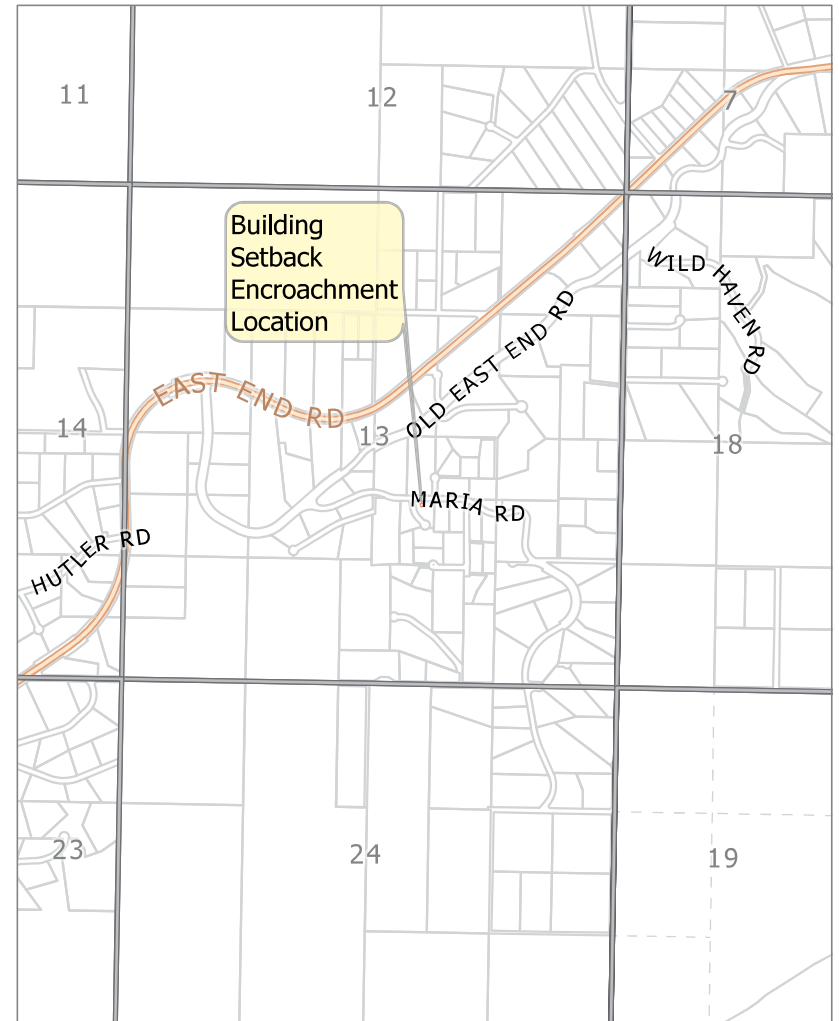
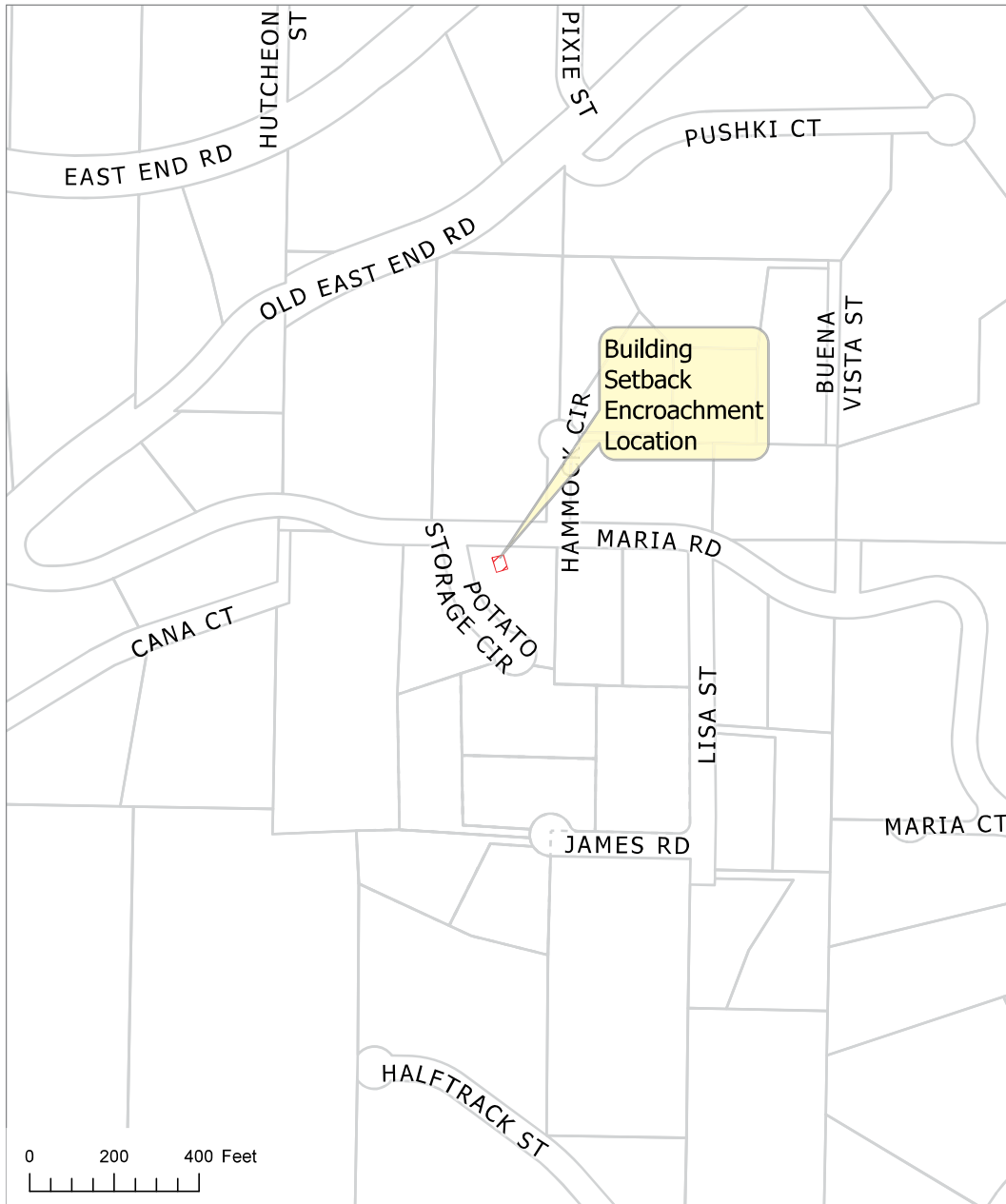


