

# Kenai Peninsula Borough Planning Department

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## MEMORANDUM

**TO:** Kelly Cooper, Assembly President  
Kenai Peninsula Borough Assembly Members

**FROM:** Marcus Mueller, Interim Planning Director 

**DATE:** May 14, 2020

**RE:** Vacate the west 5 feet of the existing 70-foot wide Camelot Drive right-of-way along the east boundary of Lots 6, 7, and 8, Block 2, as dedicated on Camelot by the Sea Subdivision, Plat SW-76. The right-of-way being vacated is developed and located within the NW1/4 SE1/4 of Section 23, Township 1 North, Range 1 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-032V. Petitioners: J. Craig Turnbull & Catherine M. Turnbull of Seward, AK

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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 May 11, 2020 the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation of a portion of Camelot Drive by unanimous consent based on the means of evaluating public necessity established by KPB 20.70. This petition is being sent to you for your consideration and action.

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

May 11, 2020 Planning Commission Draft Meeting Minutes  
May 11, 2020 Agenda Item E1 Packet Materials

Huff replied that he believed that the city council would notify the neighbors of this agenda item.

Commissioner Brantley had a question for staff regarding the site drawing. He believed that the site drawing depicts a drainage gallery right where the new building would be located. Mr. Huff reviewed the site drawing and stated that area that Commissioner Brantley was referring to was not depicting a drainage gallery but the alcove of the proposed building.

**MOTION PASSED:** Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

#### AGENDA ITEM E. PUBLIC HEARINGS

1. Vacate the west 5 feet of the existing 70-foot wide Camelot Drive right-of-way along the east boundary of Lots 6, 7, and 8, Block 2, as dedicated on Camelot by the Sea Subdivision, Plat SW-76. The right-of-way being vacated is developed and located within the NW1/4 SE1/4 of Section 23, Township 1 North, Range 1 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-032V.

Staff report given by Scott Huff

PC Meeting May 11, 2020

Purpose as stated in petition: Camelot Drive was dedicated on the plat of Camelot by the Sea (Plat SW-76) as a 70-foot wide right-of-way. The roadway is constructed toward the easterly side of the right-of-way, on the side away from the proposed area to be vacated. In addition, the roadway and the area adjacent is relatively flat so that no slope easements are necessary.

Petitioners: J. Craig Turnbull and Catherine M. Turnbull of Seward, AK.

Notification: Public notice appeared in the April 29, 2020 issue of the Seward Journal as a separate ad. The public hearing notice was published in the May 6, 2020 issue of the Seward Journal as part of the Planning Commission's tentative agenda.

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

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

Twenty-one public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to five KPB staff/Departments via a shared database.

Notices were mailed to the Seward Post Office and Seward 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: Review, not in their service area

ENSTAR: Reviewed, no comments, recommendations or objections.

City of Seward Electric / Chugach Electric: No response

TelAlaska: No response

KPB Addressing: 12481 Camelot Dr. will be retained on Lot 8A.  
12515 Camelot Dr. will be retained on Lot 6A  
32565 Wizard Ave. will be deleted from the system.  
Existing street names are correct

KPB Planning: No material site or local option zone issues

KPB River Center: This project IS located within a flood hazard area  
Flood Zone X  
Map Panel 02122C-4542D  
This project is NOT located within the Habitat Protection District

KPB Roads Department: Reviewed and no comment

State Parks: No comments

Staff Discussion: The petitioners are proposing to reconfigure four lots ranging in size from 0.42 acres to 0.58 acres. Two new lots will be created that are 0.744 acres and 1.290 acres in size. They wish to vacate a 5-foot portion of the 70-foot wide Camelot Drive.

If approved, Camelot by the Sea 2019 Replat will finalize the proposed right of way vacation. The Plat Committee is scheduled to review KPB File No. 2020-032 on May 26, 2020.

