

E. NEW BUSINESS

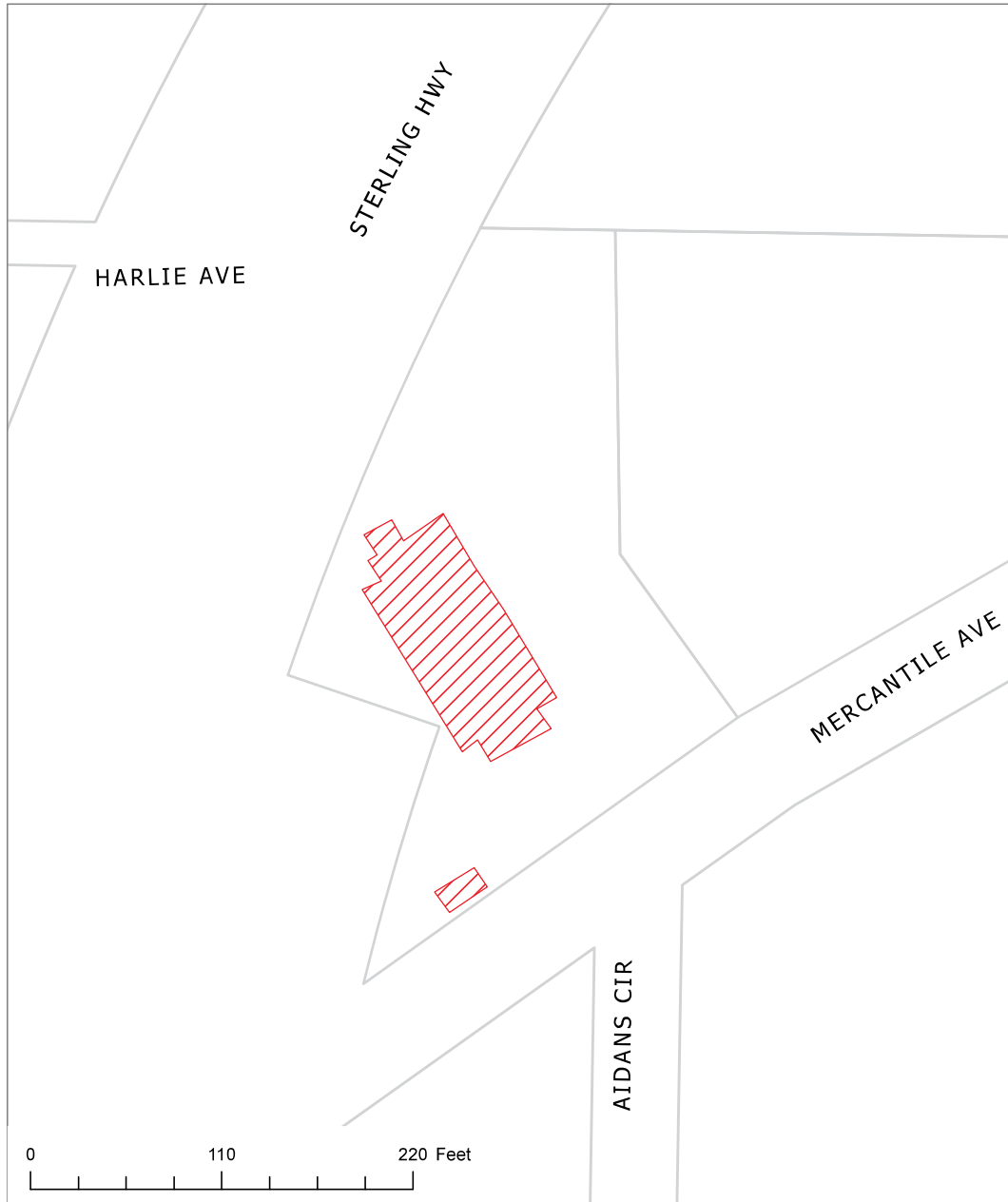
1. Building Setback Encroachment Permit

KPB File 2024-021 / PC RES 2024-06

Johnson Surveying / Steinbeck

Request: Permits portions of a shed & restaurant to remain in the 20' building setback

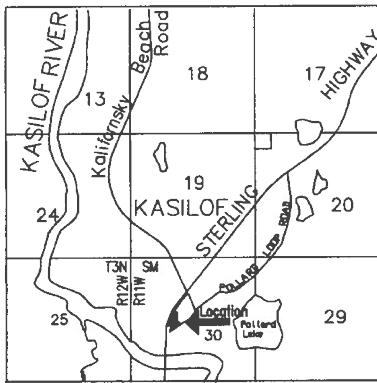
**Location: Tract B Harlie A. Fellers Subdivision, Plat KN 78-31
Kasilof Area**



KPB File 2024-021
T 03N R 11W SEC 30
Kasilof



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.



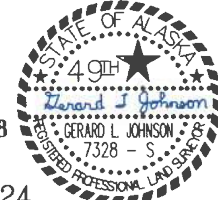
VICINITY 1" = 1 mile MAP

Harlie A. Fellers Subdivision Tract B building setback exception

Partial As-Built Survey of Tract B Harlie Fellers Subd., KRD 78-31.
showing building setback encroachments.
Located in the SW 1/4 Section 30, T3N R11W, SM, Kaslof, Alaska.
Kenai Recording District Kenai Peninsula Borough File 2024-021

Prepared for
Steinbeck, Inc.
1116 Inlet Woods Dr.
Kenai, AK 99611

Prepared by
Johnson Surveying
P.O. Box 27
Clam Gulch, Ak 99568

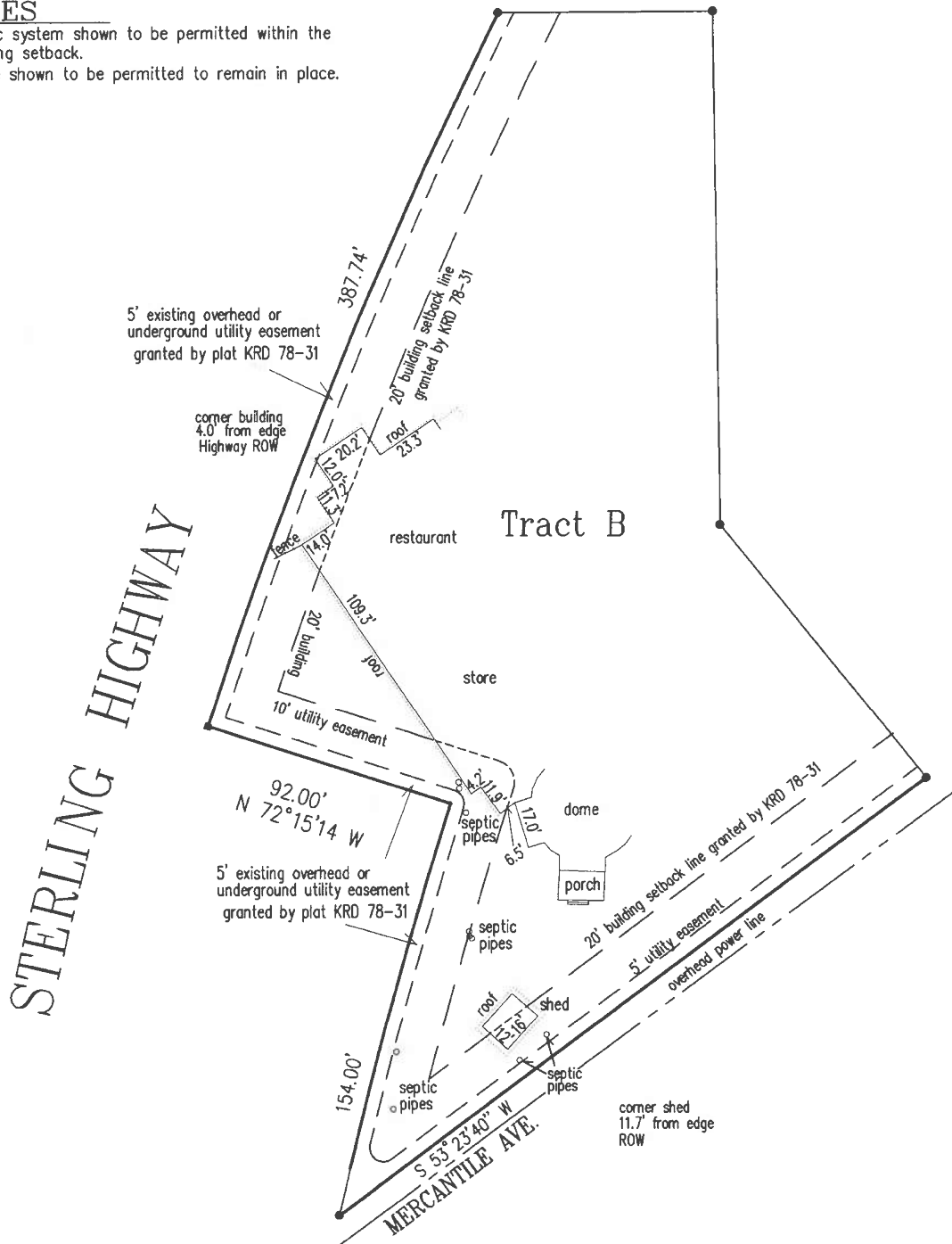


SCALE 1" = 40' 13 February, 2024

3/11/24

NOTES

1. Septic system shown to be permitted within the building setback.
2. Fence shown to be permitted to remain in place.



**ITEM #1. – BUILDING SETBACK ENCROACHMENT PERMIT
HARLIE A FELLERS SUBDIVISION TRACT B KN 78-31**

| | |
|-------------------------------------|-------------------------------------------------|
| KPB File No. | 2024-021 |
| Planning Commission Meeting: | March 25, 2024 |
| Applicant / Owner: | Travis and Junietta Steinbeck / Steinbeck, Inc. |
| Surveyor: | Jerry Johnson / Johnson Surveying |
| General Location: | Sterling Highway, Mercantile Avenue, Kasilof |

| | |
|---------------------------|------------------------------------------------|
| Parent Parcel No.: | 133-410-08 |
| Legal Description: | Tract B Harlie A. Fellers Subdivision KN 78-31 |
| Assessing Use: | Commercial |
| Zoning: | Rural Unrestricted |
| Resolution | 2024-6 |

STAFF REPORT

Specific Request / Purpose as stated in the petition: Portion of restaurant and fence in the Highway setback is high above the highway where the visibility to it is blocked by an embankment. Portion of store in setback predates granting of the original setback. Shed along Mercantile Ave, is at a little use portion of the road. Septic system should not be a problem for the intent of the setback.

Site Investigation:

The structure was originally sown on the plat of Harlie a Fellers Subdivision KN 78-31 as being the US Post Office and a store. The plat listed a 20 foot building setback along all streets and a 5' underground utility, or overhead clearing easement for HEA along all streets. At the time, the northwest corner of the structure was not into the 5' utility easement and looks to be approximately 10' from the property line according to the drawing.

The current as-built locates several new portions of the northwest side of the structure to be inside the 20' setback line and one corner to be 4.0 feet from the property line.

The property is accessed from Mercantile Ave and Sterling Highway being state maintained.

With the location of the entrance / exit to the Sterling Highway, the location of the structure being back and on a slightly lower elevation does not affect the sight distance on the highway.

