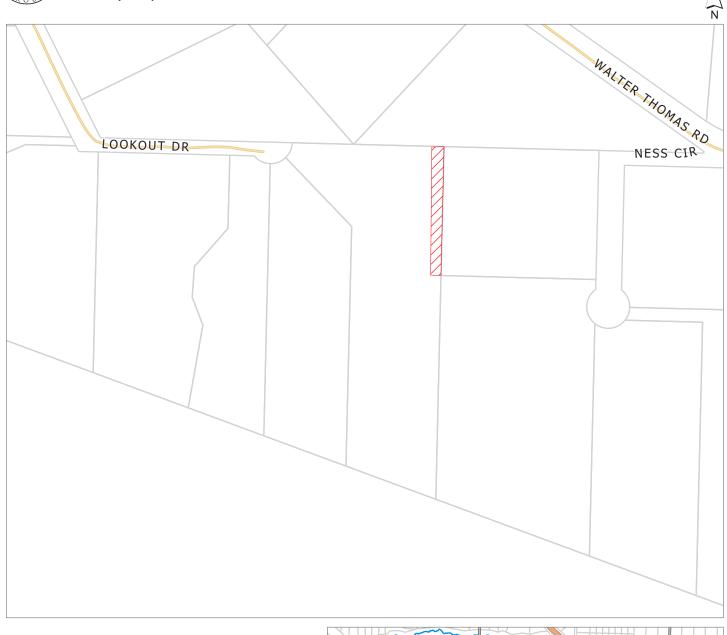
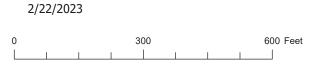
E. NEW BUSINESS

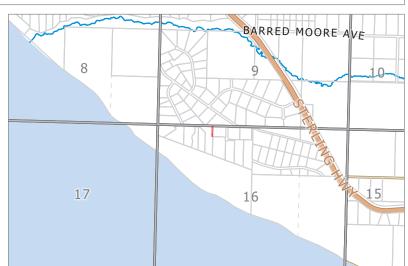
Utility Easement Vacation; KPB File 2023-021V1
 Ability Surveys / Shapiro
 Request: Vacates entire 10' utility easement on the east boundary of Lot 8, Bluff Point Subdivision, Plat HM 83-81
 Diamond Ridge Area



