


Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Wayne Ogle, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director 

DATE: June 27, 2018

RE: Vacation of the 30-foot wide right-of-way on the west 30 feet of the W 1/2 SW 1/4 SE 1/4 SE 1/4 of Section 35, Township 7 North, Range 12 West, Seward Meridian, KPB, Alaska, off Miller Loop Road, Nikiski, within the Kenai Peninsula Borough; KPB File 2018-064V

In accordance with AS 29.40.140, no vacation of a Borough right-of-way and/or easement may be made without the consent of the Borough Assembly.

During their regularly scheduled meeting of June 25, 2018, the Kenai Peninsula Borough Planning Commission granted approval of the proposed right-of-way and utility easement vacations by unanimous consent based on the following findings of fact. This petition is being sent to you for your consideration and action.

Findings

1. The right-of-way proposed to be vacated was created by warranty deed, which was recorded in Book 49 Page 168 KRD on November 29, 1967.
2. If the 30-foot right-of-way is vacated, the block would be generally defined by Miller Loop Road, Birch Lane, Foley Drive, and Balto Drive.
3. If the 30-foot right-of-way is vacated, the block would be a platted, looped access.
4. If the 30-foot right-of-way is vacated, most of the block's rights-of-way are maintained by the State Department of Transportation or KPB. Per 2016 imagery, the northern segment of Birch Lane is not constructed at this time.
5. Per the submittal, the right-of-way proposed for vacation has not been constructed.
6. Per the submittal, the right-of-way proposed for vacation is not in use for access.
7. KPB Roads Department submitted a statement of no comments.
8. Sufficient rights-of-way exist to serve surrounding properties.
9. No surrounding properties will be denied access.
24. ACS requested a 10-foot utility easement centered on their existing facilities in the 30-foot right-of-way.
27. Since the subject 30-foot wide right-of-way was not dedicated by a subdivision plat, the right-of-way was not depicted on any of KPB's maps.
28. Existence of the 30-foot wide right-of-way would not be known unless research of relevant conveyance documents was conducted.
29. Development occurred without the knowledge of the 30-foot right-of-way, which was created by a 1967 warranty deed.
30. The ten-acre parcel to the west, if further subdivided, could grant a 60 foot wide right of way to provide access.

31. A drive constructed within the 30 road easement would access North Miller Loop, a state maintained right of way. Any new driveways will require DOT approval.
32. A drive located within the access easement would be located very close to the existing drive.

Draft, unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

cc: petitioners' w/minutes only

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacation of the 30-foot wide right-of-way on the west 30 feet of the W 1/2 SW 1/4 SE 1/4 SE 1/4 of Section 35, Township 7 North, Range 12 West, Seward Meridian, KPB, Alaska as dedicated per the deed recorded in Book 49 Page 168, Kenai Recording District, Alaska; Section 35, Township 7 North, Range 12 West, Seward Meridian, Alaska, off Miller Loop Road, Nikiski, within the Kenai Peninsula Borough; KPB File 2018-064V

Staff Report given by Scott Huff

PC Meeting: 6/25/18

Purpose as stated in petition: The parcel is being subdivided. The roadway easement was created in 1967 by deed, but was never constructed. The surrounding parcels have alternative physical and legal access. The owners' septic leach field is situated within a portion of the road easement. There is an overhead electric line situated along the west property line.

Petitioners: Timothy and Lorie Shield of Kenai, Alaska

Notification:

Public notice appeared in the June 14, 2018 issue of the Peninsula Clarion as a separate ad and in the June 21 issue as part of the Commission's tentative agenda.

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

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

Notices were emailed to 16 agencies and interested parties. The public hearing notice was emailed to the Nikiski Fire Department. Notices were made available to 9 KPB staff via a shared database.

The public hearing notice was mailed to the Nikiski Post Office and Nikiski Community Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ACS: ACS has an existing cable in the right-of-way proposed to be vacated. Retain a 5-foot easement on either side of the existing cable.

ENSTAR: No comments, recommendations, or objections.

Homer Electric Association: Reviewed/no comments.

KPB Addressing/Street Name Review: 45841 will be retained on Lot 1. Street names are correct.

KPB Code Compliance: No comments.

KPB Planning: No material site or local option zone issues.

KPB Roads Department: No comments.

River Center: The proposed vacation is not within a mapped flood hazard zone and it is not affected by the Habitat Protection District.

State Parks: No comments.

Staff Discussion:

If the 30-foot right-of-way is vacated, the block would be generally defined by Miller Loop Road, Birch Lane, Foley Drive, and Balto Drive, which exceeds the maximum length per KPB 20.30.170. However, the block is a looped access. Most of the block's rights-of-way are maintained by the State Department of Transportation or KPB. Imagery indicates the northern segment of Birch Lane is not constructed at this time.

With the 30-foot right-of-way, the block is generally defined by the 30-foot right-of-way, Foley Drive, Balto Drive, and Miller Loop Road. The block's length is closer to compliance with KPB 20.30.170 if the 30-foot right-of-way is part of the block.

Treetop VIP Estates Subdivision No. 2 to the west has a 60-foot Treetop Street that is in a good location to extend to Foley Drive to shorten the block; however, this right-of-way is actually a long cul-de-sac. The other north/south right-of-way in the block is another cul-de-sac (Bristol Circle), which cannot help shorten the block.

If the vacation is approved, it will be finalized by recording Lindsey Reader Subdivision. The preliminary plat is scheduled for review by the Plat Committee on July 16, 2018.

Vacation of the right-of-way would resolve the encroachment; however, staff cannot recommend vacating a public right-of-way based on incorrectly located improvements.

Findings:

1. The right-of-way proposed to be vacated was created by warranty deed, which was recorded in Book 49 Page 168 KRD on November 29, 1967.
2. If the 30-foot right-of-way is vacated, the block would be generally defined by Miller Loop Road, Birch Lane, Foley Drive, and Balto Drive.
3. If the 30-foot right-of-way is vacated, the block would be a platted, looped access.
4. If the 30-foot right-of-way is vacated, most of the block's rights-of-way are maintained by the State Department of Transportation or KPB. Per 2016 imagery, the northern segment of Birch Lane is not constructed at this time.
5. Per the submittal, the right-of-way proposed for vacation has not been constructed.
6. Per the submittal, the right-of-way proposed for vacation is not in use for access.
7. KPB Roads Department submitted a statement of no comments.
8. Sufficient rights-of-way exist to serve surrounding properties.
9. No surrounding properties will be denied access.
10. The block length exceeds the maximum length per KPB 20.30.170.
11. With the 30-foot right-of-way in place, the block is incomplete, but it is closer to compliance with block length per KPB 20.30.170.
12. The proposed subdivision plat creates a 40,000 square foot lot in the southeast corner and a 3.709-acre lot.
13. Further subdivision of proposed Lot 1 (3.709 acres) would require a 60-foot right of way dedication.
14. The location of proposed Lot 2's boundaries and the location of the existing house would not allow a full 60 foot right of way dedication to occur; therefore, limiting the possibility that Lot 1 could be further subdivided in the future.
15. The 10-acre parcel to the west fronts on 660 feet of the 30-foot public access easement.
16. The 10-acre parcel to the west can be further subdivided.
17. If further subdivided, the 10-acre parcel to the west will be required to grant a matching 30 foot right of way for a full 60-foot right of way dedication.
18. The 11.8-acre parcel to the north fronts on 30 feet of the 30-foot wide public access easement.
19. The 11.8-acre parcel to the north can be further subdivided.
20. If further subdivided, the 11.8-acre parcel to the north may be required to extend right of way or dedicate a cul-de-sac.

21. Per KPB 20.70.170, where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.
22. Per KPB 20.70.210, The commission shall consider the intended purpose of the area, and any future uses of the area when making a decision.
23. The 30-foot right of way provides access for possible future subdivisions for the subject property and adjacent acreage lots/parcels.
24. ACS requested a 10-foot utility easement centered on their existing facilities in the 30-foot right-of-way.
25. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping, the subject property and surrounding lots/parcels are not affected by low wet areas.
26. Per KPB GIS 4-foot contours, terrain within the subject property and block is generally flat.

STAFF RECOMMENDATION: Based on Findings 1, 10-23, 25, and 26, staff cannot recommend approval of the vacation as petitioned.

If the proposed vacation is denied, the preliminary plat may continue through the process, but the 30-foot right-of-way will remain intact.

If the Commission approves the proposed vacation, staff recommends the approval be subject to:

1. Attach findings to the motion to approve the proposed vacation.
2. Consent of the vacation by the KPB Assembly.
3. Submittal of a final plat in accordance with KPB Title 20 within a timeframe such that the plat can be recorded within one year of vacation consent.
4. Grant utility easements requested by the utility providers.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, 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.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT

STAFF REPORT ADDENDUM

Staff Report Addendum given by Scott Huff

PC Meeting: 6/25/18

Staff Discussion: After the meeting packet was distributed, the surveyor submitted additional information and a proposed right-of-way alternative for the block.

The subject right-of-way was dedicated by a 1967 warranty deed instead of a subdivision plat. The warranty deed was recorded (Book 49 Page 168 KRD) so it is part of the public record. However, since the subject right-of-way was not dedicated by a subdivision plat, the right-of-way was not depicted on any of KPB's maps. Therefore, subsequent development occurred without the knowledge of the 30-foot right-of-way.

A Certificate to Plat is not required for vacation petitions so staff does not know if the title company will specifically call out the right-of-way or if it will be included in the generic list of encumbrances affecting the property, such as: *reservations, restrictions, conditions, and easements of record*. It is the responsibility of the owner(s) to research each reservation, restriction, condition, and easement of record individually.

The surveyor provided a sketch of an alternative design for the block, which would provide a looped access and bring the block closer to compliance with KPB 20.30.170. However, the proposed alternative design would require the cooperation of four property owners, one of whom is the petitioner.

A full 60 foot right of way would require a 30-foot match from the property located to the west. Per the surveyor's additional submittal, a roadway constructed in the center of a 60 foot right of way would require relocation of existing utilities. The cost to move said utilities is approximately \$72,000. Staff cannot cite expense as a finding to support vacating a public right-of-way; however, staff recognizes it is a burden to the owners.

One alternative for future subdivision of Lot 1 suggested by the surveyor would include a flag lot design. Staff considered a similar alternative, which would require an exception to KPB 20.30.190 unless the flag was 60 feet wide.

Additional Findings:

27. Since the subject 30-foot wide right-of-way was not dedicated by a subdivision plat, the right-of-way was not depicted on any of KPB's maps.
28. Existence of the 30-foot wide right-of-way would not be known unless research of relevant conveyance documents was conducted.
29. Development occurred without the knowledge of the 30-foot right-of-way, which was created by a 1967 warranty deed.
30. The ten-acre parcel to the west, if further subdivided, could grant a 60-foot-wide right of way to provide access.
31. A drive constructed within the 30 road easement would access North Miller Loop, a state maintained right of way. Any new driveways will require DOT approval.
32. A drive located within the access easement would be located very close to the existing drive.

AMENDED STAFF RECOMMENDATION: Based on Findings 1-9, 24, and 27-32, staff recommends approval of the vacation as petitioned, subject to:

1. Attach findings to the motion to approve the proposed vacation.
2. Consent of the vacation by the KPB Assembly.
3. Submittal of a final plat in accordance with KPB Title 20 within a timeframe such that the plat can be recorded within one year of vacation consent.
4. Grant utility easements requested by the utility providers.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.
- B. Upon denial by the planning commission, 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.

