


Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Robert Ruffner, Planning Director 

DATE: March 22, 2023

RE: Vacate portions of two seismograph trails and associated utility easements on Ninilchik Right-Of-Way Map, Plat HM 84-115; KPB File 2023-020V

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 March 20, 2023 the Kenai Peninsula Borough Planning Commission granted approval of the proposed vacation of portions of two seismograph trails and associated utility easements on Ninilchik Right-Of-Way Map, Plat HM 84-115 by unanimous vote based on the means of evaluating public necessity established by KPB 20.65. This petition is being sent to you for your consideration and action.

A draft copy of the unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

March 20, 2023 Planning Commission Draft Meeting Minutes
July 13, 2020 Agenda Item E4 Meeting Materials



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

PETITION TO VACATE PLATTED RIGHT OF WAY / PLATTED PUBLIC EASEMENT / PLATTED PUBLIC AREA

PUBLIC HEARING REQUIRED

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

Initially, a sketch may be included with the vacation petition for review by the Planning Commission. After the Planning Commission takes action on the vacation, a Subdivision Plat must be prepared by a licensed land surveyor. The plat will be processed in accordance with KPB 20.10.080. Platting authority is vested in the Planning Director.

SUBMITTAL REQUIREMENTS

A platted right of way vacation (ROWV) application will be scheduled for the next available planning commission meeting after a complete application has been received.

- ☒ - \$500 non-refundable fee to help defray costs of advertising public hearing. Plat fees will be in addition to the vacation fees.
- ☐ - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
- ☐ Seismograph Trail _____, platted public right of way proposed to be vacated was dedicated by the plat of Right of Way Map _____ Subdivision, filed as Plat No. 84-115 in the Homer _____ Recording District.
- ☒ - 3 copies of the plat or map showing the platted right of way to be vacated. Must not exceed 11 x 17 inches in size. Area to be vacated must be clearly depicted. Proposed alternative public access to be shown and labeled on the sketch.
- ☒ - **REASON FOR VACATING** The petitioner must attach a statement with reasonable justification for the vacation of the platted right of way / platted easement / platted public area.

Has the platted right of way been fully or partially constructed?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Is the platted right of way used by vehicles / pedestrians / other?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Is alternative right-of-way being provided?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Are there utility easements associated with the right of way to be vacated?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Is the platted right of way and or associated utility easement in use by any utility company?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If so, which utility provider?				

LEGAL DESCRIPTION ADJOINING LAND:

Lot, Block, Subd. or street address TRACT B HARDEN SUBD , 53080 Oil Well Road	
Section, township, range T 2S R 12W SEC 16 SEWARD MERIDIAN	
City (if applicable)	General area Caribou Hills

The petition must be signed by owners of a majority of the land affected by the platted right of way proposed to be vacated. Each petitioner must include address and legal description of his/her property. Attach additional signature sheets if needed.

Submitted by:

Land Owner

Name (printed): Patrick Carmody	Signature: Patrick Carmody
e-mail: carmodymasonry@yahoo.com	Address: P.O. Box 6997
Owner of: 53080 Oil Well Road	Nikiski AK 99635

Land Owner:

Name (printed):	Signature
e-mail:	Address:
Owner of:	

FOR OFFICE USE ONLY

RECEIVED BY _____

DATE SUBMITTED _____

KPB FILE # _____

**ITEM 4 - RIGHT OF WAY VACATION
VACATE PORTIONS OF TWO SEISMOGRAPH TRAILS GRANTED ON NINILCHIK RIGHT-OF-WAY
MAP, PLAT HM 84-115 and ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2023-020V
Planning Commission Meeting:	March 20, 2023
Applicant / Owner:	Patrick Carmody of Nikiski, Alaska
Surveyor:	Jason Young, Mari Aimonetti / Edge Survey and Design, LLC
General Location:	Oil Well Road, Beatty Avenue, Grassim Street, Ninilchik
Legal Description:	Seismograph Trails within Lot 270, Section 16, Township 2 South, Range 12 West, Right of Way Map (also known as the Ninilchik Right of Way Map), HM 84-115

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Jason Young, Edge Survey & Design; PO Box 208, Kasilof, AK 99610: Mr. Young was the surveyor on this project. He stated the purpose for this vacation is to clean up some of the old seismographic trails from the HM 84-115 plat that created several oddly shaped, small and unusable parcels. In this case the vacations are close to existing intersections and it made sense to give and take a little. He noted that the trails are not improved and are not really used. The seismographic trails are overgrown with vegetation and are not practical for use.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Venuti moved, seconded by Commissioner Slaughter to recommend the approval of the vacation as petitioned, based on the means of evaluating public necessity established by KPB 20.65, based on staff recommendations and subject to the 4 recommendations as set forth in the staff report.

Commissioner Stutzer asked what was the history behind the dedication of these seismographic trails. Ms. Hindman replied that these easements were dedicated in 1984 as rights-of-way. They were logging roads before that and she does not know how long they were in existence before then. She believed that the surveyors back in 1984 used arial photos to find what they thought were heavily used trails. She then noted that the surveyor may have additional history of these dedications. Mr. Young replied that he personally knows several of the surveyors who worked on the 1984 plat. It was kind of willy-nilly – they used aerial photos to try and guess which trails were used and which were not. As far as he knows there was no research done on which trails were being used. These seismographic trails have been an issue for a lot of landowners in the area as these trails have split up parcels, creating odd little unusable lots of land. There was really no hard science regarding which trails were being used. The surveyors literally used tracing paper and old photos back in 1984 to create these dedications.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 12	Brantley, Fikes, Gillham, Hooper, Horton, Martin, Morgan, Slaughter, Staggs, Stutzer, Tautfest, Venuti
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AGENDA ITEM F. PLAT COMMITTEE REPORT

Commissioner Gillham reported the plat committee reviewed and granted preliminary approval to 5 plats.

Ms. Shirnberg asked for volunteers for the Plat Committee for the second quarter (April-May-June). The plat committee for the second quarter:

