

Introduced by: Mayor
Date: 07/07/20
Hearing: 08/04/20
Action: Enacted as Amended
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2020-34**

**AN ORDINANCE AUTHORIZING A NEGOTIATED SALE OF TRACT E, ALASKA
STATE LAND SURVEY 2003-5, PLAT NO. 2006-21, SEWARD RECORDING
DISTRICT TO JERRY AND CHERYLE JAMES AT FAIR MARKET VALUE**

- WHEREAS,** Tract E, Alaska State Land Survey 2003-5, Plat No. 2006-21, Seward Recording District (Parcel No. 11911905) was conveyed to the borough through a municipal entitlement grant pursuant to AS 29.65.010(a)(7); and
- WHEREAS,** Tract E is a 0.89-acre substandard remnant lot bounded by the Snug Harbor Road alignment; and
- WHEREAS,** Note 9 on the plat reported an exception to KPB 20.20.190 (minimum lot size) and notes a restriction against separate conveyance; and
- WHEREAS,** Tract E is subject to three appurtenant driveway easements which benefit parcel numbers 119-090-08, 119-090-09, 119-090-10, and 119-090-19 and provides these lots with direct access to Snug Harbor Road; and
- WHEREAS,** Jerry D. and Cheryle E. James, owners of neighboring property entirely fronting Tract E, applied for a negotiated sale of this property; and
- WHEREAS,** letters of support (non-objection) to the sale have been received from the other property owners adjacent to Tract E; and
- WHEREAS,** the Cooper Landing Advisory Planning Commission, at its regular meeting of July 8, 2020, recommended approval by unanimous consent; and
- WHEREAS,** the Kenai Peninsula Borough Planning Commission, at its regular meeting of July 13, 2020, recommended approval by unanimous consent.

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

- SECTION 1.** The real property described below is owned by the borough per State Patent No. 20685, and is a substandard lot per KPB 20.30.200 (less than 40,000 square feet and no public water or wastewater disposal system is available complying with KPB 20.40.)

Parcel	General Location	Description	Acres
119-119-05	Cooper Landing	Tract E, Alaska State Land Survey 2003-5, Plat No. 2006-21, Seward Recording District	0.89

SECTION 2. That the assembly finds that conveying the parcel described in Section 1 pursuant to KPB 17.10.100(I) at fair market value to Jerry D. and Cheryle E. James is in the best interest of the borough based on the following:

- a. Tract E is a substandard lot (less than 40,000 square feet) and is a remnant lot created by the Snug Harbor Road alignment.
- b. Tract E is subject to three appurtenant driveway easements. The applicants adjoining property is benefitted by one of these easements.
- c. Letters in support of the borough’s sale of Tract E to the applicants have been received from all other adjoining property owners.
- d. The proposed sale would result in combining Tract E with adjoining parcels to the north and owned by the applicants resulting in improved lot design.

SECTION 3. That the assembly makes an exception to KPB 17.10.090 requiring classification prior to disposal. This exception is based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - a. KPB 17.10.080(A) states, classification of property is for review, plan implementation and management purposes. The classification system designates the most appropriate uses for land and thereby guides borough management of such lands and implementation action to provide for the identified uses. This ordinance serves to set the management plan for this land.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter.
 - a. The preservation of a substantial property right is not applicable to this case; the considerations under this ordinance as to the management of the land are substantially similar to classification thereby being a practical manner of complying with the intent of classification.

3. The granting of the exception will not be detrimental to the public or injurious to other property in the area.
 - a. Continued public interests are preserved through easements being implemented on the parcel for access to other private parcels as well as roadside trails.
 - b. Letters of non-objection to the proposed sale have been received by the other property owners abutting this tract.

SECTION 4. The assembly additionally makes an exception to KPB 17.10.110 (notice of disposition). This exception is based on the following findings of facts pursuant to KPB 17.10.230:

1. Special circumstances or conditions exist.
 - a. The purpose of KPB 17.10.110 advertising requirement is to notify the public of an opportunity to purchase or lease KPB land, and advertising this negotiated sale to the James' will not serve a useful purpose.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter.
 - a. This exception to the notice requirement is not necessary to preserve a substantial property right, and the assembly hereby authorizes exception to that finding requirement. For this negotiated sale, the notice requirement is impractical, and compliance is not in the best interests of the borough due to the delay and unnecessary expense it would cause.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
 - a. The proposed disposition is advertised by publication of the ordinance in newspapers of general circulation and on the borough's web page. Notice of the proposed disposition is also published by the Planning Commission agenda in newspapers of general circulation, and a public hearing is held at the Planning Commission level. Additional notice is not necessary to comply with the intent of KPB 17.10 or to protect the public welfare.

SECTION 5. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100(I) to sell and convey, through quitclaim deed, the land described in Section 1 above to Jerry D. and Cheryle E. James for the fair market value of

\$32,400.00 by a financed sale, subject to the terms and conditions of this ordinance. The authorization is only for the sale to Jerry D. and Cheryle E. James and is subject to the requirement that the parcel be surveyed and combined by plat to the land presently owned by the James' (APN: 11909008, 11909009, and 11909010). The purchasers may only assign rights under the purchase agreement to other adjoining owners as may be practical to achieve standard conventions of subdivision design. The purchasers shall be responsible for acquiring title insurance and shall pay all fees associated with this sale, including recording fees, closing costs, escrow setup fees, annual escrow fees, collection fees to the extent applicable, and other associated fees for this sale. All other applicable terms and conditions of KPB 17.10 shall apply to this sale unless inconsistent with this ordinance.

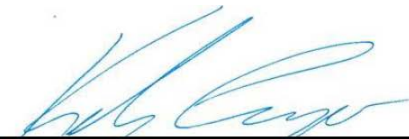
SECTION 6. Upon entering into an agreement to acquire the land, a down payment of \$3,240.00 shall be made and the applicable terms and provisions of KPB 17.10.120 and KPB 17.10.130 shall apply, except that the borough shall retain the down payment, up to One Thousand Dollars (\$1,000), if the prospective buyers breach a term of the sale.

SECTION 7. The James' shall have 180 days from the enactment of this ordinance to complete the sale.

SECTION 8. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

SECTION 9. That this ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF AUGUST, 2020.

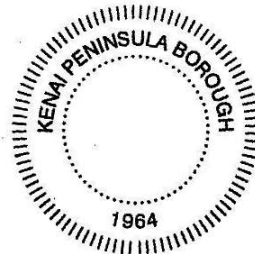


Kelly Cooper, Assembly President

ATTEST:



Johni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No: None
Absent: Blakeley