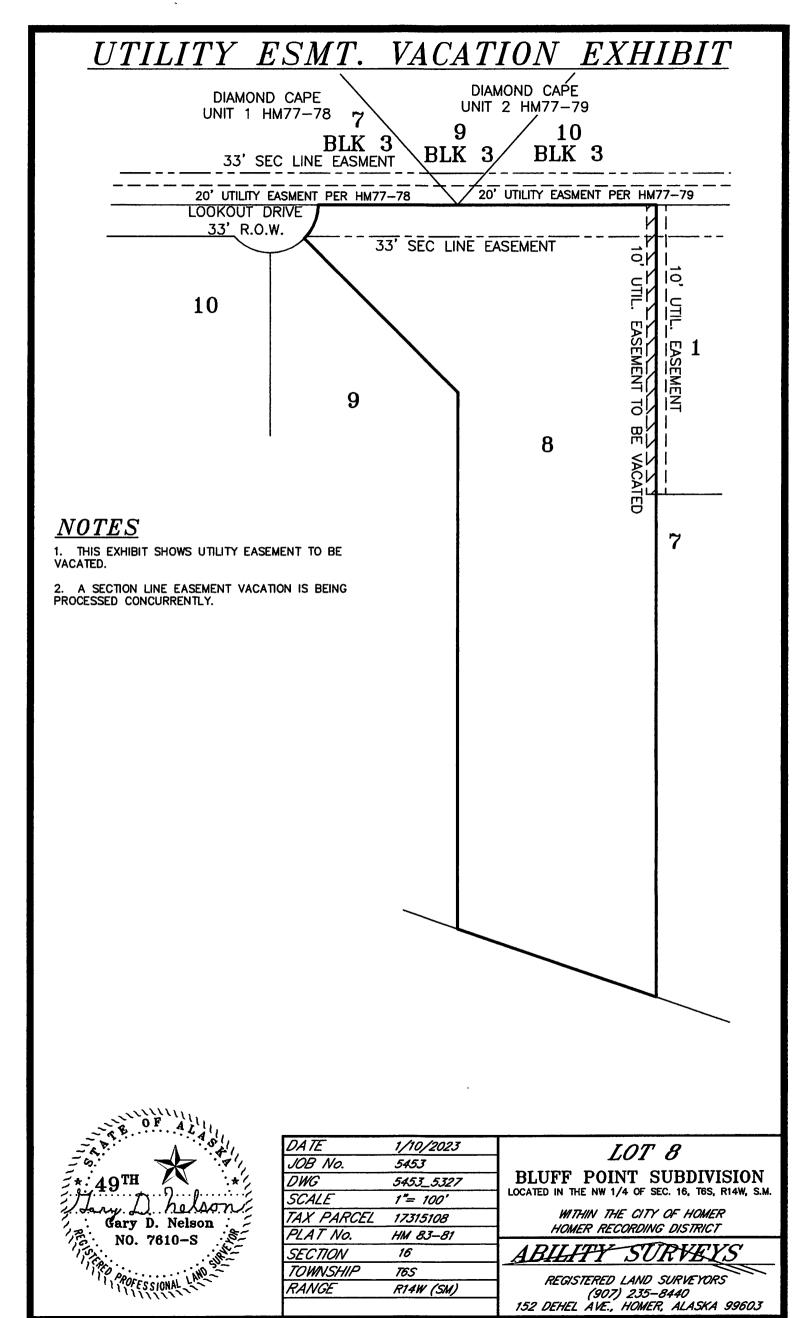


KPB File 2023-021V1 T 06S R 14W SEC 16 Diamond Ridge









AGENDA ITEM E. NEW BUSINESS

ITEM 1 - UTILITY EASEMENT ALTERATION VACATE ENTIRE 10 FOOT UTILITY EASEMENT ON THE EAST BOUNDARY OF LOT 8, BLUFF POINT SUBDIVISION, PLAT HM 83-81

KPB File No. 2023-021V1
Planning Commission Meeting: March 20, 2023

Applicant / Owner:Surveyor:

David Shapiro of Homer, Alaska
Gary Nelson / Ability Surveys

General Location: Lookout Drive, Diamond Ridge, Kachemak Bay APC

STAFF REPORT

Specific Request / Purpose as stated in the petition: At this time, each lot to the north and east of Lot 8 have buildings constructed as seen on the Kenai Peninsula Borough 2021 imagery. It appears utilities for these lots have been installed via the constructed roads mentioned above and adjacent easements. There is also a 20' utility easement along the south boundary of Lot 7 Block 3, Diamond Cape Unit 1, according to Plat No. 77-78, HRD, and Lots 9 & 10, Diamond Cape Unit 2, according to Plat No. 77-79, HRD, and Lots 9 & 10 Block 3, Diamond Cape Unit 2, according to Plat No. 77-79, HRD which could meet the future needs of utility companies.

I am not aware of any existing improvements within the utility easement. Each of the utility companies have been consulted and provided a notice of non-objection for the removal of this utility easement.

Additionally, this request is being made to provide extra area for the construction of a shop, north and east of the existing home as shown on the enclosed As-Built Survey for Lot 8. Due to the steep bluff slopes on the southern portion of this parcel, development is limited to the north half of the lot.

<u>Notification:</u> Notice of vacation mailings were sent by regular mail to twenty-two owners of property within 600 feet. Notice of the proposed vacation was emailed to eight agencies and interested parties.

The public notice was posted on the Planning Department's bulletin board at the KPB Administration Building.

<u>Staff Analysis:</u> The petition is to vacate a utility easement located along the eastern boundary of Lot 8, Bluff Point Subdivision, Plat HM 83-81. The subdivision was a replat of government lots located within Section 16, Township 6 South, Range 14 West.

The plat notes on Plat HM 83-81 indicate a building setback of 20 feet from all street rights-of-way was required and that the setback was to be the limit for utility easements. Lot 8 is subject to a 20 foot utility easement along the bulb at the end of Lookout Drive. An additional 20 foot utility easement was granted that was centered between Lot 8 and Lot 1. This created a 10 foot by 300 foot utility easement along the eastern boundary starting in the northeast corner of the lot.

The easement along Lookout Drive will remain as well as the 10 foot by 300 foot easement within Lot 1. To the northeast of Lot 8 there is a 20 foot utility easement along the southern boundary of Lots 9 and 10, Block 3, Diamond Cape Unit, Plat HM 77-79. To the northwest a 20 foot utility easement along the northern boundary of Lookout Drive within Lot 7, Block 3, Diamond Cape Unit 1, Plat HM 77-78. Both the 20 foot utility easements are atop section line easements.

