

ORDINANCE NO. 08-2022

**AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, COUNTY OF MONMOUTH,  
STATE OF NEW JERSEY, AUTHORIZING THE PRIVATE SALE OF NON-  
CONFORMING REAL PROPERTY KNOWN AS A PORTION OF BLOCK 23, LOT 1 TO  
CONTIGUOUS PROPERTY OWNERS PURSUANT TO NJSA 40A:12-13(B)(5)**

WHEREAS, NJSA 40A:12-13(B)(5) authorizes the sale of municipally owned property which is less than the minimum size required for development under the Municipal Zoning Ordinance; and which is without any capital improvement thereon, to the owners of contiguous real property; and

WHEREAS, the Borough Council has found and determined that a portion of the real property designated as Block 23, Lot 1 aforesaid (hereinafter the "Property") will not be needed for public use and may be offered for sale to the contiguous owners pursuant to the cited statutes; and

WHEREAS, the Property extends westward from the current border of Block 22, Lot 1, 10.42 feet and runs the length of Block 22, Lot 1, which is 54.86 feet and is more fully described by the legal description attached as Schedule A; and

WHEREAS, the Tax Assessor of the Borough of Sea Bright has recommended the sale of the subject lot with a minimum bid price of \$25,000.00;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey as follows:

**SECTION I**

Within five (5) days following final enactment of this ordinance, the Borough Clerk shall post on the regular Borough Hall bulletin board and advertise in a newspaper circulating in the Borough, a notice setting forth the following information as to the sale of a portion of Block 23, Lot 1 on the Borough of Sea Bright Tax Map, whose sale is hereby authorized. A copy of this notice shall be mailed by certified mail by the Borough Clerk to all contiguous property owners of the property being offered for sale within the aforesaid five (5) day period.

**PUBLIC NOTICE**

**BOROUGH OF SEA BRIGHT - MONMOUTH COUNTY**

TAKE NOTICE that an ordinance of the Borough of Sea Bright adopted pursuant to NJSA 40A:12-13(b)(5) on September 6, 2022, the Borough of Sea Bright offers for sale the following property to contiguous property owners under the following terms and conditions:

Property offered for Sale: a portion of Block 23, Lot 1 of the Borough of Sea Bright Tax Map;

Minimum Price: \$25,000.00;

All offers must be made within twenty (20) days following this advertisement at not less than the minimum price above;

Deed Restriction: The Property shall be precluded from further sale as a separate lot by the contiguous owner purchasing said property pursuant to this Ordinance and shall be consolidated with the adjacent property. The Property will have no further development except a canopy structure with support legs, with a retractable cover, covering the area shown on the diagram attached as Schedule B, may be constructed subject to all necessary approvals and permits. However, permanent walls are prohibited. The Purchaser must construct a sidewalk extension and curbing per the diagram attached hereto as Schedule B, although the sidewalk and curbing will remain on the Borough's property. Such sidewalk must match in height and appearance the existing sidewalk and must have an Americans with Disabilities Act (ADA) accessible access toward East Ocean Avenue in addition to maintaining any other ADA accessible accesses already in place. If the Property is used for patrons of the restaurant establishment safety bollards and/or wall and/or fence must be placed around the perimeter at the discretion of the Borough's Planning Board. All of the foregoing will be completed by and be at the sole expense of the purchaser and will be subject to any applicable permitting requirements.

The sale is made subject to all restrictions, covenants, restrictions and conditions of record, with said property being sold in an "as is" condition and is being sold subject to such other facts that an accurate, certified survey would reveal. The sale is further subject to the purchaser obtaining subdivision, and site plan approval if required, to consolidate the Property for use with the contiguous property. Nothing in this sale shall affect the right to lawful occupancy of use of the Property by any municipal or private utility to occupy or use the Property as lawfully occupied or used by it.

Any contiguous property owner desiring to make an offer for the purchase of the property being offered for sale herein shall, within twenty (20) days following advertisement of this notice or a receipt of a mailed copy of this notice, make an offer in writing by certified mail addressed to the Borough Council c/o Borough Clerk, Borough of Sea Bright, 1099 Ocean Avenue, Sea Bright, NJ 07760 at no less than the minimum price set forth hereinabove. All bids must be received no later than 12:00 p.m. on September 29, 2022, all bids must be marked "Sealed Bid Enclosed".

The Borough Council of the Borough of Sea Bright reserves the right to reject any and all offers, and shall accept or reject any offer within thirty (30) days of the advertisement of this public notice. If the Borough Council fails to accept or reject any offer within the aforesaid time period, all offers will be deemed rejected. Where there is more than one owner with real property contiguous to the property being offered for sale, the subject property will be sold to the highest bidder or offer from among all such owners submitting an offer as provided for herein. All offers shall be accompanied by a certified or cashier's check in the amount of ten percent (10%) of the offer made, payable to the Borough of Sea Bright; the balance shall be paid at closing of title.

A meets and bounds description must be provided by the successful bidder within twenty (20) days after the acceptance of the offer by the Borough Council.

The closing of title shall be by a bargain and sale deed without covenants as to grantor. Closing shall take place no later than ninety (90) days after the acceptance of the offer by the Borough Council. The Borough of Sea Bright makes no representation as to the condition or marketability of title as to the subject property.

In addition to the purchase or offer price, it shall be the responsibility of the successful bidder to pay at closing the advertisement and mailing costs in connection with this sale and the Borough Attorney's fee for the preparation of the deed in connection with this sale. If the successful bidder or offer shall fail to close title through no fault of the Borough, the successful bidder or offerer shall forfeit the deposit made for the sale, which shall be retained by the Borough as liquidated damages, except in the event the successful bidder or offerer is not successful in obtaining subdivision and site plan approval to develop the Property with the contiguous property, the Borough shall return the deposit to the successful bidder and neither party shall have any further obligation to the other with regard to the Property.

The Borough Clerk shall file with the Director, Division of Local Government Services in the Department of Community Affairs, a sworn affidavit verifying publication of advertisement as required by this ordinance.

## SECTION II

All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

## SECTION III

If any section, subsection, paragraph, sentence or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

## SECTION IV

This Ordinance shall take effect immediately upon its passage and publication as required by law. I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on August 16, 2022 and will be further considered after a Public Hearing held on September 6, 2022.

INTRODUCED: August 16, 2022  
PUBLIC HEARING: September 6, 2022  
ADOPTED: September 6, 2022

Witness

Christine Pfeiffer  
CHRISTINE PFEIFFER, CLERK

BOROUGH OF SEA BRIGHT

Brian Kelly  
BRIAN KELLY, MAYOR

SCHEDULE A

DESCRIPTION OF PROPERTY  
OVER TAX LOT 1, BLOCK 23  
BOROUGH OF SEA BRIGHT  
MONMOUTH COUNTY  
NEW JERSEY



**ALL** that certain lot, tract or parcel of land, situated in Borough of Sea Bright, Monmouth County, New Jersey, being known a Proposed Purchase Area, as shown on a plan entitled "Survey of Lot 1, Block 22, 1 East Church Street, Borough of Sea Bright, Monmouth County, New Jersey," by Thomas P. Santry, PA., dated November 11, 2020, last revised October 26, 2021 being more particularly described as follows:

**BEGINNING** at a point on the Northerly right of way line of East Church Street, (38' R.O.W.), said point being the intersection formed by said line of East Church Street and the division line between Block 22, Lot 1 and Block 23, Lot 1; thence from said beginning point,

- 1) Along said line of East Church Street, North 86 degrees 42 minutes 00 seconds West, a distance of 10.42 feet to a point; thence
- 2) North 05 degrees 54 minutes 00 seconds East, a distance of 54.86 feet to a point; thence
- 3) South 86 degrees 42 minutes 00 seconds East, a distance of 10.42 feet to a point; thence
- 4) South 05 degrees 54 minutes 00 seconds West, a distance of 54.86 feet to the true point and place of **BEGINNING**.

**CONTAINING** 571 Square feet or 0.013 Acres.

8/10/22  
DATE

  
JUSTIN J. HEDGES  
NJ PLS NO. GS43362

**InSite Surveying, LLC**

1955 Route 34; Suite 1A • Wall, NJ 07719  
732-531-7100 (ph) • 732-531-7344 (fx)  
www.InSiteSurveying.net

**SCHEDULE B**

OBTAINED FROM THE ULTIMATE USER PURSUANT TO N.J.A.C. 13:40-5.1(d).

THE INFORMATION SHOWN HEREIN CORRECTLY REPRESENTS THE CONDITIONS FOUND AT, AND AS OF THE DATE OF THE FIELD SURVEY, EXCEPT SUCH IMPROVEMENTS OR EASEMENTS, IF ANY, BELOW THE SURFACE AND NOT VISIBLE.

THIS SURVEY IS SUBJECT TO CHANGE ACCORDING TO THE FACTS THAT A CURRENT TITLE REPORT MAY DISCLOSE.

