

Introduced by:	Mayor
Date:	08/03/21
Hearing:	08/17/21
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-**

**AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE AT FAIR MARKET
VALUE WITH EDWARD AND KATHLEEN MARTIN, DBA COZY INN, IN KENAI
FOR A PARKING AREA**

WHEREAS, Edward and Kathleen Martin are owners of Lots 1 & 2, Block 4, Inlet View Subdivision 1st Revision, Plat KN-1515 in the City of Kenai; and

WHEREAS, the Martins own and plan to operate Cozy Inn on the property in conjunction with a local construction academy job training program, to house the students; and

WHEREAS, the Martins property lacks sufficient space for customer parking; and

WHEREAS, the borough owns an adjacent large parcel that is classified as Residential and zoned Rural Residential; and

WHEREAS, the Martins have applied for a negotiated lease of an area to be improved and serve as a parking area; and

WHEREAS, the Martins would be responsible for acquiring any necessary conditional use permits required by the City of Kenai for the proposed use; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of August 9, 2021 recommended _____;

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

SECTION 1. Pursuant to KPB 17.10.100(I) and 17.10.120(D), the assembly finds that leasing approximately 0.58 Gross/ 0.43 Net acres of borough land more particularly described in Section 2 below at fair market value to Edward and Kathleen Martin, DBA Cozy Inn, for a parking area is in the best interest of the borough based on the following findings of fact:

- A. The proposed use is compatible with the land classification and zoning, subject to City of Kenai conditional use permitting.
- B. The lease of land would support local business and job training and would provide a revenue stream to the Land Trust Fund.

- C. The configuration of the proposed lease would allow for future development of the remaining borough-owned land.

SECTION 2. Subject land lease is described as follows:

Beginning for reference at the N ¼ Corner of Section 4, T5N, R11W, Seward Meridian, thence N 89°56'00"E a distance of 180.00 feet to the point of beginning; thence S 00°09'00"E a distance of 194.00 feet along the east boundary of Inlet View Subdivision 1st Revision, Plat KN1515, to the southeast corner of Lot 2 Block 4 Inlet View Subdivision 1st Revision; Thence N 89°56'00"E a distance of 130.00 feet; thence N 00°09'00"W a distance of 194.00 feet to the north boundary of Section 4; Thence S 89°56'00"W a distance of 130.00 feet to the point of beginning;

Subject to a Section Line Easement along the north 50' of the land lease area; and

further subject to a Stormwater Drain Facility Easement benefitting the City of Kenai per book 578, page 907, Kenai Recording District.

SECTION 3. That the assembly additionally makes an exception to KPB 17.10.110 requiring notice of a disposition of land. 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 advertising, pursuant to KPB 17.10.110, is to notify the public of an opportunity to purchase or lease borough land. However, because the authorization of this ordinance is for a sole source lease, advertising 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. Making an exception to advertising, pursuant to KPB 17.10.110, will not affect any substantial property right as this is public land with previous seasonal field uses.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
 - A. Making an exception to advertising, pursuant to KPB 17.10.110, will not be detrimental or injurious to any public or private parties as leasing the subject land is subject to the acquisition of city of Kenai conditional use permits which address such matters.

SECTION 4. Based on the foregoing, the mayor is hereby authorized, pursuant to KPB 17.10.100(I) and 17.10.120(D) to lease the land described in Section 2 above to Edward and Kathleen Martin, DBA Cozy Inn, for a term of 10 years with a 10-year renewal option at fair market value as determined by appraisal methods contained in the lease. The authorization is for lease solely to Edward and Kathleen Martin, DBA Cozy Inn, and they may not assign any rights to negotiate or enter an agreement for lease with any other person or entity without obtaining prior approval in accordance with the lease.

SECTION 5. That the mayor is authorized to execute a lease substantially similar to the one attached, and sign any documents necessary to effectuate this ordinance.

SECTION 6. That Kathleen Martin, DBA Cozy Inn shall have 180 days to execute the lease document from the date of enactment of this ordinance.

SECTION 7. That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
____ DAY OF _____, 2021.**

Brent Hibbert, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk