

E. NEW BUSINESS

1. Building Setback Encroachment Permit

KPB File 2023-062; PC Resolution 2023-18

Peninsula Surveying / James

Location: Tract D-1, Quartz Creek Subdivision James
Addition, Plat SW 2005-14

Cooper Landing Area



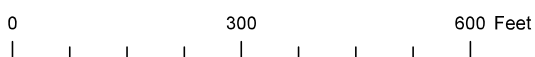
Kenai Peninsula Borough Planning Department

Vicinity Map

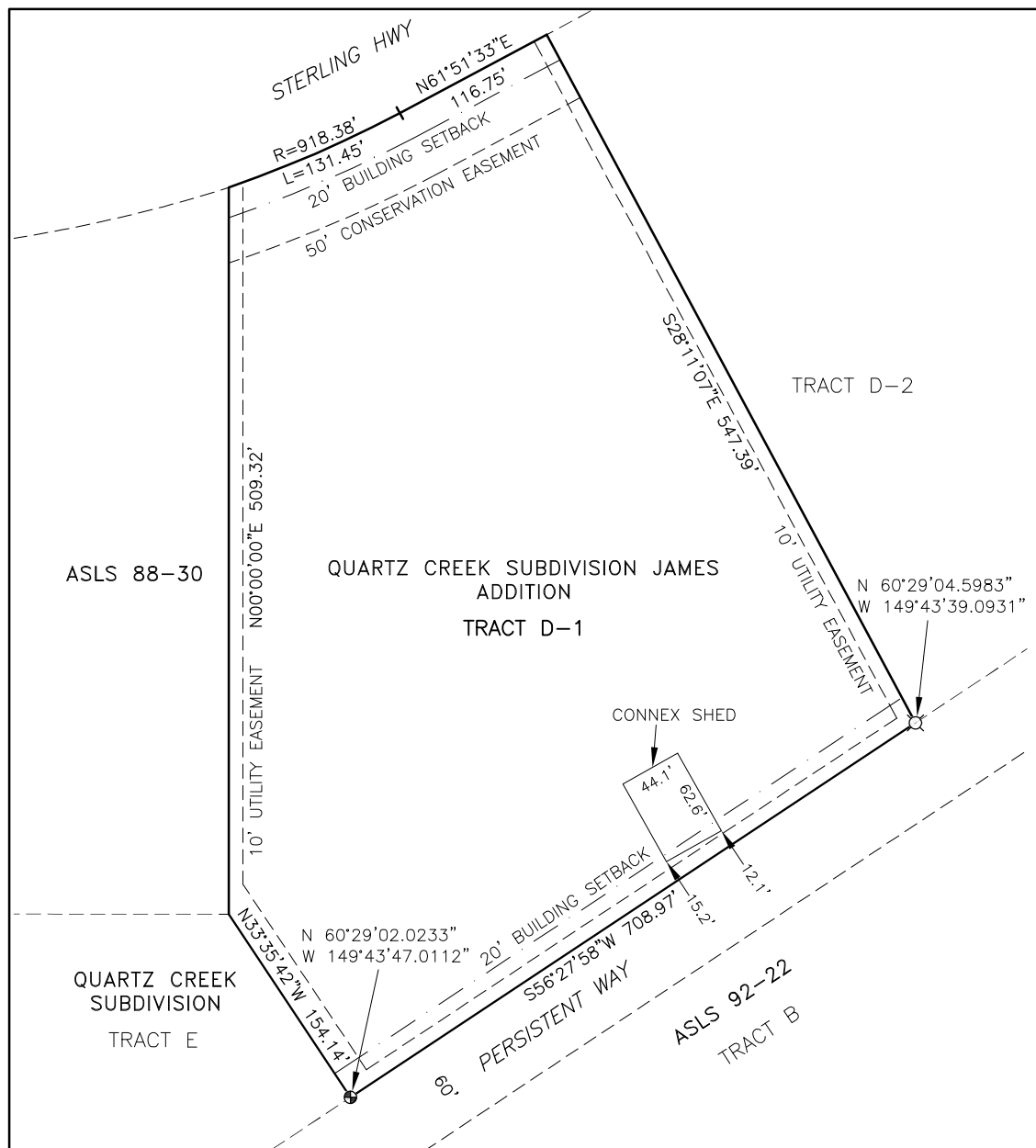


KPB 2023-062
T05N R03W SEC 36
Cooper Landing

6/8/2023







NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. BUILDING DIMENSIONS ARE TO THE EAVE CORNERS.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT SW 2005-14.
4. ADDITIONAL STRUCTURES AND IMPROVEMENTS THAT DO NOT ENCROACH THE BUILDING SETBACK LINE ARE NOT SHOWN ON THIS AS-BUILT.

LEGEND

- ⊗ FOUND 5/8" REBAR
- ⊕ FOUND 2" ALUMINUM MONUMENT

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS-BUILT SURVEY ON THE PROPERTY SHOWN HEREON, AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY ON 05/10/2023.

