

## **E. NEW BUSINESS**

### **1. Building Setback Encroachment Permit; KPB File 2022-143**

**Lake View Terrace No. 2; Plat KN 87-33**

**Request: Permits a house to be built into the building  
setback by a length of 47-feet by a width of  
10-feet**

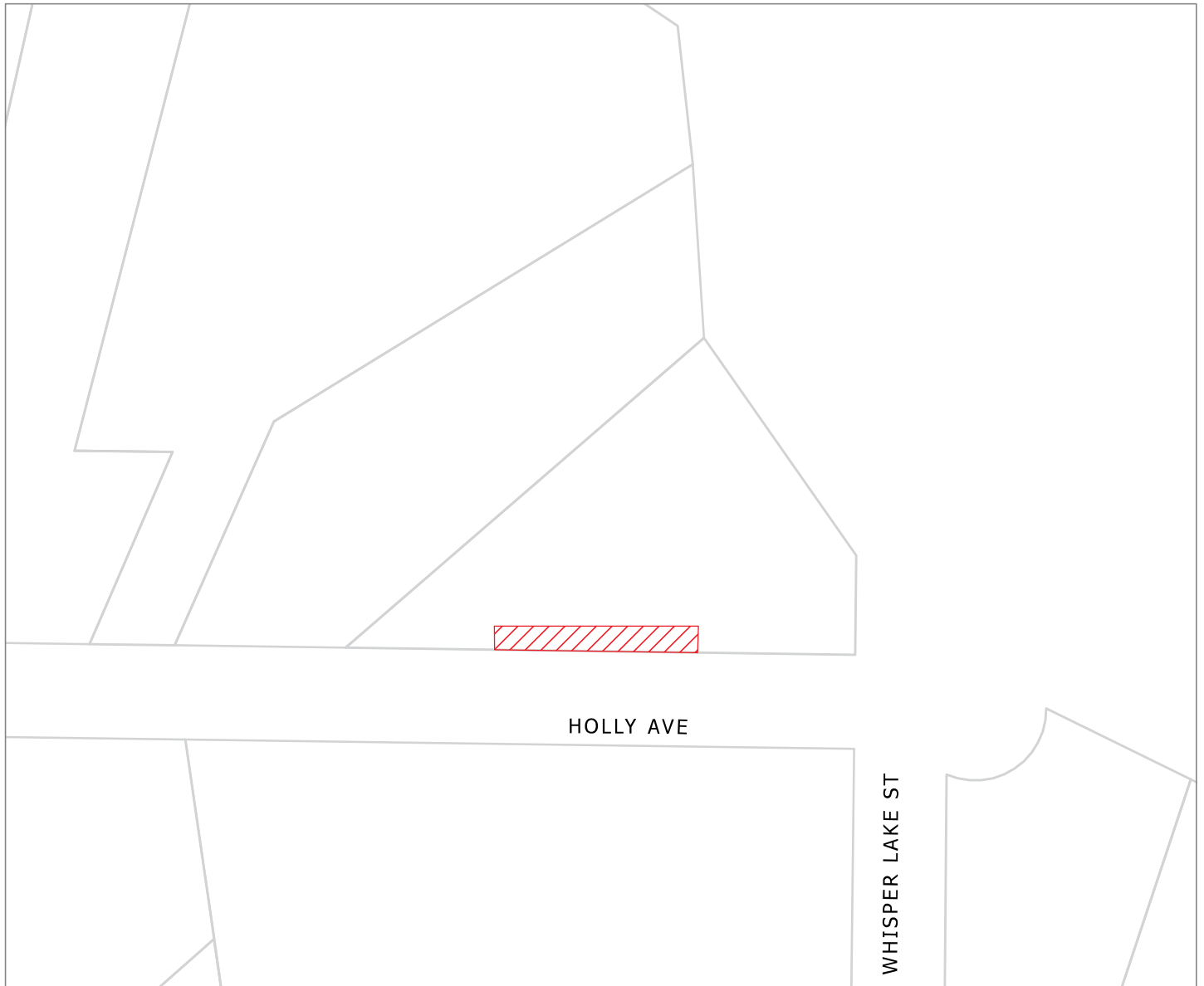
