

Introduced by: Mayor
Date: 08/06/19
Hearing: 08/20/19
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-22**

**AN ORDINANCE AUTHORIZING A NEGOTIATED SALE WITH ALEX AND
COURTNEY MATIACO AT FAIR MARKET VALUE FOR LOT 5A, BLOCK 3,
RAVENWOOD SUBDIVISION, ADDITION NO. 3, PLAT NO. 81-42, KENAI
RECORDING DISTRICT, WHICH WAS PREVIOUSLY RETAINED FOR A PUBLIC
PURPOSE**

- WHEREAS**, Lot 5A, Block 3, Ravenwood Subdivision, Addition No. 3, Plat No. 81-42, Kenai Recording District (Tax Parcel No. 05505022) was deeded to the borough through tax foreclosure proceedings pursuant to AS 29.45.290 *et seq.* for delinquent payment of taxes; and
- WHEREAS**, this parcel was retained for a public purpose under Ordinance 2007-21 as it was less than 40,000 square feet and was considered a substandard lot; and
- WHEREAS**, pursuant to AS 29.45.470, the right of the former owner of record to repurchase the property has ceased as the borough has held this property for more than 10 years; and
- WHEREAS**, Alex and Courtney Matiaco, as the neighboring property owners, applied for a negotiated sale of this property to add to their existing property; and
- WHEREAS**, the borough's practice is to retain substandard parcels until such time as they can be combined with adjacent parcels and sold into private ownership; and
- WHEREAS**, this parcel is also landlocked as it does not have direct access to a right-of-way; and
- WHEREAS**, the Matiacos' septic system crosses onto the borough parcel and would be considered an unintentional trespass; and
- WHEREAS**, the land has been classified as residential pursuant to Resolution 2019-020; and
- WHEREAS**, the Kenai Peninsula Borough Planning Commission, at its regular meeting of August 12, 2019, 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 a tax foreclosed property retained for public purpose under KPB ordinance 2007-21 as a substandard lot (less than 40,000 square feet). In accordance with provisions of A.S. 29.45.460, this property has been held by the borough for more than 10-years following the redemption period and the assembly finds that a public need no longer exists provided that the lot is replatted and combined to create a standard sized lot.

PARCEL	GENERAL LOCATION	DESCRIPTION	LAST OWNER OF RECORD
055-050-22	Ciechanski	Lot 5A, Block 3, Ravenwood Subdivision, Addition No. 3, Plat No. 81-42, Kenai Recording District	Aho, Ron J. & Evdokia

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 Alex and Courtney Matiasco is in the best interest of the borough based on the following:

1. Conveyance of subject property would resolve an unintentional trespass as the Matiacos' septic system crosses onto subject property.
2. The proposed sale would result in combining Lot 5A and Lot 5 to create a standard size lot.
3. Creating a standard size lot would cure the purpose for which Lot 5A was retained.
4. Combining Lots 5A and Lot 5 will resolve the landlocked status of subject property.

SECTION 3. 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 the 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 Matiacos 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.
 - B. 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 4. 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 2 above to Alex and Courtney Matiacos for the fair market value of \$5,000 by a financed sale, subject to the terms and conditions of this ordinance. The authorization is only for the sale to Alex and Courtney Matiacos and is subject to the requirement that the parcel be surveyed and combined by plat to the land presently owned by the Matiacos (Lot 5, Block 3, Ravenwood Subdivision, Addition No. 1, Plat No. 72-10, Kenai Recording District). The purchaser may not assign any rights to negotiate or enter into an agreement for purchase with any other person or entity. The purchaser 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 Chapter 17.10 shall apply to this sale unless inconsistent with this ordinance.

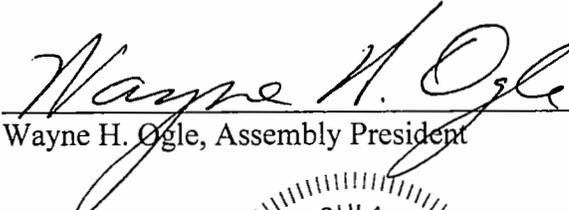
SECTION 5. Upon entering into an agreement to acquire the land, a down payment of \$1,500 shall be made and the applicable terms and provisions of KPB 17.10.120 and KPB 17.10.130 shall apply, except that the borough shall retain the down payment, up to \$1,000, if the prospective buyers breach a term of the sale.

SECTION 6. The Matiacos shall have 180 days from the enactment of this ordinance to complete the sale.

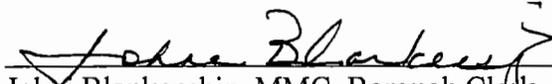
SECTION 7. The mayor is authorized to sign any documents necessary to effectuate this ordinance.

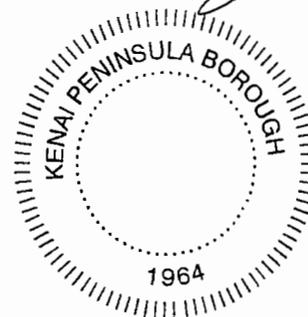
SECTION 8. That this ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
20TH DAY OF AUGUST, 2019.


Wayne H. Ogle, Assembly President

ATTEST:


John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle
No: None
Absent: None