

## **E. NEW BUSINESS**

- 3. Ordinance 2022-XX: Authorizing the release of a portion of a conservation easement deed restriction on a parcel of land located in Cooper Landing and to acquire a 30-foot-wide tract of land and classify three 30-foot-wide tracts of land as government.**



# Kenai Peninsula Borough


## Planning Department – Land Management Division

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### MEMORANDUM

**TO:** Brent Johnson, Assembly President  
Members, Kenai Peninsula Borough Assembly

**THRU:** Charlie Pierce, Borough Mayor   
Robert Ruffner, Planning Director 

**FROM:** Marcus A Mueller, Land Management Officer 

**DATE:** August 11, 2022

**RE:** Ordinance 2022-\_\_\_\_, Authorizing the Release of a Portion of a Conservation Easement Deed Restriction on a Parcel of Land Located in Cooper Landing and to Acquire and Classify a 30-Foot-Wide Tract of Land (Mayor)

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The KPB Planning Department and Three Bears Alaska, Inc. (Three Bears), as owners of Tracts A, B, & C Quartz Creek Subdivision, are cooperating with Alaska DOT&PF in the design of a frontage road that in the future would extend from Quartz Creek Road to the KPB Solid Waste Transfer Facility with an intersection opposite Russian Gap Road to address highway safety and traffic efficiency. This location is also positioned as a gateway to the Cooper Landing community, wherein there is an importance to aesthetic greenspace.

A re-platting of these three tracts is being proposed as Quartz Creek Subdivision Outfitters Way Replat, KPB File 2022-060, which has received tentative platting approval, subject to actions contained in this proposed ordinance. The plat would dedicate right-of-way for a frontage with a 30-foot offset from the Sterling Highway ROW. The strips of land between the frontage road and the Sterling Highway is proposed to be managed by KPB as greenspace, which would substitute for a conservation easement that was previously instituted on Tract B and Tract C. The 30-foot-wide tract coming out of Tract B would be conveyed by Three Bears to KPB. The KPB's Land Management Division is proposing a "Government" land classification of the 30-foot-wide tract plus those 30-foot-wide tracts coming out of KPB-owned Tracts A and C, to direct the management of the land between the frontage road and the Sterling Highway right-of-way to community gateway greenspace.

The ordinance releases the conservation easement deed restriction on the North, West and South sides of the Tract B parcel. The partial release will keep the

August 9, 2022

Page -2-

Re: O2022-XX

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conservation easement in effect on the East side, which runs along Dena'ina Creek, of Tract B. The ordinance additionally authorizes the KPB Mayor to acquire the 30-foot-wide tract from Three Bears, described on the proposed replat as Tract B2, as an equal exchange for the removal of the conservation easement just described. Additionally, the ordinance classifies the entirety of the 30-foot strip created in the replat as Tracts A2, B2, & C2 as "Government". The ordinance, if enacted, would be effective upon recording of the Quartz Creek Subdivision Outfitters Way Replat.

The proposed set of actions would allow DOT&PF to incorporate the frontage road system into its traffic safety designs and to extend the frontage road development to its project limits at Persistent Way on the East side of Tract C. These actions would also clear title important for Three Bears' project. In doing so, Three Bears would be giving up use of the front 100-feet of Tract B to the 30-foot greenspace tract, the 60-foot frontage road dedication and a 10-foot utility easement, in exchange for the release of the 50-foot conservation easement on the back lot and 50-foot conservation easement on the Persistent Way side.

Your consideration of the ordinance is appreciated.

Introduced by: Mayor  
Date: 08/23/22  
Hearing: 09/06/22  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-**

**AN ORDINANCE AUTHORIZING THE RELEASE OF A PORTION OF A  
CONSERVATION EASEMENT DEED RESTRICTION ON A PARCEL OF  
LAND LOCATED IN COOPER LANDING AND TO ACQUIRE AND CLASSIFY  
A 30-FOOT-WIDE TRACT OF LAND**

**WHEREAS,** Tract B Quartz Creek Subdivision, according to Plat No. 94-1, Seward Recording District, was purchased by Three Bears Alaska, Inc. (“Three Bears”), who is planning development of the parcel; and

**WHEREAS,** the State of Alaska, Department of Transportation & Public Facilities (DOT&PF) is working to develop and implement plans for the Sterling Highway MP 45-60 Project, which includes reconfiguring the Quartz Creek Road intersection and rearranging direct access from the new highway and its transitions; and

**WHEREAS,** the Kenai Peninsula Borough (KPB) owns Tracts A & C of Quartz Creek Subdivision and is working with DOT&PF and Three Bears to plan a frontage road serving Quartz Creek Subdivision; and

**WHEREAS,** Tract B Quartz Creek Subdivision, owned by Three Bears, was originally deeded from KPB in accordance with Ordinance 1991-20; and

**WHEREAS,** at the time of the original conveyance, the deed was subject to the following Conservation Easement Deed Restriction: “... pursuant to Ordinance 1991-20, a 50-foot conservation easement around the perimeter of the parcel wherein no live, naturally existing vegetation over 3” in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit”; and

**WHEREAS,** the conservation easement was an element of the original plat, which has been approved to be vacated in part, subject to actions contained in this ordinance; and

**WHEREAS,** the proposed plat, Quartz Creek Subdivision Outfitters Way Replat, would dedicate a frontage road with a 30-foot setback from the DOT right-of-way with said features occupying the same space as the conservation easement on the northern perimeter of Tract B, and into Three Bears unencumbered property; and

**WHEREAS,** the frontage road setback creates a 30-foot tract of land designed as a greenspace to maintain vegetation and community gateway aesthetics, which is consistent with the purpose of the conservation easements; and

**WHEREAS,** the approved plat would vacate the conservation easements on Tract B along the west and south perimeter, but maintain the conservation easement along the east perimeter which runs along Dena'ina Creek, an anadromous stream; and

**WHEREAS,** the 30-foot tract of land created out of Tract B is proposed to be conveyed from Three Bears back to KPB which, along with the benefits of the frontage road design, accounts for the value of the conservation easements being released; and

**WHEREAS,** classifying the 30-foot tracts of land created by the Quartz Creek Subdivision Outfitters Way Replat as "government" would hold the land for community gateway greenspace uses that are beneficial to the public, providing for consistent management decisions under public processes; and

**WHEREAS,** public notice has been published as to the modification of a deed restriction per KPB 17.10.130(F)(2), and as to classification pursuant to KPB 17.10.080; and

**WHEREAS,** the Cooper Landing Advisory Planning Commission at its regularly scheduled meeting of August 3, 2022, recommended \_\_\_\_\_;

**WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of August 22, 2022, recommended \_\_\_\_\_;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That pursuant to KPB 17.10.130(F)(4), the mayor is hereby authorized to release the conservation easement deed restriction on the north, west and south perimeter sides of Tract B Quartz Creek Subdivision, according to the official plat thereof, filed under Plat Number 94-1, Records of the Seward Recording District, Third Judicial District, State of Alaska, as created in that Quitclaim Deed recorded May 13, 1998, as Book 90, Page 831, Seward Recording District, with such release of interests conforming to Quartz Creek Subdivision Outfitters Way Replat, based on the following Findings of Fact:

- a. The purpose of the conservation easement deed restriction on the north, west and south perimeter sides is replaced by the 30-foot-wide tract of land being conveyed back to KPB.
- b. The frontage road proposed by DOT&PF competes for space with the conservation easement, and setting the frontage back 30', with KPB holding the land interests of that tract, preserves the aesthetic intent of the easement and

provides for the continuation of planning and management of that corridor under public processes.

