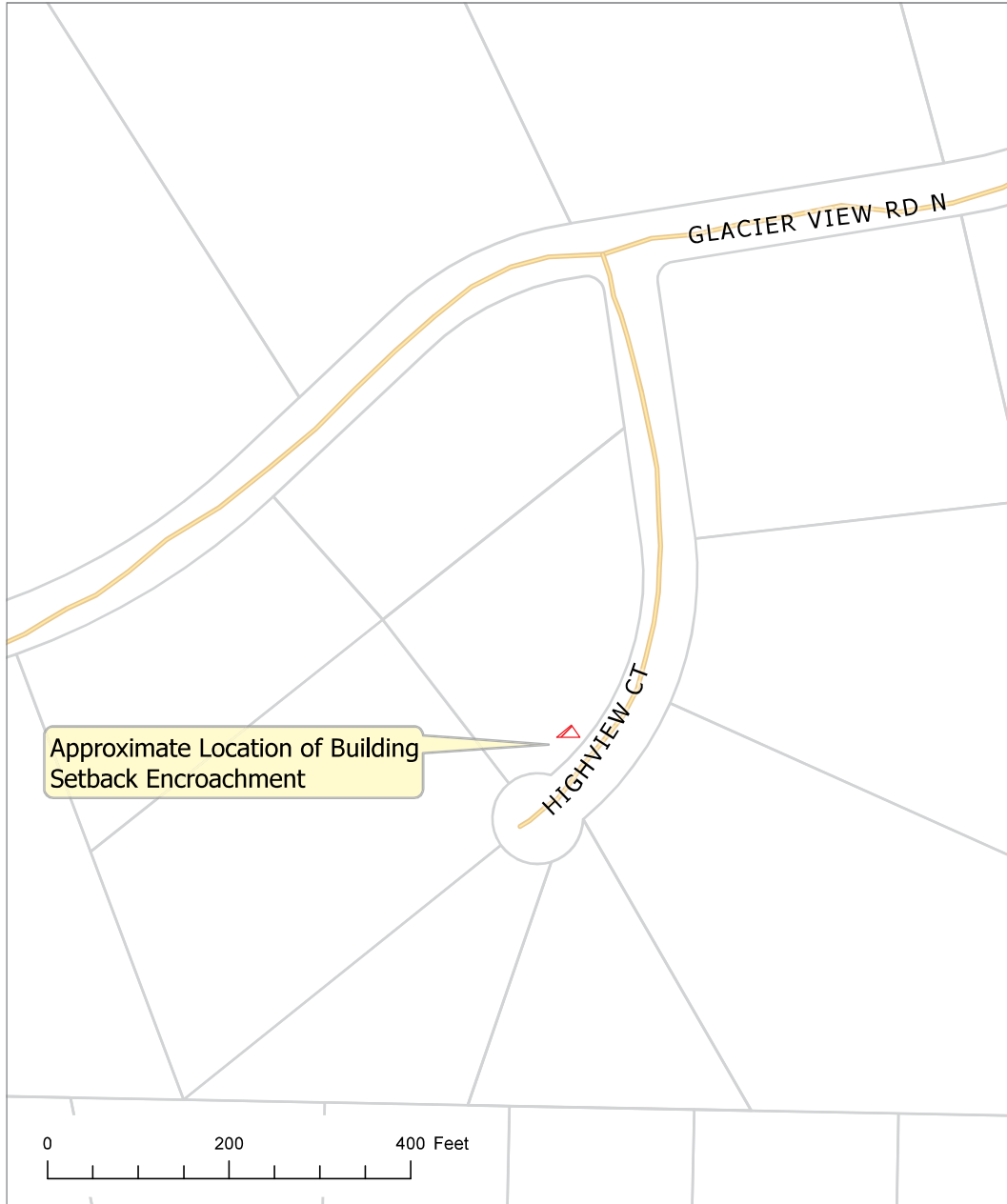


E. NEW BUSINESS

- 7. Building Setback Permit; KPB File 2022-099; PC RES 2022-33
Lot 11-B, Block 3, Fernwood Sub Unit 3; Plat HM 77-17
Orion Surveys / Jackman
Fritz Creek Area**

