannine E Morse</i>	154 E REDOUBT AVE SOLDOTNA, AK 99669	DIAMOND WILLOW ESTATES SUB PART 1 LOT 4 BLK 1	36630 VIRGINIA DR
79	05542211		MULLICAN TERESA		PO BOX 2312 KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 11	47083 BELMONT CT
80	05527027	9/18/24	NEWTON JACOB J	<i>Jacob Newton</i>	46738 GARY AVE KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 5 LOT 27 BLK 1	46738 GARY AVE
✓ 81	05527097	9/21/24	OYEMI RAY	<i>Ray Oyemi</i>	PO BOX 424 SOLDOTNA, AK 99669	DIAMOND WILLOW EST SUB PT 11 LOT B2	36570 VIRGINIA DR
82	05542231		PECK RICHARD G		48515 GRANT AVE KENAI, AK 99611	J&P SUB AURORA ADDN LOT 3	NONE
✓ 83	05527010	9-18-24	PENROD TRAVIS	<i>Travis Penrod</i>	36860 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 1 LOT 10 BLK 1	36770 VIRGINIA DR
✓ 84	05527013	9-18-24	PENROD TRAVIS & CRYSTAL	<i>Travis Penrod</i>	36860 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 4 LOT 13 BLK 1	36860 VIRGINIA DR
✓ 85	05527071	9-23-24	POKRYFKI GREGORY EDWARD	<i>Greg Pokryfki</i>	46715 GARY AVE KENAI, AK 99611	DIAMOND WILLOW ESTATES 2016 ADDN LOT 36A	46715 GARY AVE
✓ 86	05542204	9.21.24	RIOUX REGINA E	<i>Regina Rioux</i>	47082 BELMONT CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 4	47082 BELMONT CT
✓ 87	05527057	9.21.24	SARREN EUGENE	<i>Eugene Sarren</i>	46289 CIECHANSKI RD KENAI, AK 99611	DIAMOND WILLOW ESTATES PART 12 LOT B2 2	NONE
✓ 88	05527058	9.21.24	SARREN EUGENE	<i>Eugene Sarren</i>	46289 CIECHANSKI RD KENAI, AK 99611	DIAMOND WILLOW ESTATES PART 12 LOT B2 3	46289 CIECHANSKI RD
89	05527034		SATTERFIELD STEVE L & SHIRLEY J	SEE CERTIFICATES -RCR	3431 EVERGREEN ST ANCHORAGE, AK 99504	DIAMOND WILLOW ESTATES SUB PART 8 AMENDED LOT 3	36616 VIRGINIA DR
90	05527031		SAVAGE LIVING TRUST		7260 BLACKWELL RD CENTRAL POINT, OR 97502	DIAMOND WILLOW ESTATES SUB PART 7 LOT 31-A BLK 1	46636 GARY AVE

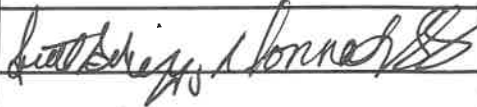
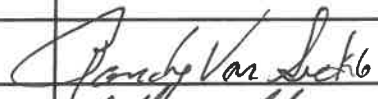


The person circulating this petition is: **TBD**

Contact: **TBD**

Contact: **TBD**

PETITION TO THE KENAI PENINSULA BOROUGH ASSEMBLY FOR ESTABLISHMENT OF A LOCAL OPTION ZONING DISTRICT

Pursuant to KP.B 21.44, we, the qualified property owners residing within the boundaries of the proposed local option zoning district, hereby petition the Kenai Peninsula Borough Assembly for the establishment of a **Mixed Use (C-3)** local option zoning district as shown on the attached map.

	PARCEL	DATE	NAME	SIGNATURE	MAILING ADDRESS	LEGAL DESCRIPTION	PHYSICAL ADDRESS
91	05527059		SCHULTZ ANNETTE L		PO BOX 3524 SOLDOTNA, AK 99669	DIAMOND WILLOW ESTATES PART 12 LOT B2 4	46265 CIECHANSKI RD
92	05542224		SHACKLETON BRIANNA D		47127 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 24	47127 LEXINGTON CT
✓ 93	05527029	9-21-24	SHIRNBERG SCOTT S & DONNA L		46680 GARY AVE KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 5 LOT 29 BLK 1	46680 GARY AVE
94	05527021		SMV TRUST		1997 ALCOVA RIDGE DR LAS VEGAS, NV 89135	DIAMOND WILLOW ESTATES SUB PART 1 LOT 21 BLK 1	46159 CIECHANSKI RD
95	05542222		STEWART JORDAN J		47207 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 22	47207 LEXINGTON CT
96	05542223		STOCKTON DALE E JR & KRISTIE R		47165 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 23	47165 LEXINGTON CT
97	05542210		UPDIKE SADIE R		48655 PRAIRIE AVE SOLDOTNA, AK 99669	FAIRFIELD ESTATES SUB LOT 10	47169 BELMONT CT
98	05542225	9-22-24	VAN SICKLE RANDY W		47117 LEXINGTON CT KENAI, AK 99611	FAIRFIELD ESTATES SUB LOT 25	47117 LEXINGTON CT
✓ 99	05527009	9/20/24	WEBB JEFFREY R		36750 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 1 LOT 9 BLK 1	36750 VIRGINIA DR
100	05527006	9/18/24	WEHR CHRIS C		36680 VIRGINIA DR KENAI, AK 99611	DIAMOND WILLOW ESTATES SUB PART 1 LOT 6 BLK 1	36680 VIRGINIA DR

The person circulating this petition is: TBD

Contact: TBD

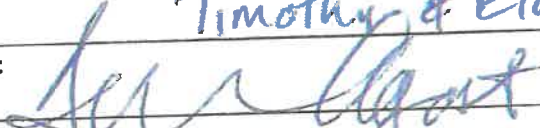
Contact: TBD

SUPPORT OF PETITION TO MODIFY TEN MAR RANCH LOZD

Per KPB 21.44.060, the KPB Assembly may approve, disapprove, or modify the LOZD petition. In order for the petition to be submitted to the Assembly for introduction, the owners of 60% of the parcels within the LOZD must be in favor of the proposed change to the LOZD as represented by a parcel owner's signature on this document.

CERTIFICATION STATEMENT

- I certify that the information contained on this form is true and complete to the best of my knowledge.
- I certify that am a property owner of record for the below property, which lies within the proposed Diamond Willow – Kenai Wellness Estates LOZD.
- My signature certifies that I am in support of the petitioner's request to modify the boundaries and zone type of the Diamond Willow – Kenai Wellness Estates LOZD.

PROPERTY INFORMATION AND SIGNATURE OF OWNER IN SUPPORT OF PETITION	
KPB Parcel ID:	
Physical Address: 36894 Virginia Dr	
Legal Description: Lots 14 & 15, Blk 1, Diamond Willow Sub	
Property Owner of Record: Timothy & Elaine Agosti	
Signature: 	Date: Aug 11, 2024

For additional information, contact Ryan Raidmae at raidmae@kpb.us or (907) 714-2462.

