




Kenai Peninsula Borough

Planning Department
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MEMORANDUM

To: Ron Long, Assembly President
Members, Kenai Peninsula Borough Assembly

From:  Max Best, Planning Director

Date: August 1, 2006

RE: ORDINANCE 2006-01 (Martin) SUBSTITUTE, AN ORDINANCE REPEALING
KPB CHAPTER 21.26 AND ENACTING KPB CHAPTER 21.29, MATERIAL
SITE PERMITS

Agenda Item N. 1.

Committee Lands

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Please consider the following suggested amendments to the subject ordinance that the planning and legal departments believe are important for clarity and consistency.

21.29.030(A)(8)(j) (assembly packet page 91 near the bottom). The word "equipment" should be deleted and replaced with the word "areas." This is a correction to the proposed amendment to this section. The July 21, 2006, memo mistakenly deleted the word "processing," although the final version (assembly packet page 104) is correct. The paragraph in the memo should read as follows:

- j. location of any processing areas [EQUIPMENT] on parcel;

21.29.050(A)(2) (assembly packet page 94). Change the period at the end of the second sentence to a comma and add: "unless otherwise conditioned by the planning director or planning commission." This paragraph in the memo should read as follows:

- 2 [1]. Buffer Zone. A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. Where an easement exists, a buffer shall not overlap the easement, unless otherwise conditioned by the planning director or planning commission.

21.29.050(A)(2)(d) (assembly packet page 95). Delete "stream turbidity" from the second to last sentence so the paragraph reads as follows:

- d. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or water bodies. Specific findings are required to alter the buffer requirements of KPB 21.29.050(A)(2)(a) in order to minimize negative impacts from surface water diversion. For purposes of this section, surface water diversion is defined as erosion, flooding, dehydration or draining, [STREAM TURBIDITY,] or channeling. Not all surface water diversion results in a negative impact.

21.29.050(A)(5) (assembly packet page 96). Add "to within 300 horizontal feet of a water source" as follows:

5. Excavation in the Water Table. Excavation in the water table to within 300 horizontal feet of a water source [WILL REQUIRE] may be permitted with the approval of the planning commission based on the following [INFORMATION]:

If the amendment is approved, the section would read as follows:

5. Excavation in the Water Table. Excavation in the water table to within 300 horizontal feet of a water source may be permitted with the approval of the planning commission based on the following:

21.29.080 (assembly packet page 101) This section was renumbered but not amended by the July 21 amendment memo. The section appears on assembly packet page 110 and amendment is requested as follows:

21.29.080. [VOLUNTARY P] Permit termination.

[AT ANY TIME, A PERMITTEE MAY REQUEST TERMINATION OF THEIR CLUP BY APPLYING ON A FORM PROVIDED BY THE PLANNING DEPARTMENT.] When a permit expires, is revoked or a permittee requests termination of their permit, a [A] review of permit conditions and site inspections[(s)] will be conducted by the planning department to ensure code compliance and verify site reclamation. [THE PLANNING DIRECTOR SHALL ISSUE THE TERMINATION DOCUMENT.] When the planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

If this amendment is approved, the section would read as follows:

21.29.080. Permit termination.

When a permit expires, is revoked or a permittee requests termination of their permit, a review of permit conditions and site inspections will be conducted by the planning department to ensure code compliance and verify site reclamation. When the

planning director determines that a site qualifies for termination, a termination document shall be issued to the permittee.

21.29.120(A) (assembly packet page 111). Change KPB 21.29.040(B) to KPB 21.29.120(B) in the third line, as it is a reference to the next subsection and was inadvertently missed while renumbering.

21.29.120(B) (assembly packet page 111). Change as follows:

B. Owners of sites must have applied to be registered as a prior existing use prior to January 1, 2001. Any prior existing use that has not operated as a material site between May 21, 1996, and May 21, 2011, is considered abandoned and must thereafter comply with the permit requirements of this chapter. The planning director shall determine whether a prior existing use has been abandoned. After giving notice to the parcel owner that a PEU is considered abandoned, a parcel owner may protest the termination of the PEU by filing written notice with the planning director on a form provided by the planning department. When a protest by a parcel owner is filed, notice and an opportunity to make written comments regarding prior existing use status shall be issued to owners of property within a one-half mile radius of the parcel boundaries of the site. The owner of the parcel subject to the prior existing use may submit written information, and the planning director may gather and consider any information relevant to whether a material site has operated. The planning director may conduct a hearing if he or she believes it would assist the decision-making process. The planning director shall issue a written determination which shall be distributed to all persons making written comments. The planning director's decision regarding termination of the prior existing use status may be appealed to the planning commission within 15 days of the date of the notice of decision.