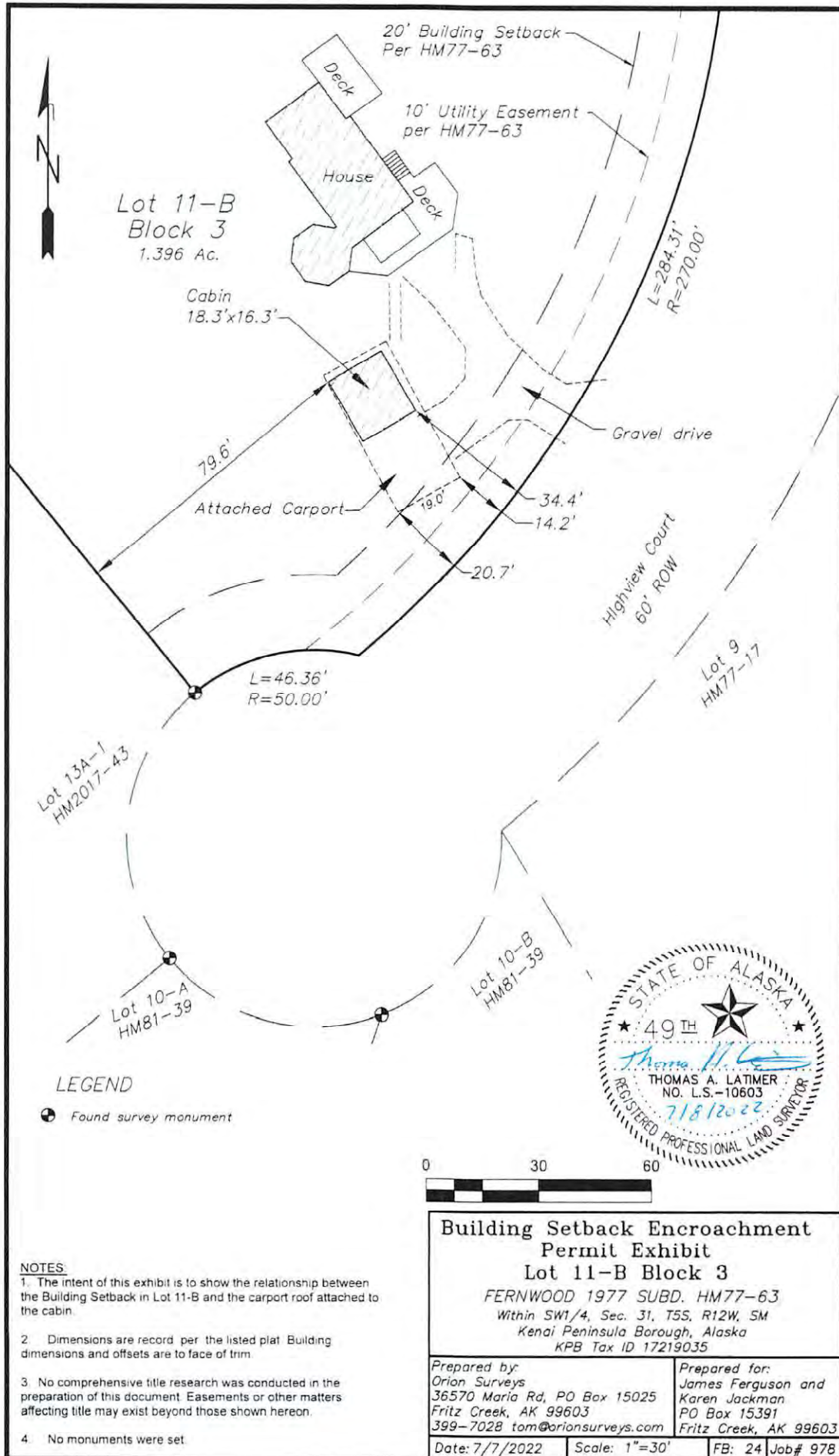


KPB File # 2022-099
S31 T05S R12W
Fritz Creek



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

Attachment 3



KPB 2022-099

AGENDA ITEM E. NEW BUSINESS

**ITEM 7. – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 11B BLOCK 3, FERNWOOD 1977 SUBDIVISION HM 77-63**

KPB File No.	2022-099
Planning Commission Meeting:	August 8, 2022
Applicant / Owner:	James Ferguson and Karen Jackman of Fritz Creek, Alaska
Surveyor:	Tom Latimer / Orion Surveys
General Location:	Highview Court, Glacier View Road, Fritz Creek area / Kachemak Bay APC

Parent Parcel No.:	172-190-35
Legal Description:	Fernwood 1977 Subdivision Lot 11B Block 3, HM 77-63
Assessing Use:	Residential
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: This information is provided in support of a building setback encroachment permit for Lot 11-B Block 3 Fernwood 1977, HM 77-63, address 39927 Highview Court.

Please see Attachment 2 and 3, as-built survey prepared by surveyor Tom Latimer, Orion Surveys. Attachment 4 is a portion of an aerial photograph showing the area in question.

The carport addition to the existing cabin was built in 2010 by Beachy Construction. Until the attached as-built survey was completed and provided to us, no one had been aware of the encroachment of a portion of the open carport, including the support post on the southeast corner, into the building setback.

The open carport does not interfere with the maintenance of Highview Court, does not create a safety of access hazard, and does not impede sight distance for sight lines on Highview Court. Highview Court is a short, gravel, low-speed, dead-end road with a turnaround area just past our house. It is used primarily by the residents who live along it (a total of five residences).

Site Investigation: Per the as-built and submittal there is an attached carport within the building setback. The carport is at an angle with the closest corner being 14.2 feet from the edge of the right-of-way resulting in being 5.8 feet into the setback.

The encroachment is located along Highview Court, a 60 foot wide dedicated right-of-way that is maintained by the Kenai Peninsula Borough. Highview Court is a approximately 600 feet long dedication that ends with a cul-de-sac. It is located off borough maintained Glacier View Road N.

Part of the dedication at the end of the bulb has portions of wetlands per the Kenai National Watershed Forum Wetlands Assessment but they do not impact the area with the encroachment or the ability to use the right-of-way.

There are some gentle slopes in the area but no steep slopes are present within the property or within any portion of the Highview Court dedication.

There are no street views available for this area. Per the image provided by the applicant it does appear that there is vegetation between the edge of the road and the encroachment and there does not appear to be a line of sight issue present.

Staff Analysis: The property was originally subdivided by Fernwood Subdivision Unit 3, HM 77-17. This was a replat of aliquot lands. The plat dedicated Highview Court and created Lot 11 Block 3. Setbacks were not depicted but plat note 2 stated *"A 20' Bldg Setback line exists along all road ROW."*

Lot 11 Block 3 was replatted by Fernwood 1977, HM 77-63. That plat further subdivided the lot and created the current configuration. The setback was not depicted but plat note 2 read, *"A 20' building setback line exists along all rights of way."*

Across the street from the encroachment appears to be another driveway to a lot. Three other lots are accessed by Highview Court past the encroachment.

Per Attachments 2 and 4, there are some raised garden beds within the setback. While raised they are not so high as to cause a line of sight issue and can be removed at the owner's expense if an issue arises.

The raised garden beds and carport appear to be clear of the 10 foot utility easement put into place along Highview Court by depiction on Fernwood Subdivision 1977, Plat HM 77-63. Per plat note 3, *"Utility easements shown are for underground utilities only subject to agreement between the developer and HEA."*

Findings:

1. A building setback along Highview Court was created by Fernwood Subdivision Unit 3, HM 77-17.
2. The building setback along Highview Court was carried over on Fernwood Subdivision 1977, HM 77-63.
3. Per the as-built an attached carport is 5.8 feet into the building setback.
4. The carport was built by a contractor in 2010.
5. It is stated that the carport is open.
6. Highview Court is 60 feet wide and maintained by the Kenai Peninsula Borough.
7. Highview Court is a cul-de-sac that ends shortly past the encroachment.
8. Three additional lots use Highview Court past the encroachment.
9. Using aerial photos, it appears if a line of sight issue was present it would be for the lot adjacent to the subject parcel to the south.
10. There is vegetation between the encroachment and the edge of the right-of-way.
11. There is 14.2 feet from the edge of the structure to the edge of the right-of-way dedication.