E. NEW BUSINESS

- 2. Building Setback Encroachment Permit; KPB File 2026-054
Peninsula Surveying / Ganas**

Request: permits a portion of a structure fronting Maria Road to remain within the building setback on Lot 1, James 2016, Plat HM 2016-16

Fritz Creek Area

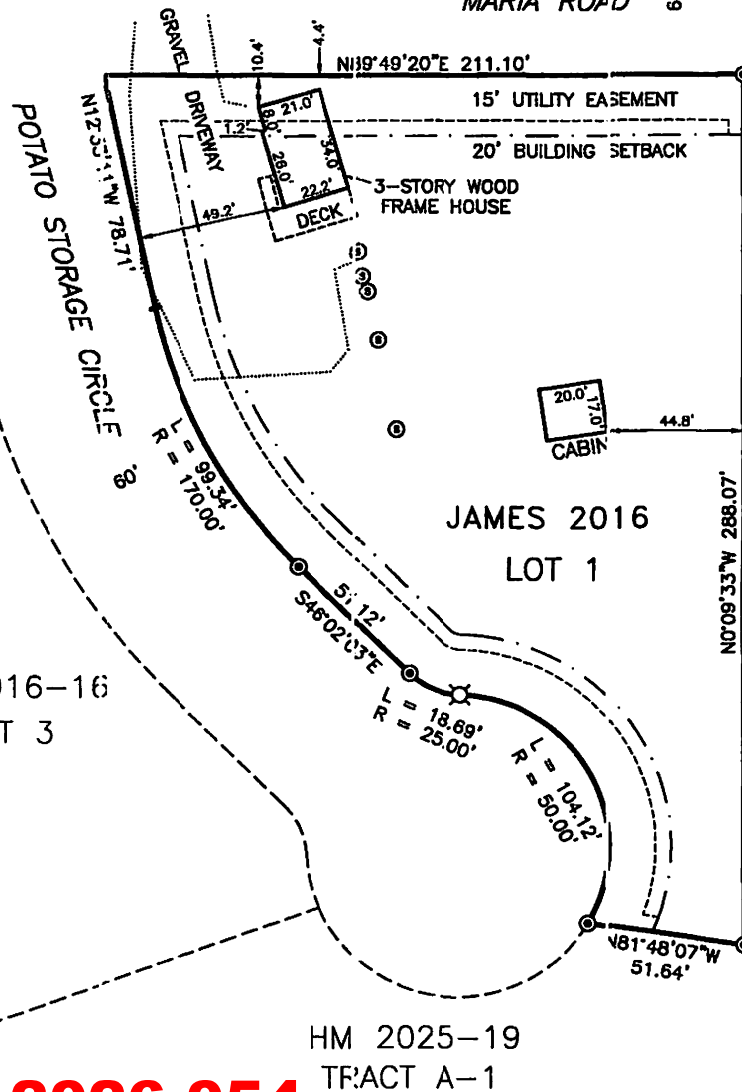


KPB File 2026-054
T05S R12W SEC13
Fritz Creek



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.

MARIA ROAD



JAMES 2016
LOT 1

HM 2008-37
LOT 1-A

HM 2016-16
LOT 3

HM 2025-19
TRACT A-1

40' 20' 0' 40'
1" = 40'



LEGEND

- ⊗ FOUND 5/8" REBAR
- ⊙ FOUND 2" ALUMINUM CAP
- ⊙ SEPTIC STANDPIPE
- GRAVEL EDGE

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 BUILDING.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT HM 2016-16.

