

**Rasor, Jessica**

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**Subject:** FW: <EXTERNAL-SENDER>Written Comments for Assembly Meeting Jan 21 Regarding Proposed Ordinance 2024-35  
**Attachments:** Language for Amendment of 2024-35 12-10-24.pdf; FEMA's Flood Mapping Update 12-31-24.pdf

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**From:** Frank Turpin <[fgturpin@gmail.com](mailto:fgturpin@gmail.com)>  
**Sent:** Tuesday, January 21, 2025 11:54 AM  
**To:** G\_Notify\_AssemblyClerk <[G\\_Notify\\_AssemblyClerk@kpb.us](mailto:G_Notify_AssemblyClerk@kpb.us)>  
**Cc:** [cindy eklund@gmail.com](mailto:cindy eklund@gmail.com)  
**Subject:** <EXTERNAL-SENDER>Written Comments for Assembly Meeting Jan 21 Regarding Proposed Ordinance 2024-35

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I wish to submit 2 comments:

1. Proposed amendment to Ordinance 2024-35, amending KPB 21-06. This language was submitted in previous comments to the Planning Commission on December 10, 2024.
2. Copy of a briefing paper describing the issue. This was submitted to Senator Dan Sullivan and Representative Mark Begich.

Thank you,

Frank Turpin  
President, Kenai River Keys Property Owners Association  
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Phone & text 703-579-7593

PROPOSED AMENDMENT TO ORDINANCE 2024-35 AMENDING KPB 21.06

By the areas of special flood hazard identified by the Federal Insurance Administration in the scientific and engineering report entitled "Flood Insurance Study" (FIS) for the Kenai Peninsula Borough, Alaska dated May 19, 1981, revised on July 5, 1983, December 6, 1999, September 27, 2013, [AND ]October 20, 2016[.], and February 28, 2025, excepting that portion of the February 28, 2025 revisions for the Kenai River downstream of its confluence with the Killey River as shown on FIRM Maps 02122C1060F and 02122C1080F. This segment of the Kenai River at the present time is undergoing change due to rapid sediment transport from the Killey River, and until such time as sediments migrate downstream and this change stabilizes, flood elevations for this portion of the Kenai River will remain as those identified on FIRM Maps dated May 19, 1981. These areas are depicted on the effective Flood Insurance Rate Map (FIRM) and Digital Flood Insurance Rate Map (DFIRM) Panels. The map panels numbered 020012- 1350 and 1700 have been deleted and the areas depicted by these panels are not subject to the terms of this chapter. Excluding these panels, the FIRMs are adopted by reference and declared to be a part of this chapter. The FIRMs are on file at the planning department. The best available information for flood hazard as outlined in KPB 21.06.040(C)(3) shall be the basis for regulation until a new FIRM or DFIRM is issued which incorporates the base flood plain data obtained pursuant to that section.

FEMA'S FLOOD MAPPING UPDATE FOR THE KENAI RIVER  
Prepared by Kenai River Keys Property Owners Association  
December 24, 2024

FEMA is in the process of updating flood maps for a segment of the Kenai River downstream of Skilak Lake. This effort is based on more accurate elevation surveys for floodplain areas in concert with hydrology models for river behavior. Topographical surveys using aerial LIDAR techniques provide a more precise depiction of surface elevations than ground cross-sections used in the past. Some sections of the Kenai River are using FEMA flood maps that were adopted in 1981, and the effort ongoing now is to update these sections.

Unfortunately, FEMA's update of flood maps is a snapshot in time which unreasonably impacts residences in floodplains where the river is undergoing substantial change. The effect of higher flood elevations creates a cascade of issues for property owners, including difficulty in permitting for new and replacement structures, the need to raise houses and protect riverbanks, and the availability and cost for flood insurance. The Kenai River changes from year to year, and we live with that, but substantial changes require subjective interpretation which FEMA is ill-equipped to address. Because of this, we are asking for deferral of new mapping for a section of river undergoing substantial change.

The process for approving updates to FEMA flood maps requires the Kenai Peninsula Borough to adopt revised mapping. Revisions define floodplains, floodway areas, and the contours of base flood elevations. Borough ordinance for floodplain management requires a floodplain permit for structures built within a floodplain. If the structure is to be constructed within an area designated as floodway, more restrictive criteria are applied to certify that floodwater elevations do not increase. These elevations are defined as "base flood elevations" and the bottom floor of residences need to be above this level.

Kenai River Keys Subdivision and Stephenie No. 2 Subdivision are the first residential areas adjacent to the river downstream of Skilak Lake. Kenai River Keys Property Owners Association represents the 130 lot owners in these two subdivisions. The subdivisions were approved by the Borough in 1972 and 1981, and the Property Owners Association was established in 2000.

In 2022, the Association recognized problems in the FEMA updated flood study and submitted comments to the Borough. FEMA responded saying that their aerial surveys were a more accurate modeling of the topography, so no changes were justified. The Association then provided the same comments to FEMA through the Borough hoping for more thoughtful consideration. Without survey data to dispute FEMA's data, our comments were not considered an appeal, and again, not addressed.

This demonstrated flaws in FEMA's evaluation process. First, FEMA dealt with the Borough as representing the public, not with individual property owners impacted or with the Property Owners Association. Although we knew the flood study was being prepared, property owners had little information about key assumptions and how the study was being finalized. We had informal discussions with Borough staff regarding status but had no access to FEMA's process.