**No Survey Company/Crumrine**

**Sterling Area**



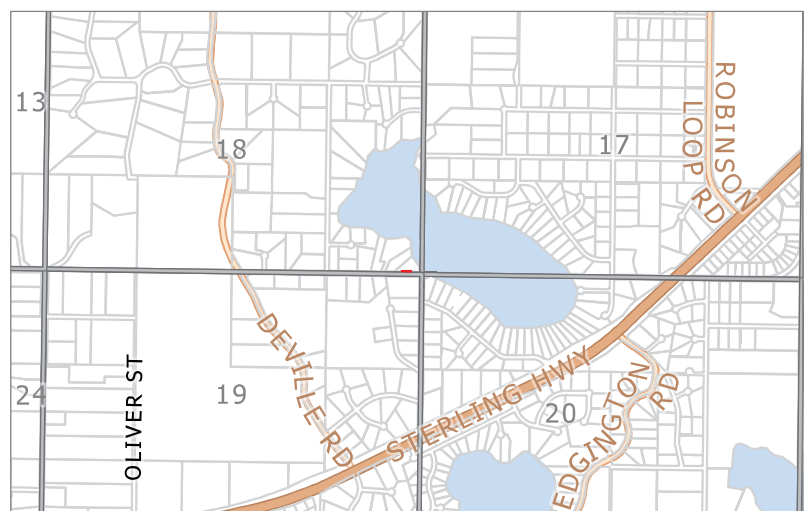
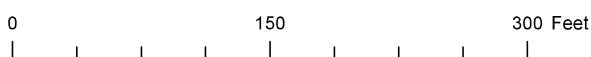
# Kenai Peninsula Borough Planning Department

## Vicinity Map



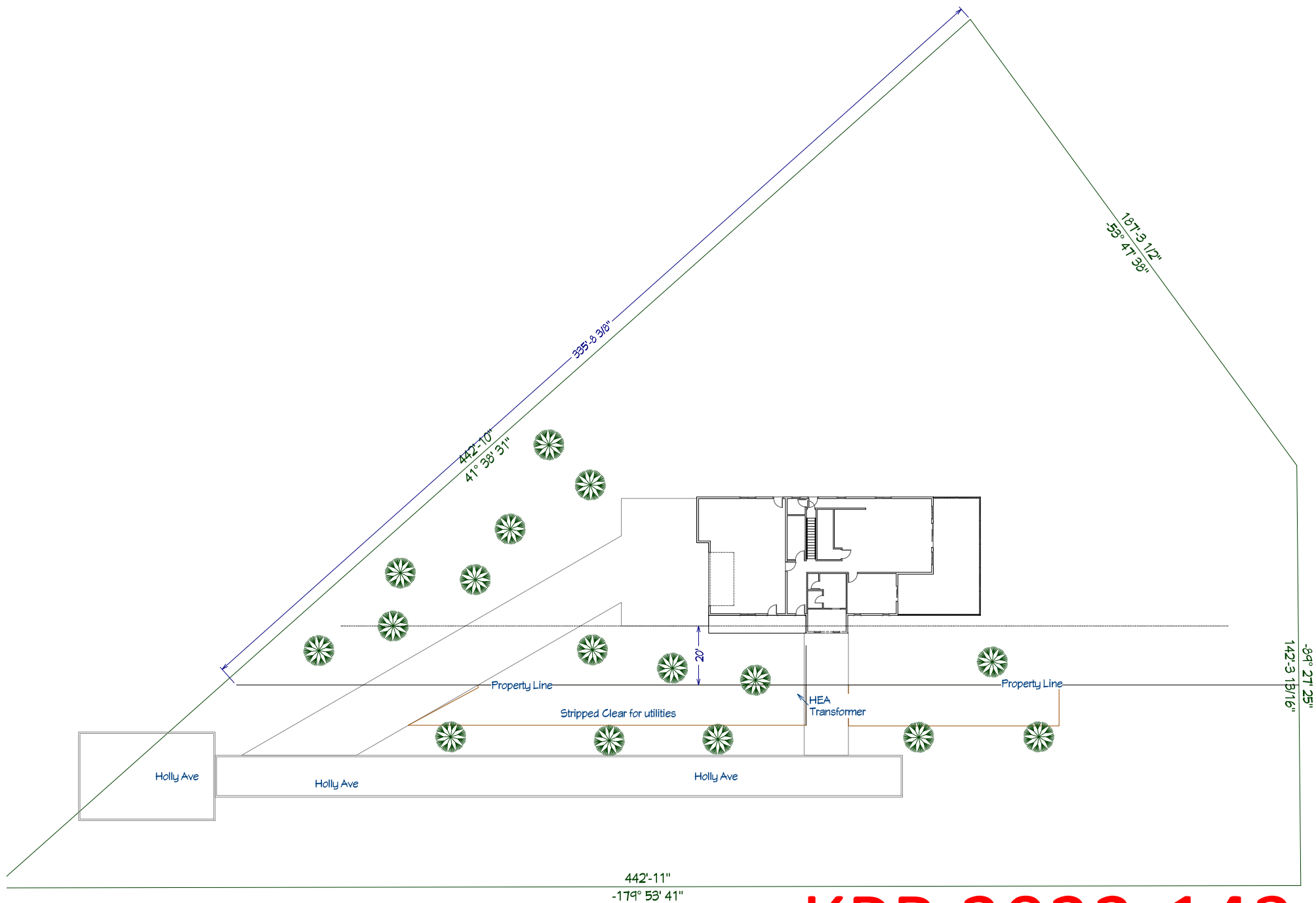
KPB File 2022-143  
T 05N R 09W SEC 18  
Sterling

