

E. NEW BUSINESS

2. Building Setback Encroachment Permit

KPB File 2023-063; PC Resolution 2023-19

Peninsula Surveying / Eicher

Location: Lot 3A, Block 1, Doser Subdivision Eicher 2020

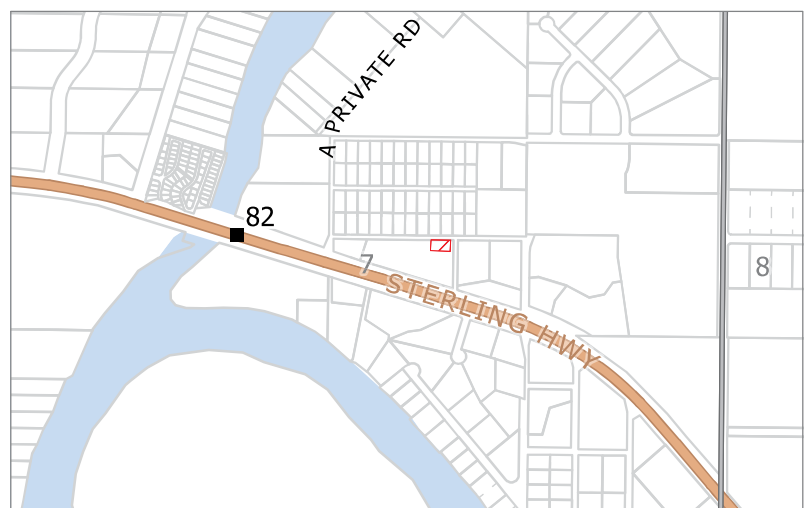
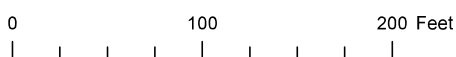
Replat, Plat KN 2021-61