**KPB 20.70.130:
THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.**

END OF STAFF REPORT ADDENDUM

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Foster moved, seconded by Commissioner Whitney to approve the vacation of the 30-foot wide right-of-way based on the following findings and staff recommendations.

Findings

1. The right-of-way proposed to be vacated was created by warranty deed, which was recorded in Book 49 Page 168 KRD on November 29, 1967.
2. If the 30-foot right-of-way is vacated, the block would be generally defined by Miller Loop Road, Birch Lane, Foley Drive, and Balto Drive.
3. If the 30-foot right-of-way is vacated, the block would be a platted, looped access.
4. If the 30-foot right-of-way is vacated, most of the block's rights-of-way are maintained by the State Department of Transportation or KPB. Per 2016 imagery, the northern segment of Birch Lane is not constructed at this time.
5. Per the submittal, the right-of-way proposed for vacation has not been constructed.
6. Per the submittal, the right-of-way proposed for vacation is not in use for access.
7. KPB Roads Department submitted a statement of no comments.
8. Sufficient rights-of-way exist to serve surrounding properties.
9. No surrounding properties will be denied access.
24. ACS requested a 10-foot utility easement centered on their existing facilities in the 30-foot right-of-way.
27. Since the subject 30-foot wide right-of-way was not dedicated by a subdivision plat, the right-of-way was not depicted on any of KPB's maps.
28. Existence of the 30-foot wide right-of-way would not be known unless research of relevant conveyance documents was conducted.
29. Development occurred without the knowledge of the 30-foot right-of-way, which was created by a 1967 warranty deed.
30. The ten-acre parcel to the west, if further subdivided, could grant a 60 foot wide right of way to provide access.
31. A drive constructed within the 30 road easement would access North Miller Loop, a state maintained right of way. Any new driveways will require DOT approval.
32. A drive located within the access easement would be located very close to the existing drive.

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND ABSENT	ERNST ABSENT	FIKES YES	FOSTER YES	ISHAM ABSENT
MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES		9 YES 3 ABSENT

AGENDA ITEM F. PUBLIC HEARING



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

June 27, 2018

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION

MEETING OF JUNE 25, 2018

RE: Vacation of the 30-foot wide right-of-way on the west 30 feet of the W 1/2 SW 1/4 SE 1/4 SE 1/4 of Section 35, Township 7 North, Range 12 West, Seward Meridian, KPB, Alaska as dedicated per the deed recorded in Book 49 Page 168, Kenai Recording District, Alaska; Section 35, Township 7 North, Range 12 West, Seward Meridian, Alaska, off Miller Loop Road, Nikiski, within the Kenai Peninsula Borough; KPB File 2018-064V

By unanimous consent, the Kenai Peninsula Borough Planning Commission granted approval of the proposed right-of-way and utility easement vacations during their regularly scheduled meeting of June 25, 2018 based on the following findings of fact and conditions.

Findings

1. KPB Roads Department submitted a statement of no comments.
2. Per the submittal, a pond and muskeg area is within close proximity to the right-of-way proposed to be vacated.
3. Per the submittal, a large boulder is partially in the right-of-way proposed to be vacated.
4. ACS submitted a statement of no objections.
5. Homer Electric Association submitted a statement of reviewed/no comments.
7. One of the petitioners owns 8-15, Block 2, KN 86-109 (Iyuptulla No. 2 Subdivision).
9. Tract A and Tract B, KN 2009-55, have been issued Lopez Avenue addresses.
13. Sufficient rights-of-way exist to serve surrounding properties.
14. No surrounding properties will be denied access.
15. Per the submittal, the right-of-way proposed for vacation is not in use for access.
16. Per the submittal, the right-of-way proposed for vacation has not been constructed.

In accordance with AS 29.40.140, no vacation of a Borough right-of-way and/or easement may be made without the consent of the Borough Assembly. The proposed vacation will be forwarded to the Borough Assembly. The Assembly shall have 30 calendar days from the date of approval (June 25, 2018) in which to veto the Planning Commission decision. If the Planning Director receives no veto within the specified period, the Assembly shall be considered to have given consent to the vacation.

Please contact the Borough Clerk's office (907-714-2160 or 1-800-478-4441 toll-free within the borough) for additional information.

This notice and unapproved minutes of the subject portion of the meeting were sent June 27, 2018 to:

Timothy & Lorie Shield
PO Box 867
Kenai, AK 99611-0867

David & Lucille Egge
PO Box 653
Kenai, AK 99611-0653

Richard & Misty Cole
46205 Balto Dr.
Kenai, AK 99611-9608

McLane Consulting, LLC
PO Box 468
Soldotna, AK 99669

AGENDA ITEM F. PUBLIC HEARINGS

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STAFF REPORT

PC Meeting: 6/25/18

Purpose as stated in petition: The parcel is being subdivided. The roadway easement was created in 1967 by deed, but was never constructed. The surrounding parcels have alternative physical and legal access. The owners' septic leach field is situated within a portion of the road easement. There is an overhead electric line situated along the west property line

Petitioners: Timothy and Lorie Shield of Kenai, Alaska

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Comments Received:

ACS: ACS has an existing cable in the right-of-way proposed to be vacated. Retain a 5-foot easement on either side of the existing cable.

ENSTAR: No comments, recommendations, or objections.

Homer Electric Association: Reviewed/no comments.

KPB Addressing/Street Name Review: 45841 will be retained on Lot 1. Street names are correct.

KPB Code Compliance: No comments.

KPB Planning: No material site or local option zone issues.

KPB Roads Department: No comments.

River Center: The proposed vacation is not within a mapped flood hazard zone, and it is not affected by the Habitat Protection District.

State Parks: No comments.

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15. The 10-acre parcel to the west fronts on 660 feet of the 30-foot public access easement.
16. The 10-acre parcel to the west can be further subdivided.
17. If further subdivided, the 10-acre parcel to the west will be required to grant a matching 30 foot right of way for a full 60-foot right of way dedication.
18. The 11.8-acre parcel to the north fronts on 30 feet of the 30-foot wide public access easement.
19. The 11.8-acre parcel to the north can be further subdivided.

20. If further subdivided, the 11.8-acre parcel to the north may be required to extend right of way or dedicate a cul-de-sac.
21. Per KPB 20.70.170, where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.
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25. Per Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping, the subject property and surrounding lots/parcels are not affected by low wet areas.
26. Per KPB GIS 4-foot contours, terrain within the subject property and block is generally flat.

STAFF RECOMMENDATION: Based on Findings 1, 10-23, 25, and 26, staff cannot recommend approval of the vacation as petitioned.

If the proposed vacation is denied, the preliminary plat may continue through the process, but the 30-foot right-of-way will remain intact.

If the Commission approves the proposed vacation, staff recommends the approval be subject to:

1. Attach findings to the motion to approve the proposed vacation.
2. Consent of the vacation by the KPB Assembly.
3. Submittal of a final plat in accordance with KPB Title 20 within a timeframe such that the plat can be recorded within one year of vacation consent.
4. Grant utility easements requested by the utility providers.

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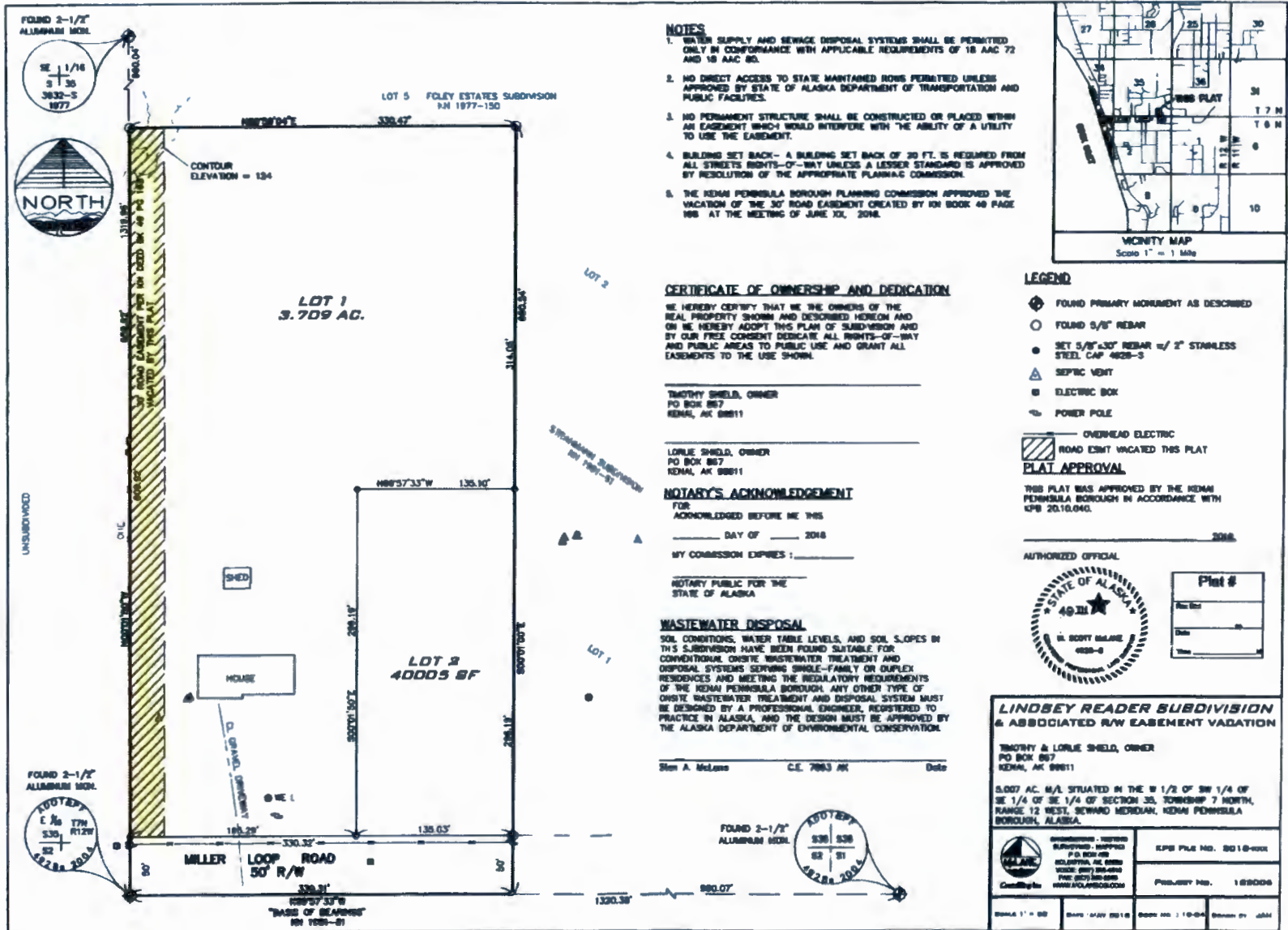
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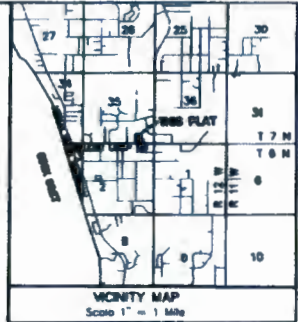
KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT



- NOTES**
1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 80.
 2. NO DIRECT ACCESS TO STATE MAINTAINED ROWS PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.
 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. BUILDING SET BACK - A BUILDING SET BACK OF 20 FT. IS REQUIRED FROM ALL STREETS RIGHTS-OF-WAY UNLESS A LESSEY STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
 5. THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF THE 30' ROAD EASEMENT CREATED BY ION BOOK 48 PAGE 108 AT THE MEETING OF JUNE 30, 2018.



CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE, THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BE HALF OF OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

THOMAS SHIELD, OWNER
PO BOX 867
KENAI, AK 99811

LORIE SHIELD, OWNER
PO BOX 867
KENAI, AK 99811

NOTARY'S ACKNOWLEDGEMENT

FOR ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 2018
MY COMMISSION EXPIRES: _____

NOTARY PUBLIC FOR THE STATE OF ALASKA

WASTEWATER DISPOSAL
SOIL CONDITIONS, WATER TABLE LEVELS, AND SOIL SLOPES IN THIS SUBDIVISION HAVE BEEN FOUND SUITABLE FOR CONVENTIONAL ON-SITE 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 ON-SITE 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 DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Sten A. McLean C.E. 7963 AK Date

LEGEND

- ◆ FOUND PRIMARY MONUMENT AS DESCRIBED
- FOUND 5/8" REBAR
- SET 5/8"x30" REBAR w/ 2" STAINLESS STEEL CAP #628-5
- ▲ SEPTIC VENT
- ELECTRIC BOX
- ⊕ POWER POLE
- OVERHEAD ELECTRIC
- ▨ ROAD EASEMENT VACATED THIS PLAT

PLAT APPROVAL
THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH IN ACCORDANCE WITH KPB 20.10.040.

2018

AUTHORIZED OFFICIAL

Plat #	
Plat No.	
Date	
Sheet	

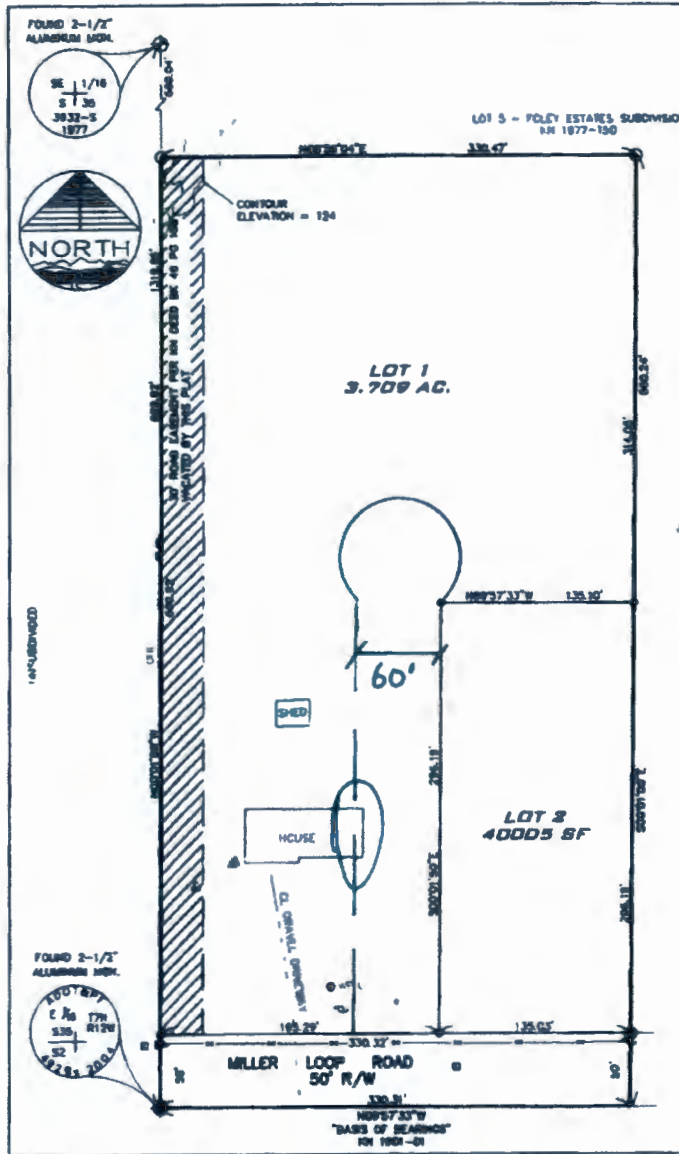
LINSLEY READER SUBDIVISION & ASSOCIATED R/W EASEMENT VADATION

THOMAS & LORIE SHIELD, OWNER
PO BOX 867
KENAI, AK 99811

5.007 AC. M/L SITUATED IN THE W 1/2 OF SW 1/4 OF SE 1/4 OF SE 1/4 OF SECTION 35, TOWNSHIP 7 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, ALASKA.

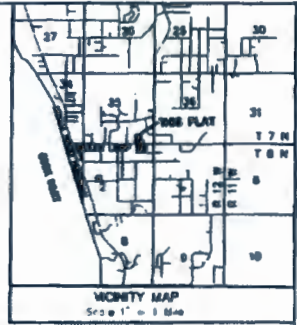
 LINSLEY READER SURVEYING & MAPPING P.O. BOX 408 SLOPPERSVILLE, AK 99586 PHONE: (907) 349-6999 FAX: (907) 349-6998 WWW.LRSURV.COM	KPB FILE NO. 2018-0644
	PROJECT NO. 180004
SCALE 1" = 50'	DATE: JULY 2018
BOOK NO. 10-04	REVISION BY: JAM

KPB 2018-064V



NOTES

1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 85.
2. NO DIRECT ACCESS TO STATE MAINTAINED ROADS PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.
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. BUILDING SET BACK - A BUILDING SET BACK OF 30 FT. IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSEY STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
5. THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF THE 30' ROAD EASEMENT CREATED BY KN BOOK 49 PAGE 168 AT THE MEETING OF JUNE XX, 2018.



CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND OR WE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

TRINITY SHIELD, OWNER
PO BOX 887
KENAI, AK 99541

LOUIE SHIELD, OWNER
PO BOX 887
KENAI, AK 99541

NOTARY'S ACKNOWLEDGEMENT

FOR
ACKNOWLEDGED BEFORE ME THIS
____ DAY OF _____ 2018
MY COMMISSION EXPIRES _____

NOTARY PUBLIC FOR THE
STATE OF ALASKA

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 DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Shawn A McLemore C.E. 7963 AK Date

LEGEND

- ◆ FOUND PRIMARY MONUMENT AS DESCRIBED
- FOUND 5/8\"/>

ROAD EASEMENT VACATED THIS PLAN

FLAT APPROVAL

THIS PLAN WAS APPROVED BY THE KENAI PENINSULA BOROUGH IN ACCORDANCE WITH KPB 20.10.040.

AUTHORIZED OFFICIAL



Plot #

Acres

Area

Area

LINDSEY READER SUBDIVISION & ASSOCIATED RW EASEMENT VACATION

TRINITY & LOUIE SHIELD, OWNER
PO BOX 887
KENAI, AK 99541

3.007 AC M/A SITUATED IN THE W 1/2 OF SW 1/4 OF SE 1/4 OF SE 1/4 OF SECTION 25, TOWNSHIP 7 NORTH, RANGE 12 WEST, SEWARD MERIDIAN, KENAI PENINSULA BOROUGH, ALASKA.

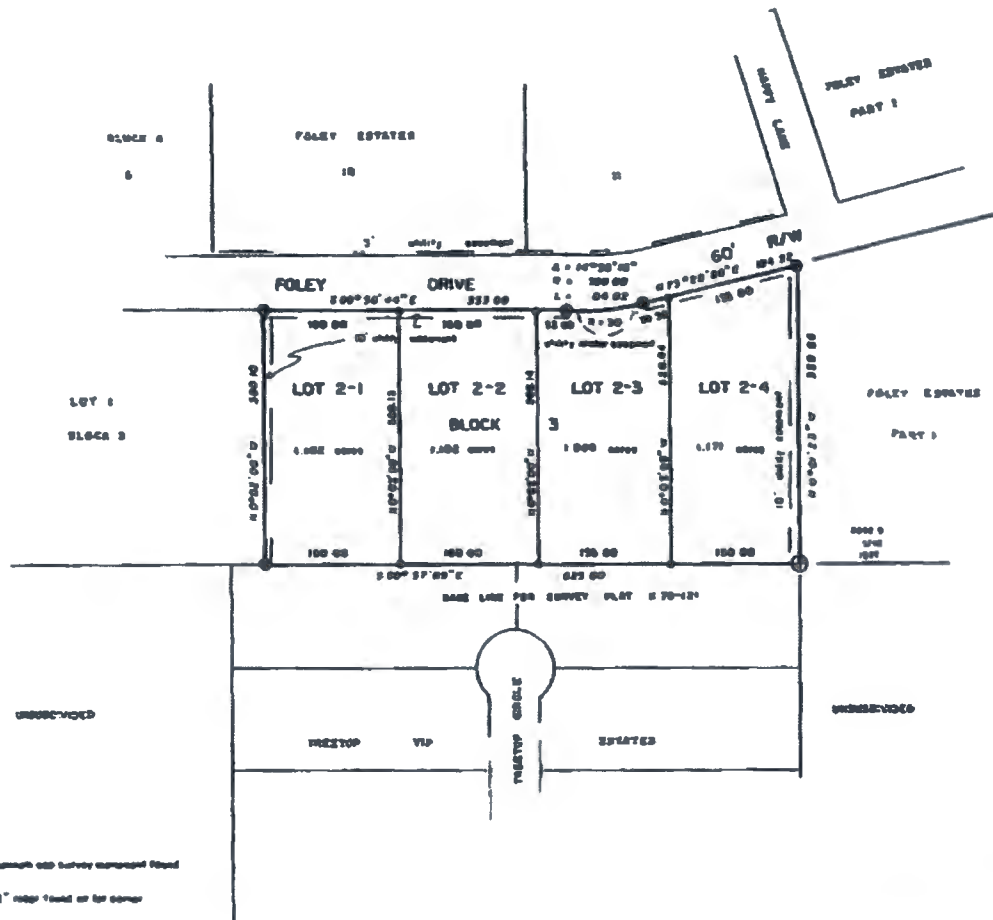


KPB FILE NO. 2018-0000

PROJECT NO. 1808000

Sheet 1 of 30	Date: MAY 2018	Drawn by: JLD
---------------	----------------	---------------

KN 86-35



LEGEND

- ⊕ Aluminum and survey instrument fixed
- 1/2" copper nail at lot corner
- 5/8" x 24" rebar set at lot corner

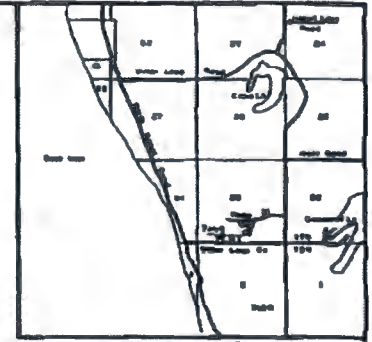
NOTE: A minimum 24" building setback is required adjacent to all rights of way unless a local ordinance is approved by submission of the appropriate planning authority.

NOTE: All water disposal systems shall meet requirements of existing law at time of construction.

