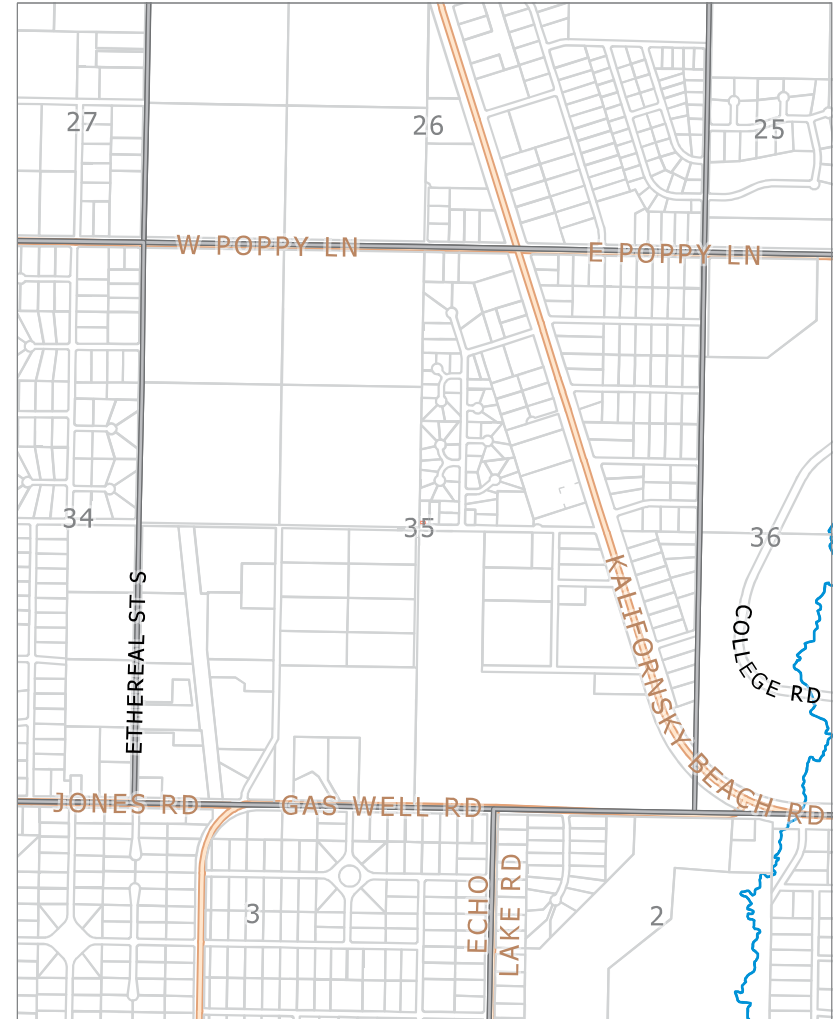


E. NEW BUSINESS

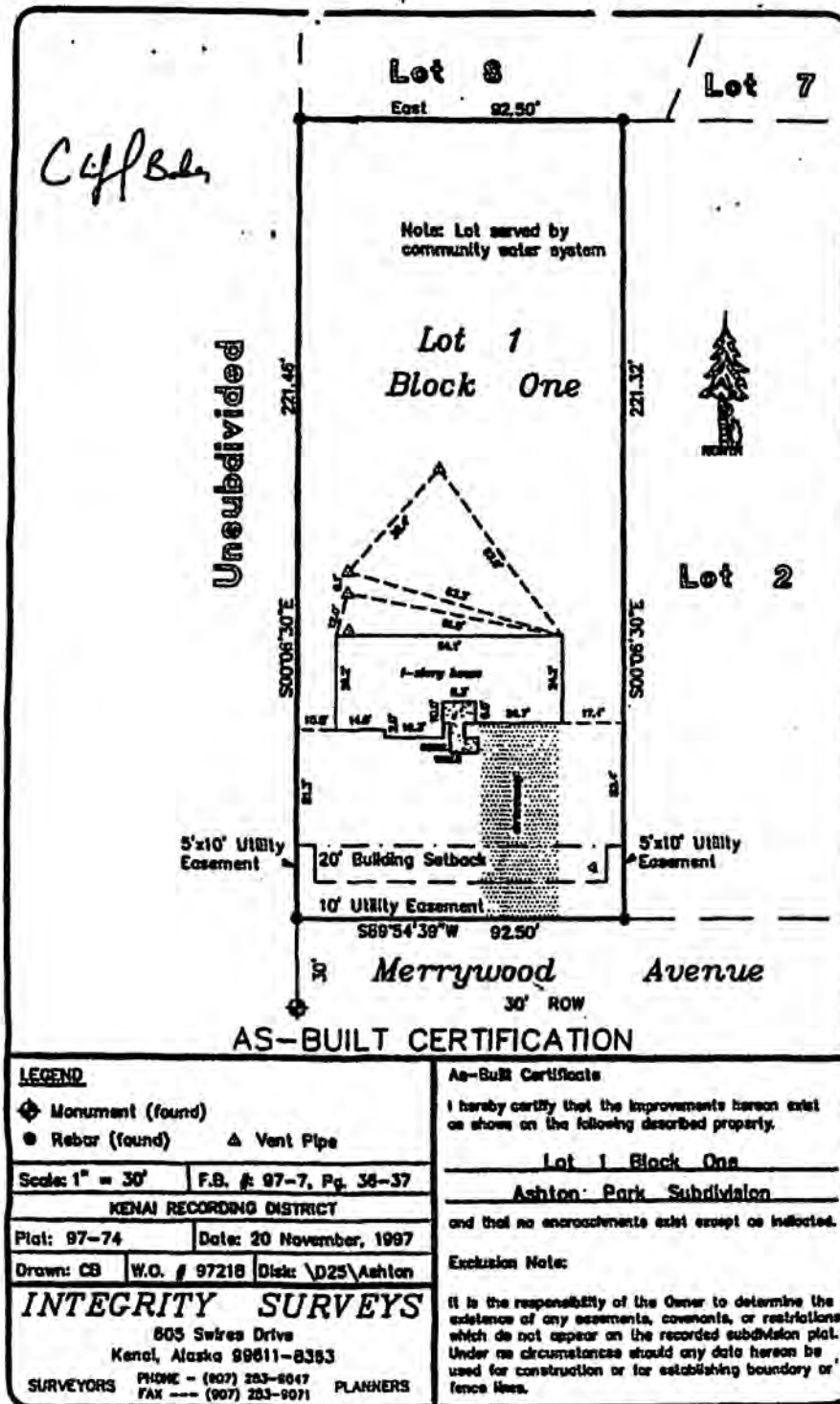
- 2. Building Setback Encroachment Permit; KPB File 2023-097**
Petitioner/Landowner Frison
Request: 40-foot garage to be constructed in the 20-foot
building setback
Location: Block 1, Lot 1, Ashton Park Subdivision
Plat KN 1997-074
Kalifornsky Area



KPB File 2023-097
T 05N R 11W SEC 35
Kalifornsky



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.



KPB 2023-097

HOUSE

small
window

utilities
on Right
side of
driveway

Proposed
Garage

driveway

utility
easement

Lot Line

40' Garage

Kitchen

Dining

Bedroom

Bedroom

Den

Bedroom

Living

Bath w/ tub

French Doors

French Doors

Glass Door

Covered Porch E2-5

30'

Quinton, Madeleine

From: Laurel Frison <laurelfrison@gmail.com>
Sent: Wednesday, September 6, 2023 10:20 AM
To: Quinton, Madeleine
Subject: <EXTERNAL-SENDER>Re: Ashton Park Subdivision Building Setback Permit KPB 2023-097

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

I meant to add a letter of explanation to the permit request, but it was so last minute and so much going on... and we already had a good contractor set up to work on it this month. So glad we looked at the As-Built.

The garage will be 20 feet wide by 24 foot long. We didn't realize when we planned this project that we had a 20 foot building setback and we misjudged the property line. A little pushed for space.

We're not able to put the garage in the back just because we'll have very limited access in the winter.

So while I don't really want a garage in our front yard it's our only choice.

Thank you so much for following up.

Laurel Frison

598-2011

Sent from my iPad

On Sep 6, 2023, at 10:06 AM, Quinton, Madeleine <mquinton@kpb.us> wrote:

Hello Laurel,

Staff has begun to work on your request to construct a garage within the 20-foot building setback of lot one block one of the above referenced subdivision. The application did not include a justification or dimensions for the garage you are looking to construct. Please respond to this email with those details, so that we can prepare a staff report for the Planning Commission.