SURVEYOR'S CERTIFICATE

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 05/14/2026.

Jason L. Schollenberg 05/17/2026

JASON L. SCHOLLENBERG DATE
PLS 14488-S

PENINSULA SURVEYING, LLC

10515 KATRINA BOULEVARD, NINILCHIK, AK 99639
(907)306-7065

AS-BUILT SURVEY
LOT 1, JAMES 2016
HM 2016-16
SEC 13 T5S R12W 3M, AK

SCALE:
1" = 40'

DATE:
05/17/2026

DRAWN:
JLS

SHEET:
1 OF 1



KPB 2026-054

AGENDA ITEM E. NEW BUSINESS

**ITEM #2 – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1 JAMES 2016 HM2016-16**

KPB File No.	2026-054
Planning Commission Meeting:	July 20, 2026
Applicant / Owner:	Dave and Ashly Ganas / Homer, AK
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Corner of Maria Dr and Potato Storage Cir in Kachemak APC area

Parent Parcel No.:	172-310-42
Legal Description:	T 05S R 12W SEC 13 SEWARD MERIDIAN HM 2016016 JAMES 2016 LOT 1
Assessing Use:	Residential
Zoning:	Unrestricted
Resolution	2026-054

STAFF REPORT

Specific Request / Purpose as stated in the petition:

Petitioning for approval of a variance for a structure in the 20' building setback along Maria Rd. A survey shows the structure to be at its maximum to encroach 15.6 feet into the 20' setback.

Site Investigation:

Two structures are shown on the as-built. The north structure identified as a three-story house is shown crossing into the 20' building setback line along Maria Rd at a maximum distance of 15.6 feet at the northeast corner of the structure. The structure is 34' by 21' with the narrow side facing Maria Rd. The northwest corner of the structure encroaches 9.6 feet into the building setback.

A cabin is shown southeast of the house and septic standpipes shown south of the house.

Maria Rd is a 60' dedication constructed and Borough maintained. This property has a driveway accessing to Maria Rd. Potato Storage Cir is a 60' dedicated cul-de-sac not developed but having a driveway down the right-of-way being used by two properties. The as-built shows the driveway for this property going to the right-of-way line of Potato Storage Cir but aerial photos do not indicate it accesses out to the driveway in the right-of-way.

The structure does appear to cause any issues for sight distance. The structure measures on aerial photos to be 35.6' from the edge of the constructed driving portion of Maria Rd. the structure is located along a straight stretch of Maria Rd with a few trees between the road and the building. If Potato Storage Cir were to be constructed, the structure is 49 feet from the property line to the west and not an issue at all.

Staff Analysis:

The land was originally surveyed as part of the NW1/4 SE1/4 Section 13, Township 5 South, Range 12 West SM Alaska. James 2009 HM2009-47 plat the land as part of Tract A and dedicated the south 30' of Maria Rd. James 2009 HM2009-47 granted a 20' building setback along all rights-of-way. James 2016 HM2016-16 replatted Tract A creating Lot 1 in the northeast corner and on the south side of Maria Rd.

The terrain of the road and lot is sloping at an 8% grade south. Along Maria Rd the grade goes up 6% from west to east with a high point just past the house, near Hammock Cir. The building is on a low side of the road, but is three stories high being still visible from the road. The building is still on a straight portion of the road creating good sight distances for drivers on Maria Rd.

Maintenance of Maria Rd is being done by KPB Borough and does not appear to have any issues. He Roads Director did not have any concerns when reviewing the submittal.

Applicant Discussion:

Building is a permanent structure with a foundation. Maria Road is elevated above the driveway, and the structure is not in the sight lines and does not pose any traffic obstructions or any safety hazards. There's no interference with road maintenance.

Applicant Findings:

1. The building setback encroachment does not interfere with road maintenance because the road is straight in this area and there is adequate space between the structure and the roadway. Typical road maintenance such as snow removal in the winter and grading in spring and summer can and is performed safely. There are two preexisting trees located between the house and the road, and the area has continued to be maintained without issue.
2. The building setback encroachment does not interfere with sight lines or visibility because the structure is not located on a blind corner or intersection. There is clear visibility along the roadway in both directions, the road is straight for approximately 500 ft without any sight lines or visibility interferences, this extends past both sides of the property.
3. The building setback encroachment does not create a safety hazard because the area has low traffic volume, the structure does not obstruct drivers' views, and vehicles can safely travel through the area without obstruction. Also, the sight lines are clear when entering the road from the driveway.

Staff Findings for the Commission's review:

4. For purposes of use with building setbacks, 'sight distance' is defined as the distance along a road over which a driver can see an object at a specific height above the carriageway and ensures drivers have sufficient visibility to react safely.
5. The 20' building setback was granted by James 2009 HM2009-47.
6. The structure is sitting approximately 35.6' back from the driving surface of Maria Rd.
7. Along this portion of road is straight, making no issue for maintenance or sight distances.
8. Although the foundation is below the road, the structure is three stories tall and still visible from the road.
9. Adjacent to the foundation the road surface appears to be approximately 8 feet higher.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications.