9/18/2022





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KPB 2022-143



AGENDA ITEM E. NEW BUSINESS

**ITEM 1. BUILDING SETBACK ENCROACHMENT PERMIT  
LOT 15 BLOCK 5 LAKE VIEW TERRACE NO 2 (KN 87-33)**

<b>KPB File No.</b>	2022-143
<b>Planning Commission Meeting:</b>	October 10, 2022
<b>Applicant / Owner:</b>	Tim & Kathy Crumrine Trust of Lakewood, CO
<b>Surveyor:</b>	None
<b>General Location:</b>	Holly Avenue, Sterling

<b>Parent Parcel No.:</b>	063-292-01
<b>Legal Description:</b>	Lot 15 Block 5 Lake View Terrace No. 2, Plat KN 87-33
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** Lot is steep and narrow with limited area for septic system. Requesting variance to put a 14' wide section of the home into the setback about 2.5' about 33' x 2.5' of side walk, plus about 7.5 for a retaining wall. Utilities are in and not in the setback. Holly Avenue stops at this address. Holly Avenue is not borough maintained. No site lines are impacted and no safety hazards created.

**Site Investigation:** There are no existing structures currently on the property. A new house is proposed for the property.

Holly Avenue was created by the plat Lake View Terrace #2 KN 87-33. Holly Avenue is located off borough maintained Deville Road, which connects to state maintained Sterling Highway near mile 89. Holly Avenue is constructed to the southwest corner of the subject lot but is not maintained by the borough. The right-of-way dedication for Holly Avenue varies but is 66 feet wide along the portion being discussed and lies atop a section line easement. The southern half of Holly Avenue was created by Replat of Whisper Lake Subdivision and Addition No 1, Plat KN 72-47.

Holly Avenue is along the southern boundary of the subject lot and it continues to the east where it connects with additional section line easements, right-of-way dedications, Whisper Lake, and ends with a partial right-of-way cul-de-sac bulb along Whisper Lake. The section line easements that connect to Holly Avenue run along the eastern boundary of the subject lot and connect to Whisper Lake. The north-south section line easements have dedications atop them that is known as Whisper Lake Street. Only portions of Whisper Lake Street are constructed and only borough maintained from the Sterling Highway to Ben Court. Ben Court is a cul-de-sac that use to connect to Holly Avenue but was partial vacated by Replat of Whisper Lake Subdivision and Addition No 1, Plat KN 72-47. Per KPB GIS Imagery, it appears that Ben Court ends south of an airstrip.

Lot 15 Block 5 is subject to a 20 foot building setbacks along Holly Avenue south of the lot. The lot is also subject to a 20 foot building setback along the eastern lot line along the dedication for Whisper Lake Street. A minimum separation distance from Whisper Lake is required of 100 feet for any wastewater treatment system.

Except along the lake there are no low wet areas present on the property. The property slopes down towards the lake. The slopes appear to slope consistently throughout with some steeper slopes present along the northwestern portion of the lot and along the subject area. In the northwest there is an area with slopes that are close to 30 percent that are about 23 percent as the terrain is followed south to Holly Avenue. These slopes are in the main location for the house to be built. These slopes Sight distance does not appear to be affected by the structure being built as indicated.

**Staff Analysis:** The parcel was created by Lake View Terrace #2, Plat KN 87-33 a subdivision of Government Lot 8. The plat also created 20 foot setbacks along dedicated rights-of-way. The front 10 feet of the 20 foot setbacks was also granted as utility easements.

