

NONCODE ORDINANCE

By: Borough Manager
Introduced: 11/19/19
Public Hearing: 12/03/19
Adopted: 12/03/19

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 19-125**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AUTHORIZING THE LAND RECLASSIFICATION FOR A FIVE ACRE HOME SITE WITHIN A PORTION OF THE NORTHWEST 1/4 SOUTHWEST 1/4, SECTION 13, TOWNSHIP 19 NORTH, RANGE 5 WEST, SEWARD MERIDIAN, AS RESIDENTIAL; AND APPROVING THE OWNER'S REQUEST TO SUBDIVIDE AND PURCHASE THE FEE SIMPLE ESTATE OF THE HOME SITE (MSB007476 (Subd) & MSB001235 (Sale)).

WHEREAS, a request to purchase the fee simple state of a five-acre home site within an agricultural rights farm has been received; and

WHEREAS, the Borough sold the 40-acre farm property through an agricultural land sale program authorized under former Title 13 and approved by Ordinance Serial No. 82-38, in which the land was classified as agricultural land and the owner received all agricultural rights, while the Borough retained development rights to the property; and

WHEREAS, the program allowed an agricultural farm unit owner to request approval from the Assembly to subdivide off a maximum of five acres for a home site and to purchase the fee estate of the home site; and

WHEREAS, the proposed home site must be reclassified in order to facilitate the request under MSB 23.05.100 and former

MSB 13.25.060 prior to conveying the interest of the Borough's development rights; and

WHEREAS, the Agriculture Advisory Board adopted Resolution Serial No. 19-05 and the Planning Commission adopted Resolution Serial No. 19-23, recommending Assembly approval to reclassify the 5-acre home site as residential lands, and for the owner to subdivide the home site from the 40-acre farm, and for the owner to purchase the fee simple estate of the home site; and

BE IT ENACTED:

Section 1. Classification. This Ordinance is a noncode ordinance.

Section 2. Approval of land classification. The Assembly hereby approves the land classification as residential lands for a 5-acre portion within the northwest 1/4 southwest 1/4, section 13, township 19 north, range 5 west, Seward Meridian, Alaska.

Section 3. Approval of the fee simple estate of the five-acre home site. The Assembly hereby approves the owners, Tory and Cynthia Oleck, to separate the five-acre home site from the farm unit by subdivision of the land and to purchase the development rights retained by the Borough, and when merged with the agricultural rights of the farm unit, comprise the 5-acre fee simple estate with said sale being subject to the following:

1. Applicant shall be responsible for all costs associated with processing the request to purchase, including a fee

appraisal and closing and recording costs in accordance with borough policy; and


2. Applicant shall pay to the Borough the fair market value of the development rights as determined by a third party, fee appraisal based on the date this sale is approved by the Assembly; and
3. The purchase price of the development rights for the five-acre home site shall be the fair market value of the fee simple estate (land only), minus the fair market value of the agricultural rights (land only) as indicated by the appraisal; and
3. The five-acre home site shall be released from the farm development plan/farm conservation plan and the declaration of covenants, conditions, and restriction, and as amended, of the original sale; and
4. The subdivision of the farm unit is pursuant to MSB 43.20.100(E); and
5. The development rights will be conveyed by a quitclaim deed with the following restriction:

THIS CONVEYANCE IS SUBJECT TO the following restriction and condition as approved by Ordinance Serial No. 19-125, adopted on December 3, 2019, and imposed by the Grantor, which is binding on the Grantee, its successors and assigns, and any other parties or persons claiming any interest:

[Legal Description to be inserted in the deed upon recordation of the subdivision plat (five-acre Home Site)] shall not be further conveyed separately from the farm unit legally described as [Legal Description to be inserted in the deed upon recordation of the subdivision plat (remainder parcel)].

Section 4. Effective Date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 3 day of December, 2019.


VERN HALTER, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk
(SEAL)

PASSED UNANIMOUSLY: Hale, Nowers, McKee, Leonard, Mayfield, Sumner, Boeve