Utility provider review:

HEA	There are no electric lines located within the section line easement or within the platted utility		
	easement on the east boundary of the parcel. I do not see any issue with vacating the		
	easements from the viewpoint of supplying electricity as all lots are currently served.		

ENSTAR	No objection
ACS	No objection
GCI	Approved as shown

Findings:

- 1. The petition states that the utility easement proposed to be vacated is not in use by a utility company.
- 2. ACS, ENSTAR, GCI, and HEA provided written non-objection to the proposed vacation.
- 3. Bluff Point Subdivision, Plat HM 83-81, granted a 20 foot by 300 foot utility easement centered on the common lot line between Lot 1 and Lot 8.
- 4. Bluff Point Subdivision, Plat HM 83-81, granted a 20 foot utility easement along Lookout Drive dedication.
- 5. 20 foot wide utility easements are present to the north providing easements an east-west direction.
- 6. The 20 foot utility easements to the north are within section line easements.
- 7. KPB Roads may be used for utilities with the proper permitting.
- 8. Section line easements may be used for utilities with the proper permitting.
- 9. The lots in the area are not a typical layout.
- 10. Per the plats for neighboring lots, all have other utility easements available.
- 11. No properties will be denied utilities.

RECOMMENDATION:

Based on consideration of the merits as outlined by Staff comments and Staff findings, Staff recommends APPROVAL of the utility easement alteration as petitioned, subject to:

- 1. Grant utility easements requested by the utility providers.
- 2. Finalizing the approval of the easement alteration by either;
 - a. The recording of a subdivision plat within 12 months or,
 - b. The recording of a utility easement alteration resolution within 90 days of the adoption of the resolution by the Planning Commission, with the following requirements:
 - i. An exhibit drawing showing, and dimensioning, the utility easement alteration area, prepared, signed, and sealed by a licensed land surveyor. The exhibit drawing will be attached to, and recorded with, the resolution.
 - ii. The applicants will provide the recording fee for the resolution and its attachment to the Planning Department.
 - iii. The Planning Department is responsible for filing the Planning Commission resolution.

20.65.070 Alteration of platted utility easements

- E. A planning commission decision under this section is final. A notice of decision shall be sent to the petitioner. No reapplication or petition concerning the same alteration to platted utility easement 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. If the reasons for denial are resolved, the petitioner may submit a new petition for alteration of platted utility easement with documentation that the issues have been resolved, accompanied by a new fee.
- F. An appeal of the planning commission decision under this section must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.

- Focus Area: Energy and Utilities
 - Objective A Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.
 - Strategy 1. Near Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.
 - Strategy 2. Near Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.
 - Strategy 3. Near Term: Identify potential utility routes on Borough lands.
- Housing
 - Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.
 - Strategy 1. Near Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.

END OF STAFF REPORT

KENAI PENINSULA BOROUGH PLANNING COMMISSION RESOLUTION 2023-5 HOMER RECORDING DISTRICT

Vacate entire 10 foot utility easement on the east boundary of Lot 8 Bluff Point Subdivision HM 83-81, granted by Bluff Point Subdivision (HM 0830081); within S16, T06S, R14W, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2023-021V1

WHEREAS, a request has been received from David Shapiro of Homer, AK to vacate entire 10 foot utility easement on the east boundary of Lot 8 Bluff Point Subdivision HM 83-81 granted by Bluff Point Subdivision (HM 0830081); and

WHEREAS, per KPB 20.30.060(A) – Easements – Requirements, the planning commission may require easements it determines necessary for the benefit of the public. Such easements include, but are not limited to, lateral support (slope) easements, drainage easements for ditching or protection of a drainage, and utility easements. Required easements do not need to be for road purposes.

WHEREAS, affected utility companies have provided written non-objection to the proposed vacation; and

WHEREAS, the easement is not in use by the utility companies; and

WHEREAS, no surrounding properties will be denied utilities; and

WHEREAS, on March 20, 2023, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed vacation; and

WHEREAS, the Planning Commission has found that vacating the utility easement will not be detrimental to the public interest; and

WHEREAS, 20.65.070 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish vacations by Resolution.

