


SUBJECT: ASSEMBLY APPROVAL OF THE REQUEST BY AGRICULTURAL RIGHTS HEIRS TO AMEND THE PREVIOUS SUBDIVISION REQUEST FOR THE AGRICULTURAL RIGHTS ESTATE PROPERTY TO SEPARATE THE TITLE INTEREST OF THE HEIRS (MSB007376).

AGENDA OF: October 18, 2022


ASSEMBLY ACTION:

Adopted without objection 11-22-22


MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER:



Route To:	Department/Individual	Initials	Remarks
	Originator	HKM	
	Community Development Director	EP	
	Finance Director	OS	
	Borough Attorney	NS	
	Borough Clerk	DM 10/10/22	

ATTACHMENT(S): Fiscal Note: YES ☐ NO ☒
 Maps - Exhibits A and B (2 pp)
 Agriculture Advisory Board
 Resolution Serial No. 22-002 (2 pp)
 Ordinance Serial No. 22-124 (3 pp)

SUMMARY STATEMENT:

The Land and Resource Management Division received a request from agricultural rights heirs requesting to amend the previous approved subdivision request, Assembly Ordinance Serial No. 18-101. The applicants, Mark Petersen and Cindy Mattingley (brother and sister), are the heirs to their father's estate, Arthur Petersen. The original subdivision request, as approved by ordinance, was to subdivide and combine four parcels, a total of 720 acres, into two parcels, which included a 40-acre parcel owned by Cindy Mattingley that is not part of the estate.

The applicants (heirs) never completed the original subdivision request through the platting process and on May 10, 2022, requested an amendment of the subdivision that does not include Cindy Mattingley's 40-acre parcel. The applicants would like to combine three parcels, a total of 680 acres, into two parcels for a 440-acre parcel and 240-acre parcel in order to complete their father's estate and separate the title interest (See Exhibits A & B).

DISCUSSION:

LEGAL DESCRIPTIONS AND CURRENT OWNERSHIP:

TAX PARCEL	LEGAL DESCRIPTION	CURRENT OWNER(S)
24N04W23D001 <i>Petersen Estate property</i>	The south one-half of the south one-half (S1/2 S1/2) of Section 23, Township 24 North, Range 4 West, Seward Meridian, Talkeetna Recording District, Third Judicial District State of Alaska (160 Acres)	Mark A. Petersen and Cindy M. Mattingley Brother and Sister
24N04W26A002 <i>Petersen Estate property</i>	The north one-half (N1/2), and the north one-half of the south one-half (N1/2 S1/2 of Section 26, Township 24 North, Range 4 West, Seward meridian, Talkeetna Recording District, State of Alaska (480 Acres).	Mark A. Petersen and Cindy M. Mattingley Brother and Sister
24N04W26C001 <i>Son's individual property</i>	The southwest 1/4 of the southwest 1/4 of Section 26, Township 24 North, Range 4 West, Seward meridian, Alaska, Talkeetna Recording District (40 Acres)	Mark A. and Cindy S. Petersen Husband and Wife

The original farm was offered for lease with an option to purchase in the Borough's 1983 agricultural land sale (agricultural rights only deed) under former Title 13. Through subsequent assignments of lease, on October 16, 1984, the Borough approved an assignment of lease to Arthur Petersen. Upon Mr. Petersen's completion of the farm development requirements the Borough conveyed by Quitclaim Deed the Agricultural Rights on October 14, 1994.

In 2014, Arthur Petersen passed away. Through Mr. Petersen's estate, Tax Parcels 24N04W23D001 and 24N04W26A002 were conveyed by Arthur Petersen's estate to Mark A. Petersen and Cindy M. Mattingley. The subdivision will separate the ownership between the two children of Arthur Petersen and enable them to plan their own estates. The new parcels created through the subdivision will remain subject to the agricultural rights only covenants.

PUBLIC NOTICE COMMENTS:

In accordance Title 23.05.025, 30-day public notice was fulfilled June 28, 2022 through July 29, 2022, with notice on the Matanuska-Susitna Borough web page, public notices were sent to the Manager, Assembly members, Agriculture Advisory Board, Talkeetna Chamber of Commerce, Caswell Lakes Road Service Area, Upper Susitna Soil & Water Conservation District, and neighbors within 600 feet of the current property. Furthermore, financial and department reviews were completed and no comments were received from Borough departments or from the public notice.

