

E. NEW BUSINESS

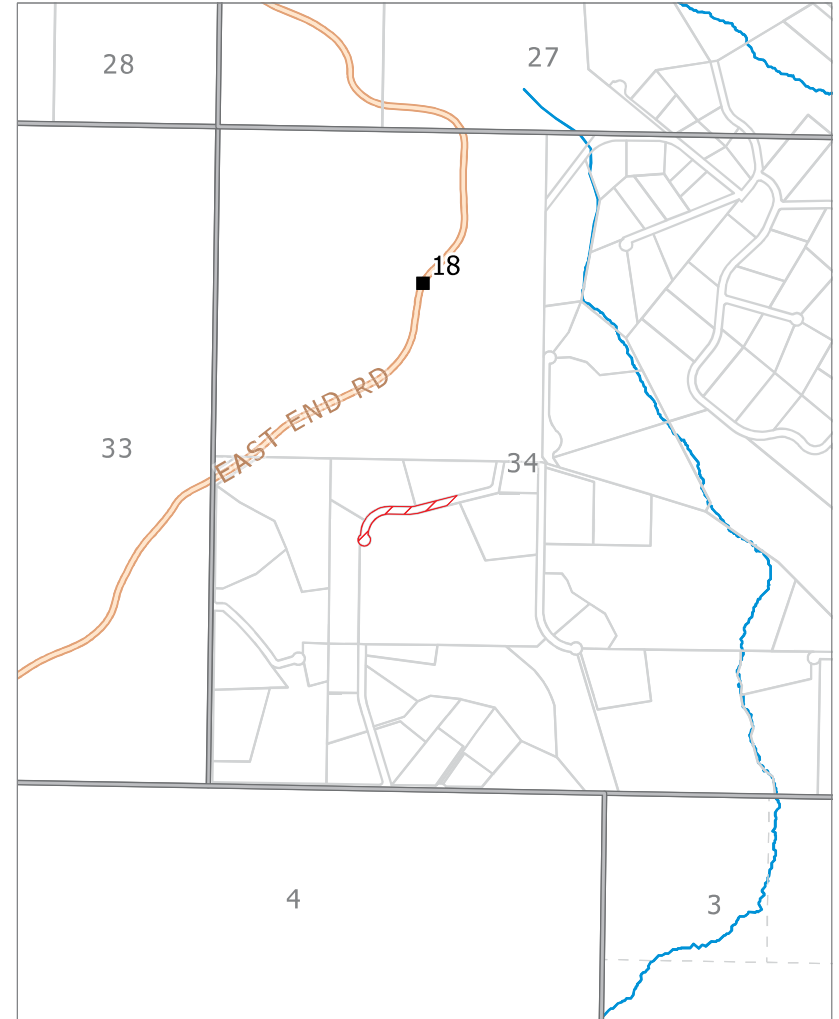
1. Right-Of-Way Vacation; KPB File 2023-024V

