# **E. NEW BUSINESS**

2. Morning Panorama Subdivision #2; KPB File 2022-058 Johnson Surveying / Rahman Location: Morning Circle Salamatof Area







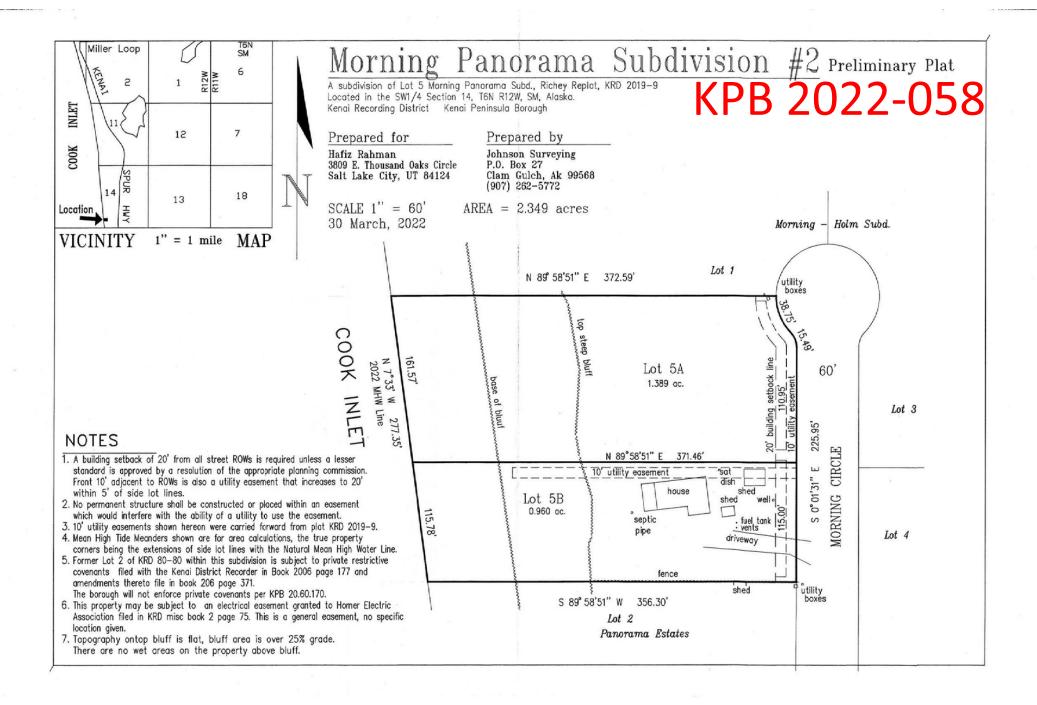




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The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



#### AGENDA ITEM E. NEW BUSINESS

KPB File No.	2022-058
Plat Committee Meeting:	May 23, 2022
Applicant / Owner:	Hafiz Rahman of Salt Lake City, UT
Surveyor:	Jerry Johnson / Johnson Surveying
General Location:	Morning Circle, Salamatof area
Parent Parcel No.:	017-110-47
Legal Description:	Lot 5 Morning Panorama Subdivision Richey Replat, Plat KN 2019-9
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

#### **ITEM 2 - MORNING PANORAMA SUBDIVISION #2**

#### STAFF REPORT

<u>Specific Request / Scope of Subdivision</u>: The proposed plat will subdivide a 2.349 acre parcel into two lots that will be 1.389 acres and .96 acres.

**Location and Legal Access (existing and proposed):** Near mile 16 of state maintained Kenai Spur Highway is Panorama Avenue. This is a varying width right-of-way that is maintained by the borough. At the end of Panorama Avenue is Morning Circle. Morning Circle is a 60 foot wide right-of-way that ends with a cul-de-sac. The southern portion of Morning Circle is developed and maintained by the borough. An existing driveway is on the parent lot and will be within proposed Lot 5B. Both lots will have access from Morning Circle.

Cook Inlet is along the western boundary. Due to the location of the coast, this property will not be part of a closed compliant block. *Staff recommends* the plat committee concur that an exception is not required as this preliminary plat cannot dedicate any rights-of-way that would improve the block.

