



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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**MIKE NAVARRE
BOROUGH MAYOR**

MEMORANDUM

TO: Blaine Gilman, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Mike Navarre, Borough Mayor

FROM: Max Best, Planning Director 

DATE: February 1, 2016

SUBJECT: Ordinance 2016-03, An Ordinance Amending KPB Chapters 21.44 and 21.46
Regarding Local Option Zoning, and Repealing KPB 21.50.050-Relating to Fines
and Reenacting as KPB 21.50.055

The Kenai Peninsula Borough Planning Commission reviewed the subject ordinance during their regularly scheduled January 25, 2016 meeting.

A motion to recommend approval of Ordinance 2016-03 was postponed by unanimous consent with the request that the Assembly schedule an additional public hearing as well as a work session with the Planning Commission to discuss the proposed changes of the ordinance.

Attached are the unapproved minutes of the subject portion of the meeting.

AGENDA ITEM F. PUBLIC HEARINGS

7. Ordinance 2016-03, An Ordinance Amending KPB Chapters 21.44 and 21.46 Regarding Local Option Zoning, and Repealing KPB 21.50.050 Relating to Fines and Reenacting as KPB 21.50.055

Mr. Best stated that Ms. Montague gave an overview during introduction to the Assembly for this ordinance. This was kind of a team effort between the sponsors, Mr. Johnson, the Mayor's Office, Holly Montague, Bruce Wall and himself. He stated Ms. Montague will give an overview of the ordinance.

Staff Report given by Holly Montague

PC Meeting: 1/26/16

The current LOZ ordinance has been on the books since 2000 and prior to that there were three LOZ's formed with their own set of rules. That was why in 2000 it was adopted that there be a set menu of residential and various other zones however it was very difficult to actually form one of these. One of the reasons for that was that the process was unduly cumbersome on people. It takes 2/3rds of the people door bellling to get an LOZ off the ground. It was time-consuming. They found in the past with some other ones that because they are relying on the people who want the LOZ to educate about it sometimes the information wasn't exactly as would be conveyed by the Borough. It was realized that the process was not really workable.

Staff started working with the sponsor of the ordinance and changing the process. As they looked at the ordinance they realized there were also issues of substance with the actual zone themselves that would have enforcement or interpretation issues so it became an overall rewrite of the local option zoning process.

Currently, there needs to be 75% of the owners to petition. The change that was made was that basically anyone can come in and talk to the Planning Department about how to form a Local Option Zone. It would actually take six people who were interested in forming a local option zone to sign an application. The Planning Department would take it from there and they would hold a community public meeting to map it out and educate the neighborhood about what local option zoning means. After that point, it would come before the Planning Commission for a hearing and ultimately go before the Assembly for a public hearing and final adoption. Also, included in the process is basically a ballot that can be made at any time by an owner within the district to let the Assembly know whether or not they want this district.

Several zones have been deleted from the ordinance because they have never been used and it didn't make sense to have certain zones such as Industrial. Right now, industrial can be done anywhere in the Borough so it didn't make sense to have that kind of a zone. The zones that have never been used or probably never would be were deleted.

The Rural Residential, the Single Family Residential, Multi-Family Residential and the Residential Waterfront districts were retained. One new zone was added which was R-2, Small Lot Residential District and was meant for half acre lots because there are several neighborhoods in the Borough that have a community water system.

Another major change was with Home Occupations. The proposed ordinance lists standards and as long as a homeowner complies with those standards then they could operate their home occupation. If there are complaints that they are exceeding those standards then they would be in violation and would have to dial it back to operate within those standards to make sure they don't detract from the residential character of the neighborhood. In the proposed ordinance there is a list of prohibited uses that are not conducive to being a home occupation. Some of them would be motor works, bars, restaurants and marijuana businesses.

There is also a 500 foot protective buffer around an LOZ from uses that are regulated by KPB 21.25. For example, a material site could not operate within 500 feet of the LOZ which is basically an added buffer to the buffer that already exists to protect the people who have taken that initiative to form a residential neighborhood.

There are side and rear yard setbacks which are fairly typical within the City limits. One of the new things is that if a landowner is developing within an LOZ then they need to give notice to the Borough that they are

going to be building on their lot. Staff wants to make sure that landowners don't violate that setback by putting a structure that may be very difficult to remove.

To assist in understanding the changes made by this ordinance, following is a sectional analysis that gives brief explanations of the changes.