- Commissioner Gillham

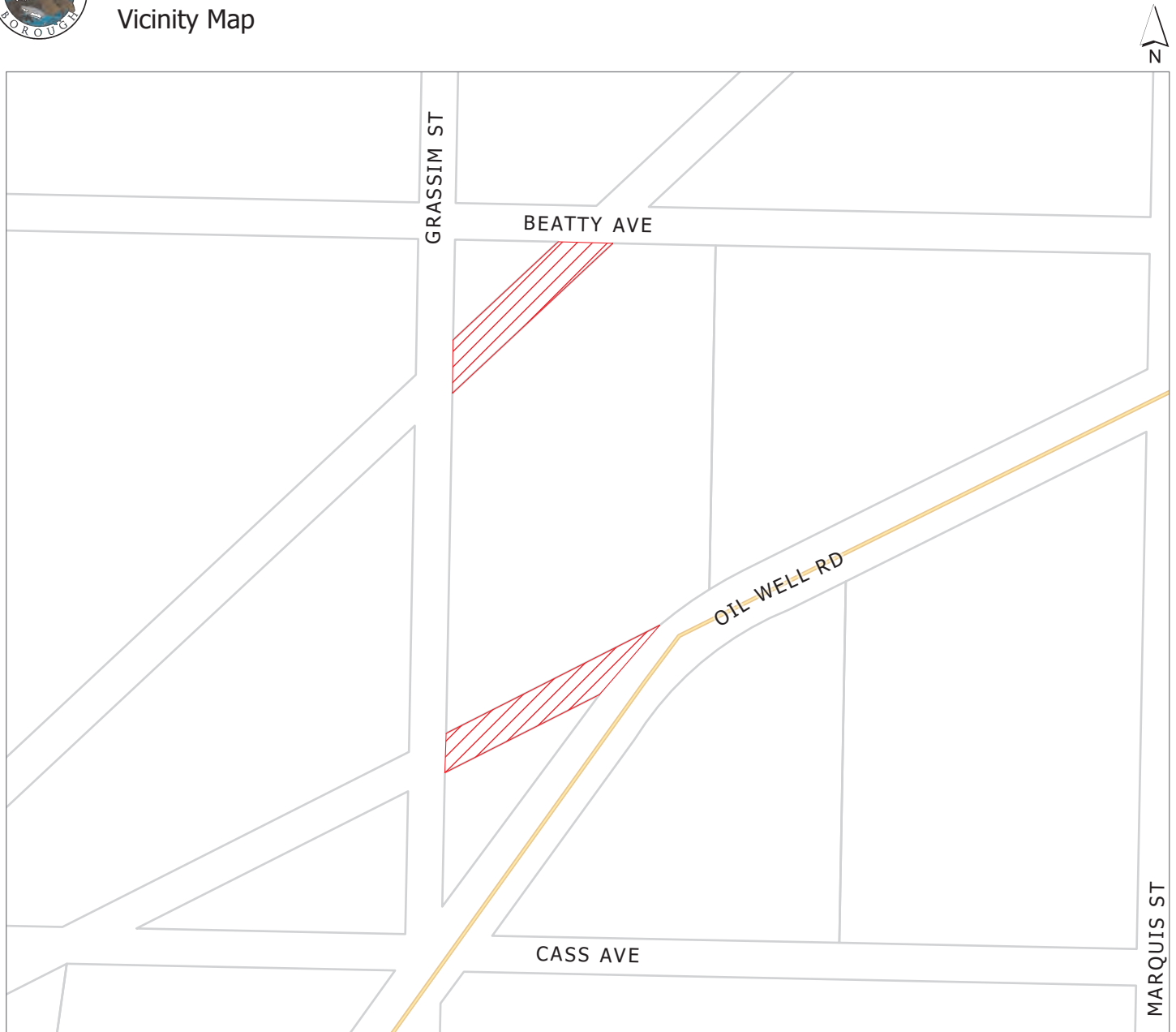
E. NEW BUSINESS

4. Seismographic Trails Vacation; KPB File 2023-020V
Edge Survey & Design, LLC / Carmody
Request: Vacates two portion of two seismograph trails
granted on Ninilchik Right-Of-Way Map, Plat HM 84-115
Ninilchik Area



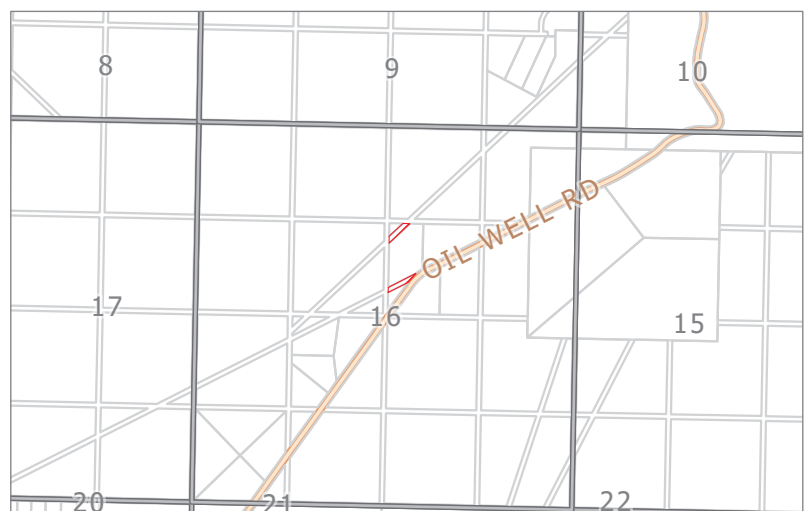
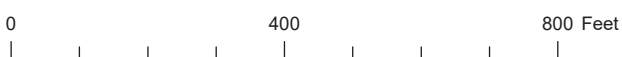
Kenai Peninsula Borough Planning Department

