

Introduced by: Mayor
Date: 08/04/09
Hearing: 09/01/09
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2009-43**

**AN ORDINANCE APPROVING PERCY HOPE AND DISCOVERY PARK
R-M, MIXED-RESIDENTIAL LOCAL OPTION ZONING DISTRICTS,
AND AMENDING KPB 21.46.050 AND 21.44.230**

- WHEREAS,** KPB Chapter 21.44 provides property owners in the rural district an opportunity to petition the assembly for greater restrictions on land than otherwise provided by borough code; and
- WHEREAS,** KPB 21.44.030(C) provides that a local option zoning (LOZ) district may be proposed at the time of preliminary or final plat approval; and
- WHEREAS,** the Kenai Peninsula Borough is the current and sole owner of the subject property and the developer of the Percy Hope and Discovery Park Subdivisions; and
- WHEREAS,** KPB land management and planning staff attended the February 5, 2009, meeting of the Hope/Sunrise Advisory Planning Commission (APC), which held a discussion and public hearing regarding the type of zone suitable for the subdivisions and the community; and
- WHEREAS,** on February 5, 2009, the Hope/Sunrise APC voted unanimously to recommend that the assembly designate the Percy Hope and Discovery Park Subdivisions as Mixed Residential, R-M LOZs, to include certain modifications; and
- WHEREAS,** on February 5, 2009, the Hope/Sunrise APC voted unanimously to prohibit further subdivision of the lots in the Percy Hope and Discovery Park Subdivision; and
- WHEREAS,** KPB 21.44.060 provides for modification by the assembly of a proposed LOZ; and
- WHEREAS,** Goal 1.1, Objective 1, Implementation Action F of the 2005 KPB Comprehensive Plan is to “endeavor to respect and implement recommendations of APCs where practical”; and

- WHEREAS,** Goal 6.5, Objective 1, of the 2005 KPB Comprehensive Plan is “to ensure that land use regulations adopted by the Borough are necessary to control public and private land uses that affect public health and safety, address adverse impacts on the rights of adjacent property owners, or further the goals and objectives of this Comprehensive Plan”; and
- WHEREAS,** on September 15, 1987, the assembly enacted Ordinance 87-49 “Adopting a Community Use Plan for Kenai Peninsula Borough Lands in the Area of Hope”; and
- WHEREAS,** on August 17, 1993, the assembly enacted Ordinance 93-35 incorporating the comprehensive plans and land use recommendations from the communities of Cooper Landing, Hope, Moose Pass, and Sunrise as elements of the Kenai Peninsula Borough Comprehensive Plan; and
- WHEREAS,** Section 2 of Ordinance 93-35 states that under the provisions of KPB 17.10 the classification of Borough lands in the communities of Hope, Sunrise, Cooper Landing, and Moose Pass shall be made in accordance with the recommendations contained in their respective Plans to the extent possible; and
- WHEREAS,** Community Goal #6 in the in the 1987 Community Land Use Plan for Borough Lands is to “maintain and provide for community economic base”, including commercial areas; and
- WHEREAS,** the 1987 Community Land Use Plan for Borough Lands, item VI lists “commercial” as a future private land need in the area; and
- WHEREAS,** item VII-G in the in the 1987 Community Land Use Plan for Borough Lands states: “Borough lands which might be used for commercial development include lots along Resurrection Road”; and
- WHEREAS,** the Hope/Sunrise APC voted unanimously to request that the assembly modify the proposed Percy Hope R-M LOZ to approve lot 7 for commercial use; and
- WHEREAS,** the Hope/Sunrise APC voted unanimously to request that the assembly modify the proposed Discovery Park R-M LOZ to approve lots 8, 12, 13, and 14 for commercial use; and
- WHEREAS,** the Hope/Sunrise APC voted unanimously to request that the assembly modify the proposed LOZs to include a prohibition of dog lots and kennels as defined in KPB 21.44.230 which are also prohibited in the R-1, Single Family Residential and R-C, Residential Conservation LOZ categories; and
- WHEREAS,** the Hope/Sunrise APC voted unanimously to request that the assembly modify the proposed LOZs to restrict the number of vehicles allowed per dwelling unit at any given time to a maximum of five; and