20.10.110. – Building setback encroachment permits.

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

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

Findings 10-11 appear to support this standard.

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

Findings 10-11 appear to support this standard.

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

Findings 10-11 appear to support this standard.

F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an

exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	Out of jurisdiction
SOA DOT comments	No comment
KPB River Center review	No comments
State of Alaska Fish and Game	No objections
Addressing	Address and streets correct
Code Compliance	Structure in the setback
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	No comment
Advisory Planning Commission	

Utility provider review:

Addressing	
Code Compliance	
Planner	
Assessing	
Advisory Planning Commission	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2022-38, subject to compliance with KPB 20.10.110 sections F and G.

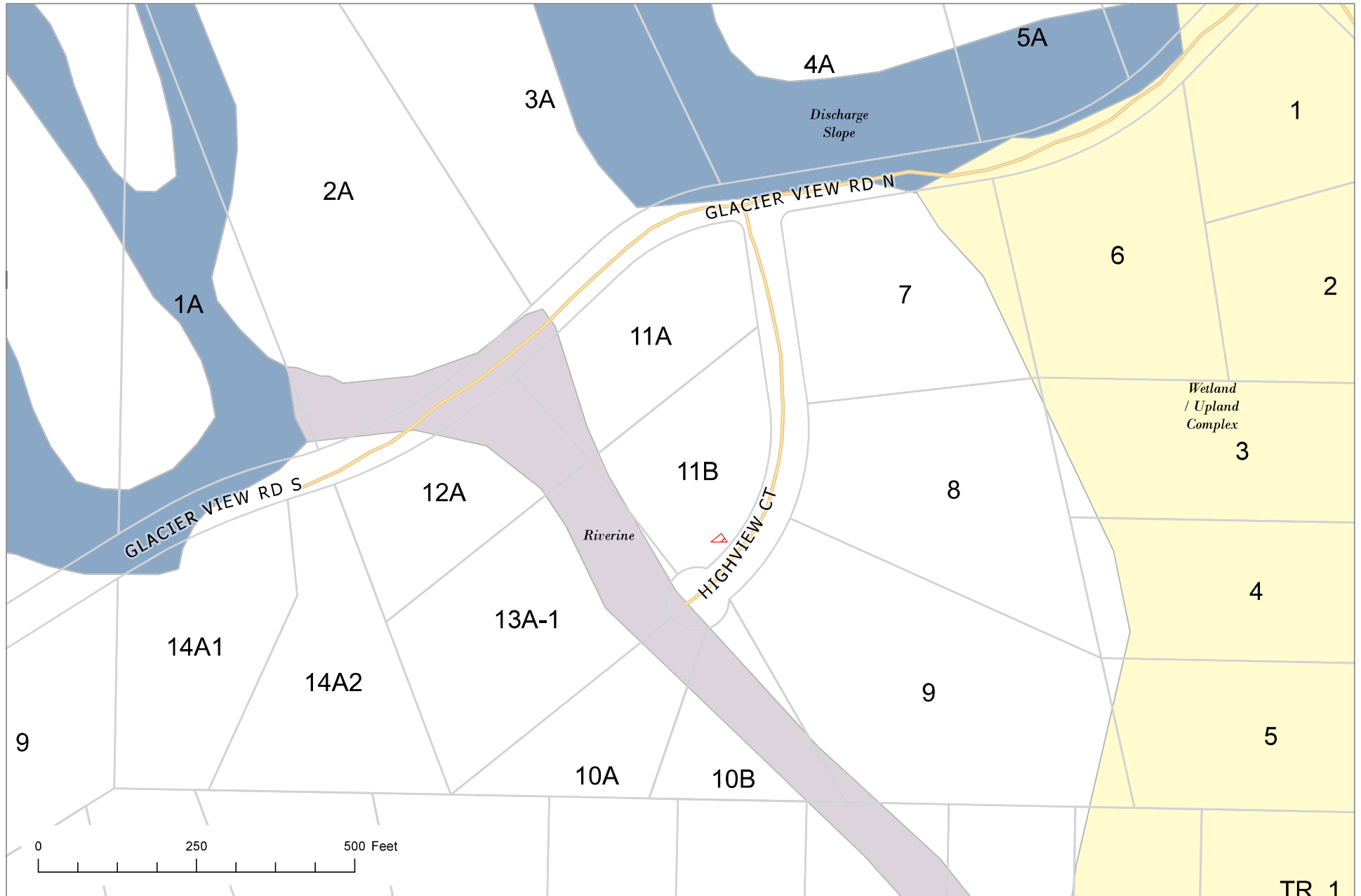
NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT







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.

