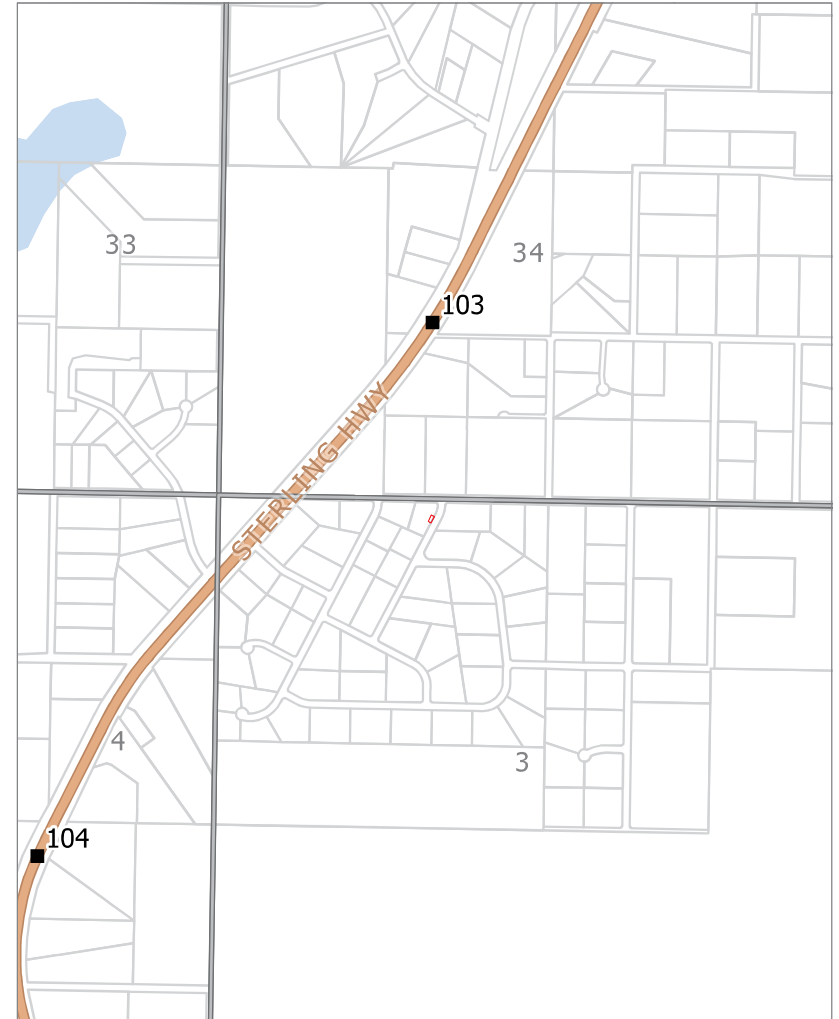


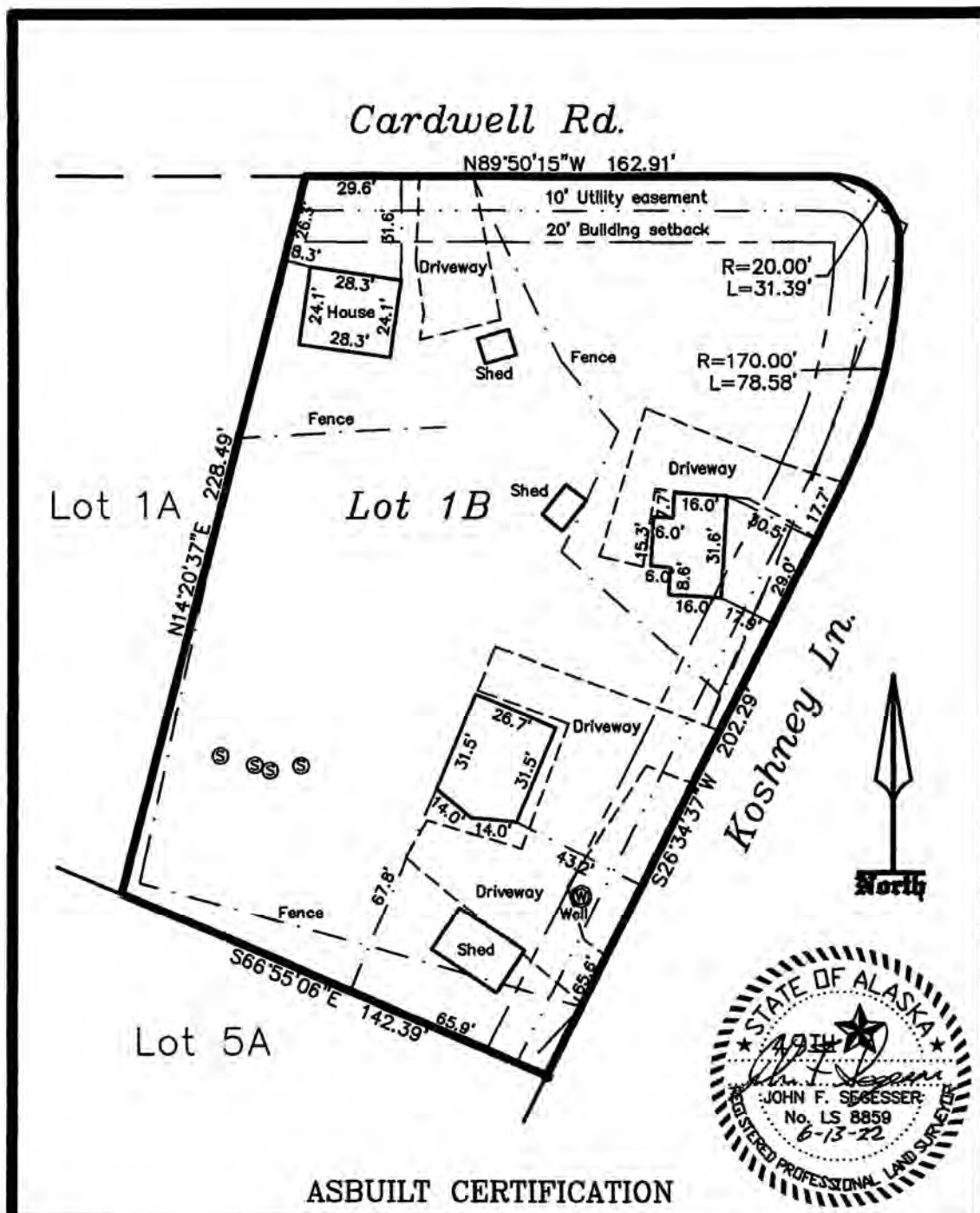
E. NEW BUSINESS

- 3. Building Setback Permit; KPB File 2022-084; PC RES 2022-30
Opheim / Segesser Surveys
Location: Lot 18, Block 4, Soldotna South Subdivision
Opheim Replat; Plat KN 85-162
Kalifornsky Area**



KPB File # 2022-084
S03 T03N R11W
Kalifornsky





LEGEND

- Found Rebar
- ⊙ Sewer vent

KENAI RECORDING DISTRICT		Plat: 2004-1
Date: 6-13-22	Scale: 1"=40'	Drawn: JFS
Job: 22149	Book: 22-3	

SEGESSER SURVEYS
30485 ROSLAND ST.
SOLDOTNA, AK 99869
(907) 262-3909

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

Lot 1B

Soldotna South Subdivision Opheim Replat

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.

KPB 2022-084

AGENDA ITEM E. NEW BUSINESS

**ITEM 3. – BUILDING SETBACK ENCROACHMENT PERMIT
LOT 1B BLOCK 4 SOLDOTNA SOUTH SUBDIVISION OPHEIM REPLAT**

KPB File No.	2022-084
Planning Commission Meeting:	July 18, 2022
Applicant / Owner:	Chris, Timothy, Megaera, Kathleen Opheim of Kasilof, Alaska
Surveyor:	John Segesser / Segesser Surveys
General Location:	Cardwell Road, Koshney Lane, Kalifornsky / Kalifornsky APC

Parent Parcel No.:	133-381-56
Legal Description:	Lot 1B Block 4, Soldotna South Subdivision Opheim Replat, Plat KN 2004-1
Assessing Use:	Residential
Zoning:	Rural Unrestricted

STAFF REPORT

Specific Request / Purpose as stated in the petition: Existing building encroaches about 2.1 feet into 20' building setback. We must get a KPB variant for sale of property. Also, 20' wood fence encroaches on 20' setback.