Staff recommends the Planning 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, 6 & 7 appear to support this standard.

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

Findings 2, 6 & 7 appear to support this standard.

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

Findings 3, 6 & 7 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: Uhlin, Dil Comments: RSA has no objection at this time
SOA DOT comments	
KPB River Center review	A. Floodplain Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: No comments B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments
State of Alaska Fish and Game	
Addressing	Reviewer: Pace, Rhealyn Affected Addresses: 36339 Maria Rd Existing Street Names are Correct: Yes List of Correct Street Names: Maria Rd, Potato Storage Cir Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: No comment
Code Compliance	Vacant
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

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 2026 as-built survey, subject to:

1. Compliance with KPB 20.10.110 sections F and G.
2. Removal of all encroachments within the right-of-way dedication.
3. Providing a current as-built with recommended corrections as noted below, to be used as an exhibit drawing for Resolution 2026-054 prepared, signed, and sealed by a licensed land surveyor.
4. The recording fees be submitted to the Kenai Peninsula Borough Planning Department for the recording of the resolution.
5. 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.
6. Additional encroachments found on the new as-built will require a new hearing.

STAFF RECOMMENDATIONS
CORRECTIONS / EDITS

- Lot to the west needs the lot label corrected to Lot 2
- Lot to the south needs the lot label corrected to Lot 5-B
- Add a detail to show the northwest side of the building better.

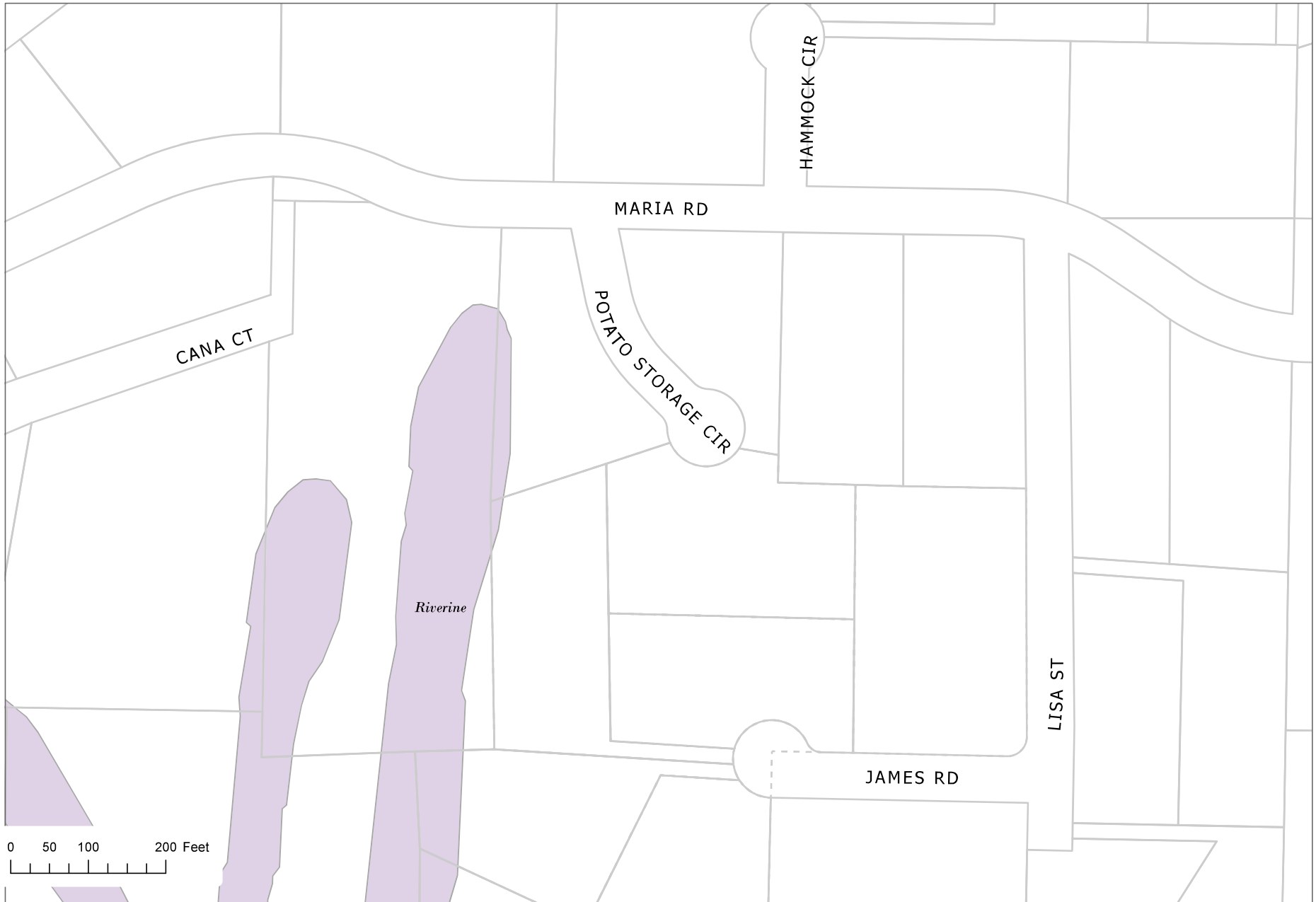
NOTE:

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.