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

<u>Section 1</u>. That the above described 10 foot utility easement on the east boundary of Lot 8 Bluff Point Subdivision HM 83-81 is hereby vacated.

Section 2. That an as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the locations of the portions of the utility easements being vacated be attached to, and made a part of this resolution, becoming page 2 of 2.

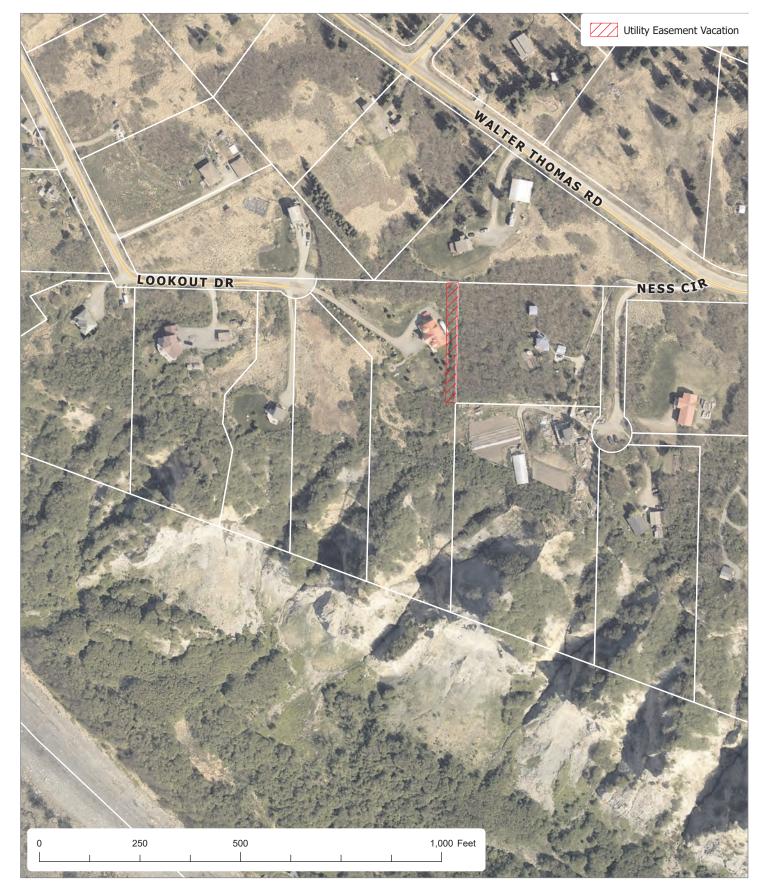
<u>Section 3</u>. That this resolution is eligible for recording upon being signed by the Planning Commission chairperson and will be deemed void if not recorded within 90 days of adoption.

<u>Section 4</u>. 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 20th DAY OF MARCH, 2023.

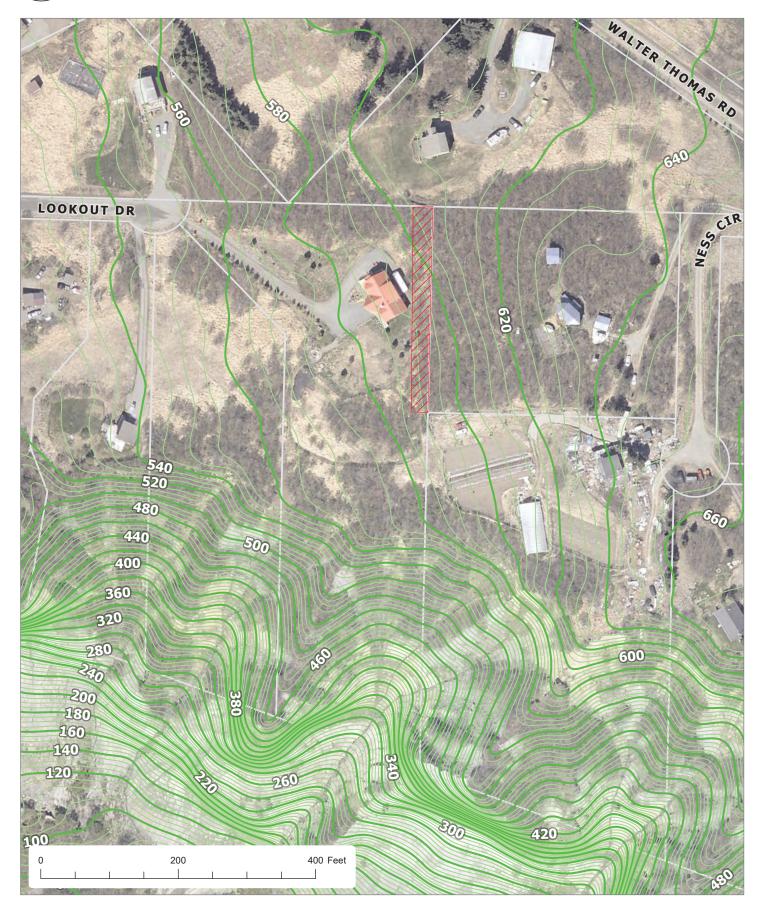
	ATTEST:	
Jeremy Brantley, Chairperson		Ann Shirnberg,
Planning Commission		Administrative Assistant