SUPPORT OF PETITION TO MODIFY TEN MAR RANCH LOZD

Per KPB 21 44.080, the KPB Assembly may approve, disapprove, or modify the LOZD petition. In order for the petition to be submitted to the Assembly for introduction, the owners of 60% of the parcels within the LOZD must be in favor of the proposed change to the LOZD as represented by a parcel owner's signature on this document.

CERTIFICATION STATEMENT

- I certify that the information contained on this form is true and complete to the best of my knowledge.
- I certify that am a property owner of record for the below property, which lies within the proposed Diamond Willow – Kenai Wellness Estates LOZD.
- My signature certifies that I am in support of the petitioner's request to modify the boundaries and zone type of the Diamond Willow – Kenai Wellness Estates LOZD.

PROPERTY INFORMATION AND SIGNATURE OF OWNER IN SUPPORT OF PETITION	
KPB Parcel ID:	#06527034
Physical Address:	36016 VIRGINIA DR
Legal Description:	TEN MAR NW SEC 24 STEWARD MERIDIAN KN 2006104 DIAMOND WILLOW ESTATES SUB PART 8 AMENDED LOT 3
Property Owner of Record:	STEVE & SHIRLEY SATTERFIELD
Signature:	Steve Satterfield Shirley Satterfield
Date:	9/23/24

For additional information, contact Ryan Raidmae at rraidmae@kpb.us or (907) 714-2462

Applicant Consolidated Development & Management, LLC, the owner of thirty-five lots located in the Diamond Willow - Fairview R-1 Local Option Zone is applying for rezoning of Lots A3, A4 and A5 of Diamond Willow Kenai Wellness Estates Addition (Plat No. 2023-60), comprising 4.5 acres, to create a C-3 Local Option Zone. While this is in variance with the standards provided in the KPB Code of Regulations, specifically the requirement of a minimum of 12 lots to create a Local Option Zone, the special circumstances here warrant an exception to that rule against spot zoning.

In 2018, a dispute arose between Consolidated and the Diamond Willow Homeowners Association (which included about 60% of the voting members of the Diamond-Willow - Fairview R-1 LOZ) over the replatting of what had been a large undeveloped parcel of over 40 acres previously included in that LOZ. While this dispute ended up in litigation, the parties resolved their differences by entering into a comprehensive settlement agreement governing the development and use of all of Consolidated's property within the Diamond Willow Subdivision. This settlement agreement was intended to give effect to the intent of the developer at the time that the CC&Rs were originally filed that approximately 6 acres at the corner of Ciechanski Road and Virginia Drive would be reserved for commercial use. This settlement included a provision in which the parties agreed that the Diamond Willow HOA would support a rezoning of that property from R-1 to C-3. A copy of the *Judgment* entered to effectuate the settlement has been made available to the KPB Planning Department.

While development of the property could proceed if the affected property were to be merely removed from the Diamond Willow - Fairview LOZ, the Diamond Willow HOA has requested Consolidated seek a rezoning of the property to create an agreed C-3 LOZ. The Diamond Willow HOA understandably prefers that Consolidated be required to comply with the C-3 zoning as a part of any permitting process in the development of the lots, and have given their signatures in support of that zoning change as was agreed. If the lots are removed from the R-1 LOZ and a C-3 LOZ is not created, then the Diamond Willow HOA would bear the entire responsibility for evaluating whether Consolidated's development of those lots was in compliance with the equivalent of C-3 zoning. Then, if they concluded it was not in compliance, they would be required to attempt to enforce compliance through the court system. The alternative of creating a C-3 LOZ of 12 lots in the Diamond-Willow Subdivision would conflict with the settlement agreement and the CC&Rs applicable to those additional 9 lots and may create confusion in future owners of the property. Consolidated agrees with the Diamond-Willow HOA that creation of the requested C-3 LOZ for the three lots, as requested, will greatly reduce the possibility of future disagreements and foster a more harmonious relationship between it and its neighbors. For that reason, Consolidated requests the removal of three lots from the Diamond Willow - Fairview R-1 Local Option Zone and an exception from the requirements of KPB Code Chapter 21-44 be allowed in order to establish a C-3 LOZ comprised of those 3 lots.

Ray Dyermi
For
CONSOLIDATED DEV.
& MGMT. LLC
9/26/24.

ROBERT K. REIMAN
P.O. Box 201271
Anchorage, Alaska 99520
(907) 748-1132

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IN THE SUPERIOR COURT
THIRD JUDICIAL DISTRICT

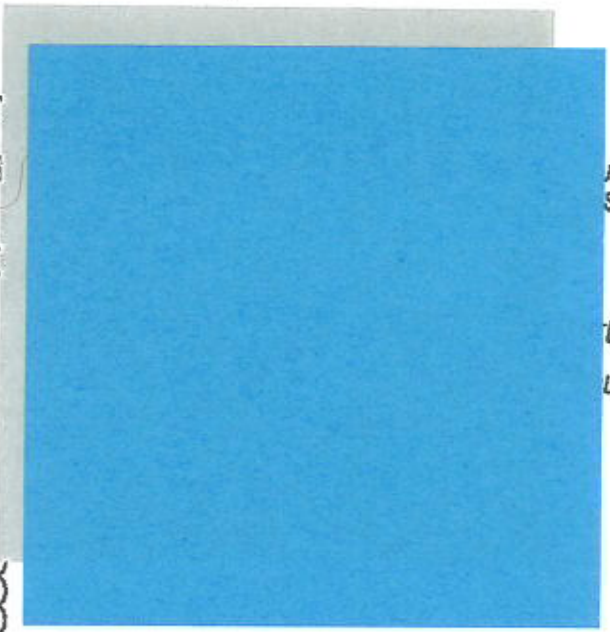
DIAMOND WILLOW HOMEOWNERS ASSOCIATION, an Alaskan non-profit organization,

Plaintiff,

vs.

CONSOLIDATED DEVELOPMENT & MANAGEMENT, LLC,

Defendant.



JRTS
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JUDGMENT ON STIPULATION OF THE PARTIES

This judgment and stipulation interprets and applies those *Building and Use Restrictions*, dated and recorded August 7, 1975 at Book 86, Pages 202-203 ("*Restrictions*") affecting the following described real property:

The W1/2 NW1/4, NE1/4 NW1/4 and Gov't Lot 3, Section 24, T5N, R11W, Seward Meridian, AK, containing 152.4 acres more or less, Kenai Recording District, Third Judicial District, State of Alaska.

The parties, Plaintiff Diamond Willow Homeowners, Inc. ("DWHA"), and Consolidated Development & Management, LLC ("Consolidated"), hereby stipulate and agree to the following, and to entry of judgment thereon, by this Court:

STIPULATED RECITALS OF FACT

1. Diamond Willow Homeowners Association, Inc. ("DWHA"), is a non-profit corporation organized and existing under the laws of the State of Alaska.

2. Consolidated Development & Management, LLC ("Consolidated"), is a limited liability company organized and existing under the laws of the State of Alaska, whose sole member and manager is Ray Oyemi.