#### **KPB 20.70 – Vacation Requirements.**

Platting staff comments: Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:

20.70.050. Petition—Information required.

- B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. **The petition shall include a statement containing the reasons in support of the vacation** and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travelways, amount of encroachment, and any other submittal as requested by the planning commission. **The burden of proof shall lie with the petitioner to support the vacation.**

*Platting Staff Comments:* The petitioner has not stated a reason why this vacation is crucial to their future plans, only that the right of way is larger than borough requirements. The design of the replat is not dependent on the vacation of this right-of-way.

- C. In areas where right-of-way is being vacated due to excessive topographic features, a contour map or centerline profile and/or right-of-way cross sectional view may be required by the commission to substantiate the unusable right-of-way and show alternate and dedicated routes to insure ingress and egress to adjacent lands.

*Platting Staff Comments:* The area to be vacated is not due to excessive topographic features but the remaining 65-foot width of the right-of-way is relatively flat and the portion proposed to be vacated is not needed for drainage.

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, 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 in KPB 20.70.110.

*Platting Staff Comments: If approved, Camelot by the Sea 2019 Replat (KPB File No. 2020-032) will finalize the proposed right-of-way vacation. The Plat Committee is tentatively scheduled to review this subdivision plat, KPB File No. 2020-032, on the May 26, 2020.*

**Staff recommendation:** *Comply with KPB 20.70.130.*

20.70.160. Partial vacation allowed. Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

*Platting Staff Comments: Per KPB 20.30.120(A) the minimum right-of-way width of streets shall be 60 feet. Camelot Drive was dedicated on Camelot by the Sea Subdivision (Plat SW 76) as a 70-foot width right-of-way. Vacating 5 feet of the right-of-way will leave a 65-foot width right-of-way for that portion of Camelot Drive and will still provide more than the minimum width. This vacation will comply with 20.70.160.*

**Staff recommendation:** *Concur that there is excessive right of way in this area and that the remaining right of way will comply with KPB right of way width standards.*

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. 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.

*Platting Staff Comments: The road is built and developed within the existing dedicated right-of-way but not within the 5-foot width proposed for vacation. Vacating 5 feet of the right-of-way will leave a 65-foot width right-of-way for that portion of Camelot Drive and will still provide more than the minimum width.*

*Per National Wetlands Inventory mapping, the portion of the Camelot Drive right-of-way proposed to be vacated are not affect by low wet areas nor the portion of Camelot Drive to remain.*

*Per KPB four foot contours, the portion of the Camelot Drive right-of-way proposed to be vacated is relatively flat as is the other portion of Camelot Drive.*

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

*Platting Staff Comments: Per the petition, no other uses exist within the portion of the Camelot Drive right-of-way proposed to be vacated.*

*As discussed above, the portion of Camelot Drive right-of-way proposed to be vacated is not affected by low wet areas and is relatively flat and therefore suited for general road use. However, as noted above, the dedicated right-of-way width will still be wider than required by KPB 20.30.120(A).*

**Staff recommendation:** *Concur that the portion of Camelot Drive right-of-way proposed to be vacated is suited for general road use, the remaining width of the dedicated right-of-way will provide equal or superior right-of-way for other uses.*

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public 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 public utility easement be granted in place of the right-of-way.

*Platting Staff Comments: The petition and proposed plat do not mention any utilities adjoining the portion*

of Camelot Drive right-of-way proposed to be vacated.

There are utility easements within the proposed subdivision located on the side and back lot lines only. There are currently no utility easements adjoining the right of way.

Comments from the utility providers were not available at the time the staff report was prepared.

The portion of Camelot Drive right-of-way proposed for vacation could be used as utility easements if required or requested by a utility provider.

**Staff recommendation:** If easements are requested by providers, the petitioners must work with the utility providers to provide the needed easements.

**STAFF RECOMMENDATION:** Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, staff recommends approval of the vacations 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).

**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 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**

Chairman Martin asked if anyone from the public wished to comment on this item. Seeing and hearing no one wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Ruffner to approve the vacations based on the means of evaluating public necessity established by KPB 20.70, subject to staff recommendations and compliance with borough code.

Commission Whitney asked staff was there anything in the record as to why Camelot Dr. was a 70 ft. right-of way. Mr. Huff stated no, that Camelot Dr. was platted back in 1971 as a 70 ft. right-of-way with no explanation as to why.