Local Option Zoning District (LOZD)

KPB 21.44.010. Purpose.

This section has been slightly revised to remove reference to the petition process which is proposed for repeal.

KPB 21.44.020. State and Federal Agencies regulated.

This section is revised to more accurately reflect the law that state and federal entities may be exempt from local regulation unless a statute provides otherwise. AS 38.30.020 specifically requires state projects to comply with local land use regulations.

KPB 21.44.030. Formation Methods.

The title of this section is changed from "Initiation Procedures" to accurately reflect the revised content of the section. The requirement that the record owners of $\frac{3}{4}$ of the parcels within a proposed LOZD petition to form the LOZD has been removed. This required a lot of footwork on the part of the interested property owners, lead to inaccurate representations of local option zoning to the community, and placed difficult time constraints on the formation process. In the proposed ordinance any number of property owners can meet with the planning department to discuss formation of a local option zoning district.

Former section B is deleted as unnecessary to the process which allowed Advisory Planning Commissions to propose local option zoning districts.

The formation of LOZDs as a companion to preliminary plat of an area is retained. To date, eight LOZDs have been formed at the time of subdivision.

KPB 21.44.040. Formation requirements.

The title is revised from "Area and Petition" requirements to more accurately reflect the content of the section.

Section A. The minimum number of lots to be included in an LOZD remains at 12. In a waterfront residential district 30% of the lots must still be waterfront. Language is clarified so that lots cannot be excluded from the district which will create "donut holes."

The planning department will prepare a map based on standards to form a homogeneous district. These standards are land use, location, access, soils, topography, availability of utilities, encumbrances, and permits.

Conditional uses regulated by KPB 21.25.040 may not be located within 500 feet of a local option zoning district. The nature of local option zones is such that lots on the outer parameters of a local option zone may still be directly abutting the very uses they seek to prohibit in a residential area. However, if a conditional use preexists the LOZD, the LOZD may be formed within that 500 foot boundary as the property owners will be on notice that the disfavored use already exists.

Section B. This subsection is revised to reflect that the owners of six lots proposed for regulation file an application for an LOZD, rather than a petition with $\frac{3}{4}$ of the property owners signatures.

Section C. Once a signed application is filed with the planning department the planning department holds a community meeting to explain the process and effect of forming an LOZD and to receive input from the neighborhood about the formation of the LOZD. After this meeting and considering the standards set forth in KPB 21.44.040(A) planning staff makes a recommendation to the planning commission and assembly regarding the formation and boundaries of the district.

Section D. Parcel sizes and numbers in a subdivision can change through the replat process. This new

section clarifies the date which will be used to determine whether a proposed LOZD meets the formation requirements with regards to parcel size and numbers.

Section E. An abutting property owner whose parcel exceeds the size of those allowed in the LOZD may request the owner's parcel be included in the LOZD.

KPB 21.44.050. Public hearings and notification requirements.

This section does not have substantive changes. It is revised to reflect that a neighborhood application, rather than a petition, is filed with the planning department.

KPB 21.44.060. Assembly Action.

This section is revised to clarify that LOZDs should still meet the minimum formation requirements, e.g. lot size and number of lots, at the assembly approval stage. The section is amended to allow property owners an opportunity to sign an advisory statement for or against formation of the LOZD for the assembly's consideration.

KPB 21.44.070. Variances.

This section has been placed more appropriately after all the formation and application criteria is set forth and is now KPB 21.44.095.

KPB 21.44.080. Application.

Subsection C simplifies and expands the language requiring compliance with other laws to include state as well as federal law. Subsection D is deleted as LOZDs pre-existing the 2000 rewrite are addressed later in the chapter.

KPB 21.44.090. Local Option zoning map.

This section is modernized to reflect that LOZD mapping will be available on the borough website.

KPB 21.44.095. Variances.

Renumbered from KPB 21.44.070.

KPB 21.44.100. Prior existing structures.

The current section is modified to allow an application for reconstruction to be within 12 months, rather than six months, of damage or destruction of the structure.

KPB 21.44.110. Nonconforming uses.

This section is clarified as to who may appeal a nonconforming use determination—the applicant/property owner and the property owners within the LOZD. Additionally, conditions may be placed on the nonconforming use to protect the residential nature of the LOZD. For example, hours of operation or screening requirements could be implemented that would diminish the commercial appearance and promote the residential appearance of the property.

KPB 21.44.120. nonconforming lots.

This section has not changed.

KPB 21.44.130. Home Occupations.

Much of the substance of the standards for a home occupation are not changed, however, language is added to clarify those standards which should aid in interpretation and enforceability.

Paragraph (C)(4) is deleted as being redundant of the nuisance language added to (C)(3).

Paragraph (C)(5) is clarified to note that retail sales are allowed where they are incidental to the service being provided by a home occupation, e.g., the hairdresser who sells shampoo or a piano teacher who may sell lesson books or sheet music that are used in providing piano instruction.

In paragraph (C)(6)-(12) outside storage of equipment or personal property and vehicles is limited to promote the residential character of the LOZD. One nonresident employee of the home occupation is allowed, and off

street parking shall not be used by the home occupation.

Subsection D. The standards must be continuously met by the home occupation.

Subsection E. The list of allowed occupations is revised to clarify that the occupations listed are illustrative of a number of occupations that may qualify as home occupations as long as the standards and conditions are met. The list of occupations that could meet the conditions of a home occupation are exhaustive, therefore, specifically allowed home occupations are deleted since even these home occupations could be disallowed if the businesses became so active that they created impacts such as increased traffic and noise that undermined the residential nature of the lot which is the subject of the home occupation.

Subsection F. A list of uses specifically disallowed as home occupations is added.

Subsection G. The standard notice regarding enforcement of violations pursuant to KPB 21.50 is added.

Subsections H-I. The requirement for home occupations to obtain a permit is deleted. As long as home occupations are operated within the requirements of the standards and conditions they are allowed.

KPB 21.44.135. New Structures-Development Notice.

In order to avoid building within established setbacks a notice is required prior to constructing a structure or a permanent foundation in an LOZD.

KPB 21.44.140. Rezoning.

Language is added clarifying how the number of signatures is calculated for a rezone petition. It is also clarified that the community meeting required for an original LOZD application is not required for a rezone. The planning commission and assembly processes and hearings are still mandatory.

KPB 21.44.150. Violations—Enforcement.

This section remains unchanged.

KPB 21.44.160. Single-Family residential district (R-1).

A maximum lot size is added for all LOZDs of five acres as this will avoid the problem of pulling large parcels into a residential LOZD which may be suitable for a number of different uses. A paragraph is added to limit the amount of lot area that can be covered with structures to preserve open space on lots and between houses consistent with a residential zoning scheme.

Livestock and pet provisions are added, allowing for a reasonable amount of animals in residential areas but not so many that they should rise to the level of nuisance by noise, odor, or other negative impacts associated with animals that are not consistent with a residential neighborhood. Other uses that detract from residential character such as outhouses or collecting junk vehicles are also prohibited.

KPB 21.44.165. Small lot residential district (R-2).

This new zone is similar to the single family residential zone; however, the minimum lot size is lowered to 20,000 square feet. The LOZD is meant to accommodate those subdivisions in the borough outside cities that have community water or sewer. The setbacks are less than those in the R-1 zone because of the smaller lot size.

KPB 21.44.170. Rural residential (R-R).

The minimum lot size in this zone is 100,000 square feet, and the maximum is five acres. The setbacks are greater than those in the R-1 zone due to the larger lot size. A larger number of pets or livestock are allowed given the larger minimum lot size in the district. There are also conditions regarding the disposal of animal waste.

KPB 21.44.175. Residential - Waterfront (R-W).

This district has a lot size minimum of 40,000 square feet and maximum lot size of 100,000 square feet. Setbacks are similar to the R-1 district which has the same lot size requirements. A difference from the R-1 zone is that one or two rental cabins are allowed depending on whether the primary use of the lot is a single family home (2 rental cabins allowed) or a duplex (one rental cabin allowed).

KPB 21.44.180. Multi-Family residential district (R-M).

This district is renamed and allows for a multi-family dwelling unit, not to exceed four units.

KPB 21.44.190. Mixed use district (C-3).

This district is deleted as it is not relevant in an area that does not have an overall zoning plan.

KPB 21.44.200. Industrial District (I).

This district is deleted as it is not relevant in an area that does not have an overall zoning plan.

KPB 21.44.210. Residential Conservation District (R-C).

This district is deleted as it is not relevant in an area that does not have an overall zoning plan.

KPB 21.44.220. Record notice of local option zoning district.

The requirement that the petitioners pay the recording fee is omitted as there is no longer a petition process to form an LOZD and ultimately any zone is approved by the assembly.

KPB 21.44.230. Definitions.

Definitions are added regarding various kinds of animal or livestock to aid in interpretation and enforcement of the code. Definitions of specific types of home occupations are eliminated. As stated above there are numerous business endeavors that could qualify as home occupations and it would not be possible to define them all.

KPB 21.44.240. Table 1. Local Option Zoning Districts.

The table is deleted and will be a separate document available on the planning department website.

KPB 21.46.040. Single-Family Residential (R-1) Districts.

For the sake of continuity and consistency the first three LOZDs formed prior to the adoption of standardized zoning districts in 2000 are incorporated into the zoning district list in KPB chapter 21.46.

KPB 21.46.100. Preexisting LOZDs.

This section grandfathers structures and uses in the three first LOZDs as of the adoption date of this ordinance.

KPB 21.50.050. Fines.

The fine schedule is repealed and reenacted as KPB 21.50.055. Specific reference to certain zoning districts are deleted in favor of fines applicable to all LOZDs. This is consistent with including the first three LOZDs formed in the general LOZD ordinance.

KPB 21.46.060, KPB 21.46.070, 21.46.080 and KPB 21.46.090 have been deleted as these types of districts no longer exist (Residential Conservation district, Mixed Use district, Industrial Mixed Use district and Industrial district).

END OF STAFF REPORT

Commissioner Foster stated that a major change was the maximum lot size requirement within the districts which seems counterproductive. He asked for the logic behind that change since someone may have a 10 acre parcel and wanted to put a conservation easement on it so that there was some green space in the district. Ms. Montague replied that if someone wants in a LOZ and the lot exceeds the normal size then they can still opt in. Someone with a large parcel cannot be forced in. One of the biggest challenges with the Local Option Zoning Ordinance was that it was being used to stop large property owners from doing what they want to do on their property. There are so many things that can be done on a parcel that is over 5 acres due to the fact that there is no zoning in the Borough. It would be totally different if the Borough had real land use zoning. It seems to be a good place to draw the line as to what parcels are most likely and most conducive to be residential parcels. It would help prevent that idea that there are a lot of 1 acre lots and want to pull in the 30 acres lot next door that may have something else in mind for their property.

Chairman Martin interpreted that there couldn't be an extraction permit within 500 feet of the LOZ boundary. Mr. Best replied that was correct. Someone could not establish a conditional use permit with a regulated activity in KPB 21.25 within 500 feet. The distance would go from the outer boundary of the Local Option Zone 500 feet. It wouldn't preclude someone if they had a large parcel from operating on that parcel as long as they were 500 feet from the Local Option Zone. Chairman Martin asked how many acres was 500 feet from one side of a 40 acre parcel. Mr. Best replied that it was 15.15 acres.

Commissioner Glendening asked who get the votes for a Local Option Zone. Mr. Best replied that it only takes 6 votes to bring the application forward with a minimum of 12 lots. It would be one lot equals one vote. If someone owns 6 lots then they could conceivably bring in an application. Chairman Martin stated that someone couldn't hurry and subdivide into half acre lots prior to the vote. Ms. Montague stated that has been an issue come up several times and has been addressed. The status of the lots would be recognized at the application time.

Commissioner Glendening asked if the LOZ overrides covenants. Ms. Montague replied that the Borough doesn't enforce covenants. It is conceivable that covenants and a LOZ could conflict with each other because the Borough doesn't enforce covenants but the LOZ is something the Borough will enforce.

Commissioner Ruffner asked for clarification of the maximum lot size requirement in each of the zones. Ms. Montague clarified that if someone wants to opt in and their lot is larger than the 5 acres then they would be allowed to opt in. Ultimately, it would be up to the Assembly to make the decision whether or not to include that large lot within the LOZ. Commissioner Ruffner understood that but he didn't want to preclude the case of having a larger parcel be part of a LOZ. Ms. Montague stated that it was specifically addressed in the ordinance that large lots can opt in. Mr. Wall pointed out that it was noted in KPB 21.44.040 (E) which states, "The owner of a parcel contiguous to a proposed LOZD which is larger than the maximum allowed lot size within the LOZD may request that the Borough include the parcel in the LOZD." Commissioner Ruffner stated that was for an abutting parcel but asked if that would also include a closed parcel. Ms. Montague stated that would still meet the definition of abutting.