Thank you,

Madeleine Quinton

Platting Specialist

Planning Department

Ph: (907) 714-2200

Fx: (907) 714-2378

<image001.png>

ITEM 2. – BUILDING SETBACK ENCROACHMENT PERMIT – ASHTON PARK SUBDIVISION

KPB File No.	2023-097
Planning Commission Meeting:	September 25, 2023
Applicant / Owner:	Laurel Frison of Soldotna, Alaska
Surveyor:	None
General Location:	Merrywood Avenue, Kalifornsky Area

Parent Parcel No.:	055-081-45
Assessor Description:	T 5N R 11W SEC 35 Seward Meridian KN 0970074 Ashton Park Sub Lot 1 Blk 1
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Resolution	2023-30

STAFF REPORT

Specific Request / Purpose as stated in the petition: The garage will be 20 feet wide by 24 foot long. We didn't realize when we planned this project that we had a 20 foot building setback and we misjudged the property line. A little pushed for space. We're not able to put the garage in the back just because we'll have very limited access in the winter. So, while I don't really want a garage in our front yard it's our only choice.

Site Investigation: The owners are requesting permission to construct a garage that would encroach approximately 9 feet by 24 feet into the building setback along borough maintained Merrywood Avenue. Merrywood Avenue is a 60-foot-wide right-of-way that reduced to 30 feet to the west. Road maintenance ends at the Merrywood Avenue and Herr Street intersection. When the unsubdivided parcel along the west boundary of the subject parcel is subdivided a matching dedication will be given to Merrywood Avenue to bring the dedication to the borough required 60 feet width.

There are several improvements located on the property. According to borough imagery taken May 12, 2023 there are several structures towards the north boundary of the lot behind the house. Per the justification letter the owner is requesting to build the garage in front of the house due to lack of space in the backyard. Along Merrywood Avenue there is a chain link fence shown on some aerial photos that is not shown on the as built that was submitted dated November 20, 1997. Per KPB Code 20.90 – Definitions – Permanent structures – transparent fencing is an allowable improvement. However, along the west boundary the fence is cedar and not transparent according to a more recent aerial photo. Staff is unable to determine if the cedar fence or the chain link fencing encroaches into the right-of-way or just within the setback. If the cedar portion of the fence is within the setback that portion will need to be removed or changed to chain link to comply with KPB code. If the permit is approved and both fences are removed from the parcel for construction **staff recommends the owner verify boundary lines and non-allowable fencing not be placed in the building setback or rights-of-ways.**

There are several vacant lots and unsubdivided parcels located to the west of the subject parcel. Traffic turning left on to Herr Street would have limited impact to line of sight as there is only one driveway currently to the northwest and this garage would be behind the vehicle. Traffic turning right on to Merrywood Avenue would not have line of sight issues. There are Google Earth Street Views in the area and are available in the packet.

Staff Analysis: This subdivision was created from an aliquot parcel within Section 35, Township 5N, Range 11W SM, KRD, Kenai Peninsula Borough, Alaska. The plat granted all utility easements and the building setback on Ashton Park Subdivision KN 97-74.

There is no steep terrain or classified wetlands within the boundary of the subject parcel.

This parcel is located within the Kalifornsky Advisory Planning Commission which is not currently active.

Merrywood Avenue is maintained by the Borough and maintenance ends at the west side of the subject property.

Findings:

1. There are several large parcels located west of the subject lot.
2. There is no steep terrain within the boundary of the lot.
3. There are no classified wetlands within the boundary of the lot.
4. A cedar fence is not an allowable improvement as defined by KPB 20.90 within setbacks.
5. There is limited space on the property to build a garage.
6. The lot is 20,479 sq. ft in size which is less than a half an acre (0.47 ac).
7. The septic field is located behind the house.
8. There will be no site issues.
9. Ashton Park Subdivision KN97-74 created the setbacks.
10. 11 feet of the building setback will remain.
11. Merrywood Avenue is currently not fully developed.
12. Merrywood Avenue is 60 feet in width.

20.10.110. – Building setback encroachment permits.

- E. The following standards shall be considered for all building setback encroachment permit applications. Staff recommends the Commission select the findings they determine are applicable to the standards and vote on them:

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

Findings 5 - 8, 10 & 12 appear to support this standard.

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

Findings 5 – 7, & 10 – 12 appear to support this standard.