Ability Surveys / Jones

**Request: Vacates a portion of Perkins Road and associated
utility easements granted on Stanley's Meadow**

Vikki's Replat, Plat HM 99-30

Fritz Creek Area / Kachemak Bay APC

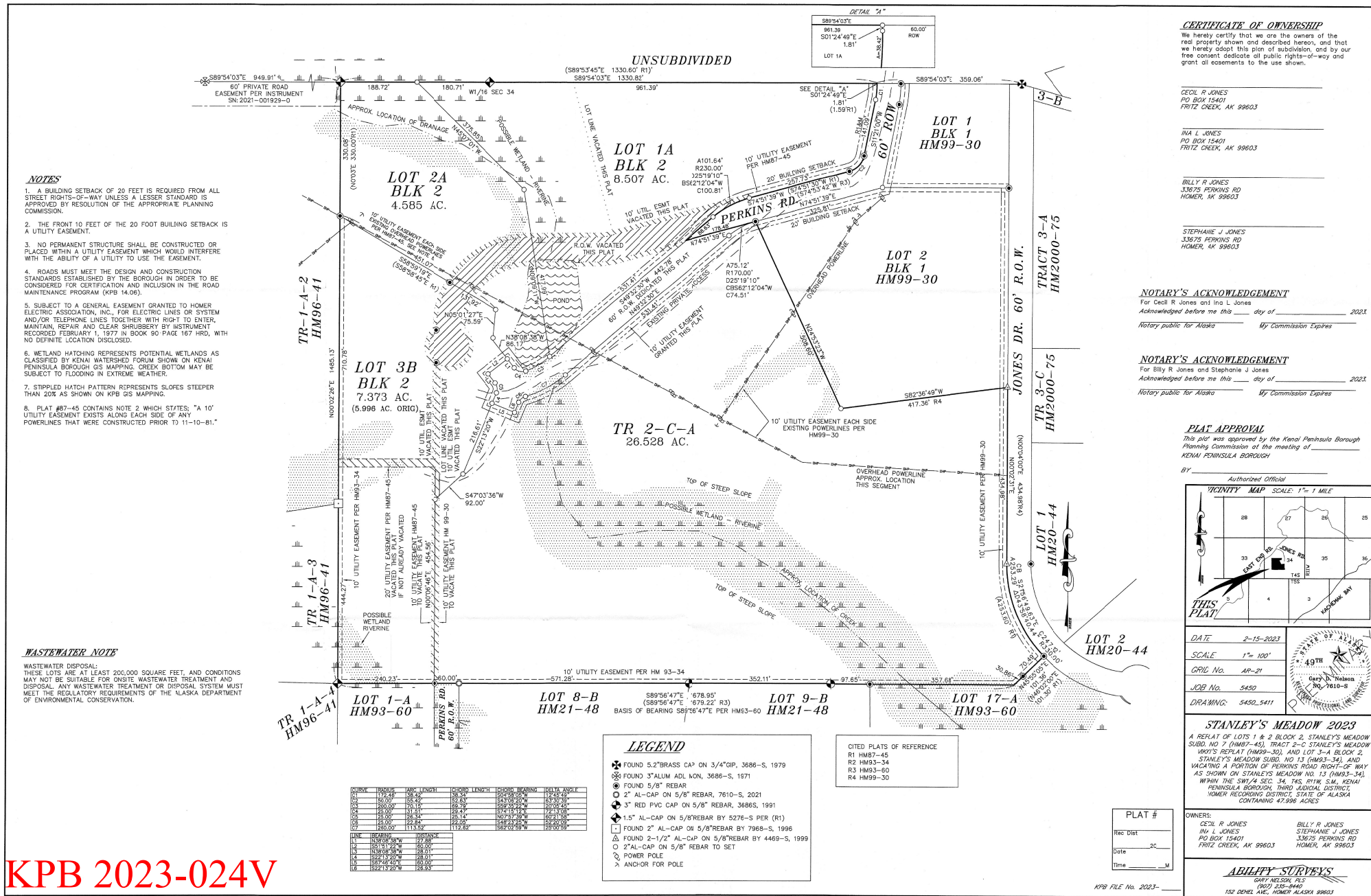


KPB File # 2023-024V
S34 T04S R11W
Fritz Creek



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.

KPB 2023-024V



AGENDA ITEM E. NEW BUSINESS

**ITEM 1 - RIGHT OF WAY VACATION
PORTION OF PERKINS ROAD DEDICATED ON STANLEY'S MEADOW #7 (PLAT HM 87-45) AND
STANLEY'S MEADOW NO. 13 (PLAT HM 93-34)**

KPB File No.	2023-024V
Planning Commission Meeting:	May 8, 2023
Applicant / Owner:	Billy and Stephanie Jones of Homer, Alaska and Cecil and Ina Jones of Fritz Creek, Alaska
Surveyor:	Gary Nelson / Ability Surveys
General Location:	Perkins Road, Fritz Creek, Kachemak Advisory Planning Commission
Legal Description:	Perkins Road, Stanley's Meadow #7 (Plat HM 87-45) and Stanley's Meadow No. 13 (Plat HM 93-34), Section 34, Township 4 South, Range 11 West.

STAFF REPORT

This vacation was previously heard on April 10, 2023 and after commissioner discussions with the surveyor the surveyor asked to postpone the decision to have more discussions with staff about the design. The owners have talked with staff and are bringing this vacation back before the Planning Commission.

