


**SUBJECT:** ASSEMBLY APPROVAL OF THE REQUEST BY AGRICULTURAL RIGHTS HEIRS TO SUBDIVIDE THE AGRICULTURAL RIGHTS ONLY LAND ESTATE AND COMBINE THE ESTATE PROPERTY WITH THE HEIRS PROPERTY FOR PURPOSE OF SEPARATING THE TITLE INTEREST OF THE HEIRS (MSB007376).


**AGENDA OF:** October 16, 2018

ASSEMBLY ACTION

*Adopted without objection 10.30.18*  


**MANAGER RECOMMENDATION:** Present to the Assembly for consideration.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

Route to:	Department/Individual	Initials	Remarks
	Originator	<i>HCM 10/1/2018</i>	
	Community Development Director	<i>ED 10/2/18</i>	
	Finance Director	<i>g</i>	
	Borough Attorney	<i>NS</i>	
	Borough Clerk	<i>JMM</i>	<i>10/8/18</i> 

**ATTACHMENTS:** Fiscal Note: No   X   Yes         
 Map (2 pp)  
 Agriculture Advisory Board  
 Resolution No. 18-02 (2 pp)  
 Ordinance Serial No. 18-101 (3 pp)

**SUMMARY STATEMENT:**

The Land and Resource Management Division received an application from agricultural rights heirs requesting to subdivide the two estate parcels and combine with their agricultural rights parcels in order to separate the heirs' title interest in the estate.

**DISCUSSION:**

The recorded conditions, covenants and restrictions require agricultural rights owners to obtain Borough Assembly approval for subdivision.

**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
24N04W26D002 <i>Daughter's individual property</i>	The southwest 1/4 of the southeast 1/4 of Section 26, Township 24 North, Range 4 West, Seward meridian, Alaska, Talkeetna Recording District (40 Acres).	Kenneth and Cindy M. Mattingley  Husband and Wife

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



On October 18, 2011, Mr. Petersen received assembly approval for subdivision by Forty-Acre Exemption for Tax Parcel 24N04W23D001 into four, forty-acre parcels to allow Mr. Petersen the ability to convey the four parcels to his children so they could assist Mr. Petersen with his farm operation (Ordinance Serial No. 11-137).

In 2014, Mr. 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, tenants in common. The heirs are requesting to subdivide and combine the estate with their individual 40-acre parcels to create two new parcels of record. The new parcels created through the subdivision will remain subject to the agricultural rights only covenants.

PUBLIC NOTICE COMMENTS:

In accordance with Title 23.05.025, the public notice was fulfilled with notice on the Matanuska-Susitna Borough web page, notice in the legal section of the Frontiersman newspaper, and public notice to Manager John Moosey, assembly members fire service area, road service area, and neighbors within 600 feet of the property.

Three comments were received in response to the public notice. One response was in favor of the subdivision and two responses objected to the proposed subdivision.

Kriste Roberts: "We do not agree to the change. This is the second change to the property if it goes through and we want it to stop. We don't want any more people moving in, out here. There's already too many people."

Response: Staff called Ms. Roberts to discuss her concerns and that combining the lots reduces the density of the proposed subdivision. Ms. Roberts withdrew her objection.

Paul and Faye Miller: "Opposed to this subdivision exemption because, 1) Against Arthur Petersen's wishes, and 2) Opens door to further subdivisions nonagricultural (e.g., wood pellet farm).

Response: Faye Miller called Ms. McDaniel, Asset Manager, to discuss her concerns. Ms. McDaniel explained the subdivision of the land does not change the existing agricultural covenants.

