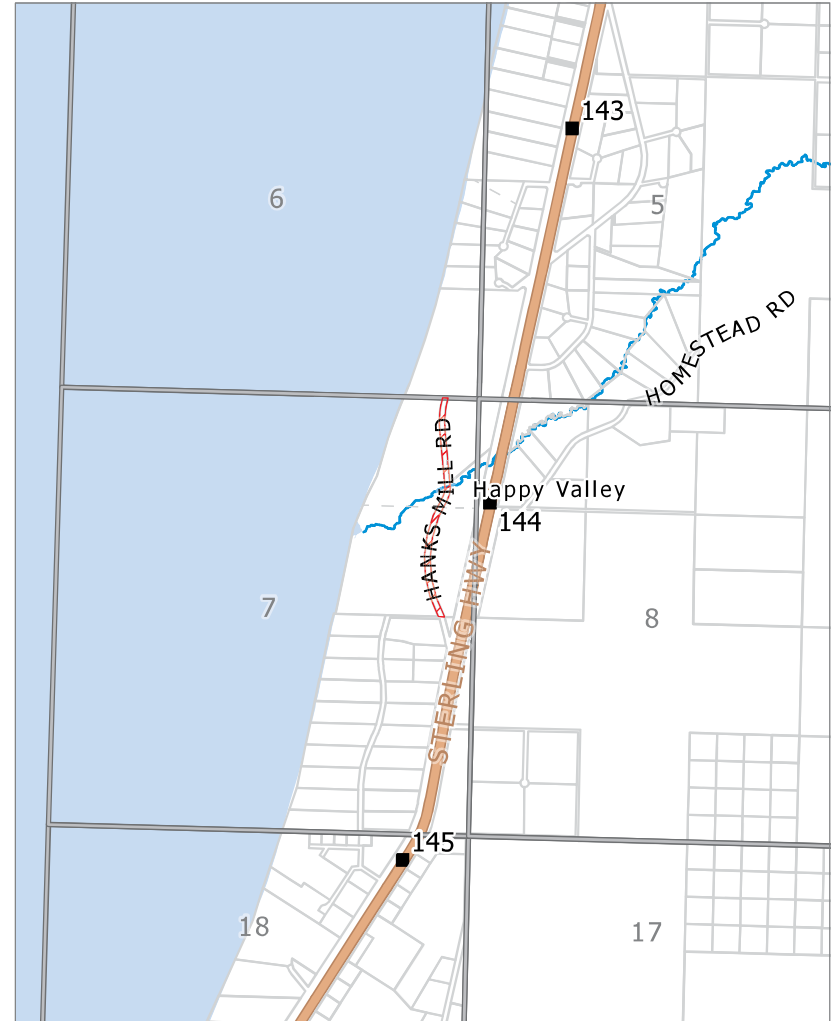
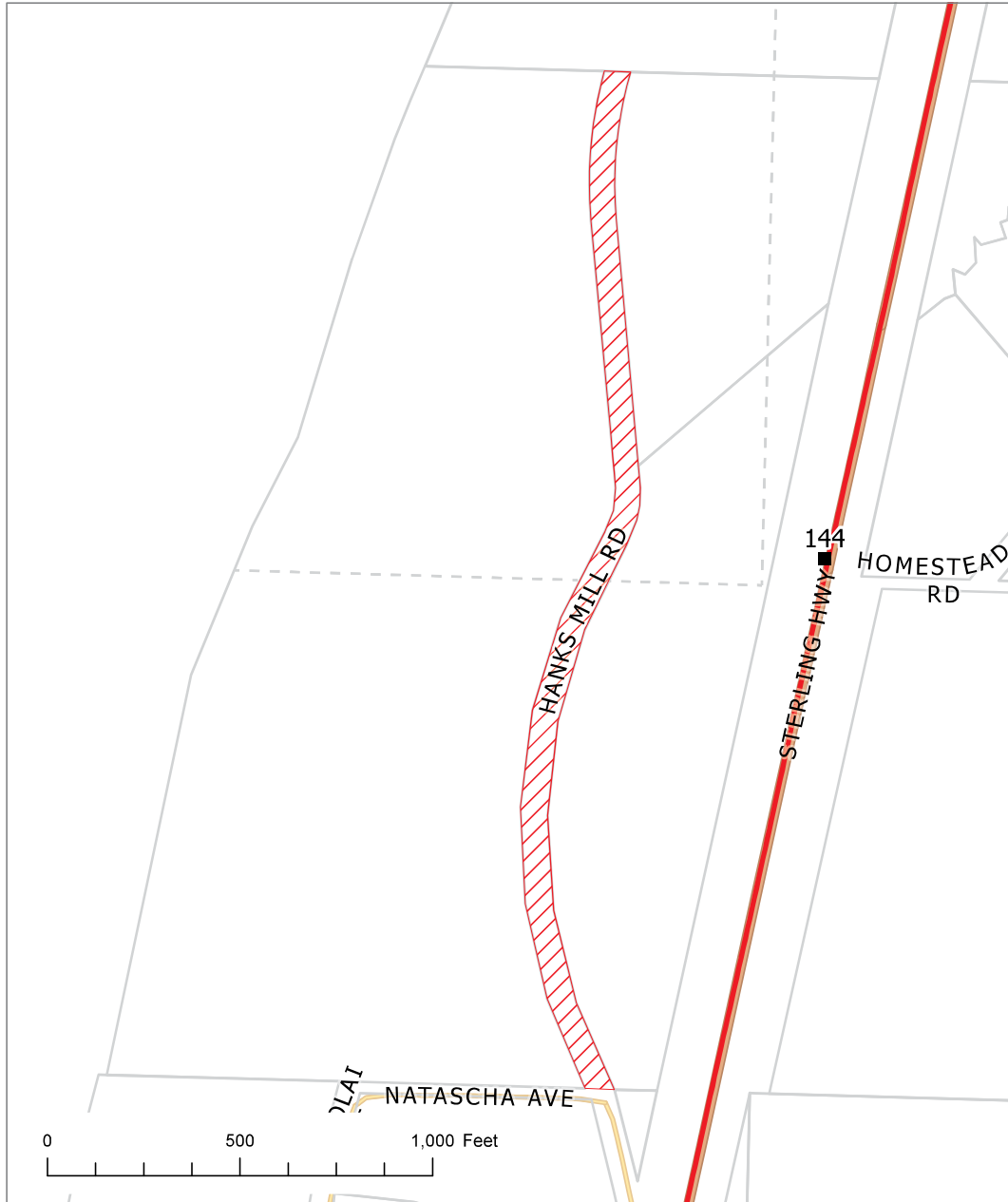


