

E. NEW BUSINESS

1. Building Setback Encroachment Permit

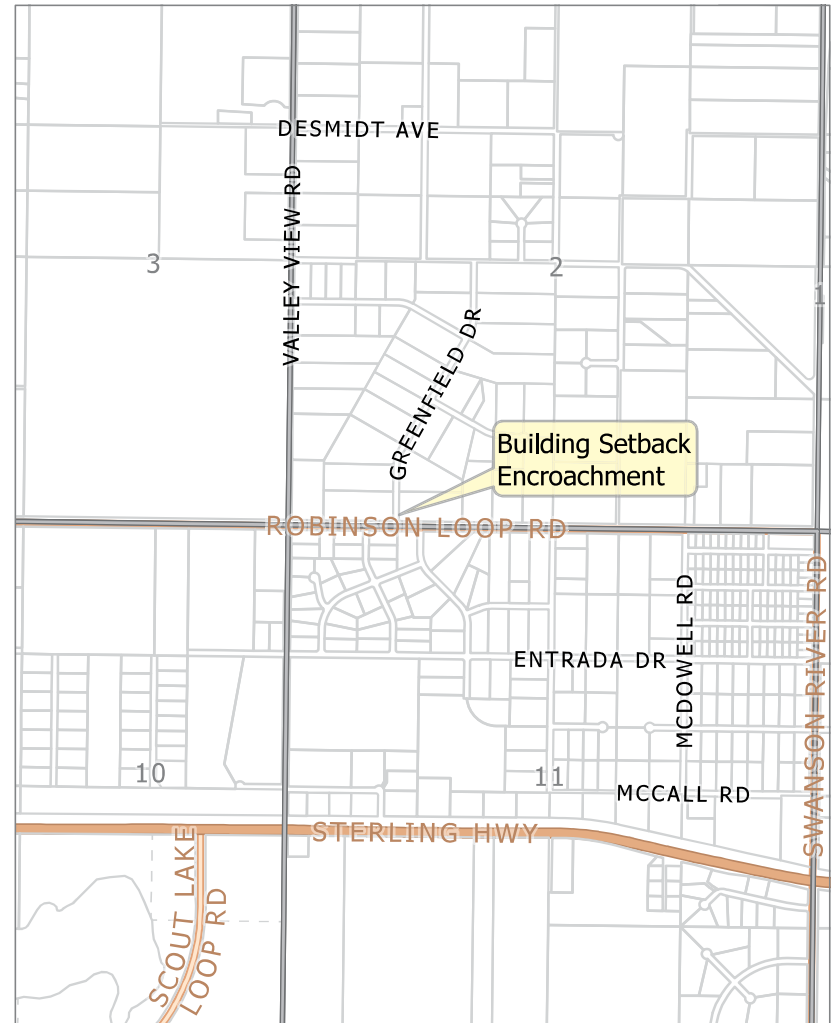