Upon preparation of the staff report, it was discovered an error was made at the Frontiersman for public notice publication. The Frontiersman received the request, but never published the public notice. Notwithstanding Title 23.05.025(C), public notice in the Frontiersman occurred outside the original dates mentioned above and published in the Frontiersman on September 2, 16, 21, 23 and 28 of 2022, with staff accepting written comments from September 1st through September 30th of 2022. No comments were received from the publication.

The recorded conditions, covenants, and restrictions states, "Further subdivision of the property is prohibited, except where the owner applies to the Assembly for such subdivision and where the Assembly finds that such subdivision, if permitted, could reasonably be expected to increase the agricultural production to be realized from the new parcel to be generated by virtue of the fact that it will be added to an adjacent farm, or a similar circumstance favorable contributing to the economics of agricultural production."

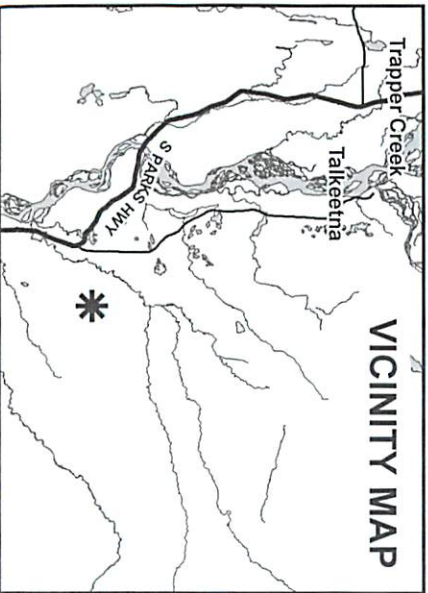
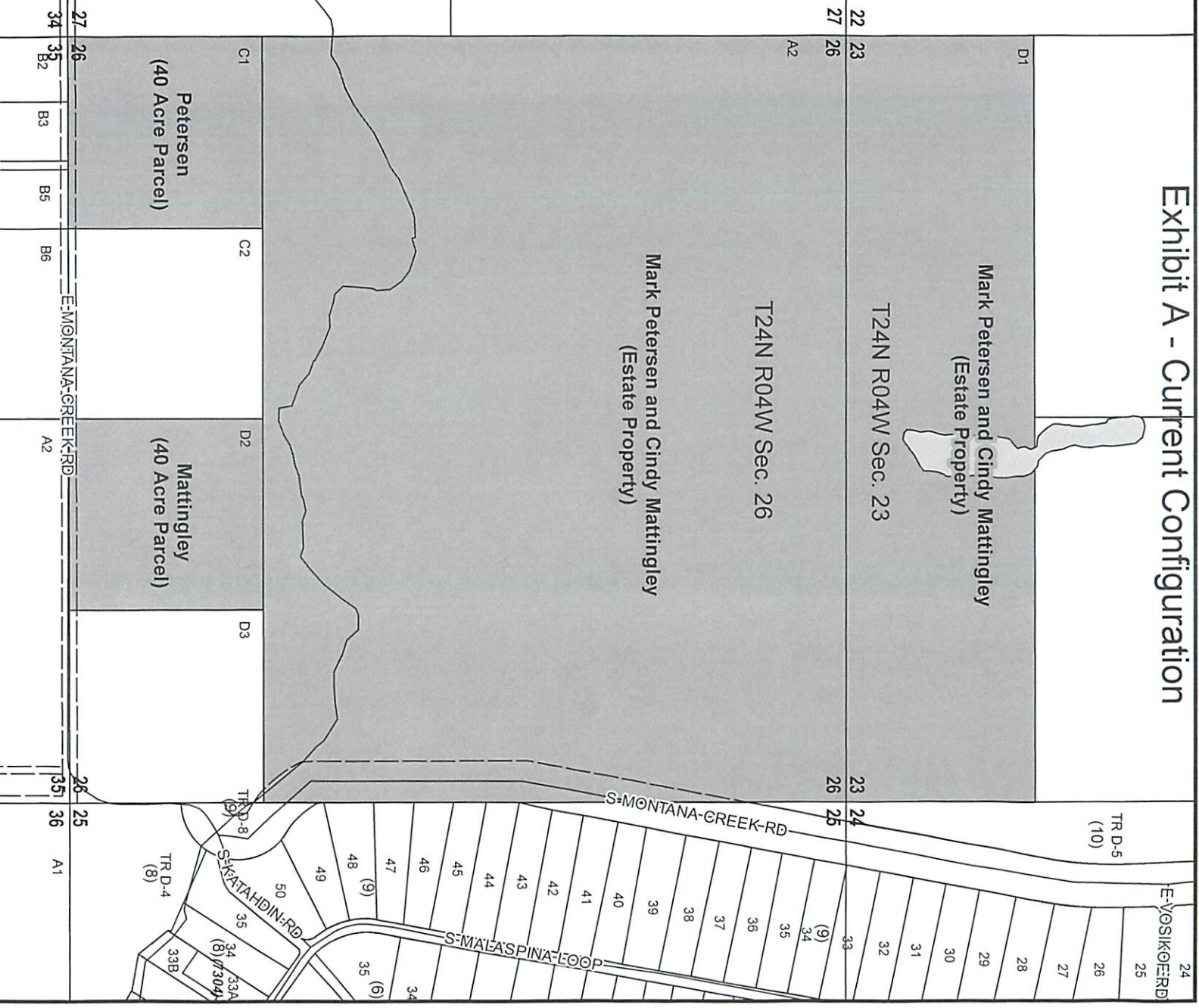
The subdivision reduces density by combining three parcels of record into two parcels of record and allows the heirs to pursue their individual agriculture endeavors by separating the estate. Furthermore, the subdivision of the farm does not release the agricultural right owners (heirs) of the imposed conditions, covenants, and restrictions recorded on the land and held in perpetuity.