3. Consolidated is the owner of real property located in the Kenai Recording District, Third Judicial District, State of Alaska, and this stipulation and judgment affect that real property described as follows:

1 Lots 1A, B2 and 2, DIAMOND WILLOW ESTATES, PART 11,
2 according to the official plat thereof filed as Plat No. 2012-93 in the records
of the Kenai Recording District;

3 Lots 6, 7, 8 and Tract A, DIAMOND WILLOW ESTATES, SUNVILLE
ACRES ADDITION, according to the official plat thereof filed as Plat No.
4 2015-69 in the records of the Kenai Recording District ("Sunville No. 1"); and

5 Lots 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A and 5B, DIAMOND
WILLOW ESTATES, SUNVILLE ACRES ADDITION NO. 2, according to
6 the official plat thereof filed as Plat No. 2019-14 in the records of the Kenai
Recording District ("Sunville No. 2").

7 4. In 2018, Consolidated sought approval for a replat of a portion of Diamond Willow
Estates, Sunville Acres Addition, Plat No. 2015-69.

8 5. DWHA opposed the replat based in part upon a prohibition contained in the
9 *Restrictions* and in part upon its rights as a common interest community association.

10 6. The replat was granted by the Kenai Peninsula Borough Planning Commission and
11 approved by its hearing officer over opposition of the DWHA.

12 7. DWHA appealed this decision to the Alaska Superior Court in the appeal captioned
13 *Diamond Willow Homeowners Association, Inc. v. Consolidated Development &*
14 *Management, LLC*, Case No. 3KN-19-319 CI ("replat appeal"), which appeal is briefed and
15 awaiting decision.

16 8. The reference in the *Restrictions* to lots that may be used for non-residential
17 purposes is to lots that do not exist in a recorded plat, except as to Tract A, DIAMOND
18 WILLOW ESTATES, PART 6, according to the official plat thereof filed as Plat No. 81-49
19 in the Kenai Recording District. The *Restrictions* are therefore ambiguous as to the
20 description of the real property that may be used for commercial purposes, except for Tract
21 A, DIAMOND WILLOW ESTATES, PART 6. The only documentary evidence reflecting
22 the intent of the developer as to the lots reserved for commercial use was an unrecorded,
23 draft plat map filed with the Kenai Peninsula Borough Planning Department in 1975
24 depicting HEA easements, which draft plat indicated that the lots that were reserved for non-
25 residential purposes in the *Restrictions* included those bordering Ciechanski Road between
26 Virginia and Gary Avenues, within what is now known as Tract A, DIAMOND WILLOW
27

28 JUDGMENT AND STIPULATION - PAGE 2

1 ESTATES, SUNVILLE ACRES ADDITION, Plat No. 2015-69 ("Gibb's development
2 plan").

3 9. DWHA also instituted the present litigation against Consolidated seeking
4 declaratory and other relief, including enforcement of the prohibition in the *Restrictions*
5 against other than single family residential use, which case is captioned *Diamond Willow*
6 *Homeowners Association, Inc. v. Consolidated Development & Management, LLC*, 3KN-19-
7 335 CI ("DWHA litigation"). Consolidated counterclaimed challenging DWHA's status as
8 a common interest community. association and the application of the *Restrictions* to the
9 property within Sunville Nos. 1 and 2.

10 STIPULATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

11 In resolution of the plat appeal and the present litigation, the parties further stipulate
12 and agree to findings of fact and conclusions of law, as follows:

13 10. The *Restrictions*, as recorded on August 7, 1975, are applicable to the real
14 property owned by Consolidated within Diamond Willow Estates, including that described
15 in Section 3 above.

16 11. As applied to the real property presently contained in Sunville Nos. 1 and 2, the
17 *Restrictions* will not be further amended without the consent of a majority of the lot owners
18 of Sunville Nos. 1 and 2 (and a majority of the lot owners as described in paragraph 14) for
19 a period of 10 years from the date of entry of this judgment.

20 12. A subdivision and/or development of Tract A, DIAMOND WILLOW ESTATES,
21 SUNVILLE ACRES ADDITION, Plat No. 2015-69, as follows, is compliant with the terms
22 of the *Restrictions* and Gibb's development plan;

23 a. A parcel 220 feet wide fronting Ciechanski Road for its entire length
24 between Virginia and Gary Avenue (or an equivalent sized rectangle parcel located at the
25 corner of Ciechanski Road and Virginia Avenue with frontage on Ciechanski of equal or
26 greater length to that on Virginia), which parcel may be used for commercial purposes, as

27
28 JUDGMENT AND STIPULATION - PAGE 3

1 defined by the KPB zoning regulations for the C-3 designation that allows for mixed, non-
2 industrial uses, and which parcel can be comprised of one or more lots; and

3 b. The balance of Tract A may be subdivided for single family dwellings as
4 defined by the R-1 zoning regulations for the Kenai Peninsula Borough.

5 These parcels may be replatted by Consolidated or its successors without consent of
6 other lot owners for a period of 10 years from the date of this judgment, provided that the
7 redrawn lots comply with the requirements of the above sections (a) and (b). Rezoning will
8 be allowed to the extent required to effectuate the above development, including the adoption
9 of an LOZ or amendment to the current one such as will allow the use of the commercial
10 property for that purpose. DWHA will support and consent to such a rezoning or amendment
11 to the LOZ.

12 13. Consolidated's property is not within or a part of DWHA or its jurisdiction, and
13 Consolidated does not have any membership therein unless incorporated pursuant to Section
14 15.

15 14. DWHA is a common interest community association applicable to the portion of
16 the subdivision that does not include (1) Consolidated's property, referenced in paragraph
17 3 above, or (2) that portion of Diamond Willow Estates subdivision included within the
18 original Tract A, DIAMOND WILLOW ESTATES, PART 6, according to the official plat
19 thereof files as Plat No. 81-49. DWHA includes the following property:

20 Lots 4, 5, 6, 7, 8, 9, 10, 18, 19, 20, 21 and 22, Block 1, Diamond Willow
21 Estates Subdivision - Part One, according to Plat 75-68;
22 Lot 11, Block 1, Diamond Willow Estates Subdivision - Part Two, according
23 to Plat 76-38;
24 Lots 12, 13, 14, and 15, Block 1, Diamond Willow Estates Subdivision - Part
25 Four, according to Plat 77-4;
26 Lots 26, 27, 28, and 29, Block 1, Diamond Willow Estates Subdivision - Part
27 5, according to Plat 81-100;
28 Lots 30-A, 31-A, and 32-A, Block 1, Diamond Willow Estates Subdivision
Part 7, according to Plat 82-62;
Lots 33, 34, 35, 36, 37, 38, and 39, Diamond Willow Estates Subdivision Part
- 9, according to Plat 2005-5;
Lot 3, Diamond Willow Estates Subdivision Part - 8 amended, according to
Plat 2006-104;

JUDGMENT AND STIPULATION - PAGE 4

1 Lots B2-2, B2-3, B2-4, and B2-5, Diamond Willow Estates Part 12, according
2 to Plat 2014-38; and
3 that portion of the Northeast ¼ Northwest ¼, Section 24, Township 5 North,
4 Range 11 West, Seward Meridian, lying north of the northerly most boundary
5 of Lot 15, Block 1, Diamond Willow Estates Subdivision, Part Four, Plat
6 77-44 and east of the easterly most boundary of Lot 18, Block 1, Diamond
7 Willow Estates Subdivision, Part One, Plat 75-68; all located in the Kenai
8 Recording District, Third Judicial District, State of Alaska.

