

Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor *CP*
Robert Ruffner, Planning Director *RR*
Marcus A Mueller, Land Management Officer *RR*

FROM: Aaron Hughes, Land Management Agent *AH*

DATE: July 28, 2022

RE: Ordinance 2022-31, Authorizing the Release of a Commercial Deed Restriction on a Parcel of Land Located in Cooper Landing Originally Conveyed by the Kenai Peninsula Borough (Mayor)

Parcel D, Quartz Creek Subdivision, according to Plat No. 94-11, was conveyed by KPB as part of the 2000 KPB General Land Sale pursuant to Ordinance 99-55. The conveyance deed contained the following language required at the time under KPB 17.10.130(D) creating a deed restriction on the subject parcel: "FURTHER SUBJECT TO restrictive covenant pursuant to KPB 17.10.130(D). The real property described in this conveyance instrument shall be used primarily for commercial purposes, and any other uses shall be compatible with commercial uses. The use of the land for any other purpose, incompatible with commercial use, is prohibited".

KPB 17.10.130(D) was later amended by Ordinance 2003-23 to read: "Land shall be conveyed without deed restrictions unless otherwise provided by the assembly by ordinance", removing the requirement for deed restrictions to be included in conveyances from the borough.

The applicants, Shirley Ann Kuznicki (property owner) and Onie Ray Wilkes (interested party), have submitted a Petition for Modification of Conveyance Instrument Restrictions and related fees to remove the commercial deed restriction of public record. Mr. Wilkes has entered into an agreement to purchase that portion of the original Parcel D currently described as Tract D-2 from Ms. Kuznicki. As a result of the commercial deed restriction, Mr. Wilkes is not able to close on the purchase due to lender requirements to obtain a residential mortgage.

Your consideration of the ordinance is appreciated.