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

Findings 5 – 8, & 10 – 12 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: Griebel, Scott
	Comments:

	No comments
SOA DOT comments	DOT ROW Engineering has no comments on these setbacks.
KPB River Center review	<p>A. Floodplain Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: VACANT Comments:</p>
State of Alaska Fish and Game	
Addressing	<p>Reviewer: Leavitt, Rhealyn Affected Addresses: 47490 MERRYWOOD AVE</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: MERRYWOOD AVE</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: No other comments</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: Construction of the structure would be a violation of the 20 ft set back if, it is not approved.</p>
Planner	<p>Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat. Review Not Required</p>
Assessing	<p>Reviewer: Windsor, Heather Comments: No comment</p>

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to grant approval for the portion of the structures within the 20 foot building setback as shown on the sketch, subject to:

1. Compliance with KPB 20.10.110 sections F and G.
2. Providing a current as-built to be used as an exhibit drawing prepared, signed, and sealed by a licensed land surveyor after construction is complete.
3. The recording fees be submitted to the Kenai Peninsula Borough Planning Department for the recording of the resolution.
4. Failure to provide an as-built so that it may be recorded within one year approval will result in a new application, hearing, and approval.
5. Additional encroachments found on the new as-built will require a new hearing.

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

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2023-30
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR LOT 1 BLOCK 1, ASHTON PARK SUBDIVISION (KN 097074); IN NE 1/4 S35, T05N, R11W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2023-097

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; and

WHEREAS, Laurel A Frison of Soldotna, AK requested a building setback encroachment permit to the 20-foot building setback granted by Ashton Park Subdivision (KN 097074); and

WHEREAS, per the petition;

WHEREAS, the encroaching structure does not affect sight distance along the right-of-way; and

WHEREAS, on Monday, September 25, 2023, 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 encroachment 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 accomplish building setback encroachment permits by Resolution.

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

Section 1. That the 20-foot building setback limit on KN 097074 Lot 1 Block 1 is hereby excepted to accommodate only the encroaching portion of the Structure.

Section 2. That any new, replacement, and/or additional construction will be subject to the 20-foot building setback limit.

Section 3. That the 20-foot building setback limit shall apply to the remainder of said lot.

Section 4. That a current as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the location of the encroachment within the building setback be attached to, and made a part of this resolution, becoming page 2 of 2.

Section 5. That this resolution is void if not recorded in the appropriate Recording District within 90 days of adoption.

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

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____, 2023.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg,
Administrative Assistant

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

Images taken from Google Earth by staff on 9/6/2023 MQ





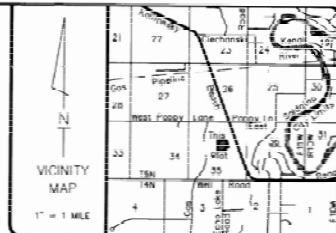
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