- c. The frontage road proposed by DOT&PF addresses traffic safety concerns and provides for public traffic to efficiently navigate on and off the local roads and to serve the property, residential, and business interests in the area.
- d. The value of the 30-foot-wide tract of land and the benefits of the cooperative frontage road design accounts for the value of the conservation easement being released, going back to the terms of the original conveyance of Tract B.
- e. Public notice of the proposed actions was delivered and published in accordance with KPB 17.10.130(F)(2).

**SECTION 2.** That pursuant to KPB 17.10.040, the mayor is hereby authorized to acquire from Three Bears a 30-foot-wide tract along the north boundary of Tract B, Quartz Creek Subdivision, also known as Tract B2 Quartz Creek Subdivision Outfitters Way Replat.

**SECTION 3.** That the terms of the acquisition shall be an equal exchange for the conservation easement deed restriction release as described in Section 1 and that Three Bears shall convey the Tract to KPB.

**SECTION 4.** That the purpose of the acquisition is for community gateway greenspace, to facilitate implementation of a frontage road serving KPB-owned tracts of land, and to cooperate with the DOT&PF in making traffic improvement and safety upgrades along the Sterling Highway corridor.

**SECTION 5.** That the 30-foot-wide tracts of land located between the Outfitters Way frontage road and the Sterling Highway right-of-way described as Tracts A2, B2, and C2 Quartz Creek Subdivision Outfitters Way Replat are hereby classified as “government”.

**SECTION 6.** The mayor is authorized to sign a release of deed restriction, respective to Tract B Quartz Creek Subdivision, and any other documents necessary to effectuate the intents and purposes of this ordinance.

**SECTION 7.** That this ordinance shall become effective upon recordation of the Quartz Creek Subdivision Outfitters Way Replat in the Seward Recording District.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS DAY OF \_\_\_\_\_, 2022.**

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Brent Johnson, Assembly President

ATTEST:

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Johni Blankenship, MMC, Borough Clerk

# Quartz Creek to Solid Waste Transfer Frontage Road Platting Overview



TRACTS A, B, C Quartz Creek Subdivision  
Sketch of Preliminary Plat Proposed as  
Quartz Creek Subdivision Outfitters Way Replat

DIAGRAM PREPARED BY:  
M. MUELLER 7/21/22

90-831  
TRICT

Return To: Grantee

**STATUTORY WARRANTY DEED**  
(AS 34.15.030)

8903 The GRANTOR, KENAI PENINSULA BOROUGH, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669, for ten dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Assembly Ordinance 91-20 enacted July 9, 1991, conveys and warrants unto the GRANTEE(S), Pixie A. Smith, a single person, whose address of record is 309 Katmai Avenue, Soldotna, Alaska 99669, her heirs, successors and assigns, the following described real property:

Tract B, Quartz Creek Subdivision, according to Plat No. 94-11, on file in the Seward Recording District, Third Judicial District, State of Alaska,

TOGETHER WITH all the improvements thereon, if any, and all rights of the Grantor to any and all hereditaments and appurtenances hereto, and

SUBJECT TO any taxes and assessments, exceptions, reservations, restrictions, conditions, covenants, easements, rights-of-way, encroachments either of record or ascertainable by physical inspection, including without limitation, pursuant to Ordinance 91-20, a 50-foot conservation easement around the perimeter of the parcel wherein no live, naturally existing vegetation over 3" in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit, and

FURTHER SUBJECT TO a restrictive covenant pursuant to KPB 17.10.130(D), that the real property described in this conveyance instrument shall be used for commercial and light industrial purposes as defined hereinbelow, and that the use of the land for any other purpose is prohibited, provided that this restriction may be modified by the Borough Assembly pursuant to KPB 17.10.130(F) as presently enacted. Pursuant to KPB 17.10.250(D), "commercial" means lands suitable for development or location of service oriented facilities such as stores, offices, medical clinics, restaurants, lodges, vehicular service stations, hotels, and camper parks, and able to support on-sight water and sewer systems or capable of receiving water and/or sewer service, near public utilities and in proximity to residential areas. Pursuant to KPB 17.10.250(R) and legislative intent supporting adoption of KPB Ordinance 91-20, "light industrial" means lands suitable for industrial uses that generally do not have offensive characteristics and can be conducted primarily inside closed buildings. Such uses may include warehousing, storage inside enclosed area, light manufacturing not inside buildings, and the development of sawmills or other wood processing.

KENAI PENINSULA BOROUGH:

GRANTEE(S):

Mike Navarre  
Mike Navarre, Mayor  
Dated: 4-30-98

Pixie A. Smith  
Pixie A. Smith  
Dated: 5-1-98

**LEGEND:**

- ⊗ 3 1/4" ALUM. CAP MONUMENT BLM 1986 FOUND
- ⊙ 2 1/2" ALUM. CAP MONUMENT LS5152 2000 FOUND
- ⊗ 3 1/4" ALUM. CAP MONUMENT 1928-S 1992 FOUND
- ⊙ 2 1/2" ALUM. CAP MONUMENT 4469-S 2003 FOUND
- ⊙ 5/8" REBAR w/ 2" ALUM. CAP MCLANE 1994 FOUND
- 5/8" REBAR w/ PLASTIC CAP LS8859 SET
- ( ) RECORD DATUM PLAT 2004-S KRD



CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	CHORD LENGTH	CHORD BEARING
C1	28.90°	170.00'	18.01'	45.55'	81.00'	S71°12'44" W
C2	90.00°	30.00'	47.12'	30.00'	42.43'	S72°55'28" E
C3	80.74°	25.00'	38.45'	25.15'	35.28'	N72°45'19" W
C4	86.35°	25.00'	38.08'	24.81'	35.28'	N72°45'19" W
C5	80°44'54"	30.00'	47.52'	30.39'	42.70'	S16°36'52" W

LINE	BEARING	DISTANCE
L1	N56°32'42" E	151.77'
L2	S56°34'10" E	130.45'
L3	S72°55'00" E	30.12'
L4	S71°44'11" E	30.00'
L5	S21°34'11" E	30.00'

**CERTIFICATE of ACCEPTANCE**

THE UNDERSIGNED OFFICIAL IDENTIFIED BY NAME AND TITLE IS AUTHORIZED TO ACCEPT AND HEREBY ACCEPTS ON BEHALF OF THE KENAI PENINSULA BOROUGH FOR PUBLIC USES AND FOR PUBLIC PURPOSES THE REAL PROPERTY TO BE DEDICATED BY THIS PLAT INCLUDING EASEMENTS, RIGHTS-OF-WAY, ALLEYS, AND OTHER PUBLIC AREAS SHOWN ON THIS PLAT IDENTIFIED AS FOLLOWS: OUTFITTERS WAY DEDICATION. THE ACCEPTANCE OF LANDS FOR PUBLIC USE OR PUBLIC PURPOSE DOES NOT OBLIGATE THE PUBLIC OR ANY OTHER GOVERNING BODY TO CONSTRUCT, OPERATE, OR MAINTAIN IMPROVEMENTS.