Sterling Area

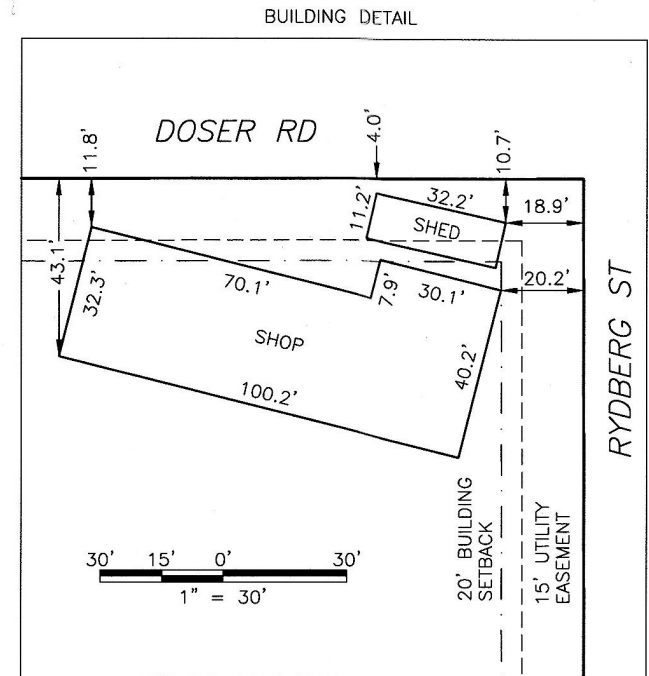
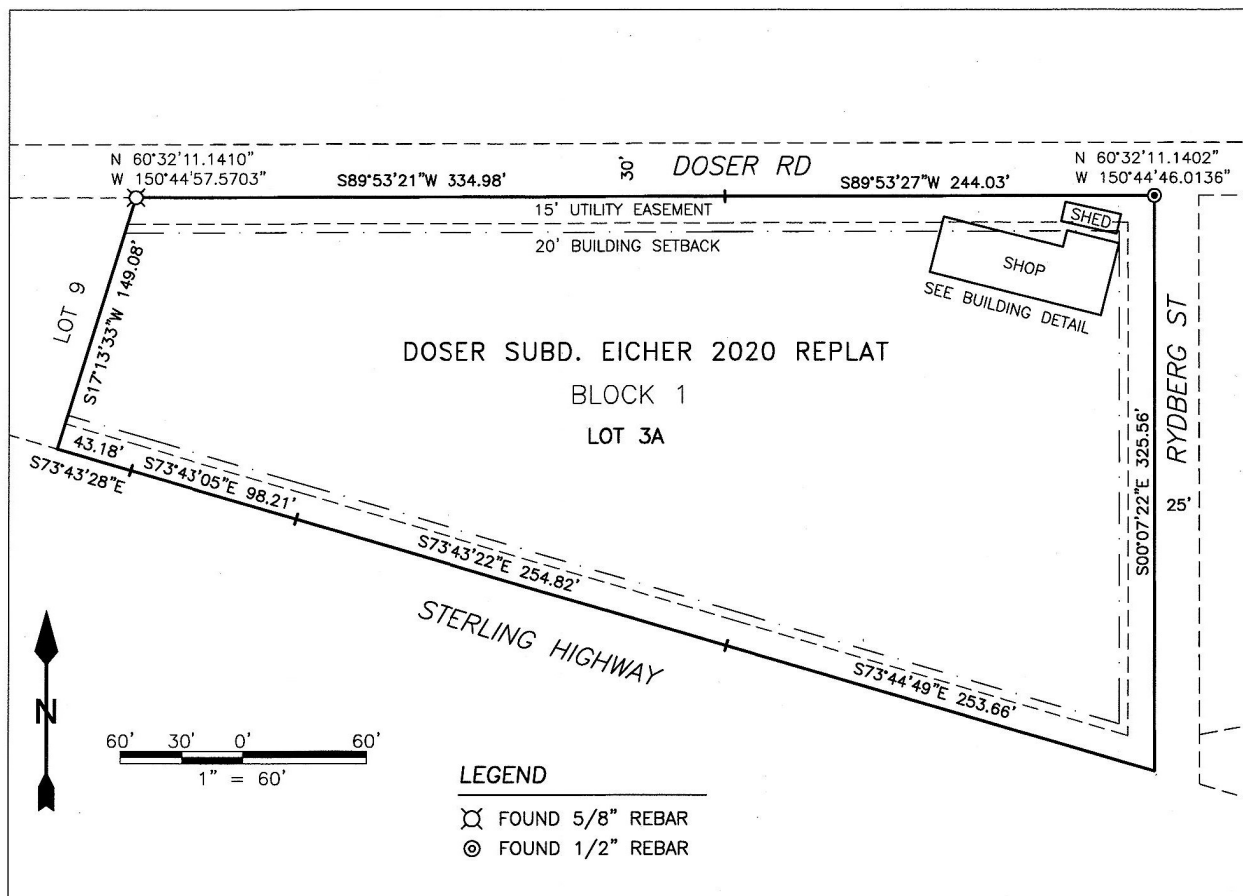


KPB 2023-063
T05N R08W SEC 07
Sterling

6/9/2023







NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. BUILDING DIMENSIONS ARE TO THE FACE OF THE BUILDING.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT KN 2021-61.
4. ADDITIONAL BUILDINGS AND IMPROVEMENTS THAT DO NOT ENCROACH THE BUILDING SETBACK LINE ARE NOT SHOWN ON THIS AS-BUILT.

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 05/05/2023.