9 This stipulation and the judgment entered hereon is binding upon the DWHA and its
10 members.

11 15. The residential lot owners within Sunville Acres Nos. 1 and 2, including those
12 residential lots created from Tract A, Sunville No. 1, may incorporate their respective lot into
13 the DWHA by recording such a declaration in the records of the Kenai Recording District.

14 16. Any remaining claims of the parties in the present litigation are dismissed without
15 prejudice except as provided herein.


16 17. The appeal of the KPB planning board decision in the replat appeal shall be
17 withdrawn and dismissed.

18 18. The parties shall bear their own costs and attorney fees in both the replat appeal
19 and the present litigation. Consolidated agrees that the appeal bond shall be returned to
20 Appellant DWHA.

21 19. This settlement will be effective upon approval of the Court.

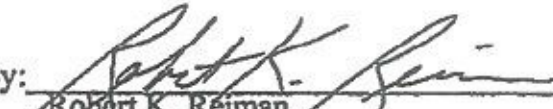
22 DATED 5 May 2020

23 ALASKA LAW OFFICE
24 Attorney for Plaintiff

25 By: 
26 Clayton Walker, Esq.
27 Alaska Bar No. 0001002

1 DATED 5/5/2020

LAW OFFICES OF ROBERT K. REIMAN
Attorney for Defendant

2
3
4 By: 
5 Robert K. Reiman
6 Alaska Bar No. 8310145

7 JUDGMENT

8 Now therefore, THIS COURT upon stipulation of the parties and having been fully
9 advised in the premises, hereby enters judgment as follows:

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the foregoing
11 stipulated findings of fact and conclusions of law are adopted as the final judgment of this
12 Court.

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any remaining
14 issues pending herein are dismissed without prejudice, each party to bear their own costs and
15 attorney fees.

16 DATED this 12th day of May, 2020, in Kenai, Alaska.

17
18 
19 JUDGE OF THE SUPERIOR COURT

20 Jennifer K. Wells

21
22 I certify that a copy of the forgoing was
23 _____ mailed to _____
24 _____ placed in court box to _____
25 _____ faxed to _____
26 scanned to Walker, Reiman
27 SA _____ 5-13-20
28 Judicial Assistant Date



**NOTICE OF PETITION TO MODIFY
DIAMOND WILLOW – FAIRFIELD LOCAL OPTION ZONING DISTRICT**

«OWNER»

July 30, 2024

«ADDRESS»

«CITY», «STATE» «ZIPCODE»

To whom it may concern:

This is a notice to inform you that the Kenai Peninsula Borough (KPB) received a petition to modify the Diamond Willow – Fairfield, Single Family Residential (R-1), Local Option Zoning District (LOZD) in Soldotna, Alaska.

Petitioner: Ray Oyemi (Consolidated Development & Management LLC)
200 W. 34th Ave. Ste 367
Anchorage, Alaska 99503

Parcel ID(s): 055-272-13, 055-272-14, 055-272-15

Legal: T 05N R 11W Sec 24 Seward Meridian KN 2023060 Diamond Willow Kenai Wellness Estates Addn Lot A3, A4, A5

Request: To change the zoning type of the parcels listed above, from Single Family Residential (R-1) to a Mixed-Use District (C-3).

Why am I receiving this notice?

You are receiving this notice because you own property within the Diamond Willow – Fairfield LOZD.

What is the existing Diamond Willow – Fairfield LOZD?

The Diamond Willow - Fairfield LOZD is a Single-Family Residential (R-1) zoning district established by the KPB Assembly on March 17, 2015 through Ordinance 2014-35. Properties within Diamond Willow - Fairfield LOZD are subject to the zoning regulations in the enclosed *Diamond Willow – Fairfield LOZD Summary Statement*.

What is the proposed Diamond Willow – Kenai Wellness Estates LOZD?

Diamond Willow – Kenai Wellness Estates LOZD proposes to modify the existing parcels 055-272-13, 055-272-14, 055-272-15 from Single-Family Residential (R-1) to Mixed-Use (C-3). Properties within Diamond Willow – Kenai Wellness Estates LOZD will be subject to the zoning regulations in the enclosed *Diamond Willow – Kenai Wellness Estates LOZD Summary Statement*.

What are the next steps?

- In order for the petition to move forward, at least 60% of parcel owners within the Diamond Willow – Fairfield LOZD must be in favor of the proposed zone change. To support the change, parcel owners must sign and return the enclosed *Summary Statement*.
- KPB will hold a Community Meeting on August 14, 2024 (notice enclosed).

Questions?

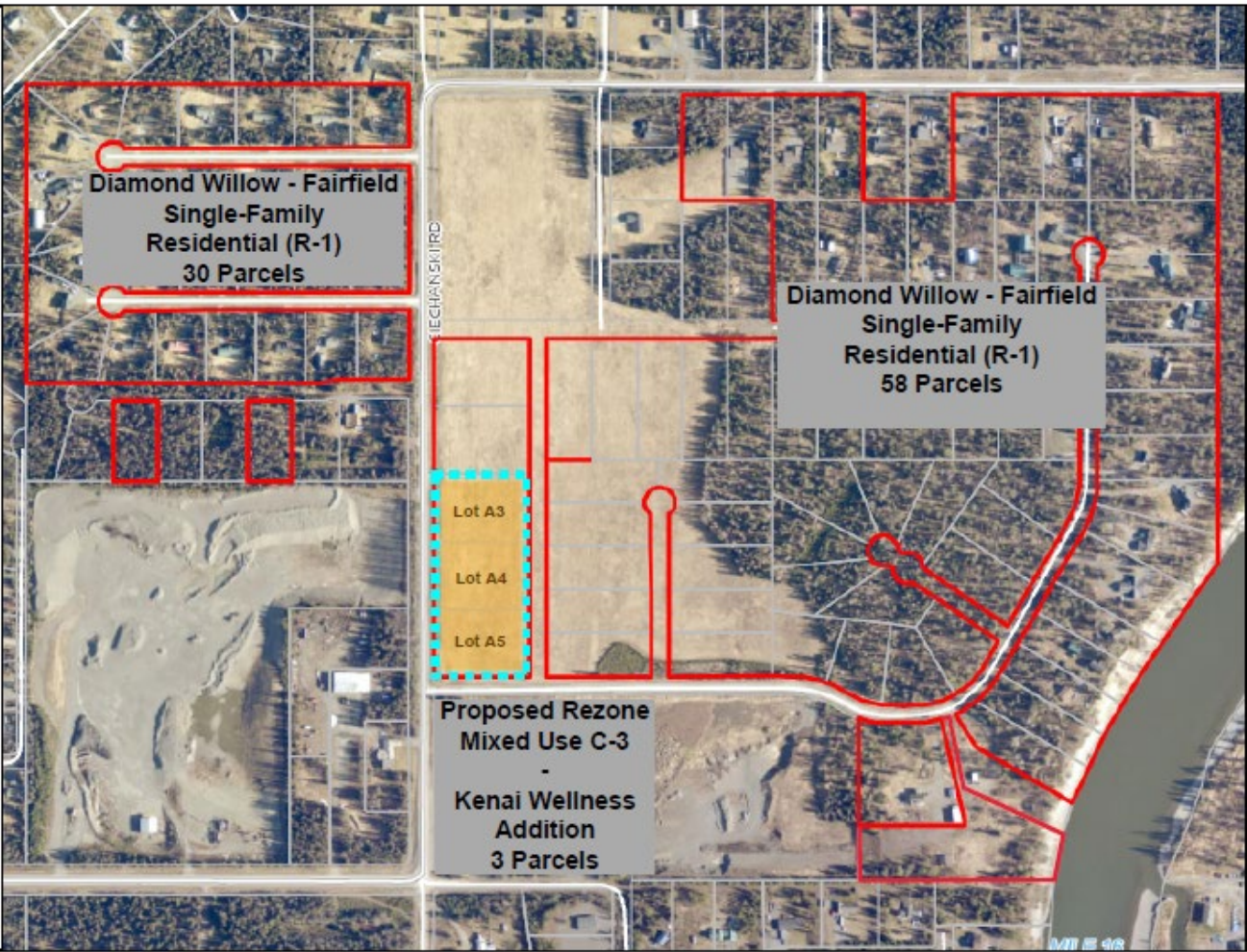
For additional information, contact Ryan Raidmae at rraidmae@kpb.us or (907) 714-2462.





