

Introduced by: Carpenter  
Date: 10/31/17  
Hearing: 11/21/17  
Action: Enacted as amended  
Vote: 8 Yes, 1 No, 0 Absent

**KENAI PENINSULA BOROUGH  
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**

**WHEREAS,** the Kenai Peninsula Borough ("borough") owns land adjacent to Dean Carl's property; and

**WHEREAS,** the land has not been classified; and

**WHEREAS,** Mr. Carl has applied for the negotiated sale of a 60 foot-wide strip of land, and later requested an additional, 40-foot wide strip of land, to add to his existing property; and

**WHEREAS,** Mr. Carl plans to relocate his driveway approach away from a blind curve on the Seward Highway and to expand his residential footprint; and

**WHEREAS,** the utilization of land for development in this area is physically limited by stream locations, floodplain soils, and recurrent flooding events which are addressed in the All Hazard Mitigation Plan and are the subject of floodplain permitting; and

**WHEREAS,** the Seward Bear Creek Flood Service Area, at its regular meeting of November 6, 2017, recommended approval; and

**WHEREAS,** the Kenai Peninsula Borough Planning Commission, at its regular meeting of November 13, 2017, recommended denial by unanimous consent;

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

**SECTION 1.** That the assembly finds conveying the following described real property pursuant to KPB 17.10.100(I) at fair market value to Dean Carl is in the best interest of the borough:

The west 183 feet of Lot 2 McBride Subdivision Plat No. 22, Seward Recording District, Third Judicial District, State of Alaska, subject to survey.

This finding is based on the following facts:

- A. That this land provides a reasonable option for relocating an existing driveway away from a blind curve, which promotes public safety.
- B. That this land which is in the mapped floodplain is a practical area in which to cure an unsafe driveway approach outside of the mapped floodway and provides nominal area for other private uses.
- C. Mr. Carl has no other direction in which to work than this area of unclassified land owned by the borough.
- D. Classification of the land is exempt under KPB 17.10.100(I), as the land is less than one acre and will be used to resolve a land use conflict.

**SECTION 2.** 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 Dean Carl 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 an 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 3.** 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 Dean Carl for the fair market value, \$15,200, cash sale, subject to the terms and conditions of this ordinance. The authorization is for sale solely to Dean Carl and is subject to the requirement that the parcel be surveyed and combined by plat to the land presently owned by Mr. Carl, Lot 1 McBride Subdivision. The purchaser may not assign any rights to negotiate or enter an agreement for purchase to 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, surveying and platting 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 6.** The mayor is authorized to sign any documents necessary to effectuate this ordinance.


**SECTION 7.** Dean Carl shall have until 90 days after enactment of this ordinance to execute a purchase agreement which shall contain the terms set forth in this ordinance; those terms to be completed within 365 days of Dean Carl's execution of the purchase agreement.

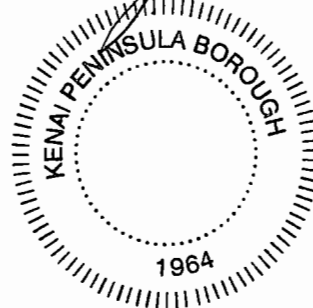
**SECTION 8.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF NOVEMBER, 2017.**

  
Wayne H. Ogle, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Fischer, Hibbert, Smalley, Ogle

No: Dunne

Absent: None