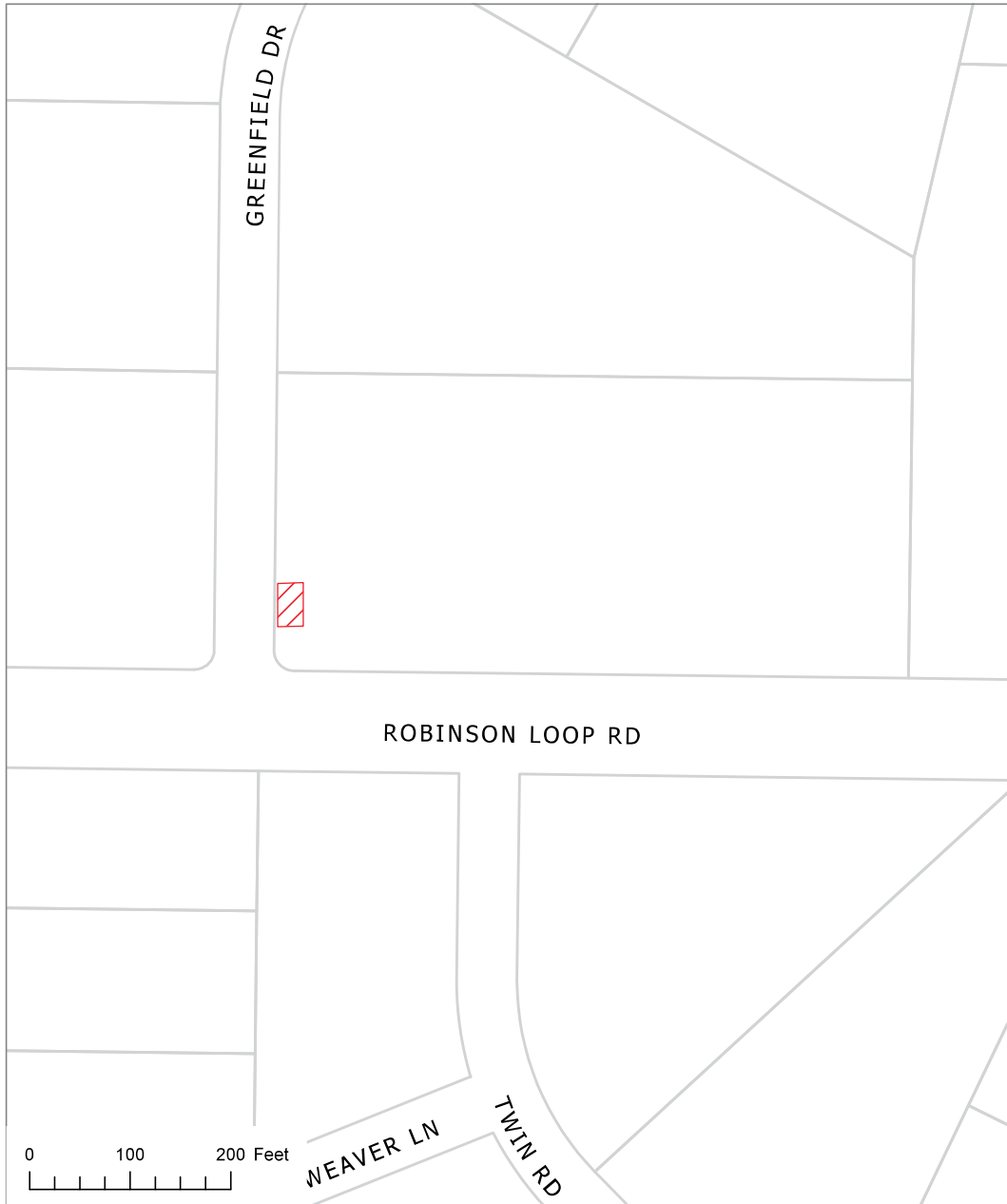
KPB File 2025-018; PC Resolution 2025-06