## **E. NEW BUSINESS**

- 3. ROW Vacation; KPB File 2022-077V  
Request: Vacate Hanks Mill Road, formerly known as Old Sterling Highway**



KPB File # 2022-077V  
 S07 & 08 T03S R14W  
 Happy Valley

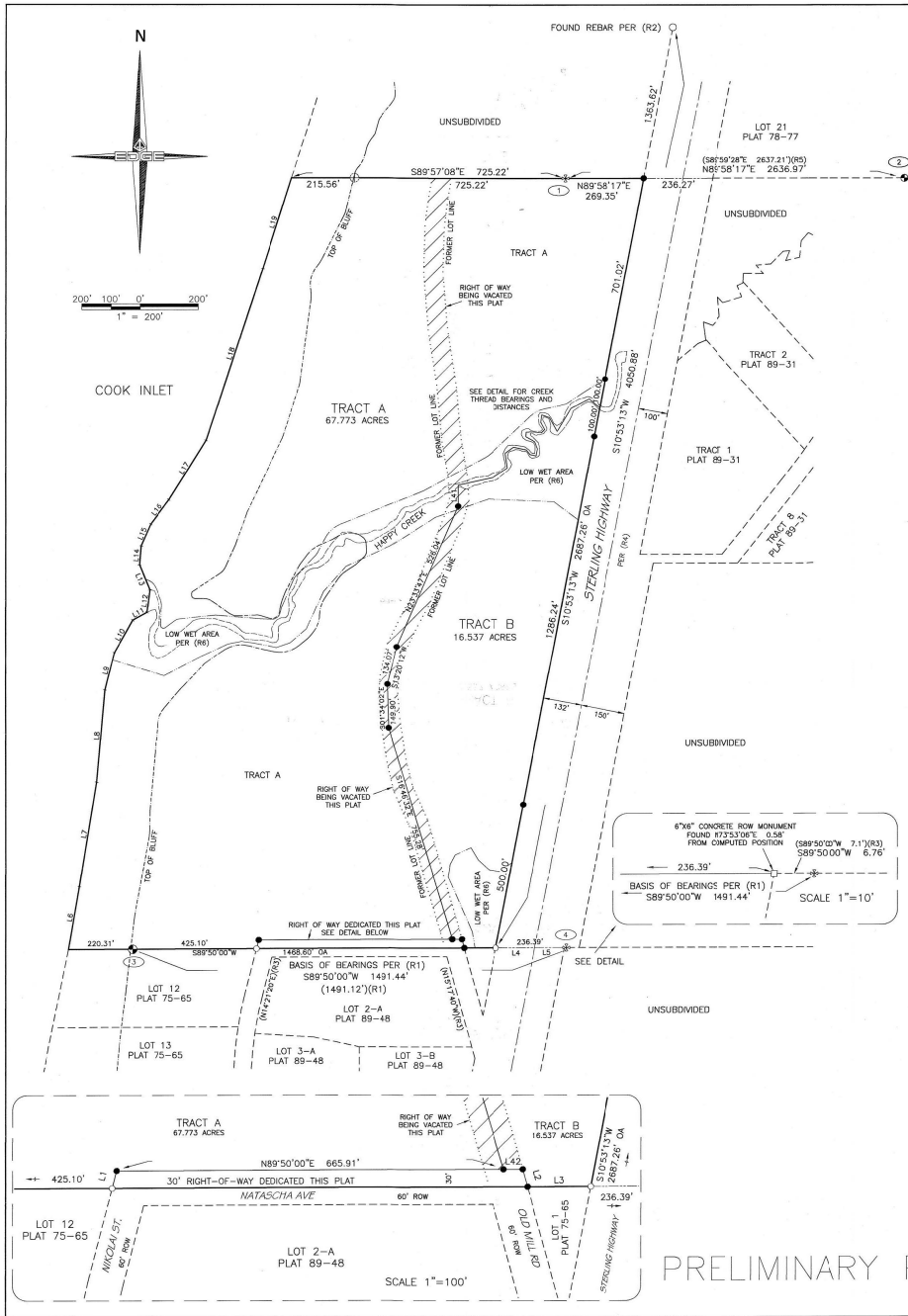
The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.





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.





**LEGEND**

- FOUND BLM MONUMENT AS REFERENCED
  - ⊙ FOUND PRIMARY MONUMENT AS REFERENCED
  - ⊙ FOUND 2" ALUMINUM CAP MARKINGS ILLEGIBLE
  - ⊙ FOUND 5/8" REBAR
  - FOUND 6"X6" CONCRETE RIGHT OF WAY MONUMENT
  - SET PROPERTY CORNER 5/8" X 30" REBAR WITH 2" ALUMINUM CAP STAMPED EDGE SURVEY LS-13022 2022
  - Ⓡ MONUMENT REFERENCE NUMBER
  - (R1) RECORD DATA, SEE REFERENCE
- SUBDIVISION BOUNDARY
  - INTERIOR LOT LINE
  - - - ADJACENT PROPERTY LINE
  - - - CENTERLINE
  - - - 20 FOOT BUILDING SETBACK
  - - - 10 FOOT UTILITY EASEMENT
  - - - LOW WET AREA
  - - - TOP OF BLUFF
  - - - FORMER LOT LINE
  - ▨ RIGHT OF WAY BEING VACATED THIS PLAT