There being no further questions, Chairman Martin opened the meeting for public comment.

1. Travis Penrod, 36860 Virginia Dr., Kenai
Mr. Penrod asked if all the existing LOZ's are grandfathered in.

Ms. Montague replied yes, that issue actually came up at the Assembly meeting. An amendment has been drafted to make it clearer that the existing LOZ's and the uses as of the date of introduction are grandfathered.

Mr. Penrod asked if they would have records of when the LOZ's were formed to govern it by. He expressed concern with the fact that he would be grandfathered into an ordinance that was going away and a new one was taking its place. The proposed ordinance has some really good features to it but he felt that it was important to retain the one that they fought so hard for.

Ms. Montague replied that the uses, lots and structures as they exist are grandfathered. If they want to make changes to a structure that would not be in compliance with the new code then the new code would apply. The new code would apply to the changes of the structure or lot. If there aren't any changes then they would be grandfathered in.

Mr. Penrod stated that his current LOZ applies to any subdivisions after that in that boundary. There are two subdivisions that are being subdivided in his addition and should be adopted in their R1 residential zone.

Mr. Best asked if he was asking if they would still play by the rules that they were established under. Mr. Penrod agreed. He asked if it meant that someone could subdivide property and it would be zoned under the new rules because it was subsequently changed even though it was within their boundaries of their subdivision. There wasn't going to be a LOZ inside an LOZ with different rules.

Mr. Best understood the question to be if the current rules were still in place even if the new LOZ ordinance passed. The answer is that the LOZ's would be subject to the new rules. The things that are established now are grandfathered but any changes would fall under the new rules. There will not be two sets of rules in a local option zone. The new set of rules that are established will be set in place for all R1's.

Mr. Penrod stated that the effort put in to develop his current LOZ was unbelievable. His LOZ is valid effectively by putting in this new zoning rule in place has nullified the one that is currently in place. He stated that somebody with a larger lot can subdivide it and opt out of the LOZ under the new rules. A property owner can petition to be removed from the LOZ after the fact.

Ms. Montague stated that even under the current rules a landowner could petition to rezone and try to get out of a LOZ but whether that would be granted is an entirely different question. They can't stop somebody from petitioning to try to get out of a zone. She stated that the rezoning is at KPB 21.44.140, Rezoning which states, *"Amendments to LOZD's may be initiated to repeal a zone change the type of zone or modify the boundaries of the zoning district... (1.) Any resident of the district may request an amendment to a zoning district provided that a petition is submitted bearing signatures of the owners of more than three-fourths of the lots being rezoned. Lots with multiple owners require the signatures of the simple majority of the owners of the lot. (2.) A landowner of property contiguous with the boundaries of the local option district may request an amendment to the district to include his or her property."*

Mr. Penrod stated that he was opposed to this whole process. How can someone put forth an effort then change the rules on how that was put forth.

Chairman Martin stated that the new proposed ordinance is more restrictive than the current one. He asked what some of the things were in relaxing the rules. Mr. Penrod replied that the way a landowner can opt out of the zone.

Commissioner Ecklund stated that the new text was underlined with the text that was being deleted was in brackets in the proposed ordinance. The current ordinance stated that a landowner could opt out of the LOZ. The current ordinance states, *"Any resident of the district may request an amendment to a zoning district provide that a petition is submitted bearing signatures of more than three-fourths of the property owners within the area being rezoned."* She stated that is in the current ordinance is still applicable under his LOZ.

Commissioner Foster asked if it was the maximum lot size that was causing him an issue. There is a 30 acre parcel that is within his LOZ and under the proposed ordinance he would have an argument to get out because the maximum lot size is 5 acres. Mr. Penrod replied that it very well could be. The existing LOZ process is very labor intensive. The proposed regulations address some issues like having a barn in a R1 zone and marijuana which makes it more valid. Chairman Martin noted that the proposed LOZ regulations were more restrictive.

Commissioner Foster stated that a 500 foot buffer has also been added to the regulations. Mr. Penrod stated that a person could effectively put a conditional use permit right up to the border of the property with the current regulations. He stated that at least it would create a buffer with the new proposed regulations.

There being no further comments or questions, the public hearing continued.