SURVEYOR'S CERTIFICATE



REGISTERED SURVEYOR, SEAL AND REGISTRATION



LOCATION MAP 1"=1 mi.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREIN AND THAT I HEREBY ASSUMES THE PLAN OF SUBDIVISION AND DEDICATE ALL RIGHTS OF WAY TO THE PUBLIC USE AND SHOW ALL EASEMENTS TO BE USED THEREIN.
 I HEREBY CERTIFY THAT I AM OWNER OF THE ABOVE WATER SYSTEM, SEWER LINES CONTAINED WITHIN AND I, AGREED, APPROVED, REQUEST APPROVAL OF THIS PLAN IN ACCORDANCE WITH ALL LAWS.
 James H. Roberts
 Tony B. Roberts Jr. Lita E. Roberts
 P O Box 2162 P O Box 1288
 Mobile, Alabama 36633 Mobile, Alabama

NOTARY'S ACKNOWLEDGEMENT

FORWARDED AND DELIVERED TO RECORD ON THIS 26 DAY OF February, 1986 BY James H. Roberts, Jr. and Lita E. Roberts.
 Lita E. Roberts
 COUNTY PUBLIC NOTARY
 OF CHANDLER COUNTY

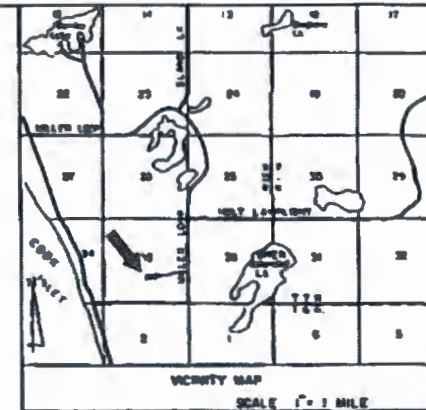
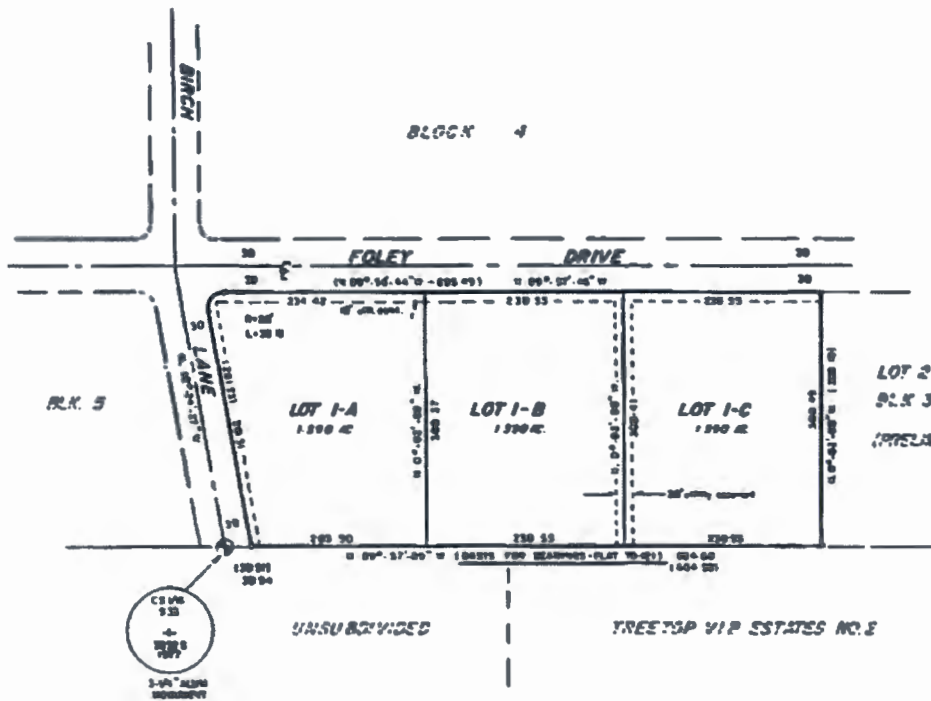
PLAT APPROVAL

THIS PLAT HAS APPROVED BY THE ALABAMA PERMITS BOARD-PLANNING DIVISION AT THE MEETING OF July 26, 1983

ALABAMA PERMITS BOARD
 BY Richard O. Trough
 REGISTERED OFFICIAL

86-35
 RECORDED FEB 27 1986
 2:26 PM
 12:11 P
 T. JOURNAL

FOLEY ESTATES SUBDIVISION ROBERTS ADDITION			
A subdivision of the 2 1/2 Acre FOLEY ESTATES TRACT, PART 1, A portion of the 1981-82 2nd 22 1/2 ACRE 1127-80 Final Plat shown through, Mobile			
Area	Area subdivided	Proposed total area	Date of survey
1.0000	0.5000 acres	1.5000	April 13, 1984
Drawn by LITA ROBERTS P O Box 2162 Mobile, Alabama		JAMES H. ROBERTS SURVEYOR P O Box 1288 Mobile, Alabama	
Drawn by	Checked by	Reviewed by	Date by
LR	JHR	JHR	4/13/84



85-143

RECORDED 10-10-85

FILED 10-10-85

10-10-85

10-10-85

10-10-85

CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of the property shown and described herein, that we accept this plan of subdivision, and do hereby dedicate all rights of way to public use, and grant all easements to the use shown.

Thomas M. Foley *Kimberly Jean Foley*
 THOMAS M. FOLEY KIMBERLY JEAN FOLEY
 BOX 948 BOX 948
 KENAI, AK 99541 KENAI, AK 99541

NOTARY ACKNOWLEDGMENT

For THOMAS M FOLEY and KIMBERLY JEAN FOLEY
 SUBSCRIBED TO AND SIGNED BEFORE ME
 This 9th Day of August 1985
 My Commission Expires 9-13-85

Thomas M. Foley
 Notary Public For Alaska

PLAT APPROVAL

This Plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of MAY 16, 1984

KENAI PENINSULA BOROUGH
 BY *[Signature]*
 Authorized Official

LEGEND & NOTES

- o = 1/2" Rubber band
- ⊥ = 3/4" x 24" Rubber cut
- ⚡ = found duplicate survey fragments

A minimum building setback of 20' is required from all street rights of way unless a lesser standard is approved by resolution of the appropriate planning commission.



COMMISSIONER OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

This subdivision has been reviewed in accordance with 18AACA020 and is approved subject to any noted conditions.

[Signature] 8-16-85
 SUPERVISOR

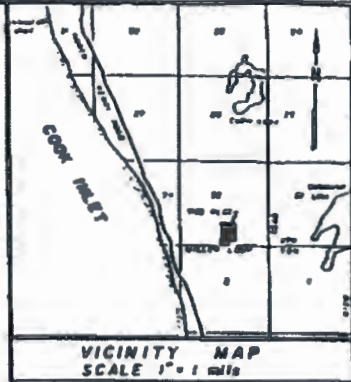
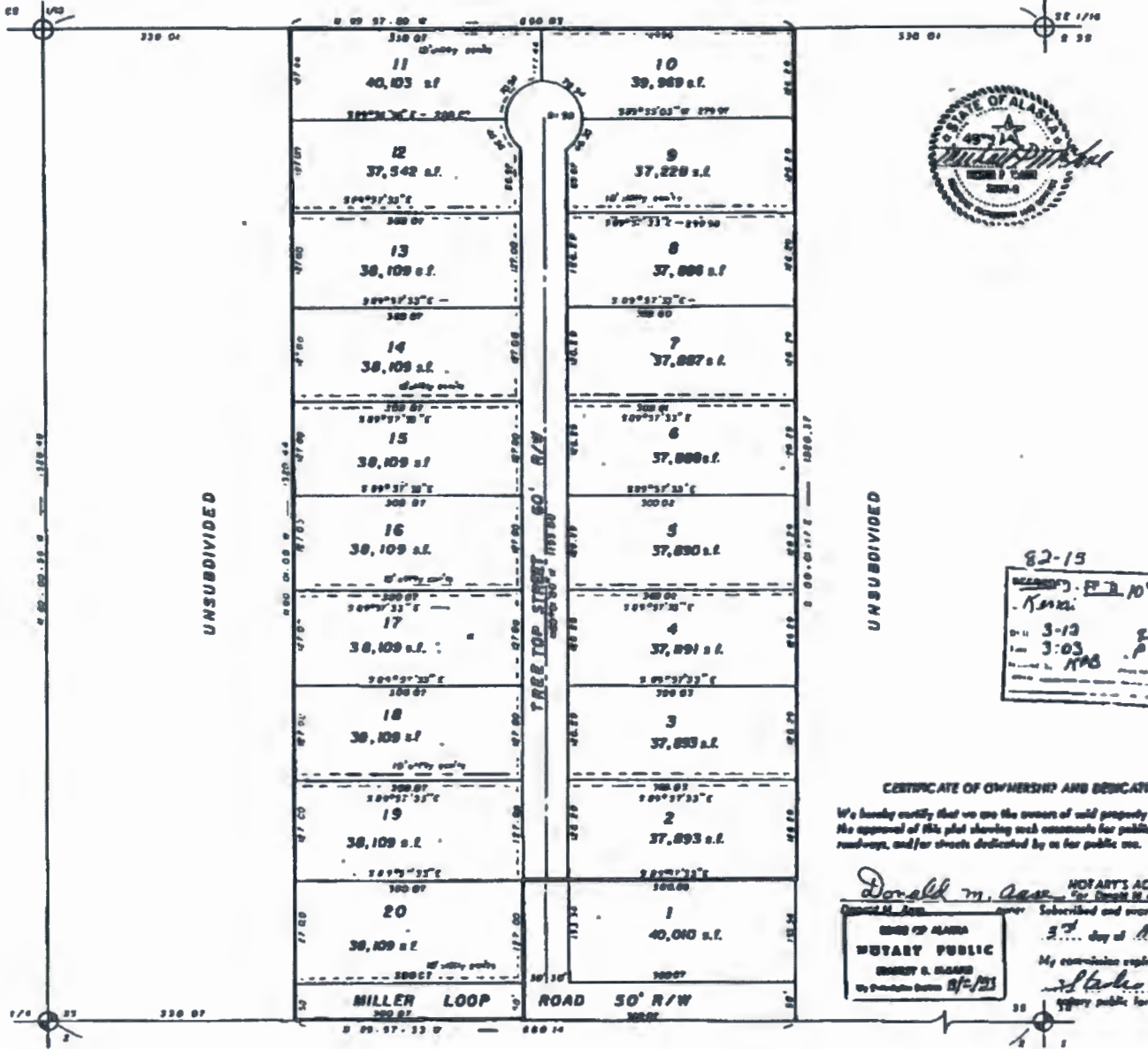
FOLEY ESTATES PART 2—KIM'S ADDITION

A SUBDIVISION OF LOT 1, BLOCK 3, FOLEY ESTATES PT 2 PLAT 70-03, S.H.S. WITHIN THE 3RD/4 SE/4, SEC 26, T 7 N, R 12 W, S 4 E, AK AND THE KENAI PENINSULA BOROUGH CONTAINING 4 7/10 ACRES, M/L.

OWNERS: TOM & KIM FOLEY BOX 1948 KENAI, AK 99541	MAJOR SURVEYING BOX 266 KENAI, ALASKA 99541		
	JOB 85-078	FS 85-03	DATE 8/16/85
DRAWN BY PJM		CHECKED JPM	
SCALE: 1" = 400'	KPB FILE NO. 85-141		

FOLEY EST.

