

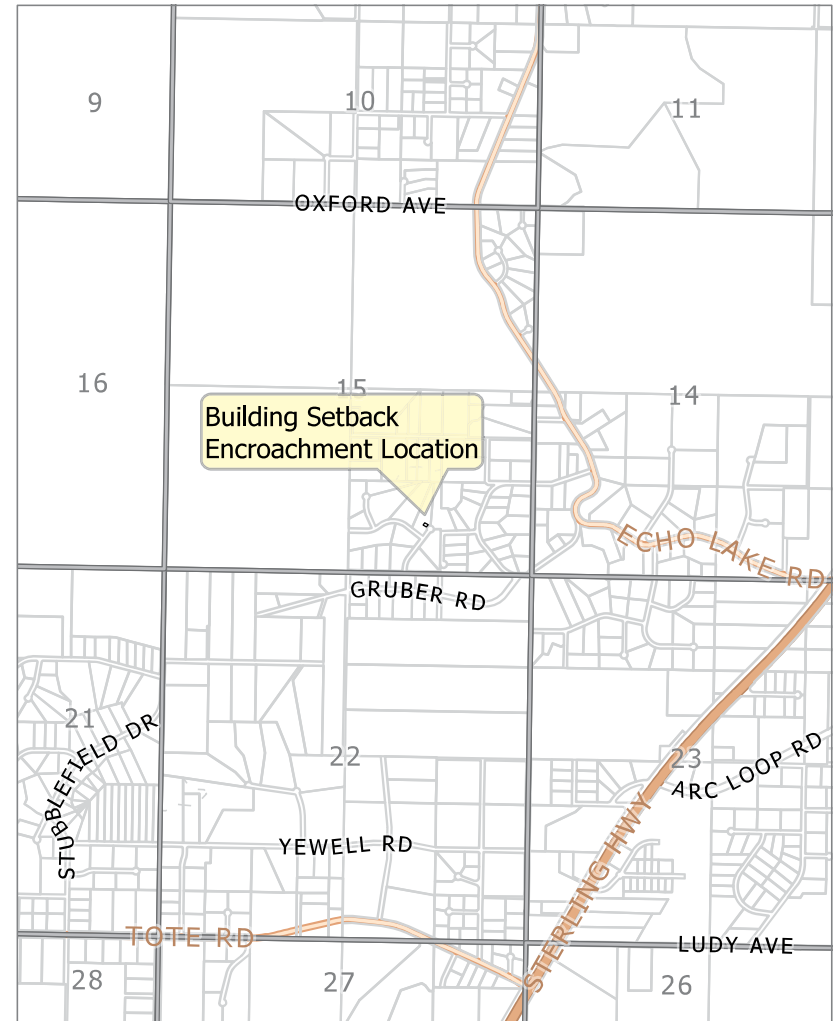
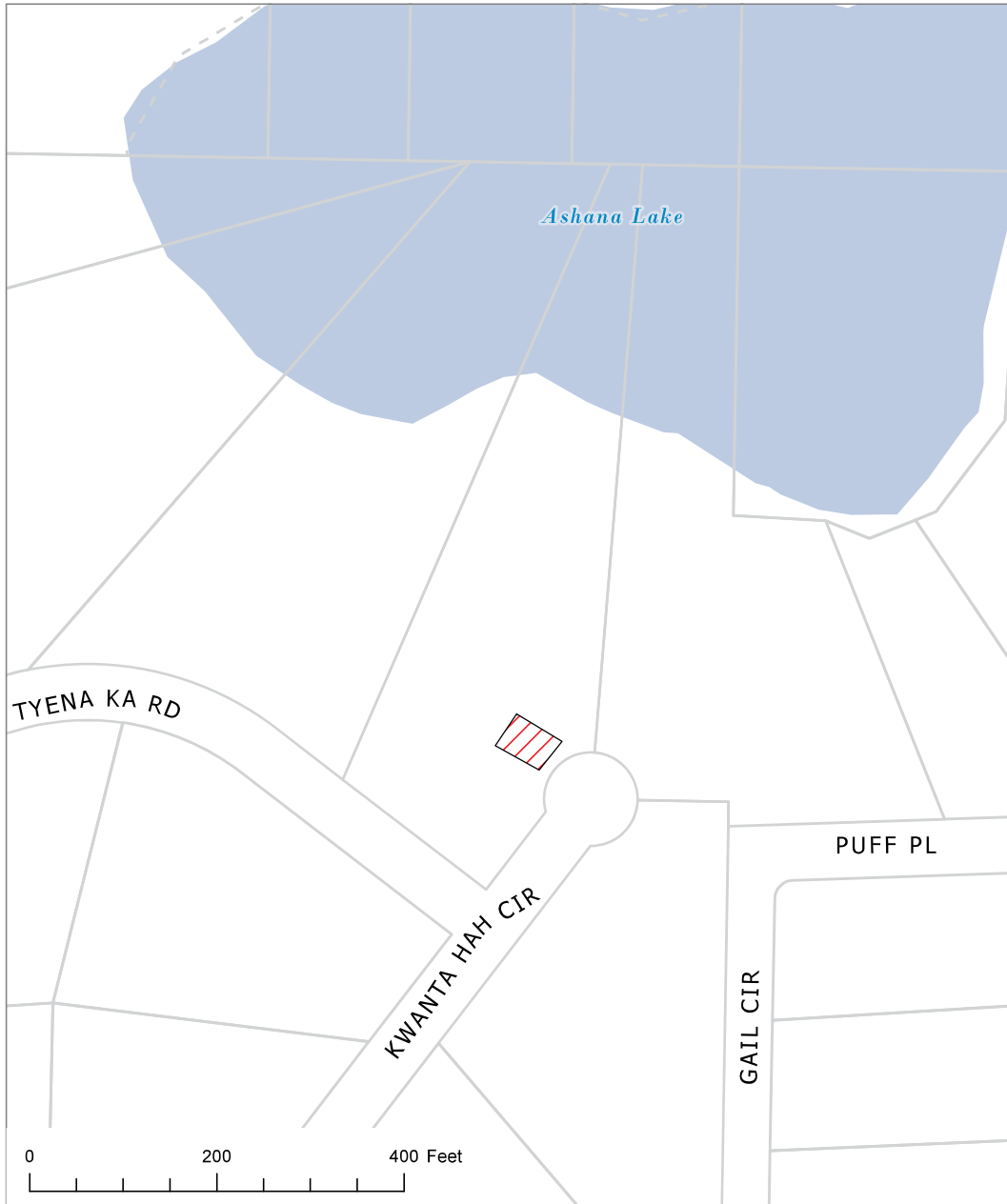
E. NEW BUSINESS

2. Building Setback Encroachment Permit; KPB File 2024-116

Segesser Surveys / Musgrove

Request: Permits a portion of the house to remain approximately 4' within the 20' building setback on Lot 5, Tukakna Sky Subdivision, Plat KN 82-110

**Location: Tyena Ka Road & Kwanta Hah Circle
Kalifornsky Area**



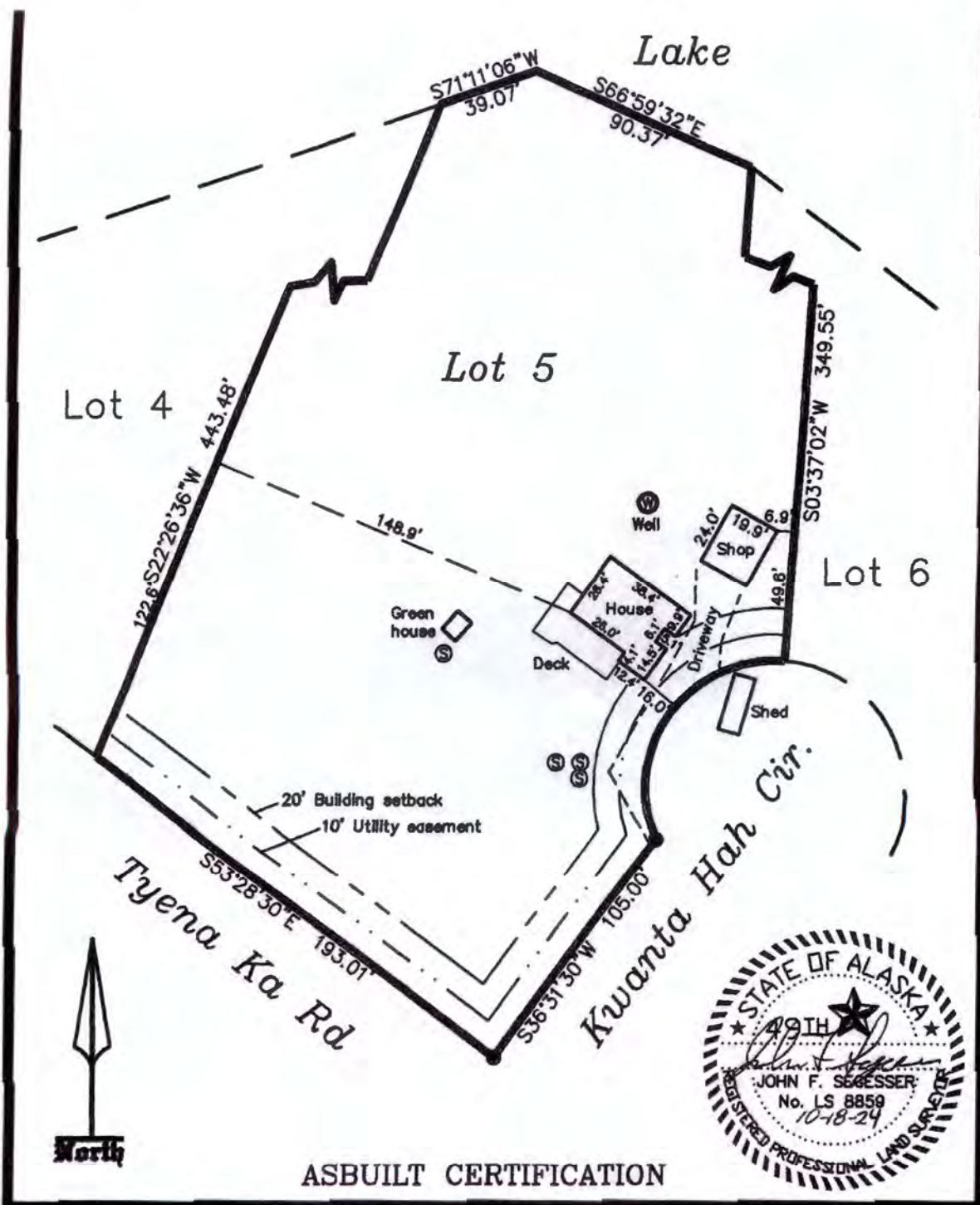
KPB File 2024-116
T 04N R 11W SEC 15
Kalifornsky



Aerial Map



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.



LEGEND

- Found Rebar
- Ⓢ Sewer vent

KENAI RECORDING DISTRICT		Plat: 82-110
Date: 10-18-24	Scale: 1"=50'	Drawn: JFS
Job: 24242	Book: 24-3	

SEGESSER SURVEYS

30485 ROSLAND ST.
SOLDOTNA, AK 99669
(907) 262-3909

I hereby certify that I have surveyed the following described property:

Lot 5

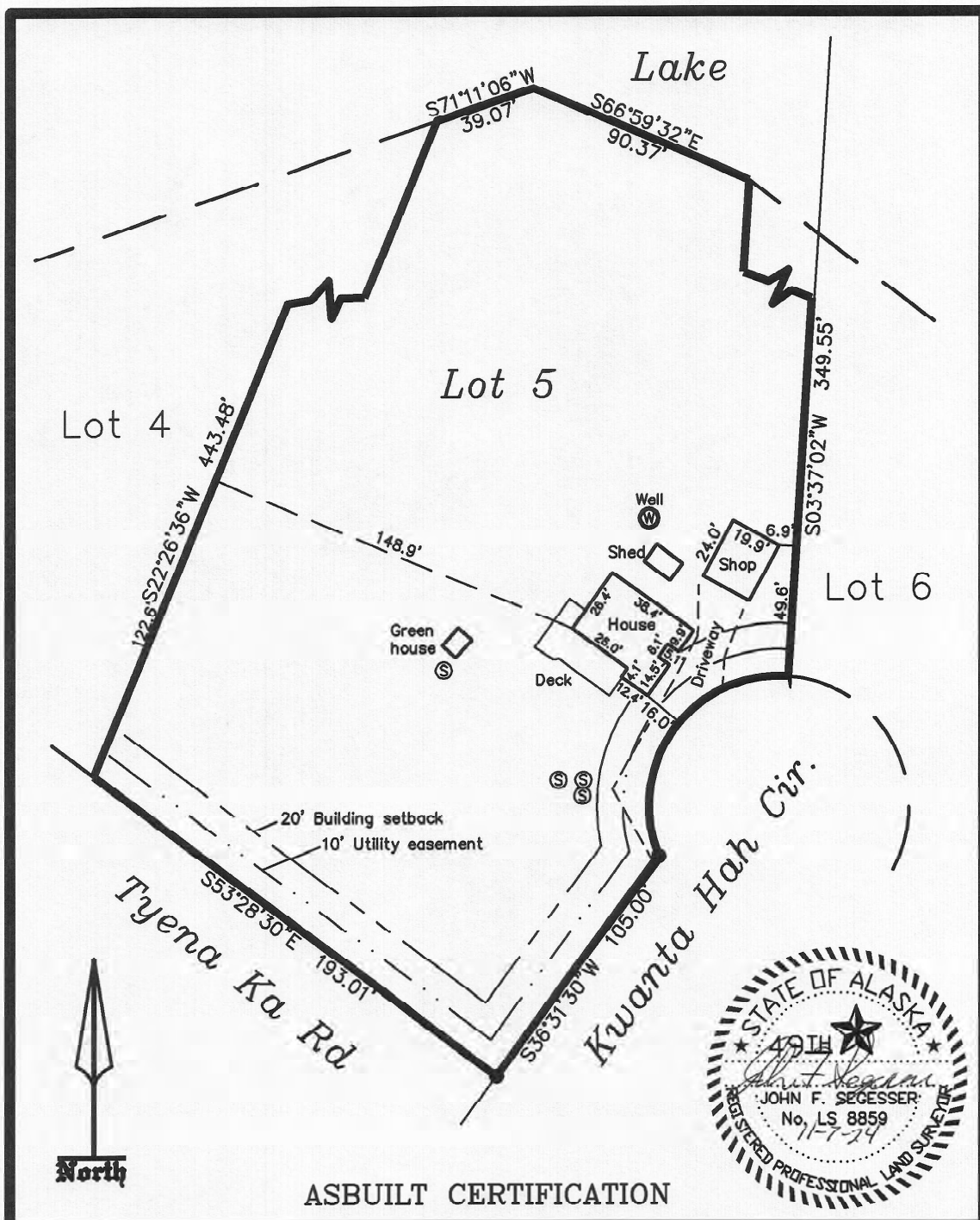
Tukakna Sky Subdivision

and that no encroachments exist except as indicated.

Exclusion Note:

It is the responsibility of the Owner to determine the existence of any easements, covenants, or restrictions which do not appear on the recorded subdivision plat. Under no circumstances should any data hereon be used for construction or for establishing boundary or fence lines.

KPB 2024-116



LEGEND

- Found Rebar
- ⊙ Sewer vent

KENAI RECORDING DISTRICT		Plat: 82-110
Date: 11-7-24	Scale: 1"=50'	Drawn: JFS
Job: 24242	Book: 24-3	

SEGESSER SURVEYS
 30485 ROSLAND ST.
 SOLDOTNA, AK 99669
 (907) 262-3909

I hereby certify that I have surveyed the following described property:

Lot 5

Tukakna Sky Subdivision

and that no encroachments exist except as indicated.

Exclusion Note:

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Homes are built
already.

1. Does not interfere
w/ road maintenance

2. Does not interfere w/
Site lines or distances

3. Does not create
a safety hazard.



Legend

Physical Addresses



Transportation

Mileposts

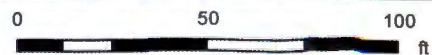


Roads

- Medium Collector
- Medium Volume - Unmaintained
- Medium Volume - Maintained
- Low / Seasonal
- Legal Trail
- Private
- State Hwy
- Platted / Proposed

Parcels and PLSS

Tax Parcels



NOTE: Every reasonable effort has been made to ensure the accuracy of these data. However, by accepting this material, you agree that the Kenai Peninsula Borough assumes no liability of any kind arising from the use of this data. The data are provided without warranty of any kind, either expressed or implied, including but not limited to time, money or goodwill arising from the use, operation or modification of the data. In using these data, you further agree to indemnify, defend, and hold harmless Kenai Peninsula Borough for any and all liability of any nature arising from the lack of accuracy or correctness of the data, or use of the data.

Only 2
homes use
the cul-de-sac.



Legend

Physical Addresses



Transportation

Mileposts



Roads

Medium Collector

Medium Volume -

Unmaintained

Medium Volume -

Maintained

Low / Seasonal

Legal Trail

Private

State Hwy

Platted / Proposed

Parcels and PLSS

Tax Parcels



0 300 600
ft

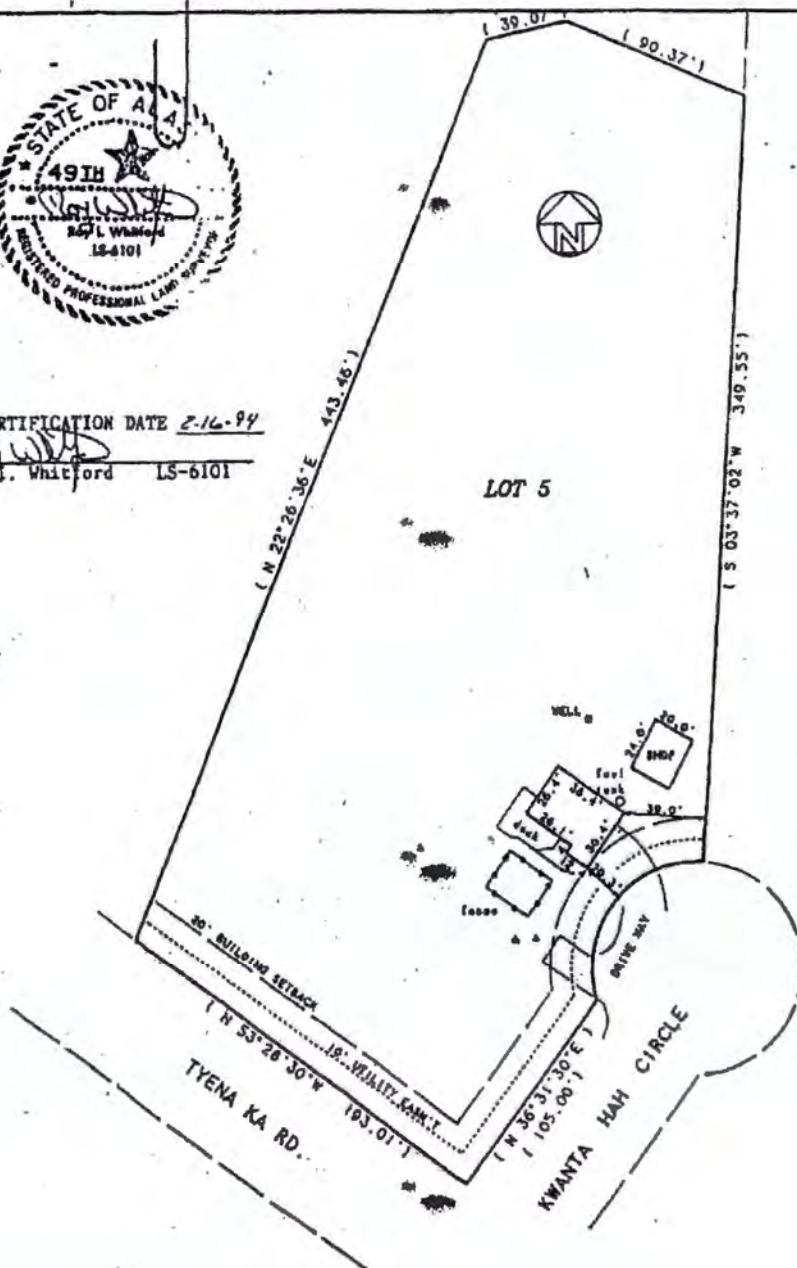
NOTE: Every reasonable effort has been made to ensure the accuracy of these data. However, by accepting this material, you agree that the Kenai Peninsula Borough assumes no liability of any kind arising from the use of this data. The data are provided without warranty of any kind, either expressed or implied, including but not limited to time, money or goodwill arising from the use, operation or modification of the data. In using these data, you further agree to indemnify, defend, and hold harmless Kenai Peninsula Borough for any and all liability of any nature arising from the lack of accuracy or correctness of the data, or use of the data.

As built
I was provided
when I bought
home.



RECERTIFICATION DATE 2-16-94

Roy L. Whitford LS-6101



AS-BUILT CERTIFICATION

I hereby certify that I have surveyed the following described property:

LOT 5 - TUKAKNA SKY SUBD.

and that no encroachments exist except as indicated.

EXCLUSION NOTE:

It is the responsibility of the owner to determine the existence of any easements, covenants, or restrictions which do not appear on the recorded subdivision plat. Under no circumstances should any data hereon be used for construction or for establishing boundary or fence lines.

LEGEND

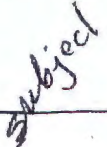
- ⊙ Fnd. official monument
- Fnd.
- Well
- △ Septic Vent Pipe
- () Record Data

WHITFORD SURVEYING
1902 Wyatt Way - Kenai, Alaska
283-4928

Date 11/16/90	Scale 1" = 60'
Drawn By RW	W.O. 93-1532

Plat of
map of
only 3 homes
sharing cul-de-sac.

NOTICE



S1/2 SE1/4 SEC. 15, T04N, R11W, S.M.

131-690

WALLACE
ADDN.

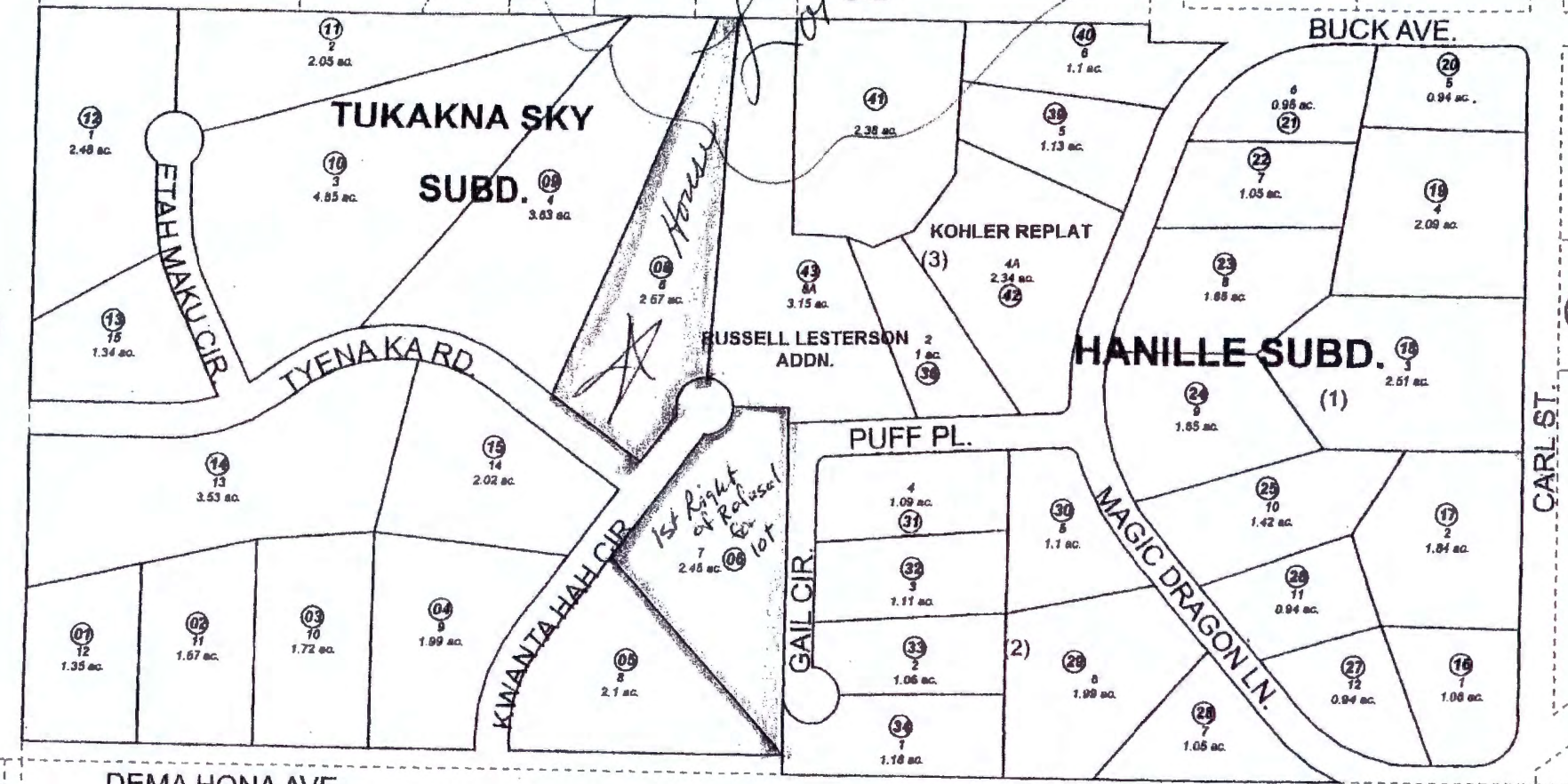
7 & 8

090

090

0.5

090



JULY 19, 2007

For 2008 assessment roll

Delete	Add	Revise
To		
7,35	43	

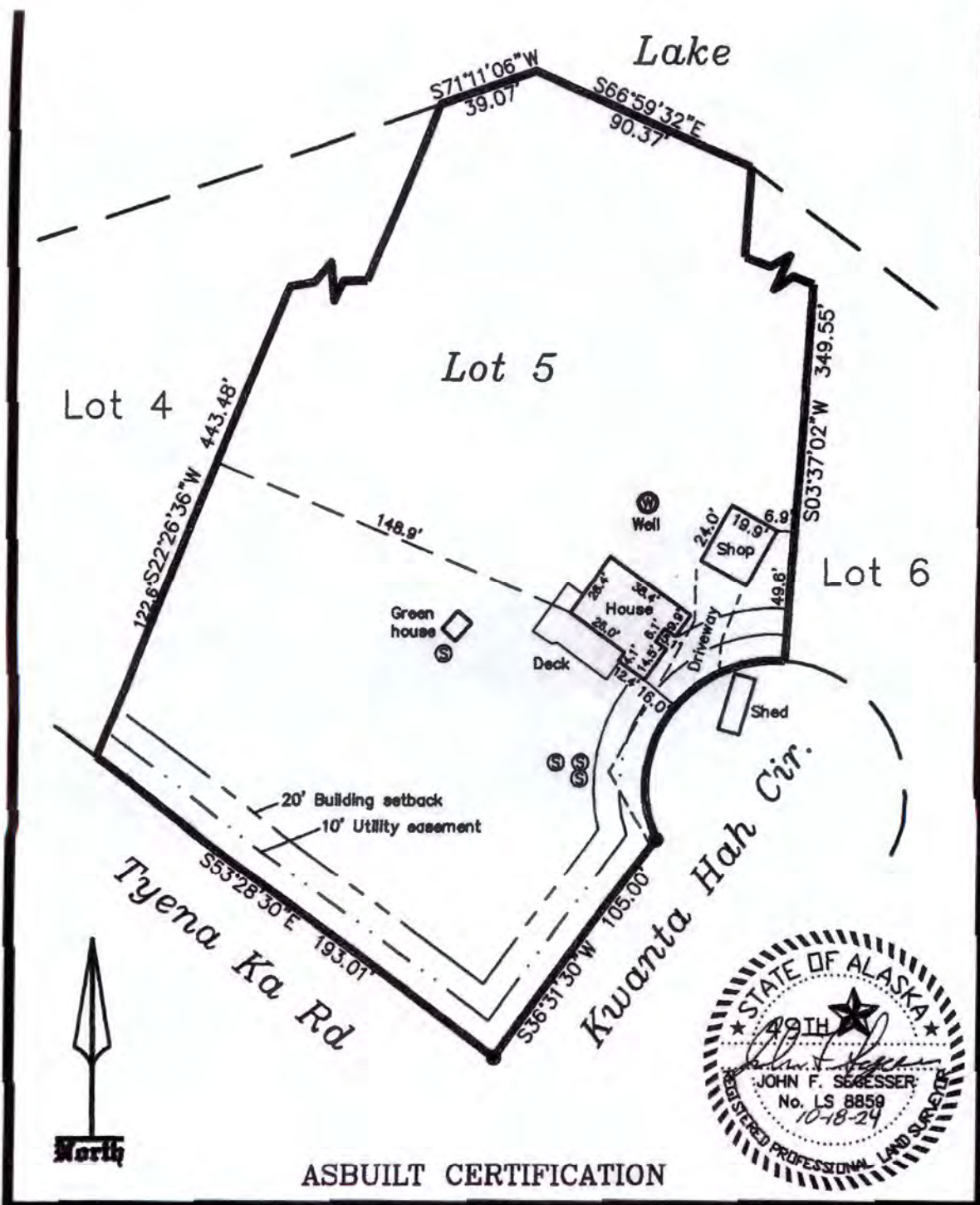
Assessor's Map
Kenai Peninsula Borough

TUKAKNA SKY SUBD KN0820110
HANILLE SUB AMENDED KN0930043
HANILLE SUB KOHLER REPLAT KN2002057
TUKAKNA SKY SUB RUSSELL LESTERSON ADDN KN2007052

This map is prepared for Kenai Peninsula Borough Assessor use only and is not intended for conveyance or as a survey.

Note- Assessor's block Numbers Shown in
Assessor's Parcel Numbers Shown in

As built
I had done
that shows
encroachment
of home.
Shed is not
or foundation



ASBUILT CERTIFICATION

LEGEND

- Found Rebar
- Ⓢ Sewer vent

KENAI RECORDING DISTRICT		Plat: 82-110
Date: 10-18-24	Scale: 1"=50'	Drawn: JFS
Job: 24242	Book: 24-3	

SEGESSER SURVEYS

30485 ROSLAND ST.
SOLDOTNA, AK 99669
(907) 262-3909

I hereby certify that I have surveyed the following described property:

Lot 5

Tukakna Sky Subdivision

and that no encroachments exist except as indicated.

Exclusion Note:

It is the responsibility of the Owner to determine the existence of any easements, covenants, or restrictions which do not appear on the recorded subdivision plat. Under no circumstances should any data hereon be used for construction or for establishing boundary or fence lines.

From: [Piagentini, Vincent](#)
To: [Carpenter, Beverly](#)
Subject: FW: <EXTERNAL-SENDER>31115 Kwanta Hah Circle Soldotna Alaska 99669
Date: Tuesday, October 22, 2024 4:31:49 PM
Attachments: [From Home Down To Where Road Approaches Two Driveways.pdf](#)
[End Of Maintained Part Of Road Where Two Driveways Split.pdf](#)
[Driveway From End Of Maintained Part Of The Road.pdf](#)
[Neighbors Driveway Adjacent That Goes Up The Hill To The Right.pdf](#)
[VINCE -10222024154708.pdf](#)
[image001.png](#)
[image002.png](#)

Beverly

This is additional finding and pictures to go along with one of the building setback encroachment petitions in the bin to be processed. They came in today and I told them they needed more findings and pictures would help also.

[Vince Piagentini PLS](#)

Platting Manager, Planning Department

Phone: 907-714-2200 {Office}

Phone: 907-714-2212 {Direct}

Fax: 907-714-2378



Kenai Peninsula Borough

144 N. Binkley St. Soldotna, AK 99669

kpb.us

From: Katherine Uei <katieuei@gmail.com>
Sent: Tuesday, October 22, 2024 4:15 PM
To: Piagentini, Vincent <vpagentini@kpb.us>; james musgrove <jamesmusgrove907@gmail.com>
Subject: <EXTERNAL-SENDER>31115 Kwanta Hah Circle Soldotna Alaska 99669

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.

Hey Vince

It was nice meeting with you today. I want to thank the planning and zoning department for looking into this and helping us. James (current owner) bought the home in 2020 and was given an inaccurate as built (See attached) from Swan Surveying. He is not the original owner or builder. He had no idea this was an issue. Now that he is selling we are aware of the issues with the new as built. James Musgrove (current owner) is in the process of hiring someone to move the shed out of the cul-de-sac. This will be done prior to November 18th with proof provided via pictures. What time November 18th is the hearing?

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

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

A) Road Maintenance stops right at approaching the cul-de-sac. This is approximately 100 foot from the home. Road maintenance will not be affected by this change. See parcel viewer picture attached where the road meets the cul-de-sac is where the maintenance stops. The borough has never maintained the cul-de-sac.

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

A) The road maintenance stops approximately 100 foot from the home. Off the main road the cul-de-sac is not developed as a cul-de-sac. It has never been developed into a cul-de-sac standard for the borough to maintain. There are two driveways (Subject properties & adjacent property) coming through the cul-de-sac now. The neighbors property has a driveway that is elevated and mine is lower. The driveways span far apart from one another quite a bit. This change will not affect any site lines or distances.

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

A) The road maintenance stops approximately 100 foot from the home before the cul-de-sac. The borough does not maintain the cul-de-sac. Currently the subject property driveway and the adjacent driveway span far from each other. Neither property owner goes into each other's driveway. There is no safety hazard. Both driveways have great line of sight going in and out to the maintained road. They can both safely enter and exit.

The home has a slab foundation. Every addition was built with a permanent foundation. There is no way to move the home due to the way it was built. I have attached a picture of the home's foundation below.



Katherine Uei

Cell (907) 398-3864

<https://www.facebook.com/katieuei/>



"Real estate is the simplest, most consistent and easiest way to substantially increase your net worth!"

"You can have everything in life you want if you'll just help enough other people to get what they want!" -- Zig Ziglar

"Honesty and integrity will govern our actions Commitments made will be fulfilled Everyone will be treated with dignity and respect"

"Do you know anyone looking to buy or sell real estate? Please allow me the opportunity of contacting and assisting them. The highest compliment I could ever receive is a referral from your friends and family."

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CONFIDENTIALITY NOTICE:

This electronic mail transmission, and any attachment to it, contains privileged and confidential information intended only for the personal and confidential use of recipient(s) designated above. If you are not the intended recipient of this communication, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any review, disclosure, copying, distribution or use of the contents of this information is strictly prohibited. If you have received this communication in error, please immediately notify the sender and please destroy the original message and all copies. Thank you









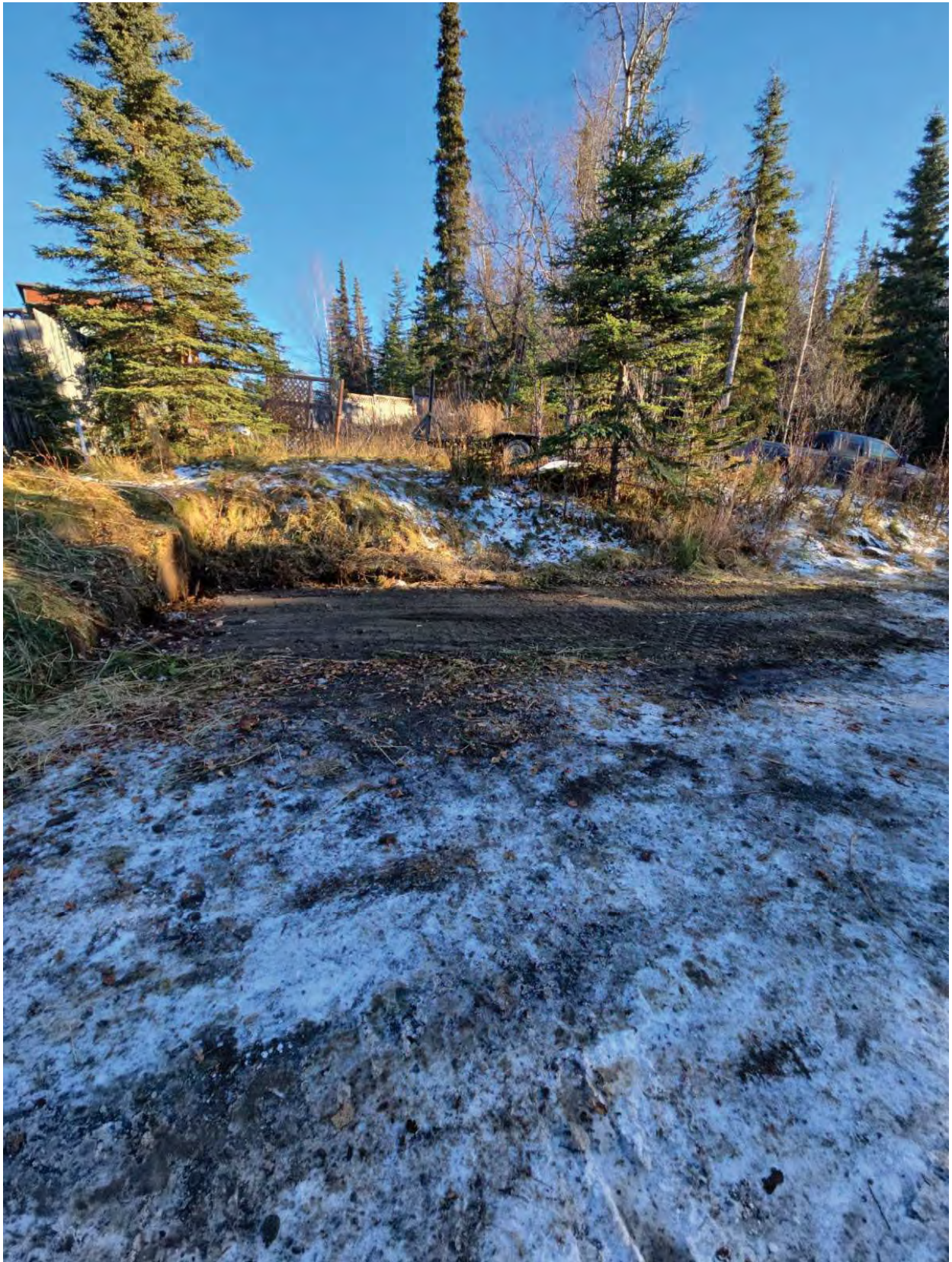














Sent from my iPhone

AGENDA ITEM E. NEW BUSINESS

**ITEM #2. – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 5 TUKAKNA SKY SUBDIVISION**

KPB File No.	2024-116
Planning Commission Meeting:	November 18, 2024
Applicant / Owner:	James Musgrove, Soldotna, AK
Surveyor:	John Segesser, Segesser Surveys
General Location:	Kalifornsky area

Parent Parcel No.:	131-690-08
Legal Description:	T 4N R 11W SEC 15 SEWARD MERIDIAN KN 0820110 TUKAKNA SKY SUB LOT 5
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Resolution	2024-20

STAFF REPORT

Specific Request / Purpose as stated in the petition:

I am not the original owner. When I bought the home in 2020, I was provided an as-built that showed the home ha no encroachments. I did not know upon purchase that the home was built in the building setback. I recently hired a surveyor to do an updated as-built on 10/16/24 and discovered the home encroached 4 feet in to the building setback. The cul-de-sac I line in is fully developed with homes on all three lots within the cul-de-sac There are no vacant lots to develop. I would like this permit to be approved because I am innocent and had no idea until recent that this was an issue needing to be corrected. Thank you for your time in advance and for helping me with this unfortunate discovery.

Site Investigation:

There are several existing structures on Lot 5 by the current as-built. The house is shown at it's closest point to be 16.0 feet from the property line and 4.0' across the setback line. There is a shop and a greenhouse shown. There is a shed shown sitting in the cul-de-sac right-of-way, the shed has been moved as shown on the new as-built submitted and dated 11-7-24.

No future improvements were noted with the application.

The cul-de-sac is not developed completely, the road stops at the start of the cul-de-sac bulb. Borough maintenance end where the road ends also, from that point driveways go to the two houses at the end of the cul-de-sac.

There are no sight distance issues in the area of the cul-de-sac that are apparent from the KPB GIS aerial views and staff did not visit the site.

Staff Analysis:

Tukakna Sky Subdivision KN 82-110 subdivided the SW1/4 SE1/4 of Section 15, T4N, R11W, SM., AK, Kenai Peninsula Borough into 15 lots and 4 dedications.

Tukakna Sky Subdivision also created a 20 foot building setback along all street right-of-ways unless a lesser standard is approved by resolution. No resolution has been noted.

The terrain of the lot has the house sitting at the low side of the cul-de-sac. The road comes in relatively level and as you come to the shop the lot drops to the north towards the lake.

Sight distances and existing traffic are not affected much as the road ends in a cul-de-sac that is not developed and ends in a driveway at the two respective houses on the end of the cul-de-sac. No obstructions appear to block the sight distance as a vehicle comes out of the drive as the road is beyond the property line of the lot. Maintenance is not an issue either as the borough maintenance stops at the start of the bulb.

Applicant Discussion:

I would like this permit to be approved because I am innocent and had no idea until recent that this was an issue needing to be corrected. Thank you for your time in advance and for helping me with this unfortunate discovery.

Applicant Findings:

1. Only two homes use the cul-de-sac.
2. As-built I was provided when I bought the home was incorrect.
3. Plat map of only 3 homes sharing cul-de-sac road.
4. As-built I had done that shows encroachment of home, shed is not on foundation. Shed has been moved.
5. Road maintenance stops right at approaching the cul-de-sac. This is approximately 100 foot from the home.
6. Road maintenance will not be affected by this change. See parcel viewer picture attached where the road meets the cul-de-sac is where the maintenance stops.
7. The borough has never maintained the cul-de-sac.
8. Off the main road the cul-de-sac is not developed as a cul-de-sac. It has never been developed into a cul-de-sac for the borough to maintain.
9. There are two driveways (subject properties & adjacent property) coming through the cul-de-sac now. The neighbor's property has a driveway that is elevated and mine is lower.
10. The driveways span far apart from one another quite a bit. This change will not affect any site lines or distances
11. Neither property owner goes into each other's driveway. There is no safety hazard.
12. Both driveways have great line of sight going in and out to the maintained road, they can both safely enter and exit.

Staff Findings:

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 -7 appear to support this standard.

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

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

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

Findings 5, 7, 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	<p>Out of Jurisdiction: No</p> <p>Roads Director: Griebel, Scott</p> <p>Comments:</p> <p>RSA does not manage setback. Not aware of any current impacts to maintenance. Appears unlikely that the platted cul-de-sac would be fully developed given current access. No further RSA comments or objections.</p>
SOA DOT comments	No comment
KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Hindman, Julie</p> <p>Floodplain Status: Not within flood hazard area</p> <p>Comments: No comments</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan</p> <p>Habitat Protection District Status: Is NOT within HPD</p> <p>Comments: waterbody on which this parcel is located is not regulated by KPB</p>
State of Alaska Fish and Game	No comment
Addressing	<p>Reviewer: Leavitt, Rhealyn</p> <p>Affected Addresses:</p> <p>31115 KWANTA HAH CIR</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:</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:</p> <p>NO COMMENT</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: the location of the structure is partly with in the 20 ft set back on a cul-de-sac. It would not be sight line issue. Code compliance would support the granting of the permit, providing no further expansion is allowed.</p>
Planner	<p>Reviewer: Raidmae, Ryan</p> <p>There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments:</p> <p>There are not any material site issues with this proposed plat.</p>

Assessing	Reviewer: Wilcox, Adeena Comments: No Objection
Advisory Planning Commission	

Utility provider review:

HEA	
ENSTAR	
ACS	
GCI	
SEWARD ELECTRIC	
CHUGACH ELECTRIC	
TELALASKA	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to grant approval for the portion of structures within the 20 foot building setback as shown on the 2015 as-built survey, subject to the six conditions listed below:

1. Compliance with KPB 20.10.110 sections F and G.
2. Removal of all encroachments within the right-of-way dedication.
3. Providing a current as-built to be used as an exhibit drawing prepared, signed, and sealed by a licensed land surveyor.
4. The recording fees be submitted to the Kenai Peninsula Borough Planning Department for the recording of Resolution 2024-20.
5. 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.
6. 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 2024-20
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR LOT 5, TUKAKNA SKY SUBDIVISION (KN 0820110); IN NE 1/4 S15, T04N, R11W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2024-116

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, James Lee Musgrove of Soldotna, AK requested a building setback encroachment permit to the 20-foot building setback granted by Tukakna Sky Subdivision (KN 0820110); and

WHEREAS, per the petition; and

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

WHEREAS, on Monday, November 18, 2024, 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 0820110 Lot 5 is hereby excepted to accommodate only the encroaching portion of the House.

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 _____, 2024.

Jeremy Brantley, Chairperson
Planning Commission

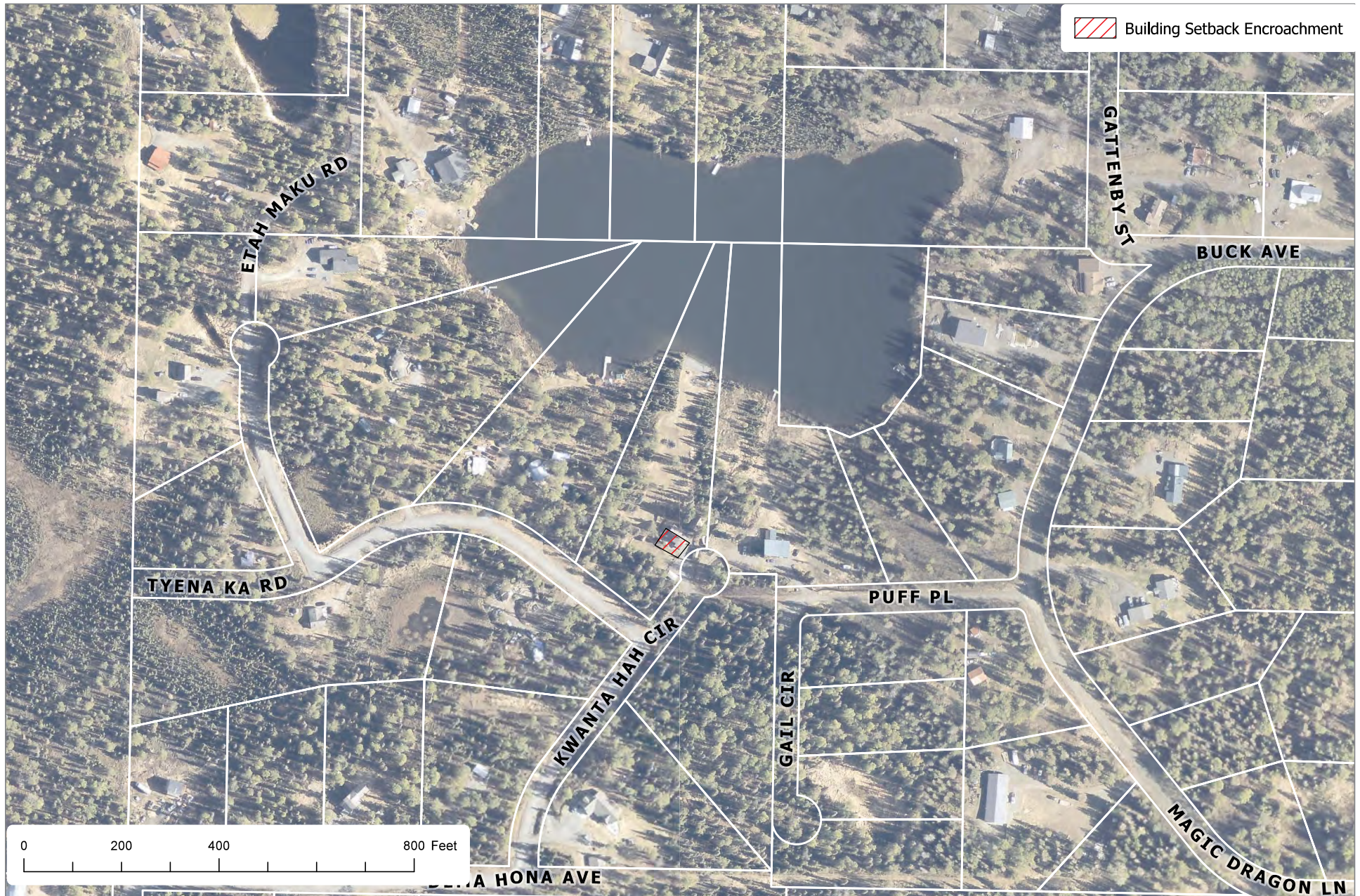
ATTEST:

Ann Shirnberg,
Administrative Assistant

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



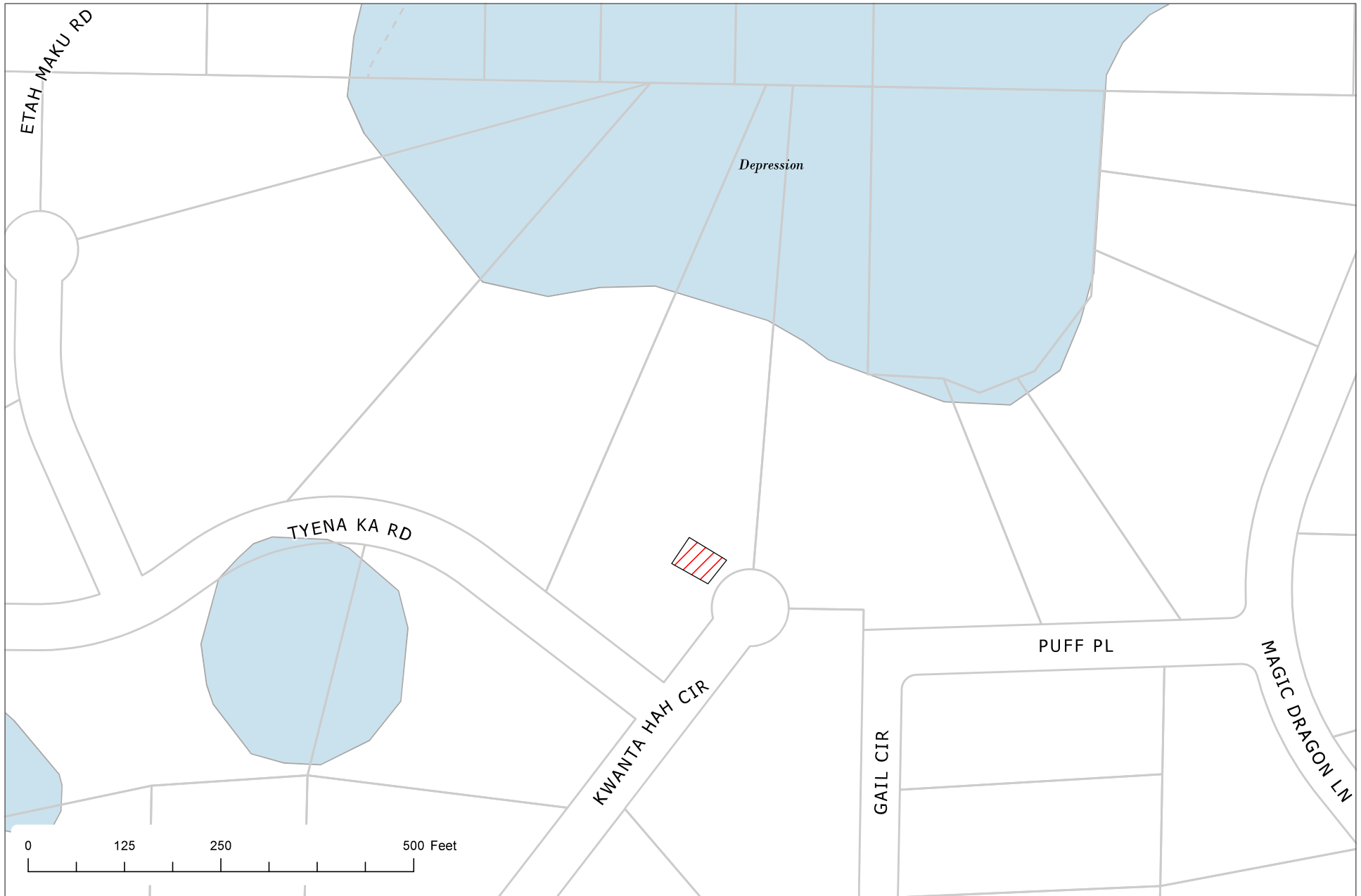
Aerial Map



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.



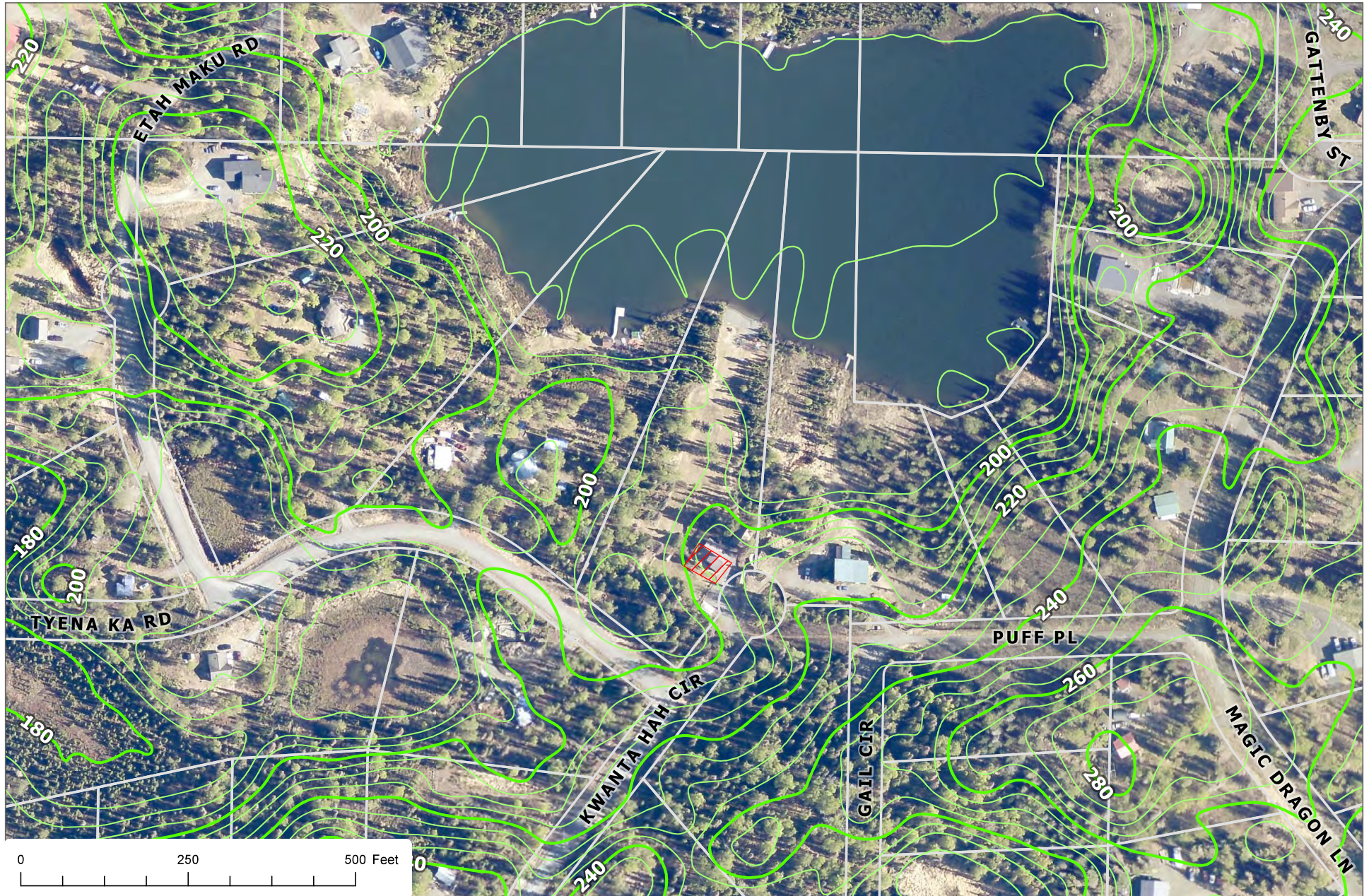
Wetlands



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.