Enclosed:

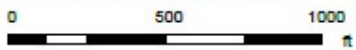
- Notice of Community Meeting
- Diamond Willow - Fairfield and Diamond Willow - Kenai Wellness Estates Boundary Maps
- Summary Statements
- Signature Page



Local Option Zoning District (LOZD), Proposed Rezone
Diamond Willow - Kenai Wellness Estates Addition, Mixed Use (C-3)



-  Existing LOZD Diamond Willow - Fairfield
-  River Miles
-  Tax Parcels
-  New District, Proposed



Tuesday, July 30, 2024



**SUMMARY STATEMENT
DIAMOND WILLOW – FAIRFIELD LOCAL OPTION ZONING DISTRICT**

The Kenai Peninsula Borough (KPB) received a petition to modify the Diamond Willow – Fairfield Single Family Residential (R-1) Local Option Zoning District (LOZD). The petition seeks to change the zoning type for parcels 055-272-13, 055-272-14 and 055-272-15, from Single Family Residential (R-1) to a Mixed-Use District (C-3).

Below is a summary of existing regulations affecting properties within the existing Diamond Willow – Fairfield LOZD:

KPB 21.44.160 Single-family residential district (R-1).

- A. *Allowed Principal Use.* Single-family residential (R-1) dwelling units are the allowed principal use in this district.
- B. *Allowed Compatible Uses.* Compatible uses allowed in the R-1 zone are parks, playgrounds, open space, schools, community centers, libraries, churches, and home occupations.
- C. *Development Standards.* Development standards apply to principal and accessory structures.
 - 1. *Setbacks.* Setbacks for structures shall be 30 feet from the front yard line, 20 feet from the rear yard line, 15 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
 - 2. *Maximum building height.* Maximum building height shall be 2½ stories above ground or 35 feet above average grade, whichever is less
 - 3. *Lot size.* Minimum lot size shall be 40,000 square feet. Maximum lot size is 5 acres.
 - 4. *Coverage.* Maximum coverage by structure is 20 percent of the lot.
 - 5. *Drainage Ways.* Existing natural drainage ways shall be retained.
 - 6. *Accessory structures.* Accessory structures commonly associated with residential dwellings, i.e., garages, barns, storage sheds, greenhouses, wind turbines, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district. A single accessory structure may constitute the principal use of the lot where an adjacent lot with the primary residence is in the same ownership.
 - 7. *Livestock and pets.*
 - a. Dog Lots: Dog lots and kennels are prohibited.
 - b. Household pets including, but not limited to, dogs and cats shall be allowed provided that no more than four household pets of more than six months of age are kept on the lot.
 - c. Poultry, fowl and small animals shall be properly contained (e.g., chicken coop, rabbit hutch) and shall be located in accordance with the required accessory use setbacks. No more than 10 such animals over 6 months old are allowed.
 - d. Hoofed animals are prohibited, except for a single miniature horse used as a service animal.
 - 8. *Prohibited uses and structures.* The following uses and structures are prohibited in the R-1 district:
 - a. A lot within the LOZD shall not be offered for sale or lease for non-allowed uses.
 - b. No more than two of either travel trailers or motor homes may be on each lot at any time.
 - c. No more than two of either inoperable or unregistered vehicles are allowed on each lot at any time.



SUMMARY STATEMENT

DIAMOND WILLOW – KENAI WELLNESS ESTATES LOCAL OPTION ZONING DISTRICT

The Kenai Peninsula Borough (KPB) received a petition to modify the Diamond Willow – Fairfield Single Family Residential (R-1) Local Option Zoning District (LOZD). The petition seeks to change the zoning type of parcels 055-272-13, 055-272-14 and 055-272-15, from Single Family Residential (R-1) to a Mixed-Use District (C-3).

Below is a summary of regulations affecting properties within the proposed Diamond Willow – Kenai Wellness Estates LOZD.

KPB 21.44.190 Mixed use district (C-3).

- A. *Allowed Principal Uses:* Commercial, business, residential, institutional and public uses are allowed in this district. Industrial uses are prohibited in a C-3 LOZD.
- B. *Allowed Compatible Uses:* Compatible uses allowed in the C-3 zone are uses allowed in R-1 and R-M districts.
- C. *Development Standards.* Development standards apply to principal and accessory structures.
 - 1. *Setbacks.* Setbacks shall be 30 feet from the front yard line, 20 feet from the rear yard line, 15 feet from the side yard lines, and 100 feet from the shore and where applicable subject to the provisions of KPB 21.18.
 - 2. *Lot size.* Minimum lot size shall be 40,000 square feet. Maximum lot size is 5 acres.
 - 3. *Drainage ways.* Existing natural drainage ways shall be retained.
 - 4. *Coverage.* Maximum coverage by structures is 20 percent of the lot.
- D. *Prohibited Uses.* The following uses are prohibited in C-3 LOZDs: marijuana establishments licensed under AS 17.38 and applicable regulations, alcoholic beverage premises licensed under Title 4 of the Alaska statutes, and sexually oriented business establishments.