KPB Roads Dept. comments	Out of Jurisdiction: No
	Roads Director: Uhlin, Dil
	Comments: No comments
SOA DOT comments	No comments

<u>Site Investigation</u>: Steep terrain can be found within the western portion of the preliminary plat. The surveyor has indicated the top and base of the bluff. **Staff recommends** the depiction of the bluff remain on the final plat.

The only wetlands present are along Cook Inlet. The mean high water line is being used for the boundary of the lots and will be noted as such. No other water depiction or wetlands depiction is required.

The preliminary plat is within a floodplain zone. *Staff recommends* a floodplain note be added to the plat that includes the reference to the map panel.

Numerous improvements are depicted on the preliminary plat with all remaining within proposed Lot 5B. A portion of the house and a shed appear to be within a 10 foot utility easement within the northern portion of proposed Lot 5B. A satellite dish is also within that easement. The easement was granted by Panorama Estates Subdivision, Plat KN 80-80. KPB Assessing records indicate that the house was possibly built in 1980. The encroachments into the utility easement may be dealt with in numerous ways.

Staff recommends the utility easement encroachments be resolved by one or a combination of the following

options.

- *Remove the encroachments from the utility easement.*
- Petition to have the utility easement removed by filing for a utility easement alteration to be heard by the KPB Planning Commission.
- Determine if the structures predate the creation of the utility easement. Provide documentation, depict the structures on the plat, and add a plat note that the structures predate the utility easement.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: IS in flood hazard area Comments: Flood Zone: VE,D Map Panel: 02122C-0105E In Floodway: False Floodway Panel:
	B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments
	C. State Parks Reviewer: Russell, Pam Comments: No Comments
State of Alaska Fish and Game	No objections

**Staff Analysis** The property within this preliminary plat has been replatted several times. Panorama Estates Subdivision, Plat KN 80-80, was a subdivision of land that created parent Lot 1, which is located in the southern portion of the preliminary plat. Morning-Holm Subdivision, Plat KN 82-51, was a subdivision of a government lot and created parent Lot 2, which is within the northern portion of the preliminary plat. Morning Panorama Subdivision Rickey Replat, Plat KN 2019-9, combined the lots from the two subdivisions into one lot. This plat will now subdivide that lot back into two lots.

The southern lot will be slightly wider than the former parent Lot 1. The last replat was not surveyed and used record information. The surveyor has indicated the mean high water line is from 2022 information. Due to erosion the southern portion appears to have reduced in length by approximately 85 feet along the southern property line. Due to using record information that was from 1967 on the last plat, the northern boundary of the subdivision is increasing by approximately 20 feet.

Lot 5B does not comply with the 3:1, depth to width ratio. An exception has been requested.

None of the parent subdivision plats had a soils report submitted. A soils report will be required and an engineer will sign the final plat.

Notice of the proposed plat was mailed to the beneficial interest holder on April 27, 2022. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

The property is not within an advisory planning commission.

As discussed under the site analysis portion of the staff report, there are numerous encroachments within the utility easement. Per KPB GIS data, it does not appear that the easement is currently in use by utility providers. Encroachments of this manner may cause issue with the utility providers if they so wish or need to use the Page 2 of 6

easement. The encroachments may also limit the ability to obtain financing as many financial intuitions are monitoring encroachments closer and resolution may be required prior to sale or refinancing.

<u>Utility Easements</u> Panorama Estates Subdivision, Plat KN 80-80, created a 5 foot utility easement along Morning Circle and the 10 foot utility easement along the northern boundary of parent Lot 1. Morning-Holm Subdivision, Plat KN 82-51, granted a 10 foot utility easement along Morning Circle within parent Lot 2. Morning Panorama Subdivision Richey Replat, Plat KN 2019-9, carried over the utility easements created by the parent plats and granted an additional 5 foot utility easement to bring the easement within parent Lot 1 into compliance as a 10 foot utility easement.

This plat is carrying over the utility easements previously granted. Due to the various plats granting the easements, the surveyor is noting he carried them over from the previous plat, Plat KN 2019-9. This plat will have the utility easements increase to 20 feet within 5 feet of the side lot lines. *Staff recommends* the 10 foot utility easement within Lot 5B include "granted by Plat KN 80-80", and adjust the depiction of the utility easements within 5 feet of the side lot lines as they appear to be off.