KN 97-74

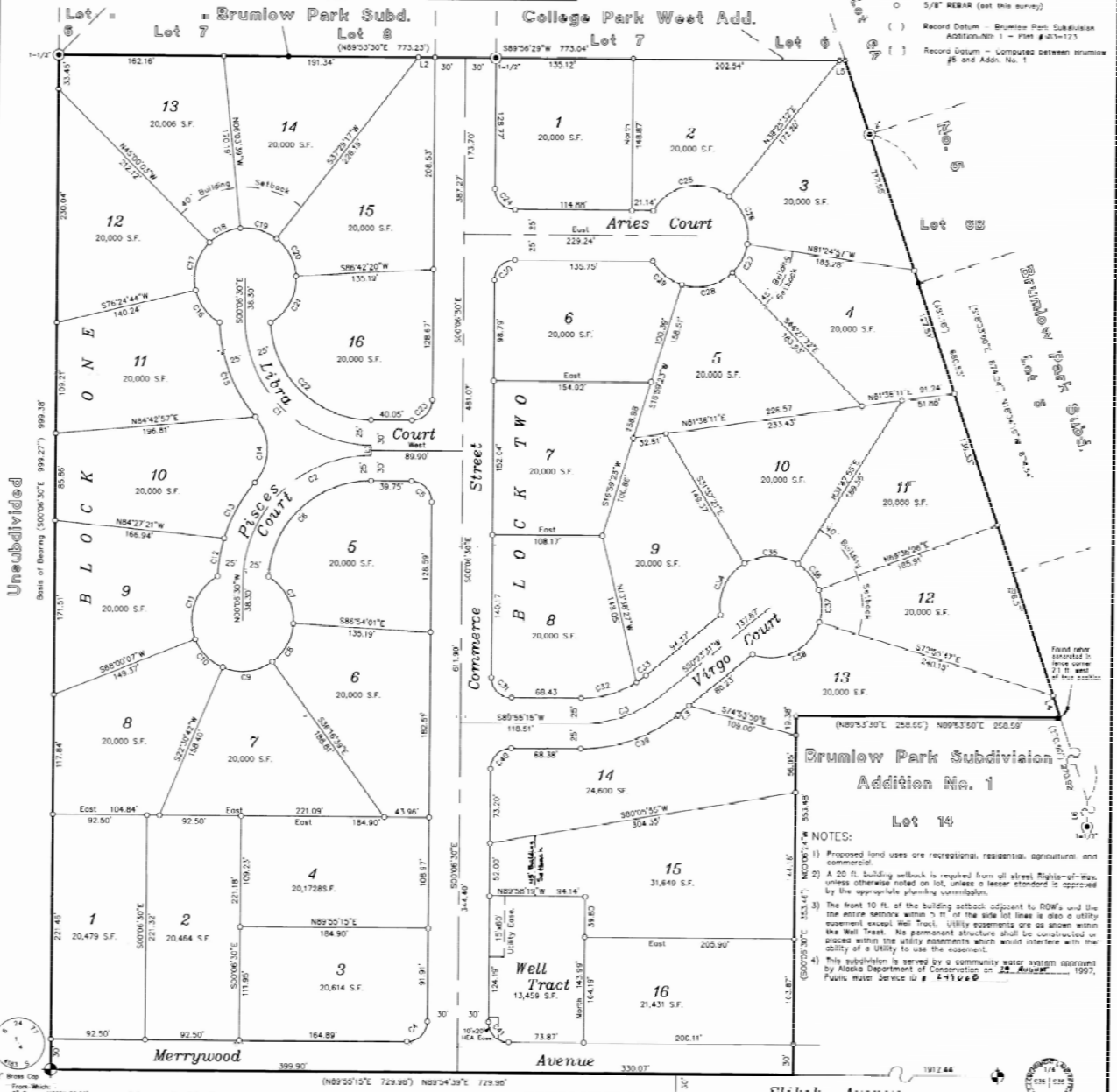
KPB NOTE: See PC Resolution 98-34

No.	Bearing	Radius	Area Length	Chord Length	Chord Bearing	No.	Bearing	Radius	Area Length	Chord Length	Chord Bearing
C1	89°58'08"	125.00	196.32	176.75	N45°05'04"W	C27	56°57'25"	50.00	32.25	31.69	N27°03'45"E
C2	90°00'51"	125.00	196.38	176.80	N44°53'56"E	C28	61°06'56"	50.00	32.25	31.69	N26°40'55"E
C3	38°31'44"	125.00	86.24	84.54	N70°09'23"E	C29	43°00'37"	50.00	32.25	31.69	N45°01'08"W
C4	90°01'09"	20.00	31.42	28.29	S44°54'05"W	C30	90°06'30"	20.00	31.45	28.31	S44°56'45"W
C5	89°53'30"	20.00	31.36	28.26	S45°03'15"E	C31	89°58'15"	20.00	31.41	28.28	S45°05'37"E
C6	87°16'58"	100.00	152.34	138.03	N46°01'11"E	C32	57°46'50"	100.00	52.50	56.72	N72°58'48"E
C7	63°02'50"	50.00	55.02	52.28	N28°25'26"W	C33	06°34'43"	100.00	11.48	11.48	N57°40'53"E
C8	56°37'22"	50.00	44.18	42.75	N28°24'40"E	C34	67°29'08"	50.00	28.37	28.37	N64°23'00"E
C9	58°41'24"	50.00	51.30	49.08	N65°07'02"E	C35	63°23'18"	50.00	29.55	29.55	S89°54'43"E
C10	45°29'25"	50.00	39.70	36.69	S44°44'44"W	C36	37°48'31"	50.00	32.89	32.89	S38°17'20"E
C11	82°00'08"	50.00	71.58	65.61	S19°00'11"W	C37	37°27'47"	50.00	32.69	32.69	S01°39'40"E
C12	44°30'23"	150.00	37.88	37.88	S09°04'26"W	C38	93°10'18"	50.00	41.44	72.73	S63°43'52"W
C13	24°06'23"	150.00	63.17	63.17	S28°22'49"W	C39	39°33'44"	150.00	103.49	101.45	S70°09'23"W
C14	81°05'00"	50.00	70.76	65.00	S02°08'30"E	C40	90°01'45"	20.00	31.43	28.20	N44°54'23"E
C15	38°36'45"	150.00	101.09	99.19	S21°20'37"E	C41	68°58'51"	20.00	31.41	28.28	N45°05'56"W
C16	46°37'59"	50.00	40.10	38.28	S36°54'15"E						
C17	58°30'13"	50.00	51.13	48.33	S19°42'11"W						
C18	38°56'24"	50.00	33.89	33.33	S64°28'09"W						
C19	47°32'55"	50.00	38.00	37.10	N74°17'11"W						
C20	49°15'03"	50.00	42.85	41.84	N22°54'12"W						
C21	63°01'30"	50.00	55.00	52.27	N28°13'05"E						
C22	87°03'57"	100.00	151.96	137.75	N46°28'02"W						
C23	50°06'30"	20.00	31.45	28.31	S44°56'45"W						
C24	89°53'30"	20.00	31.36	28.26	N45°03'15"E						
C25	88°25'32"	50.00	85.89	75.71	S79°12'42"W						
C26	50°02'31"	50.00	52.50	50.12	N21°29'43"E						

