

## **E. NEW BUSINESS**

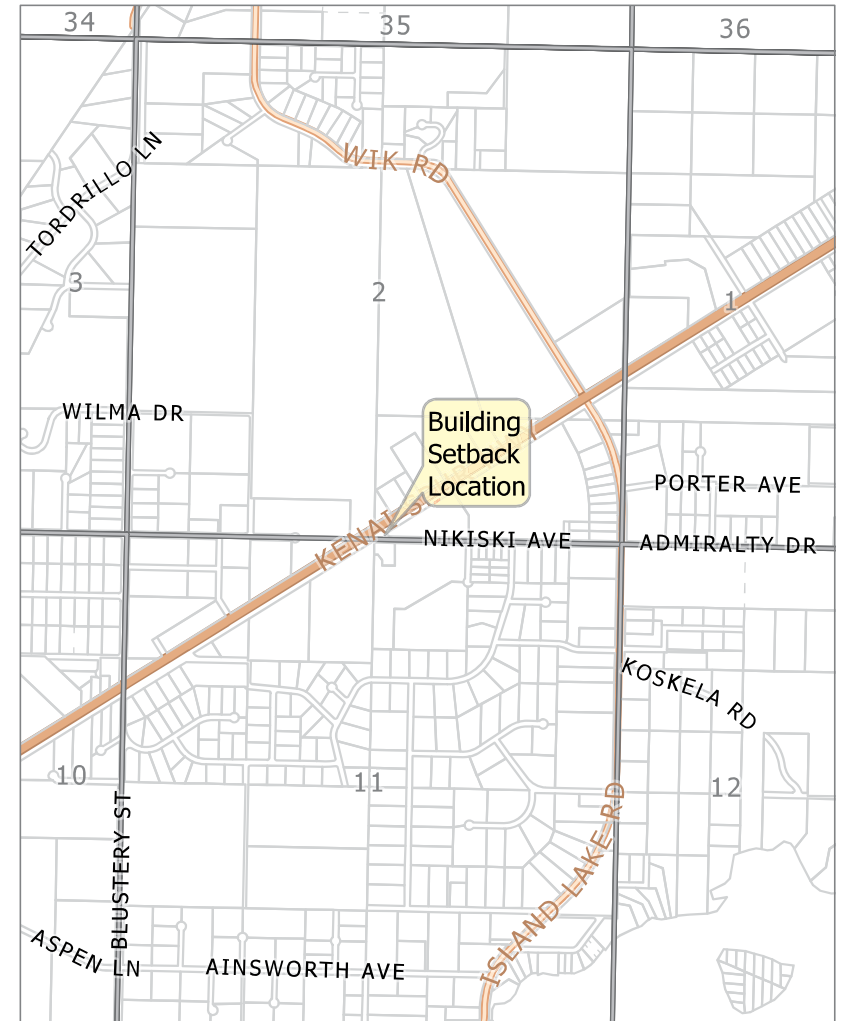
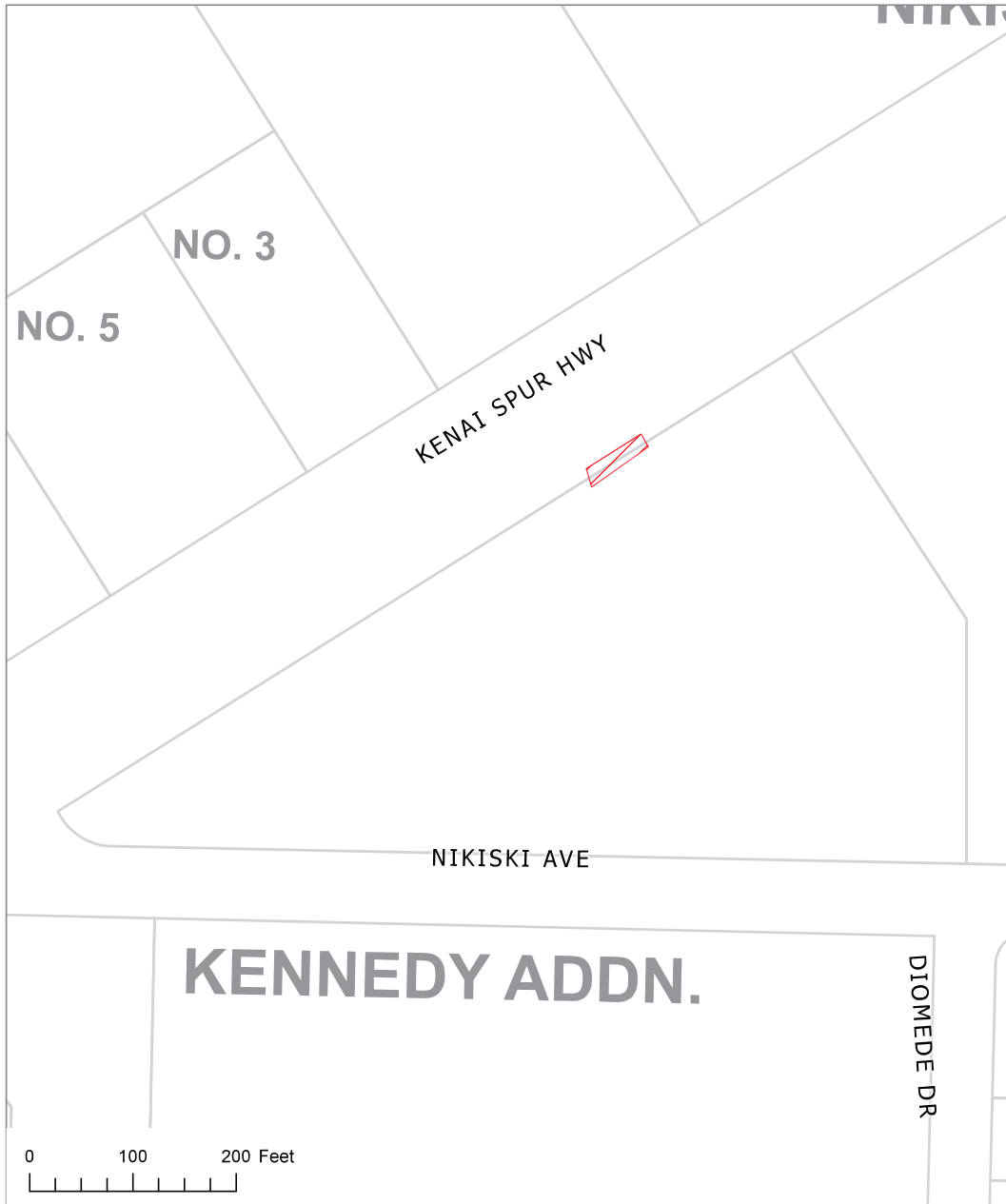
### **2. Building Setback Permit; KPB File 2025-106**

