

Regulatory Division (1145) CEPOA-RD 44669 Sterling Highway, Suite B Soldotna, Alaska 99669-7915

Public Notice of Application for Permit

PUBLIC NOTICE DATE:

April 7, 2021

EXPIRATION DATE:

May 7, 2021

REFERENCE NUMBER:

POA-2006-00153-M1

WATERWAY:

Unnamed Tributary to

Kachemak Bay

Interested parties are hereby notified that a Department of the Army (DA) permit application has been received for work in waters of the United States (U.S.) as described below and shown on the enclosed project drawings.

All comments regarding this Public Notice (PN) should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the Project Manager's email as listed below. All comments should include the PN reference number listed above.

All comments should reach this office no later than the expiration date of this PN to become part of the record and be considered in the decision. Please contact Ms. Jen Martin at (907) 753-2730 or by email at: Jen.L.Martin@usace.army.mil, if further information is desired concerning this notice.

<u>APPLICANT</u>: TL Investments LLC, Mr. Tom Stafford, Post Office Box 3403, Homer, Alaska 99603

<u>AGENT</u>: Bishop Engineering LLC, Mr. John Bishop, Post Office Box 2501, Homer, Alaska 99603

<u>LOCATION</u>: The project site is located within Section 19, T. 6 S., R. 13 W., Seward Meridian; USGS Quad Map Seldovia C-5; Latitude 59.6468° N., Longitude 151.5706° W.; Kenai Peninsula Borough Parcel # 175-102-53; Foothills Subdivision, Sunset View Estates Addn No. 3, Tract B; in Homer, Alaska.

<u>PURPOSE</u>: The applicant's stated purpose is to provide 44 affordable residential parcels within the City of Homer's rural residential zoning district adjacent to existing roads and existing water and sewer services.

PROPOSED WORK: The applicant proposes the discharge of 8,869 cubic yards (CY) of granular fill into 2.442 acres of wetlands to construct roadways, driveways and building pads to complete construction of the Foothills Subdivision. Roadway construction would include 24-foot crest width (Tajen Lane) and 26-foot crest width (Eric Lane) roads, with a variable base width dependent upon topography (see Sheets 4-6). Wetland impacts due to driveway and building limits for each lot are shown on Sheet 4. Additionally, there would be 9,600 square foot of temporary impacts (temporary sidecast) for the installation of water and sewer lines within the road right-of-ways and between road right-of ways and building pads. All temporary impact areas would be returned to pre-construction contours. All work would be performed in accordance with the enclosed plan (sheets 1-8), dated March 3, 2021.

<u>ADDITIONAL INFORMATION</u>: A DA permit was issued to Sunset View Estates, LLC, on December 1, 2006, for the permanent discharge of 27,589 CY of fill material into 6.41 acres of wetlands for construction of 48 single family homes with driveways, residential streets and a 35,000 CY retention basin, and temporary impacts to 0.97 acre of wetlands for utility installation. The permit expired October 31, 2016. The current proposal includes an undeveloped portion ('Tract B') of the previously permitted subdivision.

<u>APPLICANT PROPOSED MITIGATION</u>: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S. from activities involving discharges of dredged or fill material.

- a. Avoidance: The applicant proposes to avoid impacts to additional wetlands by placing temporary sidecast of fill for utility installation only in areas where permanent wetland impacts would occur.
 - Parcels containing wetlands would have restrictions placed on them to limit the area developed on each parcel to that necessary to build a house, driveway and have a useful outside yard area. This avoids wetland impacts to 5.202 acres.
- b. Minimization: The applicant has designed the roadway structural sections utilizing geocomposite material to allow steeper side slopes, thus reducing the base width of the roadway embankment. An estimated 12,200 square feet of impacts footprint is avoided and up to 1,300 CY of excavation within the wetland is avoided. Stormwater conveyance was designed to provide continued flow to the exit boundary locations existing pre-development.
- c. Compensatory Mitigation: The applicant would preserve an area equal to 2.442 acres of wetlands which drains to Kachemak Bay from within Homer city limits.

<u>WATER QUALITY CERTIFICATION</u>: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

<u>CULTURAL RESOURCES</u>: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no cultural resources in the permit area or within the vicinity of the permit area. The

permit area has been determined to be the 25.56-acre parcel proposed for development (Tract B). Consultation of the AHRS constitutes the extent of cultural resource investigations by the Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work. The Corps is requesting the SHPO's concurrence with this determination.