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

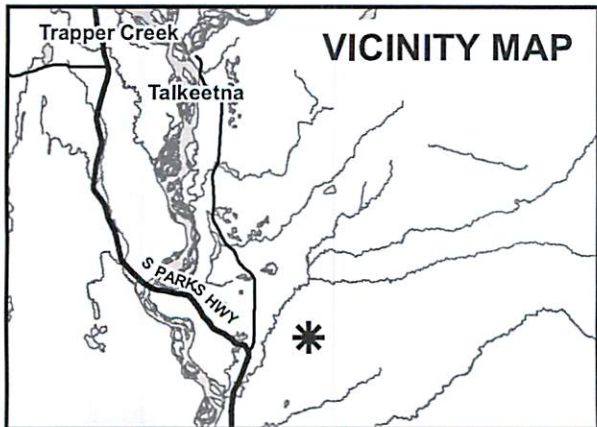
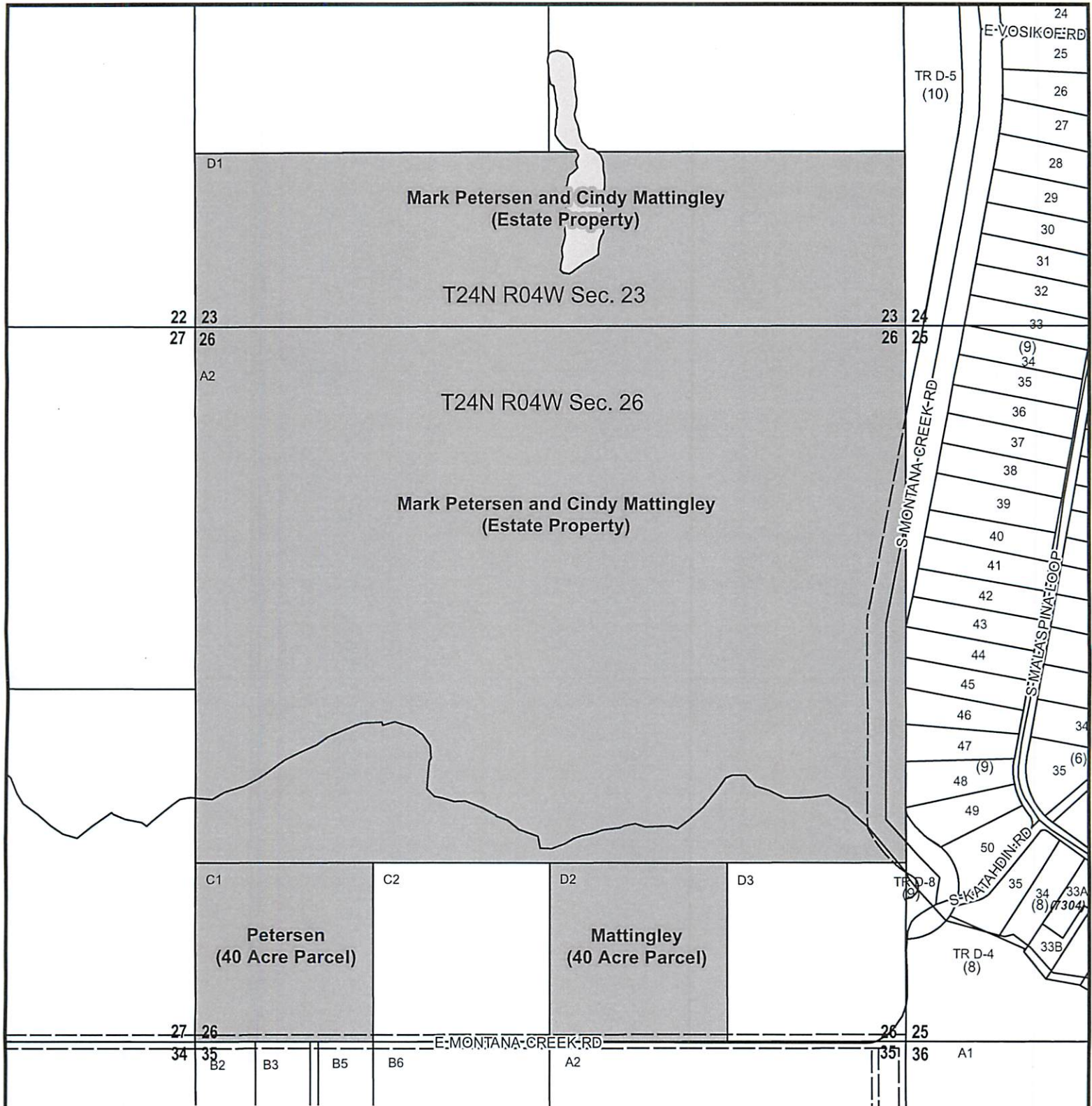
reasonably be expected to increase the agricultural production to be realized from the new parcel to be generated by virtue of the fact that it will be added to an adjacent farm, or a similar circumstance favorable contributing to the economics of agricultural production."

The subdivision reduces density by combining four parcels of record into two parcels of record. 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.

RECOMMENDATION:

The Matanuska-Susitna Borough Land and Resource Management Division recommends approval of the request to subdivide the estate parcels and combine with the heirs existing parcels to create two new parcels.





**MSB #007376**

**Current Parcel Configuration**

S T24N R04W Sec. 23 & 26 Tax Map MO08  
MSB/LRMD September 2018

IM 18-152  
OR 18-101

Feet  
0 500

N  
W E  
S





**MATANUSKA-SUSITNA BOROUGH  
AGRICULTURE ADVISORY BOARD  
RESOLUTION NO. 18-02**

A RESOLUTION RECOMMENDING ASSEMBLY ACTION TO APPROVE THE REQUEST BY AGRICULTURAL RIGHTS HEIRS TO SUBDIVIDE BY 40-ACRE EXEMPTION AND COMBINE FOUR PARCELS, CONTAINING 720 ACRES, INTO TWO PARCELS TO SEPARATE THE HEIRS TITLE INTEREST AFTER SUBDIVISION (MSB007376).

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WHEREAS, the Agriculture Advisory Board was enacted by Matanuska-Susitna Borough Ordinance No. 15-050 to review issues specifically related to and affecting borough agriculture lands, and advise the assembly and manager on such matters; and

WHEREAS, agricultural rights heirs submitted an application requesting 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, 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, Mark Petersen and Cindy Mattingley desire to combine the two larger parcels with their individual 40 acre parcels creating a 440-acre parcel (Mark Petersen) and a 280-acre parcel

(Cindy Mattingley); and

WHEREAS, the proposed subdivision will allow Mr. Petersen and Ms. Mattingley to pursue their individual agricultural endeavors that will be added to adjacent farms that favorable contributes to the economics of agricultural production and allows the heirs the ability to prepare their individual estates.

NOW, THEREFORE, BE IT 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, Title 43, 40 Acre Exemption process and the conditions of Matanuska-Susitna Borough Title 13, the code in which the agricultural rights of this property were sold prior to subdivision.

ADOPTED by the Matanuska-Susitna Borough Agriculture Advisory Board this 16th day of MAY, 2018

  
Norman Rex Harris, Chairman

ATTEST:

  
Deborah Selman  
Department Administrative Specialist