Edge Survey & Design, LLC / Caswell

Request: Permits a 32.9' x 40' garage to be reconstructed in the same location which encroaches 18' into the building setback on Lot 1, Block 1, Whispering Meadows Subdivision Part 1, Plat KN 74-32

Sterling Area

Staff Person: Platting Manager Vince Piagentini



KPB File 2025-018
T 05N R 9W SEC 2
Sterling

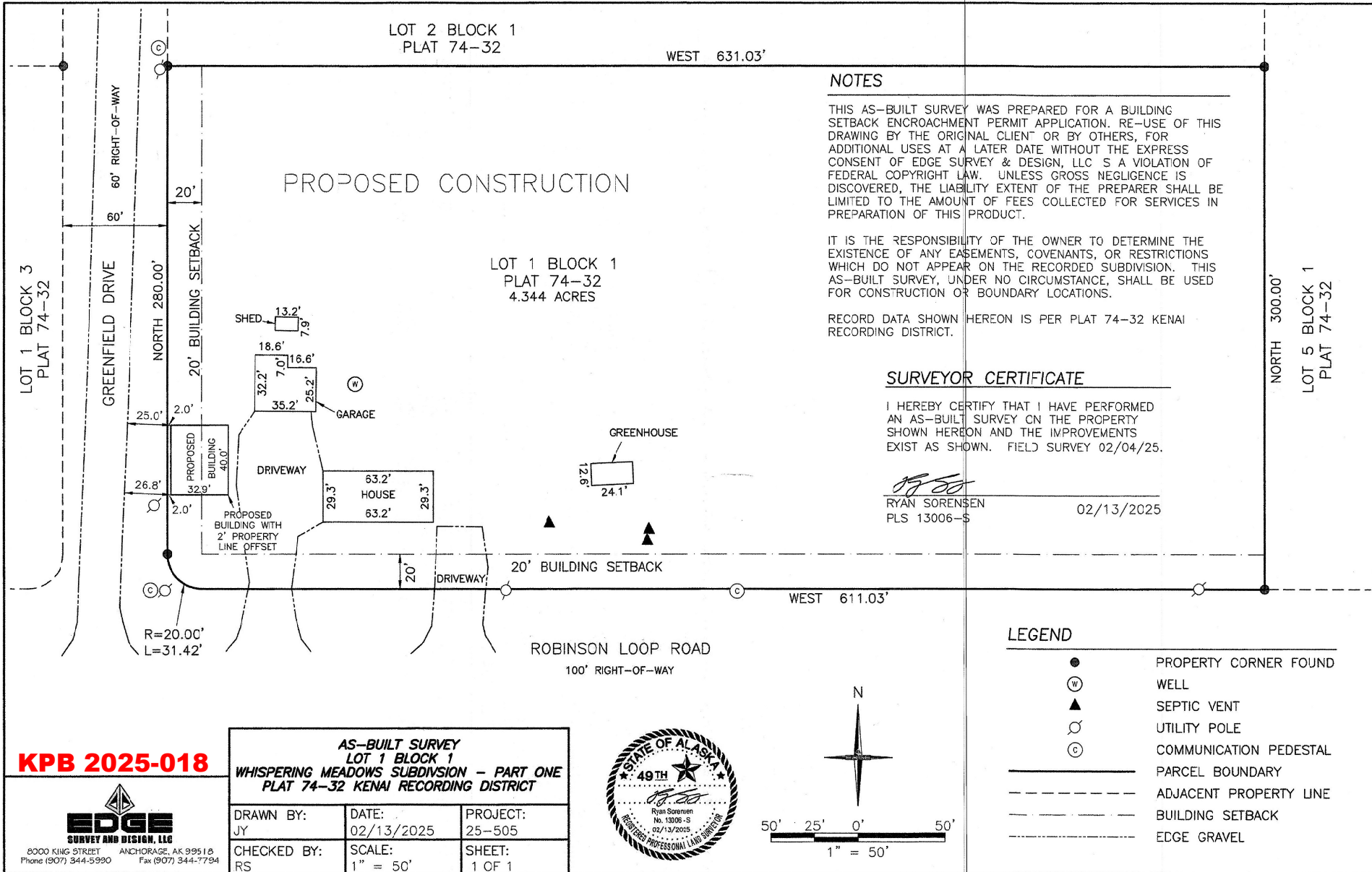
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Aerial Map



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NOTES

THIS AS-BUILT SURVEY WAS PREPARED FOR A BUILDING SETBACK ENCROACHMENT PERMIT APPLICATION. RE-USE OF THIS DRAWING BY THE ORIGINAL CLIENT OR BY OTHERS, FOR ADDITIONAL USES AT A LATER DATE WITHOUT THE EXPRESS CONSENT OF EDGE SURVEY & DESIGN, LLC IS A VIOLATION OF FEDERAL COPYRIGHT LAW. UNLESS GROSS NEGLIGENCE IS DISCOVERED, THE LIABILITY EXTENT OF THE PREPARER SHALL BE LIMITED TO THE AMOUNT OF FEES COLLECTED FOR SERVICES IN PREPARATION OF THIS PRODUCT.