2. Al Chong, 41710 Stone Ct

Mr. Chong stated that years ago there were six lots on Keystone that wanted to do an LOZ but it didn't go through. He understood that the Planning Commission was going to arbitrarily set up a LOZ in the Keystone Estates without any further discussion with people that have bought there and lived there. The majority of the property has Bed & Breakfast businesses.

Mr. Best replied that there was a push a number of years ago to do a Waterfront LOZ District near Keystone Estates but did not go through. The current Keystone Estates was already subject to certain requirements within their Local Option Zone. What they are having them do is conform to the new set of rules. He stated that anybody that has anything in there now will be able to continue to have them. Staff will take inventory of

what is in each of the LOZ's and that will be ok to have however there won't be any additional ones if they are not in conformance.

Mr. Chong asked about the amount of car trips that can go in and out of the property.

Mr. Best replied that is a requirement for a home occupation. If they are already exceeding that now then they pinched him down to meet that regulation. He stated that Mr. Chong is subject to the regulations of the Local Option Zone since he lives in one now. Mr. Best stated that he was already in an area that is already regulated by the Borough.

Mr. Chong wanted to know what the regulations were.

Mr. Best suggested that Mr. Chong come into the Planning Department and see him to find out what his LOZ regulations were. He also stated that Mr. Chong could also give him comments at the Assembly meeting when this was up at their next meeting.

There being no further comments or questions, the public hearing continued.

3. Louise Soltis, 36750 Virginia Dr, Kenai

Ms. Soltis lives in the Diamond Willow Estates. She was at the meeting because they had questions because it was confusing that they notice that current LOZ's would be grandfathered in. The base concern she has which was the main reason they did this was so they didn't want a big gravel pit in their back yards. Ms. Soltis asked if the new regulations would make it possible for these people to go ahead and develop a gravel pit in that field.

Mr. Best replied no, they would have to pass the same test as they did before. It would take 75% of the LOZ property owners stating that they agree that that parcel could be removed from the LOZ. He didn't think they would be able to get out.

Ms. Soltis asked if they were still protected within the LOZ with what was put in place. She understood that they were trying to make it easier for people to develop a LOZ.

There being no further comments or questions, the Public hearing continued.

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

MOTION: Commissioner Carluccio moved, seconded by Commissioner Lockwood to recommend approval of KPB Ordinance 2016-03, An Ordinance Amending KPB Chapters 21.44 and 21.46 Regarding Local Option Zoning, and Repealing KPB 21.50.050 Relating to Fines and Reenacting as KPB 21.50.055

Commissioner Ecklund stated that there were new restrictions within each of the districts and asked if they were being pulled in from other municipalities or borough ordinances. Ms. Montague replied that they looked at how other municipalities approached these kinds of ordinances. They looked at other entities with how they handle things like livestock and home occupations. Commissioner Ecklund noticed that they followed the ADA component on service animals and included miniature horses.

Commissioner Glendening asked why the 500 foot buffer with taking a big chunk out of neighboring properties if it involves a gravel pit. Mr. Best replied that it reflects back to KPB 21.25 which is confine animal feeding operations, halfway houses, and gravel pits. When one of these is formulated then one of those can't apply within 500 feet. Someone could formulate a LOZ close to one of these if they want to, but someone with those things in KPB 21.25 can't move into someone else's area. Commissioner Glendening felt that if a LOZ appears before a gravel pit was established then it takes away the enjoyment, use and prosperity of their property. He wasn't sure that was the proper use of this definition.

Commissioner Foster expressed concern regarding the maximum lot size and the logic behind it. It is restricting somebody because they could do some things on a larger lot. It seems that there doesn't need to

be a maximum lot size, it isn't in the current regulation. Mr. Best replied that any size lot could opt into a LOZ if they want to regardless of the size. Someone couldn't form a bunch of small lots and force them into the Local Option Zone.

Commissioner Ruffner asked if this has been introduced to the Assembly. Ms. Montague replied yes, it has been introduced with a public hearing scheduled for February 2, 2016. Commissioner Ruffner asked if that was the first hearing of two. Ms. Montague replied that it was only set for one hearing on February 2, 2016.

Chairman Martin expressed concern with the fact that when the new regulations take effect a person has a neighbor who has started an LOZ that was allowed in the old ordinance but not allowed in the new ordinance. That is the line that is drawn by having two different classes of people living in these grandfathered LOZ's. It seems like a little bit of contention.

Commissioner Ruffner stated that these regulations were a little too big to swallow in just one meeting. He was inclined to make a motion to postpone so that they have more time to digest the proposed regulations.