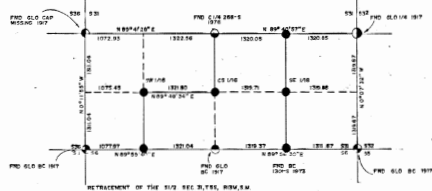
UNSUBD

WORLD VIEW SUBD.

77-17
 WORD (REC) 04
 HONOR. REC. DIST.
 8-15-47
 1:35 P.M.
 Reported by K.P.
 Admin. J. Jacobs
 Rec. Jacobs



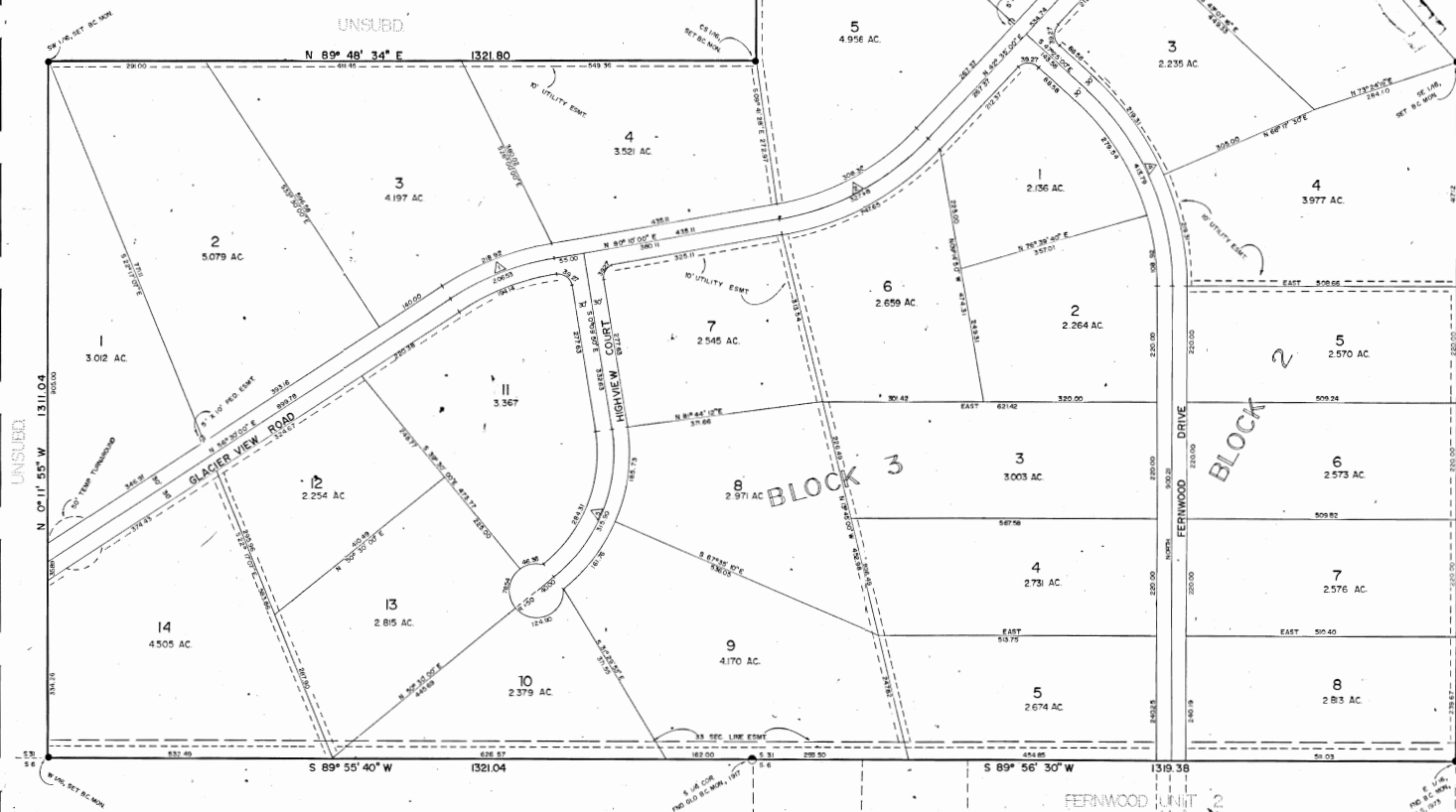
- OLD B.C. SEC. COR. MON.
 • B.C. 1/4 MON.
 • B.C. 1/8 MON.