AUTHORIZED OFFICIAL \_\_\_\_\_ DATE \_\_\_\_\_  
KENAI PENINSULA BOROUGH

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF JUNE 13, 2022.

KENAI PENINSULA BOROUGH

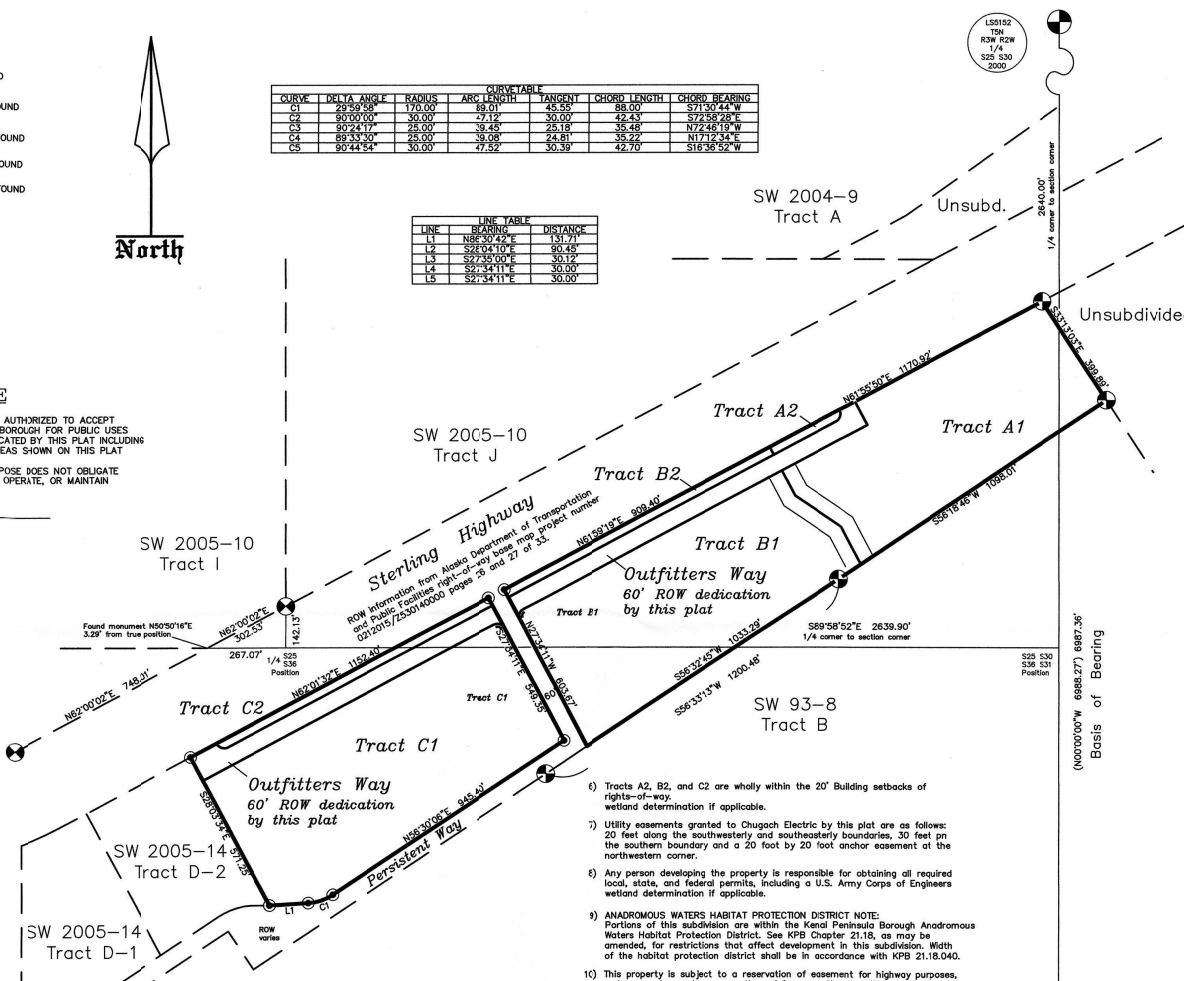
AUTHORIZED OFFICIAL \_\_\_\_\_



**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.

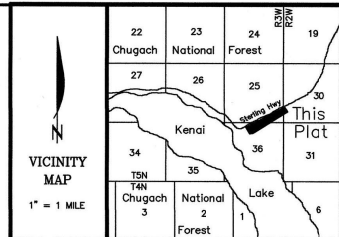
Date \_\_\_\_\_



**NOTES:**

- 1) Basis of bearing taken from Russian Gap Subdivision 2004 Addition, Plat 2004-9, Seward Recording District.
- 2) Building Setback-A setback of 20 feet is required from all street Rights-of-Way unless a lesser standard is approved by resolution by the appropriate Planning Commission.
- 3) Covenants, conditions, and restrictions which affect this subdivision are recorded in Book 90 Page 831 Seward Recording District. The borough will not enforce private covenants, assessments, or deed restrictions per KPB 21.44.080.
- 4) An easement between the Kenai Peninsula Borough and Pixie A. Smith is recorded in Book 90 Page 831 Seward Recording District. The borough will not enforce private covenants, assessments, or deed restrictions per KPB 21.44.080.
- 5) Roads must meet the design and construction standards established by the Borough in order to be considered for certification and inclusion in the Borough road maintenance program.

- 6) Tracts A2, B2, and C2 are wholly within the 20' Building setbacks of rights-of-way.
- 7) Utility easements granted to Chugach Electric by this plat are as follows: 20 feet along the westerly and southeasterly boundaries, 30 feet on the southern boundary and a 20 foot by 20 foot anchor easement at the northwest corner.
- 8) Any person developing the property is responsible for obtaining all required local, state, and federal permits, including a U.S. Army Corps of Engineers wetland determination if applicable.
- 9) ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE: Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040.
- 10) This property is subject to a reservation of easement for highway purposes, and any assignments or uses thereof for recreational, utility or other purposes, as disclosed by Public Land Order No. 801, dated August 10, 1949; and amended by Public Land Order Number No. 757, dated October 10, 1959; Public Land Order No. 1613, dated April 7, 1958; Department of the Interior Order Number 2665, dated October 16, 1951; Amendment Number 1 thereto, dated July 17, 1952 and Amendment Number 2 thereto, dated September 15, 1956, filed in the Federal Register.
- 11) No access to State maintained ROWs permitted unless approved by the State of Alaska Department of Transportation.
- 12) An easement for electrical lines or system and/or telephone lines which affects a portion of Tract A, granted to Chugach Electric Association, Inc. is recorded as serial number 2004-000989-0, Seward Recording District.
- 13) Front 10 feet adjacent to right-of-ways and 20 feet within 5 feet of the side lot lines is 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.
- 14) WASTEWATER DISPOSAL: These lots are at least 200,000 square feet and conditions may not be suitable for on-site wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.



