

Kenai Peninsula Borough  
Planning Department

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**MEMORANDUM**

TO: Kelly Cooper, Assembly President  
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor *QCB*

FROM: Marcus A. Mueller, Acting Planning Director *MAM*

DATE: July 14, 2020

RE: Ordinance 2020-34 An ordinance authorizing a negotiated sale with Jerry D. and Cheryle E. James at fair market value for Tract E, Alaska State Land Survey 2003-5, Plat No. 2006-21, Seward Recoding District.

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The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled July, 13, 2020 meeting.

A motion passed by unanimous vote (9 Yes, 0 No, 3 absent) to recommend approval of Ordinance 2020-34.

In the ordinance, please amend the last WHEREAS statement:

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regular meeting of July 13, 2020 recommended approval by unanimous vote.

Attached are the unapproved minutes of the subject portion of the meeting.

**AGENDA ITEM - E PUBLIC HEARINGS**

3. Ordinance 2020-34 Authorizing a negotiated sale with Jerry D. & Cheryl E. James at fair market value for Tract E, Alaska State Land Survey 2003-5, Plat No. 2006-21, Seward Recording District.

Staff report was given by Marcus Mueller

**STAFF REPORT**

PC Meeting July 13, 2020

**Basis for Disposal:** Borough land appropriate for disposal can be considered for a negotiated purchase, exchange or for the borough's annual land sale. An application for negotiated sale was received from Jerry D. & Cheryl E. James on March 5, 2020. Negotiated sales can be considered when the land to be sold is not more than one acre, the sale is at fair market value, and based on findings of fact.

**Description of Borough Parcel:**

PARCEL	GENERAL LOCATION	LEGAL DESCRIPTION	ACRES	FAIR MARKET VALUE
119-119-05	Cooper Landing	Tract E, Alaska State Land Survey 2003-5, Plat No. 2006-21, Seward Recording District	0.89	\$32,400

**Findings of Fact:**

1. Title / Status: The Borough has received State patent for Tract E through a municipal land entitlement grant serialized as ADL 201307. Tract E is a remnant lot created by the Snug Harbor Road alignment, and is substandard (less than 40,000 square feet) per KPB.20.20.190.
2. Land Use: Tract E is vacant land which is not designated under the Cooper Landing Land Use Plan. Surrounding land use includes residential, with recreational, undeveloped land across Snug Harbor Road. Surrounding developments include single-family homes.
3. Ownership: Surrounding land ownership includes borough and private land.
4. Access: Tract E lies adjacent and north of Snug Harbor Road, a State maintained road, and is encumbered with three appurtenant driveway easements which benefit parcel numbers 11909008, 11909009, 11909010, and 11909019 to the north.
5. Utilities: Electric and telephone service is available. No other utilities are available at this time.
6. Topography: The topography is characterized by alluvium sloping toward Kenai Lake with active drainage channels present.
7. Soil: A soil investigation was conducted by Alaska Consulting and Environmental and concluded that the soil conditions appear generally acceptable for conventional onsite wastewater disposal and that subject parcel appears to have over 20,000 sq. ft. of usable area for wastewater disposal. (See Soils Investigation report of July 26, 2011).
8. Special Features: A small, unnamed creek crosses the Tract E and feeds into Kenai Lake.
9. History and Actions: Consistent with AS 29.65.050, the borough was required to survey and record a plat of the lands approved under ADL 201307 (ASLS 2003-5). At the December 12, 2005 Plat Committee meeting, staff described Tract E as a remnant tract created by surrounding ASLS plats and road alignments, and anticipated the state retaining ownership. The state did not retain ownership of Tract E and due to the substandard lot size, a finding was added that if Tract E was sold, it would be included in a replat with adjoining owners. Plat Note 9 was added to protect the remnant parcel from being conveyed separately.

In 2011, Tract E was proposed for classification (Residential) and disposal in a sealed bid land sale. At the June 8, 2011 Cooper Landing Advisory Planning Commission meeting (CLAPC), Tract E was left undesignated due in part to the concerns regarding the easements as well as septic/waste water management.

At the June 27, 2011 Planning Commission meeting, Tract E was left undesignated and recommended returning the matter to the Cooper Landing Advisory Planning Commission to issue a classification recommendation.

At the July 5, 2011 Assembly meeting, Tract E was removed from the sealed bid land sale ordinance pending further review of the classification action.

10. Negotiated Sale Application:

The James' are adjoining property owners to the north of Tract E. As a condition for consideration of a sole-source sale, the applicants were required to obtain and submit letters of support (or non-objection) from property owners adjoining Tract E.

- The Odom Corporation owns Homestead Entry Survey No. 234, Plat No. 2360, Seward Recording District (PIN 11911001) and supports a sale of Tract E to the applicants. (see attached comments).
- Doug Vermillion owns Lot 9A and Lot 9B, U.S. Survey No. 2525 Jam Addition, Plat No. 2011-9, Seward Recording District (PIN's 11909019 and 11909020) and expressed no objection to the sale of Tract E the applicants (see attached comments).

11. Consistency with Adopted Plans:

- Community Recommendations on a Land Use Plan for Borough Lands, Cooper Landing: VI(B)(2): Electric, telephone and other utilities should be planned and provided for in each subdivision.
- Cooper Landing Land Use Classification Plan for Borough-Owned and Borough Selected Lands: IV(A)(1): No additional residential classifications are proposed for this area.
- KPB Transportation Plan: Goal 3, Objective 3.2(A): Consider anticipated nearby development during the dedication and vacation process.
- KPB Transportation Plan, Goal 3, Objective 3.3(A): When classifying or conveying Borough land, make a determination of whether reservations of easements are required for access.

12. Cooper Landing Advisory Planning Commission (CLAPC) Review: On July 8, 2020, the CLAPC held a public meeting and recommended supporting the negotiated sale.

**Analysis:** Tract E is substandard lot created by the Snug Harbor Road alignment. Tract E is subject to three appurtenant driveway easements benefitting adjacent parcels to the north. The James' are adjoining property owners to the north. A small creek crosses Tract E and feeds into the Kenai River. The borough has no identified operational need for Tract E.

**Conclusion:** Tract E is substandard (less than 40,000 SF) and surplus to borough needs. As no additional residential classifications are proposed for this area, and When considering the size, restrictive shape, and current use of the subject parcel, this parcel could be disposed, to Jerry D. and Cheryle E. James, subject to the appurtenant driveway easements and a 20' wide sidewalk/bikepath easement, and a replat to combine Tract E with adjoining parcels to the north. Combining Tract E with the adjoining parcels to the north would enhance existing residential uses and overall lot design.

**STAFF RECOMMENDATION:** Based on the findings of fact, analysis, and conclusions, staff recommends that the Planning Commission recommend adoption of the ordinance approving a negotiated sale at fair market value and subject to terms of a sale agreement including a survey requirement to combine the land with existing lots.

END OF STAFF REPORT

Chair Martin open the item for public comment. See and hearing no one else from the public wishing to comment, Chair Martin closed public comment and opened discussion among the Commission.

**MOTION:** Commissioner Whitney moved, seconded by Commissioner Ecklund to forward to the assembly a recommendation to approve Ordinance 2020-34, authorizing a negotiated sale with Jerry D. & Cheryl E. James at fair market value for Tract E, Alaska State Land Survey 2003-5, Plat No. 200621, Seward

Recording District.

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes	9	No	0	Absent	3
Yes	Bentz, Carluccio, Ecklund, Ernst, Fikes, Foster, Whitney, Venuti, Ruffner				
No	None				
Absent	Brantley, Ernst, Morgan				

UNAPPROVED