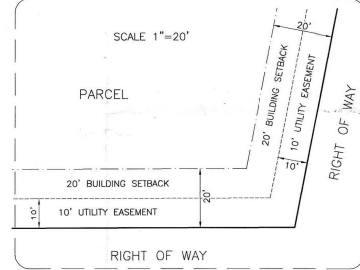
**REFERENCES**

- (R1) PLAT NO. 89-48, HAPPY VALLEY VISTA TOO, HOMER RECORDING DISTRICT
- (R2) PLAT NO. 78-77, BIG VALLEY SUBDIVISION, HOMER RECORDING DISTRICT
- (R3) PLAT NO. 75-65, HAPPY VALLEY VISTA SUBDIVISION, HOMER RECORDING DISTRICT
- (R4) STATE OF ALASKA, RIGHT OF WAY PLAT, PROJECT NUMBER F-021-1(2) SERIAL NUMBER 63-423, HOMER RECORDING DISTRICT
- (R5) PLAT NO. 89-31, PERRY-VEATER TRACTS, HOMER RECORDING DISTRICT
- (R6) KENAI WATERSHED FORUM WETLANDS INVENTORY DATA

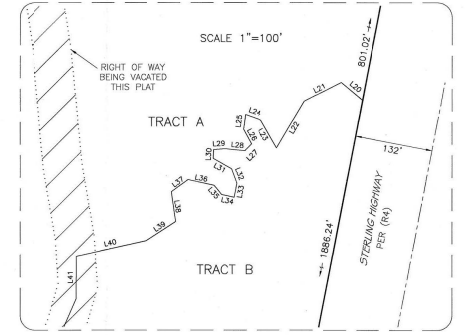
**MONUMENT SUMMARY**

MONUMENT ID	DESCRIPTION	CONDITION
1	GLD T33 R14W 36.35 S7 58 1919	FOUND 2-1/2" BRASS MONUMENT IN CORNER FLUSH WITH GRADE GOOD CONDITION
2	GLD 1/4 35 58 1977	FOUND 1" PIPE 0.2' BELOW GRADE MARKING OF RECORD (R2) GOOD CONDITION
3	HNJ 268-S + ST 1977	FOUND 2-1/2" BRASS MONUMENT 1.3' BELOW GRADE GOOD CONDITION
4	GLD 1/4 37 58 1919	FOUND 2-1/2" BRASS MONUMENT 0.1' ABOVE GRADE GOOD CONDITION

**UTILITY EASEMENT AND BUILDING SETBACK TYPICAL**

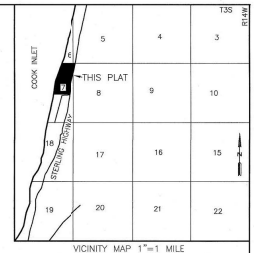


**HAPPY VALLEY CREEK THREAD BEARING AND DISTANCE DETAIL**



**LINE TABLE**

LINE	BEARING	DISTANCE
L1	N14°21'20"E	30.99'
L2	N15°17'40"W	31.08'
L3	N89°50'00"E	108.40'
L3(R3)	N89°50'00"E	108.40'
L4	N89°50'00"E	134.50'
L4(R3)	N89°50'00"E	134.50'
L5	N89°50'00"E	101.89'
L5(R3)	N89°50'00"E	101.9'
L6	S09°52'49"W	219.15'
L7	S09°21'35"W	360.78'
L8	S05°07'17"W	317.25'
L9	N13°48'07"E	133.12'
L10	S29°43'26"W	129.54'
L11	S61°19'32"W	55.82'
L12	S07°11'38"W	76.98'
L13	S22°25'33"E	92.37'
L14	S04°53'23"W	64.92'
L15	S23°18'18"W	81.47'
L16	S37°22'47"W	105.38'
L17	N32°03'10"E	238.53'
L18	S18°15'21"W	619.30'
L19	S17°41'03"W	328.86'
L20	N50°07'46"W	47.33'
L21	N62°39'38"E	70.15'
L22	N30°35'50"E	92.18'
L23	N29°39'08"W	54.74'
L24	S70°18'17"E	27.43'
L25	S07°53'14"W	25.28'
L26	N02°41'15"W	28.11'
L27	S45°01'07"W	16.35'
L28	N84°37'38"W	32.91'
L29	N06°38'11"E	19.09'
L30	N04°24'08"E	15.07'
L31	N60°25'31"W	35.90'
L32	S20°31'08"E	26.09'
L33	N10°58'48"E	24.15'
L34	N77°49'31"W	21.80'
L35	N39°12'44"W	20.30'
L36	S77°31'11"E	44.63'
L37	N54°02'19"E	34.94'
L38	N08°15'31"W	51.24'
L39	N56°53'52"E	58.28'
L40	N77°25'29"E	122.69'
L41	N00°29'07"E	71.92'
L42	S89°50'00"W	33.00'



**CERTIFICATE OF SURVEYOR**

I, MARK ANONETTI 13022-S, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THIS SURVEY ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



KPB FILE NUMBER 2022-000

**HAPPY CREEK REPLAT**

A REPLAT OF GOVERNMENT LOTS 1 AND 2 LYING WEST OF THE OLD STERLING HIGHWAY, PORTION OF GOVERNMENT LOT 1 LYING EAST OF THE OLD STERLING HIGHWAY & PORTION OF NW 1/4 1/4 1/4 IN SECTION 8, PORTION OF GOVERNMENT LOTS 1 AND 2 IN SECTION 7 & NW 1/4, NW 1/4, NW 1/4 IN SECTION 8 AND THE VACATION OF A PORTION OF OLD STERLING HIGHWAY

OWNERS:  
CLIFFORD AND JANA INVESTMENTS, LLC  
1564 N ALMA SCHOOL ROAD  
MESA, ARIZONA 85201  
ANI  
ROSEMARY H. JOHNSON  
PO BOX 114  
ANCHOR POINT, ALASKA 99556