The comment from HEA is referring to what appears to be the inaccurate depiction to the side lot lines. If this is not what the depiction is referring to, then remove or note the creation of the easement.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

#### Utility provider review:

HEA	This portion of the easement does not appear to be from any record plats. Either remove or state that the 10 x 10 square is being granted by this plat.
ENSTAR	No comments or objections
ACS	No objections
GCI	Approved as shown

#### KPB department / agency review:

The D department / agency review				
Addressing	Reviewer: Haws, Derek			
	Affected Addresses:			
	43045 MORNING CIR			
	Existing Street Names are Correct: Yes			
	List of Correct Street Names:			
	MORNING CIR			
	Existing Street Name Corrections Needed:			
	All New Street Names are Approved: No			
	List of Approved Street Names:			
	List of Street Names Denied:			
	Comments: 43045 MORNING CIR will remain with lot 5B.			
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: Wilcox, Adeena Comments: No comment

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

#### STAFF RECOMMENDATIONS CORRECTIONS / EDITS

#### KPB 20.25.070 – Form and contents required

**Staff recommendation**: final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.

G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the propose subdivision boundary, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

**Staff recommendation:** Provide a label for Lot 3A and update label to Lot 3B. The subdivision for those two lots is Morning-Holm Subdivision, provide a subdivision name label for the two lots. Lot 4, located south of Lot 3B is from the Panorama Estates subdivision and should have a label added.

#### **KPB 20.30 – Subdivision Design Requirements**

**Staff recommendation**: final plat submittals must comply with 20.30. Additional information, revisions, and/or corrections are required as noted below.

#### KPB 20.40 – Wastewater Disposal

**Staff recommendation**: final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.

20.40.010 Wastewater disposal.

Platting Staff Comments: Soils analysis report will be required and an engineer will need to sign the plat. **Staff recommendation**: comply with 20.40.

#### KPB 20.60 – Final Plat

**Staff recommendation**: final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.

20.60.130. Boundary of subdivision. The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data. The boundary of the subdivided area shall clearly show what survey markers, or other evidence, was found or established on the ground to determine the boundary of the subdivision. Bearing and distance ties to all survey markers used to locate the subdivision boundary shall be shown.

**Staff recommendation:** Adjust the shared lot line so it is not the same as the subdivision boundary.

20.60.180. Plat notes.

A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB Β. 20,50,010. Separate advertising of the plat note removal is not required. Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat. Staff recommendation: Place the following notes on the plat.

FLOOD HAZARD NOTICE:

Some or all of the property shown on this plat has been designated by FEMA as a flood hazard area district as of the date this plat is recorded with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations. Development must comply with Chapter 21.06 of the Kenai Peninsula Borough Code. Map Panel: 02122C-0105E

- Acceptance of this plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments.
- If it is determine the encroachments were prior to the creation of the utility easement add, 'Improvements on Lot 5B predate the 10' utility easement created by plat KN 80-80 and are not subject to the utility easement. Any replacement, or improvement, to the building must comply with the 10 foot utility easement as shown on this plat.'
- Provide a plat note for any exceptions granted.
- Include the code compliant Wastewater disposal notes.

Correct plat note 5, the Book should be 206 and correct "file" to "filed". Within plat note 5 and 6 capitalize "book" and "page" throughout the notes to be consistent.

#### **EXCEPTIONS REQUESTED:**

#### KPB 20.30.190 – Lots-Dimensions (3:1 depth to width ratio for Lot 5B)

Surveyor's Discussion: Area above bluff does not exceed ratio.

Staff Discussion: KPB Code 20.30.190 states that the depth of a lot shall be no greater than three times the average width. The ratio for Lot 5B is 3.2:1.