**MOTION PASSED:** Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

**AGENDA ITEM E. PUBLIC HEARINGS**

2. Vacate a portion of Fritz Creek Drive right-of-way adjacent to Tract E, Fritz Creek Acres Addition Tract D & E (HM 78-105) and adjacent to Lot 2, Carl Baier Tract A Weber 1981 Subdivision (HM 82-10) as dedicated on Fritz Creek Acres (HM 78-105) and Fritz Creek Acres No. 4 (HM 2007-122) and the 66-foot wide section line easement located within the portion of Fritz Creek Valley Drive right-of-way petitioned for vacation per the submittal application. The right-of-way and section line easement being vacate are partially developed and located within the NW1/4 SW1/4 of Section 28, and the NE1/4 SE1/4 of Section 29, Township 5 South, Range 12 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2020-035V.

Staff Report given by Scott Huff

PC Meeting: May 11, 2020

Purpose as stated in petition: The existing road has been substantially in the same location since before any of the right-of-way dedications of Clark Road (now known as Fritz Creek Valley Drive) per Fritz Creek Acres (Plat HM 77-37). The house shown on the exhibit predates the right-of-way dedication on Fritz Creek Acres Addition Tracts D & E (Plat HM 78-105), per the owner's records. The exact dates are a bit unclear but the owner thinks the house was built in the 1960's and was purchased in about 1975. The owner does not know why or how the right-of-way was dedicated over the existing house. The current owner, Terri Bramel Trust and her late husband have owned this house since 1975. The owner would like to sell the property and wishes to preserve the customary use of the property for any new owners without the previously dedicated right-of-way interfering. This vacation will allow the current and future owners of Tract E to use the property as it has long been used.

Petitioners: Terri Bramel Trust of Anchorage, AK

Notification: Public notice appeared in the April 30, 2020 issue of the Homer News as a separate ad. The public hearing notice was published in the May 7, 2020 issue of the Homer News as part of the Commission's tentative agenda.

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

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

Twenty public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to five KPB staff/Departments via a shared database.

Notices were mailed to the Homer Post Office and Homer 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: Reviewed and requests a 10' public utility easement centered on existing buried copper cable owned by ACS.

ENSTAR: Reviewed, no comments, recommendations or objections.

## **E. Public Hearings**

1. Vacate a portion of Camelot Drive right-of-way associate with Lots 6, 7 and 8, Block 2 as dedicated on Camelot by the Sea Subdivision (SW-76); NW1/4 SE1/4 Sec 23, T1N, R1W, Seward Meridian, AK; KPB File 2020-032V; Petitioners: John Craig Turnbull & Catherine Therese Murphy Turnbull of Seward, AK

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commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

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- 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**