Specific Request / Purpose as stated in the petition:

- As originally platted, Perkins Road crosses relatively low and wet ground. This portion of the ROW has not been constructed or utilized for travel.
- The proposed alignment would shift the ROW to a more suitable location for construction and make use of a portion of an existing hardened surface, a former runway as well as a portion of the existing access road.
- This petition is being made in conjunction with a replat of the affected parcels. All owners are in agreement with the proposed alignment and would benefit from the suitability of the layout.
- Each lot would maintain adequate access, which includes a portion of the private access road depicted on the map.
- This adjustment would not significantly alter the overall length of Perkins Road from its intersection with Jones Drive to the north.
 - The current alignment of Perkins Dr. measures approximately 2,000' from the centerline of Jones Dr. to the center of the cul-de-sac.
 - The proposed alignment of Perkins Dr. measure approximately 1,850' from the centerline of Jones Dr. to the center of the Y-Type intersection.
 - From the north boundary the proposed realignment of Perkins Dr. measures approximately 1,285'.
- Plat HM 93-34 vacated a portion of the original ROW that connected Perkins Rd to the south boundary of current Tract 2-C (HM 99-30) due to the steep terrain located to the south and unlikely need to construct the road from north to south.
- The owners of all parcels are family and do not intend to subdivide the proposed 26.5 acre Tract 2-C-A any further. However, if a subdivision was pursued, additional ROW's could be dedicated east and/or west of the creek shown thereby reducing the overall block length.

Notification: The public hearing notice was published in the April 6, 2023 issue of the Homer News as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Twenty-two certified mailings were sent to owners of property within 300 feet of the proposed vacation. Eleven receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to ten owners within 600 feet of the proposed vacation.

Eighteen public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game	Ninilchik Traditional Council
State of Alaska DNR	Alaska Communication Systems (ACS)
State of Alaska DOT	ENSTAR Natural Gas
State of Alaska DNR Forestry	General Communications Inc, (GCI)
Kachemak Advisory Planning Commission	Homer Electric Association (HEA)
Kachemak Emergency Services	

Legal Access (existing and proposed): The right-of-way petitioned for vacation is located near mile 18 of state maintained East End Road. Jones Drive provides access from East End Road. Jones Drive splits and continues with the western road being Perkins Road. Jones Drive is borough maintained but Perkins Road is not maintained. The road is constructed with most of the constructed roadway that is being used for access not falling within a dedication. Approximately 500 feet of the road is within a dedication portion.

Along the Perkins Road dedication there are currently six lots fronting along the dedication. It appears one of the lots does not have any improvements in place and access will be difficult due to a pond along the edge of the dedication. The other five lots are accessed from the constructed road way with three where the road is within the dedication. Lot 1 Block 1, Stanley's Meadow No. 7, Plat HM 87-45, and Tract2-C and Lot 2 Block 1, Stanley's Meadow Vikki's Replat, Plat HM 99-30, are using Perkins Road but also front along constructed and borough maintained Jones Drive.

The Perkins Road dedication formally extended beyond the current cul-de-sac bulb to connect to a portion of Perkins Road located to the south. There is approximately 780 feet between the end of the cul-de-sac and the dedication to the south. There is steep terrain within the northern portion of the southern dedication that will make a connection difficult.

The Perkins Road has been developed within an area outside the dedication but where there is better suited terrain. Due to the length of the road and the proposed size of the lots, staff had advised that the new dedication should not end with a cul-de-sac but end with a t-type or hammerhead turnaround. The proposal to relocate the right-of-way has the road ending with a y. Looking at the existing constructed surface the y matches what is currently being used.

KPB Roads Dept. comments	Existing access is outside the proposed ROW. There appears to be a large amount of debris within the proposed ROW.
SOA DOT comments	No comment - engineering

Site Investigation: There appears to be some open water adjacent to the existing dedication and possibly slightly within the dedication. The relocation will avoid the open water but it will still be adjacent to the dedication. Per the Kenai Watershed Forum Wetlands Assessment, there is Riverine that runs northwest to the southeast through the property including across the current dedication and the proposed dedication. Per the plat submitted, a creek is located within that area south of the constructed right-of-way.

The current dedication is free of steep terrain. The proposed dedication appears to comply with KPB Code slope requirements.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy
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	<p>Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis: The property within this area is seen multiple replats through the years and several changes to the dedication of Perkins Road. A preliminary plat has been submitted to reconfigure the lots around Perkins Road and to finalize the vacation.