#### Findings:

- 1. The ratio for Lot 5B is 3.2:1.
- 2. Code requires the ratio to be 3:1.
- The average length of the lot is 363.88 feet.
  The average depth of the lot is 115.39 feet.
- 5. Using the upland area for computation the ratio is 1.77:1.
- 6. The area along the top of the bluff has an average length of 204.5 feet.
- 7. The original configuration of parent Lot 1 of Panorama Estates Subdivision, Plat KN 80-80, was narrower and longer then the proposed configuration.
- 8. Due to erosion the western area of Lot 5B has shrunk some.
- 9. Existing structures and utilities are in place.
- 10. The western boundary is Cook Inlet.
- 11. Lot 5A appears to have a ratio of 2.4:1

If denied, the lot shared lot line will be required to be adjusted to allow both lots to comply.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

- 1. That special circumstances or conditions affecting the property have been shown by application; Findings 5-10 appear to support this standard.
- That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title; Findings 5-10 appear to support this standard.
- That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
   Findings 5-10 appear to support this standard.

**Staff recommendation**: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

#### **RECOMMENDATION:**

#### SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

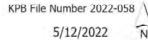
- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT



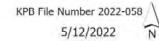


Aerial View



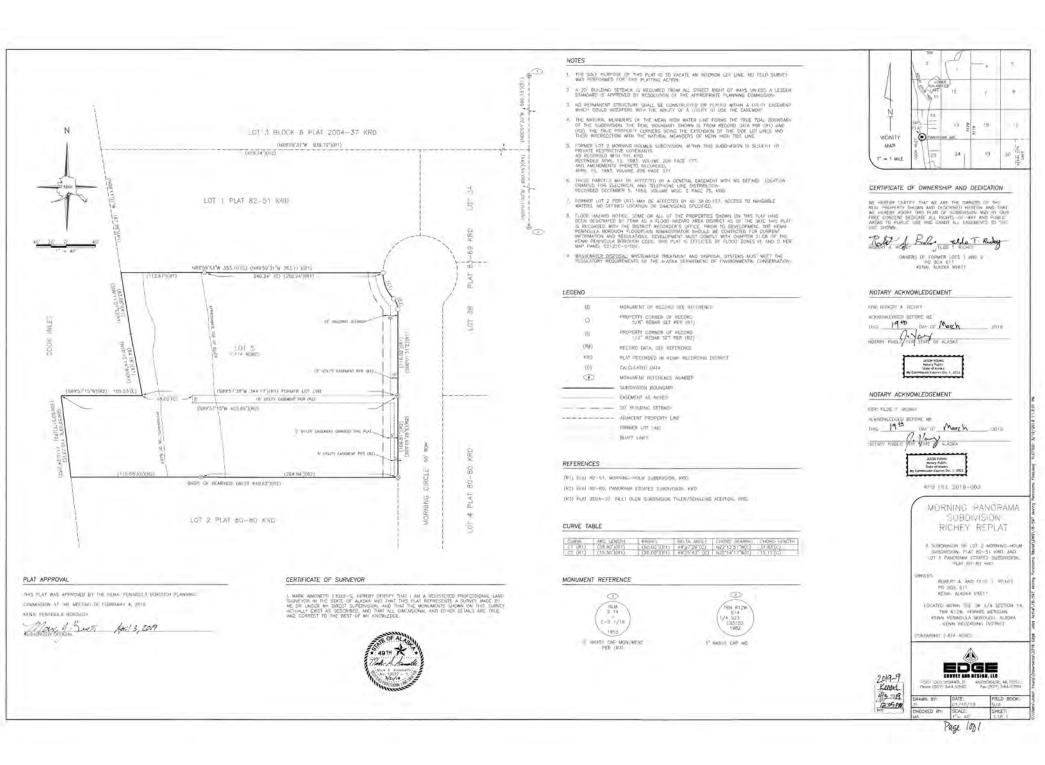


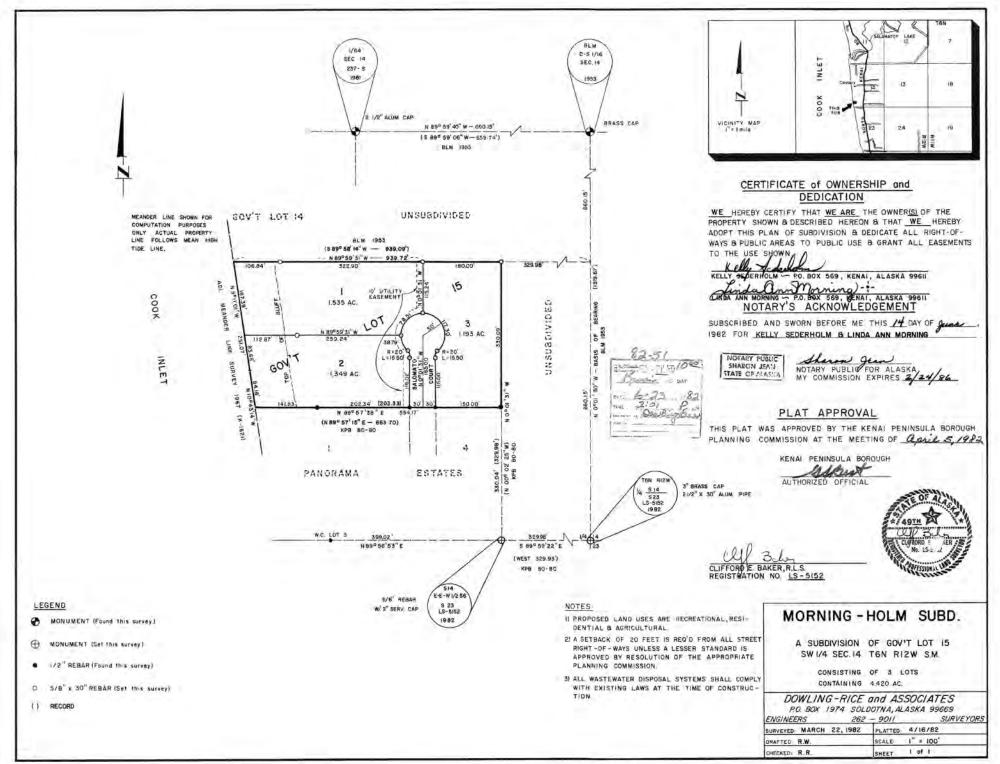
Wetlands