1300 00



LEGEND AND NOTES

- ⊙ Old brass cap monument
- ⊕ Official survey brass cap monument
- 1/4" N 24" steel rebar of other corners
- All bearings refer to the south boundary of Section 35 on being N 89-57-33 W date of record

All water-water treatment and disposal systems shall comply with existing law of this jurisdiction.

Building set back—A building set back of 20' is required from all street rights of ways unless a lesser standard is approved by resolution of the appropriate planning commission.

PLAT APPROVAL

This plat was approved by the Ketchikan Borough Planning Commission at the meeting of August 21, 1982.

Ketchikan Borough
J.P. Henry
 Authorized Official

82-15
 RECEIVED - FEB 10 1982
 3-13
 3:03
 MJB

CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of said property and request the approval of this plat showing such easements for public utilities, roadways, and for streets dedicated to us for public use.

Donald M. Lane
 DONOR'S ACKNOWLEDGEMENT
 I, Donald M. Lane, do hereby certify that I am the owner of the above described property and I have executed this instrument as my free and voluntary act and deed.
 Executed on this 27 day of March, 1982
 My commission expires 01/01/83
Donald M. Lane
 Notary Public for Alaska

TREETOP V.I.P. ESTATES
 SUBDIVISION NO. 2

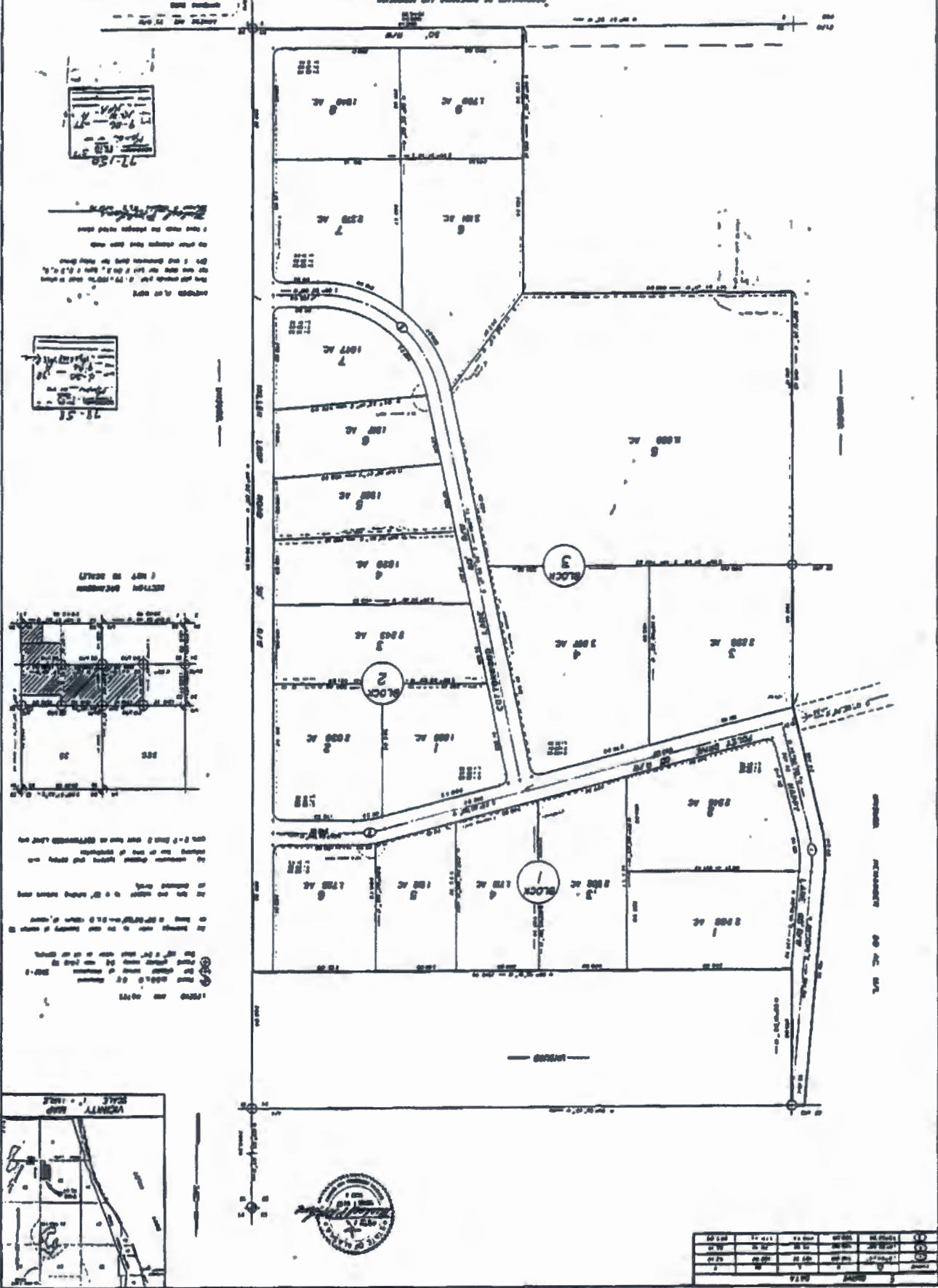
Don Lane, owner
 RT 2 Box 529 Soldotna, AK 99669
 LOCATION
 18 494 Ac. located in the SW 1/4 SE 1/4 Section 35 77N, R12W, S.4M., AK. and the Ketchikan Borough.

Surveyed by: McLean and Associates, Inc.
 Box 400 Soldotna, AK 99669

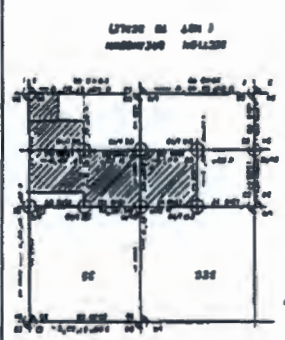
Date of Survey 7/6/81	Scale 1" = 100'	Sheet No. 81-27
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PLANNED SUBDIVISION
FOLLY ESTATES
 SECTION 20
 TOWNSHIP 11 N. RANGE 10 E. COUNTY OF HAMILTON, N.Y.

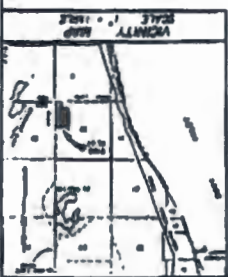
DEPARTMENT OF STATE
PLANNING AND CONSERVATION DIVISION
 The following is a true and correct copy of the original as shown to the undersigned by the applicant, and the same is hereby certified to be a true and correct copy of the original as shown to the undersigned by the applicant, and the same is hereby certified to be a true and correct copy of the original as shown to the undersigned by the applicant.



71-50
 The following is a true and correct copy of the original as shown to the undersigned by the applicant, and the same is hereby certified to be a true and correct copy of the original as shown to the undersigned by the applicant.



The following is a true and correct copy of the original as shown to the undersigned by the applicant, and the same is hereby certified to be a true and correct copy of the original as shown to the undersigned by the applicant.



NO.	DESCRIPTION	ACRES
1	LOT 1	1.00
2	LOT 2	1.00
3	LOT 3	1.00
4	LOT 4	1.00
5	LOT 5	1.00
6	LOT 6	1.00
7	LOT 7	1.00
8	LOT 8	1.00
9	LOT 9	1.00
10	LOT 10	1.00



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.

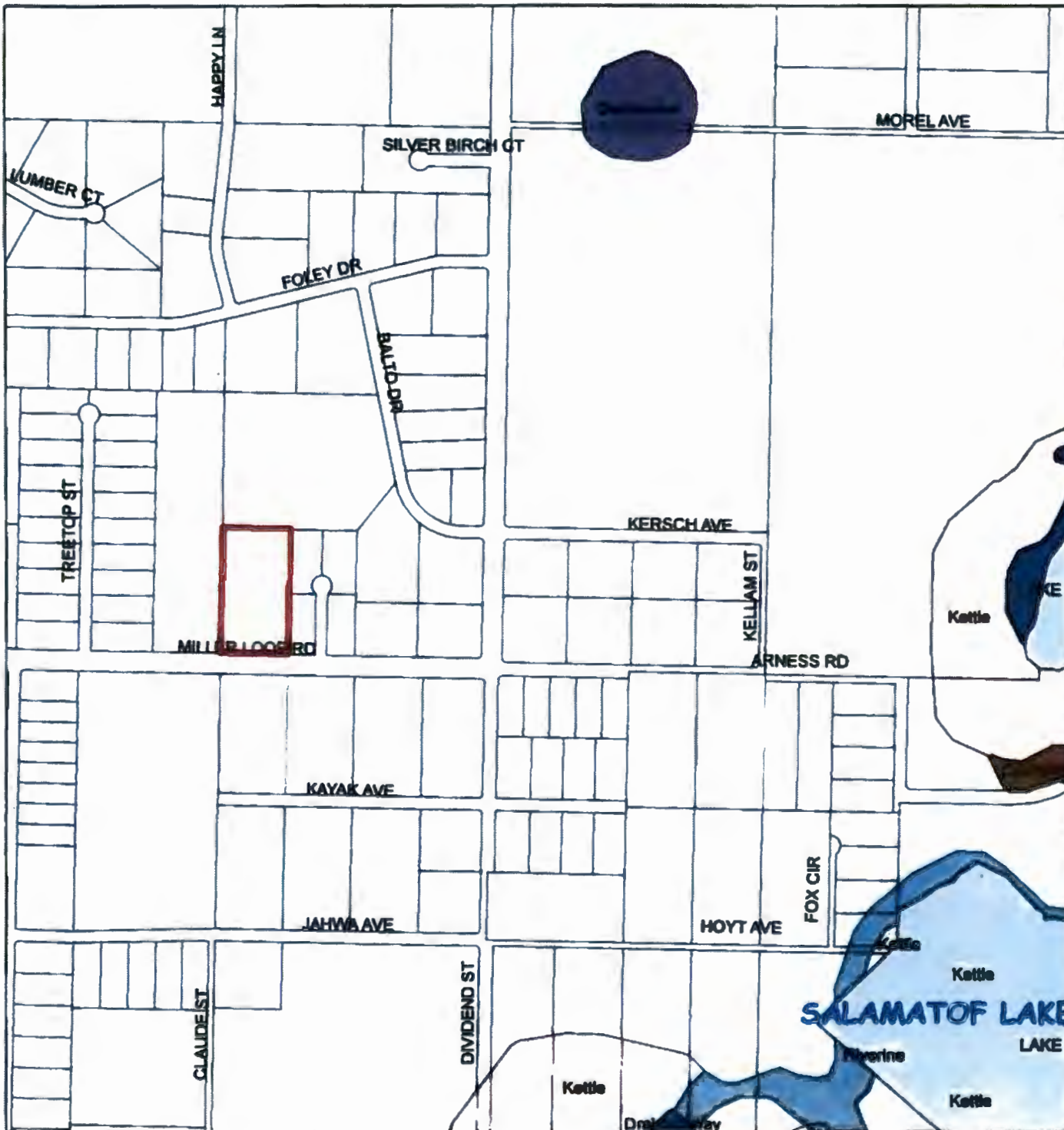
Aerial View



 Right of Way Easement Vacation

JReif, KPB
Date: 6/4/2018

Kenai Watershed Forum 2013 Cook Inlet Wetlands Mapping



- DISTURB
- Depression
- Discharge Slope
- Drainageway
- Floating Island
- Headwater Fen
- Kettle
- LAKE
- Lakebed
- Late Snow Plateau
- Riverine
- Tidal
- Wetland / Upland Complex

