



## **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

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**DAVID R. CAREY**  
**BOROUGH MAYOR**

### **MEMORANDUM**

**TO:** Milli Martin, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** *DR* David R. Carey, Borough Mayor

**FROM:** *MB* Max J. Best, Planning Director

**DATE:** March 12, 2009

**SUBJECT:** Ordinance 2009-04 Substitute; Amending KPB Chapter 20.20, Subdivision Design Requirements to Require a Minimum Width of 60 feet for Platted Lots

The Planning Commission reviewed the subject ordinance during their regularly scheduled March 9, 2009 meeting. A motion to recommend enactment of Ordinance 2009-04 substitute passed by unanimous consent.

Draft, unapproved minutes of the subject portion of the meeting are attached.

AGENDA ITEM F. PUBLIC HEARINGS

5. Ordinance 2009-04 Substitute; Amending KPB Chapter 20.20, Subdivision Design Requirements to Require a Minimum Width of 60 feet for Platted Lots. **(Postponed from February 23, 2009)**

Staff Report given by Max Best

PC Meeting: 3/9/09

At the last assembly meeting amendments were presented. This substitute incorporates those amendments. After visiting with the realty and surveying community, Assemblyman Milli Martin is promoting this version of the ordinance which is less onerous than the original version as it does not require that all access portions of flag lots be 60 feet in width. The substitute provides that the access portion of flag lots must be at least 20 feet in width and that if the lots may be further subdivided, and the access portion is less than 60 feet in width, there will be a plat note prohibiting further subdivision. A definition of flag lot is also included and the title has been altered to be consistent with this version of the ordinance.

END OF STAFF REPORT

Chairman Bryson opened the meeting for public comment.

1. Roger Imhoff  
Mr. Imhoff appreciated the sponsor of the ordinance taking into consideration the public comments that were submitted.

Mr. Imhoff referred to Section 2, B., which states, "The access portion of a flag lot shall not be less than 20 feet wide. A flag lot with the access portion less than 60 feet wide shall be subject to a plat note that the lot shall not be further subdivided." He suggested revising the second sentence to read something like, "A flag lot with the building site of an area of which may be further subdivided under the current Borough Code shall be provided with an access portion of at least 30 feet but no wider than 60 feet depending on site conditions. Mr. Imhoff felt it was not prudent to put notes on plats saying that lots may not be further subdivided because no one knows what will happen in the future.

Mr. Imhoff also felt it wasn't fair to property owners to have either a 20 or 60 foot wide panhandle because it was obvious under certain site conditions that a full 60 feet would not be needed depending on the area. The property owner is paying property taxes on the extra width that was not being used which does not seem to be fair and equitable. He was available to answer questions.

Chairman Bryson asked if there were questions for Mr. Imhoff.

Commissioner Foster referred to the legal access definition. He felt owners would have to have legal access to the property which is when the flag portion would need to be 60 feet wide. Mr. Imhoff disagreed that there would need to be 60 feet.

Commissioner Foster asked how the legal access definition read. Ms. Toll replied that a 40 foot panhandle could be made into two 20-foot panhandles. There could also be a 30 foot wide panhandle under the exception process where the Planning Commission can grant an exception to anything in the Code under KPB 20.24. She stated a note would be required on the plat that the lots could not be further subdivided unless legal access could be provided. Mr. Imhoff stated that it seemed confusing to him.

Seeing and hearing no one else wishing to speak, Chairman Bryson closed the public comment period and opened discussion among the Commission.

**RESTATED MOTION:** *Commissioner Gross moved, seconded by Commissioner Isham to recommend enactment of Ordinance 2009-04; amending KPB Chapter 20.20, Subdivision Design Requirements to Require a Minimum Width of 60 feet for Platted Lots.*

Commissioner Johnson asked if the motion on the floor needed to be killed or amended. Parliamentarian Commissioner Murphy stated the motion on the floor could be amended to reflect the substitute ordinance.

**AMENDMENT:** Commissioner Johnson moved, seconded by Commissioner Lockwood to recommend enactment of Ordinance 2009-04, (Martin) Substitute.

Commissioner Johnson supported the substitute ordinance. He listened to Mr. Imhoff's concerns regarding Section 2, B. and stated he wasn't too concerned with it because the commission can grant exceptions to the Code.

There being no further discussion or comments, Chairman Bryson called for a roll call vote.

**VOTE:** The motion passed by unanimous consent.

BRYSON YES	CARLUCCIO ABSENT	COLLINS ABSENT	FOSTER YES	GROSS YES	ISHAM YES	JOHNSON YES
LOCKWOOD YES	MARTIN YES	MCCLURE YES	MURPHY YES	PETERSEN YES	TAURIAINEN YES	11 YES 2 ABSENT

**AGENDA ITEM F. PUBLIC HEARINGS**

6. Ordinance 2009-09 Substitute; Creating a Flood Hazard District, outside the Flood Insurance Rate Map area, within the Seward-Bear Creek Flood Service Area to include the 1986, 1995 and 2006 KPB GIS Mapped Flood Data Areas (**Postponed from February 23, 2009**)

Staff Report given by Max Best

PC Meeting: 2/23/09

Assembly member Long presented a substitute amendment to Ordinance 2009-09 at the last Assembly meeting. A copy of the substitute ordinance was included in the Planning Commission mail out packet.

The purpose of this ordinance came from the concern of people getting into the streams with their equipment, which was causing damage and creating problems. It was not meant to prohibit people from constructing.

It has been limited to the lot to where construction needs to be done and construction would need to be two feet above the highest point of the lot. The ordinance does not allow any work to be in the streams.

There is a sunset clause within the substitute ordinance, which would be in effect until the task force could meet and come up with more definitive rules for work within the Seward area.

The taskforce met on March 4 and will meet again on March 18, 2009.

The ordinance changed to utilizing the developable area within two feet on a particular lot. Additionally, the substitute ordinance talks about not damaging floodways or causing damage to the downstream property owners.

**END OF STAFF REPORT**

Chairman Bryson opened the meeting for public comment.

1. Robin Ward, Director of Real Estate Development for CIRI  
Ms. Ward stated that CIRI owns approximately 5 parcels totally 345 acres that could potentially be impacted by this ordinance. She expressed concern that this would be a temporary fix that would have long term and very wide reaching unintended consequences. Hypothetically, if a 200 acre parcel has one acre that falls within this Flood Hazard Zone then the entire parcel would be encumbered by the prescriptive requirements. Ms. Ward stated this may possibly or very likely devalue that property if it were sold today. She respectfully urged the Commission to postpone recommendation of this ordinance to allow the taskforce to completely evaluate this issue and come