

**ORDINANCE 2022-14 OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, STATE OF NEW JERSEY, AUTHORIZING THE PRIVATE SALE OF BLOCK 301.21, LOT 371, IN THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, STATE OF NEW JERSEY, AT PRIVATE SALE PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.**

**WHEREAS**, the Borough of Sussex is the owner of real property known as Block 301.21, Lot 371, in the Borough of Sussex, County of Sussex, State of New Jersey (collectively the "Property"); and

**WHEREAS**, the Property is located at the intersection of Willow Street and Overlook Drive. Lot 371 is currently vacant and contains approximately 0.0574 acres, more or less, which acreage is not warranted. The property is located in the R-1 Zone and is an undersized lot; and

**WHEREAS**, N.J.S.A. 40A:12-13(b)(5) authorizes the Borough to sell municipally owned real property at a private sale to an owner of real property contiguous thereto where the Borough owned Property is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; and

**WHEREAS**, N.J.S.A. 40A:12-13(b)(5) further provides that where there is more than one owner of real property contiguous thereto, the municipal property shall be sold to the highest bidder from among all such contiguous owners and that the sale shall be for not less than the fair market value of the said real property; and

**WHEREAS**, the Mayor and Council of the Borough of Sussex, County of Sussex, State of New Jersey, has determined that the Property is not needed for public use, and the sale of the Property will return the Property to the tax rolls of the Borough of Sussex, and it is in the best interests of the Borough of Sussex to offer the Property for sale at a private sale to an owner of real property contiguous thereto, to the highest bidder; and

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Sussex, County of Sussex, State of New Jersey as follows:

**SECTION 1.** The Borough of Sussex in the County of Sussex is the owner of the following land located within the Borough of Sussex (hereinafter referred to as the "Property"):

Block 301.21, Lot 371 located at the intersection of Willow Street and Overlook Drive in Sussex Borough, Sussex County, New Jersey and is located in the R-1 Zone, and subject to all easements and restrictions of record and not of record.

**SECTION 2.** If the property is not to merge with Block 301.21, Lot 367, Sussex Borough, by reason of bid being awarded to the owner of another lot, then the property upon being transferred to the successful bidder will be subject to a driveway access easement over the subject property between Overlook Drive and Block 301.21, Lot 367, Sussex Borough, if such driveway currently exists.

**SECTION 3.** The Mayor and Council has determined it to be in the public interest to sell said Property at private sale to an owner of real property contiguous thereto to the highest bidder in accordance with N.J.S.A. 40A: 12-13(b)(5).

**SECTION 4.** N.J.S.A. 40A:12-13(b)(5) further provides that where there is more than one owner of real property contiguous thereto, the municipal property shall be sold to the highest bidder from among all such contiguous owners and that the sale shall be for not less than the fair market value of said real property.

**SECTION 5.** The Mayor and Council declares the Property to be surplus and not needed for public use.

**SECTION 6.** The following conditions for the sale of the Property apply:

(a) The minimum bid for the Property shall be \$1,500.

(b) The highest bidder will be the purchaser.

(c) The Borough will only accept bids calling for an all-cash purchase of the Property. Full payment of the purchase price must be received within 30 days of the date of the acceptance of the bid. The successful bidder will be required to pay, by either cash, wire transfer or bank check, a deposit equal to ten (10%) percent of minimum price of the bid at the close of bidding, with the balance to be paid by either cash, wire transfer or bank check at closing. Pending closing of title, this deposit will be held by the Borough of Sussex in a non-interest-bearing escrow account, with the total deposit to be credited to the purchase price at closing.

(d) The sale of the Property is being made subject to the following terms and conditions:

- 1) The Property is being sold in an "AS-IS" "WHERE-IS" condition.
- 2) The closing of title to the Property is "TIME OF THE ESSENCE" and must take place within ten (10) days after resolution by the Mayor and Council awarding the bid, and the failure of the successful bidder to close title as required shall result in the successful bidder's forfeiture of any and all money deposited with the Borough.
- 3) The successful bidder shall consolidate the Property purchased with other contiguous lot or lots so as to be part of a reconfigured lot in conformance with the zoning requirements.
- 4) No variances shall be requested and/or permitted for either Property and there shall be no further subdivision of the Property.
- 5) The deed must be delivered to the Sussex County Clerk for recording within thirty (30) days of closing or title to the Property shall automatically revert back to the Borough of Sussex without the necessity of entry or reentry.
- 6) In the event that the successful bidder fails to close title to the Property, the bidder shall forfeit all deposit monies made to the Borough. No refunds whatsoever will be made by the Borough of Sussex in the event that the successful bidder fails to complete the purchase of the Property within ten (10) days from the acceptance of the bid.
- 7) The purchaser(s) shall pay the cost of recording fees.
- 8) The purchaser(s) shall pay any and all realty transfer fees assessed in connection with the sale of the Property (if assessed).
- 9) With respect to the sale of the Property herein, NO real estate commission owed.
- 10) The Property is being sold "AS IS" "WHERE IS". The Property is sold subject to existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting the Property. A survey of the Property may be conducted by any prospective bidder, at its discretion, as part of its due diligence.
- 11) No representation is made by the Borough as to the utility, usability or environmental condition of the Property.

(e) All bids must satisfy any requirements and meet any terms and conditions set forth herein. The deed given by Sussex Borough for the Property will be a Quit Claim Deed. No title contingencies or conditions are permitted.

(f) The sale shall be subject to adjournment or cancellation by the Mayor and Council.

(g) The Borough reserves the right to accept the highest responsive bid if equal to or greater than the minimum bid price, or to reject all bids and not to award to the highest bidder. The Borough reserves the right to waive any and all defects and informalities in any proposal, and to accept or reject the highest responsible and responsive bid deemed to be in the best interest of the Borough.

(h) It is suggested and recommended that potential bidders perform title searches and/or last owner and lien searches on the properties that they are interested in bidding upon prior to the date of bid submission in order that the potential bidder may be adequately

apprised of any encumbrances or restrictions of record affecting the use and enjoyment of the Property. It is further suggested and recommended that potential bidders exercise due diligence with respect to every state of facts including open permits, local fines, penalties, taxes, assessments, etc., which may not be of record but which may nonetheless affect the use and enjoyment of the Property. The Borough of Sussex shall not be responsible for the costs associated with such searches in the event that the Borough of Sussex is unable to convey title and/or if a bid is rejected.

**SECTION 7 .** That notice of the Borough's intention to sell the Property and the minimum bid price therefore shall be sent by certified mail, return receipt requested, to all property owners listed on the municipal tax records who own properties contiguous to the Property.

**SECTION 8.** That said notice and a certified copy of this Ordinance shall be posted on the bulletin board or other conspicuous place in the municipal building.

**SECTION 9.** That any offer(s) for the Property may thereafter be made to the Municipal Clerk for a period of twenty (20) days following the newspaper advertisement, for not less than the minimum price provided herein.

**SECTION 10.** That if more than one bid is received, the Municipal Clerk may hold such bids without opening, advise the Mayor and Council of such multiple bids, and said Mayor and Council shall decide whether to invite said bidders to a public meeting for purposes of an open auction between the original submitting bidders, or to open said original bids.

**SECTION 11.** That, if sold, the Property shall be awarded to the highest bidder in excess of the minimum bid price for the Property.

**SECTION 12.** That the Mayor and Council of the Borough of Sussex may reconsider its decision to sell the subject Property within thirty (30) days after the enactment of this Ordinance and either offer the Property for sale at a public sale pursuant to N.J.S.A. 40A:12-13 (a) or reject any or all bids and retain any or all of the Property for Borough use.

**SECTION 13.** That all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 14.** If any section, subsection, paragraph, sentence or any part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance not directly involved in the controversy in which such judgment shall have been rendered.

**SECTION 15.** This Ordinance shall take effect upon final passage and publication in accordance with law.

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Antoinette Smith, Borough Clerk

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Edward Meyer, Mayor

#### **NOTICE**

NOTICE IS HEREBY GIVEN that the attached Ordinance 2022-14 was introduced at a regular meeting of the Mayor and Council of the Borough of Sussex, Sussex County, New Jersey, held on September 6, 2022 and passed on first reading, and that such Ordinance will be further considered for final passage and adoption at the regular meeting of the Mayor and Council to be held on September 20, 2022 at Borough Hall, 2 Main Street, in the Borough of Sussex at 7:00 p.m. or via the internet, connectivity information available at [www.sussexboro.com](http://www.sussexboro.com) and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance.

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Antoinette Smith, RMC