Staff Analysis:

Tract B Harlie A. Fellers Subdivision KN 78-31 was originally a part of Government Lot 6 in Section 30, Township 3 North, Range 11 West SM Kasilof, Alaska.

The terrain is sloping to the west, with the high spot being in the southeast corner of the property. The highway design has created a ridge along the southwesterly edge of the property at the projection of Mercantile Ave. With this ridge created, no access is permitted to Sterling Highway from Mercantile Ave. Therefore, the structure is not an issue for sight distance as traffic enters Sterling Highway from the parking lot of the property.

Per the as-built the main structure is encroaching in to the building setback at two locations as shown. The issues are located along the Sterling Highway setback line. Most of the issue is located on the northerly portion of the structure with the closest corner coming within 4 feet of the property line. This structure is a large permanent

structure and unable to be moved with ease that has been in use for many years. The northerly portion also appears to be encroaching into the 5' utility easement. Staff advises the owners to be aware of this issue and that if it is determined that a utility provider needs to use the easement, any damage or relocation of items is at the owners' expense.

There is also a shed located in the 20' building setback line along Mercantile Avenue. This structure is located outside the current driven area of Mercantile Avenue.

Applicant Findings:

1. Neither area along the Highway or Mercantile Ave concerning these have been any use to road maintenance for storage or other reasons.
2. Along Mercantile Avenue the stub of that ROW has been used to pile snow in by road maintenance and preventing vehicle use in that section of ROW.
3. Along Sterling Highway there is an embankment with the highway at a lower level, sight lines and distances are limited by this embankment and thus existing buildings have no effect on sight distances or distances.
4. Along Mercantile Avenue the building encroachment is at the end of the ROW where there is no traffic and no concern about sight lines or distances.
5. Further it is not used even to turn around as it is across from an intersection which is used to turn around.
6. Along the Sterling Highway the embankment above the highway prevents the encroachment from any chance of being struck by a passing vehicle.
7. Along Mercantile Avenue there is virtually no vehicle use that is at a hazard, especially during snow season when road maintenance used that section of ROW for snow storage.

Staff Findings:

8. The original structure was built in 1972 according to KPB Assessing information.
9. The shed is not blocking traffic patterns.

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 1, 2 & 9 appear to support this standard.
 2. The building setback encroachment may not interfere with sight lines or distances.
Findings 3-5 appear to support this standard.
 3. The building setback encroachment may not create a safety hazard.
Findings 6, 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 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 RSA comments |
| SOA DOT comments | DOT CR ROW Engineering has no comments on this building setback exception |
| KPB River Center review | A. Floodplain Reviewer: Hindman, Julie Floodplain Status: IS in flood hazard area Comments: Flood Zone: X (shaded) Map Panel: 02122C-0860E In Floodway: False Floodway Panel: B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments C. State Parks Reviewer: Comments: No Comment |
| State of Alaska Fish and Game | No Comment |
| Addressing | Reviewer: Leavitt, Rhealyn Affected Addresses: 57225 STERLING HWY Existing Street Names are Correct: Yes List of Correct Street Names: STERLING HWY, MERCANTILE AVE Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: N/A List of Street Names Denied: N/A Comments: No other comment |
| Code Compliance | Reviewer: Ogren, Eric Comments: The main structure appears to be in violation currently with the Sterling Hwy. ROW & 20 ft set back on Mercantile |
| 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 |
| Advisory Planning Commission | Not in an advisory planning commission area |

Utility provider review:

| | |
|------------------|------------|
| HEA | No Comment |
| ENSTAR | No Comment |
| ACS | No Comment |
| GCI | No Comment |
| SEWARD ELECTRIC | No Comment |
| CHUGACH ELECTRIC | No Comment |
| TELALASKA | No Comment |

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution 2024-6 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



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Harlie A. Fellers Subdivision

LOCATED IN GOV. LOTS 6 AND 7, SEC. 30 T3N R11W S.M.; KASLOF, ALASKA

SCALE = 1" = 200'

AREA = 42.816 AC.

