



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 2016-01, An Ordinance Approving Correia Single-Family Residential (R-1) Local Option Zoning District and amending KPB 21.46.040

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

A motion passed by unanimous consent to recommend approval of Ordinance 2016-01, an ordinance approving Correia Single-Family Residential (R-1) Local Option Zoning District.

In the Ordinance, please make the following amendment to the last WHEREAS statement:

WHEREAS, the Kenai Peninsula Borough Planning Commission, at its regular meeting of January 25, 2016, recommended approval by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARINGS

6. Ordinance 2016-01, An Ordinance Approving Correia Single-Family Residential (R-1) Local Option Zoning District and amending KPB 21.46.040

Staff Report given by Bruce Wall

PC Meeting: 1/25/2016

This ordinance would approve the formation of a Single-Family Residential (R-1) Local Option Zoning District (LOZ) in the Cohoe Loop area. Most of the lots within this proposed Local Option Zone is within the Correia Subdivision.

A petition has been submitted by property owners of nine parcels for the formation of an R-1, Single-Family Residential local option zoning district (LOZ), which is three-fourths of the 12 parcels within the proposed district. It meets the criteria of having 75% of the property owners submitting the petition. Pursuant to KPB 21.44.010, property owners may petition the assembly for greater restriction on land use than otherwise provided in Title 21 of the KPB Code. The proposed LOZ is consistent with Goal 6.5 of the 2005 KPB Comprehensive Plan which is to maintain the freedom of property owners in rural areas of the borough to make decisions and control use of their private land.

KPB 21.44.060 states, "The assembly shall approve, disapprove, or modify the proposed local option zoning district. The assembly reserves the right to disapprove a local option zoning district in its legislative capacity notwithstanding the district's meeting the criteria of this chapter."

It is the Planning Commission's job to make a recommendation to the Assembly.

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment.

1. Kim Rudge-Karic, 53965 Alexander Ave, Kasilof
Ms. Rudge-Karic is a resident in the subdivision. She and her husband own properties on Alexander Ave which includes the large 10 acre parcel. They have lived there for 32 years and have seen a lot of changes with Cohoe Loop. A lot of new and improved subdivisions are coming into their area. The large parcels are turning into smaller lots.

Ms. Rudge-Karic stated that the area has been stable for many years with property changing owners at a slow rate however recently they have had six property sales since the Fall of 2013. One of the big reasons had to do with the death of a family member of one resident, an adjacent parcel was sold. There was a person who bought that property who ended up bull dozing an area to erect three new 20x30 cabins so he intended to start a rental business. This threw the neighborhood into a state of disarray and instability. She stated that four out of the nine parcels that are located on Alexander Ave went up for sale immediately. A neighbor and her had to employ a lawyer to remove one of the trailers that was sitting on the place where they wanted to build these three cabins. The three cabins did not get built; they were built to the foundation level so they were abandoned because the man ran out of money. Ms. Rudge-Karic stated that another property owner who later sold out due to the excessive traffic and the camping on that land where the cabins were supposed to be constructed. She stated that a trooper who lived there sold out because he couldn't even buy his kids bikes because of the traffic. This was how it was affecting the neighborhood. She submitted pictures of what they have had to put up with in their neighborhood.

Ms. Rudge-Karic stated that she and some of her neighbors got together to see what they could do to keep their neighborhood stable. She looked and found this Local Option Zoning with the Kenai Peninsula Borough. The Correia Subdivision currently has only two covenants on it. One covenant was a 20 foot road setback from buildings and the second covenant said that there must be legal septic systems on the properties if there was a residence.

Ms. Rudge-Karic stated that the inconsiderate property owner put the property up for resale and advertised that it would be suitable for RV parking. They had a group from Anchorage that came down and considered purchasing it to put in an RV camping park which only created more disarray and instability in their neighborhood. The neighborhood has had to deal with trespassing, tree cutting, fish guts, and trash in the forest, dog feces, campfire smoke, road dust and even firearm discharge between Cohoe Loop Road which created much concern.