The existing terrain on the lot is steep where the house is being built. The house will occupy the majority of the high spot of the lot leaving little room left on the top portion. The land will slope quickly away from the house towards Whisper Lake to the east and a valley / drain way to the north.

There is little traffic on Holly Avenue as Holly Avenue stops at this house location and continues no further. Homes along this stretch of Holly Avenue appear to be the only users of the roadway. There is no continuation to Whisper Lake. Whisper Lake Street does not currently continue north to connect with Holly Avenue. KPB required right-of-way width is 60 feet wide. The portion of Holly Avenue along the request is dedicated as 66 feet wide and coincides with the 66 section line easements. Sight distance should not be an issue.

The owners have started clearing but construction has not begun on the main area of concern. The description provided is not clear on the exact distance they were requesting. After a few conversations it was determined that they are looking for a permit for a length of 47 feet to be 10 feet into the setback. If following this for their building footprint they will not be within the utility easement.

If the encroachment permit is approved, an as-built will be required that shows the exact measurements of the encroachments as outlined in KPB 20.10.110(G). The permit will only be for those portions encroaching and not a removal of the entire 10 foot wide portion being requested, KPB 20.10.110(F). The encroachments may not exceed the approved 10 foot into the setback without additional approval from the Planning Commission.

**Findings:**

1. A 20 foot building setback line was created along Holly Avenue by Lake View Terrace #2 KN 87-33.
2. The house is proposed to be built on the high point of the lot.
3. Portions of the house, a retaining wall, and sidewalk are proposed to be within the setback.
4. Holly Avenue is a 66 foot wide dedicated right-of-way.
5. Holly Avenue is not constructed along this stretch of right -of-way.
6. Holly Avenue is not maintained by the borough.
7. The KPB Roads Department had no objection.
8. The lot is 1 acre in size.
9. There are 20 foot building setbacks along the south and the east.
10. There is a 100 foot setback from the lake for any wastewater systems.
11. There does not appear to be any sight issues.

**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 2 and 4-7 appear to support this standard.**

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

**Findings 2, 4-7, and 11 appear to support this standard.**

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

**Findings 2, 4-7, and 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: No  Roads Director: Uhlin, Dil Comments: RSA has no objection at this time.
SOA DOT comments	
KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments  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
Addressing	Reviewer: Haws, Derek Affected Addresses: 39046 HOLLY AVE  Existing Street Names are Correct: Yes  List of Correct Street Names: HOLLY AVE  Existing Street Name Corrections Needed:  All New Street Names are Approved: No  List of Approved Street Names:  List of Street Names Denied:  Comments: 39046 HOLLY AVE will remain with lot.
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.  Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather Comments: No comment

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**RECOMMENDATION:**

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2022-45, 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.**