**CERTIFICATE of OWNERSHIP and DEDICATION**

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THE KENAI PENINSULA BOROUGH IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, AND ON BEHALF OF THE KENAI PENINSULA BOROUGH, I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND GRANT ALL EASEMENTS TO THE USE SHOWN.

CHARLIE PIERCE, MAYOR  
KENAI PENINSULA BOROUGH  
144 N BINKLEY STREET  
SOLDOTNA, ALASKA 99669  
TRACTS A AND C

**CERTIFICATE of OWNERSHIP and DEDICATION**

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THREE BEAR ALASKA INC IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, AND ON BEHALF OF THREE BEAR ALASKA INC, I HEREBY ADOPT THIS PLAN OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAY AND GRANT ALL EASEMENTS TO THE USE SHOWN.

DAVID A WEISZ, PRESIDENT/CEO  
THREE BEARS ALASKA INC  
446 E PITTMAN ROAD, SUITE B  
WASILLA, ALASKA 99623  
Tract B

**NOTARY'S ACKNOWLEDGEMENT**

FOR \_\_\_\_\_  
ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES \_\_\_\_\_

**NOTARY'S ACKNOWLEDGEMENT**

FOR \_\_\_\_\_  
ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES \_\_\_\_\_

KPB FILE No. 2022-060V

**Quartz Creek Subdivision  
Outfitters Way Replat  
and Section Line Easement Vacation**

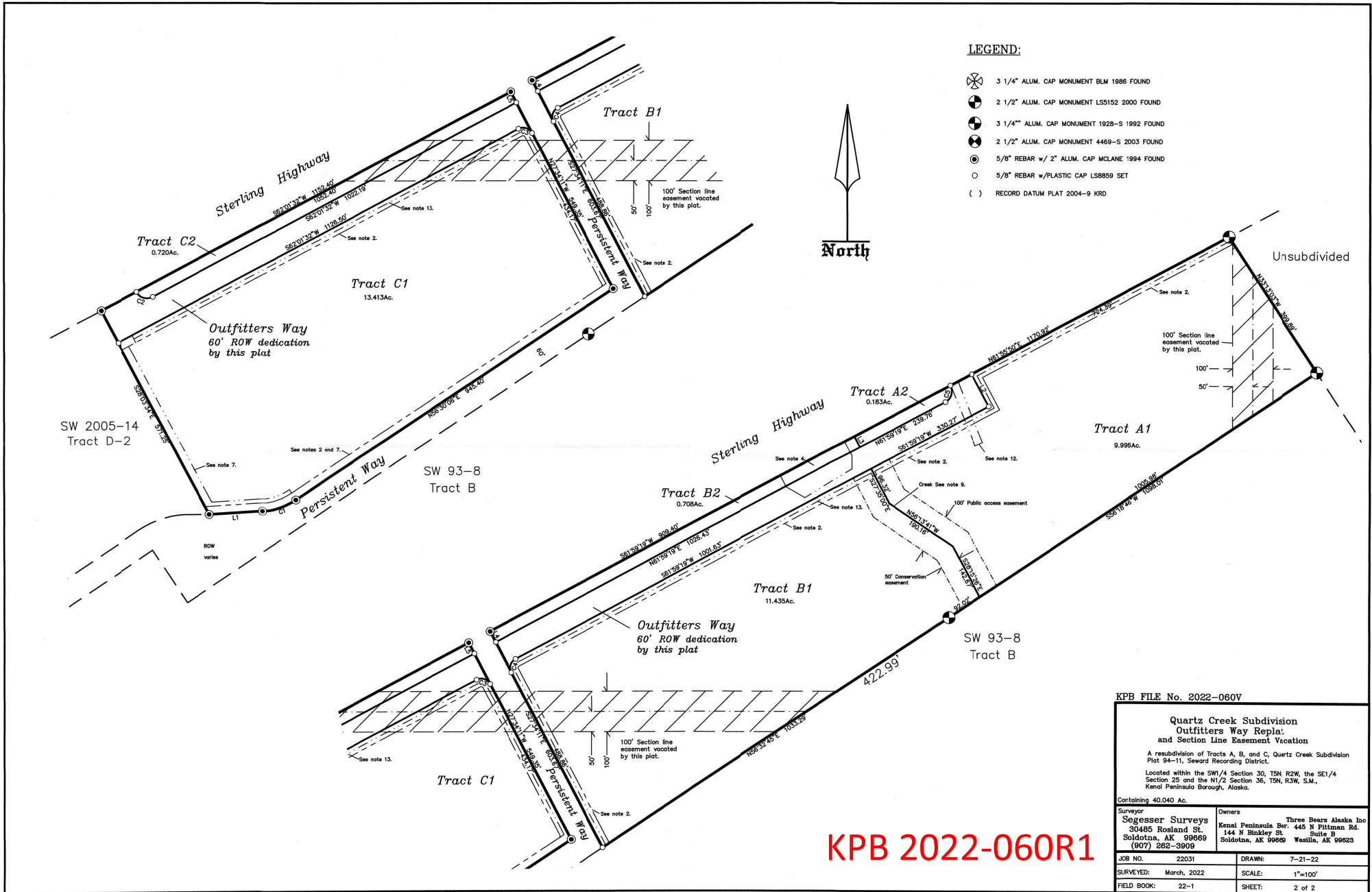
A Resubdivision of Tracts A, B, and C, Quartz Creek Subdivision Plat 94-11, Seward Recording District.

Located within the SW1/4 Section 30, T5N, R2W, the SE1/4 Section 25 and the N1/2 Section 36, T5N, R3W, S.M., Kenai Peninsula Borough, Alaska.