PRELIMINARY

PRELIMINARY

**SURVEYOR'S CERTIFICATE**

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



PRELIMINARY

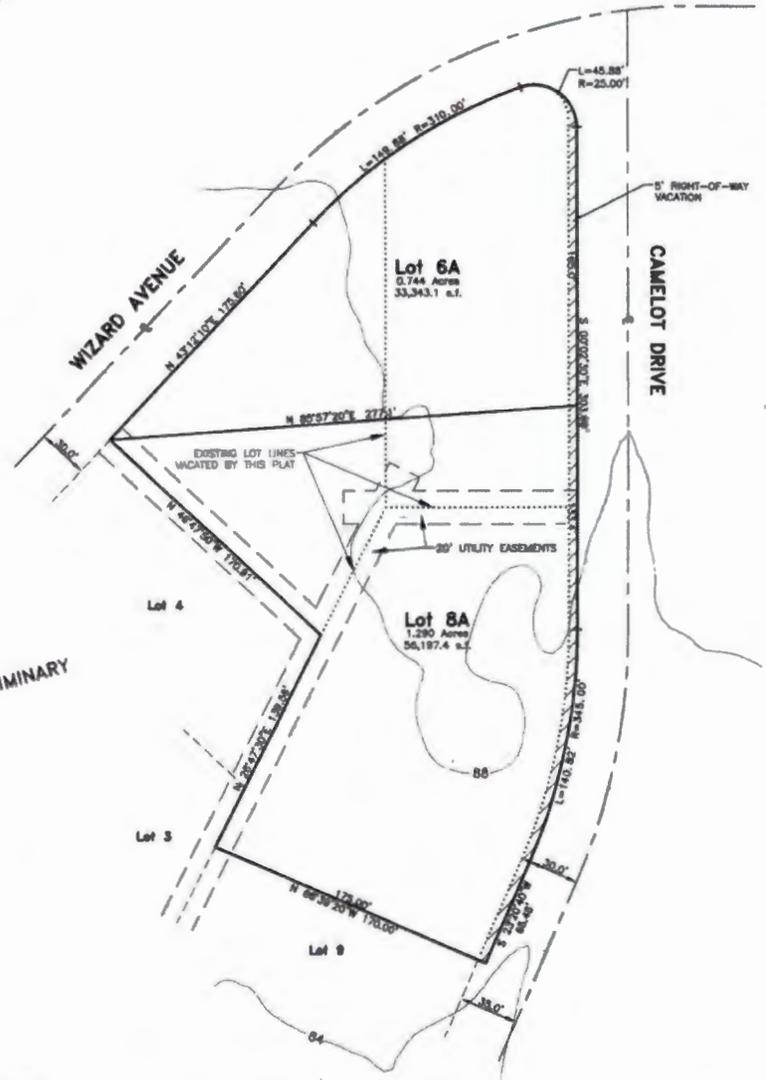
**WASTEWATER DISPOSAL**

Plans for wastewater disposal, that meet regulatory requirements are on file at the Department of Environmental Conservation.

**PLAT APPROVAL**

Plat approved by the Kenai Peninsula Borough Planning Commission at the meeting of \_\_\_\_\_

Borough Official \_\_\_\_\_



**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I (we), hereby certify that I (we) am the owner of the real property shown and described hereon and that I hereby adopt this plan of subdivision and by my free consent dedicate all rights-of-ways and public areas to public use and grant all easements to the use shown.

**Owner**

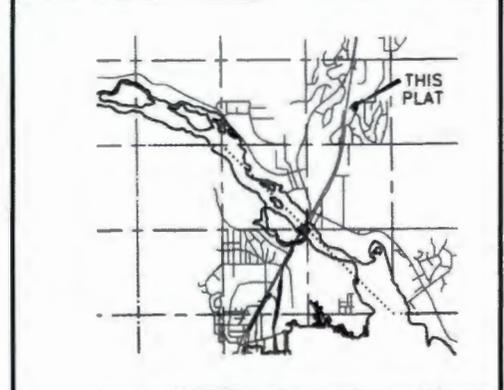
CRAIG J TURNBULL AND CATHERINE M TURNBULL  
P.O. Box 2431  
Seward, Alaska 99664-2431

**Notary Acknowledgement**

for \_\_\_\_\_ Subscribed and sworn to before me this \_\_\_\_\_ day \_\_\_\_\_

Notary Public for the State of Alaska My Commission Expires \_\_\_\_\_

Vicinity Map Scale: 1" = 1 Mile



PLAT OF  
**CAMELOT BY THE SEA**  
2019 REPLAT  
Lots 6A & 8A, Block 2 - CONTAINING 1.996 Acres  
A RESUBDIVISION OF Lots 5, 6, 7, 8 & 9, BLOCK 2  
CAMELOT BY THE SEA SUBDIVISION (Plat No. 78)  
LOCATED WITHIN THE S.W. 1/4, SECTION 23, T1N, R1W,  
SEWARD MERIDIAN, ALASKA  
KENAI PENINSULA BOROUGH  
SEWARD RECORDING DISTRICT