Vicinity Map



KPB File 2023-020V
T 02S R 12W SEC 16
Ninilchik

2/21/2023

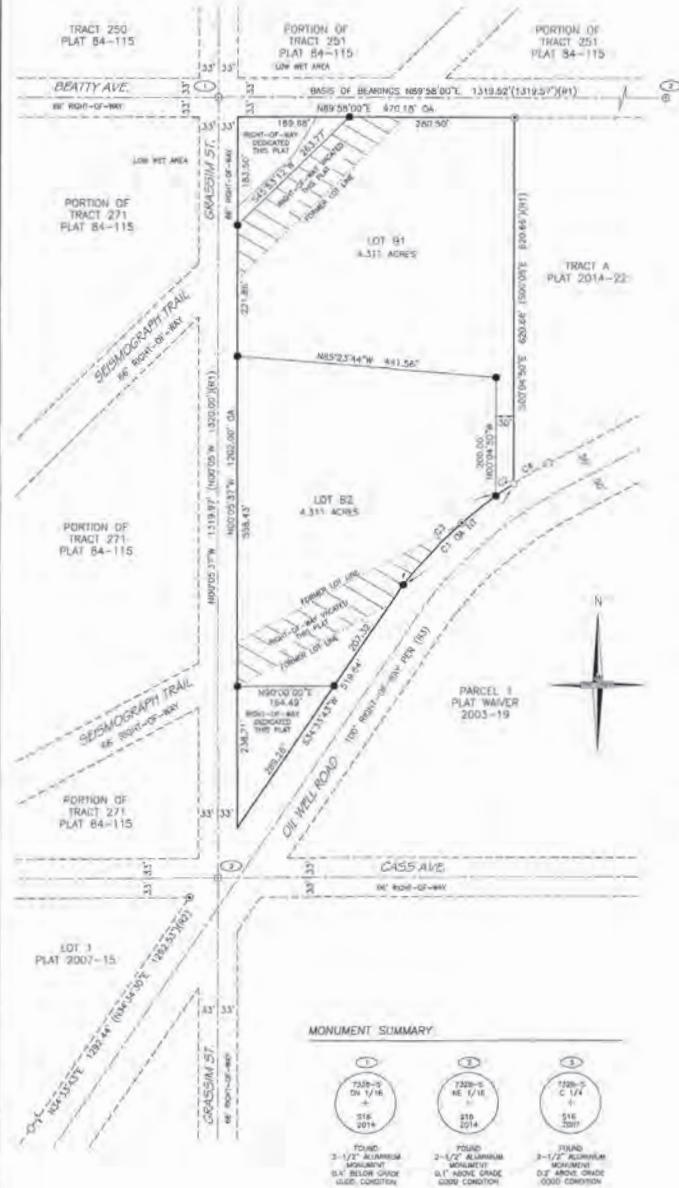




Aerial View



KPB 2023-020V



LEGEND

- ① FOUND PRIMARY MONUMENT AS REFERENCED
- ② FOUND SECONDARY MONUMENT
YELLOW PLASTIC CAP STAMPED LS-7328
- ③ FOUND SECONDARY MONUMENT - REBAR
- SET SECONDARY MONUMENT
5/8" X 30" REBAR WITH 2" ALUMINUM CAP
STAMPED EDGE SURVEY LS-13022 2023
- SUBDIVISION BOUNDARY
- INTERIOR LOT LINE
- ADJACENT PROPERTY LINE
- FORMER LOT LINE
- CENTERLINE
- EASEMENT
- SETBACK
- LOW WET AREA
- OVERALL
- RECORD DATA, SEE REFERENCE
- HELD RECORD RADIUS
- ADJ-TANGENTIAL
- RIGHT-OF-WAY VACATED THIS PLAT

REFERENCES

- (R1) HARDEN SUBD. PLAT 2014-22, HOMER RECORDING DISTRICT
- (R2) AMANDA SUBDIVISION, PLAT 2007-15, HOMER RECORDING DISTRICT
- (R3) 100'-OF-WAY MAP, PLAT 84-115, HOMER RECORDING DISTRICT

BUILDING SETBACK AND UTILITY EASEMENT TYPICAL - SCALE 1"=50'



CURVE TABLE

CURVE	HAULS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1 (R28)	750.00	256.85	19°53'36"	547.20 19°W
C2	750.00	36.27	2°48'15"	525.44 61°W
C3	750.00	219.78	16°47'24"	545.27 12°W
C4	750.00	89.37	5°17'53"	568.46 26°W
C4 (R1)	750.00	89.49	5°18'31"	529.44 43°W

NOTARY ACKNOWLEDGEMENT

FOR: PATRICK MICHAEL CARMODY
ACKNOWLEDGED BEFORE ME
THIS _____ DAY OF _____, 2023

PUBLIC NOTARY SIGNATURE

NOTARY
STAMP
AREA

PRELIMINARY

NOTES

- BUILDING SETBACK OF 20 FEET IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
- THE FRONT 15 FEET ADJACENT TO THE RIGHTS-OF-WAY IS A UTILITY EASEMENT ALONG WITH 20 FEET ADJACENT TO RIGHT-OF-WAY WITHIN 5 FEET OF SIDE LOT LINES. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
- ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLANDS DETERMINATION IF APPLICABLE.
- ROADS MUST MEET THE DESIGN AND CONSTRUCTION STANDARDS ESTABLISHED BY THE BOROUGH IN ORDER TO BE CONSIDERED FOR CERTIFICATION AND INCLUSION IN THE ROAD MAINTENANCE PROGRAM PER KPB 15.00.
- THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF A PORTION OF SEISMOGRAPH AND ASSOCIATED UTILITY EASEMENTS, AT THE MEETING OF MARCH 20, 2023. THE VACATION RECEIVED CONSENT BY THE KPB PLAT COMMITTEE, AT THE MEETING OF MARCH 20, 2023.
- EXCEPTION TO KPB CODE 20.40.100, NOT TO REQUIRE A SOILS ANALYSIS REPORT, AND 20.30.180 LOT-SIZE DIMENSIONS, LENGTH OF FLAG LOT, WAS GRANTED BY THE KPB PLAT COMMITTEE, AT THE MEETING OF MARCH 20, 2023.
- NO STRUCTURES ARE PERMITTED WITHIN THE PANNADLE PORTION OF THE FLAG LOT.
- THE ACCEPTANCE OF THIS PLAT BY THE BOROUGH DOES NOT INDICATE ACCEPTANCE OF ANY ENCROACHMENTS.
- THIS SUBDIVISION SUBJECT TO THE RIGHTS AND PROVISIONS CONTAINED IN THE INTERIM CONVEYANCE FROM THE USA AS HEREIN NOTED, DATED MAY 26, 1978, RECORDED OCTOBER 21, 1991, VOLUME 100 PAGE 226, HOMER RECORDING DISTRICT.
- THIS SUBDIVISION IS SUBJECT TO TERMS, COVENANTS, CONDITIONS AND PROVISIONS, INCLUDING RIGHT OF WAY EASEMENTS AS CONTAINED IN THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, DATED DECEMBER 18, 1971, U.S. PUBLIC LAW 92-203, RS STAT. 806, U.S.C. 1601 ET SEQ.
- THIS SUBDIVISION SUBJECT TO RESERVATIONS OF THE SURFACE ESTATE IN SAID LAND, INCLUDING, BUT NOT LIMITED TO, RIGHTS OF ENTRY TO EXPLORE, DEVELOP OR REMOVE MINERALS FROM SAID SUBSURFACE ESTATE, AS SET FORTH IN SECTION 14(F) AND 14(G) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.
- THIS SUBDIVISION SUBJECT TO RESERVATIONS, RESTRICTIONS, CONDITIONS, AND EASEMENTS CONTAINED IN DEED RECORDED MARCH 27, 1980, VOLUME 150 PAGE 720.
- THIS SUBDIVISION SUBJECT TO RESERVATIONS, RESTRICTIONS, CONDITIONS, AND EASEMENTS CONTAINED IN DEED RECORDED JUNE 18, 1978, VOLUME 100 PAGE 226.
- WASTEWATER DISPOSAL: ANY WASTEWATER TREATMENT AND DISPOSAL SYSTEM MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

CERTIFICATE OF ACCEPTANCE AND DEDICATION BY KENAI PENINSULA BOROUGH

THE UNDERSIGNED OFFICIAL, IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE KENAI PENINSULA BOROUGH FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY TO BE DEDICATED BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND OTHER PUBLIC AREAS SHOWN ON THE PLAT IDENTIFIED AS FOLLOWS:

RIGHT OF WAY DEDICATED ON THIS PLAT - FORMER NORTHERN PORTION OF TRACT 270, PLAT 84-115 AT INTERSECTION OF GRASSM STREET AND BEATTY AVENUE, FORMER SOUTHERN PORTION OF TRACT 270, PLAT 84-115 AT INTERSECTION OF CASS AVENUE AND OIL WELL ROAD.

THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSES DOES NOT OBLIGATE THE PUBLIC OR ANY GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

AUTHORIZED OFFICIAL
KENAI PENINSULA BOROUGH
144 NORTH BRINKLEY STREET
SOLDOTNA, ALASKA 99669

DATE

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF MARCH 20, 2023.

KENAI PENINSULA BOROUGH

AUTHORIZED OFFICIAL

DATE

CERTIFICATE OF SURVEYOR

I, MARK AMONETTI 13022-S, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THIS SURVEY ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



RECORDERS
STAMP
AREA



CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ACQUIT THIS PLAT OF SUBDIVISION AND MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

PATRICK MICHAEL CARMODY
PO BOX 6997
NIKISKI, ALASKA 99635

KPB FILE No. 2023-000

HARDEN SUBDIVISION MUGS AND TAD ADDITION

A SUBDIVISION OF
TRACT B HARDEN SUBD. PLAT 2014-22
AND
SW 1/4 NE 1/4 SECTION 12
BETWEEN SEISMOGRAPH TRAIL, BEATTY AVENUE AND GRASSM STREET
ALSO SHOWN AS NORTHWEST CORNER OF TRACT 270 OF RIGHT-OF-WAY PLAT 84-115
AND

SW 1/4 NE 1/4 SECTION 12
BETWEEN SEISMOGRAPH TRAIL, OIL WELL ROAD AND GRASSM STREET
ALSO SHOWN AS SOUTHWEST CORNER OF TRACT 270 OF RIGHT-OF-WAY PLAT 84-115

HOMER RECORDING DISTRICT

LOCATED WITHIN NE 1/4 SECTION 12,
T.25S., R.12W., S.4M.
STATE OF ALASKA
KENAI PENINSULA BOROUGH
HOMER RECORDING DISTRICT

OWNERS:

PATRICK MICHAEL CARMODY
NIKISKI, ALASKA 99635
CONTAINING 9.471 ACRES



15401 OLD SEWARD, D ANCHORAGE, AK 99516
Phone (907) 244-0000 Fax (907) 244-7754
NCLB # 1392

DRAWN BY: DATE: 12/11/2023 PROJECT: 22-021
CHECKED BY: SCALE: 1" = 200' SHEET: 1 OF 1
MA

AGENDA ITEM E. NEW BUSINESS

**ITEM 4 - RIGHT OF WAY VACATION
VACATE PORTIONS OF TWO SEISMOGRAPH TRAILS GRANTED ON NINILCHIK RIGHT-OF-WAY MAP,
PLAT HM 84-115 and ASSOCIATED UTILITY EASEMENTS**

KPB File No.	2023-020V
Planning Commission Meeting:	March 20, 2023
Applicant / Owner:	Patrick Carmody of Nikiski, Alaska
Surveyor:	Jason Young, Mari Aimonetti / Edge Survey and Design, LLC
General Location:	Oil Well Road, Beatty Avenue, Grassim Street, Ninilchik
Legal Description:	Seismograph Trails within Lot 270, Section 16, Township 2 South, Range 12 West, Right of Way Map (also known as the Ninilchik Right of Way Map), HM 84-115

STAFF REPORT

Specific Request / Purpose as stated in the petition: Right-of-way vacation justification.

1. Right-of-way granted per plat 84-115, in which trails were located via air photos depicting old seismograph trails.
2. Dedication of seismograph created small unusable tracts.
3. Vacating the trails will provide more space for adjacent parcels.
4. Trails to be vacated are no improved or used.
5. Trails to be vacated are grown shut with vegetation and not practical for use.
6. This platting action intends to dedicate along with vacate right-of-way to make larger parcels and better overall public access.
7. This platting action will dedicate .850 acres and vacate 1.032 acres.

Notification: The public hearing notice was published in the March 15, 2023 issue of the Homer News as part of the Commission's tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Ninilchik

Post Office of Ninilchik

Fourteen certified mailings were sent to owners of property within 600 feet of the proposed vacation. Six receipts had been returned when the staff report was prepared.

Twenty public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game
State of Alaska DNR
State of Alaska DOT
State of Alaska DNR Forestry
Ninilchik Emergency Services
Kenai Peninsula Borough Office

Ninilchik Traditional Council
Alaska Communication Systems (ACS)
ENSTAR Natural Gas
General Communications Inc, (GCI)
Homer Electric Association (HEA)
Caribou Hills Cabin Hoppers

Legal Access (existing and proposed): The proposed vacation is within the area known as Caribou Hills. The Ninilchik Right-of-Way map, Plat HM 84-115, dedicated 66 foot wide rights-of-way on the depicted seismograph

trails in additions to dedicating 66 foot wide rights-of-way centered on all 1/16th and ¼ aliquot lines and section lines except for some lands that were not subject to the plat.

The area with the proposed vacations is located near mile 15 of Oil Well Road, the main access to the Caribou Hills area. The areas described are located north of Oil Well Road unless otherwise noted. Grassim Street is a 60 foot wide dedication that runs north from Oil Well Road. Beatty Avenue is a 66 foot wide right-of-way that runs west from Oil Well Road. One of the seismograph rights-of-way proposed for vacation is in the area where Beatty Avenue and Grassim Street meet. The other vacation is off Oil Well Road and connects to Grassim Street.

The dedications in the area split Tract 270, as named on the Right-Of-Way Map, into multiple lots. A few of those have been divided by deed and another portion by subdivision plat. The seismograph locations created two smaller lots that were split into triangles.

The parcels in the area will remain having access from Grassim Street, Beatty Avenue, Oil Well Road, and other seismograph dedications.

The northern right-of-way proposed for vacation is an approximate 400 foot length of a seismograph trail that connects between Grassim Street and Beatty Avenue. It looks like there may be some areas that have been used as a trail. Per the submittal some of the area has grown over with vegetation. It is difficult to detect but does seem to contain more vegetation within the southwest portion. The dedication continues to the west past Grassim Street. The area to the west contains large areas of wetlands but they still appear to be used as tracks appear within imagery. The right-of-way also continues to the north of Beatty Avenue. This area appears to be used more and contains clearings that connect to other trails. The owners are proposing to dedicate the triangle lot for right-of-way in exchange for the vacated portion that can be added to their existing lots.

The southern right-of-way proposed for vacation is an approximate 420 foot length of a seismograph trail that connects between Grassim Street and Oil Well Road. It looks like there may be some areas that have been used as a trail through the years with heavier use appearing to the west and south. The dedication does continue to the west of Grassim Street. That area appears to be heavily used as does the southern portion Grassim Street. The owners are proposing to dedicate a portion of the southern lot as right-of-way to allow the vacated area to be added to the main lot.