**Segesser / Wanda J. Kennedy & Wenda J. Kennedy Living Trust**

**Request: To permit a portion of the existing building to remain within the 20' building setback on Tract 1, Nikiski Village Subdivision No. 2, Plat KN 76-3**

**Nikiski Area / Nikiski APC**

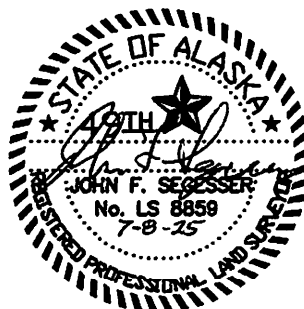
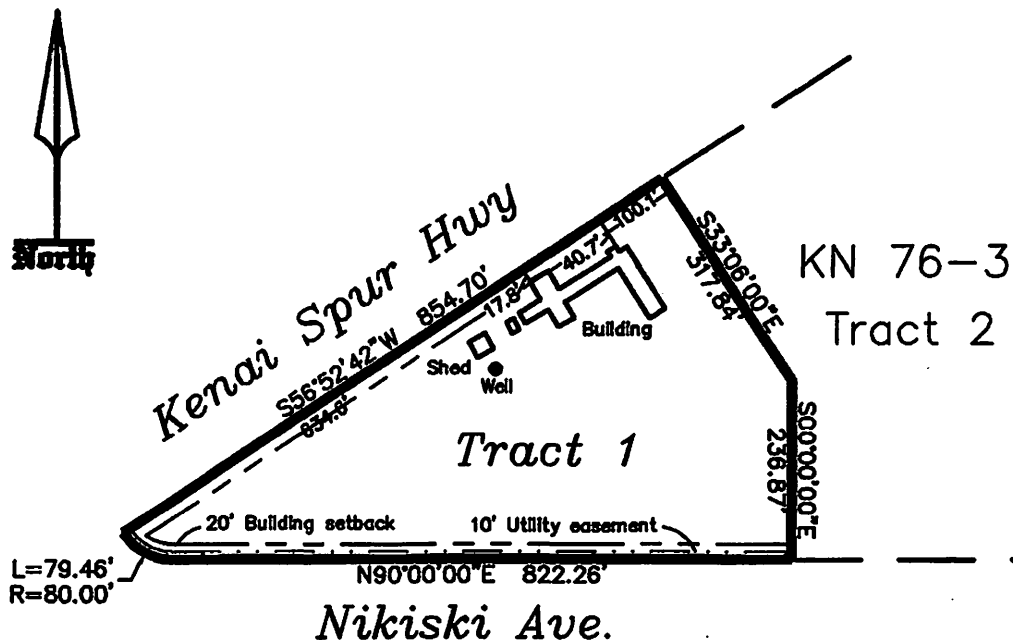
**Responsible Staff Person: Platting Manager Vince Piagentini**