- NOTES:
 1. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAWS.
 2. A 20' BLDG. SETBACK LINE EXISTS ALONG ALL ROAD ROW.
 3. 1/4" S&P. BEARS SET AT ALL LOT CORNERS.
 4. BASIS OF BEARS IS THE TRUE BEARING S 89° 41' 15" E. BETWEEN US 100 S. & US 100 E. AND US 100 E. & US 100 S. AND WAS CORRECTED TO THIS SURVEY BY PREVIOUS SURVEYS IN THE AREA.
 5. UTILITY EASEMENTS SHOWN ARE FOR UNDERGROUND UTILITIES ONLY SUBJECT TO AGREEMENT BETWEEN THE DEVELOPER AND U.S.A.

CURVE DATA

NO.	ANGLE	RADIUS	LENGTH	TANGENT
1	231° 40' 00"	500.00	206.55	104.76
2	37° 30' 00"	500.00	337.94	170.18
3	04° 48' 00"	2000.00	304.37	152.43
4	47° 25' 00"	500.00	43.75	216.87
5	69° 20' 00"	300.00	516.90	174.87



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON.
 I HEREBY REQUEST JUDICIAL OF THIS PLAT SHOWING AND EASEMENTS FOR PUBLIC UTILITIES, ROADS AND ALLEYS DEDICATED BY ME FOR PUBLIC USE.
 Fernwood, Inc. National Survey, 10000 Highway 100, P.O. Box 100, Anchorage, Alaska 99501.
 JERRY ANDERSON, J.S.
 JERRY ANDERSON, J.S.

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10th day of February, 1977.
 Notary Public for Alaska
 MY COMMISSION EXPIRES

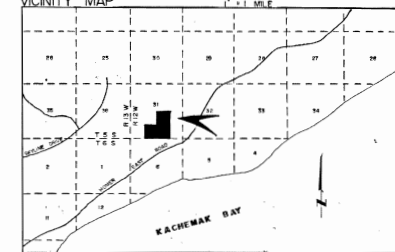
SURVIVOR'S CERTIFICATE

I, THE UNDERSIGNED REGISTERED SURVEYOR, HEREBY CERTIFY THAT A LAND SURVEY HAS BEEN COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT CORNERS AND MONUMENTS HAVE BEEN LOCATED AND ESTABLISHED AND THAT DIMENSIONS SHOWN HEREON ARE TRUE AND CORRECT.
 10-7-76
 JERRY ANDERSON, J.S.

PLAT APPROVAL

PLAT APPROVED BY THE BOROUGH PLANNING COMMISSION THIS 13th day of Sept. 1976.
 J. D. W. J.S.
 JERRY ANDERSON, J.S.

VICINITY MAP



DATE: AUGUST, 1976

SCALE: 1" = 100'

DESIGNED BY: J.A.

CHECKED BY: J.J.

DRAWN BY: S.W. & J.I.

F.L.D. BK. NO.: 6, 13, 14

FERNWOOD SUBDIVISION UNIT 3

W 1/2 SE 1/4, SE 1/4 SW 1/4, S 1/2, S 1/4, S 1/2, S 1/4

CONTAINING 118.00 ACRES

ABILITY SURVEYS

JERRY ANDERSON, J.S. BOX 1203 ANCHORAGE, ALASKA

UNSUBD.

CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON. I HEREBY REQUEST APPROVAL OF THIS PLAT SHOWING SUCH EASEMENTS FOR PUBLIC UTILITIES AND ROADWAYS, DEDICATED BY ME FOR PUBLIC USE.

Dan Thompson
 FERNWOOD ASSOCIATES, BY DAN THOMPSON
 523 W 8TH
 ANCHORAGE, ALASKA

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 15 DAY OF September 1977.
Phil B. Jones My COMMISSION EXPIRES
 NOTARY PUBLIC FOR ALASKA March 20, 1978

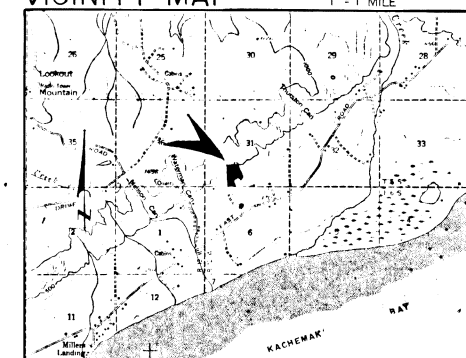
SURVEYOR'S CERTIFICATE

I, THE UNDERSIGNED REGISTERED SURVEYOR, HEREBY CERTIFY THAT A LAND SURVEY HAS BEEN COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT CORNERS AND MONUMENTS HAVE BEEN LOCATED AND ESTABLISHED AND THAT DIMENSIONS SHOWN HEREON ARE TRUE AND CORRECT.
Jerry Anderson 9-13-77
 JERRY ANDERSON, 3686-S DATE

PLAT APPROVAL

THIS PLAT HAVING BEEN APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AS RECORDED IN THE OFFICIAL MINUTES OF THE MEETING OF July 11th, 1977, IS HEREBY ACKNOWLEDGED AND ACCEPTED AS THE OFFICIAL PLAT, SUBJECT TO ANY AND ALL CONDITIONS AND REQUIREMENTS OF ORDINANCES AND LAW APPERTAINING THERETO KENAI PENINSULA BOROUGH
Philip Waring

VICINITY MAP



FERNWOOD UNIT 3

77-63
 Home REC. DIST
 10-18-77
 FILE 936-A
 Registered by KPB
 And as Sold to

LEGEND:

- SET 1/2" REBAR THIS SURVEY.
- FORMER LOT AND ROAD LINES.
- 1/2" REBAR FND.

CURVE DATA:

NO.	RADIUS	DELTA	LENGTH
1	500.00	16°00'00"	139.83
2	800.00	26°20'00"	367.68
3	300.00	34°00'00"	178.02
4	270.00	60°20'00"	284.31
5	50.00	53°07'49"	48.36
6	25.00	90°00'00"	39.27

NOTES:

1. ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAWS AT THE TIME OF CONSTRUCTION.
2. A 20' BUILDING SETBACK LINE EXISTS ALONG ALL RIGHTS OF WAY.
3. UTILITY EASEMENTS SHOWN ARE FOR UNDERGROUND UTILITIES ONLY SUBJECT TO AGREEMENT BETWEEN THE DEVELOPER AND H.E.A.
4. THE STATE OF ALASKA REQUIRES ALL WASTEWATER DISPOSAL SYSTEMS TO BE A MINIMUM OF 100' FROM ANY WATER SYSTEM.
5. BASIS OF BEARING IS THE TRUE BEARING S 69° 51' 15" E BETWEEN USC & GS GULL 1910, AND USC & GS HOWER EAST BASE AND WAS CARRIED TO THIS SURVEY BY PREVIOUS SURVEYS IN THE AREA.

FERNWOOD UNIT 2

FERNWOOD 1977

A REPLAT OF LOTS 1, 2, & 3, BLOCK 1 AND LOTS 11, 12, & 14, BLOCK 3, FERNWOOD UNIT 3 WITHIN THE SE 1/4 SW 1/4, SEC. 31, T5S, R12W, S.M. CONTAINING 23.937 AC.

ABILITY SURVEYS

JERRY ANDERSON, RLS BOX 1263 HOMER, ALASKA