The block is closed. Some portions are currently smaller than allowed by code but the proposed vacation will bring the blocks into compliance.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: Vacation appears to allow for alternative access to all surrounding parcels.
SOA DOT comments	No comments – DOT Engineering

Site Investigation: There are low wet areas within the intersection of Grassim Street and Beatty Avenue. The designation is a depression designation. There are some low wet areas within the proposed northern vacation. The proposal will place most of the proposed dedication into the depression area and the drier land will be added to the adjacent parcels. There are no low wet areas within the southern area proposed for vacation or dedication.

The terrain contains slopes but not within the existing dedications or proposed dedications that appear to be steeper than 10 percent. The area within the northern proposed dedication does appear to be flatter than the current dedication.

KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments
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	<p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
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Staff Analysis: The proposed vacation is within the Caribou Hills recreational area. The plat that dedicated the rights-of-way created various lots that were not surveyed but were aliquot descriptions that excluded dedications. The map did however indicate numbers to help tell the lots apart on the plat due to the scale. The area proposed for vacation is within the SW1/4 NE1/4 of Section 16, Township 2 South, Range 12 West.

The dedications split the SW1/4 NE1/4 of Section 16, Township 2 South, Range 12 West into four parcels. Some portions have been split so that there are now six lots in the area. The parcels that are part of this platting action are .39, .83, and 7.33 acres in size. One of the lots is approximately 17,000 square feet and another is 36,000. Neither lot is compliant with borough code. Additionally, the lots have 10 foot utility easements on all three sides which further limit usage. Per KPB Code 20.30.200, the minimum lot size should be 40,000 square feet if onsite water and wastewater disposal are required. The new configuration will bring all proposed lots into compliance.

If the vacation is approved the owners will add the vacated area to the larger parcel and then subdivide it into two lots. The current acreage of all the lots is approximately 8.55 acres and the subdivision will allow increase the acreage to 8.62. While the acreage is increasing slightly it is putting all the land together and will make compliant lots and blocks that can have more improvements, development, or allow further subdivision to occur.

If the vacation is approved the owner will be dedicating the northwestern and southern triangle portions as right-of-way. These proposed areas are irregular and will result in wide rights-of-way at intersections. Upon reviewing the unusual design, the northern dedication could be of benefit as the Beatty Avenue and Grassim Street intersection contains low wet areas. The proposed dedication contains some dryer areas that may provide a better right-of-way area. The southern dedication will provide a wider intersection of Grassim Street with Oil Well Road. Having this location available could be viewed as a benefit as it could provide additional turnaround area for vehicles and provide multiple options to connect to Oil Well Road in that area in the best location based on terrain and line of sight.

The right-of-way map did not put into place building setbacks but did grant 10 foot utility easements adjacent to the rights-of-way. The proposal will vacate those adjacent easements if the right-of-way vacation is approved. Utility easements will remain adjacent to the remaining rights-of-way and new ones granted along the new dedications.

The owner is stating that the areas proposed for dedication have become grown over and not in use. If information is presented that states otherwise, the owner will be required to get a permit from the KPB Roads Department and will need to improve the new dedications better than the existing rights-of-way.

While this is an area with heavy recreational use it should be noted that these are dedicated rights-of-way. While they are primarily used by ATVs or snowmachines they are to be viewed as borough rights-of-way with intended vehicle use. Due to the placement of some of these seismograph trails and the terrain there have been issues of trespass or unusable rights-of-way. As the platting staff reviews these they are considering all KPB Code as these dedications that were granted in 1984 resulted in lots and blocks that do not comply with our code. They have resulted in lots that have limited development due to size and being non-compliant with code. While this is a recreational area currently there has been an increase in development with some owners transitioning to year round residents in the area. Platting items in this area should be reviewed in compliance with borough code and how future development needs can be met.

20.65.050 – Action on vacation application

- D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:
1. The right-of-way or public easement to be vacated is being used;
Staff comments: Actual use is unknown. According to petition no longer used.
 2. A road is impossible or impractical to construct, and alternative access has been provided;
Staff comments: It appears that either of the rights-of-way could be constructed in current locations. The owners are shifting the dedication.
 3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;
Staff comments: There are improvements on the lots but many lots in area are not improved with only main rights-of-way developed to borough standards.
 4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;
Staff comments: Does not provide access to public lands.
 5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;
Staff comments: There are other rights-of-way within the area to provide access.
 6. Other public access, other than general road use, exist or are feasible for the right-of-way;
Staff comments: They could be used for pedestrian use.
 7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a 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 utility easement be granted in place of the right-of-way.
Staff comments: The existing easements are not in use. New easements will be granted.
 8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.
Staff comments: This will slightly realign the dedications but will bring the block and lots into compliance.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly. The KPB Assembly must hear the vacation within thirty days of the Planning Commission decision.

The Assembly will hear the vacation at their scheduled April 4, 2023 meeting.

If approved, Harden Subdivision Mugs and Tad Addition will finalize the proposed right of way vacations. The Plat Committee is scheduled to review the plat on March 20, 2023.

KPB department / agency review:

Planner	
Code Compliance	Reviewer: Ogren, Eric Comments: Vacating ROW is necessary to conjoin the 3 lots.
Addressing	Reviewer: Sjogren, Bobbi Affected Addresses: Action will not affect addresses. Existing Street Names are Correct: List of Correct Street Names: Existing Street Name Corrections Needed: All New Street Names are Approved: List of Approved Street Names: List of Street Names Denied: Comments: No other comments
Assessing	Reviewer: Windsor, Heather Comments: No comment

Utility provider review:

HEA	
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown

RECOMMENDATION:

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends APPROVAL 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 20.65.050 – Action on vacation application

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.**
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or**

assembly, where applicable, 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.

- J. A planning commission decision denying a vacation application is final. 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.
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter 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*
 - o *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*
 - o *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.*

Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough

- *Focus Area: Transportation*
 - o *Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
 - *Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
 - *Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