<u>ENDANGERED SPECIES</u>: No threatened or endangered species are known to use the project area.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

No EFH species are known to use the project area.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This PN serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

<u>PUBLIC HEARING</u>: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

<u>EVALUATION</u>: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur.

The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply

and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(l) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authority:

(X) Discharge dredged or fill material into waters of the U.S. – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

Project drawings are enclosed with this Public Notice.

District Commander U.S. Army, Corps of Engineers

Enclosures







VICINITY MAP

Foothills Subdivision POA-2006-00153-M1.2021030

Lat: 59°38′56″N Long: 151°34′11″W Seldovia C-5 NE Quadrangle

5 Miles





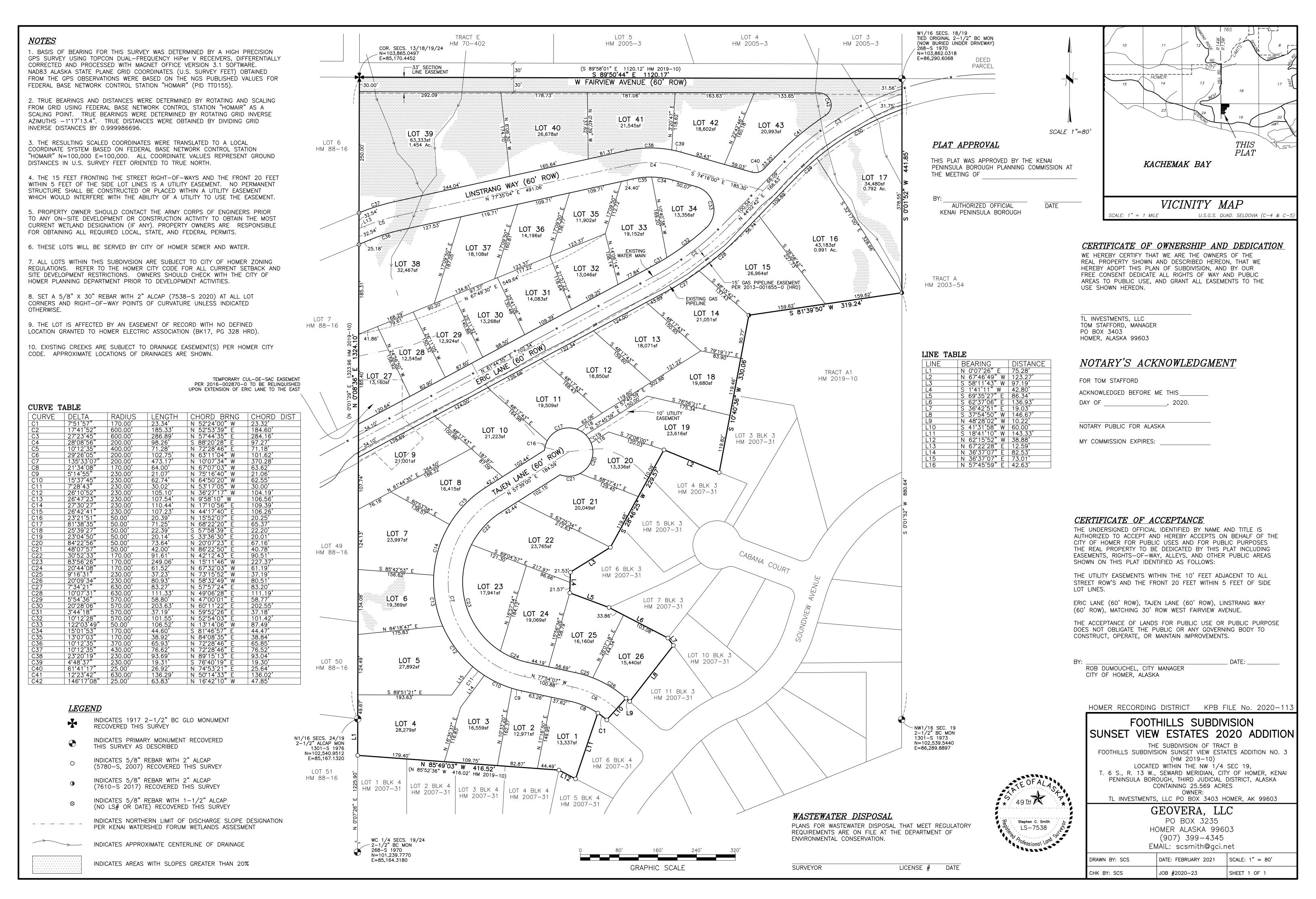


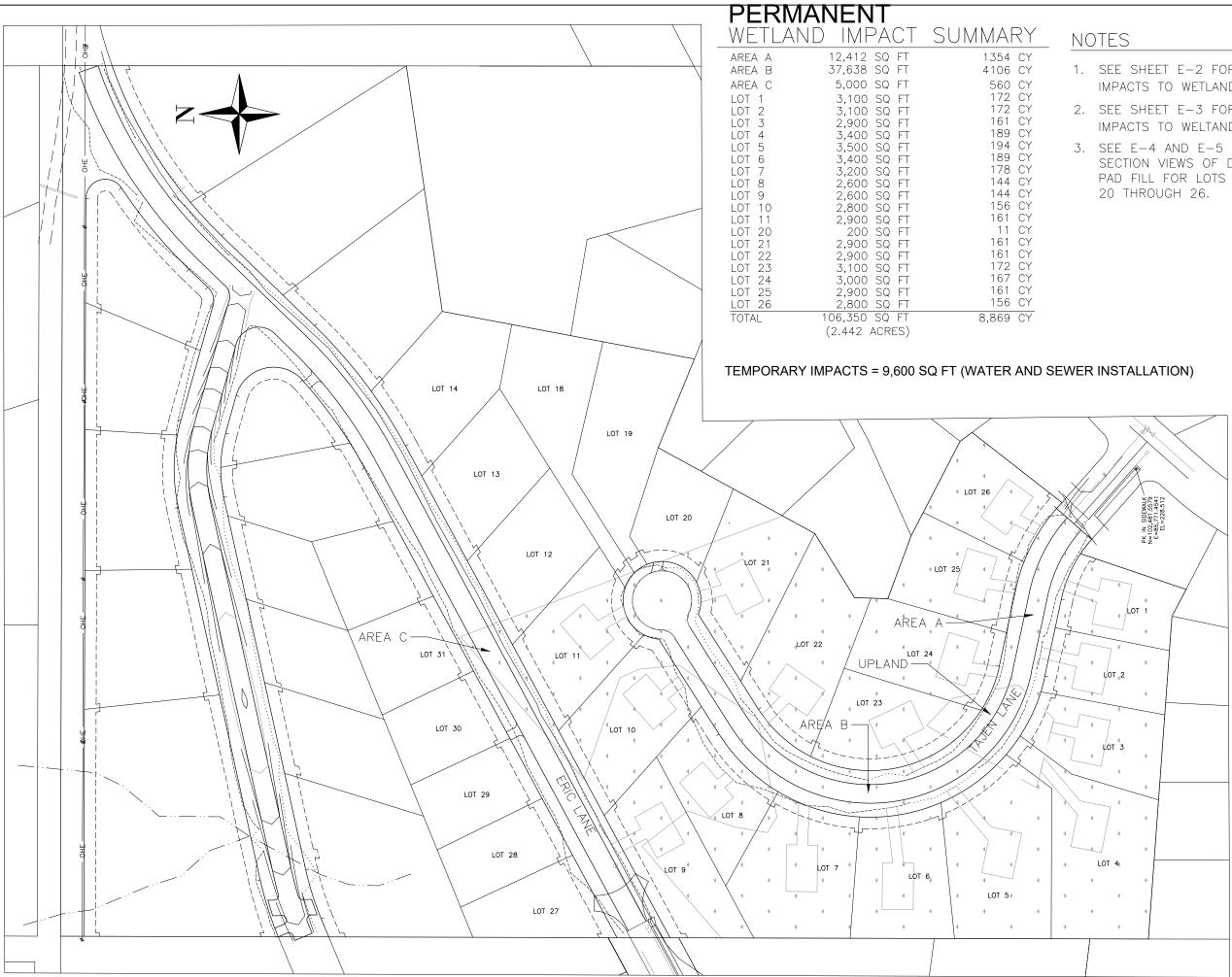
PROJECT MAP

Foothills Subdivision *POA-2006-00153-M1.2021030*

Lat: 59°38′56″N Long: 151°34′11″W Seldovia C-5 NE Quadrangle

500 Feet





- 1. SEE SHEET E-2 FOR TAJEN LANE R/W IMPACTS TO WETLANDS (AREAS A AND B).
- 2. SEE SHEET E-3 FOR ERIC LANE R/W IMPACTS TO WELTANDS (AREA C).
- 3. SEE E-4 AND E-5 FOR GENERIC PLAN AND SECTION VIEWS OF DRIVEWAY AND BUILDING PAD FILL FOR LOTS 1 THROUGH 11 AND