KPB File 2025-106  
T 07N R 12W Sec 02  
Nikiski



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**ASBUILT CERTIFICATION**

**LEGEND**

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

Tract 1

Nikiski Village Subdivision No. 2

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.

KENAI RECORDING DISTRICT		Plat: 76-3
Date: 7-8-25	Scale: 1"=200'	Drawn: JFS
Job: 25041	Book: 24-4	

**SEGESSER SURVEYS**

30485 ROSLAND ST.  
SOLDOTNA, AK 99689  
(907) 262-3909



AGENDA ITEM E.      NEW BUSINESS

**ITEM #2. – BUILDING SETBACK ENCROACHMENT PERMIT  
TRACT 1, NIKISKI VILLAGE SUBDIVISION NO 2, PLAT KN 76-03**

<b>KPB File No.</b>	2025-106
<b>Planning Commission Meeting:</b>	August 11, 2025
<b>Applicant / Owner:</b>	Wanda J. Kennedy and Wenda J. Kennedy Living Trust of Nikiski, Alaska
<b>Surveyor:</b>	John Segesser / Segesser Surveys
<b>General Location:</b>	Kenai Spur Highway near Nikiski Avenue, Nikiski

<b>Parent Parcel No.:</b>	012-120-10
<b>Legal Description:</b>	Township 7 North, Range 12 West, Section 2, Seward Meridian, Kenai Recording District, Plat 76-03, Nikiski Village Subdivision No 2, Tract 1
<b>Assessing Use:</b>	General Commercial
<b>Zoning:</b>	Rural Unrestricted
<b>Resolution</b>	2025-15

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:**

Permits an approximate 2.2-foot by 28-foot section of the northerly side of the westerly segment of an irregularly-shaped commercial structure to remain approximately 2.2 feet within the 20-foot building setback adjacent to Kenai Spur Highway.

**Site Investigation:**

The submitted as-built depicts a well, shed, building, and an unnamed smaller structure located on the subject property. According to KPB GIS imagery and KPB Assessing records, the encroaching structure is a dilapidated commercial building built in 1970. The structure predates the parent plat which granted the building setback in 1976; however, portions of the structure appear to have been added to and connected together through the years. A portion of the 28-foot section of the northerly side of the westerly segment of the building appears to be encroaching into the 20-foot building setback by approximately 2.2 feet. No building setback encroachment permit is on record for this structure.

The 20-foot building setback is adjacent to the Kenai Spur Highway, a state-maintained road. The Kenai Spur Highway is a dedicated 150-foot road. Approximately 30 feet of the right-of-way is currently paved and maintained by the DOT.

Based on KPB picometry dated in 2021 and Google Earth imagery dated 2011, the encroachment does not appear to obstruct or interfere with the current sight lines along Kenai Spur Highway as the topography is relatively flat. Sight distance does not appear to be affected as the structure is approximately 83 feet from the center of the closest driving lane of Kenai Spur Highway. The parking lot for the building is in front of the structure with what looks to be straight in parking.

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**Staff Analysis:**

Originally, the land was an aliquot part of the S1/2 SW1/4, Section 2, Township 7 North, Range 12 West. In 1976, Nikiski Village Subdivision No. 2 (KN 76-3) subdivided the land into tracts. The plat included a plat note: 20' minimum building setback from all street frontages.

There is an associated plat in process subdividing Tract 1 into three Lots named Nikiski Village Subdivision Kennedy Addition No. 2. This plat was reviewed by the Plat Committee and granted preliminary approval during the May 27,

2025 meeting.

No wetlands affect the subject area according to the KWF Wetlands Assessment. The River Center review did not indicate the area to be located in a FEMA designated flood hazard area nor a habitat protection district.