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. THIS AS-BUILT SURVEY, UNDER NO CIRCUMSTANCE, SHALL BE USED FOR CONSTRUCTION OR BOUNDARY LOCATIONS.

RECORD DATA SHOWN HEREON IS PER PLAT 74-32 KENAI RECORDING DISTRICT.

SURVEYOR 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 02/04/25.

RS
 RYAN SORENSEN
 PLS 13006-S 02/13/2025

LEGEND

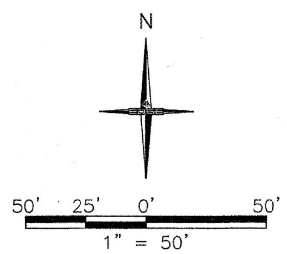
- PROPERTY CORNER FOUND
- ⊙ WELL
- ▲ SEPTIC VENT
- ⊙ UTILITY POLE
- ⊙ COMMUNICATION PEDESTAL
- PARCEL BOUNDARY
- - - ADJACENT PROPERTY LINE
- - - BUILDING SETBACK
- - - EDGE GRAVEL

KPB 2025-018

EDGE SURVEY AND DESIGN, LLC
 8000 KING STREET ANCHORAGE, AK 99518
 Phone (907) 344-5990 Fax (907) 344-7794

**AS-BUILT SURVEY
 LOT 1 BLOCK 1
 WHISPERING MEADOWS SUBDIVISION - PART ONE
 PLAT 74-32 KENAI RECORDING DISTRICT**

DRAWN BY: JY	DATE: 02/13/2025	PROJECT: 25-505
CHECKED BY: RS	SCALE: 1" = 50'	SHEET: 1 OF 1



AGENDA ITEM E. NEW BUSINESS

ITEM #1. – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1, BLOCK 1, WHISPERING MEADOWS SUBDIVISION PART 1, PLAT KN 74-32

KPB File No.	2025-018
Planning Commission Meeting:	March 24, 2025
Applicant / Owner:	David C. and Barbara J. Caswell
Surveyor:	Ryan Sorenson / Edge Survey and Design
General Location:	Greenfield Drive and Robinson Loop Road, Sterling area

Parent Parcel No.:	063-360-01
Legal Description:	Township 5 North, Range 9 West, Section 2, Seward Meridian, Kenai, Plat 74-32, Whispering Meadows Subdivision Part 1, Lot 1, Block 1
Assessing Use:	Residential
Zoning:	Unrestricted
Resolution	2025-6

STAFF REPORT

Specific Request / Purpose as stated in the petition:

The proposed building is replacing an old structure in the same location.

Site Investigation:

Multiple structures are depicted on the provided as-built. KPB GIS Imagery shows an approximate 33 foot by 40 foot structure on the west lot line of the lot, encroaching into the 20-foot building setback along borough-maintained Greenfield Drive. No building setback encroachment permit is on record for this structure.

The owners have provided in their justification that they plan to replace the building in the setback. According to the submitted survey, the proposed 32.9-foot by 40-foot structure will encroach 18-feet into the 20-foot building setback along Greenfield Drive.

Per KPB Code 20.90.010- Definitions- Building Setback is the area of the lot where permanent structures are not allowed. The purpose of the setback is to promote safe public access, areas for emergency response, and traffic sight distance. KPB code 20.90.010 also defines Permanent Structures as anything of a permanent nature that requires footings, foundations or pilings.

The parcel is located on the corner of Greenfield Drive and Robinson Loop Road. Greenfield Drive is a 60-foot KPB maintained road. It connects to Robinson Loop Road to the south and Herta Avenue to the north. Robinson Loop is located on the south side of the lot and is a 100-foot state-maintained road.

Based on KPB imagery and Google Earth imagery, the encroachment does not obstruct or interfere with the sight lines along Greenfield Drive as the topography is relatively flat. Sight distance will not be affected as the proposed structure is approximately 39 feet from the center of the driving lane of Greenfield Drive at its closest point on the north side of indicated structure.