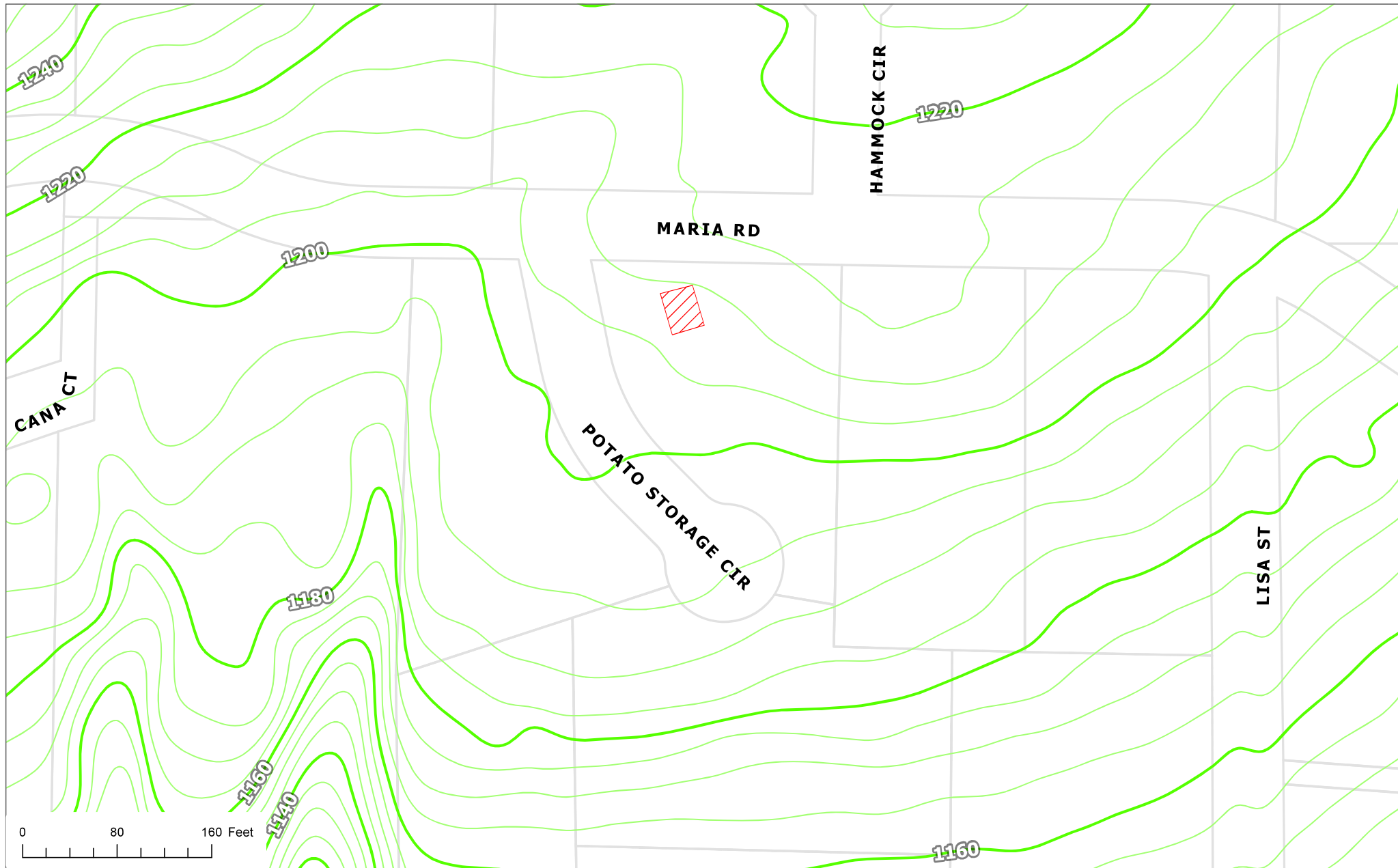
END OF STAFF REPORT



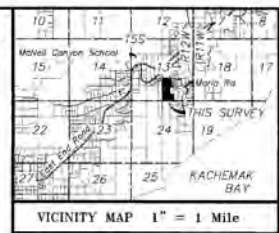
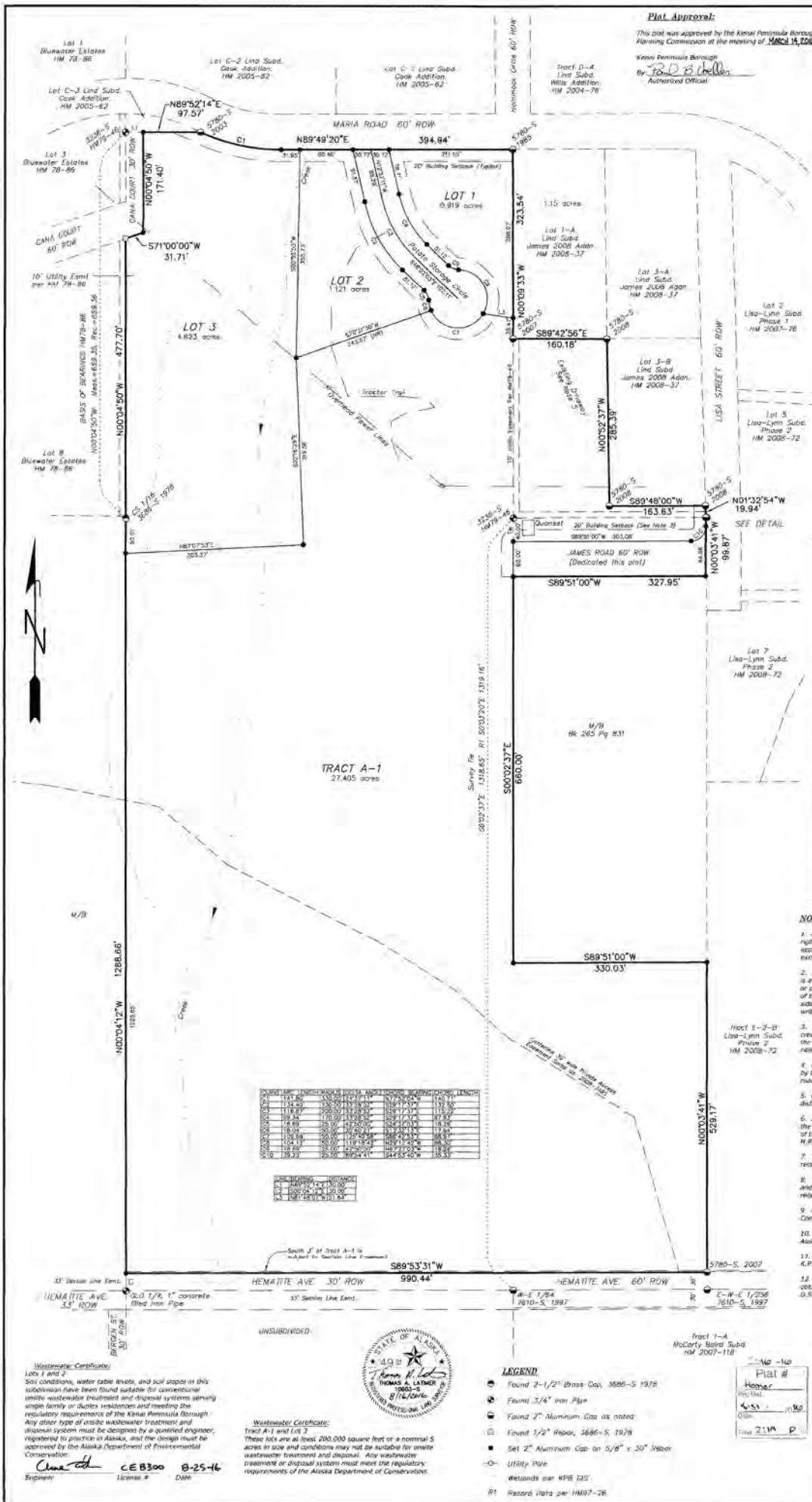
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Ownership Certificate:
We hereby certify that we are the owners of the real property shown and described herein and that we hereby adopt this plan of subdivision and by our free consent indicate all rights-of-way to public use and grant all easements to the use shown.

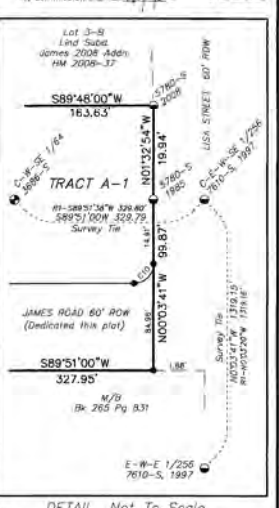
Justin James
for The Sign Tree LLC
PO Box 293
Homer, AK 99603

Notary's Acknowledgement:
For *Justin James*
Acknowledged before me this 14th day of 2016.
Notary Public for Alaska
My commission expires 1/1/2018

Brian Vecellio
Notary Public for Alaska
My commission expires 12/31/2016

Notary's Acknowledgement:
For *Doris R. James*
Acknowledged before me this 14th day of 2016.
Notary Public for Alaska
My commission expires 1/1/2018