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







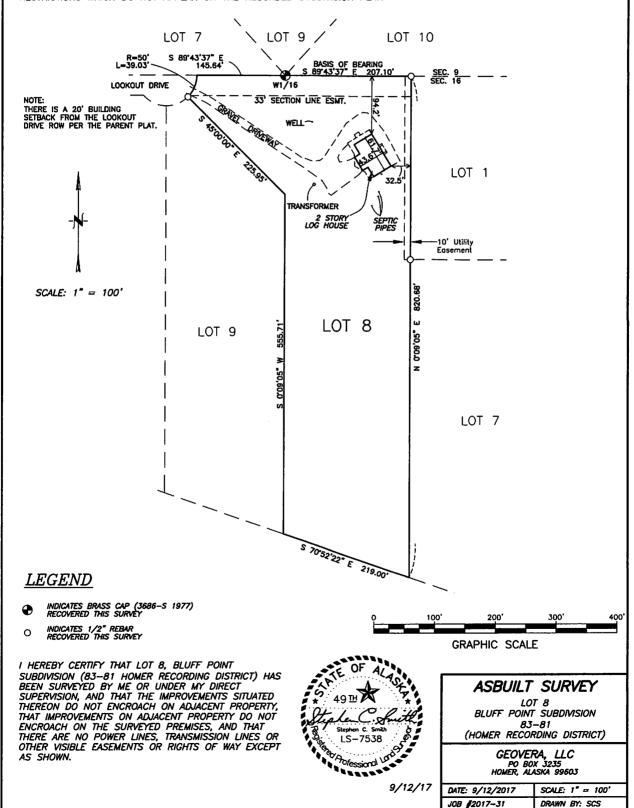


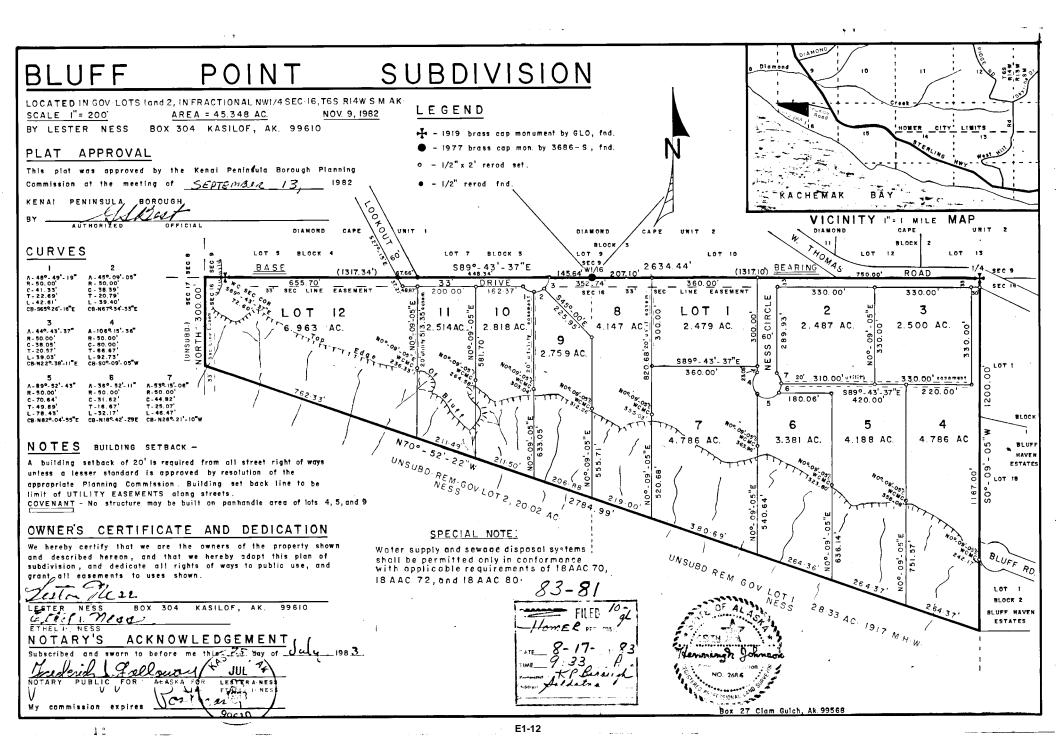
JOB #2017-31 PREPARED FOR: AUGUSTINE REVOCABLE TRUST PO BOX 2849 HOMER, AK 99603