LOCATED WITHIN THE NE 1/4 SECTION 7 AND NW 1/4 SECTION 8 T33 R14W, SEWARD MERIDIAN, ALASKA KENAI PENINSULA BOROUGH HOMER RECORDING DISTRICT CONTAINING 84,797 ACRES



12501 OLD SEWARD, C ANCHORAGE, AK 99515 Phone: (907) 344-5990 Fax: (907) 344-7794

APPROVAL RECOMMENDED		DATE	
STATEWIDE PLATING SUPERVISOR	DATE		
DRAWN BY: JY	SURVEY DATE: 5-20-22	SCALE: AS SHOWN	PROJECT NUMBER: 21-443
CHECKED BY: MA	DRAWN DATE: 06-01-2022	DNR FILE No: 21-000000	PAGE 1 OF 2

PRELIMINARY PLAT **KPB 2022-077V**

**NOTES**

1. BUILDING SETBACK - A SETBACK OF 20 FEET IS REQUIRED FROM ALL STREET RIGHTS-OF-WAY UNLESS A LESSER STANDARD IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
2. THE FRONT 10 FEET ADJACENT TO THE RIGHTS-OF-WAY 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.
3. THE KENAI PENINSULA BOROUGH PLANNING COMMISSION APPROVED THE VACATION OF A PORTION OF OLD STERLING HIGHWAY AT THE MEETING OF JUNE 27, 2022. THE VACATION RECEIVED CONSENT BY THE KENAI PENINSULA ASSEMBLY AUGUST 00, 2022.
4. ANY PERSON DEVELOPING THE PROPERTY IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LOCAL, STATE, AND FEDERAL PERMITS, INCLUDING A U.S. ARMY CORPS OF ENGINEERS WETLANDS DETERMINATION IF APPLICABLE.
5. ROADS MUST MEET THE DESIGN AND CONSTRUCTION STANDARDS ESTABLISHED BY THE BOROUGH IN ORDER TO BE CONSIDERED FOR CERTIFICATION AND INCLUSION IN THE ROADS MAINTENANCE PROGRAM PER KPB 14.06.
6. NO PRIVATE ACCESS TO STATE MAINTAINED RIGHT OF WAYS PERMITTED UNLESS APPROVED BY THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION.
7. RESERVATIONS AND EXCEPTIONS AS CONTAINED IN U.S. PATENT, AND/OR ACTS AUTHORIZING THE ISSUANCE THEREOF.
8. THIS SUBDIVISION IS SUBJECT TO RIGHTS OF THE PUBLIC AND OR GOVERNMENTAL AGENCIES IN AND TO THAT PORTION OF SAID PREMISES LYING BELOW THE MEAN HIGH WATER MARK OF COOK INLET AND ANY QUESTIONS OF RIGHTS OF ACCESS TO COOK INLET IN THE EVENT SAID LANDS DO NOT IN FACT ADJUT THE INLET.
9. THIS SUBDIVISION IS SUBJECT TO A GENERAL EASEMENT FOR WATER COURSE OVER THAT PORTION OF THE PREMISES WHICH LIES WITHIN THE LINES OF THE HEREIN NAMED CREEK (HAPPY VALLEY CREEK) AND TO ANY CHANGES IN THE BOUNDARY LINES OF SAID CREEK, AS IT NOW EXISTS, BY NATURAL CAUSES.
10. THIS SUBDIVISION IS SUBJECT TO A GENERAL ELECTRICAL EASEMENT, WITH NO DEFINED LOCATION, GRANTED TO HOMER ELECTRIC ASSOCIATION ON JUNE 30, 1959 IN BOOK 17 PAGE 27, HOMER RECORDING DISTRICT.
11. SECTION LINE EASEMENTS AFFECTING THIS SUBDIVISION HAVE BEEN VACATED BY PLAT 68-55, HOMER RECORDING DISTRICT.
12. WASTEWATER DISPOSAL: LOTS WHICH ARE AT LEAST 200,000 SQUARE FEET IN SIZE MAY NOT BE SUITABLE FOR AN ONSITE WASTEWATER TREATMENT AND DISPOSAL. ANY WASTEWATER TREATMENT AND DISPOSAL SYSTEM MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

**PLAT APPROVAL**

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF JUNE 27, 2022.  
KENAI PENINSULA BOROUGH

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

PRELIMINARY PLAT

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I HEREBY CERTIFY THAT KGA FAMILY TRUST IS THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT ON BEHALF OF CLIFFORD AND JANA JOHNSON INVESTMENTS, LLC, I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAYS AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

CLIFFORD AND JANA JOHNSON INVESTMENTS, LLC  
CLIFFORD JOHNSON, CO-MANAGER  
1564 N. ALMA SCHOOL ROAD  
MESA, ARIZONA 85201

**NOTARY ACKNOWLEDGEMENT**

FOR: CLIFFORD JOHNSON  
ACKNOWLEDGED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

NOTARY PUBLIC SIGNATURE \_\_\_\_\_



**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-OF-WAYS AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS TO THE USE SHOWN.