Site Investigation: The lot is located on the corner of Cardwell Road and Koshney Lane. Both roads are constructed and maintained by the Kenai Peninsula Borough. There are no wetlands or steep slopes present within the right-of-way dedications or within the subject areas.

Along the edge of the constructed road, the area is cleared with trees between the structures and the cleared areas. There does not appear to be any concerns with the line of sight.

Staff Analysis: Soldotna South Subdivision, Plat KN 85-160, subdivided some aliquot lands and created Lot 1 Block 4. The plat created a 20 foot setback from all dedicated rights-of-way with the front 10 feet granted as utility easements. This would have created a setback and easement for the property along the north adjacent to Cardwell Road and along the east adjacent to Koshney Lane. The lot was replatted with the plat Soldotna South Subdivision Opheim Replat, KN 2004-1. The setback and the utility easements along the dedicated rights-of-way were carried over to the new plat.

Multiple structures are present on the property. Per KPB assessing records the structures dates from 1998 to 2016. Per the as-built done on June 13, 2022, a structure is 2.1 feet into the 20 foot building setback. The as-built also indicates that a well is present within the setback and a wood plank fence within the setback, utility easement, and a small portion within the right-of-way.

Per KPB Code 20.90.010, "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. (See "Permanent Structures" definition.)". The definition within the same area of code for permanent structures is "for purposes of the building setback shall mean anything of a permanent nature that requires footings, foundations or pilings. Improvements of a minor nature that do not interfere with the sight distance from the right-of-way are allowed. Examples of allowable improvements are well casings, low retaining walls, vent pipes, individual mailboxes, address sign posts and transparent fencing such as metal chain link." Per the definitions the well is an allowable improvement. The fence appears to be a wood plank fence and would not fall under the allowable improvements.

The fence encroachment into the right-of-way will require resolution. Staff would also like to advise the owners that the fence encroachment into the utility easement, even if it is a code compliant style fence, cannot interfere with the use of the utility easement. The utility providers have the right to remove or have the fence removed at the expense of the owner and they are not liable for any damages. The fence within the setback is not a compliant fence. Staff recommends that the fence be replaced with a code compliant fence.

Looking at KPB GIS imagery, there does not appear to be any line of sight issues with the house or the fence.

Staff recommendations to approve the setback encroachment for the structure only.

Findings:

1. Soldotna South Subdivision, Plat KN 85-160, put a 20 foot building setback into place along Cardwell Road and Koshney Lane.
2. Soldotna South Subdivision Opheim Replat, Plat KN 2004-1, carried over the setback.
3. The fence is within the dedicated right-of-way.
4. The fence is within the utility easement and building setback.
5. The fence is a wood plank fence that does not meet code requirements.
6. The well is shown within the setback and is an allowable improvement.
7. The structure is 2.1 feet within the 20 foot building setback.
8. There does not appear to be any line of sight issues with the encroachments.
9. KPB Roads Department had no comments.

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.

Findings 7-9 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.

Findings 7-9 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.

