



KENAI PENINSULA BOROUGH

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DAVID R. CAREY
BOROUGH MAYOR

MEMORANDUM

TO: Assembly President
Kenai Peninsula Borough Assembly Members

THRU: *DL* David R. Carey, Borough Mayor
MB Max Best, Planning Director
MA Marcus A. Mueller, Land Management Officer

FROM: *JM* John Miller, Land & Resources Coordinator

DATE: June 25, 2009

SUBJECT: Ordinance 2009- 41, authorizing the modification of senior housing use deed restrictions on two parcels of land in Cooper Landing.

Ordinance 2005-06 (Mayor) Substitute, enacted March 1, 2005, authorized the lease with option to purchase, through partial releases, of 12.5 +/- acres on Snug Harbor Road in Cooper Landing to the Cooper Landing Senior Citizen Corporation, Inc. (CLSCCI) to develop senior housing.

CLSCCI purchased and successfully developed a 2 +/- acre parcel from the borough pursuant to Ordinance 2005-06 (Mayor) Substitute. Ordinances 2005-06 and 2008-11 contain a deed restriction on senior housing purposes which provide for an automatic forfeiture to the borough if the property is not used for senior housing purposes, unless otherwise agreed to by CLSCCI and the borough. Lot 1 was conveyed in 2005 subject to a senior housing public purpose deed restriction with "right-of-reentry," rather than an automatic reversion. CLSCCI was able to secure long-term financing for this project through the Alaska Housing Finance Corporation (AHFC) with the deed subject to a right of reentry.

Ordinance 2008-11 (Mayor, Long Substitute) modified the financial terms under the lease with option to purchase. Under Ordinances 2008-11 and 2005-06, CLSCCI purchased the remaining two lots, Lot 2A and Lot 2B, both being subject to a senior housing public purpose deed restriction with the "automatic reversion" provided for by the ordinance.

CLSCCI is completing construction of a 6-unit senior housing facility on Lot 2A, but is unable to secure long-term financing through AHFC because of the "automatic reversion" language as written in the deed to Lot 2A and 2B.

AHFC requested that the automatic reversion language be altered to protect its interests in providing long term financing. A right of reentry affords the borough the ability to file suit to regain the property, without requiring the automatic forfeiture and would not hinder CLSCCI's long-term financing.

This Ordinance would authorize the modification of the deed restriction language on the deeds for Lot 2A and Lot 2B to the deed restriction language used for Lot 1.

The assembly's consideration of this request to facilitate CLSCCI is appreciated.

Attachments:

- Aerial Photograph
- Draft Ordinance
- Quitclaim Deeds for Lot 1 & Lots 2A-2B