FOOTHILLS SUBDIVISION
SUNSET VIEW ESTATES 2020 ADDITION
ROAD, WATER AND SEWER IMPROVEMENTS
WETLAND AREA IMPACT KEY MAP
AND IMPACT SUMMARY

ENGINEERING, L

OI HOMER, AK 99603-2

www.bishop-engineeri

FOR BISHOP PO BOX 250 907) 299-760

DATE

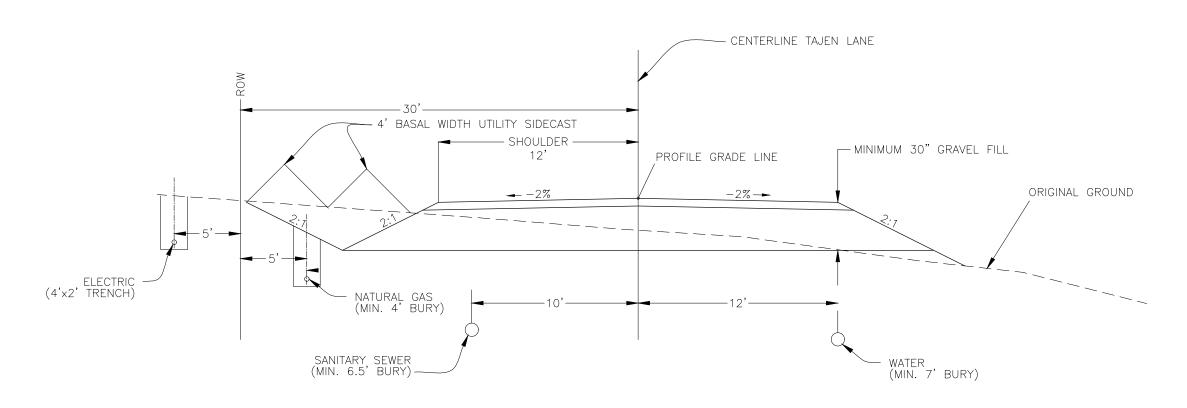
SHEET NO.

JAN. 2021 CHECKED SCALE JSB AS SHOWN

POA-2006-00153-M1, Unnamed Tributary to Kachemak Bay Sheet 4 of 8 March 3, 2021

LANE IMPACTS

SHEET NO.



TAJEN LANE TYPICAL STREET SECTION IN WETLAND IMPACT AREA A AND B

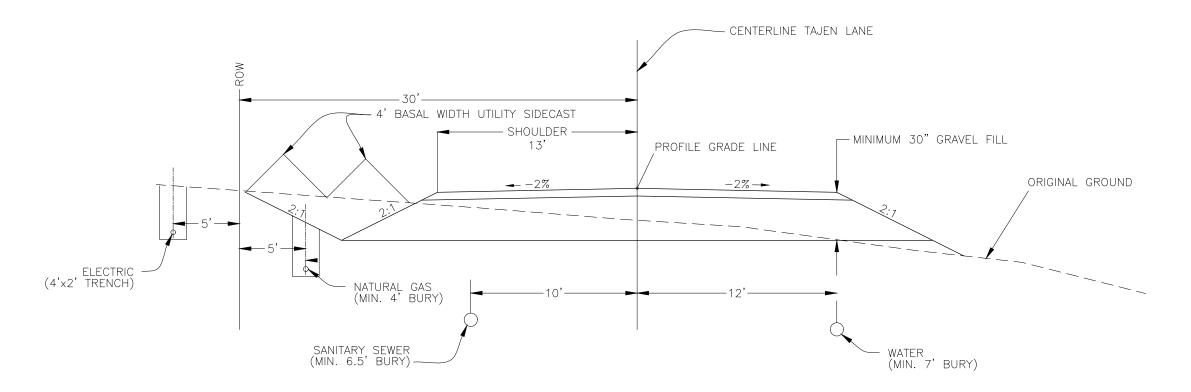
AREA A

TAJEN LANE 40+00 - 42+12 AREA OF IMPACT TO WETLAND=12,412sf (0.285 Ac.) EXCAVATION=231 Cu. Yds. FILL=1,354 Cu. Yds.

AREA B

TAJEN LANE 43+28 - 48+61.38 AREA OF IMPACT TO WETLAND=37,638sf (0.864 Ac.) EXCAVATION=699 Cu. Yds. FILL=4,106 Cu. Yds.