2 2 3 3 4 MELODY LN EDDIES WAY 1 3A 5 MORNING CIR 3B 6 5 \_16 KENAI SPUR HWY 7 4 2 Tidal 8 3 PANORAMA AVE 27B-1 ESSENCE AVE 120 240 Feet 0







KN 82-51

COOK UNSUBD. INLET € 589.57-75W - 863.70 5.09-57-15 W - 412.33 0 453.69 10 willity egioment COOK 111 1 1.125 AC. 953) d REET VICINITY West - 440.62 Scale l'= I mile UNSUBD. ST INLET 4 W ..... 2 1.022 AC 1.096 AC 220 West - 427 45 LEGEND AND NOTES 3 Found G.L.O. brass cap monument 1.063 AG. 30 33 R W 100 AMA AVE 33' Section Line Eum Found 5/8" rebar set by J. Lebdell \$ 107 TE 414.56 329.95 Set 1/2" x 24" steel rebar at all lot corners. -----Wast - (624.351 ( ) Data of Record. tarrey computation purdoves buty Autool property line fullows more that tide more. UNSUBD. All bearings refer to the South bounds of Sec. 14 as being West data of record.

> All wastewater treatment and disposal systems shall comply with existing law at time of construction.

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

Kenai Peninsula Borough Luly War

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PANORAMA SU	EST BDIVISION	
Clint Hall Box 2829 Kenal, Al LOC 4.88 AC LOCATED IN TEN, RI2W S.M. AK BORDUGH.	ATION	
Surveyed By :	McLane and Ass Soldatna , Alass	
DATE OF SURVEY	SCALE 1"= 100'	8K NO 80 - 09

CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby cetify that we are the awners of said property and request the approval of this plat showing such easements for public utilities, readways, and/or streets dedicated by us for public use.

Clint D. Hall Faral A. Ha

STATE OF ALASKA NOTARY PUBLIE STANLEY & MILANE My Commission Expires 3/2/85

80-80 REFERENCED - FILM /C Kenzy a city N= 10-1 2:0 0 mint

#### E2-15

NOTARY'S ACKNOWLEDGEMENT Subscribed and sworn before me this 

Analy S. M. Lask