WHEREAS, the Hope/Sunrise APC voted unanimously to request that the assembly modify the proposed LOZs to prohibit the use of any parcel within the Percy Hope and Discovery Park LOZs as a junkyard; and

WHEREAS, at its July 22, 2009, meeting, the Hope/Sunrise APC voted unanimously to revise the vehicle regulation request to limit the total number of non-operational vehicles per lot to a maximum of two; and

WHEREAS, at its July 22, 2009, meeting, the Hope/Sunrise APC voted unanimously to request that the assembly modify the proposed LOZs to establish a minimum lot size of 1.5 acres for all lots within the Percy Hope and Discovery Park LOZs; and

WHEREAS, item D under IX, Additional Recommendations, in the 1987 Community Land Use Plan for Borough Lands states: Minimum lot size for any Borough lands should be 2 acres; and

WHEREAS, at its July 22, 2009, meeting, the Hope/Sunrise APC voted unanimously to recommend approval of this ordinance; and

WHEREAS, the Kenai Peninsula Borough Planning Commission held a public hearing regarding this ordinance on August 24, 2009 and recommended enactment by unanimous consent;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the assembly finds the proposed Percy Hope and Discovery Park local option zoning districts and APC modification recommendations to be consistent with the KPB Comprehensive Plan and the Hope/Sunrise Land Use Plans for Borough Lands, and the LOZ districts would be a benefit to the local community by providing some restrictions on development while allowing for a variety of land uses.

SECTION 2. That KPB 21.46.050 is hereby amended as follows:

21.46.050. Mixed Residential (R-M) Districts

A. The following Mixed Residential (R-M) districts and official maps are hereby adopted:

1. Percy Hope Subdivision, described as lots 1-6 and 8-13, Percy Hope Subdivision Preliminary Plat, KPB File No. 2008-129.
 - a. Lot 7 is not part of the Percy Hope Subdivision local option zone.
 - b. Dog lots and kennels as defined in KPB 21.44.230 are a prohibited use within this LOZ.
 - c. The use of any lot within this district as a junkyard is prohibited.

- d. The minimum lot size shall be 65,340 square feet (1.5 acres).
- e. The local option zone applies to any further replats of Percy Hope Subdivision.

2. Discovery Park Subdivision, described as lots 1-14 Discovery Park Subdivision Preliminary Plat, KPB File No. 2008-108.

- a. Lots 8, 12, 13, and 14 are approved for commercial use as defined by KPB 21.44.230 and subject to the development standards in KPB 21.44.190.
- b. Dog lots and kennels as defined in KPB 21.44.230 are a prohibited use within this LOZ.
- c. The use of any lot within this district as a junkyard is prohibited.
- d. The minimum lot size shall be 65,340 square feet (1.5 acres).
- e. The local option zone applies to any further replats of Discovery Park Subdivision

SECTION 3. That KPB 21 44.230 is hereby amended by inserting the following definition in alphabetical order within the section (after the definition of “Industrial, light” and “Kennel”:

Junkyard means a facility or area for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded material or equipment. Scrap or discarded material includes but is not limited to metal, paper, rags, tires, bottles, motor vehicle parts, machinery, structural steel, equipment, and appliances. The term includes facilities for separating trash and debris from recoverable resources, such as paper products, glass, metal cans, and other products which can be returned to a condition in which they may again be used for production.

SECTION 4. That these Local Option Zoning Districts shall be recorded in the Seward recording district.

SECTION 5. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF SEPTEMBER, 2009.



Milli Martin, Assembly President

ATTEST:


Johni Blankenship, Borough Clerk

Yes: Fischer, Knopp, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin

No: None

Absent: None