Jason L. Schollenberg 05/15/2023

JASON L. SCHOLLENBERG
PLS 14488-S

DATE

PENINSULA SURVEYING, LLC

10535 KATRINA BOULEVARD
NINILCHIK, AK 99639
(907)306-7065

AS-BUILT SURVEY
TRACT D-1, QUARTZ CREEK
SUBDIVISION JAMES ADDITION
NW1/4 SECTION 36, T5N, R3W, SM, AK

SCALE:
1" = 80'

DATE:
05/15/2023

DRAWN:
JLS

SHEET:
1 OF 1



AGENDA ITEM E. NEW BUSINESS

ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT – QUARTZ CREEK SUBDIVISION JAMES ADDITION

KPB File No.	2023-062
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Jon James
Surveyor:	Jason Schollenberg \ Peninsula Surveying, LLC
General Location:	Sterling Highway, Persistent Way, Cooper Landing, Cooper Landing APC

Parent Parcel No.:	119-124-20
Legal Description:	Tract D-1 Quartz Creek Subdivision James Addition SW 2005-014
Assessing Use:	General Commercial
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: Persistent Way undeveloped, encroachment has no effect on general public or local land use. Encroachment is shipping container storage structure.

Site Investigation: Per the as-built survey, there is a connex shed in the 20-foot building setback along Persistent Way on the back side of Tract D-1. Other structures present on the property are not shown as they do not encroach into the setback. The shed at its closest, at the southeast corner, is 12.1 feet from the property line, putting it 7.9 feet into the setback. The southwest corner is 15.2 feet from the property line and 4.8 feet into the setback.

The main access to the lot is Sterling Highway which is state maintained and constructed. The southern portion of the lot is access to Persistent Way which is not constructed. Persistent Way is accessed from Borough maintained Quartz Creek Road to the west.

The structure, being in the back of the parcel and along a straight portion of the lot, poses no issues to sight lines or distance. It does not interfere with view as the road is not constructed at this time.

Staff Analysis: The property was first subdivided by Alaska State Land Survey 92-22 SW 93-8. The plat subdivided several previously unsubdivided sections and created three tracts, of which Tract A was the parent tract for this parcel. Tract A was then subdivided by Quartz Creek Subdivision SW 94-11 creating five tracts. Persistent Way was dedicated out of Quartz Creek Subdivision SW 94-11. Quartz Creek Subdivision SW 94-11 also required a 20 foot building setback along all street rights-of-ways unless a lesser standard is approved by resolution of the appropriate Planning Commission. Tract D of Quartz Creek Subdivision SW 94-11 was further subdivided by Quartz Creek Subdivision James Addition SW 2005-14 into two tracts one being the subject Tract D-1. The 20-foot building setback requirement was carried forward with the subdivision Quartz Creek Subdivision James Addition SW 2005-14.

The terrain for the tract is flat with a slight slope to the southwest, across the subdivision. There are no sight issues with this tract that are apparent. There does not appear to be any traffic issues or maintenance issues on the tract.

Cooper Landing Advisory Planning Commission minutes for the July 12th meeting were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

Findings:

1. The 20-foot building setback along Persistent Way was created by Quartz Creek Subdivision SW 94-11 and carried forward on Quartz Creek Subdivision James Addition SW 2005-14.
2. 12.1 feet of the setback will remain open from the connex shed to the property line.
3. There is no steep terrain near the encroaching structure to add issues.
4. Persistence Way is not developed.
5. There does not appear to be any sight issues.
6. The subdivision having preliminary approval on the April 10, 2023 Plat Committee meeting, found the issue during field survey and is cleaning up the problem.

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 2-5 appear to support this standard.
 2. The building setback encroachment may not interfere with sight lines or distances.
Findings 2-5 appear to support this standard.
 3. The building setback encroachment may not create a safety hazard.
Findings 2-6 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	
KPB River Center review	A. Floodplain Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: No comments B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments

	C. State Parks Reviewer: VACANT Comments:
State of Alaska Fish and Game	No objections
Addressing	Reviewer: Leavitt, Rhealyn Affected Addresses: 21879 STERLING HWY Existing Street Names are Correct: No List of Correct Street Names: STERLING HWY, PERSISTENT WAY Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied: Comments: NO COMMENT
Code Compliance	Reviewer: Ogren, Eric Comments: Current Code Compliance Cases for encroachment into 20ft setback.
Planner	Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat.
Assessing	Reviewer: Windsor, Heather Comments: No comment
Cooper Landing Advisory Planning Commission	

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2023-18, subject to compliance with KPB 20.10.110 sections F and G.

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 2023-18
SEWARD RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR TRACT D-1, QUARTZ CREEK SUBDIVISION JAMES ADDITION (SW 0940011); IN NE 1/4 S36, T05N, R03W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2023-062

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, Jon James of Cooper Landing, AK requested a building setback encroachment permit to the 20-foot building setback granted by Quartz Creek Subdivision (SW 0940011); and

WHEREAS, per the petition; Persistent Way is undeveloped, encroachment has no effect on general public or local land use. Encroachment is shipping container storage structure; and

WHEREAS, the encroachment is 12.1 feet from the property line, putting it 7.9 feet into the setback. The southwest corner is 15.2 feet from the property line and 4.8 feet into the setback; and

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

WHEREAS, on Monday, July 17, 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. Approved a permit to allow only the encroaching portion of the connex shed that extends 7.9 feet at the most into the 20-foot setback adjoining the Persistent Way right-of-way on the south boundary Tract D1- Quartz Creek Subdivision James Addition SW 0940011.