No.	Bearing	Distance
1	S00°28'10"E	10.00'
2	S02°26'20"E	15.40'
3	S50°22'51"W	14.14'
4	N18°34'18"W	22.58'
5	S89°58'29"W	5.40'
6	N00°04'21"W	55.00'
11	S00°44'45"E	55.00'



- LEGEND:**
- MONUMENT (found this survey)
 - Alum. Cap Property Cor. (found this survey)
 - 1/2" REBAR (found this survey)
 - 5/8" REBAR (not this survey)
 - Record Datum - Brumley Park Subdivision Addition No. 1 - FST # 40-123
 - Record Datum - Computed between Brumley Park Subd. and Addn. No. 1



Brumley Park Subdivision Addition No. 1

Lot 14

NOTES:

- Proposed land uses are recreational, residential, agricultural and commercial.
- A 20 ft. building setback is required from all street Right-of-Way, unless otherwise noted on lot, unless a lesser standard is approved by the appropriate planning commission.
- The least 10 ft. of the building setback adjacent to ROW's and the entire setback within 5 ft. of the side lot lines is also a utility easement except Well Tract. Utility easements are as shown within the Well Tract. No permanent structures shall be constructed or placed within the utility easements which would interfere with the ability of a utility to use the easement.
- This subdivision is served by a community water system approved by Alaska Department of Conservation on 12 August 1997. Public water service is # 4-11-66-0.

CERTIFICATE of OWNERSHIP and DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER(S) OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPTE THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

I FURTHER CERTIFY THAT DEED(S) OF TRUST AFFECTING THIS PROPERTY DO NOT CONTAIN RESTRICTIONS WHICH WOULD PROHIBIT THIS REPEAT, OR REQUIRE SIGNATURE AND APPROVAL OF BENEFICIARY(IES).

Christ D. Hall
Christ D. Hall
P.O. Box 2829
Kenai, Alaska 99611

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN before me this 29th DAY of Oct 1997 for *Christ D. Hall*

Anna M. Johnson
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 6-23-2001

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF 18 October 1997

[Signature]
APPROVED OFFICIAL

WASTEWATER DISPOSAL No wastewater will be generated or disposed of on Well Tract. Sanitation, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer, registered in practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

St. Petersburg
3300-E License # 290497 Date

CERTIFICATE OF SURVEYOR

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska; this plat represents a survey made by me or under my direct supervision; the monuments shown herein actually exist as described, and all dimensions and other details are correct to the normal standards of practice of land surveyors in the State of Alaska.

[Signature]
STATE OF ALASKA
4937
C. PRO E. BACH
12-12-2012

47-74
RECORDED 80-
Kenai REC. DIST.
DATE 11-12-97
TIME 1:19 PM
REGISTERED BY
INTEGRITY SURVEYS
805 SWANSON DRIVE
KENAI, ALASKA 99611

KPD FILE No. 97-034

Ashton Park Subd.

Located within the CW/4 NE1/4 of Section 35, T24N, R11W, S4M, Kenai Recording District, Kenai Peninsula Borough, Alaska.

Containing 18,970 Acres

INTEGRITY SURVEYS

500 SWANSON DRIVE Kenai, Alaska 99611-8563
SURVEYORS PHONE (907) 261-9847 FAX (907) 261-8571 PLANNERS

JOB NO. 97009 DRAWN: 14 October, 1997 GS
SURVEYED: April - October 1997 SCALE: 1" = 80'
FIELD BK: 97-3, Pg. 24- DISK: 1/3/2014/Ashton