Concerns have been mentioned by the KPB Roads Department. The plat intends to dedicate the new right-of-way but portions will be parallel to a private access. The concern will be that the right-of-way will start within a public use dedication and then will begin to meander onto private property and then back into the dedication. This could cause some trespass issues. The Roads Department additionally mentioned that there appears to be multiple items within the proposed dedication area.

The approval of the plat will require confirmation that the dedication will not cause any encroachment issues. If permanent structures are determined to be within the new dedication, the owners will need to work with staff to resolve the issue. Any items that are not permanent will be required to be moved with proof provided showing there will be no encroachments within the new dedication prior to finalizing the plat.

The surveyor and client have spoken to the Planning Director and the Director of KPB Roads Department about the concern of the private road in relation to the location of the dedication. It has been agreed to leave the road and dedication as is until further subdivision of Tract 2-C-A or sale of Lot 2A or 3B of Block 2. At such time the road would be relocated to within the dedication. The owners are put on notice that should future development of a road within the dedication the road would need to be to KPB standards, the existing access driveway and approaches to buildings would not be functional and the owners would need to reestablish connections to any road constructed in the dedication.

Kachemak Bay APC has requested additional information regarding the consequences of the existing access being located outside the proposed ROW. The consequences are outlined above.

20.65.050 – Action on vacation application

D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;
Staff comments: Only a portion of the dedicated right-of-way is in use. Remainder is outside the dedication
2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: The terrain appears to be similar within the vacation area compared to the new dedication. A constructed roadway is already present.

3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: The area still contains large acreage lots that could be further subdivided and the proposed y design will allow for right-of-way continuations if needed.
4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: Does not provide access to public interest areas.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: Due to terrain there are already issues with connections. The proposal will allow for better lot configuration with better access.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: Could be used for other use but the new location will provide better use.
7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.
Staff comments: Associated easements will be vacated with new easements granted along the new dedication. Many utilities are within the area with their own easements already granted. Any easements requested by the utility providers should be granted.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: The new proposed area appears to provide a better location.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

The Assembly or City Council will hear the vacation at their scheduled May 2, 2023 meeting.

If approved, Stanley's Meadow 2023 will finalize the proposed right of way vacations. The Plat Committee is scheduled to review the preliminary plat on April 10, 2023.

KPB department / agency review:

Addressing	Reviewer: Robinson, Celina Affected Addresses: 33675 PERKINS RD; 33566 PERKINS RD; 33602 PERKINS RD Existing Street Names are Correct: Yes List of Correct Street Names: PERKINS RD, JONES DR Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names:
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	List of Street Names Denied: Comments: 33675 PERKINS RD; 33566 PERKINS RD; 33602 PERKINS RD WILL NOT BE AFFECTED
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
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	HEA has no objection to the vacation of the platted utility easements as depicted on this utility easement vacation exhibit drawing. HEA will request 30 foot wide utility easements on all single phase overhead electric lines during the platting review.
ENSTAR	No comments or recommendations
ACS	No objections
GCI	

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends **APPROVAL** as petitioned, subject to:

1. Consent by KPB Assembly.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).
5. No encroachments may be created with the new dedication.

KPB 20.65.050 – Action on vacation application

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including

the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.

- J. A planning commission decision denying a vacation application is final. 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.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- *Focus Area: Energy and Utilities*
 - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
 - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
 - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
 - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
 - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
 - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT



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.

LEGEND:

Nothing Found or Set except as noted.

⊗ Found Brass Cap, 3686-S, 1979.

● Found 5/8" Rebar, 527-S, 1988.

⊖ Found 3/4" Iron Bar, as reported on plot #91-47.