Staff Analysis:

This parcel was originally an aliquot portion of the S1/2 SW1/4 of Section 2, Township 5 North, Range 9 West, Seward Meridian, Alaska. Whispering Meadows Subdivision – Part One, subdivided a portion of the land including Lot 1, Block 1 and dedicated portions of Greenfield Drive and Robinson Loop Road.

Whispering Meadows Subdivision - Part One does not include any reference to a building setback. However, in 1968, the Kenai Peninsula Borough developed a subdivision ordinance, KPB 68-26, that included a 20-foot building setback requirement on all plats.

According to KPB GIS Imagery, Greenfield Drive provides access to parcels and roads to the north, with the majority of the parcels being developed. The topography is relatively flat on the parcel and Greenfield Drive. No wetlands affect the road or subject lot.

The structure does not appear to affect the maintenance of Greenfield Drive. The KPB Roads Reviewer commented that there is adequate snow storage and maintenance has not usually been impacted.

Issuance of a building setback encroachment permit is an exception to the rule prohibiting such encroachments. The Commission may only approve an encroachment permit if there is substantial evidence in the record showing that each of the three standards are met. These are affirmative findings, and the petitioner has the burden to prove with substantial evidence they are true. The findings are provided for the Commission's consideration and are not exclusive. Additional relevant findings may be derived from the record, public testimony, written comments, or other Commissioner findings based on substantial evidence in the record.

"Substantial evidence" means relevant evidence a reasonable mind might accept as adequate to support a conclusion.

Applicant Discussion:

1. The proposed building is replacing an old structure in the same location. There had been a garage in the same location on air photos dating back until 1996 and the current owners have been there since 1993 and the original structure was in place at that time. See provided photo of the original structure. The previous building had been in place for over 25 years without complaint or issue. The landowner wants to simply replace the structure in the historic location.
2. The proposed building setback encroachment does not interfere with road maintenance efforts. The proposed building corner will be 25 feet or more from the traveled surface of Greenfield Drive. There is no constructed ditch on the East side of Greenfield Drive and there is adequate space for snow berm storage.
3. The proposed setback encroachment does not interfere with line of sight while traveling on Greenfield Drive. The proposed building is 25 feet from the traveled surface of Greenfield Drive. Greenfield Drive is a straight road, and the proposed building is well out of the necessary line of sight while traveling Greenfield Drive. There is existing vegetation and trees closer to the intersection with Robinson Loop Road than the proposed building, with sufficient line of sight left and right along Robinson Loop while parked at stop sight of Greenfield Drive.
4. The proposed building setback encroachment does not create any safety hazard. The proposed building corner is 2 feet from the property line and does not create any safety hazards while traveling Greenfield Drive. The area in question is near the intersection and traffic is traveling slow in this area. Greenfield Drive has low traffic pattern with less than 40 homes located beyond this parcel.
5. There is no platted utility easement along the rights-of-way from the parent plat and all the local utility lines appear to be within the right-of-way. The proposed building therefore will not block any easements.

Applicant Findings:

1. The proposed building is replacing an old structure in the same location.
2. The old structure can be dated back to 1993, when the owners purchased the property.
3. There is no constructed ditch on the east side of Greenfield Drive and there is adequate space for snow berm storage.
4. The proposed building will be 25-feet or more from the traveled surface of Greenfield Drive.

5. Greenfield Drive is a straight road and the proposed building is well out of the necessary line of sight while traveling Greenfield Drive.
6. There is existing vegetation and trees closer to the intersection of Robinson Loop Road than the proposed building.
7. There is sufficient line of sight left and right along Robinson Loop while parked at stop sight of Greenfield Drive.
8. The proposed building is 2-feet from the property line.
9. The area in question is near the intersection of Robinson Loop and Greenfield Drive, and the traffic is traveling slow in this area.
10. Greenfield Drive has a low traffic pattern with less than 40 homes located beyond this parcel.
11. There is no platted utility easement along the rights-of-way from the parent plat.
12. The local utility lines appear to be within the right-of-way.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards,

20.10.110. – Building setback encroachment permits.