Containing 40.040 Ac.	Owner Three Bears Alaska Inc 144 N Binkley St. Suite B Soldotna, AK 99669
Surveyor Segesser Surveys 30485 Rosland St. Soldotna, AK 99669 (907) 262-3909	Owner Kenai Peninsula Bor. 445 N Pittman Rd. Suite B Soldotna, AK 99669 Wasilla, AK 99623

JOB NO. 22031	DRAWN: 7-18-22
SURVEYED: March, 2022	SCALE: 1"=100'
FIELD BOOK: 22-1	SHEET: 2 of 2

**KPB 2022-060R1**



**KPB 2022-060R1**

KPB FILE No. 2022-060V

**Quartz Creek Subdivision  
 Outfitters Way Replat  
 and Section Line Easement Vacation**

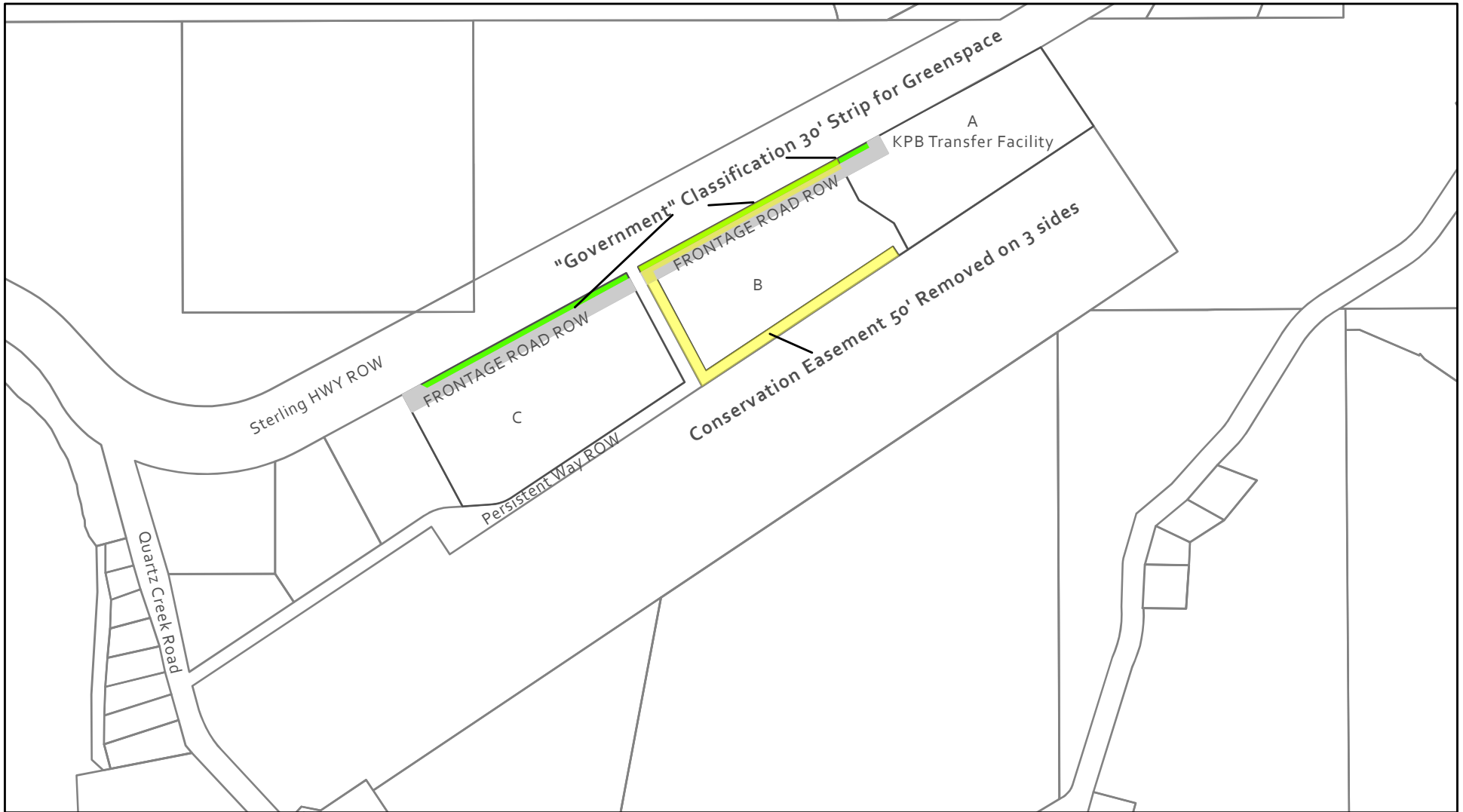
A resubdivision of Tracts A, B, and C, Quartz Creek Subdivision Plat 94-11, Seward Recording District.

Located within the SW/4 Section 30, T5N R2W, the SE1/4 Section 25 and the N1/2 Section 36, T5N, R3W, S.M., Kenai Peninsula Borough, Alaska.

Containing 40.040 Ac.

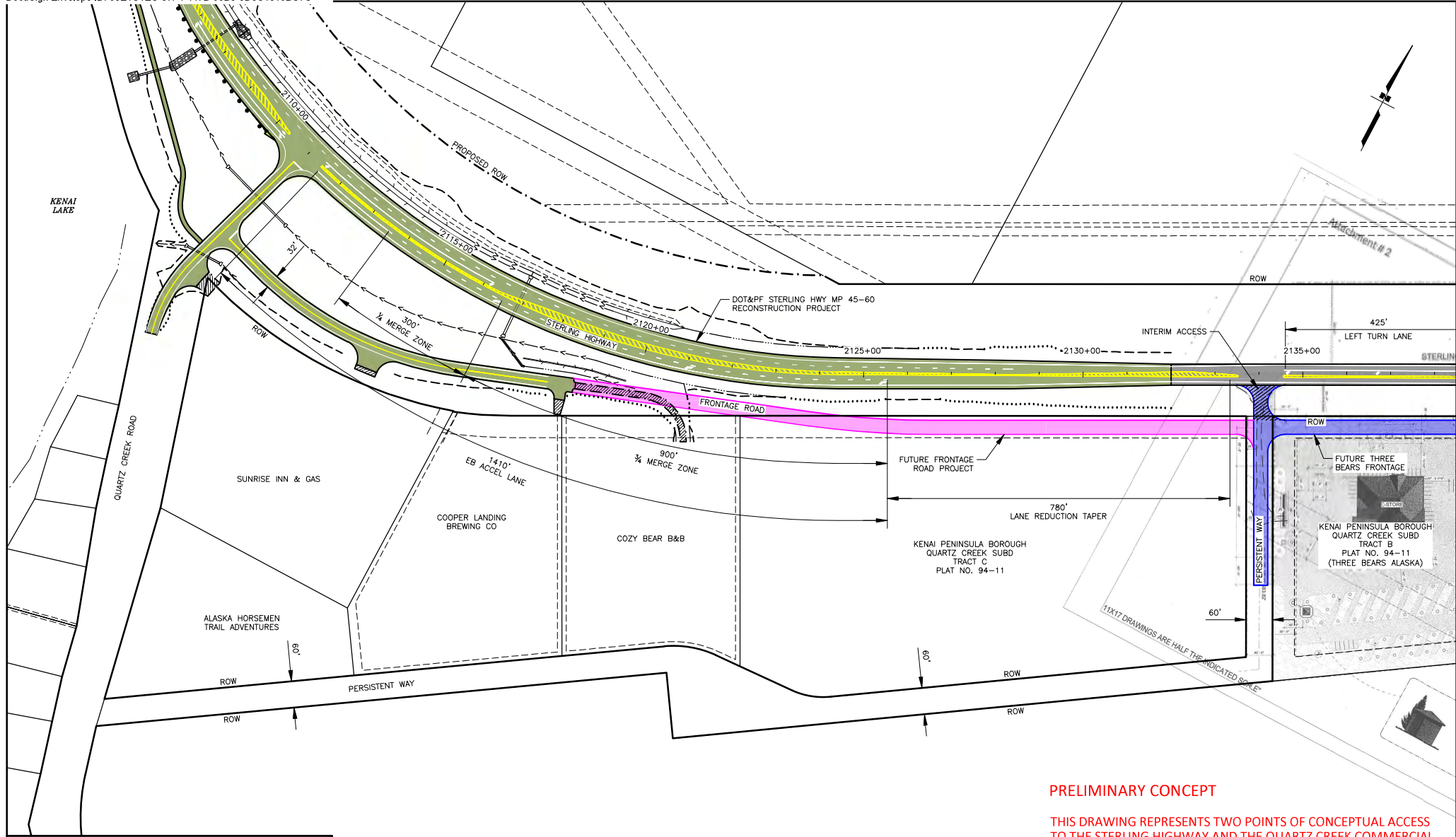
Surveyor <b>Segesser Surveys</b> 30485 Rosland St. Soldotna, AK 99669 (907) 262-3909	Owners <b>Three Bears Alaska Inc</b> Kenai Peninsula Br. 445 N Pittman Rd. 144 N Binkley St. Suite B Soldotna, AK 99669 Wasilla, AK 99623
JOB NO. 22031	DRAWN: 7-21-22
SURVEYED: March, 2022	SCALE: 1"=100'
FIELD BOOK: 22-1	SHEET: 2 of 2