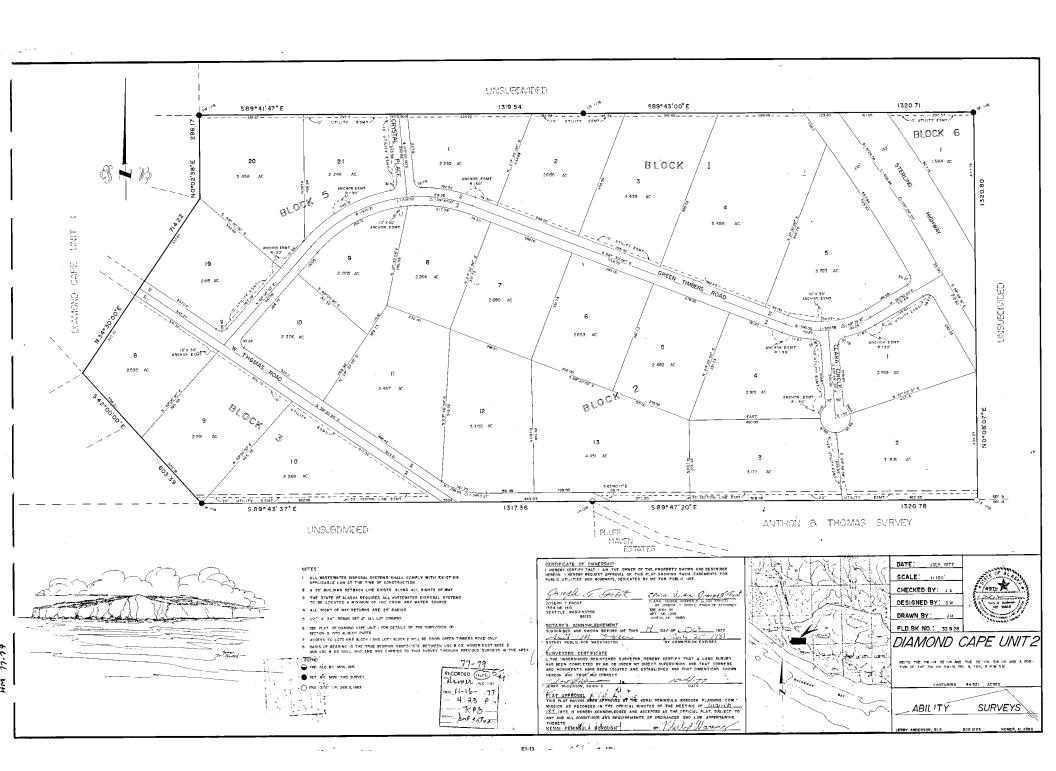
NOTES:

1. BASIS OF BEARING FOR THIS ASBUILT SURVEY IS RECORD DATA BETWEEN A BRASS CAP MONUMENT RECOVERED AT THE WI/16 CORNER OF SECTIONS 9/16, AND A 1/2" REBAR RECOVERED AT THE NE COR LOT 8.

- 2. THIS ASBUILT SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THAT WHICH WOULD GIVE A GRAPHIC REPRESENTATION OF THE LOCATION OF IMPROVEMENTS ON THIS LOT. UNDER NO CIRCUMSTANCE SHOULD THE LOCATION OF FUTURE IMPROVEMENTS BE BASED ON THIS DRAWING.
- 3. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, RESERVATIONS OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT.







E1-13