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

1. The building setback encroachment may not interfere with road maintenance.
2. The building setback encroachment may not interfere with sight lines or distances.
3. The building setback encroachment may not create a safety hazard.

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.

Staff Findings for the Commission’s review:

13. The parcel is 4.34 acres in size.
14. The topography of the parcel is relatively flat.
15. There are no classified wetlands within the boundary of the lot.
16. The 20-foot building setback was created by KPB Ordinance 68-20.
17. The KPB Roads Reviewer commented that there is adequate snow storage and maintenance has not usually been impacted.
18. Existing structures / new structures both require Building Setback Encroachment Permits, one is asking for an existing built structure and the other is for preconstruction request.
19. Additions to an existing structure need to be completed behind the 20’ building setback line.

KPB department / agency review:

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments:
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	Greenfield is slightly misaligned to the West at the structure location, but located well within the ROW. There exist adequate snow storage and maintenance has not been traditionally impacted. No further RSA comments or objections.
SOA DOT comments	No 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	No Response
Addressing	<p>Reviewer: Leavitt, Rhealyn Affected Addresses: 35710 ROBINSON LOOP RD</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: GREENFIELD DR, ROBINSON LOOP RD</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: No other comments</p>
Code Compliance	<p>Reviewer: Ogren, Eric</p> <p>Comments: Existing structure is in violation and permit to be in the setback would be required to allow it to stay or to be rebuilt in the same location.</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: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather</p> <p>Comments: No comment</p>
Advisory Planning Commission	No Response

RECOMMENDATION:

If the Commission determines the petitioner **has not** met the burden of proving by substantial evidence that each of the Standards is met, the Commission should deny the application, and it should explain its reasons.

If the Commission determines the petitioner **has** met the burden of proving by substantial evidence that each of the Standards is met, the Commission should identify the findings of fact, based upon substantial evidence from the record, which includes this Staff Report, it determines are applicable to the Standards, and incorporate the following conditions for final approval:

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 a resolution 2025-8, 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.

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

- Correct the east lot label to reflect “Lot 5B, Block 1, KN 74-32.

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 2025-6
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR LOT 1 BLOCK 1, WHISPERING MEADOWS SUBDIVISION - PART ONE (KN 0740032); IN SW 1/4 S02, T05N, R09W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2025-018

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, David C. and Barbara J. Caswell of Sterling, AK requested a building setback encroachment permit to the 20-foot building setback granted by Whispering Meadows Subdivision - Part One (KN 0740032); and

WHEREAS, per the petition; and

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

WHEREAS, on Monday, March 24, 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 0740032 Lot 1 Block 1 is hereby excepted to accommodate only the encroaching portion of the Garage.