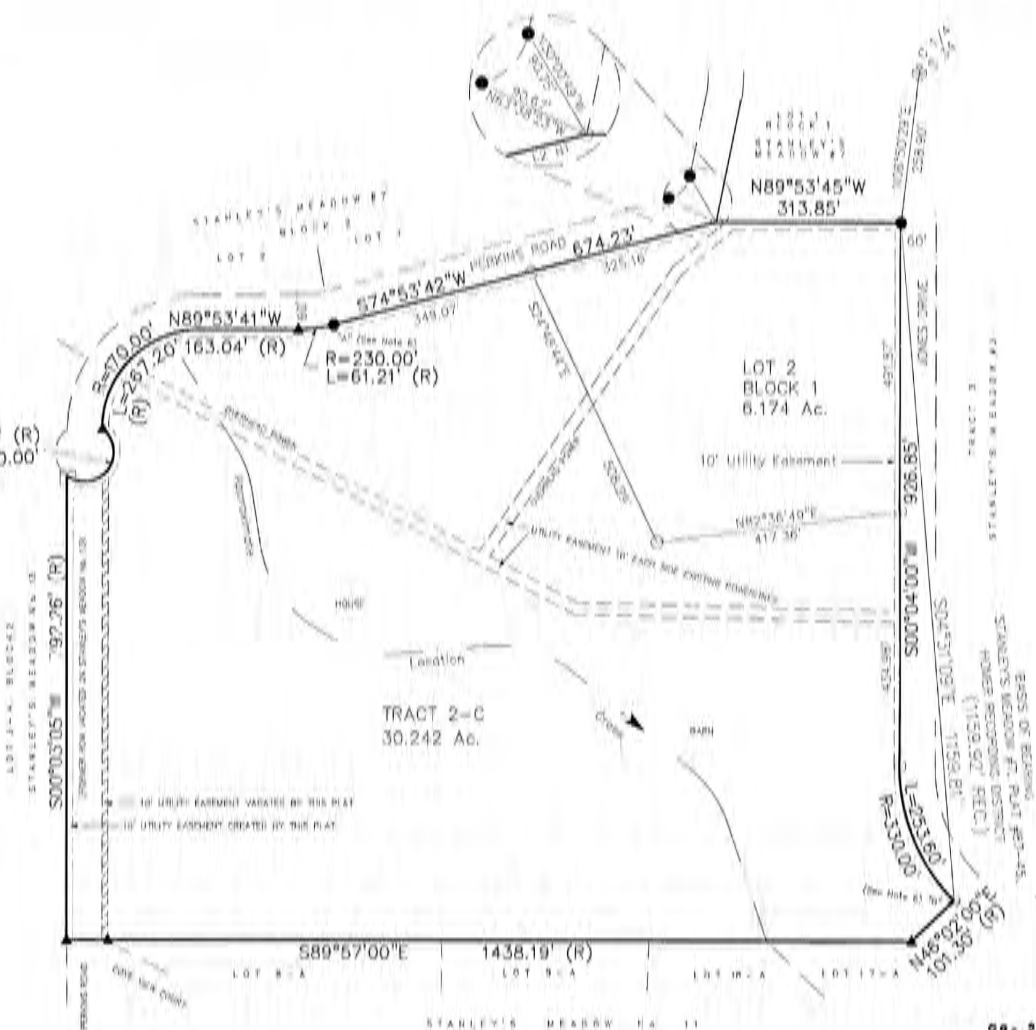
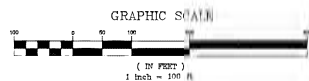
○ Set 2 1/2" Alum. Cap on 5/8" Rebar, 4469-S, 1999.

▲ Monument of Record, 5/8" Rebar, 527-S, 1987, NOT RECOVERED (See Plot #R7-45, Stanley's Meadow #7).

□ Monument of Record, 5/8" Rebar, 3411-S, 1993, NOT RECOVERED (See Plot #91-34, Stanley's Meadow No. 1).

NOTES

1. WASTEWATER DISPOSAL: These lots are at least 100,000 square feet or 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.
2. Building Setback: A setback of 20 ft. is required from all street rights-of-way unless a lesser standard is determined by resolution of the appropriate Planning Commission.
3. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
4. The State of Alaska requires that all wastewater disposal systems be a minimum of 100 ft. from any water source.
5. The utility easement vacation was approved at the May 12, 1999 meeting of the Kenai Peninsula Borough Planning Commission.
6. Distances annotated with (R) are record from Stanley's Meadow No. 13. Closing line between monuments labeled A and B is S47°05'39"E, 1441.53'.
7. Creek bottom may be subject to flooding in extreme weather.
8. There is an electric and telephone easement, its details location, described on Page 167, Book 90, R.R.11.



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 adjust 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 Benef(s) of Trust affecting this property do not contain restrictions which would prohibit this subdivision, or require signature and approval of beneficiary(ies).