Second, we did not question the precision of FEMA's aerial survey or their hydrology model, so our comments were not in conflict with their data. According to their guidelines, FEMA can only consider information indicating that proposed flood hazard determinations are scientifically or technically incorrect. Being data-centric, FEMA interprets this guideline as offering no leeway for common sense, the evolving nature of temporary changes, or photographs.

Our two subdivisions are located on the Kenai River across from a tributary known as the Killey River. The Killey is a braided river conveying melt water from glaciers in the Harding Ice Field as well as drainage from bottomlands between the glaciers and the Kenai River. Until recently, braiding began about 10 air miles from where the Killey drains into the Kenai River, with the main flow contained in a well-established but meandering riverbed known as the Lower Killey.

About 15 years ago, the Killey River abruptly changed course. Aerial photographs show a landslide about 5 air miles upstream from the Kenai River that cut off the Lower Killey. Its flow then diverted into a much smaller channel known as the Middle Killey. We immediately noticed increased flow in the Middle Killey, but about 4 years ago we began to observe massive amounts of sediment and debris entering the Kenai River. The Middle Killey was widening and straightening as the old streambed eroded and this sediment migrated downstream. Sediment reaching the Kenai River extended more than halfway across and filled a popular fishing area known as Wally's Hole. In the several years since, we have observed this sediment migrating further downstream in the Kenai, especially during high water events. The Kenai River now runs muddy as sediment migrates many miles downstream.

FEMA chose a time period to update their flood study while this substantial change was occurring. Their LIDAR aerial survey captured this sediment migration into the floodplain surrounding our subdivisions. Their survey was a snapshot in time that was a worse case for our property owners. A moose could walk across the Kenai River without swimming. With a decrease in floodplain volume, the hydrology model used by FEMA indicated our base flood elevations had increased over 2-feet and much of our subdivisions were now in the more critical floodway area within the floodplain.

We do not dispute the precision or accuracy of FEMA's flood study. But we very much dispute the timing for updating flood maps for our section of the river. Our comments to FEMA asked that they defer updating these flood maps until eroded sediments disperse and the river stabilizes. Even though these sediments migrate downstream and will remain in the Kenai for many years, it is unreasonable to account for this impact in only the one mile of river adjacent to our subdivisions.

Over the 50 years since our subdivisions were approved by the Borough, the record flood event occurred in 1995 and flooded some homes and garages. This record event has not been exceeded since. Houses in the subdivisions have been raised or rebuilt above this record flood elevation. Our last flood event occurred in September 2022 and did not reach the floor level of any house in our subdivisions.

The Borough considers the 1995 flood as a 60-to-70-year event because there's no prior data for flood heights. FEMA's modeling is based on a 100-year flood event, and we have no idea whether the 1995 flood levels were inflated to adjust to a 100-year period. The FEMA staff and

engineers that we were given an opportunity to talk to in October 2022, seemed reasonable and competent, but we've concluded since that reason and competence are not FEMA objectives.

Base flood elevations in our subdivisions are proposed to be raised over 2-feet and the floodway designation expanded to include nearly all properties. This negatively affects property values and considerably increases the cost of permitting for improvements and maintenance with no assurance that a permit will be approved. The Borough estimates the cost of preparing a "zero-rise" permit application at \$10,000 to \$40,000. With difficulty and uncertainty for permitting building foundations, our subdivision will be driven to become an RV park.

In August of this year FEMA issued a Letter of Final Determination to the Borough, giving the Borough six months to adopt the new flood mapping. FEMA's hammer is twofold: continued participation in National Flood Insurance Program and eligibility for disaster assistance under the National Disaster Protection Act. FEMA has no right to place the elected officials of the Borough in opposition to their constituents. Flood mapping is presented as a take it or leave it mandate without revision, partial approval or deferrals. Property owners see FEMA hiding behind local officials, which in a schoolyard would be condemned as BULLYING.

We have proposed to the Borough that adoption of flood maps for our section of the Kenai River be deferred. This section of river begins at the upstream end of FEMA's study and extends downstream beyond Kenai Keys Subdivision. This section would remain subject to the Borough floodplain management but under current flood mapping, not the revised maps.

We filed concerns to both the Borough and to FEMA in August 2023 and January 2024, within the designated period for appeals. Our letters were dismissed by FEMA as not meeting the data requirements of CFR Title 44, Chapter I, Part 67. But that regulation recognizes appeals based on possession of knowledge or information indicating that elevations proposed by FEMA are scientifically or technically incorrect. We do not challenge the technical correctness of FEMA's data, but we very much challenge the scientific correctness of basing flood maps on a snapshot of a river undergoing substantial change. The impact of this snapshot will continue for many years, if not decades, and private property owners that are impacted are in no position to redo FEMA's flood study.

The Borough is fearful of repercussions from partial adoption, jeopardizing continued participation in the NFIP and federal disaster relief programs. The Borough is caught in a no-win situation, and there's no excuse for FEMA knowingly using a snapshot of data before the river stabilizes. Had FEMA done its aerial LIDAR survey 5 years ago, or 5 years from now, the likely result would mirror historical flood levels and not add 2-feet to the base flood elevations in our subdivisions.

Accordingly, we ask you to intervene with FEMA to delay implementation of revised flood maps for a section of the Kenai River downstream of the Middle Killey River. This section of river encompasses two map panels, numbers 02122C1060F and 02122C1080F. Mapping for this section of river should be delayed until sediment migration has stabilized, otherwise our subdivisions will be stuck with skewed flood elevations for the next 40 years.