

AGENDA ITEM E. NEW BUSINESS

**ITEM 3. - BUILDING SETBACK ENCROACHMENT PERMIT  
LOT 1 BLOCK 5 KENAI RIVER KEYS AMENDED**

<b>KPB File No.</b>	2021-131
<b>Planning Commission Meeting:</b>	September 27, 2021
<b>Applicant / Owner:</b>	Conatser Family Trust
<b>Surveyor:</b>	As-built completed by Swan Surveying
<b>General Location:</b>	Sterling

<b>Parent Parcel No.:</b>	065-280-01
<b>Legal Description:</b>	Lot 1 Block 5 Kenai River Keys Amended, KN 92-44
<b>Assessing Use:</b>	Residential
<b>Zoning:</b>	Rural Unrestricted

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**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** Owner is selling house and the title company needs a waiver on the corner of the house being in the 20 foot building set back. Melissa Daugherty, our realtor, talked to Michael Swan of Swan Surveying and he gave permission to use the attached as built survey dated 8/23/21, in this permit application.

We purchased the property from the man that built it in the early 1970s. Cash sale, no as-built, therefore, no knowledge of the 20' setback.

**Site Investigation:** Per the as-built a corner of the house is up to 1.9 feet within the 20 foot building setback adjoining Chinook Run Drive private road easement. Also depicted on the as-built drawing is an approximately 16 x 10 shed with a covered portion that is nearly entirely within the 20 foot building setback adjoining Sockeye Lane private road easement.

The lot is within the Kenai Keys Subdivision. The property is located on the corner of Chinook Run and Sockeye Lane. These roads are constructed and located within the private road easements. Jurisdiction of the roadways is with the homeowners association. Per the parent plat "The road easements may be dedicated to public use if the majority of the lot owners so desire, this can be done by only the majority of the lot owners." The property lines extend to the center of the road easement but 20 foot building setbacks adjoin the roadway easements.

Photos were submitted of the house. The encroachments do not appear to create any line of sight issues for the traffic in this area.

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**Staff Analysis:** The lot is within Kenai River Keys Subdivision Amended (KN 92-44) and is located on the Kenai River in the Sterling area. The subdivision is not within an Advisory Planning Commission boundary.

The building setbacks were put in place with the recording of the original plat (KN 72-62) in 1972. Per KPB Assessing records, the first structure was constructed in 1977. Per KPB Assessing records, all structures in place on the subject property were constructed after the setback was created.

Photos were submitted of the building but no photos were submitted of the shed. The foundation type of the shed is not known. The covered portion attached to the shed is difficult to detect within the 2014 aerial map. The 2021 image does show that there is a significant area covered that is attached to the shed.

Per aerial imagery, the encroaching structures do not create an issue with sight distances. The shed is located along a straight stretch and the house does not appear to create a sight obstruction.

Notice was sent to 84 landowners within 600 feet of the subject lot. New owners have acquired the property and they have notified us their desire to proceed with the application.

**Findings:**

1. The applicant purchased the property in 2012.
2. The house was constructed in 1977.
3. The 20 foot building setbacks are from the edge of private road easements.
4. The setbacks were created by plat KN 72-62, which was later amended as KN 92-44.
5. The house is 1.9 feet into the setback.
6. The shed is almost entirely within the setback.
7. Trees are between the buildings and the roadway.
8. It does not appear the structures create a line of sight issue.
9. The roads are under private jurisdiction.

**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 2, 7, 8, 9 appear to support this standard.**

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

**Findings 2, 7, 8, 9 appear to support this standard.**

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

**Findings 2, 7, 8, 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: Painter, Jed Comments: No comments
Planner	
Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Addressing	Reviewer: Haws, Derek Affected Addresses: 34595 SOCKEYE LN  Existing Street Names are Correct: Yes  List of Correct Street Names: SOCKEYE LN

	CHINOOK RUN DR  Comments: 34595 SOCKEYE LN will remain with LOT 1
Assessing	Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.

**Utility provider review:**

HEA	
ENSTAR	
ACS	
GCI	

**RECOMMENDATION:**

Based on the standards to grant a building setback encroachment permit, **staff recommends** APPROVAL and to adopt Resolution 2021-30, 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**