Brian Vecellio
Notary Public for Alaska
My commission expires 12/31/2016



- NOTES:**
- A building setback of 20' is required from all street rights-of-way unless a lesser standard is approved by the appropriate Planning Commission. See Note 3 for building setback exception for quarters hut on North side of James Road.
 - The front 15' and the entire setback within 5 ft. of side lot lines is a utility easement. No permanent structures shall be constructed or placed within an easement which would interfere with the ability of the utility to use the easement. The quarter hut on the North side of James Road is not a utility easement encroachment per written agreements with the affected utilities.
 - The quarter hut on the North side of James Road pre-dates the creation of the building setback. This structure is not subject to the building setback. The remainder of this subdivision and any new or replacement structures are subject to the building setback.
 - Buildings must meet design and construction standards establishing by the Borough in order to be certified for inclusion in the borough rural maintenance program.
 - Overhead power line is currently 20 ft. wide electrical distribution easement (Homer Electric Association).
 - 20 ft. wide ingress/egress easement centered on a portion of the existing driveway benefits the South 660 ft. of the North 760 ft. of the W 1/2 E 1/2 SW 1/4 SE 1/4 Section 13 per Bk. 265 Pg. 626 H.R.D.
 - This subdivision may be subject to ingress/egress easements of record recorded in Bk 67 Pg 322 and Bk 68 Pg 345.
 - This subdivision may be subject to a reservation of water rights and ingress/egress easement for access to those water rights as recorded in Bk 57 Pg 316.
 - Portions of this subdivision may be subject to Easements, Conditions and Restrictions as recorded in Bk 248 Pg 180.
 - This subdivision may be subject to a Homer Electric Association right of way easement as recorded in Bk 50 Pg 155.
 - Exception to KPR 30.30 1701 (Block Length) was granted by the K.P.R. Plat Committee at their meeting of March 14, 2016.
 - Any person developing this property is responsible for obtaining all required local, state, and federal permits, including a U.S. Army Corps of Engineers wetland determination if applicable.

JAMES 2016
A subdivision of Tract A,
James 2009, HM2009-47
Within SE1/4, Sec. 13, T5S, R12W, SH
Kachemak Peninsula Borough,
Homer Recreational District,
Third Judicial District, Alaska
Containing 27.405 Acres more or less

Prepared by:
Doris R. James,
P.O. Box 293
Homer, AK 99603
and
The Sign Tree LLC
PO Box 293
Homer, AK 99603

Ordn. Survey:
N7 Box 15075
36270 Maria Road,
Fritz Creek, AK 99603
(907) 299-0029
fornjames@signtree.com

Scale: 1"=80'
Date: 2/1/2016
Sheet 1 of 1

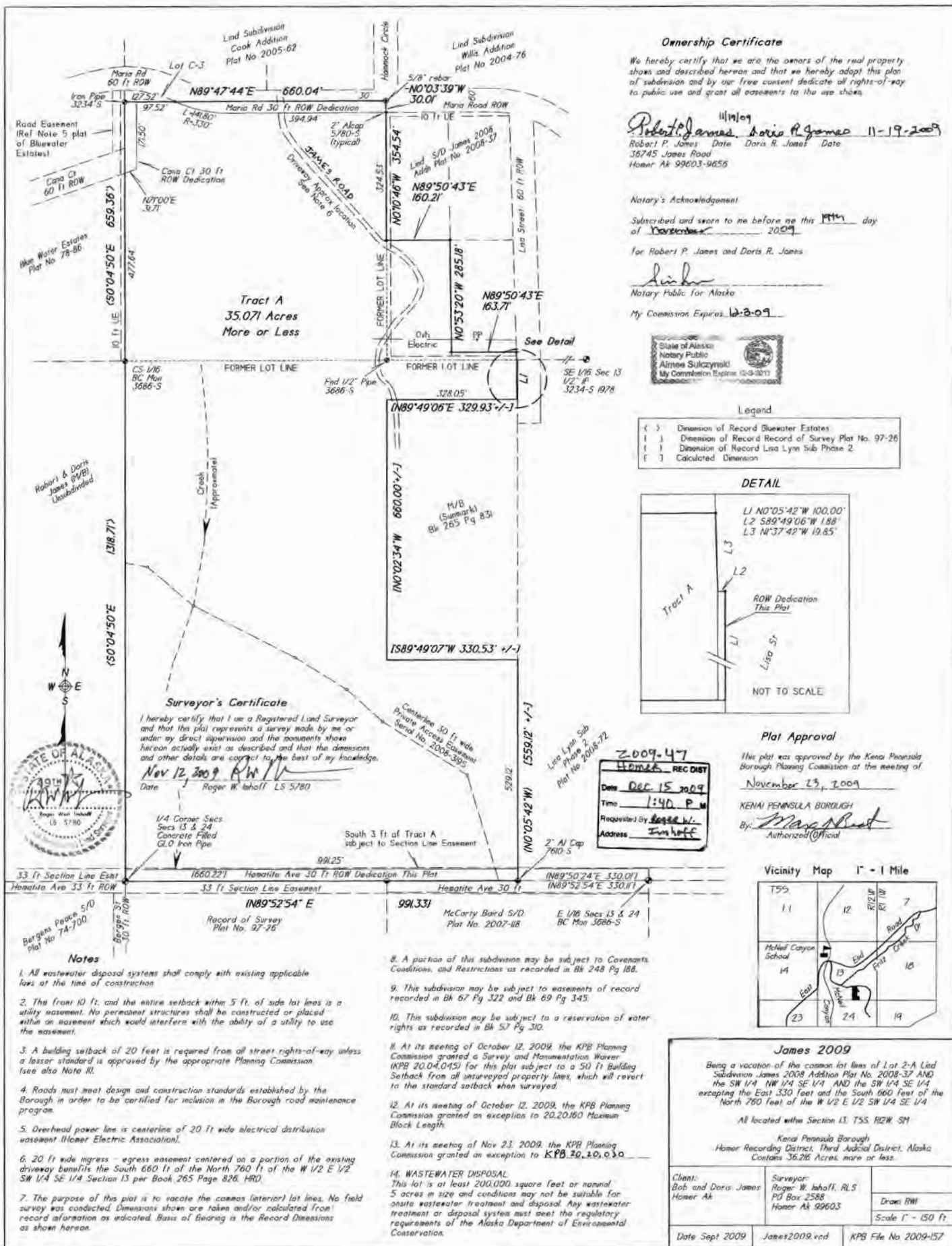
- LEGEND**
- Found 2-1/2" Brass Cap, 3685-5 1978
 - Found 3/4" Iron Pipe
 - Found 2" Aluminum Gas as noted
 - Found 1/2" Rebar, 3686-5 1978
 - Set 2" Aluminum Cap on 5/8" x 30" Rebar
 - Utility Pole
 - Wetlands per KPR 325
 - Revised Data per HM87-26