Jason Schollenberg 05/08/2023

JASON L. SCHOLLENBERG DATE
 PLS 14488-S



PENINSULA SURVEYING, LLC

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

AS-BUILT SURVEY
 LOT 3A, BLOCK 1, DOSER SUBDIVISION
 EICHER 2020 REPLAT
 SE1/4 SEC 7, T5N, R8W, SM, AK

SCALE: VARIES	DATE: 05/08/2023
DRAWN: JLS	SHEET: 1 OF 1

AGENDA ITEM E. NEW BUSINESS

ITEM 1. – BUILDING SETBACK ENCROACHMENT PERMIT – DOSER SUBDIVISION EICHER 2020 REPLAT

CPB File No.	2023-063
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Marlin Eicher of Sterling, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Doser Road, Rydberg Street, Sterling

Parent Parcel No.:	065-520-20
Legal Description:	Lot 3A Block 1 Doser Subdivision Eicher 2020 Replat, Plat KN 2021-61 Township 5 North Range 8 West Section 7
Assessing Use:	General Commercial
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: We built the building in 2016 where it is today, per the as-built we received from Tauriainen Engineering (a copy is attached). Had we known they measured it incorrectly, we would have gladly had it moved, before building the permanent structure ... The second building, the small building behind the permanent structure is just on skids, and can be moved at any time

Site Investigation: Per the as-built and submittal there are two structures within the 20-foot building setbacks of Lot 3A Block 1, Doser Subdivision Eicher 2020 Replat, KN 2021-61. The Doser Road and Rydberg Street setbacks are the two rights-of-ways with encroachments. As of 07062023 staff has been notified that the shed has been moved, a photo is included in the packet showing the open spot where the shed was.

Doser Road is a 30-foot partially constructed right-of-way. The RSA currently maintains a portion of Doser Road with maintenance ending at the west end of the lot. Doser Road provides dedicated access to the subdivision to the north. Rydberg Street, originally dedicated as Cook Street, is a 25-foot right-of-way is currently unconstructed except for a portion connecting to the Sterling Highway that appears to be being used as a driveway for the subject lot and lot 1A, Doser Subdivision No 2, Plat KN 81-145 to the east. Doser Subdivision No 2, Plat KN 81-145 dedicated the 25-foot right-of-way and granted the 20-foot building setback.

According to CPB Imagery there does appear to be objects located within Rydberg Street, but staff is unable to determine if they are permanent or not.

The structure labeled as 'shop' encroaches by 8.2 feet into the setback along Doser Road.

Street views are available for the area, but are very dated, do not show an accurate representation of the area.

With the flat topography of the area and the current right-of-way configuration the Shop structure doesn't appear to hinder any line of sights, but the shed possibly does. **Staff recommends:** *the shed be removed before adopting the resolution and a new as-built be submitted for recording.*

Staff Analysis: The subject parcel has been resubdivided several times and was originally created from an unsubdivided remainder lying between the Sterling Highway and Gatten Subdivision K-995. The first subdivision

Page 1 of 4

was Doser Subdivision No 2 KN 73-32. This subdivision created lots 1 through 4 and the 20-foot building setback along Doser Road. Lot 4 of Doser Subdivision No 2 KN 73-32 and an unsubdivided parcel to the west were later subdivided by Doser Subdivision 2016 Addition KN 2017-6 into lots 9 through 12. Doser Subdivision Eicher 2020 Replat KN 2021-61 combined Lot 3 Block 1, 10, 11, and 12 into the configuration it is today.

It does appear that both of the structures are within the 15' utility easement of Doser Road. Staff would advise the owners to investigate the utility easement encroachments. If it is determined that a utility provider needs to use the easement any damage or relocation of items or structures would be at the owner's expense.

This location is not within an Advisory Planning Commission boundary.

Due to the requirements to remove the shed, **staff recommends** a one-year approval be granted and once all requirements have been met Resolution 2023-19 will be brought back to the planning commission for adoption. If the new as-built depicts additional encroachments not reviewed under this application a new application will be required and a new hearing will be scheduled.

Findings:

1. A building setback along Doser Road was created by Doser Subdivision No 2, KN 73-32.
2. A building setback along Rydberg Street was created by Doser Subdivision No 2 Lots 1A, 2A, & 1B, KN 81-145.
3. The shed is not a permanent structure and is on skids and is moveable.
4. Doser Road is a 30-foot dedicated right-of-way.
5. Rydberg Street is a 25-foot dedicated right-of-way.
6. There is no steep terrain located near the encroaching improvements.
7. The 'shop' structure was set by a misinterpretation of the site plan layout.
8. Movement of the 'shop' structure would be a hardship on the owner.
9. This will close a KPB Code Compliance case.
10. Doser Road is not maintained at this portion of the road.