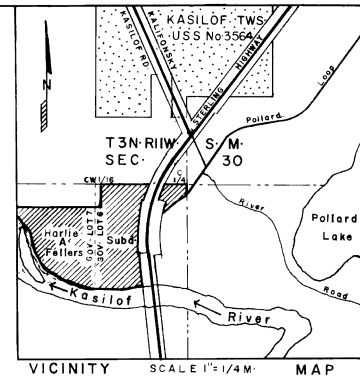
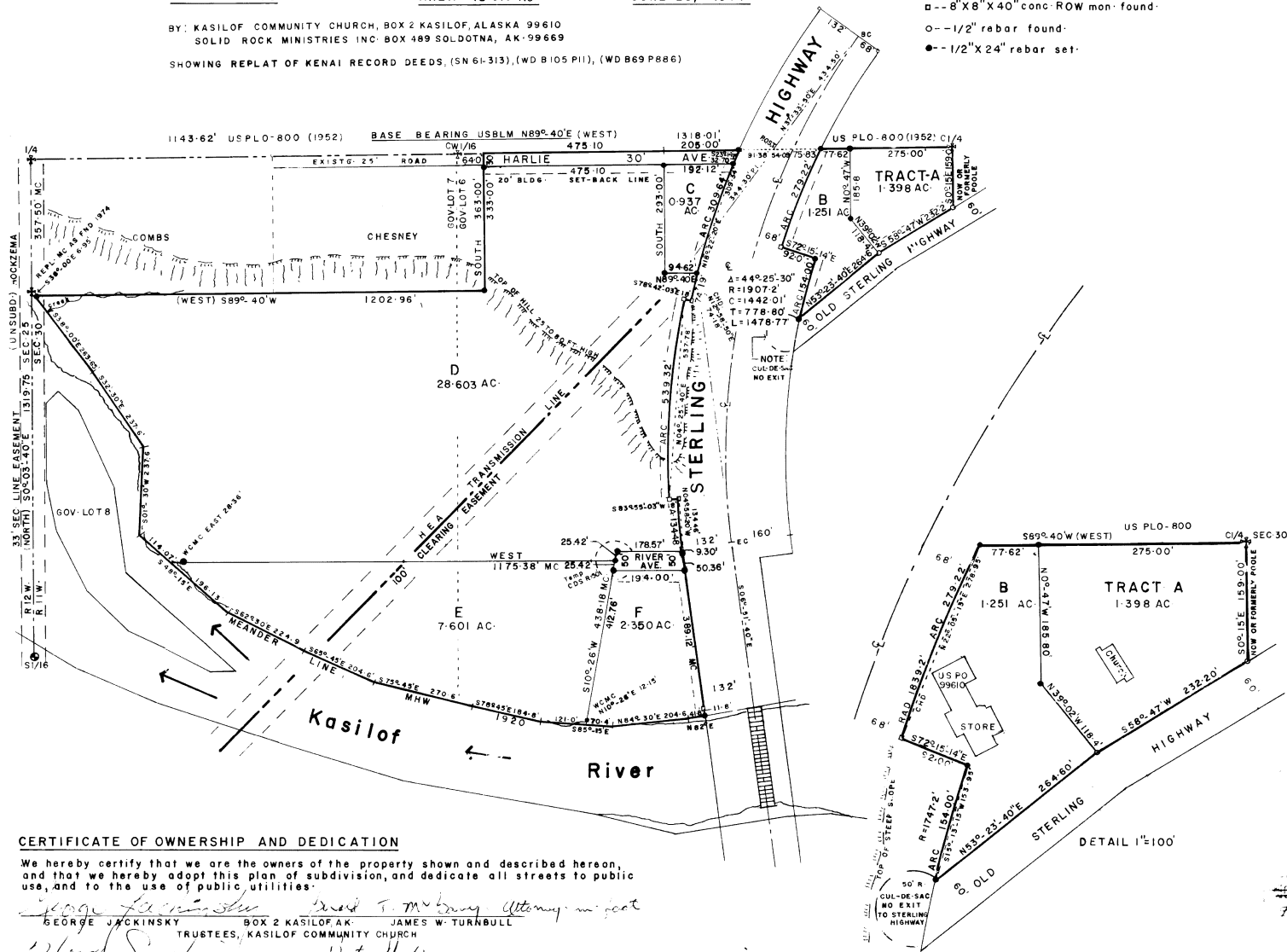
JUNE 20, 1977

