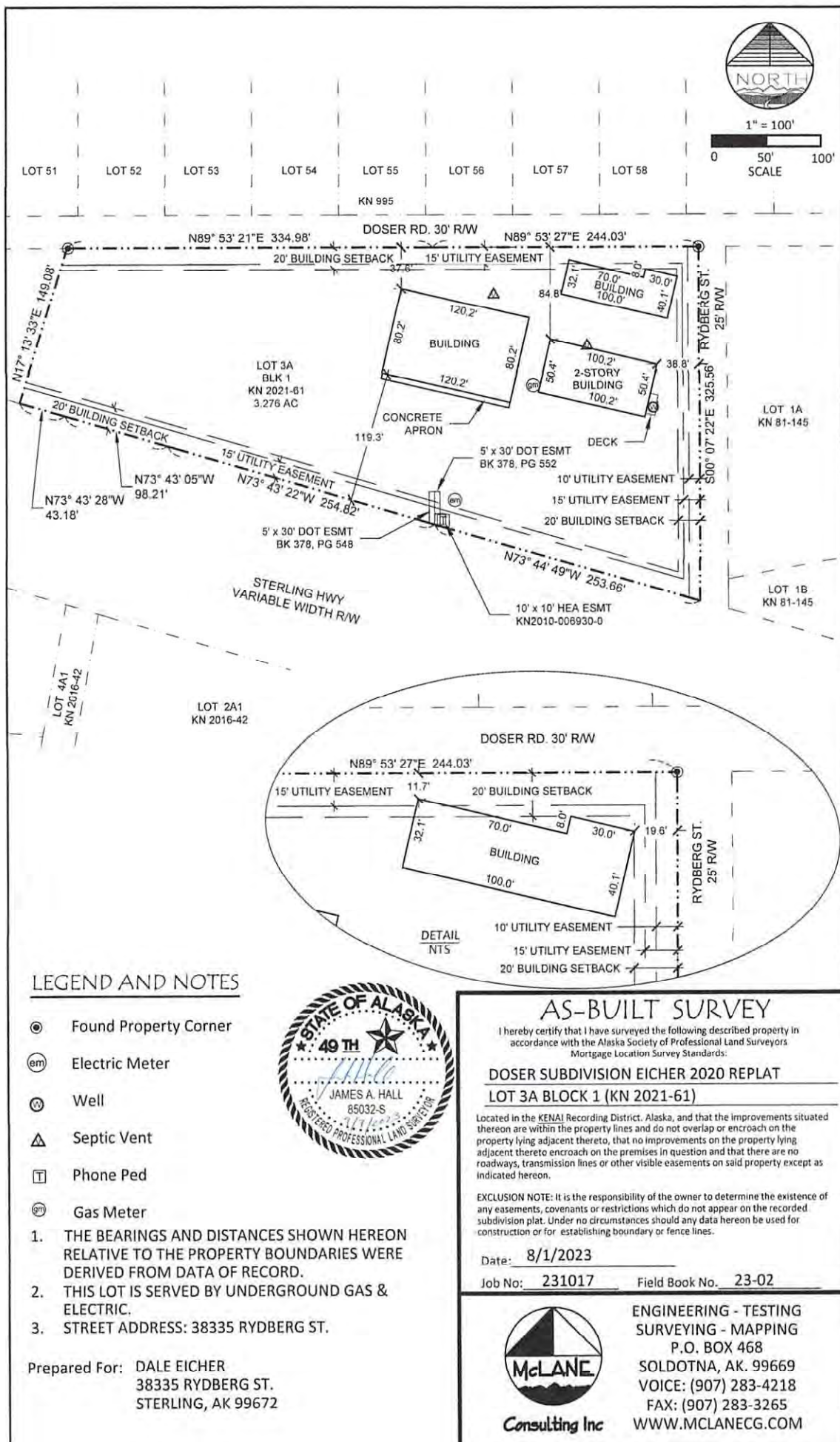


C. CONSENT AGENDA

- *2. Planning Commission Resolutions**
 - a. PC Resolution 2023-19**
 - Building Setback Encroachment Permit**
 - KPB File 2023-063**



AGENDA ITEM C2. PLANNING COMMISSION RESOLUTIONS

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

KPB File No.	2023-063
Planning Commission Meeting:	September 25, 2023
Applicant / Owner:	Marlin Eicher of Sterling, Alaska
Surveyor:	James Hall / McLane Consulting Group
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

This building setback encroachment permit is a follow-up to a building setback permit request that was heard and approved at the July 17, 2023 Planning Commission meeting. The applicants were given a conditional approval to resolve the encroachments into Doser Road and provide an updated as built to reflect the completion of the removal of the encroachment. The final as-built is has been submitted and staff is bringing Resolution 2023-19 before the Planning Commission for adoption.

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 KPB 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 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 adopt Resolution 2023-19, 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 2023-19
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR 3A, DOSER SUBDIVISION EICHER 2020 REPLAT (KN 2021061); IN NE 1/4 S07, T05N, R08W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2023-063

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, Marlin Eicher of Sterling, AK requested a building setback encroachment permit to the 20-foot building setback granted by Doser Subdivision Eicher 2020 Replat (KN 2021061); and

WHEREAS, per the petition; a building encroaches 11.7 feet into the building setback along Doser Road; 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. That the 20-foot building setback limit on KN 2021061 3A 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 _____ DAY OF _____, 2023.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shimberg,
Administrative Assistant

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

ITEM 2. – BUILDING SETBACK ENCROACHMENT PERMIT DOSER SUBDIVISION EICHER 2020 REPLAT

KPB 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 given by Platting Manager Vince Piagentini. He noted there are several conditions that must be met before the permit can be issued. When the conditions are met staff will bring back a resolution for the commission to review and adopt.

Chair Brantley opened the item for public comment.

Dale Eicher; 38335 Rydberg Street, Sterling, AK 99672: Mr. Eicher is the son of the petitioner and made himself available to answer any questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Slaughter moved, seconded by Commissioner Fikes to grant a building setback encroachment permit to Block 1, Lot 3A, Doser Subdivision Eicher 2020 Replat, Plat KN 2021-6, based on staff recommendations and adopting and incorporating by reference findings 3-8 & 10 in support of standard one and findings 3, 6 & 10 in support of standards two and three, as set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 9	Brantley, Fikes, Gillham, Hooper, Morgan, Slaughter, Staggs, Tautfest, Venuti
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ITEM 3. – BUILDING SETBACK ENCROACHMENT PERMIT HEAVEN'S VIEW SUBDIVISION 2019 ADDITION ROW VACATION PLAT

KPB File No.	2023-066
Planning Commission Meeting:	July 17, 2023
Applicant / Owner:	Dean Robinson
Surveyor:	Jason Schollenberg / Peninsula Surveying, LLC
General Location:	Lopez Avenue, Sterling

Parent Parcel No.:	058-351-28
Legal Description:	Tract A1, Heaven's View Subdivision 2019 Addition Right-of-Way Vacation Plat, KN 2019-22
Assessing Use:	Residential Dwelling
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini. He noted there are several conditions that must be met before the permit can be issued. When the conditions are met staff will bring back a resolution for the commission to review and adopt.

Chair Brantley passed the gavel to Vice Chair Gillham. Commissioner Brantley requested to be recused