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

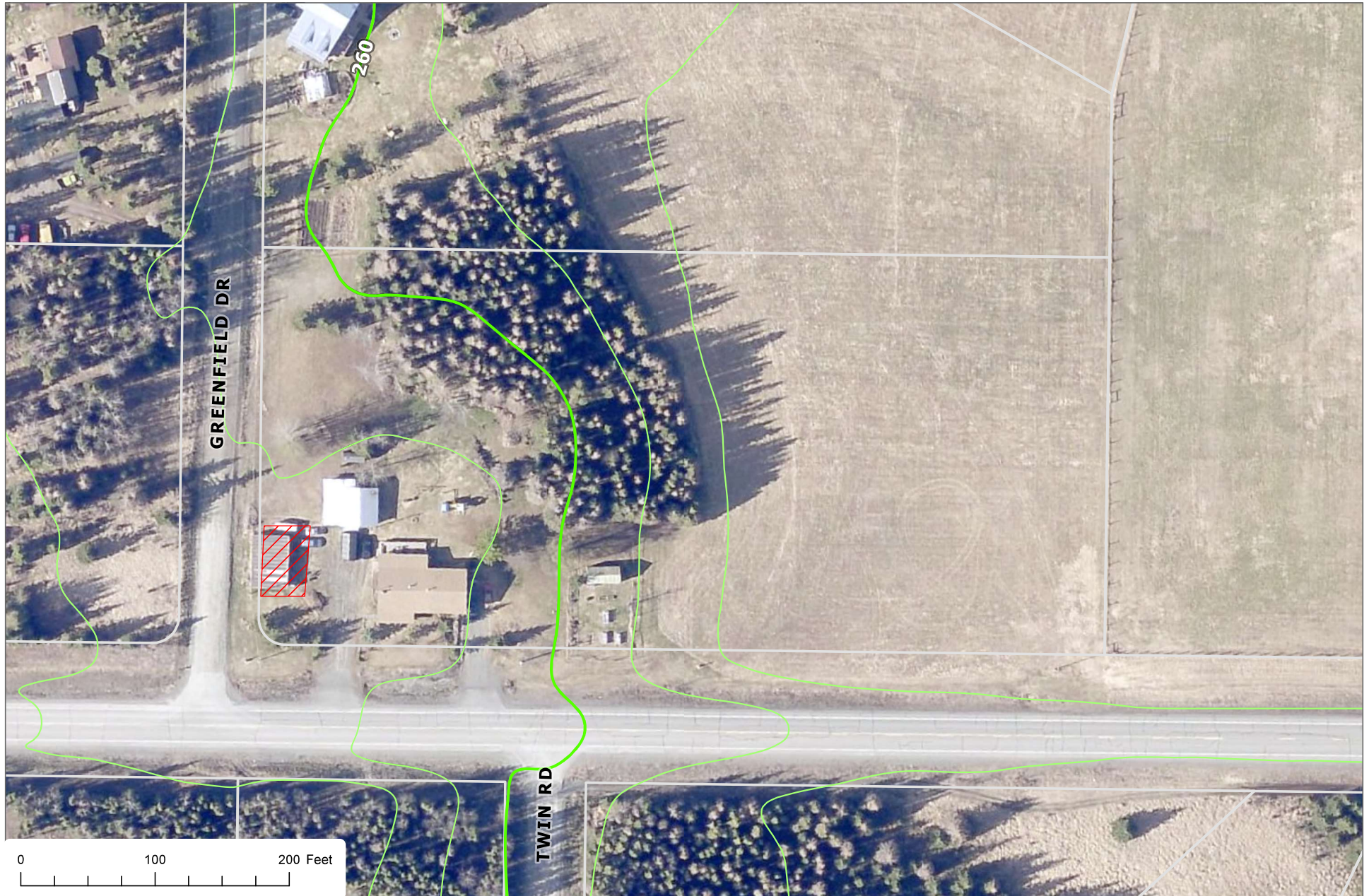
Return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669



Aerial Map



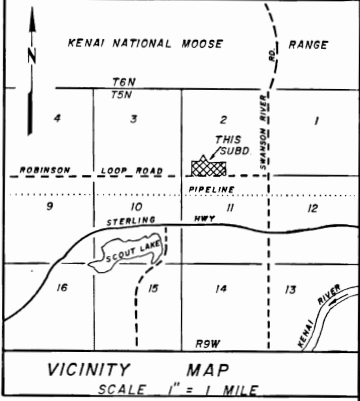
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1/4 3 2 589°58'00"E ~ 2638.71 C 1/4 SEC 2