END OF STAFF REPORT





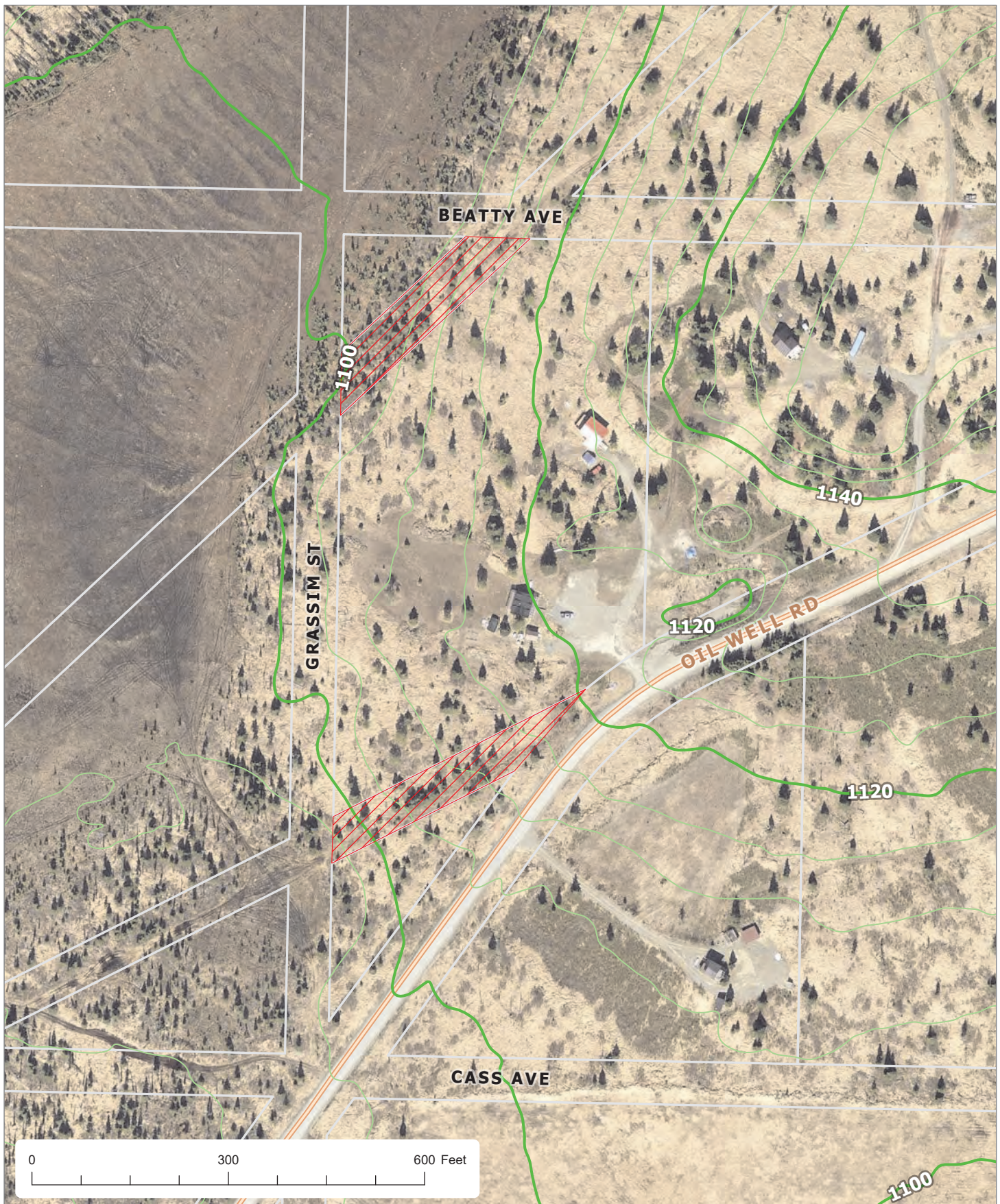
Wetlands



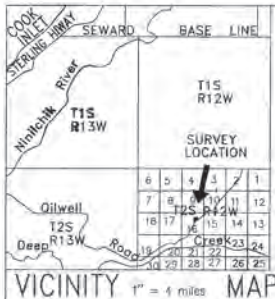
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Aerial with 5-foot Contours



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.



HARDEN SUBD.

Of a portion of Lot 270 Ninilchik Native ROW Map, HRD 84-115.
Located in the SW1/4 NE1/4 Section 16, T2S R12W, SM, Alaska.
Homer Recording District Kenai Peninsula Borough File 2014-054

Prepared for

Coby Harden
P.O. Box 365
Kenai, AK 99611

Prepared by

Johnson Surveying
Box 27
Clam Gulch, Ak 99568



SCALE 1" = 200' 15 May, 2014
AREA = 14.753 acres

NOTES

1. A building setback of 20' from all street ROWs is required unless a lesser standard is approved by a resolution of the appropriate planning commission. Front 15' of building setback is also a utility easement as is the entire setback within 5' of side lot lines.
2. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
3. Oil Well Road ROW shown is fitted to existing road, as dedicated by plat HRD 84-115.
4. Section monumentation is as shown on HRD 98-36; as referenced from HRD 2007-15, grid projection from Basis of Bearings.

LEGEND

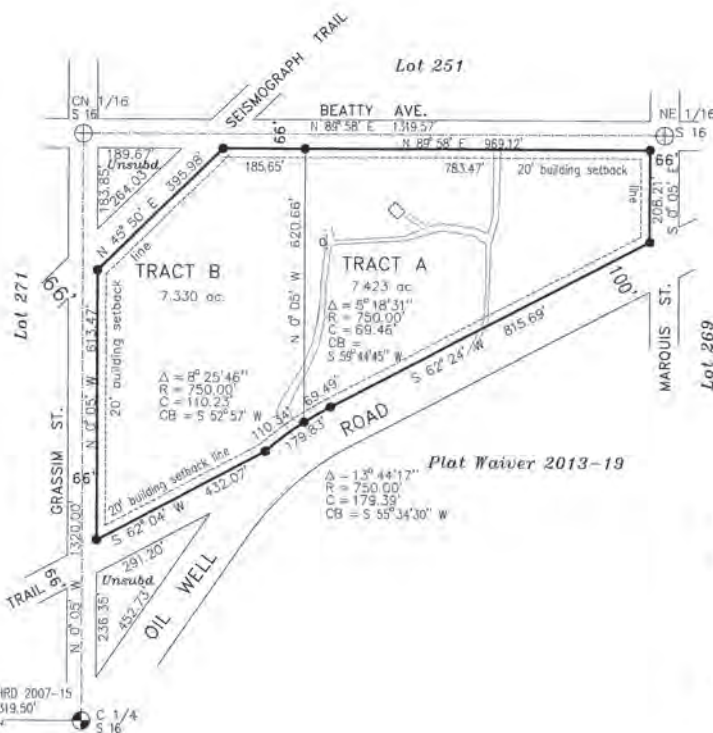
- ⊙ - 2 1/2" alcap monument, 7328-S, 2007, as per HRD 2007-15, found.
- ⊕ - 2 1/2" alcap on 5/8" x 6" rebar, set.
- - 1/2" x 4' rebar with plastic cap, set.
- ⊙ - 3 1/2" alcap monument, record; HRD 98-36.

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of 12 May, 2014

KENAI PENINSULA BOROUGH

By: Mary Best Sept 19, 2014
Authorized Official Date



OWNERSHIP CERTIFICATE

I hereby certify that I am the owner of the real property shown and described hereon; and that I hereby adopt this plan of replat, and by my free consent grant all easements to the use shown.

Coby Harden
P.O. Box 365 Kenai, AK 99611

NOTARY'S ACKNOWLEDGEMENT

For: Coby Harden
Subscribed and sworn to before me this 12
day of September, 2014.