**Applicant Discussion:**

1. The building setback encroachment may not interfere with road maintenance. According to Assessment records, the main building was constructed around 1970. The parking area for the building and the highway are separated by a "bar pit" - a deep drainage ditch that runs along the highway. There is a 4-wheeler/ snow machine trail and gas line easement that both run within the highway easement on the property side of the drainage ditch. There is ample on-site parking in front of the building, as well as on-site space for ingress and egress. The building improvements are barely within the twenty-foot (20') limit and do not interfere with road maintenance.
2. The building setback encroachment may not interfere with sight lines or distances. There are no issues with the building being in any sight lines. It is situated off the highway and does not pose a visual hazard to drivers. In fact, most people passing by must look hard to even see the building since it is surrounded by forest, and the highway right-of-way on either side is overgrown.
3. The building setback encroachment may not create a safety hazard. The main building has been in place for around fifty-five (55) years. One section of the improvements butts up to the 20-foot easement requirement. The improvement location on the lot is a non-issue concerning safety.

**Applicant Findings:**

1. The main building was constructed around 1970.
2. The main building has been in place for around fifty-five (55) years.
3. One section of the improvements butts up to the 20-foot easement requirement.
4. The building improvements are barely within the twenty-foot (20') limit and do not interfere with road maintenance.
5. There are no issues with the building being in any sight lines. It is situated off the highway and does not pose a visual hazard to drivers. In fact, most people passing by must look hard to even see the building since it is surrounded by forest, and the highway right-of-way on either side is overgrown.
6. The parking area for the building and the highway are separated by a "bar pit"- a deep drainage ditch that runs along the highway.
7. There is a 4-wheeler/snow machine trail and gas line easement that both run within the highway easement on the property side of the drainage ditch.
8. There is ample on-site parking in front of the building, as well as on-site space for ingress and egress.

**Staff Findings for the Commission's review:**

9. The Kenai Spur Highway is a dedicated 150-foot road.
10. Approximately 30 feet of the right-of-way is currently paved and maintained by the DOT.
11. The structure is approximately 83 feet from the center of the closest driving lane of Kenai Spur Highway.
12. Nikiski Village Subdivision No. 2 (KN 76-3) included a plat note: 20' minimum building setback from all street frontages.
13. No wetlands affect the subject area according to the KWF Wetlands Assessment.
14. The topography is relatively flat.
15. Nikiski Village Subdivision No. 2 KN76-3 was recorded in 1976, six years after the structure was built.

**20.10.110. – Building setback encroachment permits.**

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

**Staff recommends** the Planning 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 4, 9- 11 and 14 appear to support this standard.**

2. The building setback encroachment may not interfere with sight lines or distances.  
**Findings 4, 5, 11 and 14 appear to support this standard.**

3. The building setback encroachment may not create a safety hazard.  
**Findings 4, 5, 8-11 and 14 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	
SOA DOT comments	
KPB River Center review	<p>A. Floodplain</p> <p>Reviewer: Hindman, Julie  Floodplain Status: Not within flood hazard area  Comments: No comments</p> <p>B. Habitat Protection</p> <p>Reviewer: Aldridge, Morgan  Habitat Protection District Status: Is NOT within HPD  Comments: No comments</p>
State of Alaska Fish and Game	
Addressing	<p>Reviewer: Pace, Rhealyn  Affected Addresses:  51010 KENAI SPUR HWY</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names:  KENAI SPUR HWY, NIKISKI 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:  THIS ACTION WILL NOT AFFECT ADDRESS</p>
Code Compliance	<p>Reviewer: Ogren, Eric  Comments: Structure is in violation of the setback. Compliance does not disagree to the exception</p>

Planner	
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 structures within the 20 foot building setback as shown on the 2025 as-built survey, subject to:

1. Compliance with KPB 20.10.110 sections F and G.
2. Providing a current as-built with recommended corrections as noted below, to be used as an exhibit drawing for Resolution 2025-15, prepared, signed, and sealed by a licensed land surveyor.
3. 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.
4. Any additional encroachments found will require a new hearing.

### **STAFF RECOMMENDATIONS**

#### **CORRECTIONS / EDITS**

Add the legal description to the as-built drawing

Add the owners to the as-built drawing.

Revise the 10' utility to the current 5' clearing easement as the proposed plat is not finalized.

Add to the anchor easement to the drawing

Add a detail of the west side of the drawing to show the encroachment in better detail.

Add the R/W to the two road shown.