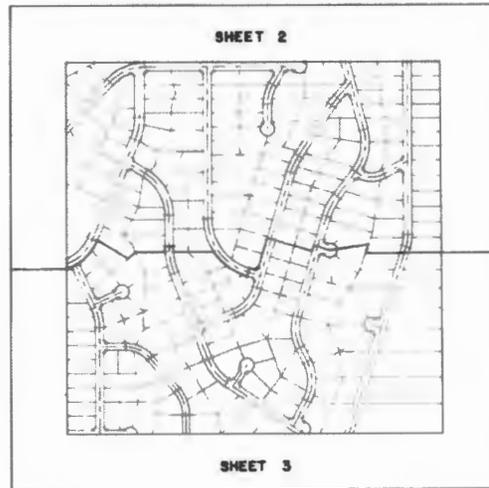
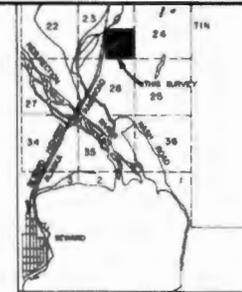
Lang & Associates, Inc. 11500 Doryl Avenue  
Anchorage, Alaska 99515  
Registered Land Surveyors (907) 522-6478  
(907) 522-4825 Fax

GRID: N/A	SCALE: 1" = 50'	DATE: OCTOBER 2018
DRAWN: JCL	SHEET 1 OF 1	PROJECT #: 19-318

JOB FILE: L19318pp.dwg

**KPB 2020-032V**

# CAMELOT BY THE SEA SUBDIVISION



### CERTIFICATE OF OWNERSHIP

We hereby certify that we are the owners of the property shown and described hereon and that we hereby adopt the plan of subdivision, and dedicate of streets, alleys, walks, parks, utility easements, and other open space to public use

Date July 29 1971

Robert A. Summers  
 Mayor of Palmer, Secretary - Treasurer  
 A.I.M. Inc, 6437 Wandering Drive  
 Anchorage, Alaska

STATE OF ALASKA )  
 THIRD JUDICIAL DISTRICT ) SS

On this 29 day of July 1971, before me, the undersigned a Notary Public for the State of Alaska, personally appeared Robert A. Summers to me known to be the person described in and who executed the foregoing certificate of ownership and dedicates acknowledged to me that they executed the same as their free and voluntary act

Witness my hand and official seal the day, month and year herein above written  
William J. De  
 Notary Public for Alaska  
 My commission expires 6-18-78

### CERTIFICATE OF REGISTERED ENGINEER

I hereby certify that I am a registered civil engineer and that this plat was made by me or under my direct supervision

Date July 29 1971

Robert A. Summers  
 Registered Engineer



### FINAL PLAT APPROVAL

Plat approved by the commission this 29 day of July 1971

George A. Howard  
 Chairman

Secretary

### PROTECTIVE COVENANTS

Restrictions on the use of the property in this subdivision are recorded in Miscellaneous Book 1118 Page 74 of the District Recorder's Office Seward Alaska

Section line right-of-way on east and south lines is vacated, except as noted.

### LEGAL DESCRIPTION

The South East 1/4 of Section 23 Township 1 North, Range 1 West, Seward Meridian containing 250,000 acres more or less

### PROPOSED LAND USE

All lots are for residential and residential use with the exception of lot 12, Block 2, which will be a park

*Handwritten note:* X REF: 92-809 Plat of 74

*Handwritten note:* Revised 8-2 8:24 to be prepared 8/20/71 Anchorage, AK

232 LOTS

<b>CAMELOT BY THE SEA SUBDIVISION</b>	
LOCATED IN SEC. 23 T1N, R1W S1M	
PREPARED FOR	<b>A.I.M. INC</b> 6437 Wandering Drive Anchorage, Alaska
SCALE AS NOTED	ROBERT A. SUMMERS REGISTERED CIVIL ENGINEER
DATE JULY 1971	STAR ROUTE B BOX 21
DRAWN BY S.I.L.	PALMER, ALASKA 99646
SHEET 1 OF 3	