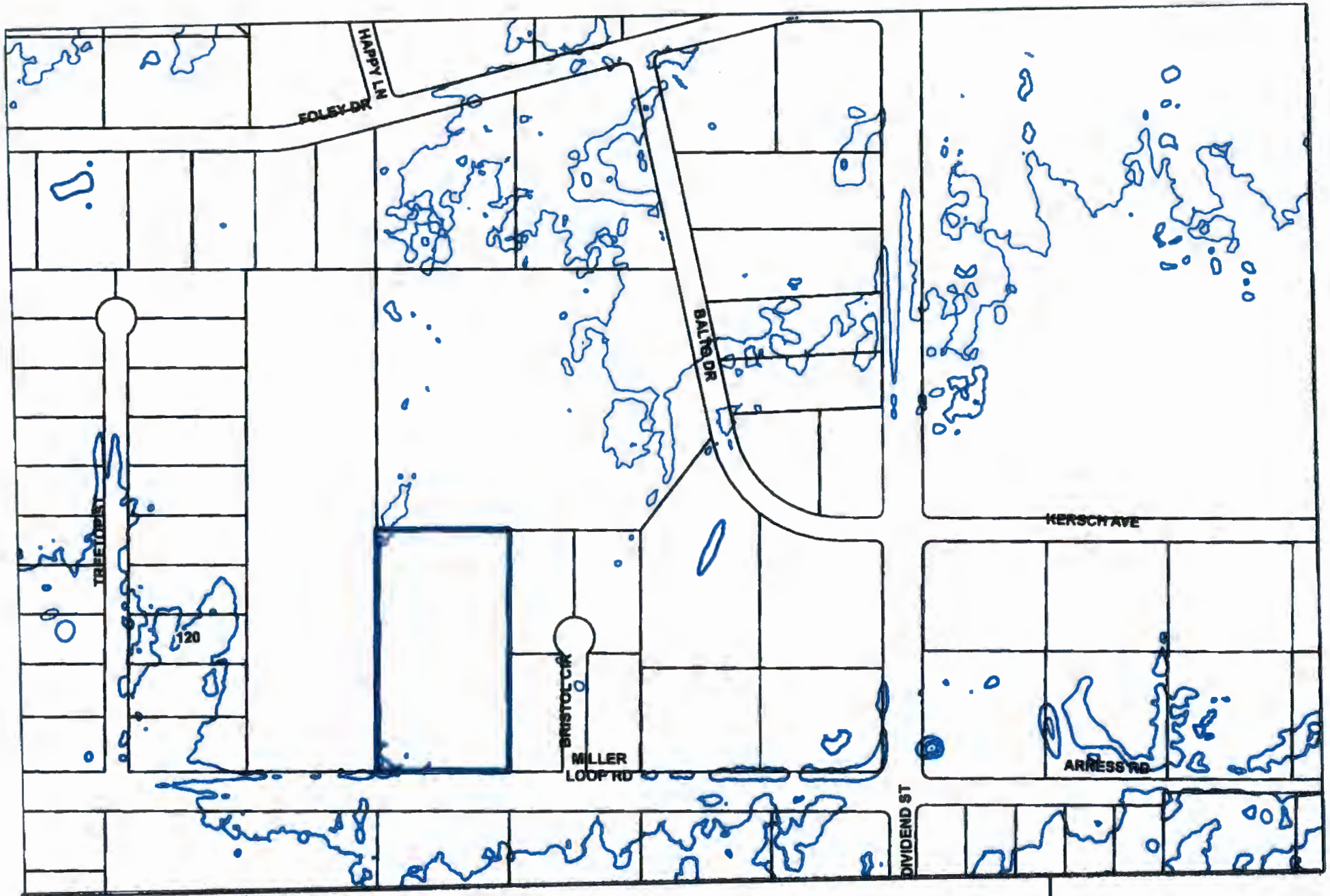


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Date: 6/13/2018

0500200 feet
 ++++





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.

Date: 6/13/2018

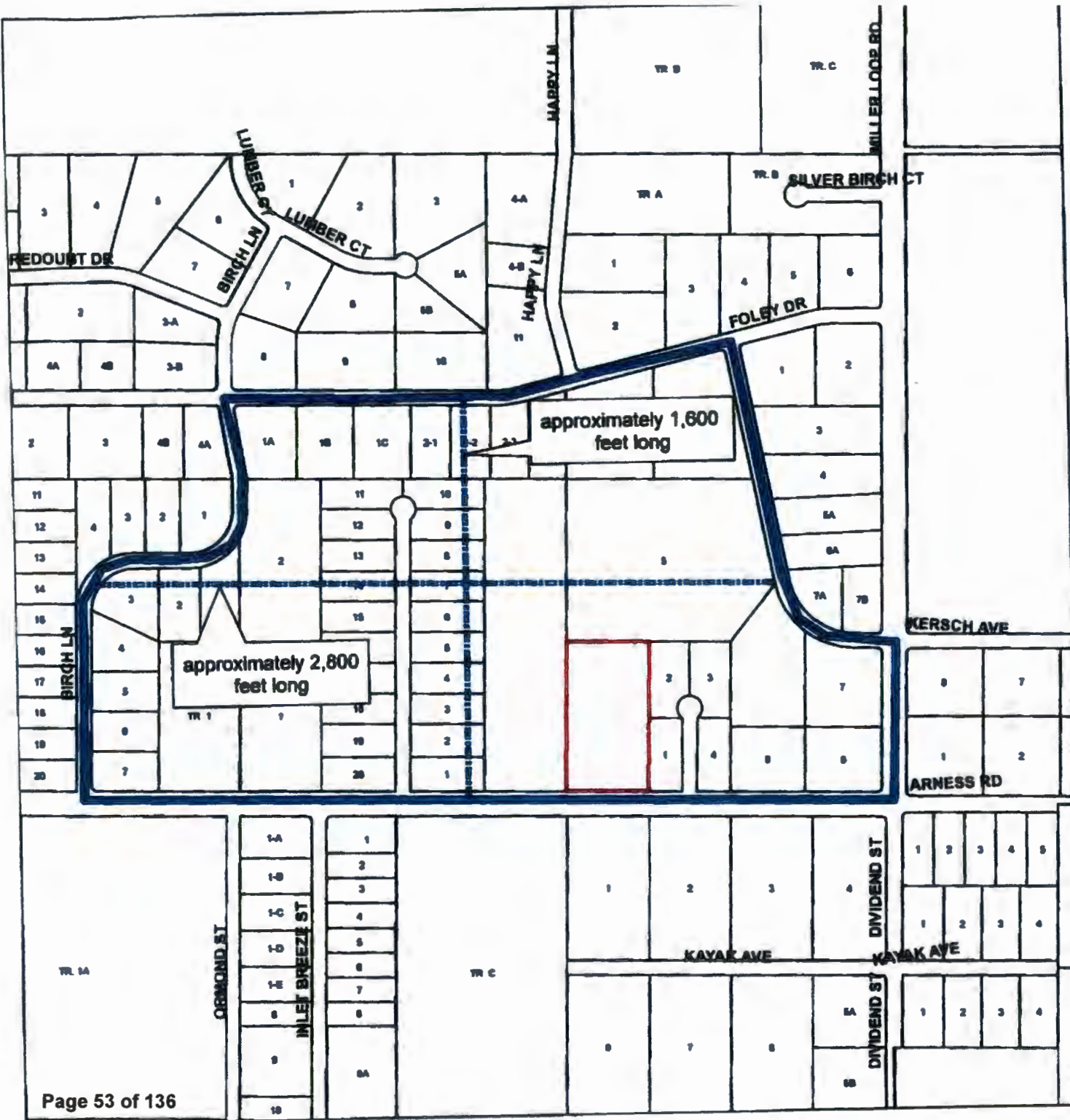
Kenai Peninsula Borough Planning Department

Four-foot Contours

0 100 200 400 Feet



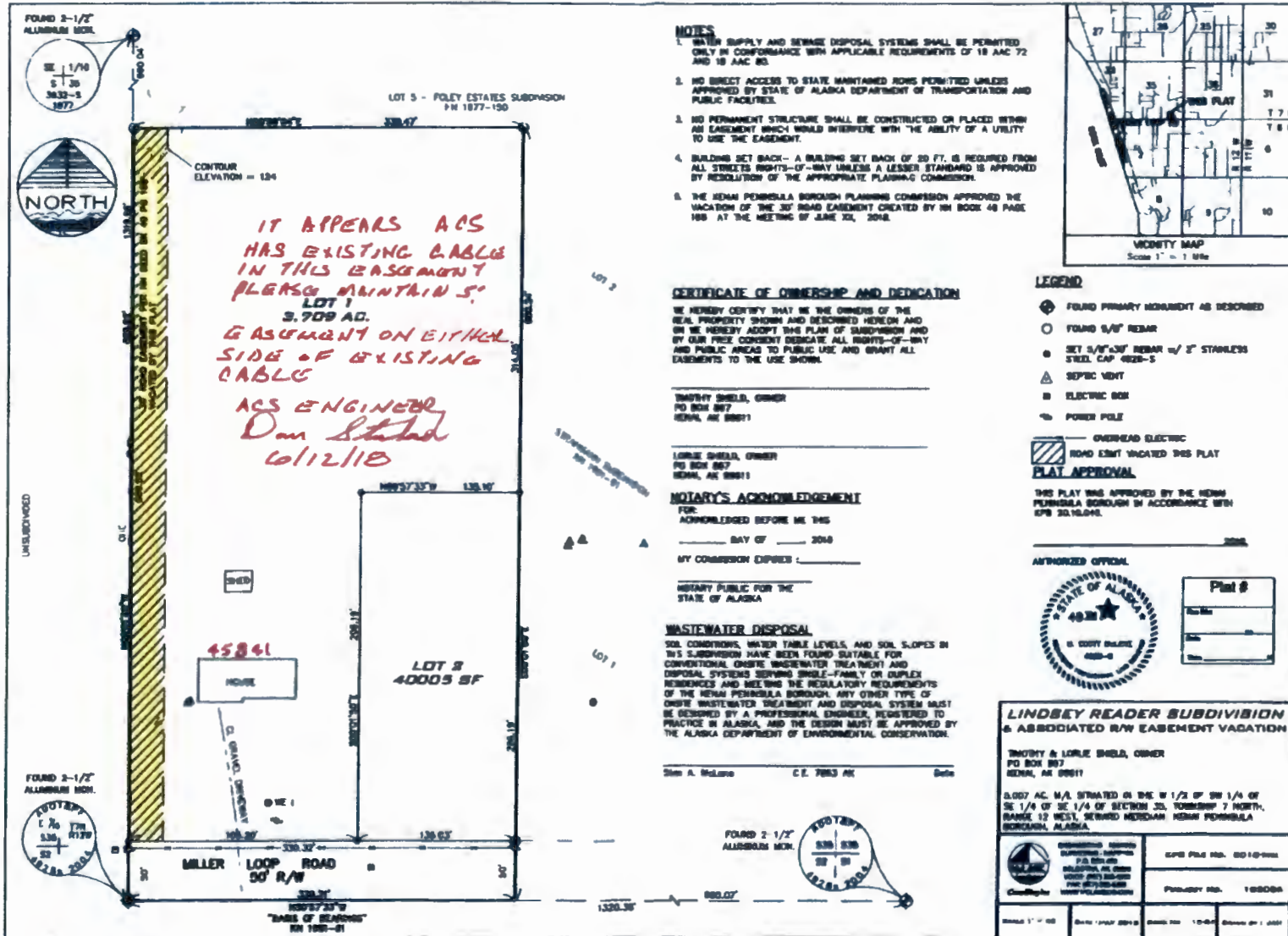
approximate block limits



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



created by: maweply
Date: 6/13/2018



- NOTES**
1. WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SHALL BE PERMITTED ONLY IN CONFORMANCE WITH APPLICABLE REQUIREMENTS OF 18 AAC 72 AND 18 AAC 85.
 2. NO DIRECT ACCESS TO STATE MAINTAINED ROADS PERMITTED UNLESS APPROVED BY STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.
 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. BUILDING SET BACK - A BUILDING SET BACK OF 20 FT. IS REQUIRED FROM ALL STREETS RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
 5. THE HENNA PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF THE 30' ROAD EASEMENT CREATED BY RM BOOK 48 PAGE 188 AT THE MEETING OF JUNE 20, 2018.

CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND ON BE HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEEDATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

INDOTY SHIELD, OWNER
PO BOX 897
HENNA, AK 99811

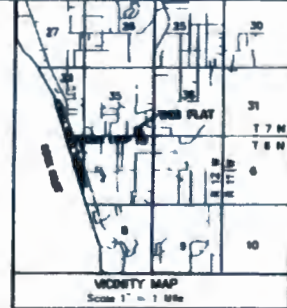
LORNE SHELL, OWNER
PO BOX 897
HENNA, AK 99811

NOTARY'S ACKNOWLEDGEMENT
FOR
ACKNOWLEDGED BEFORE ME THIS
____ DAY OF _____ 2018
MY COMMISSION EXPIRES _____

NOTARY PUBLIC FOR THE STATE OF ALASKA

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 HENNA 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 DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

Shirley A. McLane C.E. 7883 AK Date



- LEGEND**
- FOUND PRIMARY MONUMENT AS DESCRIBED
 - FOUND 3/4" REBAR
 - SET 3/4" x 30" REBAR w/ 2" STAINLESS STEEL CAP 4028-5
 - ▲ SEPTIC VENT
 - ELECTRIC BOX
 - ⊕ POWER POLE
 - OVERHEAD ELECTRIC
 - ▨ ROAD EXMT VACATED THIS PLAT
- PLAT APPROVAL**
THIS PLAT WAS APPROVED BY THE HENNA PENINSULA BOROUGH IN ACCORDANCE WITH GRS 30.16.04E.

AUTHORIZED OFFICIAL

Plat #

LINDSEY READER SUBDIVISION & ASSOCIATED R/W EASEMENT VACATION

INDOTY & LORNE SHELL, OWNER
PO BOX 897
HENNA, AK 99811

3.007 AC. M/A. SITUATED IN THE W 1/2 OF SW 1/4 OF SE 1/4 OF SE 1/4 OF SECTION 33, TOWNSHIP 7 NORTH, RANGE 12 WEST, SEWARD MERIDIAN HENNA PENINSULA BOROUGH, ALASKA.

	Subdivision Name LINDSEY READER SUBDIVISION & ASSOCIATED R/W EASEMENT VACATION	GPS FILE NO. 2018-064V
	City/Township HENNA, AK	PROPERTY NO. 1000004

Scale 1" = 40'

KPB 2018-064V



Kenai Peninsula Borough Planning Department
 144 North Binley
 Soldotna, Alaska 99669-7599
 Toll free within the Borough 1-800-478-4441, extension 2200
 (907) 714-2200



**Petition to Vacate Public Right-of-Way/Easement/Platted Public Area
 Public Hearing Required**

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

- \$500 non-refundable fee to help defray costs of advertising public hearing.
- City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- Name of public right-of-way proposed to be vacated is dedicated by the plat of _____ Subdivision, filed as Plat No. _____ in _____ Recording District.
- Are there associated utility easements to be vacated? Yes No
- Are easements in use by any utility company? If so, which company _____
- Easement for public road or right-of-way as set out in (specify type of document) Warranty Deed as recorded in Book 49 Page 168 of the _____ Recording District. (Copy of recorded document must be submitted with petition.)
- Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
 - Has right-of-way been fully or partially constructed? Yes No
 - Is right-of-way used by vehicles / pedestrians / other? Yes No
 - Is alternative right-of-way being provided? Yes No

The petitioner must provide reasonable justification for the vacation. Reason for vacating:

- 1) Parcel being subdivided _____
 - 2) Roadway easement was created in 1967 by deed but never constructed _____
 - 3) Surrounding parcels have alternative physical and legal access _____
 - 4) Owners septic leach field is situated within a portion of road easement _____
 - 5) Over head Electric situated along west property line
- The petition must be signed (written signature) by owners of the majority of land fronting the right-of-way, easement, or platted public area proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By: Name: McLane Consulting Inc. Signature as: Petitioner Representative
 Address _____
 P.O. Box 468
Soldotna, AK 99669
 Phone 907 283 4218

Petitioners:

Signature <u>Timothy & Lorlie Shield</u>	Signature _____
Name <u>Timothy & Lorlie Shield</u>	Name _____
Address <u>P.O. Box 867</u>	Address _____
<u>Kenai, AK 99611</u>	_____
<u>W1/2SW1/4SE1/4SE1/4 Sec 35 T7N R12 W SM</u>	_____
Owner of _____	Owner of _____
Signature _____	Signature _____
Name _____	Name _____
Address _____	Address _____
_____	_____
Owner of _____	Owner of _____

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacation of the 30-foot wide right-of-way on the west 30 feet of the W 1/2 SW 1/4 SE 1/4 SE 1/4 of Section 35, Township 7 North, Range 12 West, Seward Meridian, KPB, Alaska as dedicated per the deed recorded in Book 49 Page 168, Kenai Recording District, Alaska; Section 35, Township 7 North, Range 12 West, Seward Meridian, Alaska, off Miller Loop Road, Nikiski, within the Kenai Peninsula Borough; KPB File 2018-064V

STAFF REPORT ADDENDUM

PC Meeting: 6/25/18

Staff Discussion: After the meeting packet was distributed, the surveyor submitted additional information and a proposed right-of-way alternative for the block.

The subject right-of-way was dedicated by a 1967 warranty deed instead of a subdivision plat. The warranty deed was recorded (Book 49 Page 168 KRD) so it is part of the public record. However, since the subject right-of-way was not dedicated by a subdivision plat, the right-of-way was not depicted on any of KPB's maps. Therefore, subsequent development occurred without the knowledge of the 30-foot right-of-way.

A Certificate to Plat is not required for vacation petitions so staff does not know if the title company will specifically call out the right-of-way or if it will be included in the generic list of encumbrances affecting the property, such as: *reservations, restrictions, conditions, and easements of record*. It is the responsibility of the owner(s) to research each reservation, restriction, condition, and easement of record individually.

The surveyor provided a sketch of an alternative design for the block, which would provide a looped access and bring the block closer to compliance with KPB 20.30.170. However, the proposed alternative design would require the cooperation of four property owners, one of whom is the petitioner.

A full 60 foot right of way would require a 30-foot match from the property located to the west. Per the surveyor's additional submittal, a roadway constructed in the center of a 60 foot right of way would require relocation of existing utilities. The cost to move said utilities is approximately \$72,000. Staff cannot cite expense as a finding to support vacating a public right-of-way; however, staff recognizes it is a burden to the owners.

One alternative for future subdivision of Lot 1 suggested by the surveyor would include a flag lot design. Staff considered a similar alternative, which would require an exception to KPB 20.30.190 unless the flag was 60 feet wide.

Additional Findings:

27. Since the subject 30-foot wide right-of-way was not dedicated by a subdivision plat, the right-of-way was not depicted on any of KPB's maps.
28. Existence of the 30-foot wide right-of-way would not be known unless research of relevant conveyance documents was conducted.
29. Development occurred without the knowledge of the 30-foot right-of-way, which was created by a 1967 warranty deed.
30. The ten-acre parcel to the west, if further subdivided, could grant a 60 foot wide right of way to provide access.
31. A drive constructed within the 30 road easement would access North Miller Loop, a state maintained right of way. Any new driveways will require DOT approval.
32. A drive located within the access easement would be located very close to the existing drive.

AMENDED STAFF RECOMMENDATION: Based on Findings 1-9, 24, and 27-32, staff recommends approval of the vacation as petitioned, subject to:

1. Attach findings to the motion to approve the proposed vacation.
2. Consent of the vacation by the KPB Assembly.

3. Submittal of a final plat in accordance with KPB Title 20 within a timeframe such that the plat can be recorded within one year of vacation consent.
4. Grant utility easements requested by the utility providers.

KPB 20.70.110:

A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.
- B. Upon denial by the planning commission, 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.

KPB 20.70.130:

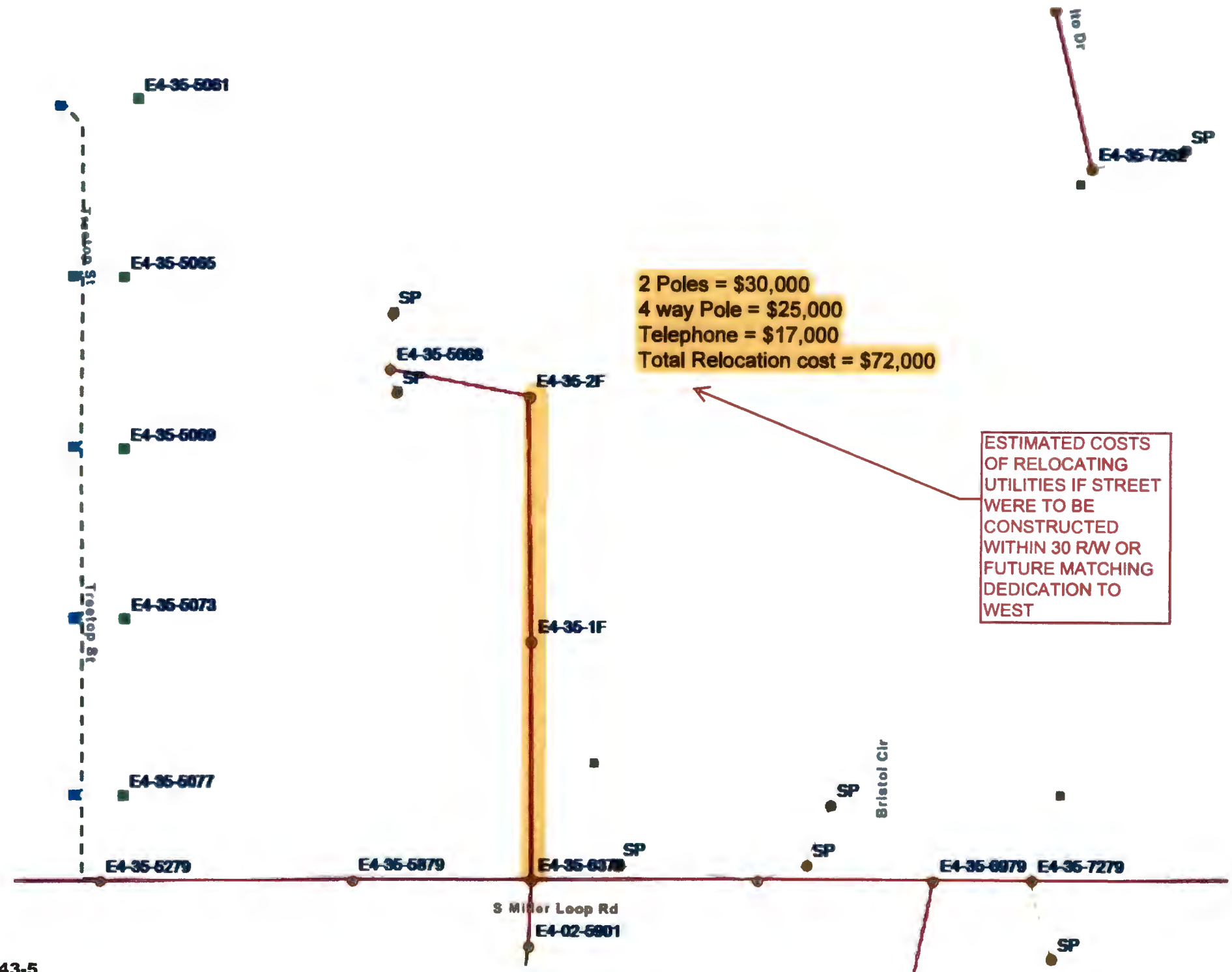
THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT ADDENDUM