**NOTICE OF COMMUNITY MEETING:
DIAMOND WILLOW – KENAI WELLNESS ESTATES, LOCAL OPTION ZONING
DISTRICT**

Public notice is hereby given that a petition to modify the boundaries and zone type of the Diamond Willow – Fairfield Local Option Zoning District (LOZD) has been received. Pursuant to KPB 21.44.140(A), amendments to LOZD’s may be initiated to repeal a zone, change the type of zone, or modify the LOZD boundaries. **You are being sent this notice because you are a property owner within Diamond Willow – Fairfield LOZD, and are invited to provide your input at the below public meeting.**

- Petitioner:** Ray Oyemi (Consolidated Development & Management LLC)
200 W. 34th Ave. Ste 367
Anchorage, Alaska 99503
- Parcel ID(s):** 055-272-13, 055-272-14, 055-272-15
- Legal:** T 05N R 11W Sec 24 Seward Meridian KN 2023060 Diamond Willow Kenai Wellness Estates Addn Lot A3, A4, A5
- Request:** To change the zoning type of the parcels listed above, from Single Family Residential (R-1) to a Mixed-Use District (C-3).

The Kenai Peninsula Borough Planning Department meeting has scheduled a public community meeting to gauge support. Anyone wishing to testify or provide input is invited to attend the community meeting:

- Date:** Wednesday August 14, 2024
- Time:** 6:00 PM
- Location:** Donald E. Gilman River Center
514 Funny River Road
Soldotna, AK 99669

- Zoom Link:** <https://yourkpb.zoom.us/j/85478912440>
- Meeting ID:** 854 7891 2440
- By Phone:** (877) 853-5247

For additional information, contact Ryan Raidmae at raidmae@kpb.us or (907) 714-2462.

Ryan Raidmae
KPB Planner

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SUPPORT OF PETITION TO MODIFY TEN MAR RANCH LOZD

Per KPB 21.44.060, the KPB Assembly may approve, disapprove, or modify the LOZD petition. In order for the petition to be submitted to the Assembly for introduction, the owners of 60% of the parcels within the LOZD must be in favor of the proposed change to the LOZD as represented by a parcel owner's signature on this document.

CERTIFICATION STATEMENT

- I certify that the information contained on this form is true and complete to the best of my knowledge.
- I certify that am a property owner of record for the below property, which lies within the proposed Diamond Willow – Kenai Wellness Estates LOZD.
- My signature certifies that I am in support of the petitioner’s request to modify the boundaries and zone type of the Diamond Willow – Kenai Wellness Estates LOZD.

PROPERTY INFORMATION AND SIGNATURE OF OWNER IN SUPPORT OF PETITION	
KPB Parcel ID:	
Physical Address:	
Legal Description:	
Property Owner of Record:	
Signature:	Date:

For additional information, contact Ryan Raidmae at raidmae@kpb.us or (907) 714-2462.



NOTICE OF PUBLIC HEARING

Attn: «ATTENTION»

«OWNER»

«ADDRESS»

«CITY», «STATE» «ZIPCODE»

October 9, 2024

NOTICE IS HEREBY GIVEN that the Kenai Peninsula Borough (KPB) received a petition to amend the Diamond Willow-Fairfield Local Option Zoning District (LOZD) in Soldotna, Alaska, and will conduct public hearings on the matter. This ordinance would re-zone three parcels from the current Single Family Residential District (R-1) to a Mixed-Use District (C-3).

Petitioner: Ray Oyemi, Consolidated Development & Management, LLC.

Parcel ID(s): 05527213, 05527214, 05527215

Legal: Diamond Willow Kenai Wellness Estates Addn Lot A3, A4, A5

You are being sent this notice because you own property in, or within 300 feet of, the Diamond Willow – Fairfield LOZD and are invited to comment and give testimony at the following public meetings:

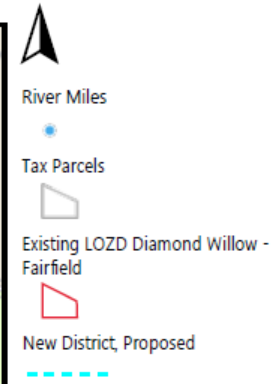
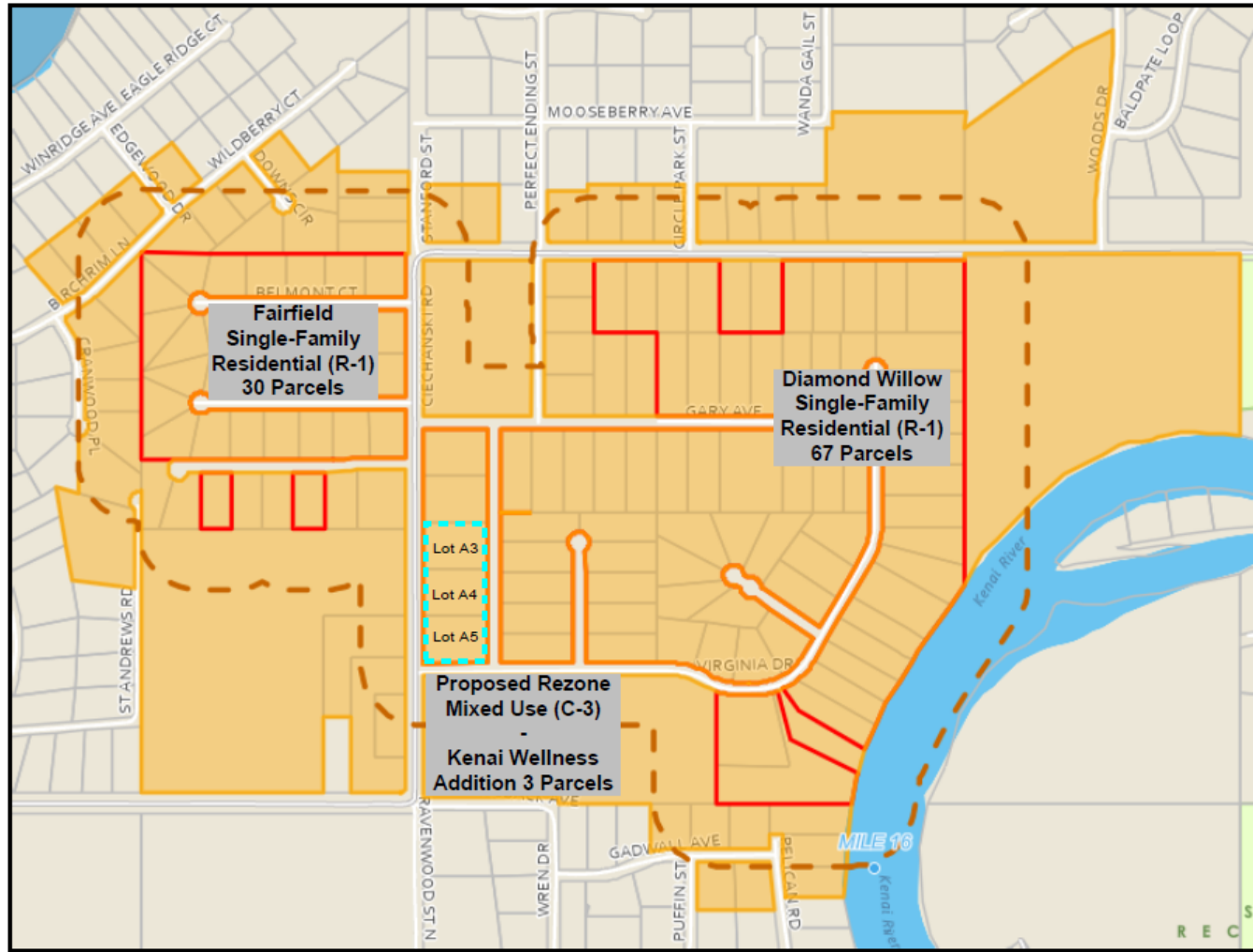
- **KPB Planning Commission:** Monday, October 28, 2024 7:30 p.m., in the KPB Assembly Chambers, 144 N. Binkley St. Soldotna, Alaska and via Zoom, Meeting ID 907 714 2200. Written comments for this meeting must be received by 1:00 pm Friday, October 25, 2024 and may be mailed to 144 N. Binkley St., Soldotna, Alaska 99669, Soldotna, Alaska 99669 or emailed to planning@kpb.us.
- **KPB Assembly Introduction:** Tuesday, November 12, 2024, 6:00 p.m. in the KPB Assembly Chambers, 144 N. Binkley St. Soldotna, Alaska, and via Zoom, Meeting ID 895 1103 3332 Passcode 193069. Written comments for this meeting must be received by 5:00 p.m. Tuesday, November 12, 2024 and may be mailed to 144 N. Binkley St., Soldotna, Alaska 99669 or emailed to assemblyclerk@kpb.us.
- **KPB Assembly Public Hearing:** Tuesday, December 10, 2024, 6:00 p.m. in the KPB Assembly Chambers, 144 N. Binkley St. Soldotna, Alaska, and via Zoom, Meeting ID 895 1103 3332 Passcode 193069. Written comments for this meeting must be received by 5:00 p.m. Tuesday, December 10, 2024 and may be mailed to 144 N. Binkley St., Soldotna, Alaska 99669 or emailed to assemblyclerk@kpb.us.