Findings 7-9 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 encroachment 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: Uhlin, Dil Comments: No comments
SOA DOT comments	No comments
KPB River Center review	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments

	<p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
State of Alaska Fish and Game	No objections
Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 48705 CARDWELL RD 27955 KOSHNEY LN</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: CARDWELL RD KOSHNEY LN</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: 48705 CARDWELL RD will remain with lot 1B 27955 KOSHNEY LN will remain with lot 1B</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: Encroachments with neighboring property</p>
Planner	<p>Reviewer: Raidmae, Ryan 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 Comments: No comment</p>
Advisory Planning Commission	Kalifornsky APC is inactive

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2022-30 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 2022-30
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR LOT 1B BLOCK 4, SOLDOTNA SOUTH SUBDIVISION OPHEIM REPLAT (KN 2004-1); IN NW 1/4 S03, T03N, R11W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2022-084

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, Chris R Opheim and Kathleen Ophiem of Kasilof, AK requested a building setback encroachment permit to the 20-foot building setback granted by Soldotna South Subdivision (KN 85-160); and

WHEREAS, per the petition, existing building encroaches about 2.1 feet into 20' building setback. We must get a KPB variant for sale of property; and

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

WHEREAS, on Monday, July 18, 2022, 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 85-160, and carried over to KN 2004-1 onto Lot 1B Block 4 is hereby excepted to accommodate only the encroaching portion of the building.

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 18TH DAY OF JULY, 2022.

Blair J. Martin, Chairperson
Planning Commission

ATTEST:

Ann Shirmberg,
Administrative Assistant

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

133-381-56



© All Pictometry

05/14/2021

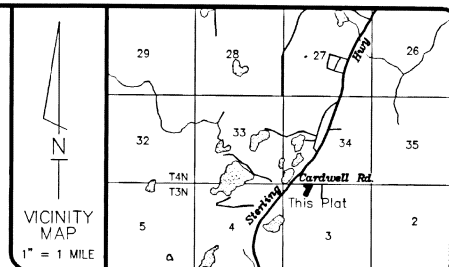
E3-8

NOTES:

- 1) Proposed land uses are recreational, residential, agricultural, and commercial.
- 2) Building Setback - A setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by
- 3) Front 10 ft. of the building setback adjacent to rights-of-way is also a utility easement. 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.
- 4) Restrictive Covenants that may affect this subdivision are recorded in Bk 272 Pg 476 and Bk 481 Pg 115 Kenai Recording District.
- 5) **WASTEWATER DISPOSAL:** Soil conditions in this subdivision have been found unsuitable for conventional wastewater treatment and disposal systems. Plans for a typical alternate wastewater disposal system for use on lots in this subdivision are included in the Engineer's Subdivision and Soils Report and are available from the Kenai Peninsula Borough. All Alternate onsite wastewater treatment and disposal systems must be designed by a professional engineer registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation prior to construction.

Engineer License # 18546 Date Jan 7, 2004

Peaceful Acres Jackson Replat #2



CERTIFICATE of OWNERSHIP and DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT 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.

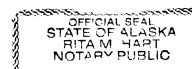
Kathleen Opheim
Kathleen Opheim
Chris R. Opheim, SR.
a.k.a. Chris R. Opheim

P. O. Box 1129
Kasilof, Alaska 99610

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 6th DAY OF January 2004 FOR Kathleen Opheim and Chris R. Opheim, SR.

Rita M. Llane
NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES 10-21-06



PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF October 13, 2003

KENAI PENINSULA BOROUGH

maury sue
AUTHORIZED OFFICIAL

KPB FILE No. 2003-222

Soldotna South Subd. Opheim Replat

A replat of lots 1, 2 & 5 Block 4 Soldotna South Subdivision, Plat No. 85-160 KRD.

Located within the NW1/4 Section 3, T3N, R11W, S.M., Kenai Recording District, Kenai Peninsula Borough, Alaska.

Containing 6.117 Acres

Integrity Surveys

605 Swires Drive Kenai, Alaska 99611-8363
SURVEYORS PHONE - (907) 283-9047 FAX - (907) 283-9071 PLANNERS

JOB NO: 23209 DRAWN: 5 January, 2004 CB
SURVEYED: Oct. - Nov 2003 SCALE: 1" = 60'
FIELD BK: 2003-4, 70-3 DISK: Soldotna South

CURVE TABLE				
Curve	Delta	Radius	Length	Chord
C1	26°31'41"	230.00'	106.49'	105.54'
C2	90°06'12"	20.00'	31.45'	28.31'
C3	89°55'49"	20.00'	31.39'	28.27'
C4	26°29'00"	170.00'	78.58'	77.88'
[C1]	26°24'37"	230.00'	106.02'	105.08'
[C2]	90°00'00"	20.00'	31.42'	28.28'
[C3]	90°00'00"	20.00'	31.42'	28.28'
[C4]	26°24'37"	170.00'	78.36'	77.67'

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 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.