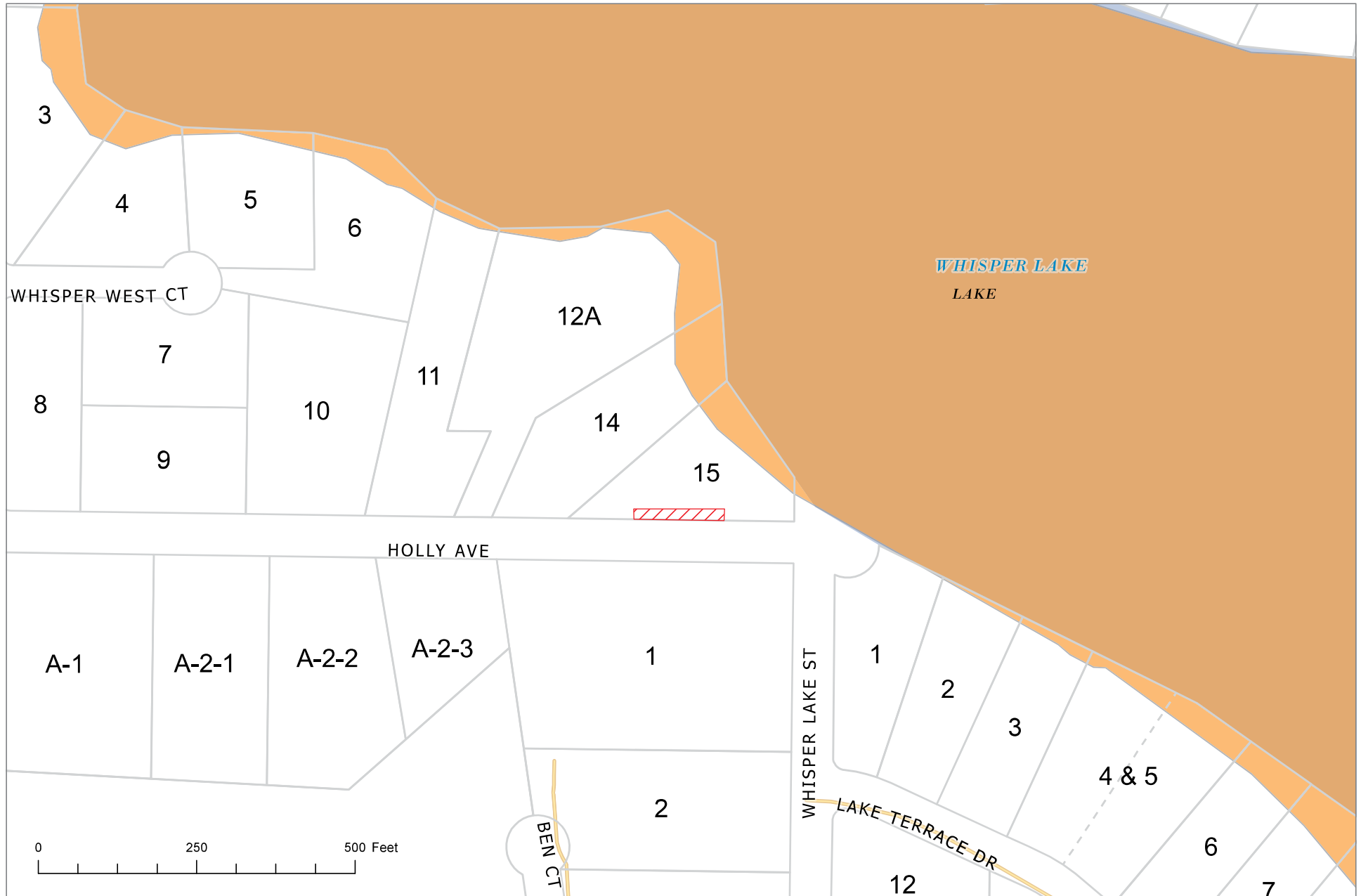
**END OF STAFF REPORT**

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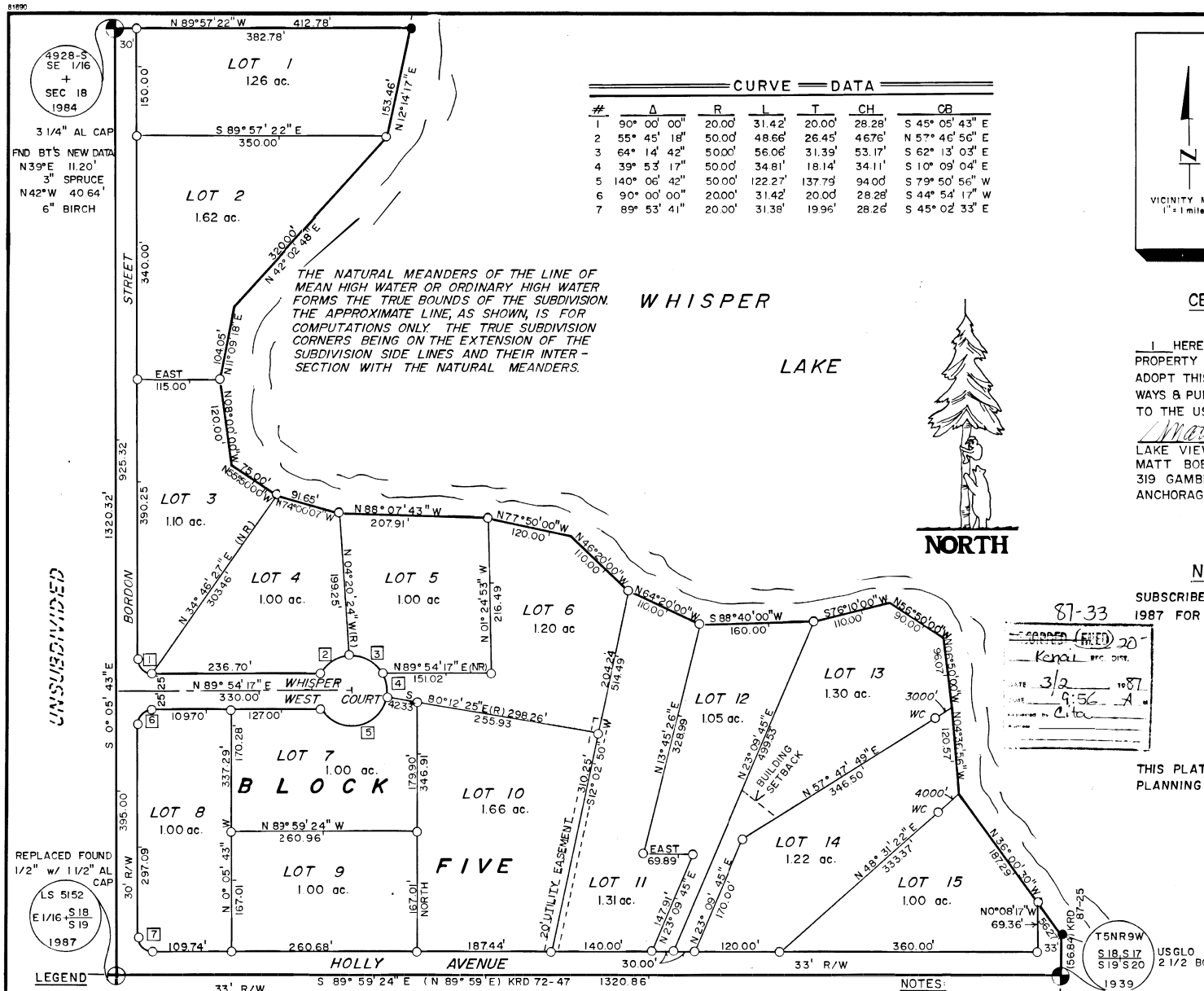


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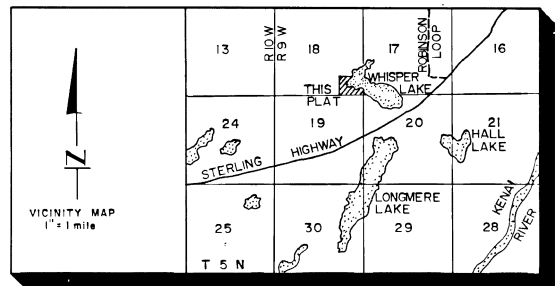








CURVE DATA						
#	Δ	R	L	T	CH	CB
1	90° 00' 00"	20.00'	31.42'	20.00'	28.28'	S 45° 05' 43" E
2	55° 45' 18"	50.00'	48.66'	26.45'	46.76'	N 57° 46' 56" E
3	64° 14' 42"	50.00'	56.06'	31.39'	53.17'	S 62° 13' 03" E
4	39° 53' 17"	50.00'	34.81'	18.14'	34.11'	S 10° 09' 04" E
5	140° 06' 42"	50.00'	122.27'	137.79'	94.00'	S 79° 50' 56" W
6	90° 00' 00"	20.00'	31.42'	20.00'	28.28'	S 44° 54' 17" W
7	89° 53' 41"	20.00'	31.38'	19.96'	28.26'	S 45° 02' 33" E



### CERTIFICATE of OWNERSHIP and DEDICATION

I HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF THE PROPERTY SHOWN & DESCRIBED HEREON & THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION & DEDICATE ALL RIGHT-OF-WAYS & PUBLIC AREAS TO PUBLIC USE & GRANT ALL EASEMENTS TO THE USE SHOWN.

*Matt Bobich*  
LAKE VIEW PARTNERSHIP  
MATT BOBICH, MANAGING PARTNER  
319 GAMBELL ST.  
ANCHORAGE, AK 99501

### NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 25 DAY of February, 1987 FOR MATT BOBICH

87-33  
RECORDED  
Kenai REC. DIST.  
DATE 3/2 1987  
BY 9:56 A  
CITY

*Rein Olson*  
NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES 2-25-1992

### PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF 9-B-86

KENAI PENINSULA BOROUGH  
*Richard P. Toney*  
AUTHORIZED OFFICIAL

K.P.B. FILE NO. 86-287

### LAKE VIEW TERRACE # 2

A SUBDIVISION OF GOVERNMENT LOT 8.  
LOCATED WITHIN THE SE 1/4 SE 1/4, SECTION 18, T5N, R9W, S.M., KENAI RECORDING DISTRICT, KENAI PENINSULA BOROUGH, ALASKA