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 Shimberg,
Administrative Assistant

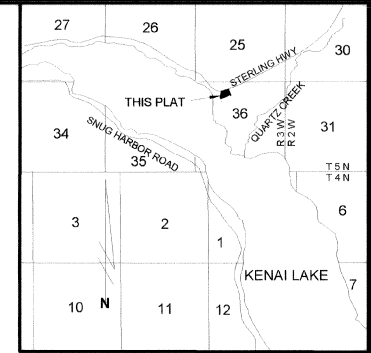
Return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669

NOTES:

1. No permanent structure shall be constructed or placed within an easement which would interfere with the ability of a utility to use the easement.
2. Building setback - A building setback of 20 feet is required from all street right of ways unless a lesser standard is approved by resolution of the appropriate planning commission.
3. All notes on this plat and on the original plat of Quartz Creek Subdivision (Plat file #94-11) will run with and bind the property until changed by resolution by the appropriate planning commission.
4. Both Tract D-1 and Tract D-2 have existing driveways to the Sterling Highway.
5. All covenants and restrictions of record from the plat of Quartz Creek Subdivision file #94-11 are to be carried forward with this plat (Recorded in Book 102, Page 68, Seward Recording District, Alaska). Additional covenants will be recorded simultaneous with this plat.
6. No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation.

LEGEND

- FOUND ALUMINUM MONUMENT DESCRIBED ON PLAT OF A.S.L.S. 88-30
- FOUND ALUMINUM CAP
- SET 5/8" X 30" REBAR WITH COOPER & CO PLASTIC CAP THIS SURVEY
- INDICATES RECORD INFORMATION FROM THE PLAT OF QUARTZ CREEK SUBDIVISION, PLAT #94-11 SEWARD RECORDING DISTRICT, ALASKA.
- FOUND SQUARE CONCRETE HIGHWAY MONUMENT
- INDICATES ADJUSTED RECORD INFORMATION FROM QUARTZ CREEK SUBDIVISION, TRACT D WILL NOT CLOSE MATHEMATICALLY SO THE SLIGHT ADJUSTMENT WAS PLACED IN THE WEST PROPERTY LINE AND IN CURVE NUMBER 2.



VICINITY MAP 1" = 1 MILE
USGS SEWARD B-8 (1951)

CERTIFICATE OF OWNERSHIP AND DEDICATION

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

Jon James
Jon James
P.O. Box 761
Cooper Landing, Alaska 99572

NOTARY'S ACKNOWLEDGEMENT

For: Jon James
Subscribed and sworn before me this 28th day of Sept., 2005.
Imelda Nestle
Notary Public
My commission expires 8/26/07

BENEFICIARY:

First National Bank of Anchorage
Soldotna Branch
44501 Sterling Highway
Soldotna, Alaska 99572

Michael L. Frost
For: First National Bank of Anchorage
Subscribed and sworn before me this 28th day of Sept., 2005.
Imelda Nestle
Notary Public
My commission expires 8/26/07

NOTARY'S ACKNOWLEDGEMENT

Michael L. Frost
For: First National Bank of Anchorage
Subscribed and sworn before me this 28th day of Sept., 2005.
Imelda Nestle
Notary Public
My commission expires 8/26/07

TRACT D-2

217797 576 s.f.
5.000 Acres

TRACT D-1

225959 630 s.f.
5.187 Acres

CURVE CHART

Curve	Delta Angle	Radius	Arc	Chord	Chord Bearing
(1)	(30°00'03")	230.00	120.43	119.06	S 71°23'34"W
(2)	(8°12'11")	230.00	120.28	118.91	S 71°26'53"W
(3)	(8°12'11")	918.38	131.46	131.37	N 85°56'34"E
(4)	(8°11'56")	918.38	131.42	131.30	N 85°57'31"E
(5)	(8°12'03")	918.38	131.45	131.34	N 85°56'31"E

WASTEWATER DISPOSAL:

These lots are at least 200,000 square feet or nominal 5 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 plat was approved by the Kenai Peninsula Borough Planning Commission in accordance with Section 20.04.070 Kenai Peninsula Borough Subdivision Regulations.

Date September 30, 2005
Mayor of Bristol
Borough Official

2005-14
Seward REC DIST
Date Oct. 7 2005
Time 12:03 P.M.
Requested James
Address _____



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 hereon 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.

Date Sept 27, 2005

COOPER & CO
LS 5733

(TYPICAL) SET COOPER & CO
YELLOW PLASTIC CAP
ON 5/8" X 30" REBAR THIS SURVEY