### **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.**

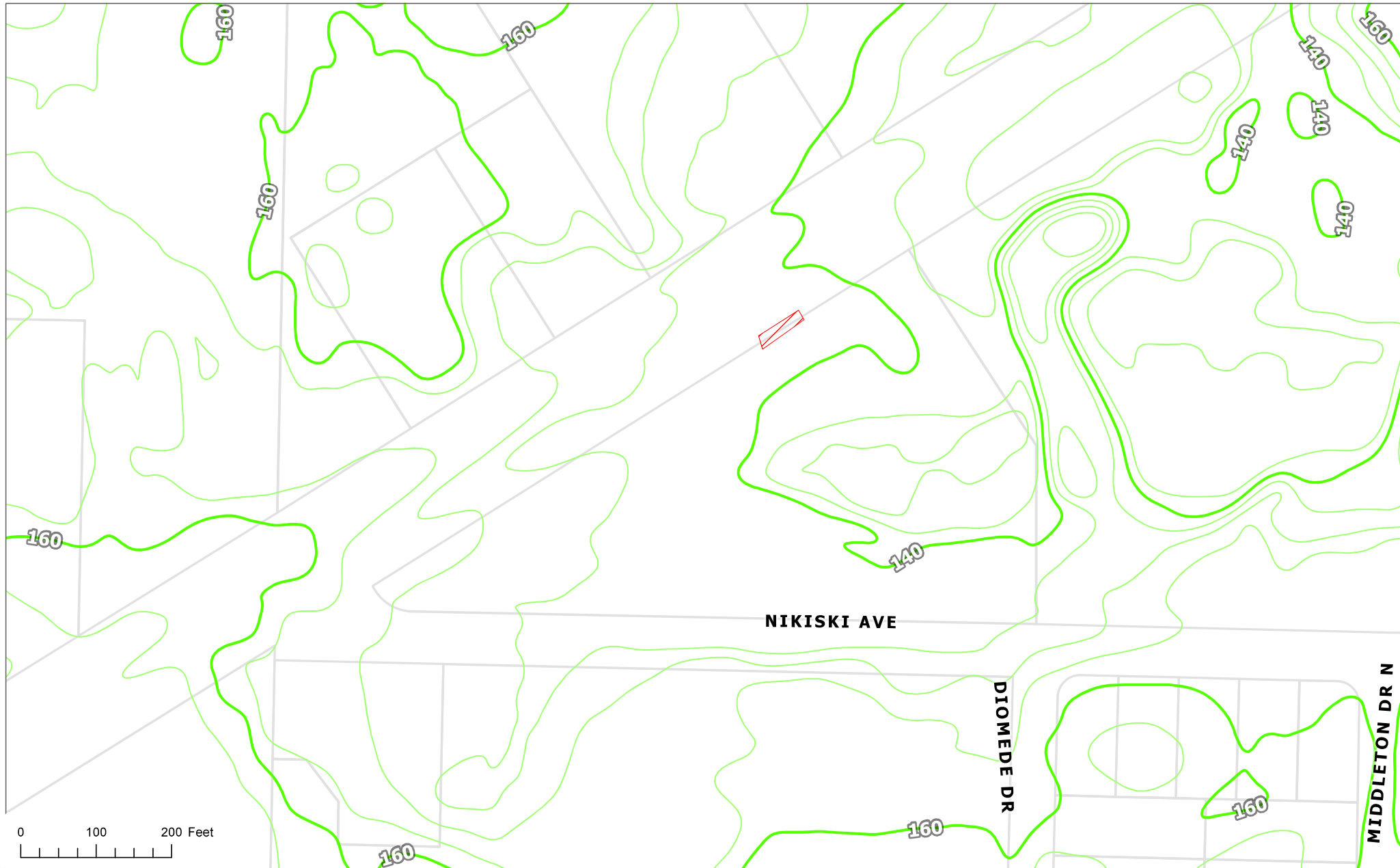
**END OF STAFF REPORT**





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# KPB Pictometry 2021



05/18/2021



# KPB Pictometry 2021



05/18/2021



**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
RESOLUTION 2025-15  
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO AN APPROXIMATE 2.2-FOOT BY 28-FOOT SECTION OF THE NORTHERLY SIDE OF THE WESTERLY SEGMENT OF AN IRREGULARLY-SHAPED COMMERCIAL STRUCTURE PORTION APPROXIMATELY 2.2 FEET WITHIN THE TWENTY FOOT BUILDING SETBACK FOR TRACT 1, NIKISKI VILLAGE SUBDIVISION NO. 2 (KN 0760003); IN SE 1/4 S02, T07N, R12W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2025-106

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, Wanda J Kennedy and Wenda J Kennedy Living Trust of Nikiski, AK requested a building setback encroachment permit to the 20-foot building setback granted by Nikiski Village Subdivision No. 2 (KN 0760003); and

WHEREAS, per the petition; and

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

WHEREAS, on Monday, August 11, 2025, 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 0760003 Tract 1 is hereby excepted to accommodate only the encroaching portion of the building that encroaches approximately 2.2 feet into the building setback.

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 \_\_\_\_\_, 2025.

\_\_\_\_\_  
Jeremy Brantley, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg,  
Administrative Assistant

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