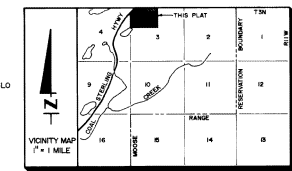
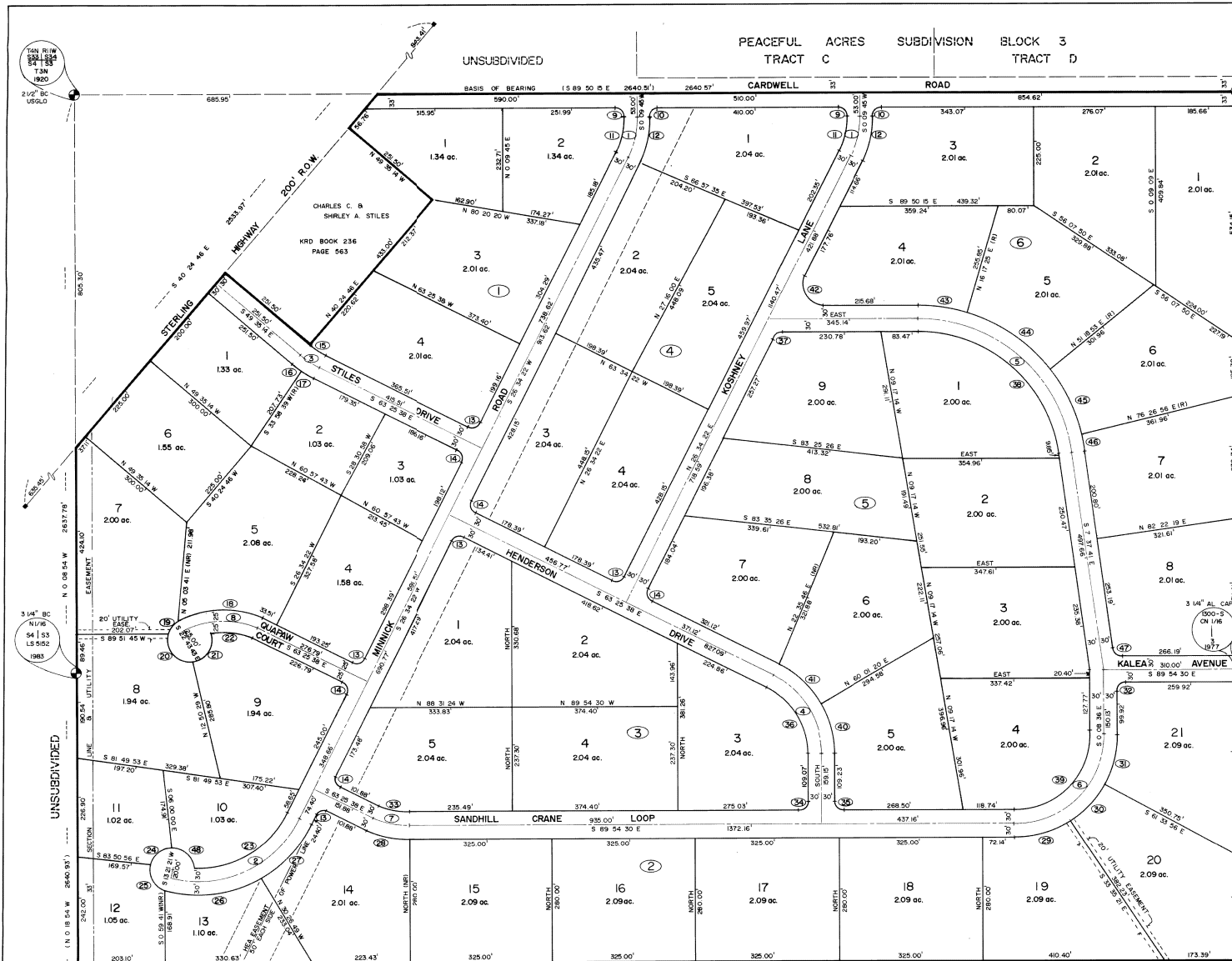
Date 6 Jan, 04