On September 21, 2022, the Matanuska-Susitna Borough Agriculture Advisory Board passed Resolution Serial Number 22-02 recommending the Assembly pass an Ordinance to allow the applicants to subdivide their interest as proposed through the Platting Division under Title 43.

RECOMMENDATION OF ADMINISTRATION:

The Matanuska-Susitna Borough Land and Resource Management Division recommends approval of the request to subdivide the estate parcels and separate the heirs' real property title interest.

Exhibit A - Current Configuration



MSB #007376

Current Parcel Configuration

S T24N R04W Sec. 23 & 26 Tax Map M008

MSB/LRMD September 2018

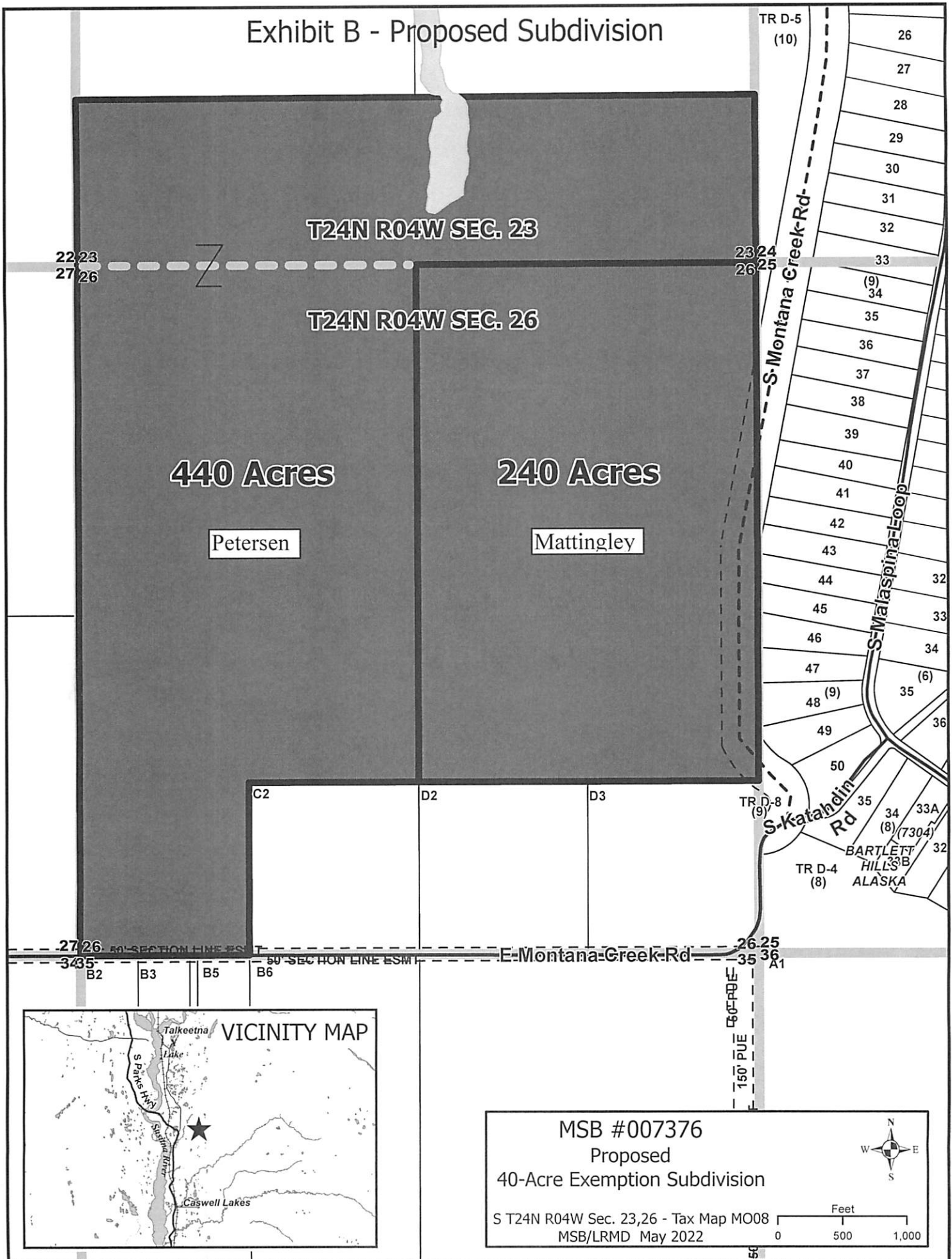
IM 22-223

QR 22-120

0 500 Feet

N
S
E
W

Exhibit B - Proposed Subdivision



**MATANUSKA-SUSITNA BOROUGH
AGRICULTURE ADVISORY BOARD
RESOLUTION SERIAL NO. 22-02**

A RESOLUTION RECOMMENDING ASSEMBLY ACTION TO APPROVE THE REQUEST BY AGRICULTURAL RIGHTS HEIRS TO SUBDIVIDE AND COMBINE THREE PARCELS, CONTAINING 680 ACRES, INTO TWO PARCELS TO SEPARATE THE HEIRS TITLE INTEREST AFTER SUBDIVISION (MSB007376).

WHEREAS, the Agriculture Advisory Board was enacted by Matanuska-Susitna Borough Ordinance No. 15-050 to provide advice to the Assembly and Manager on agricultural issues; and

WHEREAS, on May 16, 2018, the Agriculture Advisory Board approved Resolution Serial No. 18-02 recommending the Assembly approve the agricultural rights heirs application to subdivide and combine four parcels, a total of 720-acres, into two parcels to complete their father's estate and separate the heirs' title interest after subdivision; and