Carl Jones

Carl R. Jones
33075 Jones Drive
Homer, AK 99603

History's Acknowledgement

Subscribed and sworn before me this 25th day of August, 1999 for Carl R. Jones.

Quentin Matheson

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



PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of March 22, 1999.

KENAI PENINSULA BOROUGH

By *Clayton Burt*
Authorized Official

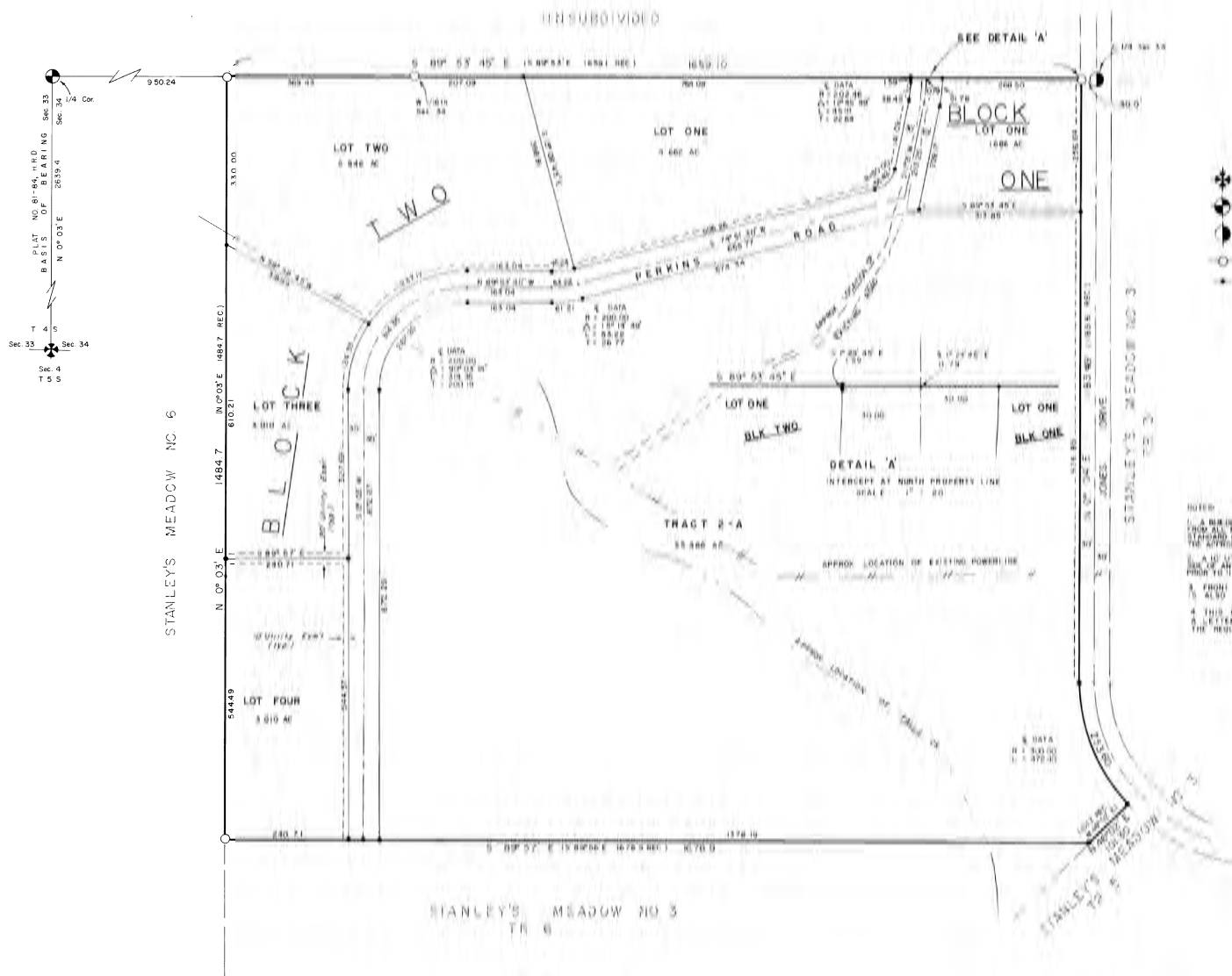
Special Note:
This also amends Stanley's Meadow No. 13, plat #91-45, Stanley's Meadow No. 13, 201-141.