LEGEND:

- Monument (found this survey)
- 5/8" Rebar (found this survey)
- 5/8" Rebar (set this survey)
- Record Datum - Soldotna South Subd. Plat # 85-160 KRD

2004-1
RECORDED 20-
KENAI REC. DIST.
DATE: 2-10-04
TIME: 1:58 P.M.
REQUESTED BY:
INTEGRITY SURVEYS
605 SWIRES DRIVE
KENAI, ALASKA 99611



- NOTES**
1. FRONT 10 FEET OF BUILDING SETBACK FOR UTILITY EASEMENT.
 2. PROPOSED LAND USES ARE RECREATIONAL, RESIDENTIAL AND AGRICULTURAL.
 3. A SETBACK OF 20 FEET IS REQ'D FROM ALL STREET RIGHT-OF-WAYS UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
 4. ALL WATER SUPPLY AND WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH EXISTING LAWS AT THE TIME OF CONSTRUCTION.
 5. NO DIRECT ACCESS TO STATE MAINTAINED R.O.W'S PERMITTED UNLESS APPROVED BY THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.

CERTIFICATE OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

THIS SUBDIVISION HAS BEEN REVIEWED IN ACCORDANCE WITH REGS. 20.05 AND IS APPROVED, SUBJECT TO ANY NOTED RESTRICTIONS.

SIGNATURE _____ TITLE _____ DATE _____

CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON & THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION & DEDICATE ALL RIGHT-OF-WAYS & PUBLIC AREAS TO PUBLIC USE & GRANT ALL EASEMENTS TO THE USE SHOWN.

Matt Borch *Wythe Lee Renfrew*
 MATT BORCH *Attorney in fact for Matt Borch*
 6459 BARCLAY COURT *Attorney in fact for Wythe Lee Renfrew*
 ANCHORAGE, AK 99504
 MARSHALL K. CORRELL
 425 N. 16TH AVENUE
 ANCHORAGE, AK 99501

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS 11th DAY OF SEPTEMBER 1985 FOR *Matt Borch* a *Attorney in fact* for *Matt Borch* and *Wythe Lee Renfrew* a *Attorney in fact* for *Wythe Lee Renfrew*.

NOTARY PUBLIC FOR ALASKA
 MY COMMISSION EXPIRES 05-15-89

PLAT APPROVAL
 THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF *September 9, 1985*

KENAI PENINSULA BOROUGH
Richard P. Torgerson
 AUTHORIZED OFFICIAL

LEGEND

- MONUMENT (Found this survey)
- MONUMENT (Set this survey)
- REBAR (Found this survey)
- 5/8" x 30" REBAR (Set this survey)
- () RECORD DATUM KRD 77-147
- 6"x6" CONCRETE HIGHWAY MONUMENT (Found this survey)



KPB FILE NO. 85-263

SOLDOTNA SOUTH SUBDIVISION

LOCATED WITHIN THE NW 1/4 SECTION 3 T3N 11W, KENAI PENINSULA BOROUGH, S.M., ALASKA

112+ ACRES INTO 52 LOTS

INTEGRITY SURVEYS

SURVEYS	JOB NO.	85-7182	FIELD BOOK
	DISK NO.	1	FILE NAME
	SURVEYED	8-85	PLATTED 8-85
	DRAWN	L.R.	SCALE 1"=100'
	CHECKED	C.B.	SHEET 1 of 1

