

Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*
Robert Ruffner, Planning Director *RR*

FROM: Samantha Lopez, Senior Manager *SL*

DATE: June 23, 2022

RE: Ordinance 2022-27: Amending KPB 21.25 to Add Definition of "Aggrieved Party" and Amending KPB 21.29 to Remove the Term "Impartial", to Clarify the Well-Monitoring Timeline, to Define "Quarterly", and to Add a "Definitions" Section (Mayor)

The Material Site Assembly Subcommittee has been considering code revisions to KPB 21.25 Conditional Land Use Permits and KPB 21.29 Material Site Permits. The schedule has been slightly delayed, so staff is proposing some smaller code revisions which would provide clarification, and greatly assist staff in implementing these chapters of code:

- Amending KPB 21.25 Conditional Land Use Permits:
 - Define "Aggrieved Party". This would reduce the number of people who could file an appeal per KPB 21.25.100. Right now, chapter 21.25 lacks a definition for an "Aggrieved Party". Presently, this means individuals who are not adversely affected, but disagree, to appeal the decision of the hearing officer. By defining the term, it will reduce litigation to those people who can show they are directly and negatively impacted. Further, it clarifies that the KPB is not considered an aggrieved party unless it has a fee property interest that is affected by the decision, though it may still be a party of record and enter an appearance in an appeal to defend any claims of procedural error or claims that the decision violates KPB code or state law.
- Amending KPB 21.29 Material Site Permits:
 - Remove the term "impartial" from KPB 21.29.050(A)(4). This term proved contentious at the Planning Commission level during a recent Conditional Land Use Permit hearing. The term is not used elsewhere in code, and is not defined. Removing the term would eliminate any misperceptions.
 - Defining "quarterly" will provide much-needed clarification to the well-monitoring timeline found in KPB 21.29.050(A)(5)(C). Current code intends for quarterly water samples to be taken, but it is not

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explicitly said. By using and defining the term, it will provide clear guidelines to both applicants and staff.

- Add a "definitions" section to KPB 21.29.

Your consideration of this ordinance is appreciated.