BY: KASLOF COMMUNITY CHURCH, BOX 2 KASLOF, ALASKA 99610
SOLID ROCK MINISTRIES INC. BOX 489 SOLDOTNA, AK 99669

SHOWING REPLAT OF KENAI RECORD DEEDS, (SN 61-313), (WD B105 P11), (WD B69 P886)

LEGEND

- Indicates GLO, BLM monument found.
- Ind. 3/4" X 3' IP W/BC found, 268-S
- -- 8" X 8" X 40" conc. ROW mon. found.
- -- 1/2" rebar found.
- -- 1/2" X 24" rebar set.



PLAT APPROVAL

This plat having been approved by the Kenai Peninsula Borough Planning Commission as recorded in the official minutes of the meeting of July 11, 1977 is hereby acknowledged and accepted as the official plat, subject to any and all conditions and requirements of ordinances and law appertaining thereto.

KENAI PENINSULA BOROUGH

By Phyllis Waring

NOTE:

The natural line of mean high water of Kasilof River is the legal boundary of tracts D, E, and F.

All waste water disposal sytems shall comply with existing laws at time of construction.

A 20' bldg. set-back line along all streets. A 5' underground utility, or overhead clearing easement for H-E-A along streets.

CERTIFICATE OF OWNERSHIP AND DEDICATION

We hereby certify that we are the owners of the property shown and described hereon, and that we hereby adopt this plan of subdivision, and dedicate all streets to public use, and to the use of public utilities:

George Jackinsky James W. Turnbull
BOX 2 KASLOF, AK. JAMES W. TURNBULL
TRUSTEES, KASLOF COMMUNITY CHURCH
Floyd Seekins Bert Shultz
FLOYD SEEKINS, CHAIRMAN BERT SHULTZ, DIRECTOR
SOLID ROCK MINISTRIES INC.
BOX 489 SOLDOTNA, AK

Frederick J. Galloway Ruth V. Galloway
FREDERICK J. GALLOWAY RUTH V. GALLOWAY
BOX 181 KASLOF, AK 99610
Noble W. Webb Trudy S. Webb
NOBLE W. WEBB STAR ROUTE KASLOF, AK
Terence Cowart Daniel P. Casey
TERENCE COWART (PARTNER) DANIEL P. CASEY (PARTNER)
KASLOF RIVER DRIVE-IN
STAR ROUTE 2 KASLOF, AK

STATE OF ALASKA, THIRD JUDICIAL DISTRICT

Subscribed and sworn to before me this 22nd day of

August 1977
Terence Cowart
NOTARY PUBLIC FOR ALASKA

My commission expires 11/14-81



BOX 27 CLAM GULCH, AK 99568

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2024-6
KENAI RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR B, HARLIE A. FELLERS SUBDIVISION (KN 0078031); IN NE 1/4 S30, T03N, R11W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2024-021

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, Junietta Steinbeck of Kenai, AK requested a building setback encroachment permit to the 20-foot building setback granted by Harlie A. Fellers Subdivision (KN 0078031); 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 18, 2024, 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 0078031 B is hereby excepted to accommodate only the encroaching portion of the Shed and Restaurant.

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 _____, 2024.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirmberg,
Administrative Assistant

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