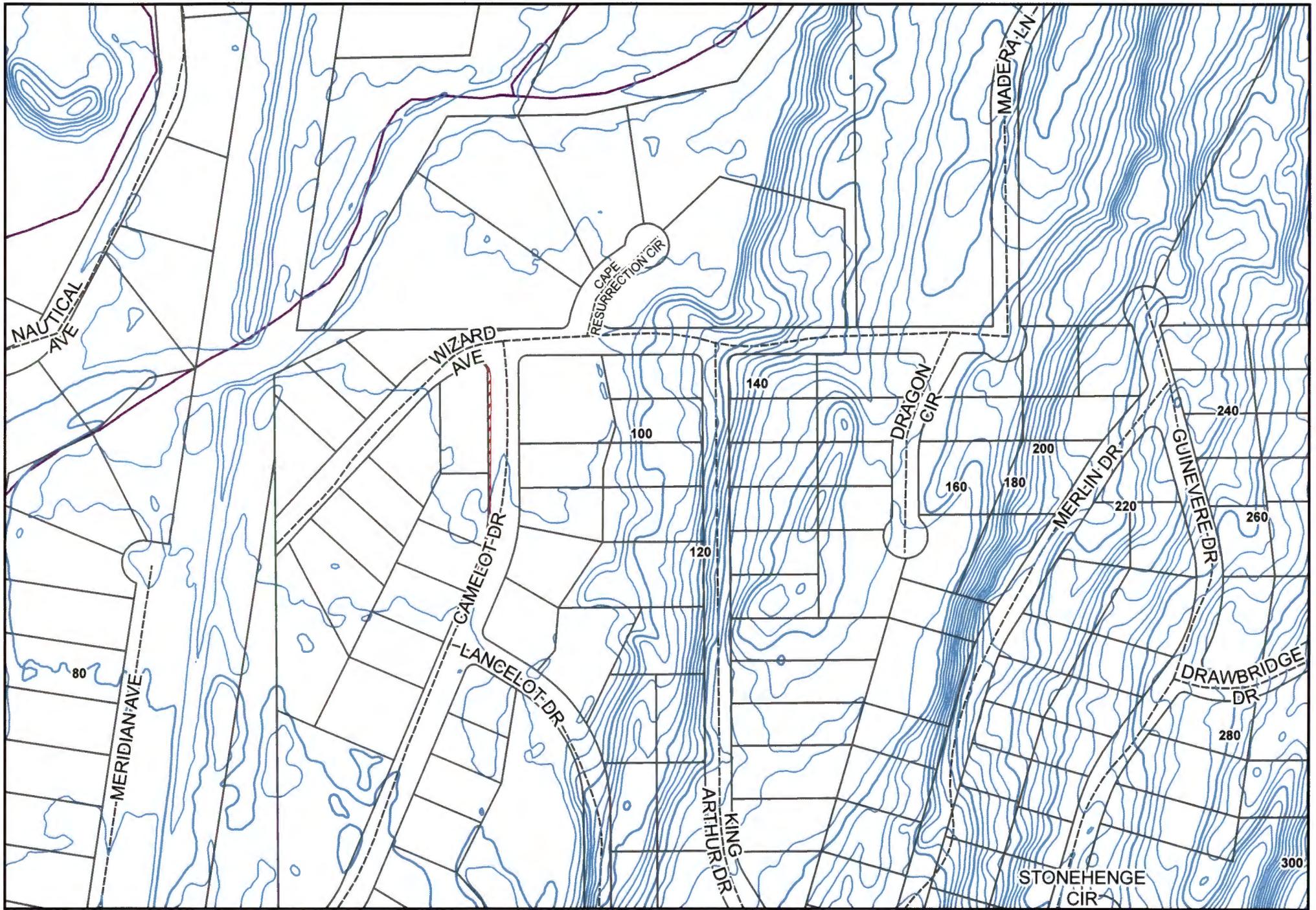
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

