



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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CHARLIE PIERCE
BOROUGH MAYOR

MEMORANDUM

TO: Wayne Ogle, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor 

FROM: Max Best, Planning Director 

DATE: November 15, 2017

SUBJECT: Ordinance 2017-30, An Ordinance Authorizing the Negotiated Sale of a 60 100 Foot-Wide Strip of Land in the McBride Subdivision Near Seward to Dean Carl at Fair Market Value

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled November 13, 2017 meeting.

A motion to recommend approval of Ordinance 2017-30, an Ordinance authorizing the negotiated sale of a 100 foot wide strip of land in the McBride Subdivision near Seward to Dean Carl at Fair Market Value failed by unanimous consent.

In the Ordinance, please make the following amendment to the last WHEREAS statements:

WHEREAS, the Planning Commission at its regularly scheduled meeting of November 13, 2017, recommend denial by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARING

1. Ordinance 2017-30, An Ordinance Authorizing the Negotiated Sale of a 60' 100 Foot-Wide Strip of Land in the McBride Subdivision Near Seward to Dean Carl at Fair Market Value

Memorandum reviewed by Marcus Mueller

PC Meeting: November 13, 2017

Mr. Dean Carl has submitted an application for negotiated sale of a 60' wide by 183' long strip of land adjoining land that he owns. The original sale proposal was for a 60' x 183' strip of land but an amendment has been made for 100' x 183' strip of land. The parcel itself is 100' wide. This would allow Mr. Carl to purchase 100' x 183' at Fair Market Value.

Mr. Carl's reasons for requesting to purchase this land are to move his driveway away from a dangerous location on a blind curve on the Seward Highway as well as to have some additional area on which to build. The property is within a mapped floodplain but is outside of the mapped floodway. It would be possible for him to obtain the proper floodplain permits and to construct above base flood elevation. The borough's All Hazard Mitigation Plan does not appear to support this action; however the public safety benefit of moving the driveway justifies consideration by the assembly.

While the borough's Land Management Division has assisted the sponsor with processing the proposal to sell a parcel of land to Mr. Dean Carl, the administration is unable to support it in its present form. The concern is not with Mr. Carl's need to move his driveway which the borough could allow through the grant of a driveway easement. The issue that the administration faces is that the proposed action of conveying land in the floodplain for the purpose of further residential development appears to be inconsistent with the goals of the All-Hazard Mitigation Plan ("Plan") which discourages development within the floodplain. Further, the proposed action is unmitigated. Section 2.2 of the Seward Bear Creek Flood Service Area Hazard Mitigation Plan seeks to reduce flood hazards in land use and subdivision actions. Conveying property for the purposes of further development of residential attributes and subdivision within an extremely active floodplain is contrary to the goal of reducing flood hazards.

The proposed sale would be at fair market value and would require Mr. Carl to survey and plat the area purchased and combine it with the property he owns. Mr. Carl hopes to have an area to put a septic tank in this. Based on basic measurements conventional septic tank would not meet DEC standards. It is likely in this planning process that there will be a requirement for an engineered septic tank.

The recommendations of the Seward Bear Creek Flood Service Area and the Kenai Peninsula Borough Planning Commission will be provided prior to the scheduled hearing on this ordinance.

Consideration of this ordinance is appreciated.

END OF STAFF REPORT

Vice Chairman Ruffner opened the meeting for public comment. Seeing and hearing no one wishing to speak Vice Chairman Ruffner closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Carluccio to recommend approval of Ordinance 2017-30, An Ordinance authorizing the negotiated sale of a 60' 100 foot wide strip of land in the McBride Subdivision near Seward to Dean Carl at Fair Market Value.

Commissioner Ecklund asked if the amendment change from 60 feet to 100 feet would block access on the east side of the borough parcel. Mr. Mueller replied that if the sale was approved and Mr. Carl platted the 100 foot by 183 feet to combine it with his property then Lot 2 that it was coming from would get combined with Lot 3 that was to the north of it. He stated that the eastern portion would be combined with the lot north of it. Commissioner Ecklund understood that it would require platting action by the Borough. Mr. Mueller replied that was correct.

Commissioner Ecklund understood him to say that 75 % of the property was in the floodway. She asked if that was 75% of the original 60' x 183' or 75% of Mr. Carl's current property. Mr. Mueller believed the 75% refers to the eastern portion of the parcel. He stated that all along that strip was primarily in the floodway except the edge along the highway which is out of floodway but within the floodplain. Commissioner Ecklund asked if the hash marks as shown on the map on page 36 of the packet was in the floodway. Mr. Mueller replied that was correct.

Commissioner Ecklund referred to Mr. Carl's application which states that the purchase of this property would allow him to build a residence that he was now permitted for. She asked where he received a permit to build a residence since it was borough property and no building permit required. Mr. Mueller replied that she was correct in that it was borough property and there was no way he would have a permit there. He believed that Mr. Carl received permits that have allowed him to fill to be able to build on the property that he owns. Commissioner Ecklund asked where the permits were from. Mr. Mueller believed it was a floodplain permit. Commissioner Ecklund asked who would know if there was a floodplain permit issued for building. Mr. Mueller replied that it would have been issued by the River Center.

Commissioner Ecklund asked if Mr. Carl paid the fair market value or back taxes for his current property. Mr. Mueller replied that Ordinance 2000-35 authorized the borough sell the property, Lot 1, to Mr. Carl. That property was the subject of a tax foreclosure sale. Mr. Carl made the claim that he had a contract to purchase it but wasn't notified of it. The borough, in that ordinance, resolved that situation by offering to sell the property to him for what was termed as fair market value which was the assessed value. Commissioner Ecklund asked if it was the assessed value plus back taxes. Mr. Mueller replied it was the assessed value which included the back taxes.

Commissioner Whitney referred to the memorandum from Mayor Navarre and asked if it was still the case that the administration does not support this ordinance in its present form. Mr. Mueller replied that he had not spoken with the new administration but the facts of this have not changed.

Commissioner Ecklund asked if the River Center knew if there was a permit that was issued to be able to build in the floodway. Mr. Best replied that the Floodplain Coordinator was not present at the meeting so they were unable to answer this question.

Commissioner Ecklund spoke against selling this property having lived in the Seward area for 40 years and watched the flooding over the years. This property was definitely flood prone. She stated that almost every high water incident was up to the highway in this area and wouldn't want to encourage any building within this area.

Commissioner Foster asked if there were any houses along that road. Commissioner Ecklund replied that a lot of fill has been brought in just past the Pit Bar and south of Clear Creek which also floods even though fill was brought in. There is a small building on Mr. Carl's property which also floods up to the building. There were some buildings to the north along the east side of the highway that have also had a lot of fill brought in before they were built on.

There being no further comments or questions, Vice Chairman Ruffner called for a roll call vote.

VOTE: The motion failed unanimous consent.

BENTZ ABSENT	CARLUCCIO NO	ECKLUND NO	ERNST ABSENT	FIKES NO	FOSTER NO	ISHAM ABSENT
LOCKWOOD NO	MARTIN ABSENT	MORGAN NO	RUFFNER NO	VENUTI NO	WHITNEY NO	0 YES 9 NO 4 ABSENT

AGENDA ITEM E. PUBLIC HEARINGS

2. Vacate the 40 foot wide public access easement crossing Tract 3, Parkinson Tracts, as granted on
KENAI PENINSULA BOROUGH PLANNING COMMISSION NOVEMBER 13, 2017 MEETING MINUTES

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