For additional information, contact Ryan Raidmae at rraidmae@kpb.us or (907) 714-2462.

Ryan Raidmae
KPB Planner



Local Option Zoning District (LOZD), Proposed Rezone, Diamond Willow - Kenai Wellness Estates Addition, Mixed Use (C-3) Parcels Within and 300 ft From the Proposed District



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

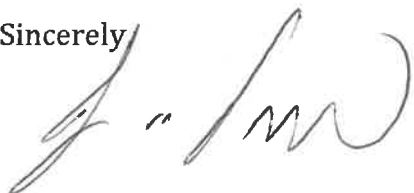
**Public Hearing Response
Diamond Willow-Fairfield LOZD Rezone**

KPB Planning Commission & Assembly,

I am writing this letter on behalf of the Diamond Willow Homeowners Association (DWHA). The rezoning of the Diamond Willow-Fairfield LOZ three lots as presented in this hearing from R-1 to C-3 meets the requirements of our legal agreement that is attached to this letter. DWHA was instrumental in attaining the required signatures to move this petition forward as it is presented.

DWHA supports and consents to this rezoning.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Penrod". The signature is written in a cursive style with a large, sweeping initial "T".

Travis Penrod, Chairman
Diamond Willow Homeowners Association

Law Offices of
ROBERT K. REIMAN
P.O. Box 201271
Anchorage, Alaska 99520
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

FILED IN THE TRIAL COURTS
STATE OF ALASKA THIRD DISTRICT
AT KENAI ALASKA
MAY - 8 2020
Clerk of the Trial Courts
By _____ Deputy

DIAMOND WILLOW HOMEOWNERS)
ASSOCIATION, an Alaskan non-profit)
organization,)
Plaintiff,)
vs.)
CONSOLIDATED DEVELOPMENT &)
MANAGEMENT, LLC,)
Defendant.)

Case No. 3KN-19-319 CI

JUDGMENT ON STIPULATION OF THE PARTIES

This judgment and stipulation interprets and applies those *Building and Use Restrictions*, dated and recorded August 7, 1975 at Book 86, Pages 202-203 ("*Restrictions*") affecting the following described real property:

The W1/2 NW1/4, NE1/4 NW1/4 and Gov't Lot 3, Section 24, T5N, R11W, Seward Meridian, AK, containing 152.4 acres more or less, Kenai Recording District, Third Judicial District, State of Alaska.

The parties, Plaintiff Diamond Willow Homeowners, Inc. ("DWHA"), and Consolidated Development & Management, LLC ("Consolidated"), hereby stipulate and agree to the following, and to entry of judgment thereon, by this Court:

STIPULATED RECITALS OF FACT

1. Diamond Willow Homeowners Association, Inc. ("DWHA"), is a non-profit corporation organized and existing under the laws of the State of Alaska.
2. Consolidated Development & Management, LLC ("Consolidated"), is a limited liability company organized and existing under the laws of the State of Alaska, whose sole member and manager is Ray Oyemi.
3. Consolidated is the owner of real property located in the Kenai Recording District, Third Judicial District, State of Alaska, and this stipulation and judgment affect that real property described as follows:

1 Lots 1A, B2 and 2, DIAMOND WILLOW ESTATES, PART 11,
2 according to the official plat thereof filed as Plat No. 2012-93 in the records
of the Kenai Recording District;

3 Lots 6,7, 8 and Tract A, DIAMOND WILLOW ESTATES, SUNVILLE
4 ACRES ADDITION, according to the official plat thereof filed as Plat No.
2015-69 in the records of the Kenai Recording District (“Sunville No. 1”); and

5 Lots 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A and 5B, DIAMOND
6 WILLOW ESTATES, SUNVILLE ACRES ADDITION NO. 2, according to
the official plat thereof filed as Plat No. 2019-14 in the records of the Kenai
Recording District (“Sunville No. 2”).

7 4. In 2018, Consolidated sought approval for a replat of a portion of Diamond Willow
8 Estates, Sunville Acres Addition, Plat No. 2015-69.

9 5. DWHA opposed the replat based in part upon a prohibition contained in the
10 *Restrictions* and in part upon its rights as a common interest community association.

11 6. The replat was granted by the Kenai Peninsula Borough Planning Commission and
12 approved by its hearing officer over opposition of the DWHA.

13 7. DWHA appealed this decision to the Alaska Superior Court in the appeal captioned
14 *Diamond Willow Homeowners Association, Inc. v. Consolidated Development &*
15 *Management, LLC*, Case No. 3KN-19-319 CI (“replat appeal”), which appeal is briefed and
16 awaiting decision.

17 8. The reference in the *Restrictions* to lots that may be used for non-residential
18 purposes is to lots that do not exist in a recorded plat, except as to Tract A, DIAMOND
19 WILLOW ESTATES, PART 6, according to the official plat thereof filed as Plat No. 81-49
20 in the Kenai Recording District. The *Restrictions* are therefore ambiguous as to the
21 description of the real property that may be used for commercial purposes, except for Tract
22 A, DIAMOND WILLOW ESTATES, PART 6. The only documentary evidence reflecting
23 the intent of the developer as to the lots reserved for commercial use was an unrecorded,
24 draft plat map filed with the Kenai Peninsula Borough Planning Department in 1975
25 depicting HEA easements, which draft plat indicated that the lots that were reserved for non-
26 residential purposes in the *Restrictions* included those bordering Ciechanski Road between
27 Virginia and Gary Avenues, within what is now known as Tract A, DIAMOND WILLOW

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1 ESTATES, SUNVILLE ACRES ADDITION, Plat No. 2015-69 (“Gibb’s development
2 plan”).