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 3-6, 7, 8 & 10 appear to support this standard.
 2. The building setback encroachment may not interfere with sight lines or distances.
Findings 3-6 & 10 appear to support this standard.
 3. The building setback encroachment may not create a safety hazard.
Findings 3, 6 & 10 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	
Addressing	Reviewer: Leavitt, Rhealyn Affected Addresses: 38335 RYDBERG ST Existing Street Names are Correct: Yes List of Correct Street Names: DOSER RD, STERLING HWY, RYDBERG ST 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 case for encroachment into the 20ft building set back.
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

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 as-built survey, 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.
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

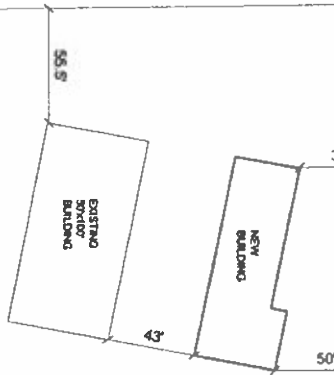


The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

1
EXISTING SITE PLAN
SCALE 1"=80'

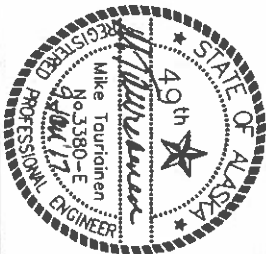
STERLING HIGHWAY

DOSER SUBDIVISION #2
LOT 3 BLOCK 1
EXCLUDING THAT
PORTION PER WD 378/541



DOSER ROAD

RYDBERG STREET



C1

DATE: 10/6/2017
DRAWN BY: MTT
CHECKED BY: MTT
FILED BY: MTT
PROJECT: 19126

Sterling Supply LLC
Sterling, Alaska

EXISTING SITE PLAN

35186 Spur Hwy Soldotna, AK 99669 (907)262-4624 FAX 262-5777 engineeringalaska@gtd.net

TAURINEN ENGINEERING & TESTING

LEGEND:

- ⊗ 3 1/4" GLO MONUMENT 1938 RECORD
- ⊙ 3 1/4" BRASS CAP MONUMENT 610-5 1973 RECORD
- 5/8" REBAR w/PLASTIC CAP 1-11795 RECORD
- 1/2" REBAR RECORD
- () RECORD DATUM PLAT 2017-6 KNB
- [] RECORD DATUM PLAT 1973-49 HRS
- C COMPUTED DATUM

NOTES:

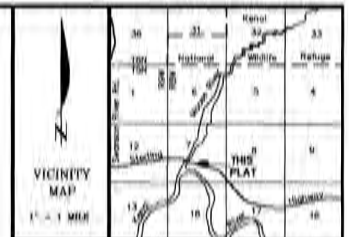
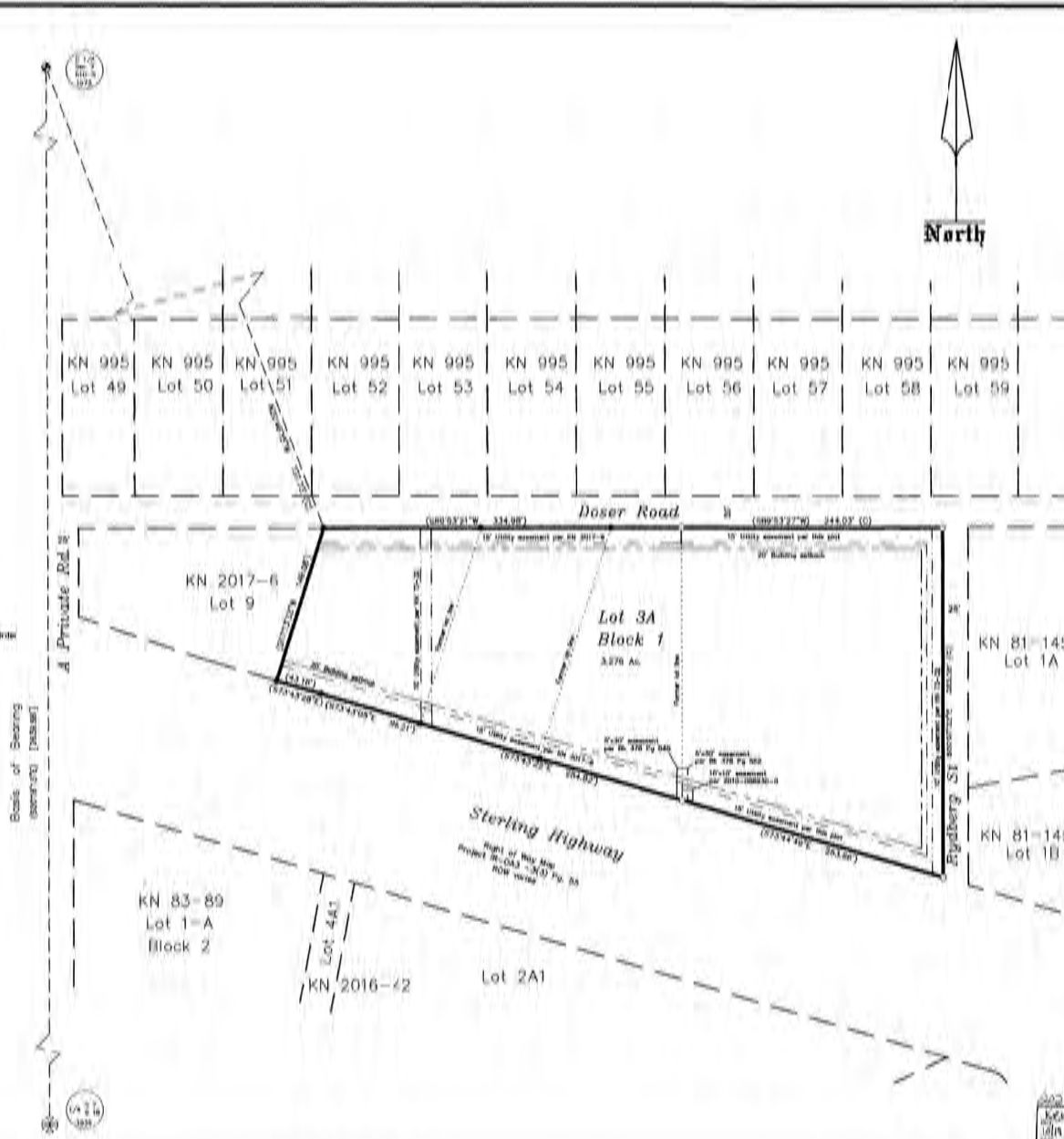
- 1) A field survey was not performed in accordance with RPS 80.60.200(A).
- 2) Basis of bearing taken from Doser Subdivision 2016 Addition, Plat 2017-6, Kenai Recording District.
- 3) Building Setback-A setback of 20 feet is required from all street Rights-of-Way unless a lesser standard is approved by resolution by the appropriate Planning Commission.
- 4) The parent plat for former Lot 3 Block 1 established a building setback adjoining Doser Road. Any existing improvements may be affected by the building setback of record adjoining Doser Road. This platting action is establishing a 20 foot building setback on Rydberg Street. Any existing improvements along Rydberg Street predate the 20 foot building setback created by this plat and are not subject to the 20 foot building setback adjoining Rydberg Street. Any replacement, or improvements, to the building must comply with the 20 foot building setback as shown on this plat.
- 5) Acceptance of the plat by the Kenai Peninsula Borough does not indicate acceptance of any encroachments.
- 6) Exceptions to KPB 20.30.120, Street width requirements for Doser Road and Rydberg Street, were granted by the Plat Committee at the meeting of November 30, 2020.
- 7) This property is subject to a reservation of easement for highway purposes, and any assignments or uses thereof for recreational, utility or other purposes, as disclosed by Public Land Order No. 801, dated August 10, 1994, and amended by Public Land Order Number No. 787, dated October 10, 1998, Public Land Order No. 1613, dated April 7, 1998, Department of the Interior Order Number 2665, dated October 16, 1951, Amendment Number 1 thereto, dated July 17, 1952 and Amendment Number 2 thereto, dated September 15, 1956, filed in the Federal Register.
- 8) No private access to State maintained ROW is permitted unless approved by the State of Alaska Department of Transportation.
- 9) An easement for electric lines or system and/or telephone lines granted to Homer Electric Association, Inc is recorded in Book 31 Page 131 and modified by instrument in Book 303 Page 217 Kenai Recording District.
- 10) This platting action is granting a 15 foot utility easement adjoining Doser Road and the Sterling Highway, excluding the utility easement granted by per KN 2017-6. This platting action is also granting an easement in part utility easement adjoining the 10 foot utility easement per RPS 75.32 for a 15 foot utility easement adjoining Rydberg Street. 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.
- 11) Parent subdivision (KN 2017-6) for lots resulting from this platting action was approved by the Kenai Peninsula Borough on April 28, 2016. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation. The purpose of this platting action is to combine four lots into one, which will provide greater available wastewater disposal area as described by 20.40.020(A)(2).



SURVEYOR'S CERTIFICATE

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 in location, and all dimensions and other details are correct.

Date 12-17-20



CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREIN AND THAT WE HEREBY ADJUT THIS PLAN OF SUBDIVISION AND BY OUR FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

Mark Fisher *Karen Fisher*
MARK FISHER KAREN FISHER
3545 RYDBERG ST
STERLING, ALASKA 99672

NOTARY'S ACKNOWLEDGEMENT

FOR *Mark Fisher*
ACKNOWLEDGED BEFORE ME THIS 14th DAY OF *March* 2021.

Brook Karp Platter
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 12-31-2024

STATE OF ALASKA
BARBARA DAVE EUSTICE
NOTARY PUBLIC
MY COMMISSION EXPIRES 4-1-24

NOTARY'S ACKNOWLEDGEMENT

FOR *Karen Fisher*
ACKNOWLEDGED BEFORE ME THIS 14th DAY OF *March* 2021.

Brook Karp Platter
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 12-31-2024

STATE OF ALASKA
BARBARA DAVE EUSTICE
NOTARY PUBLIC
MY COMMISSION EXPIRES 4-1-24

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF NOVEMBER 30, 2020.

KENAI PENINSULA BOROUGH
Mark Fisher 10/18/21
AUTHORIZED OFFICIAL

KPB FILE No. 2020-137

Doser Subdivision
Eicher 2020 Replat

A resubdivision of Lot 3 Block 1 Doser Subdivision No. 8 Plat 75-52 (excluding therefrom, that portion conveyed to the State of Alaska, Department of Transportation and Public Facilities by instrument recorded February 21, 1991 in Book 278 at Page 581, and Lots 10, 11 and 12 Eicher Subdivision 2016 Addition Plat 2017-6 Kenai Recording District).

Located within the 161/4 Section 7, 100, R6W, 5M., Kenai Peninsula Borough, Alaska.

Containing 3.276 Ac.

Surveyor	Owner
Seckesser Surveys 30480 Reindall St. Soldotna, AK 99688 (907) 988-3900	Mark and Karen Fisher 3545 Rydberg St. Sterling, Alaska 99672
200 NO. 2020	DRAWN 12-17-20
SURVEYED N/A	SCALE: 1"=50'
FIELD BOOK: N/A	SHEET: 1 of 1