STANLEY'S MEADOW Vikki's REPLAT

Subdivision of Tract 2-C, Stanley's Meadow No. 13, Plat #91-45, Kenai Peninsula Borough Planning District, and Judicial District, Alaska, and utility easement vacation, adjusted to 50'-0" on 1/2" section 34, T4S, R10E, S47°05'39"E, 1441.53'.

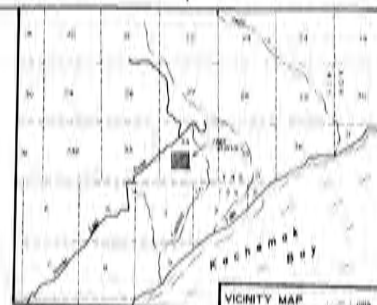
SURVEYOR	DATE
DAVIDSON SURVEYS P.O. Box 780 Homer, AK 99603	1999
DAVIDSON SURVEYS P.O. Box 780 Homer, AK 99603	1999
Scale: 1" = 100'	Date: Dec 15, 1998
Base Map: AR 21	Proj. File: standard
Book No. 128	K.P.B. Plat No. 99-037
Drawn by: R.M.	Checked by: R.M.





- FOUND B.C. MONUMENT, B.M., 1904
- FOUND A.C. ALUM. MONUMENT, 1971
- FOUND B.C. MONUMENT, SERIES, 1978
- SET 5/8" REBAR WITH 1 1/2" AL CAP
- SET 5/8" REBAR

- NOTES:
1. A BUILDING SETBACK OF 20' IS REQUIRED FROM ALL RIGHTS OF WAY LINES & LINES OF ADJACENT PROPERTY LINES.
 2. A 10' UTILITY EASEMENT EXISTS ALONG THE LINE OF ANY POWER LINES THAT WERE CONSTRUCTED PRIOR TO 1978.
 3. FRONT 10' OF THE BUILDING SETBACK TO ALSO A UTILITY EASEMENT.
 4. THIS PLAT WAS APPROVED BY A.D.C. AS PER LETTER DATED MARCH 20, 1987 AND MEETS THE REQUIREMENTS OF 10 A.C. 73.010.



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, AND THAT I HEREBY ADAPT THIS PLAN OF SUBDIVISION AND LOCATE ALL RIGHTS OF WAY TO PUBLIC USE AND ALL EASEMENTS TO THE USE SHOWN.

Cecil B. Jones 6-19-86
 Cecil B. Jones, Owner, 30701
 HOME, AL 36686

NOTARY'S ACKNOWLEDGEMENT

I, *Virginia L. Phipps*, a Notary Public for Alaska, do hereby certify that the foregoing is a true and correct copy of the original as shown to me by *Cecil B. Jones* on June 19, 1986.

MY COMMISSION EXPIRES: *6-19-87*
 Notary Public for Alaska

SURVEYOR'S CERTIFICATE

I, THE UNDERSIGNED REGISTERED SURVEYOR, HEREBY CERTIFY THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME, AND THAT ALL MONUMENTS SHOWN ON THIS PLAT WERE DISCOVERED BY ME, OR BY ME, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT TO THE BEST OF MY KNOWLEDGE.



PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE PERMITS DIVISION OF THE ALASKA DEPARTMENT OF NATURAL RESOURCES AND EARTH SCIENCES AT THE MEETING OF 6-19-86.

PERMITS DIVISION

By: *Richard P. Tange*
 AUTHORIZED OFFICIAL

87-45
 Homer 20'
 6-30-87
 345 P
David Phipps
 Notary Public for Alaska

SCALE 1" = 100'	JANUARY, 1986	DEED NO.	DEED NO.
STANLEY'S MEADOW #7			
BEING A RESUBDIVISION OF TRACT 2, STANLEY'S MEADOW NO. 3, PLAT NO. 81-84, H.D., SITUATED IN THE S 1/4 SECTION 34, T4S, R1W, SEWARD MERIDIAN, ALASKA.			
CONTAINS 26.757 ACRES			
David Phipps, L.S. SPA Box 5PA Homer, AL 99603			

HOMER RECORDING DISTRICT