**Aerial View**



 Right of Way Vacation

PClements, KPB  
 Date: 3/27/2020  
 Imagery: 2015 SBCRSA

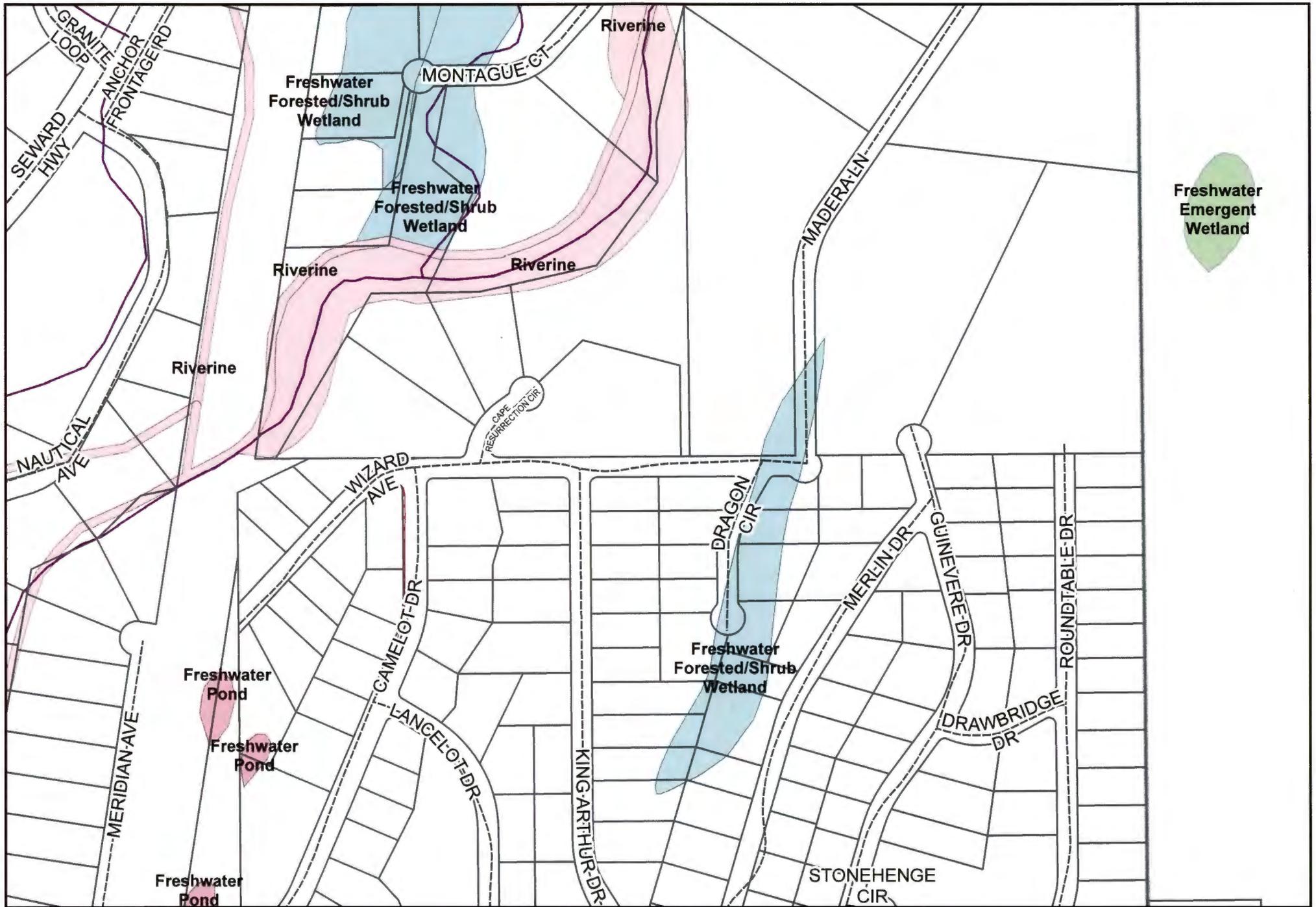


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4 Foot Contours



Date: 4/21/2020

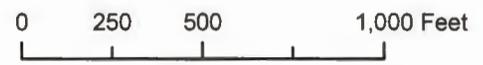
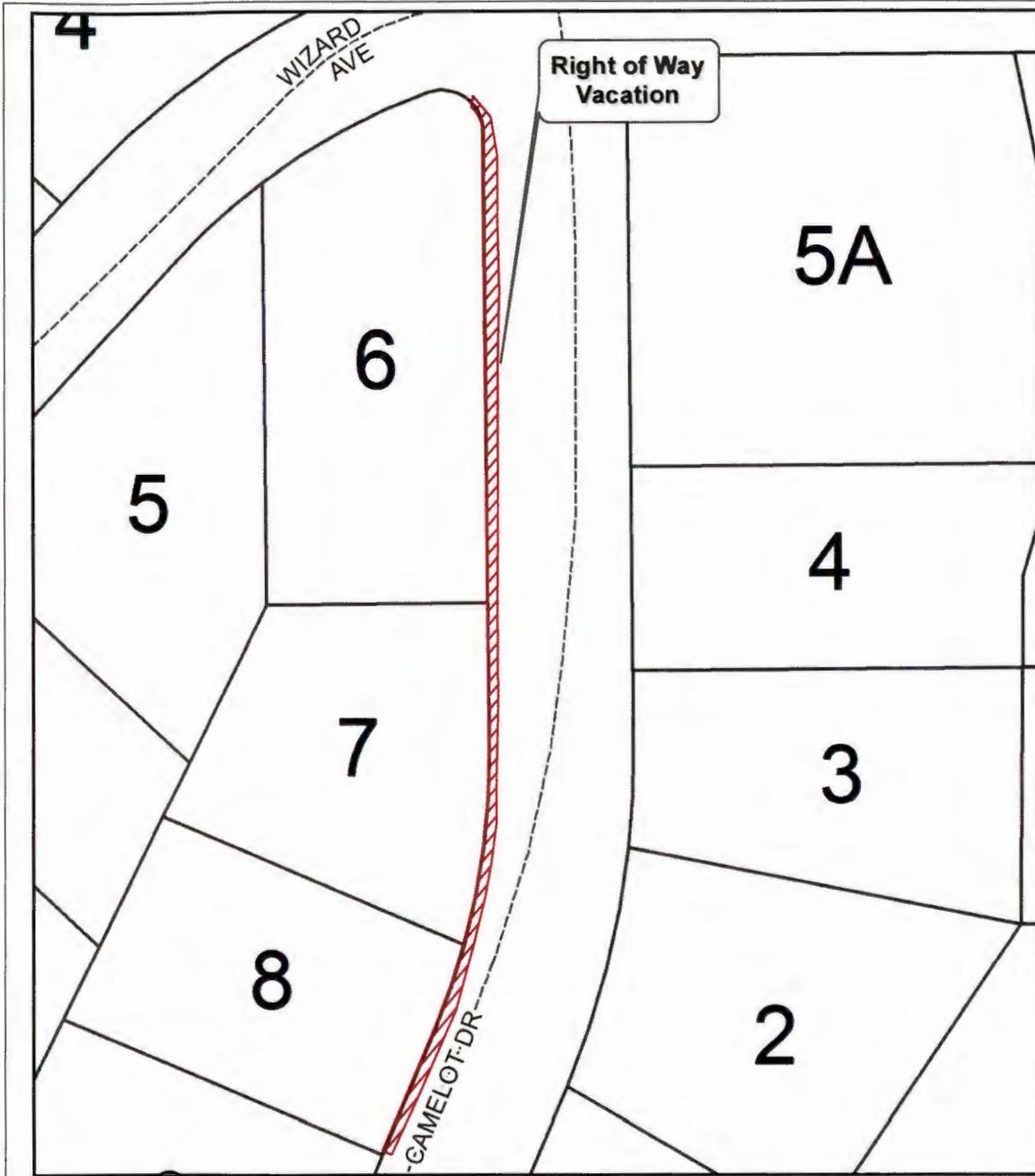


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### GIS Wetlands National Inventory



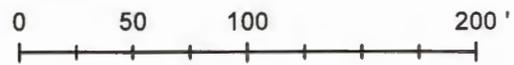
Date: 4/21/2020



**KPB 2020-032V**  
**T01N R01W S23**  
**BEAR CREEK**



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PClements, KPB  
 Date: 3/25/2020