CURVE DATA

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARING	CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARING
1	26 24 37	200.00	92.19	46.93	9.37	S 13 22 03 W	25	83 07 43	50.00	72.54	44.34	66.30	S 30 04 48 E
2	76 48 37	234.12	340.36	201.25	315.64	S 64 07 51 W	26	43 48 10	284.12	217.37	114.23	211.96	N 81 27 18 W
3	13 50 24	200.00	48.51	24.27	48.19	S 53 20 26 E	27	32 58 49	284.12	163.55	84.11	161.30	N 43 03 46 E
4	63 25 38	200.00	221.40	123.59	212.27	S 31 42 49 E	28	26 28 52	230.00	106.30	54.12	106.36	S 76 40 04 E
5	82 02 19	350.00	503.48	306.25	449.95	S 48 46 50 E	29	32 32 21	230.00	154.86	69.43	152.38	N 73 17 50 E
6	90 14 06	200.00	314.98	282.42	544.58	27 W	30	28 04 04	230.00	112.67	57.49	111.50	N 42 28 07 E
7	26 28 52	200.00	92.44	47.06	9.62	N 76 04 04 W	31	38 34 41	230.00	114.72	59.58	113.53	N 14 08 44 E
8	49 18 04	200.00	172.09	91.76	164.63	N 88 04 40 W	32	90 14 06	30.00	31.50	20.00	28.34	N 44 58 27 E
9	90 00 00	20.00	31.42	20.00	28.28	N 04 50 15 W	33	26 28 52	170.00	78.57	40.00	77.87	N 76 04 04 W
10	90 00 00	20.00	31.42	20.00	28.28	S 49 09 45 W	34	90 00 30	20.00	31.42	20.00	28.31	S 45 02 45 W
11	26 24 37	170.00	78.36	39.89	71.67	S 13 22 03 E	35	85 54 30	20.00	31.36	19.97	28.26	N 44 57 15 W
12	26 24 37	170.00	106.02	53.97	104.06	S 13 22 03 E	36	63 25 38	170.00	105.05	178.73	178.73	S 31 42 49 E
13	90 00 00	20.00	31.42	20.00	28.28	N 71 34 22 E	37	63 25 38	20.00	22.14	12.34	21.03	N 58 17 11 E
14	90 00 00	20.00	31.42	20.00	28.28	S 18 25 38 E	38	82 02 19	350.00	503.43	306.25	449.95	S 48 46 50 E
15	13 50 25	170.00	41.06	20.63	41.96	N 56 30 26 W	39	90 14 06	170.00	267.73	170.70	240.91	S 44 38 27 W
16	06 26 57	230.00	25.83	12.93	21.82	S 32 48 17 E	40	29 58 40	230.00	120.34	61.58	118.97	N 14 29 20 W
17	07 24 48	230.00	29.74	14.88	23.70	S 19 43 28 E	41	33 26 59	230.00	134.27	69.11	132.36	N 46 02 09 W
18	49 18 04	225.00	193.61	103.25	187.69	N 88 04 40 W	42	116 34 22	50.00	101.73	80.91	85.07	S 31 42 49 E
19	67 24 32	50.00	58.63	33.30	34.49	S 33 34 01 W	43	16 17 25	360.00	108.04	54.39	107.67	S 61 51 19 E
20	102 44 18	100.00	169.55	162.55	71.07	S 51 29 22 E	44	32 21 06	380.00	232.25	119.90	228.69	S 56 51 31 E
21	91 40 26	50.00	80.00	51.46	7.74	S 31 19 18 W	45	25 08 03	380.00	166.69	84.71	166.36	S 26 07 06 E
22	32 52 29	175.00	100.41	51.63	99.04	N 79 51 53 W	46	06 55 24	380.00	39.28	19.66	39.27	S 10 35 23 E
23	64 30 22	224.12	292.33	141.43	238.27	S 18 49 33 W	47	82 02 19	20.00	28.72	17.41	26.32	S 48 46 50 E
24	77 30 56	50.00	67.65	40.14	62.60	S 45 14 32 W	48	91 44 51	50.00	80.06	51.55	7.18	N 50 07 35 W