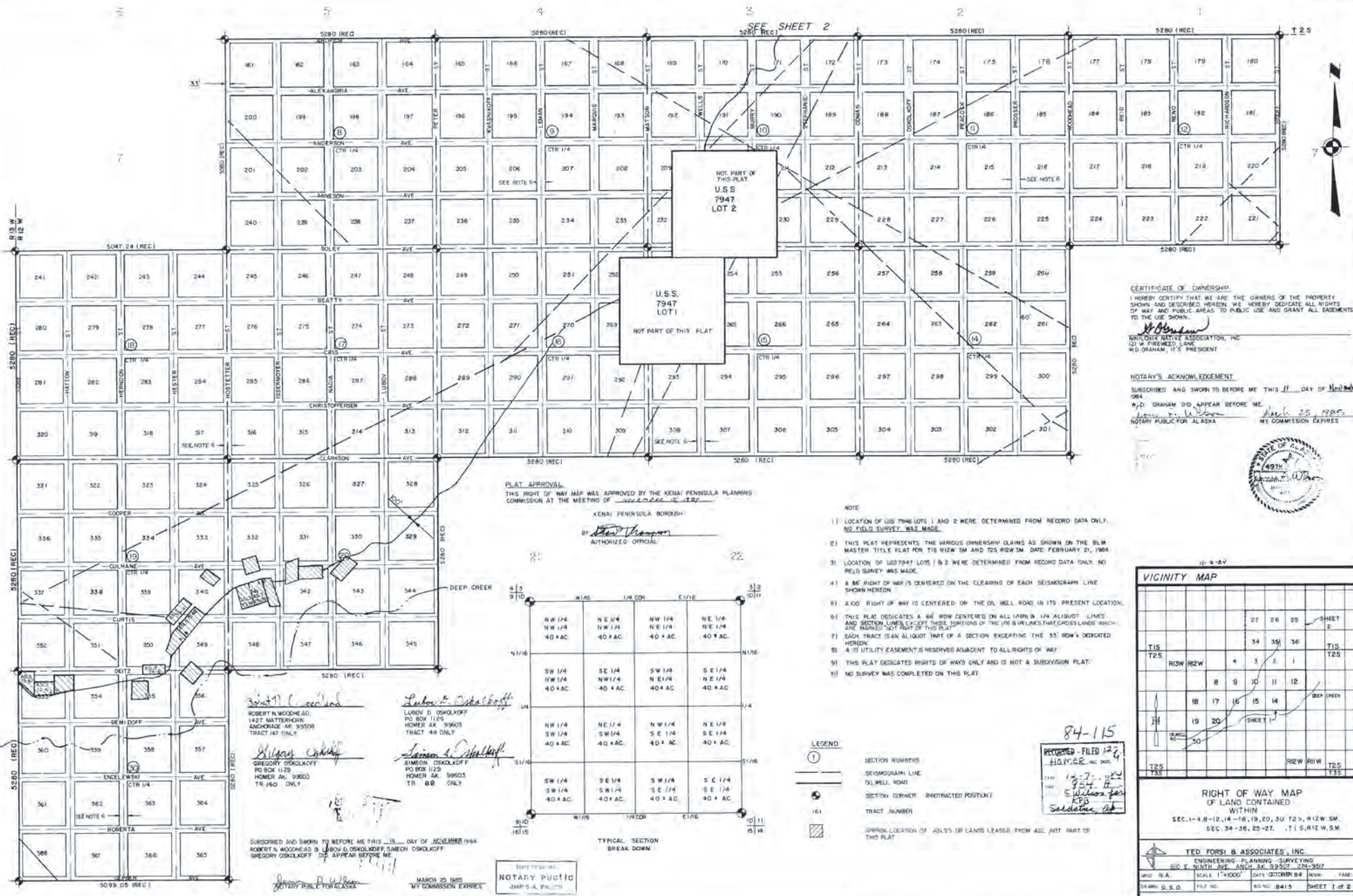
Patricia Hartley
Notary Public for Alaska

My commission expires 3-7-17



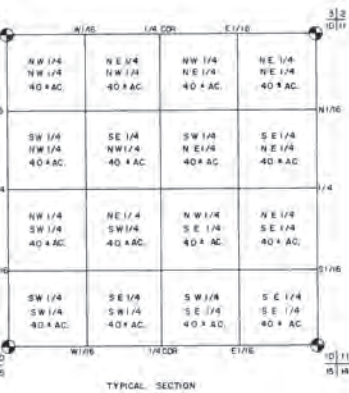
Wastewater Disposal

These tracts are at least 200,000 sq. ft., or nominal 3 acres, in size and conditions may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.



PLAT APPROVAL
THIS RIGHT OF WAY MAP WAS APPROVED BY THE KENAI PENINSULA PLANNING COMMISSION AT THE MEETING OF March 25, 1985
KENAI PENINSULA BOROUGH
BY [Signature]
AUTHORIZED OFFICIAL

- NOTE
- 1) LOCATION OF U.S. 7946 LOTS 1 AND 2 WERE DETERMINED FROM RECORD DATA ONLY. NO FIELD SURVEY WAS MADE.
 - 2) THIS PLAT REPRESENTS THE VARIOUS OWNERSHIP CLAIMS AS SHOWN ON THE BLM MASTER TITLE PLAT FOR T1S 12W 54M AND T2S 12W 54M. DATE FEBRUARY 21, 1984.
 - 3) LOCATION OF U.S. 7947 LOTS 1 & 2 WERE DETERMINED FROM RECORD DATA ONLY. NO FIELD SURVEY WAS MADE.
 - 4) A 66' RIGHT OF WAY IS CENTERED ON THE CLEARING OF EACH SEISMOGRAPH LINE SHOWN HEREON.
 - 5) A 66' RIGHT OF WAY IS CENTERED ON THE OIL WELL ROAD IN ITS PRESENT LOCATION.
 - 6) THIS PLAT DEDICATES A 66' ROW CENTERED ON ALL 1/4 IN 1/4 ALLOTMENT LINES AND SECTION LINES EXCEPT THOSE PORTIONS OF THE 1/4 IN 1/4 LINES THAT CROSS LINES WHICH ARE MARKED "NOT PART OF THIS PLAT".
 - 7) EACH TRACT IS AN ALLOTMENT OF A SECTION EXCEPTING THE 35' ROW'S DEDICATED HEREON.
 - 8) A 35' UTILITY EASEMENT IS RESERVED ADJACENT TO ALL RIGHTS OF WAY.
 - 9) THIS PLAT DEDICATES RIGHTS OF WAY ONLY AND IS NOT A SUBDIVISION PLAT.
 - 10) NO SURVEY WAS COMPLETED ON THIS PLAT.