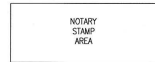
ROSEMARY H. JOHNSON  
PO BOX 114  
ANCHOR POINT, ALASKA 99556

**NOTARY ACKNOWLEDGEMENT**

FOR: ROSEMARY H. JOHNSON  
ACKNOWLEDGED BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

NOTARY PUBLIC SIGNATURE \_\_\_\_\_



**KPB 2022-077V**

KPB FILE NUMBER 2022-000

**HAPPY CREEK REPLAT**

A REPLAT OF  
GOVERNMENT LOTS 1 AND 2  
LYING WEST OF THE OLD STERLING HIGHWAY,  
PORTION OF GOVERNMENT LOT 1 LYING EAST OF THE OLD STERLING HIGHWAY  
& PORTION OF NW 1/4 NW 1/4 IN SECTION 6,  
PORTION OF GOVERNMENT LOTS 1 AND 2 IN SECTION 7  
& NW 1/4 NW 1/4 IN SECTION 8  
AND THE VACATION OF A PORTION OF OLD STERLING HIGHWAY

OWNERS:  
CLIFFORD AND JANA INVESTMENTS, LLC  
1564 N. ALMA SCHOOL ROAD  
MESA, ARIZONA 85201  
  
AND  
ROSEMARY H. JOHNSON  
PO BOX 114  
ANCHOR POINT, ALASKA 99556

LOCATED WITHIN THE NE 1/4 SECTION 7 AND NW 1/4 SECTION 8  
T3S R14W, SEWARD MERIDIAN, ALASKA  
KENAI PENINSULA BOROUGH  
HOMER RECORDING DISTRICT  
CONTAINING 84.797 ACRES



12501 OLD SEWARD RD, S  
ANCHORAGE, AK 99515  
Phone (907) 344-2290 Fax (907) 344-7794

APPROVAL RECOMMENDED			
STATEWIDE PLATTING SUPERVISOR _____		DATE _____	
DRAWN BY: JY	SURVEY DATE: 5-20-22	SCALE: AS SHOWN	PROJECT NUMBER: 21-643
CHECKED BY: MA	DRAWN DATE: 06-01-2022	DMR FILE No: EV-000000	PAGE 2 OF 2

**ITEM 3 - RIGHT OF WAY VACATION  
VACATE PORTION OF HANKS MILL ROAD (FORMALLY OLD STERLING HIGHWAY)**

<b>KPB File No.</b>	2022-077V
<b>Planning Commission Meeting:</b>	June 27, 2022
<b>Applicant / Owner:</b>	Rosemary Johnson of Anchor Point, Alaska and Cliff and Jana Johnson of Mesa, Arizona
<b>Surveyor:</b>	Jason Young, Mark Aimonetti / Edge Survey and Design, LLC
<b>General Location:</b>	Hanks Mill Road, Natascha Avenue, Sterling Highway / Happy Valley, Anchor Point, APC
<b>Legal Description:</b>	Hanks Mill Road, formally known as Old Sterling Highway, within Section 7, Township 3 South, Range 14 West.

**STAFF REPORT**

**Specific Request / Purpose as stated in the petition:** To vacate Hanks Mill Road (Old Sterling Highway). Findings for justification of right-of-way vacation of Old Sterling Highway.

1. The section of the Old Sterling Highway proposed for vacation terminates at the North boundary, parcel to the north has had right-of-way vacated.
2. The section of Old Sterling Highway proposed for vacation provides access to large tract parcels, two of which will be combined with this platting action. Large parcel to the North has sufficient access from the Sterling Highway. Parcels created by this platting action will have sufficient access from the Sterling Highway to the East and Natascha Avenue to the south.
3. The current condition of the right-of-way is unmaintained and not traveled. The historical culverts at the Happy Creek crossing have washed out and created 70+ foot vertical banks making it unsafe and impractical to cross.
4. The current public use patterns of the section of right-of-way proposed for vacation has had a history of promoting trespass across private land. With a pattern of public leaving the right-of-way to cross west adjacent to Happy Creek to the Cook Inlet. Along with this trespass has been a history of vandalism and large-scale littering.
5. The current underlying land ownership is all private large tract parcels adjacent to proposed right-of-way vacation.
6. Alternative right-of-ways are in place and are the current public use patterns. The “New” Sterling Highway to the East provides the public necessary North-South right-of-way. The shore of the Cook Inlet to the West also provides the public necessary North-South right-of-way. The large parcel to the North does not and cannot use the right-of-way proposed for vacation for access due to unmaintained conditions.
7. The practicality of use of right-of-way proposed for vacation is poor. The right-of-way dead ends and leads to nowhere. The current conditions promote only foot travel and the washed out culverts at the Happy Creek crossing are unsafe conditions and a public safety hazard.

**Notification:** Public notice appeared in the June 16, 2022 issue of the Homer News as a separate ad. The public hearing notice was published in the June 23, 2022 issue of the Homer News as part of the Commission’s tentative agenda.

The public notice was posted on the Planning Commission bulletin board at the Kenai Peninsula Borough George A. Navarre Administration building. Additional notices were mailed to the following with the request to be posted for public viewing.

Library of Anchor Point

Post Office of Anchor Point

Six certified mailings were sent to owners of property within 300 feet of the proposed vacation. Two receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to eight owners within 600 feet of the proposed vacation.

Twenty-one public hearing notices were emailed to agencies and interested parties as shown below;

State of Alaska Dept. of Fish and Game	Kenai Peninsula Borough Land Management
State of Alaska DNR	Ninilchik Traditional Council
State of Alaska DOT	Alaska Communication Systems (ACS)
State of Alaska DNR Forestry	ENSTAR Natural Gas
Anchor Point Advisory Planning Commission	General Communications Inc, (GCI)
Emergency Services of Anchor Point	Homer Electric Association (HEA)
Kenai Peninsula Borough Office	

**Legal Access (existing and proposed):** Hanks Mill Road was originally Old Sterling Highway. The name was changed by Street Name Resolution SN 2010-01. The Alaska DOT&PF ROW Research Map indicates the management falls under the Kenai Peninsula Borough. Hanks Mill Road is located near mile 144 of the Sterling Highway. The southern portion of Hanks Mille Road is maintained by the borough to the intersection with Natascha Avenue. The portion of the right-of-way north of Natascha Avenue appears to be the remains of an old road with no clear travel way shown. Per the submittal this is not a widely used right-of-way that has not been maintained for years.

There are currently two government lots located west of Hanks Mill Road that are along the coast of Cook Inlet. Two additional lots are between Hanks Mill Road and the Sterling Highway. The proposed vacation will be finalized with a plat that will reconfigure the lots to create two tracts. Tract A will have access from the Sterling Highway and Natascha Avenue to the south. Tract B will front along the Sterling Highway and will have some frontage from the remaining portion of Hanks Mille Road and Natascha Avenue. Any access from the Sterling Highway will require approval from the State of Alaska DOT.