WHEREAS, on October 30, 2018, the Assembly approved Ordinance Serial No. 18-101 allowing the subdivision as proposed; and

WHEREAS, on May 10, 2022, the applicants requested an amendment of the subdivision request to subdivide three parcels, a total of 680 acres, into two parcels and create a 440 acre parcel and a 240 acre parcel; and

WHEREAS, the recorded Covenants, Conditions, and Restrictions of the property require the agricultural rights owners to obtain Borough Assembly approval prior to subdivision; and

WHEREAS, Mr. Arthur Petersen passed away in 2014 and Tax ID
Parcels 24N04W23D001 and 24N04W26A002 were conveyed by the Estate
of Mr. Arthur Petersen to the heirs, Mark A. Petersen and Cindy M.
Mattingley; and

WHEREAS, the proposed subdivision will allow Mr. Petersen and
Ms. Mattingley to pursue their individual agricultural endeavors
that will favorably contribute to the economics of agricultural
production and allows the heirs the ability to prepare their
individual estates.

NOW, THEREFORE, BE IT RESOLVED, this Resolution No. 22-02
supersedes the previous adopted Resolution No. 18-02.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Matanuska-
Susitna Borough Agriculture Advisory Board recommends the
Matanuska-Susitna Borough Assembly pass an Ordinance to allow Mark
Petersen and Cindy Mattingley to subdivide their interest as
proposed through the Platting Division under Title 43.

ADOPTED by the Matanuska-Susitna Borough Agriculture Advisory
Board this 21 st day of September, 2022.


Cody Beus, Chairman

ATTEST:


Margie Cobb
Department Administrative Specialist