3 9. DWHA also instituted the present litigation against Consolidated seeking
4 declaratory and other relief, including enforcement of the prohibition in the *Restrictions*
5 against other than single family residential use, which case is captioned *Diamond Willow*
6 *Homeowners Association, Inc. v. Consolidated Development & Management, LLC*, 3KN-19-
7 335 CI (“DWHA litigation”). Consolidated counterclaimed challenging DWHA’s status as
8 a common interest community. association and the application of the *Restrictions* to the
9 property within Sunville Nos. 1 and 2.

10 STIPULATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

11 In resolution of the plat appeal and the present litigation, the parties further stipulate
12 and agree to findings of fact and conclusions of law, as follows:

13 10. The *Restrictions*, as recorded on August 7, 1975, are applicable to the real
14 property owned by Consolidated within Diamond Willow Estates, including that described
15 in Section 3 above.

16 11. As applied to the real property presently contained in Sunville Nos. 1 and 2, the
17 *Restrictions* will not be further amended without the consent of a majority of the lot owners
18 of Sunville Nos. 1 and 2 (and a majority of the lot owners as described in paragraph 14) for
19 a period of 10 years from the date of entry of this judgment.

20 12. A subdivision and/or development of Tract A, DIAMOND WILLOW ESTATES,
21 SUNVILLE ACRES ADDITION, Plat No. 2015-69, as follows, is compliant with the terms
22 of the *Restrictions* and Gibb’s development plan;

23 a. A parcel 220 feet wide fronting Ciechanski Road for its entire length
24 between Virginia and Gary Avenue (or an equivalent sized rectangle parcel located at the
25 corner of Ciechanski Road and Virginia Avenue with frontage on Ciechanski of equal or
26 greater length to that on Virginia), which parcel may be used for commercial purposes, as
27

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1 defined by the KPB zoning regulations for the C-3 designation that allows for mixed, non-
2 industrial uses, and which parcel can be comprised of one or more lots; and

3 b. The balance of Tract A may be subdivided for single family dwellings as
4 defined by the R-1 zoning regulations for the Kenai Peninsula Borough.

5 These parcels may be replatted by Consolidated or its successors without consent of
6 other lot owners for a period of 10 years from the date of this judgment, provided that the
7 redrawn lots comply with the requirements of the above sections (a) and (b). Rezoning will
8 be allowed to the extent required to effectuate the above development, including the adoption
9 of an LOZ or amendment to the current one such as will allow the use of the commercial
10 property for that purpose. DWHA will support and consent to such a rezoning or amendment
11 to the LOZ.

12 13. Consolidated's property is not within or a part of DWHA or its jurisdiction, and
13 Consolidated does not have any membership therein unless incorporated pursuant to Section
14 15.

15 14. DWHA is a common interest community association applicable to the portion of
16 the subdivision that does not include (1) Consolidated's property, referenced in paragraph
17 3 above, or (2) that portion of Diamond Willow Estates subdivision included within the
18 original Tract A, DIAMOND WILLOW ESTATES, PART 6, according to the official plat
19 thereof files as Plat No. 81-49. DWHA includes the following property:

20 Lots 4, 5, 6, 7, 8, 9, 10, 18, 19, 20, 21 and 22, Block 1, Diamond Willow
21 Estates Subdivision - Part One, according to Plat 75-68;
22 Lot 11, Block 1, Diamond Willow Estates Subdivision - Part Two, according
23 to Plat 76-38;
24 Lots 12, 13, 14, and 15, Block 1, Diamond Willow Estates Subdivision - Part
25 Four, according to Plat 77-4;
26 Lots 26, 27, 28, and 29, Block 1, Diamond Willow Estates Subdivision - Part
27 5, according to Plat 81-100;
28 Lots 30-A, 31-A, and 32-A, Block 1, Diamond Willow Estates Subdivision
Part 7, according to Plat 82-62;
Lots 33, 34, 35, 36, 37, 38, and 39, Diamond Willow Estates Subdivision Part
- 9, according to Plat 2005-5;
Lot 3, Diamond Willow Estates Subdivision Part - 8 amended, according to
Plat 2006-104;

1 Lots B2-2, B2-3, B2-4, and B2-5, Diamond Willow Estates Part 12, according
2 to Plat 2014-38; and
3 that portion of the Northeast ¼ Northwest ¼, Section 24, Township 5 North,
4 Range 11 West, Seward Meridian, lying north of the northerly most boundary
5 of Lot 15, Block 1, Diamond Willow Estates Subdivision, Part Four, Plat
6 77-44 and east of the easterly most boundary of Lot 18, Block 1, Diamond
7 Willow Estates Subdivision, Part One, Plat 75-68; all located in the Kenai
8 Recording District, Third Judicial District, State of Alaska.

9 This stipulation and the judgment entered hereon is binding upon the DWHA and its
10 members.

11 15. The residential lot owners within Sunville Acres Nos. 1 and 2, including those
12 residential lots created from Tract A, Sunville No. 1, may incorporate their respective lot into
13 the DWHA by recording such a declaration in the records of the Kenai Recording District.

14 16. Any remaining claims of the parties in the present litigation are dismissed without
15 prejudice except as provided herein.

16 17. The appeal of the KPB planning board decision in the replat appeal shall be
17 withdrawn and dismissed.

18 18. The parties shall bear their own costs and attorney fees in both the replat appeal
19 and the present litigation. Consolidated agrees that the appeal bond shall be returned to
20 Appellant DWHA.

21 19. This settlement will be effective upon approval of the Court.

22 DATED 5 May 2020


23 ALASKA LAW OFFICE
24 Attorney for Plaintiff

25 By: 
26 Clayton Walker, Esq.
27 Alaska Bar No. 0001002

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1 DATED 5/5/2020

LAW OFFICES OF ROBERT K. REIMAN
Attorney for Defendant

4 By: 
Robert K. Reiman
Alaska Bar No. 8310145

7 JUDGMENT

8 Now therefore, THIS COURT upon stipulation of the parties and having been fully
9 advised in the premises, hereby enters judgment as follows:


10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the foregoing
11 stipulated findings of fact and conclusions of law are adopted as the final judgment of this
12 Court.

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any remaining
14 issues pending herein are dismissed without prejudice, each party to bear their own costs and
15 attorney fees.

16 DATED this 12th day of May, 2020, in Kenai, Alaska.

18 
19 JUDGE OF THE SUPERIOR COURT

20 Jennifer K. Wells

22 I certify that a copy of the forgoing was
23 ___ mailed to ___
24 ___ placed in court box to ___
25 scanned to Walker, Reiman - (1cc)
26  1 5-13-20
Judicial Assistant (1cc) Date