The property to the north does not indicate the current status of the right-of-way. The legal description for the property does not indicate that the right-of-way is in existence. Staff was unable to determine the status but did not find any indication that a formal vacation had been done. A thorough title report may indicate if the property is subject to any public easements that would provide a connection of the Old Sterling Highway. The lot will continue to have frontage along the Sterling Highway and currently has an existing driveway that is near the Lofty Heights Court dedication. The former travel way within the property but does appear to be grown over.

The plat will be dedicating a 30 foot wide matching dedication to bring Natascha Avenue, a borough maintained right-of-way into compliance for width.

The section line easements within the subject property as well as the property to the north have all been vacated per the Section Line Easement Vacation Plat, HM 88-55.

The existing block does not comply with block requirements. The property is between Cook Inlet and the Sterling Highway. Section Line easements can be used to provide a compliant block but there were vacated in 1988. The location of the existing right-of-way does not provide a compliant block and the vacation will not improve nor worsen the block requirements.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	The ROW for Sterling Highway appears to be shown correctly. However, the vacation area appears to be a portion of the Old Sterling Highway that has not been previously relinquished or vacated by DOT. I have a query into our Property

	Management group about how they would like to proceed with the action proposed, and what steps would be necessary to vacate the State DOT interest.
--	---

**Site Investigation:** Happy Creek runs through the property and the existing right-of-way crosses it as well as the associated wetlands. There are some steep slopes present within the right-of-way proposed to be vacated. Per the findings provided with the petition, the washout of culverts and lead to some erosion within the right of way that has resulted in steep areas.

KPB River Center review	<p>A. Floodplain  Reviewer: Carver, Nancy  Floodplain Status: IS in flood hazard area  Comments: Flood Zone: VE,D  Map Panel: 02122C-1830E  In Floodway: False  Floodway Panel:</p> <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>
Alaska Fish and Game	No objections. The proposed actions will not affect fish, wildlife, habitat, or public access to public lands or waters. All lands surrounding the ROW are privately owned and the only identified water along the ROW, Happy Creek, is not identified as anadromous.

**Staff Analysis:** The petition is to vacate Hanks Mills Road. The vacation will be the entire width for approximately 2,700 feet. The property involved with the project is government lots and portions of aliquot lands. There is not a plat showing the dedication of Hanks Mill Road. The property descriptions do exclude the portions of the right-of-way. Hanks Mill Road was formally the Old Sterling Highway. At some point after the construction of the new Sterling Highway, the old portion stopped receiving maintenance. The jurisdiction appears to be under local authority, KPB, per the DOT mapper but there may be some state interest still associated with the right-of-way. The portion to be vacated is nothing more than slight trails that receive no maintenance for the borough.

The right-of-way provides access to lands owned by one owner that will be proposing a replat to make sure all lots have legal access. The neighbor to the north has additional access. The right-of-way proposed for vacation does appear to continue to the north through the neighbor's property but there is no indication at this time of the existence and it only appears to be a trail at this time.

**20.65.050 – Action on vacation application**

D. The planning commission shall consider the merits of each vacation request and in all cases the planning commission shall deem the area being vacated to be of value to the public. It shall be incumbent upon the applicant to show that the area proposed for vacation is no longer practical for the uses or purposes authorized, or that other provisions have been made which are more beneficial to the public. In evaluating the merits of the proposed vacation, the planning commission shall consider whether:

1. The right-of-way or public easement to be vacated is being used;



**Staff comments:** It is only a trail that per the submittal is being used for trespass, loitering, and littering.

2. A road is impossible or impractical to construct, and alternative access has been provided;  
**Staff comments:** Due to years of neglect, the right-of-way is in disrepair and provides a safety issue due to terrain.
3. The surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;  
**Staff comments:** Subdivisions have occurred to the south with proper right-of-way dedications and utility easements. Property to the north is a large acreage parcel with potential to be subdivided to provide its own access and easements.
4. The vacation of a public right-of-way provides access to a lake, river, or other area with public interest or value, and if so, whether equal or superior access is provided;  
**Staff comments:** The right-of-way does not provide direct access to Cook Inlet, although it is being used for access by trespass per the submittal.
5. The proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;  
**Staff comments:** The proposed replat will provide access to new lots, no lots will be denied access and larger lots may provide dedications in the future.
6. Other public access, other than general road use, exist or are feasible for the right-of-way;  
**Staff comments:** The right-of-way could be used for pedestrian use but per the submittal, there are safety concerns due to years of no maintenance and terrain.
7. All existing and future utility requirements are met. Rights-of-way which are utilized by a utility, or which logically would be required by a utility, shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a utility easement be granted in place of the right-of-way.  
**Staff comments:** Any requested utility easements by providers will be required unless the owner works with the utility providers to change or reduce the request.
8. Any other factors that are relevant to the vacation application or the area proposed to be vacated.  
**Staff comments:** Additional steps may be required and State approval prior to finalization.

A KPB Planning Commission decision denying a vacation application is final. A KPB Planning Commission decision to approve the vacation application is subject to consent or veto by the KPB Assembly, or City Council if located within City boundaries. The KPB Assembly, or City Council must hear the vacation within thirty days of the Planning Commission decision.

If approved, the Assembly will hear the vacation at their scheduled July 5, 2022 meeting.

The authority of the ability to vacate this right-of-way is being questioned. The Certificate to Plat supplied for the plat did not provide any insight in to the right-of-way. Staff looked through some state documents but did not find reference this right-of-way. The State of Alaska DOT is reviewing to determine their interest in the right-of-way. If it is determined to still be a State of Alaska right-of-way, the approval may be used as a recommendation to the State. The State may have additional requirements or processes needed in order to finalize this process if they agree to the vacation. The surveyor and owners will need to work with the State of Alaska for resolution. The planning department will not allow for the finalization of the vacation until written permission is received from the State of Alaska.

If approved, Happy Creek Replat, KPB File 2022-077, will finalize the proposed right-of-way vacation. The Plat Committee is scheduled to review the plat on June 27, 2022.

**KPB department / agency review:**

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>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 23215 HANKS MILL RD 23015 STERLING HWY 23145 STERLING HWY</p> <p>Existing Street Names are Correct: No</p> <p>List of Correct Street Names: STERLING HWY NIKOLAI ST NATASCHA AVE</p> <p>Existing Street Name Corrections Needed: OLD MILL RD should be HANKS MILL RD per SN2010-01.</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: 23215 HANKS MILL RD will be deleted. 23015 STERLING HWY will remain on tract A. 23145 STERLING HWY will remain on tract B. Approximately 520ft of HANKS MILL RD remains connecting STERLING HWY to NATASCHA AVE.</p>
Assessing	<p>Reviewer: Wilcox, Adeena Comments: No comment</p>
Advisory Planning Commission	Comments not available when the staff report was prepared

**Utility provider review:**

HEA	No comments
ENSTAR	No comments or recommendations
ACS	No objections
GCI	Approved as shown

**RECOMMENDATION:**

Based on consideration of the merits as per KPB 20.65.050(D) as outlined by Staff comments, Staff recommends APPROVAL as petitioned, subject to:

1. Consent by KPB Assembly.
  2. Consent or requirements be met as outlined by State of Alaska DOT in regards to their interest in the right-of-way.
  3. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
  4. Grant utility easements requested by the utility providers.
  5. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).
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#### **KPB 20.65.050 – Action on vacation application**

- H. A planning commission decision to approve a vacation is not effective without the consent of the city council, if the vacated area to be vacated is within a city, or by the assembly in all other cases. The council or assembly shall have 30 days from the date of the planning commission approval to either consent to or veto the vacation. Notice of veto of the vacation shall be immediately given to the planning commission. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation. This provision does not apply to alterations of utility easements under KPB 20.65.070 which do not require the consent of the assembly or city council unless city code specifically provides otherwise.**
- I. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, where applicable, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent.**
- J. A planning commission decision denying a vacation application is final. No reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**
- K. An appeal of the planning commission, city council or assembly vacation action under this chapter must be filed in the superior court in accordance with the Alaska Rules of Appellate Procedure.**

The 2019 Kenai Peninsula Borough Comprehensive Plan adopted November, 2019 by Ordinance No. 2019-25. The relevant objectives are listed.

*Goal 3. Preserve and improve quality of life on the Kenai Peninsula Borough through increased access to local and regional facilities, activities, programs and services.*

- *Focus Area: Energy and Utilities*
  - o *Objective A - Encourage coordination or residential, commercial, and industrial development with extension of utilities and other infrastructure.*
    - *Strategy 1. Near – Term: Maintain existing easements (especially section line easements) in addition to establishing adequate utility rights of way or easements to serve existing and future utility needs.*
    - *Strategy 2. Near – Term: Maintain regular contact with utility operators to coordinate and review utility easement requests that are part of subdivision plat approval.*
    - *Strategy 3. Near – Term: Identify potential utility routes on Borough lands.*
- *Housing*
  - o *Objective D. Encourage efficient use of land, infrastructure and services outside incorporated cities by prioritizing future growth in the most suitable areas.*
    - *Strategy 1. Near – Term: Collaborate with the AK Department of Transportation, incorporated cities within the borough, utility providers, other agencies overseeing*



*local services, and existing communities located adjacent to the undeveloped areas that are appropriate for future growth, to align plans for future expansion of services to serve future residential development and manage growth.*

*Goal 4. Improve access to, from and connectivity within the Kenai Peninsula Borough*

*- Focus Area: Transportation*

- o Objective B. Ensure new roads are developed in alignment with existing and planned growth and development.*
  - Strategy 2. Near – Term: Establish subdivision codes that dictate road construction standards to accommodate future interconnectivity and/or public safety.*
  - Strategy 3. Near – Term: Identify areas of anticipated growth to determine future access needs.*

