Introduced By: Mayor Phillips
Date: May 26, 1998
Public Hearing Date: June 9, 1998
Action: Enacted
Vote: Unanimous

CITY OF BETHEL

P.O. Box 388 Bethel, Alaska 99559
907-543-2297
FAX # 543-4171

ORDINANCE NO. 98-09

AN ORDINANCE AUTHORIZING THE SALE OF CITY LAND TO GREG ROCZICKA TO CURE AN ENCROACHMENT PROBLEM

WHEREAS, the City of Bethel sold Lot 1, Block 4, of a resubdivision of Block 9 of U.S. Survey No. 3770, Plat 71-425 (the "Lot") for residential development, and

WHEREAS, through an erroneous location of the southeast property by the City in 1978, the house constructed on the lot, a temporary wood deck and a fish rack were constructed with encroachments of these structures into a portion of Tract C which lies southeast of the Lot, and

WHEREAS, Tract C is a large tract owned by the City, and

WHEREAS, the portion of Tract C lying southeast of the Lot is one of four access points to Track C, contains utility easements and serves as a drainage to a water body in Tract C, and

WHEREAS, the City Council has determined that adequate access and drainage to Tract C can ~~usually~~ be provided by the portion of Tract C lying southeast of the Lot if no more than 15 feet of said Tract is transferred to and becomes a part of the Lot, and

WHEREAS, the Bethel Municipal Code requires that fair market value be paid for City land conveyed for private purposes, unless otherwise determined by ordinance, and

WHEREAS, the City Council finds that the 15 foot strip of land lying within Tract C proposed under this ordinance to be conveyed by replat to Greg Roczicka, the owner of the Lot is (a) no longer necessary for a municipal purpose, (b) would be a substandard lot if created as a separate lot, (c) could not be developed or used by any person except the owner of the abutting Lot (and only if it becomes a part of the abutting Lot) and, (d) should be made available to Greg Roczicka under the conditions set out in this ordinance.

NOW THEREFORE BE IT ORDAINED BY THE BETHEL CITY COUNCIL:

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

Section 2. Purpose. In order to accommodate the circumstances that are peculiar to the situation described above, this ordinance authorizes the conveyance of a strip of land solely under the procedures and conditions set out in this ordinance notwithstanding procedures or conditions that might otherwise be required under the land disposal provisions of Chapter 4.08 of the Bethel Municipal Code.

"Deep Sea Port and Transportation Center of the Kuskokwim"

Section 3. The City of Bethel is authorized to join with the owners of the Lot in an application for the replat of the Lot and a portion of Tract C to effect the relocation of the southeast property line of the Lot 15 feet to the southeast and running parallel to the original location of said property line, with the eastern boundary of the 15 foot strip being a straight extension of the existing eastern boundary line of the Lot. The relocation of the property line is to effect a transfer of the 15 foot strip to the Lot and to effect a conveyance of the strip to the owners of the Lot.

Section 4. The conveyance by the City and the replating are authorized upon the following conditions:

A. The owners of the Lot shall bear all costs of surveying and replating.

B. The temporary wood deck that encroaches approximately 16 feet into Tract C shall be relocated to a place where it will be 10 feet or more from the new location of the southeast property line, and such location and distance shall be confirmed by a registered surveyor.

C. The City shall be paid the original 1978 purchase price of $.30 per square foot for the area shown on the replat survey as being added to the Lot by the 15 foot relocation of the southeast property line of the Lot.

D. The platting authority may not approve the replat until the requirements of subsection 4(B) has been met; the approved replat may not be recorded until the requirement of subsection 4(C) has been met.

F. The City shall execute a quitclaim deed to the 15 foot strip of land being added to the Lot. Notwithstanding the conveyance and replat authorized under this ordinance, all utility or other easements shown within the 15 foot strip on the plat prior to the replat authorized under this ordinance remain undisturbed and continue in their present location. The conveyance and replat authorized under this ordinance does not constitute a recognition or authorization of any prior, existing or future encroachment of any structure into a utility or other easement within the Lot or within the Lot, however designated, as it may exist after the approval of the replat authorized under this ordinance.

G. The replat shall contain a plat note prohibiting the placement of any additional fill within the 15 foot strip added to the Lot.

H. The acceptance of the additional 15 foot strip constitutes a waiver by the owners of the Lot, their successors, heirs, and assigns of any claims against the City for damages to the strip and to any property or improvements within the strip, placed previously or in the future, arising out of the presence or flowage of water and waterborne objects that occurs during times water flows in the abutting part of the remainder of Tract C.

Section 5. Effective Date and Termination of Authorization. This ordinance becomes effective immediately upon adoption. The authorization under this ordinance for the replat and conveyance described is effective for one year from the date of adoption of this ordinance. The authorization is withdrawn and ineffective if the replat authorized herein has not been approved and recorded by the first anniversary of the adoption of this ordinance.

ENACTED this 9th day of June, 1998.

CITY OF BETHEL

By: _____
Agnes L. Phillips, Mayor

ATTEST:

_____
Gaye J. Vaughan, City Clerk