CURVE DATA				
CURVE	A	R	T	Ch
①	29°00'00"	300.00	77.59	151.94
②	23°00'00"	300.00	61.04	120.43
				119.62

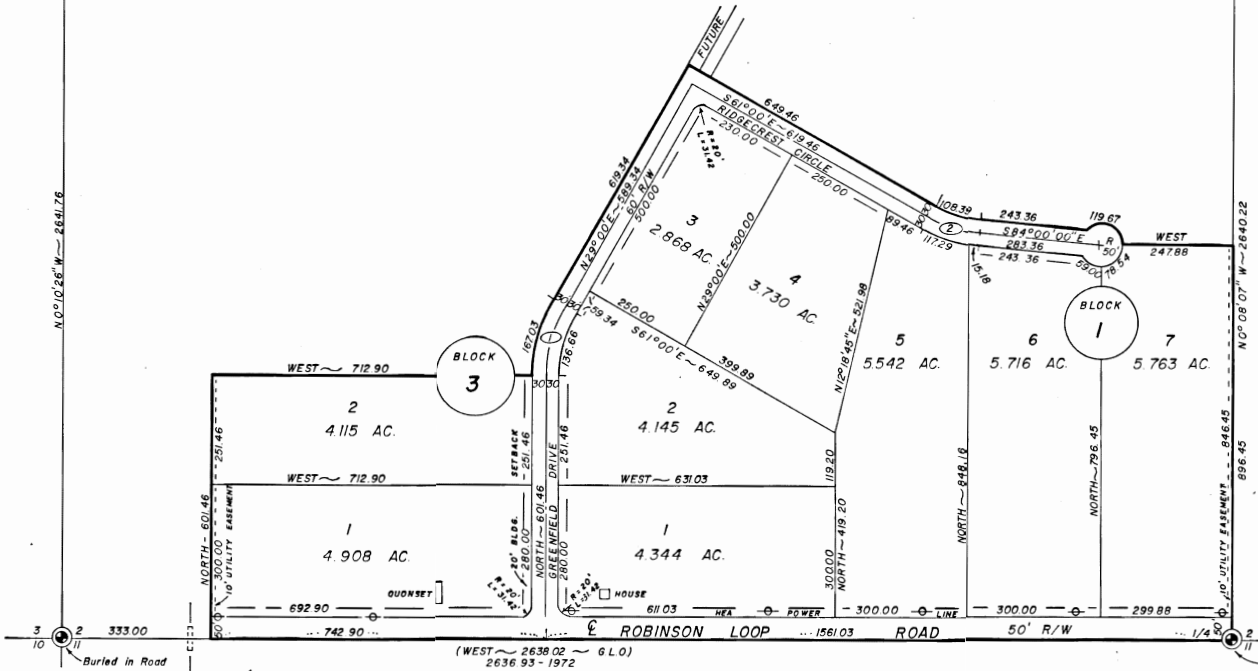


LEGEND AND NOTES

- ⊙ Found G.L.O. brass cap monument
- ⊙ Found official survey brass cap (C.L.P.-1963)
- ⊙ H.E.A. Power Pole
- ⊥ Set 1/2" x 24" steel rebar at all lot corners.

All bearings refer to the G.L.O. datum of West for the south line of Section 2 as shown.

Exterior survey date Nov. 22-27, 1972.
Subdivision survey date Dec. 11-18, 1973.



74-32

FILED
Kenai REC. DIST.

DATE 4-11-1974
TIME 10:12 A.M.
RECORDED BY KPB
ADDRESS

CERTIFICATE OF OWNERSHIP AND DEDICATION.

We hereby certify that we are the owners of said property, and request the approval of this plat showing such easements for public utilities, roadways, and or streets dedicated by us for public use.

Date April 9, 1974 Charles C. Foster
owner
Leroy E. Foster
owner

NOTARY'S ACKNOWLEDGEMENT.

Subscribed and sworn before me this 9th day of April, 1974.

My commission expires July 4, 1974
Stanley P. Thomson
notary public for Alaska

PLAT APPROVAL.

Plat approved by the Commission this 19th day of February, 1974.

Stanley P. Thomson
Mayor



WHISPERING MEADOWS
SUBDIVISION - PART ONE

Charles C and Leroy E. Foster, owners
Box 303, Soldotna, Ak 99669

DESCRIPTION
47085 ACRES SITUATED IN THE SW/2 SW1/4
SECTION 2, T5N, R9W, S.M AK AND
KENAI PENINSULA BOROUGH.

Surveyed by S.S. McLane R.L.S.
Soldotna, Ak.

DATE OF SURVEY Dec. 11-18, 1973	SCALE 1" = 200'	BK. NO. 39-71
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