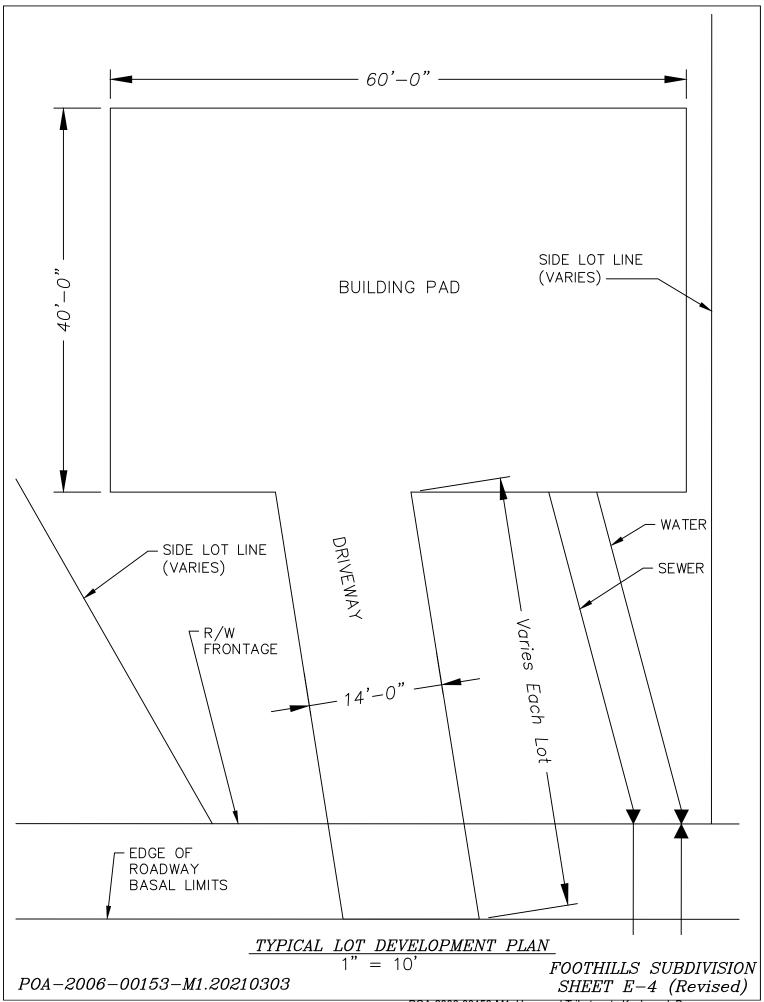
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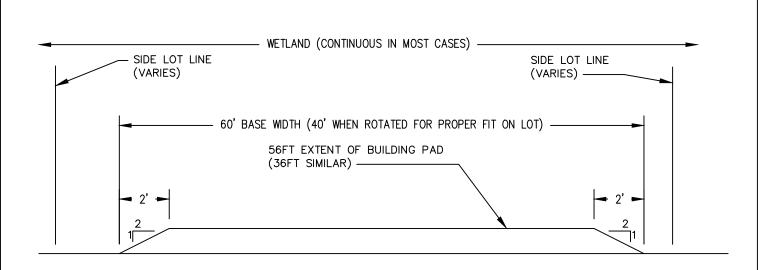


ERIC LANE TYPICAL STREET SECTION IN WETLAND IMPACT AREA B

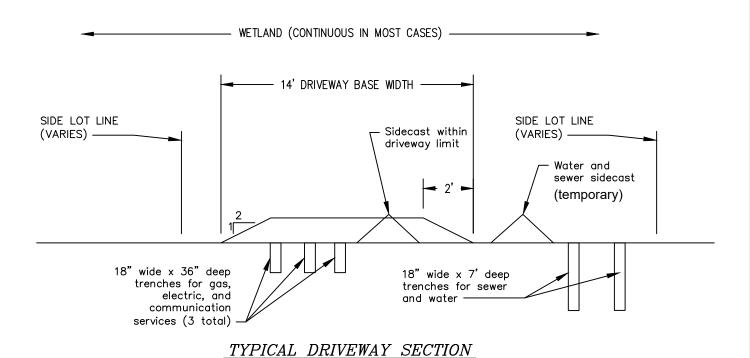
AREA C

ERIC LANE 12+22.0 - 14+35.3 AREA OF IMPACT TO WETLAND=5,000 sf (0.115 Ac.) EXCAVATION=95 Cu. Yds. FILL=560 Cu. Yds.





TYPICAL BUILDING PAD SECTION



POA-2006-00153-M1.20210303

FOOTHILLS SUBDIVISION
SHEET E-5 (REVISED)