Commissioner Carluccio asked when the Assembly was having a public hearing on this ordinance. Ms. Montague clarified that it was scheduled for one public hearing on February 2, 2016.

Commissioner Ruffner was not ready to make a recommendation to the Assembly. Ms. Montague stated that the Planning Commission's recommendation could be that they hold another public hearing on the proposed ordinance which would allow the Planning Commission to hold another public hearing. Mr. Best believed the sponsor; Mr. Johnson of the ordinance would and honor the Planning Commission's recommendation and wishes for more time to review the ordinance.

Commissioner Glendening asked if it was possible to have a work session with the Assembly to hash all this out. He agreed with Commissioner Ruffner that this was quite a bit to digest. If it was voted on today, he would be voting no.

Commissioner Ecklund stated that there are a lot of new and additional regulations. She asked if there was much discussion when it was introduced at the Assembly. Ms. Montague stated that there was a Q&A session when this ordinance was introduced to the Assembly.

Commissioner Ecklund asked if anyone could attend the committee meeting when this was discussed. Ms. Montague replied that anyone could attend the committee meetings but the Commission could also recommend that they postpone action so that they could have a work session with the Assembly.

Commissioner Ecklund noted that they were not putting zoning in place in the Borough. They were looking at changing the Local Option Zoning. Someone still has to come and say they want zoning in their subdivision. She felt this needed more review since there are so many changes.

AMENDMENT MOTION: Commissioner Ruffner moved, seconded by Commissioner Glendening to recommend postponement of Ordinance 2016-03 and request that the Assembly also schedule an additional public hearing and a work session with the Planning Commission to discuss the proposed changes of the LOZ ordinance.

AMENDMENT VOTE: The motion passed by unanimous consent.

CARLUCCIO YES	COLLINS YES	ECKLUND YES	ERNST YES	FOSTER YES	GLENDENING YES	HOLSTEN ABSENT
ISHAM YES	LOCKWOOD YES	MARTIN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	11 YES 2 ABSENT

Mr. Best asked if the Planning Commission wanted a work session among themselves or with the Assembly. Commissioner Ruffner replied that his intent was to have a work session with the Planning Commission and Assembly.

1. Bill Ohler, PO Box 655, Soldotna, AK 99669 – 34211 Keystone Dr.
Mr. Ohler just moved here from Montana and bought a place in Kenai Estates. He read through the proposed regulations that seemed to be more restrictive. Mr. Ohler appreciated the recommendation for postponement. He stated he would like the privilege of coming to the Work Session so that he would know what was going on.

~~AGENDA ITEM G. ANADROMOUS WATERS HABITAT PROTECTION (KPB 21.18) – None~~

~~AGENDA ITEM H. VACATIONS NOT REQUIRING A PUBLIC HEARING – None~~

~~AGENDA ITEM I. SPECIAL CONSIDERATIONS – None~~

~~AGENDA ITEM J. SUBDIVISION PLAT PUBLIC HEARINGS~~

Chairman Ruffner reported that the Plat Committee reviewed and conditionally approved 4 preliminary plats.

~~AGENDA ITEM K. OTHER/NEW BUSINESS~~

~~AGENDA ITEM L. ASSEMBLY COMMENTS – None~~

~~AGENDA ITEM M. LEGAL REPRESENTATIVE COMMENTS~~

Ms. Montague had no further comments and was available to answer questions.

~~AGENDA ITEM N. DIRECTOR'S COMMENTS~~

Mr. Best had no additional comments and was available to answer questions.

Chairman Martin asked if there were questions for Mr. Best. Hearing none the meeting continued.

~~AGENDA ITEM O. COMMISSIONER COMMENTS~~

Commissioner Glendening asked for an excused absence from the February 8, 2016 Planning Commission meeting.

Commissioner Ruffner was happy to be at the meeting and happy that they are not working on some emergency declaration.

Chairman Martin asked for an excused absence from the February 8, 2016 Planning Commission meeting.

~~AGENDA ITEM P. PENDING ITEMS FOR FUTURE ACTION~~

~~AGENDA ITEM Q. ADJOURNMENT~~

MOTION: Commissioner Ecklund moved to adjourn the meeting at 10:08 p.m. Seeing and hearing no discussion or objection, the motion passed by unanimous consent.

Patti Hartley
Administrative Assistant