# Conservation Easement to Be Removed & 30-Foot Strip to be Classified "Government"



TRACTS A, B, C Quartz Creek Subdivision  
Sketch of Preliminary Plat Proposed as  
Quartz Creek Subdivision Outfitters Way Replat

DIAGRAM PREPARED BY:  
M. MUELLER 7/19/22

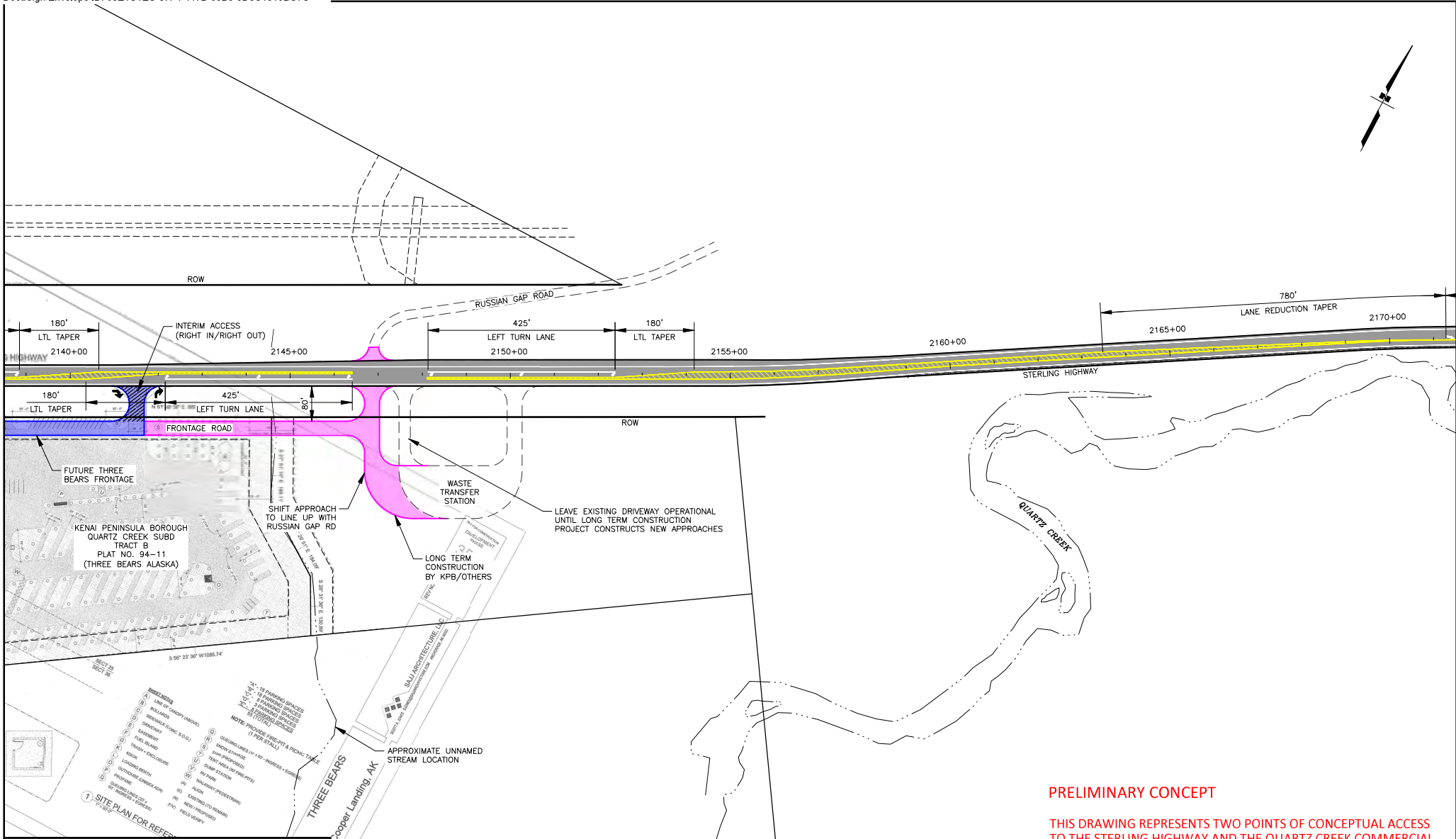


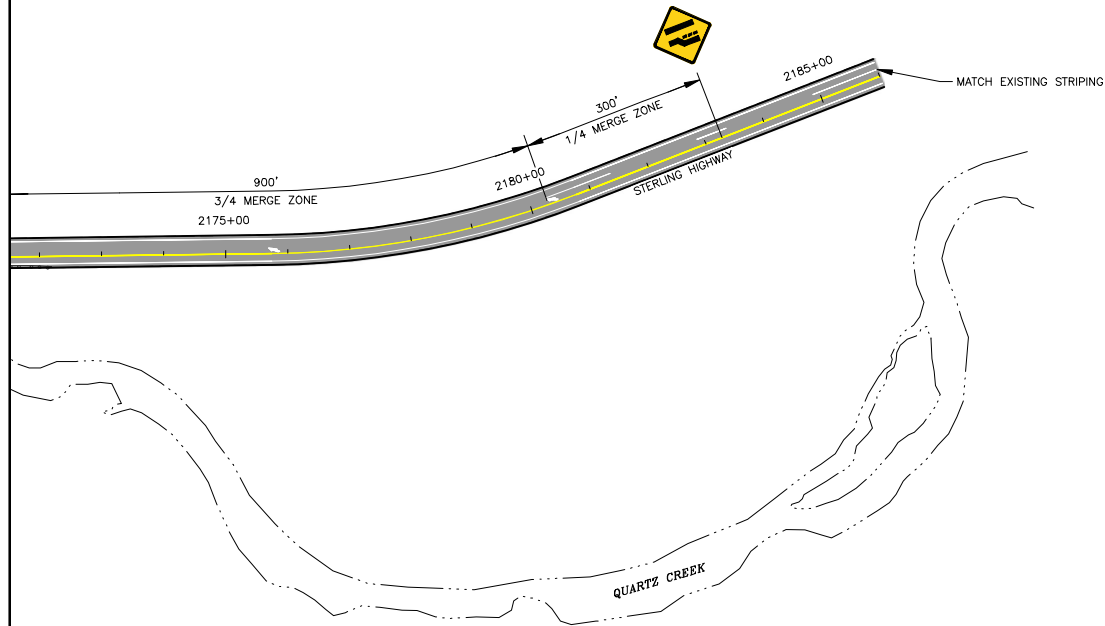
**PRELIMINARY CONCEPT**

THIS DRAWING REPRESENTS TWO POINTS OF CONCEPTUAL ACCESS TO THE STERLING HIGHWAY AND THE QUARTZ CREEK COMMERCIAL AND RECREATIONAL AREA AS OF 11/17/2021. THIS IS CONSISTENT WITH THE GOALS OF BOROUGH PLANNING FOR LAND USE IN THIS AREA, AND WITH STATE STANDARDS AND LAWS GUIDING ACCESS, MOBILITY, AND SAFETY ON THE MAIN HIGHWAY AND LOCAL STREETS.

**STERLING HIGHWAY MP 45-60: STAGE 1B**  
QUARTZ CREEK COMMERCIAL AND RECREATIONAL AREA  
FRONTAGE ROAD CONCEPT

MARCH 16, 2022 SHEET 1 OF 3





**PRELIMINARY CONCEPT**

THIS DRAWING REPRESENTS TWO POINTS OF CONCEPTUAL ACCESS TO THE STERLING HIGHWAY AND THE QUARTZ CREEK COMMERCIAL AND RECREATIONAL AREA AS OF 11/17/2021. THIS IS CONSISTENT WITH THE GOALS OF BOROUGH PLANNING FOR LAND USE IN THIS AREA, AND WITH STATE STANDARDS AND LAWS GUIDING ACCESS, MOBILITY, AND SAFETY ON THE MAIN HIGHWAY AND LOCAL STREETS.

**STERLING HIGHWAY MP 45-60: STAGE 1B**  
QUARTZ CREEK COMMERCIAL AND RECREATIONAL AREA  
FRONTAGE ROAD CONCEPT

MARCH 16, 2022

SHEET 3 OF 3

## PARTIAL RELEASE OF CONSERVATION EASEMENT DEED RESTRICTION

**WHEREAS**, the Kenai Peninsula Borough conveyed real property to Pixie Smith by quitclaim deed recorded on May 13, 1998, as **Book 90, Page 831 in the Seward Recording District**, pursuant to KPB Ordinance 91-20 which contained a conservation easement deed restriction.

**WHEREAS**, the real property is described on said deed as Tract B, Quartz Creek Subdivision, according to Plat No. 94-11, on file in the Seward Recording District, Third Judicial District, State of Alaska.

**WHEREAS**, Three Bears Alaska, Inc., is the successor in interest of the real property.

**WHEREAS**, on \_\_\_\_\_, 2022, the Kenai Peninsula Borough Assembly enacted Ordinance 2022-XX authorizing the partial release of said deed restriction on three of the four perimeter sides of that original parcel.

**NOW, THEREFORE**, the **GRANTOR, THE KENAI PENINSULA BOROUGH**, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669, for the sum of one dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Assembly Ordinance 2022-XX, enacted \_\_\_\_\_, 2022, partially releases forever unto the successor in interest and **GRANTEE, Three Bears Alaska, Inc.**, an Alaska corporation, whose address is 445 N. Pittman Road, Suite B, Wasilla, AK 99623, its successors and assigns, the following restriction created in that Statutory Warranty deed recorded at Book 90, Page 831 in the Seward Recording District:

*“pursuant to Ordinance 91-20, a 50-foot conservation easement around the perimeter of the parcel wherein no live, naturally existing vegetation over 3” in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit”*