Ms. Rudge-Karic wanted to have a little bit of control over their environment because they got really leery of any future land sales and who would move in there and what they would do. They did not want gravel pits, RV camping parks, junk car lots, or gas well operations. All of these things would affect their quality of life and their well water quality and septic systems in their neighborhood. So they applied for this R1 Local Option Zoning with the Kenai Peninsula Borough. She stated they want to keep their residential area which includes all of Alexander Ave and the north side of Arctic Ave as a residential community. They didn't want these other things coming in and creating havoc on their little street. It is pretty quiet now with being able to walk their dogs, the kids can ride their bikes; it is quite nice and quiet now.

Ms. Rudge-Karic looked into their neighborhood residential area and it seems that Correia Subdivision 2 which is directly north on Acys Avenue has 10 covenants to keep it a residential area. Correia Subdivision Hannah Addition which is directly northwest across Cohoe Loop Rd has restrictive covenants to keep it has a residential district. There is Sprucehaven which is northwest across Cohoe Loop Rd is platted as a residential area and then there is a 40 acre parcel west of the 10 acre parcel that is now up for sale. He has restrictive covenants on the sale contract.

Ms. Rudge-Karic commented that they would like to be part of the larger neighborhood and part of the greater residential community within Cohoe Loop Rd. They would like to keep the character of their residential neighborhood and not have to worry about the stress when parcels are sold. Hopefully, they can attract owners who care about the character of the neighborhood and not just for commercial land use.

Chairman Martin asked if there were questions for Ms. Rudge-Karic.

Commissioner Glendening asked if all the property owners of the 12 parcels within the proposed local option zoning district support the local option zone. Ms. Rudge-Karic replied that 9 parcel owners signed the petition agreeing to the local option zone, 1 parcel owner objected to the zone and 1 parcel owner did not respond to her inquiry and initial letter. There is a parcel with three owners with one owner being deceased, one is going under cancer treatment in Texas and the other one lives in Anchorage. She would need two out of the three property owners to sign the petition however she couldn't get the two out of the three. Commissioner Glendening asked if they met the standard by the signatory requirement. Ms. Rudge-Karic replied yes.

Commissioner Foster asked about the requirement stated in the LOZ rewrite which states that the maximum lot size for lots within an R1 zone was 5 acres. He asked if the largest lot in the proposed LOZ was 10 acres. Ms. Rudge-Karic replied yes. Mr. Wall clarified that it would not comply with the new requirements but if it is approved prior to adoption of the new rewrite ordinance then it would be allowed to continue. The 10 acre parcel would be considered non-conforming but it would still be a legal and legitimate parcel within the local option zone.

Commissioner Ruffner asked if the 10 acre parcel was the landowner who objected to the proposed local option zone. Ms. Rudge-Karic replied no, she owns the 10 acre parcel and support the proposed local option zone.

Commissioner Carluccio asked if her 10 acres parcel could be resubdivided and if that would still be considered part of the zone. Ms. Rudge-Karic understood that someone could subdivide property down to 0.9 acres according to the R1 zone however she was not interested in subdividing her property. Chairman Martin stated that they were talking about the difference between a LOZ and the covenants across the road. Mr. Wall clarified that the ordinance states that the local option zone applies to any further replats within local option

zone which may be what was being read. He stated that the zoning does not go away by developing a new plat.

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

2. Travis Penrod, 36860 Virginia Dr, Kenai

Mr. Penrod presumed that the subject ordinance was pertaining to the Correia Subdivision Addition One. He asked if this included amending KPB 21.46.040. It sounds like this was approving it all in one action.

Mr. Best clarified that when a local option zone is approved then it gets listed in another part of the code. When it is approved it is put in the section as a R1 zone under KPB 21.46.040. Mr. Penrod understood that it was not amending the other but was amending the subject LOZ to add to the list of the other R1 LOZ's. The previous ones are set and grandfathered in.

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 Ecklund moved, seconded by Commissioner Lockwood to recommend approval of Ordinance 2016-01, An Ordinance Approving Correia Single-Family Residential (R-1) Local Option Zoning District and amending KPB 21.46.040 per staff recommendations.

Commissioner Ruffner stated he was supportive and happy to see one working the way that they intended the LOZ to work.

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

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.