1. The right-of-way proposed to be vacated was created by warranty deed, which was recorded in Book 49 Page 168 KRD on November 29, 1967.
 - The R/W was unknown to exist until recent Title Report revealed it in this warranty deed mentioned. The special limited warranty deed acquired by the owner only displays "easements of record". The right of way was created before the borough had a platting ordinance.
 - 50 years of being largely unknown has put several hurdles in the path of utilizing this R/W for future use. Along the property line is an overhead powerline and buried telephone lines constructed for the 10-acre parcel to the west.
 - Existing driveway approaches within a close proximity will make permitting another ADOT&PF approach within this right of way problematic. One or more of the existing approaches would mostly likely be required to be obliterated by State.
2. The block length exceeds the maximum length per KPB 20.30.170.
3. With the 30-foot right-of-way in place, the block is incomplete, but it is closer to compliance with block length per KPB 20.30.170.
Each parcel in the block has adequate access and maintained roads at each frontage.
4. The proposed subdivision plat creates a 40,000 square foot lot in the southeast corner and a 3.709-acre lot.
5. Further subdivision of proposed Lot 1 (3.709 acres) would require a 60-foot right of way dedication.
6. The location of proposed Lot 2's boundaries and the location of the existing house would not allow a full 60 foot right of way dedication to occur, therefore, limiting the possibility that Lot 1 could be further subdivided in the future.
Future subdivision of Lot 1 could utilize a Flag Lot configuration with a 25' access driveway to remainder.
7. The 10-acre parcel to the west fronts on 660 feet of the 30-foot public access easement.
8. The 10-acre parcel to the west can be further subdivided.
9. If further subdivided, the 10-acre parcel to the west will be required to grant a matching 30 foot right of way for a full 60-foot right of way dedication.
 - The overhead powerline is located along the eastern property line of the 10-acre parcel. If the subdivision was required to utilize the 30' R/W on Shields parcel the overhead powerline and buried telephone would need to be relocated with an estimated cost of \$72,000 associated with the move of utilities.
 - The 4-way power pole at the corner common to both parcels would be right at Centerline of any future R/W access to this future subdivision. (see attached)
 - By utilizing the existing approaches off Miller Loop Road and the driveway to the 10-acre parcel, future development and subdivision could occur with far less impact on existing utilities and access to the parcels.
 - Requiring a matching the dedication will create two parallel roads within 150 feet of each other. Having redundant access roads does not appear to serve the property owners or public interest well. Overlaying a future road dedication on the existing driveway will reduce future subdivision developments costs significantly.
10. The 11.8-acre parcel to the north fronts on 30 feet of the 30-foot wide public access easement.
11. The 11.8-acre parcel to the north can be further subdivided.
12. If further subdivided, the 11.8-acre parcel to the north may be required to extend right of way or dedicate a cul-de-sac.
For the 11.8-acre parcel to extend R/W there would still be a need to take 30' from the 10-acre parcel off the adjoiner to the west. This parcel has ample frontage along Balto and is not being denied access. Extending this right of way or terminating with a culdesac are both expensive options if they were to subdivide. Vacating the right of way eliminates this expense.
13. Per KPB 20.70.170, where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.
14. Per KPB 20.70.210, The commission shall consider the intended purpose of the area, and any future uses of the area when making a decision.

23. **The 30-foot right of way provides access for possible future subdivisions for the subject property and adjacent acreage lots/parcels.**

The cost associated with utilizing this R/W for any future subdivision is extensive and relies heavily on a common goal for the 3 affected parcels. With the 30' R/W being unknown until recent research there has been significant improvements that would need to be relocated before any future development. Concepts on future development using existing features would be far more beneficial than relying on this 30' R/W for access. (See attached exhibit)



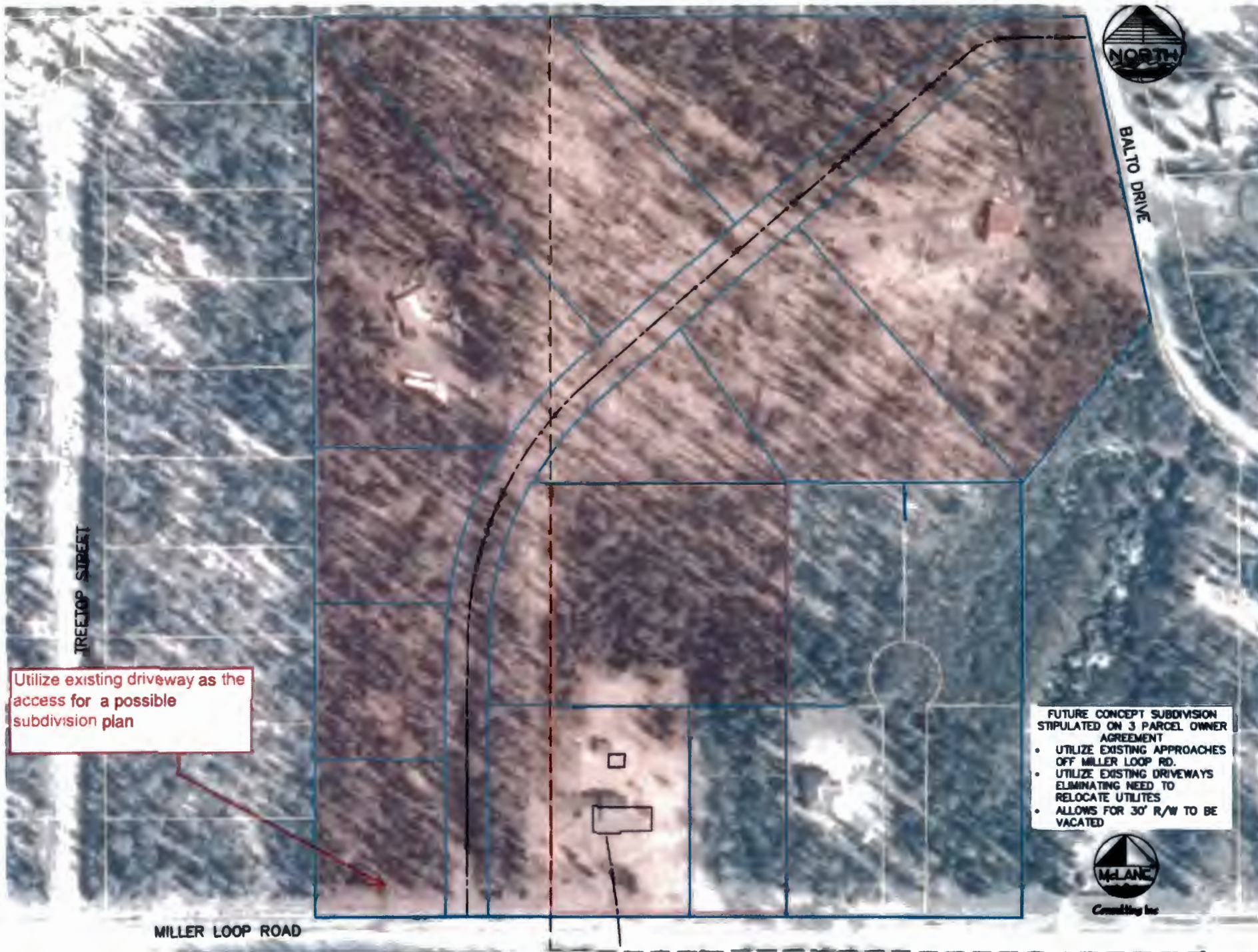
2 Poles = \$30,000
 4 way Pole = \$25,000
 Telephone = \$17,000
 Total Relocation cost = \$72,000

ESTIMATED COSTS OF RELOCATING UTILITIES IF STREET WERE TO BE CONSTRUCTED WITHIN 30 RW OR FUTURE MATCHING DEDICATION TO WEST



4 way Pole at
Miller Loop and
Shields west
property line will
need to be
relocated.

Shields House



Utilize existing driveway as the access for a possible subdivision plan

- FUTURE CONCEPT SUBDIVISION STIPULATED ON 3 PARCEL OWNER AGREEMENT
- UTILIZE EXISTING APPROACHES OFF MILLER LOOP RD.
 - UTILIZE EXISTING DRIVEWAYS ELIMINATING NEED TO RELOCATE UTILITIES
 - ALLOWS FOR 30' R/W TO BE VACATED



McLANE Consulting Inc.

WARRANTY DEED

1967, Vol. 49 PAGE 168
Kenai Recording District

KENAI
Serial No. 17-3320

GRANTORS, Jatee White and Lillian D. White, husband and wife, of Kenai, Alaska for and in the consideration of Ten Dollars and other valuable consideration, all paid in lawful money of the United States of America by the Grantee, conveys and warrants to George W. Read, the following described real estate described as follows, to-wit:

The ~~W4SW4E4E4~~ Section 35, T., 7N., R. 12W., Seward Meridian, Alaska, Kenai Alaska Recording Precinct Third Division, Alaska, containing 5 acres, more or less, And subject to the following:

- 1) One half of all oil, gas, mineral and hydrocarbon rights are reserved by the Grantors.
- 2) All reservations contained in the original patent.
- 3) Any utility easements now of record, if any.
- 4) Along westerly side a 30 foot right of way for road purposes is reserved for public use.

Dated this 11 day of October, 1967.

RECORDED - FILED
INDEXED - REC. DIST.
11/29 1967
3:20 P.M.
Address: <i>Red</i>

Jatee White
Jatee White

Lillian D. White
Lillian D. White

Grantors.

STATE OF ALASKA SS:

THIS CERTIFIES that on this 11 day of October, 1967, before the undersigned, personally appeared Jatee White and Lillian D. White, both known to me and to me known to be the identical individuals named in and who executed the foregoing instrument; that they each for himself did state they signed same freely and voluntarily for the purposes and uses therein stated.

Witness my hand and Official Seal the day and year hereinaabove last written.

Jeff Thompson
Notary Public, Alaska
My Com. Expires: 2-17-70



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