As to the parts of along the North, West and South perimeter sides, such that the Conservation Easement deed restriction along the East side perimeter remains in effect, in conformance with Quartz Creek Subdivision Outfitters Way Replat.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022.

KENAI PENINSULA BOROUGH:

\_\_\_\_\_  
Charlie Pierce, Mayor

ATTEST:

APPROVED AS TO FORM AND  
SUFFICIENCY

\_\_\_\_\_  
Johni Blankenship  
Borough Clerk

\_\_\_\_\_  
A. Walker Steinhage  
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

Record in the Seward Recording District

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

Introduced by: Mayor  
Date: April 30, 1991  
Hearing: June 18, 1991  
Action: FAILED AS AMENDED  
Vote: 6 YES, 9 NO  
MOTION TO RECONSIDER: BROWN  
Reconsidered: 7/9/91  
Action: ENACTED AS AMENDED  
Vote: 9 YES, 5 NO

KENAI PENINSULA BOROUGH  
ORDINANCE 91-20

AUTHORIZING A LEASE WITH OPTION TO PURCHASE FOR SHERMAN C. SMITH ON LANDS LOCATED IN THE COOPER LANDING VICINITY AND LOCATED WITHIN A PORTION OF THE NW $\frac{1}{4}$ NE $\frac{1}{4}$  OF SECTION 36 AND A PORTION OF THE S $\frac{1}{2}$ SE $\frac{1}{4}$  OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 3 WEST, SEWARD MERIDIAN AND CLASSIFYING THESE LANDS AS "SALE LANDS"

WHEREAS, an application has been received from Sherman C. "Red" Smith for purchase of ten acres, more or less, located in the Cooper Landing area, for industrial development; and,

WHEREAS, the borough selected the subject land pursuant to the Municipal Entitlement Act and has received a final decision from the State of Alaska approving the selection; and

WHEREAS, a final decision does transfer certain management rights of the land allowing the borough to enter into leases, grant permits, easements, rights-of-way and dispose of lands; and,

WHEREAS, it is not borough policy to sell or otherwise convey title in lands until patent has been issued by the State of Alaska and received by the borough; and,

WHEREAS, on March 11, 1991, a memorandum, maps and supporting backup was sent out for review and comments to the School District, Cooper Landing Community Club, Cooper Landing Advisory Planning Commission, East Peninsula Road Service Area and departments of the borough; and,

NOW THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That a long-term lease with option to purchase is hereby authorized for ten acres, more or less, located within a portion of NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 36 and S $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 25, Township 5 North, Range 3 West, Seward Meridian, Alaska.

Section 2. That the subject lands are hereby classified as "Sale Lands" pursuant to Chapter 17.04 of the KPB Code of Ordinances.

Section 3. That the plat which creates the subject ten acre parcel shall designate a fifty foot conservation easement around the perimeter of the site, exclusive of a fifty foot wide entry and exit wherein no live, naturally existing vegetation over 3" in diameter shall be removed.