Wastewater Certificate:
Lots 1 and 2
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 Kachemak Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a qualified engineer, registered in practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

Chris
Engineer
License # CE8300
Date 8-25-16

Wastewater Certificate:
Tract A-1 and Lot 3
These lots are at least 200,000 square feet or a nominal 5 acres in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.



**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2026-35
HOMER RECORDING DISTRICT**

**A RESOLUTION GRANTING A BUILDING SETBACK ENCROACHMENT PERMIT
TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR LOT 1, JAMES
2016 (HM 2016-16); IN S13, T05S, R12W; SEWARD MERIDIAN, ALASKA, WITHIN
THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2026-054**

WHEREAS, pursuant to KPB 20.30.240, a minimum twenty-foot building setback from all dedicated rights-of-way in subdivisions located outside incorporated cities is required; and

WHEREAS, issuance of a building setback encroachment permit is an exception to the rule prohibiting such encroachments; and

WHEREAS, KPB 20.10.110 governs building setback encroachment permits and authorizes the Planning Commission to grant building setback encroachment permits by resolution; and

WHEREAS, KPB 20.10.110(E) provides the three Standards the Planning Commission must consider when evaluating building setback permit applications; and

WHEREAS, the Planning Commission may only approve an encroachment permit if there is substantial evidence showing that each of the three Standards in KPB 20.10.110(E) are met; and

WHEREAS, these are affirmative findings, and the petitioner has the burden to prove with substantial evidence they are true; and

WHEREAS, David J and Ashley A Ganas of Fritz Creek, AK requested a building setback encroachment permit to the twenty-foot building setback granted by James 2016 and

WHEREAS, on Monday, July 20, 2026, the Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed exception,

WHEREAS, the Planning Commission found that the petitioner met the burden of proof with substantial evidence as to each of the three Standards found in KPB 20.10.110(E); and

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

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

SECTION 1. That the petitioner has met the burden of proof with substantial evidence as to each of the three standards found in KPB 20.10.110(E).

SECTION 2. That an exception to the 20-foot building setback limit on HM 2016-16 Lot 1 JAMES 2016 is hereby granted to accommodate only the encroaching portion of the House based upon the following findings of fact:

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

1. The building setback encroachment does not interfere with road maintenance because the road is straight in this area and there is adequate space between the structure and the roadway. Typical road maintenance such as snow removal in the winter and grading in spring and summer can and is performed safely. There are two preexisting trees located between the house and the road, and the area has continued to be maintained without issue.
6. The structure is sitting approximately 35.6' back from the driving surface of Maria Rd.
7. Along this portion of road is straight, making no issue for maintenance or sight distances

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

2. The building setback encroachment does not interfere with sight lines or visibility because the structure is not located on a blind corner or intersection. There is clear visibility along the roadway in both directions, the road is straight for approximately 500 ft without any sight lines or visibility interferences, this extends past both sides of the property.
6. The structure is sitting approximately 35.6' back from the driving surface of Maria Rd.
7. Along this portion of road is straight, making no issue for maintenance or sight distances

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

3. The building setback encroachment does not create a safety hazard because the area has low traffic volume, the structure does not obstruct drivers' views, and vehicles can safely travel through the area without obstruction. Also, the sight lines are clear when entering the road from the driveway.
6. The structure is sitting approximately 35.6' back from the driving surface of Maria Rd.
7. Along this portion of road is straight, making no issue for maintenance or sight distances

SECTION 3. That any new, replacement, and/or additional construction will be subject to the 20-foot building setback limit.

SECTION 4. That 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.

SECTION 5. 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 4 of 4.

SECTION 6. That this resolution is void if not recorded in the appropriate Recording District within one year of adoption.

SECTION 7. 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 _____, 2026.**

_____ Jeremy Brantley, Chairperson Planning Commission	ATTEST:	_____ Ann Shirnberg, Administrative Assistant
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Return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669