CONTAINING 20.12 ACRES INTO 15 LOTS

### INTEGRITY SURVEYS

P.O. BOX 1831  
SOLDOTNA, ALASKA 99669  
262-9461

SURVEYORS		PLANNERS	
JOB NO.:	86-38	FIELD BOOK:	86-6
DISK NO.:	3-5	FILE NAME:	LAKE VIEW TERRACE
SURVEYED:	FEB 87	PLATTED:	FEB 87
DRAFTED:	CB	SCALE:	1" = 100'
CHECKED:	CB	SHEET:	

### NOTES:

- 1) PROPOSED LAND USES ARE RECREATIONAL, RESIDENTIAL & AGRICULTURAL.
- 2) A SETBACK OF 20 FEET IS REQ'D FROM ALL STREET RIGHT-OF-WAYS UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
- 3) ALL WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAWS AT THE TIME OF CONSTRUCTION.
- 4) SOILS ON THESE LOTS MAY OR MAY NOT BE SUITABLE FOR CONVENTIONAL ON-SITE WASTE DISPOSAL SYSTEM. NO PERSON MAY CONSTRUCT, INSTALL, MAINTAIN, OR OPERATE A PRESSURIZED WATER SYSTEM OR A WATER-BORNE WASTE DISPOSAL SYSTEM UNLESS APPROVED ALASKA DEPT. OF ENVIRONMENTAL CONSERVATION.

- 5) NO STRUCTURES PERMITTED WITHIN PANHANDLE PORTION OF LOTS 6, 12 & 13.
- 6) FRONT 10' FEET OF BUILDING SETBACK MAY BE USED AS A UTILITY EASEMENT.
- 7) BASIS OF BEARING IS TAKEN FROM PLAT NO. KRD 87-25, "LAKE VIEW TERRACE" BETWEEN SEC. CORNER 17, 18, 19 & 20 AND N 1/16 CORNER 19 & 20 AS N 0° 08' 17" W.

















**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2022-45  
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE 20-FOOT BUILDING SETBACK ADJOINING THE SOUTH BOUNDARY OF LOT 15, BLOCK 5, LAKE VIEW TERRACE #2 (KN 87-33), GRANTED BY LAKE VIEW TERRACE #2 (KN 87-33); IN SE1/4 SE1/4 SECTION 18, TOWNSHIP 5 NORTH, RANGE 9 WEST, SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH. KPB FILE 2022-143

WHEREAS, per KPB 20.30.240 – Building Setbacks, a minimum 20-foot building setback shall be required for fee simple non-arterial rights-of-way in subdivisions located outside incorporated cities.

WHEREAS, Tim and Kathy Crumrine Trust of Lakewood, Colorado requested a building setback permit for a portion of a home, sidewalk, and retaining wall; and

WHEREAS, the construction has not occurred at the time of the request but the exception permit will be for the actual footprints shown on the required as-built to not exceed 47 feet in length and 10 feet within the setback,

WHEREAS, the existing building will not obstruct line of sight for traffic; and

WHEREAS, on October 10, 2022, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed exception; and

WHEREAS, the Planning Commission found that granting the building setback permit will not be detrimental to the public interest; and

WHEREAS, 20.10.110 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to approve building setback permits by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. Approved a permit to allow only the encroaching portion of the house, sidewalk, and retaining wall into the 20 foot building setback adjoining Holly Avenue right-of-way on the south boundary of Lot 15 Block 5, Lake View Terrace #2 (KN 87-33) as created by the same plat.

Section 2. That any new, replacement and/or additional construction will be subject to the twenty-foot building setback limit.

Section 3. That the twenty-foot building setback shall apply to the remainder of said lot.

Section 4. That an exhibit drawing or as-built survey prepared by a licensed land surveyor, showing the location of the portion of the building setback encroachment permit to be granted be attached to and made a part of this Resolution, becoming page 2 of 2.

Section 5. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

Section 6. That this Resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fee.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 10th DAY OF OCTOBER, 2022.

\_\_\_\_\_  
Jeremy Brantley, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

Return to:  
Kenai Peninsula Borough Planning Department  
144 North Binkley Street, Soldotna, Alaska 99669