Section 4. That the annual lease shall be at the rate of six percent (6%) of the borough assessed valuation and shall be reappraised every five (5) years and the fee adjusted accordingly.

Section 5. That upon the borough receiving patent, the lessee may exercise his option to purchase the subject land at the current fair market value. Said purchase may be made by payment in full or a minimum down payment of ten percent (10%) of the fair market value with the remaining principal balance payable in installments at the rate of ten (10%) percent interest.

Section 6. That the Mayor is authorized to sign any documents necessary to effectuate this ordinance and deemed to be in the best interest of the borough.

ENACTED THIS 9<sup>th</sup> DAY OF July BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH.

James W. Skogstad  
James W. Skogstad, Assembly President

ATTEST:

Rayna Naugan  
Borough Clerk

**Public Notice of Proposed Partial Release of a Deed Restriction  
And  
Public Notice of Land Classification in Cooper Landing, AK**

Pursuant to Kenai Peninsula Borough Code of Ordinances, Chapter 17.10.130(f), the Kenai Peninsula Borough is considering partial release of a Conservation Easement deed restriction on a parcel of land owned by Three Bears Alaska, Inc described as Tract B, Quartz Creek Subdivision.

Pursuant to Kenai Peninsula Borough Code of Ordinances, Chapter 17.10.080, the Kenai Peninsula Borough is proposing to classify a 30-foot wide strip of land along the Sterling Highway described in the preliminary Quartz Creek Subdivision Outfitters Way Replat as Tracts A2, B2, & C2.

The Borough encourages you to review the proposed ordinance and submit written comments. Written comments must be received no later than close of business August 10, 2022, to be included in the Planning Commission packet for its public hearing or 1pm August 19, 2022 for laydown. Written comments may be sent to the following address: Kenai Peninsula Borough, Land Management Division 144 N. Binkley Street, Soldotna, AK 99669-7599 or by email to [lmweb@kpb.us](mailto:lmweb@kpb.us)

**Description of Property for Deed Modification: Tract B, Quartz Creek Subdivision, Plat 94-11 SRD, Tax Parcel ID 119-124-18**

Tract B was deeded from the Kenai Peninsula Borough in 1992, subject to the following Conservation Easement Deed Restriction:

*"pursuant to Ordinance 91-20, a 50-foot conservation around the perimeter of the parcel wherein no live, naturally existing vegetation over 3" in diameter shall be removed except for a 50-foot wide entry and a 50-foot wide exit."*

**Description of Property for "Government" Classification: Tracts A2, B2, & C2, Quartz Creek Subdivision Outfitters Way Replat shown by preliminary plat KPB File 2022-060**

Proposed Tracts A2, B2, and C2 consist of a 30-foot-wide strip of land between the Sterling Highway and a proposed frontage road paralleling the highway to the KPB Solid Waste Transfer Facility. The frontage road would provide for safety design improvements along the highway. The strip of land is proposed to be held by the Kenai Peninsula Borough for community gateway greenspace under a "government" classification.

The proposed deed modification action by would remove the Conservation Easement Deed Restriction affecting 3 -sides of Tract B, the North, West and South sides in substitution for the creation of the 30' wide greenspace strip and frontage road dedication. The conservation easement along the east side of Tract B (along Dena'ina Creek) would remain in effect.

The public is invited to give testimony at the following meetings. Public meetings will be held as shown unless otherwise advertised.

Cooper Landing Advisory Planning Commission Public Hearing: August 3, 2022, 6:00 p.m. at the Cooper Landing Community Hall or Via Zoom <https://us06web.zoom.us/j/2045581076>

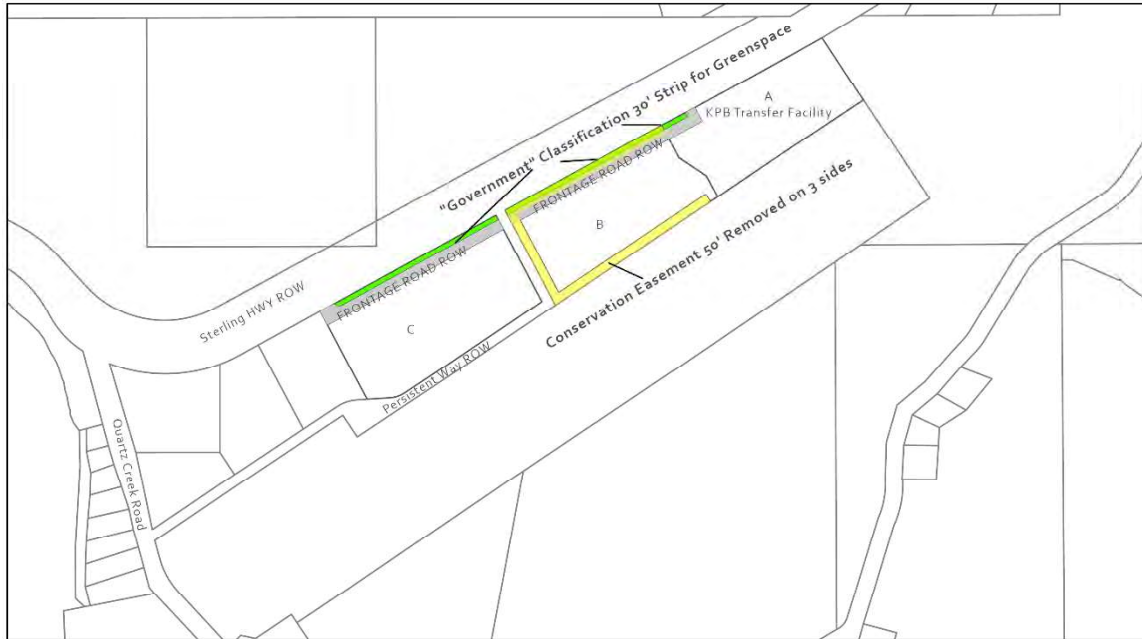
Kenai Peninsula Borough Planning Commission Public Hearing: August 22, 2022, 7:30 p.m. at the KPB Administration Building, 144 N. Binkley Street, Soldotna, AK 99669 or via Zoom <https://kpb.legistar.com/Calendar.aspx>

Kenai Peninsula Borough Assembly Meeting: August 23, 2022, 6:00 p.m. at the KPB Administration Building, 144 N. Binkley Street, Soldotna, AK 99669. <https://kpb.legistar.com/Calendar.aspx>

**Additional Information:** For further information contact Marcus Mueller, Land Management Division at 907-714-2205, or toll free within the Kenai Peninsula Borough 1-800-478-4441, ext. 2205.

The Kenai Peninsula Borough reserves the right to waive technical defects in this publication.

Conservation Easement to Be Removed  
&  
30-Foot Strip to be Classified "Government"



TRACTS A, B, C Quartz Creek Subdivision  
Sketch of Preliminary Plat Proposed as  
Quartz Creek Subdivision Outfitters Way Replat

DIAGRAM PREPARED BY:  
M. MUELLER 7/19/22