[Signature]
ROBERT N. WOODHEAD
1427 WATERHORN
ANCHORAGE AK 99503
TRACT 44 ONLY

[Signature]
LUNDY D. OSKOLKOFF
PO BOX 1125
HOMER AK 99603
TRACT 44 ONLY

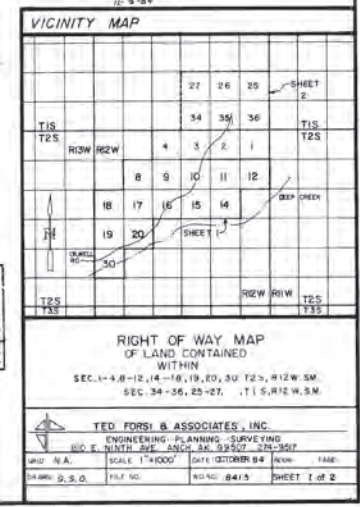
[Signature]
SIMON D. OSKOLKOFF
PO BOX 1125
HOMER AK 99603
TRACT 44 ONLY

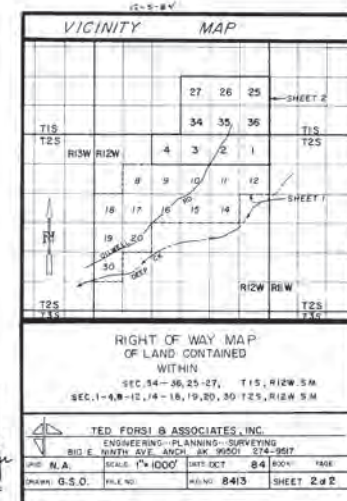
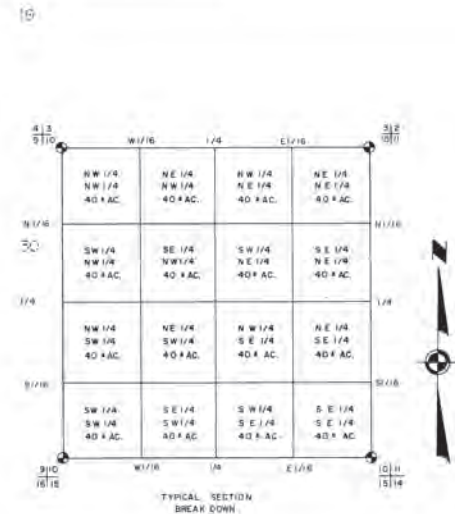
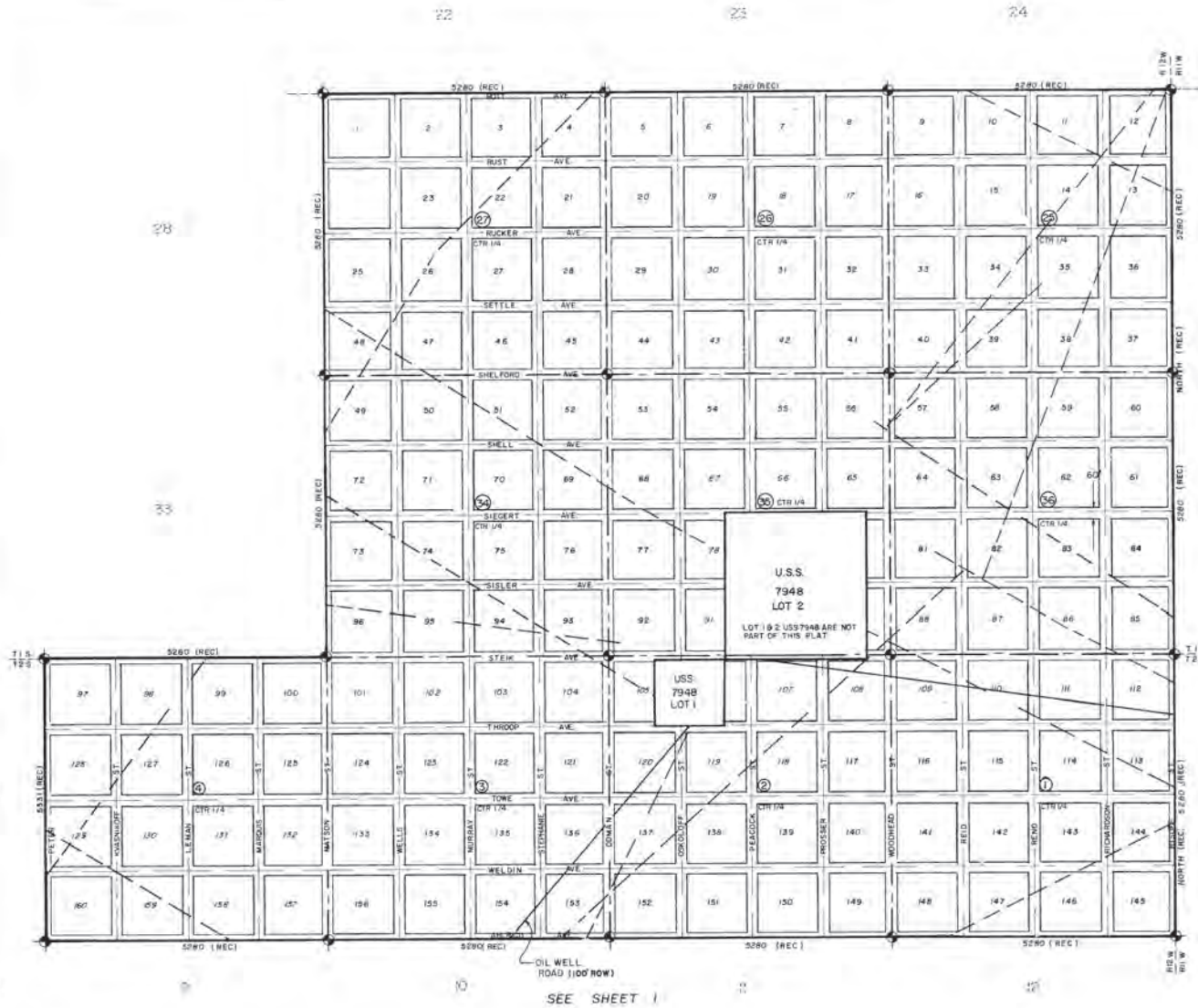
SUBSCRIBED AND SHOWN TO BEFORE ME THIS 19 DAY OF NOVEMBER 1984.
ROBERT N. WOODHEAD & LUNDY D. OSKOLKOFF SIMON D. OSKOLKOFF
GREGORY OSKOLKOFF
NOTARY PUBLIC FOR ALASKA

MARCH 25 1985
NOTARY PUBLIC
JAMES A. VILLIOTT

CERTIFICATE OF OWNERSHIP
I HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON. WE HEREBY DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.
[Signature]
NATIVE NATIVE ASSOCIATION, INC.
121 W. FREEMAN LANE
ANCHORAGE, AK 99501

NOTARY'S ACKNOWLEDGEMENT
SUBSCRIBED AND SHOWN TO BEFORE ME THIS 11 DAY OF NOVEMBER 1984.
W.D. GRAMHAM DID APPEAR BEFORE ME.
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES March 25, 1985





84-115
2-100-12
HOMER
12-7-84
S. Wilson
KPB
S. Wilson

HM 84-115

NINILCHIK ROW MAP