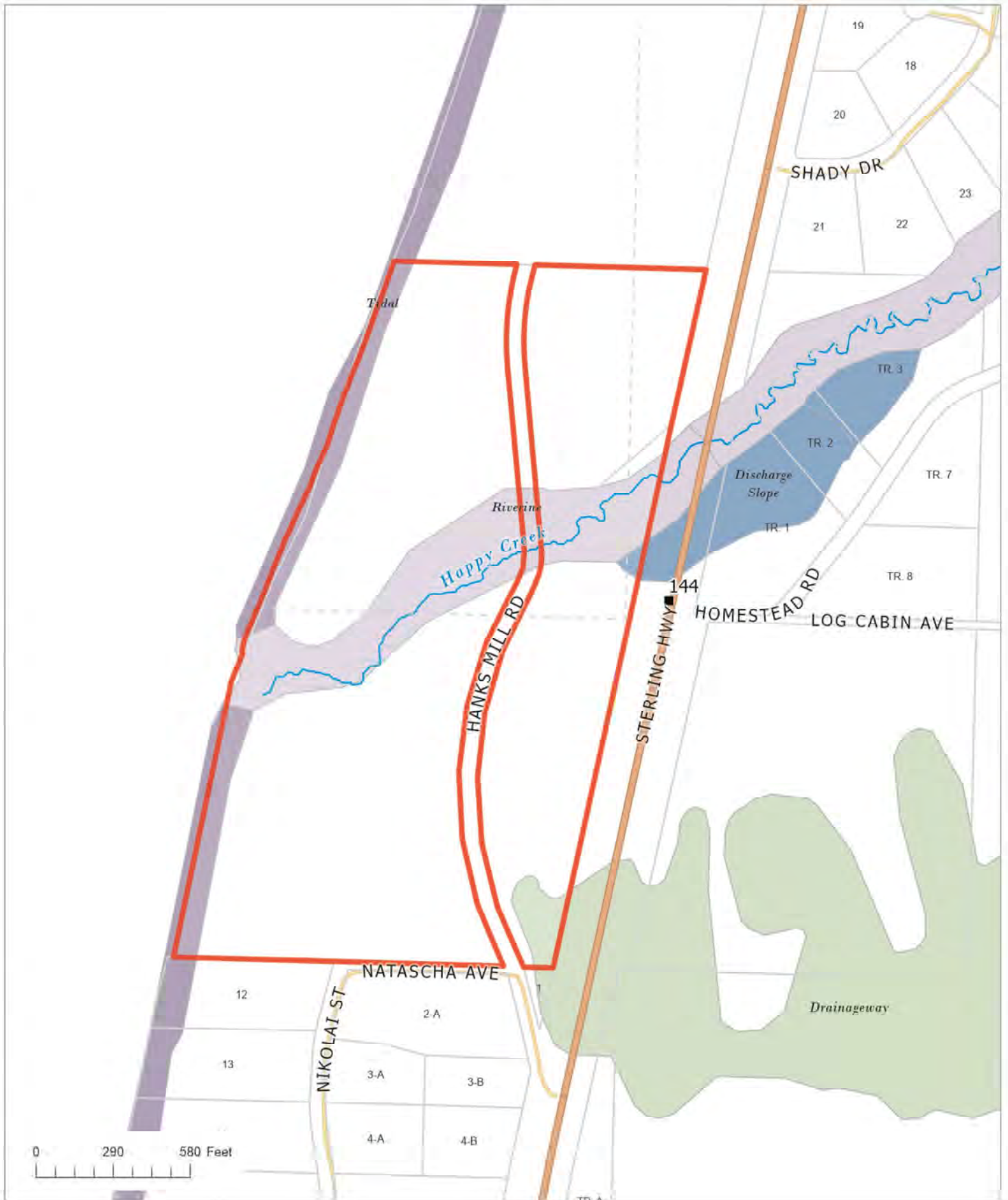
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**END OF STAFF REPORT**



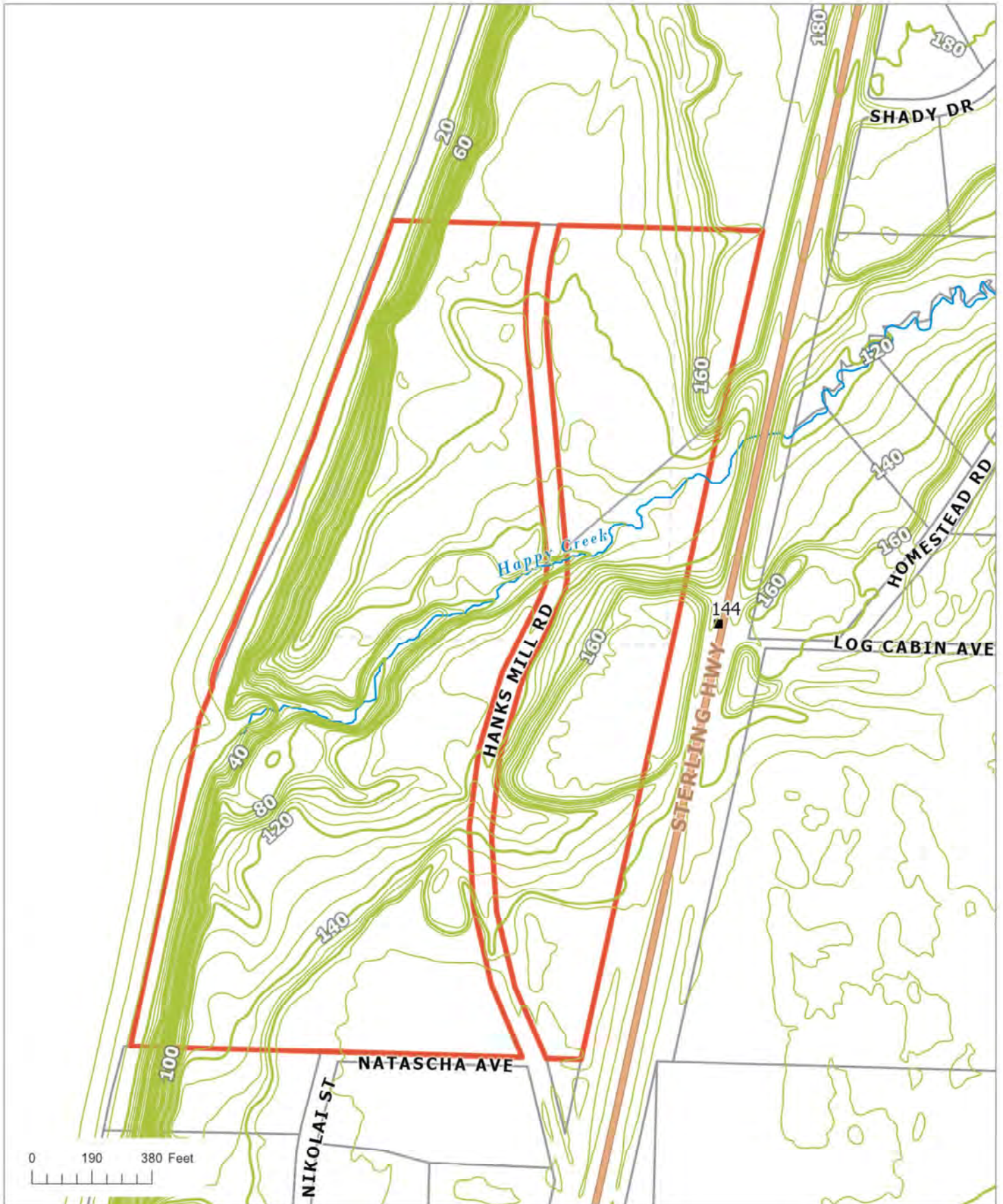
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