



Kenai Peninsula Borough  
Planning Department

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**MEMORANDUM**

**TO:** Wayne Ogle, Assembly President  
Kenai Peninsula Borough Assembly Members

**THRU:** Charlie Pierce, Borough Mayor 

**FROM:** Marcus Mueller, Land Management Officer 

**DATE:** March 14, 2019

**RE:** Ordinance 2019-07; An Ordinance Amending KPB 21.46.040 Zoning A 160-Acre Parcel Creating the Murwood South Single Family Residential R-1 Local Option Zoning District.

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled March 11, 2019 meeting.

A motion passed by unanimous consent to recommend approval of Ordinance 2019-07, a ordinance amending KPB 21.46.040 zoning a 160-acre parcel or less, whether it be 120-acres or 80-acres, creating the Murwood South Single Family Residential R-1 Local Option Zoning District.

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

*WHEREAS, the planning commission reviewed this ordinance at its regularly scheduled meeting of March 11, 2019 and recommended approval by unanimous consent.*

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

AGENDA ITEM F. PUBLIC HEARING

2. Ordinance 2019-07, Amending KPB 21.46.040 Zoning a 160-Acre parcel creating the Murwood South Single Family Residential R-1 Local Option Zoning District.

Staff Report given by Marcus Mueller

PC MEETING: March 11, 2019

This Ordinance would amend KPB 21.46.040 zoning a 160-acre parcel creating the Murwood South Single Family Residential R-1 Local Option Zoning (LOZ) District. This single parcel of land is proposed to be for sale by Ordinance 2019-03 Substitute. The area adjacent to the parcel is subject to significant residential use. Residents in the area have expressed concern and interest that the 160-acre parcel maintains the residential nature of the area.

The borough has previously done local option zones on land sale parcels after creating subdivisions. In this case the parcel being proposed for local option zoning is prior to any substantial subdivision with the idea that the private sector can develop the subdivision. In looking at a single parcel LOZ this ordinance will waive some of the formation requirements such as the twelve lot rule. The ordinance also releases a deed restriction that would be imposed by Ordinance 2019-03 Substitute. The land sale ordinance, which went before the Assembly on March 5, 2019, was postponed so that it could come before the Planning Commission. The Planning Commission will see the land sale Ordinance as it has been amended on March 25, 2019. That land sale ordinance has a proposed deed restriction on the 160-acres. This ordinance, if it is adopted, will allow that deed restriction to be released in favor of the LOZ being the rules for the land. The major difference between the deed restriction and the LOZ is that the deed restriction as written allows for on-site use of gravel. The LOZ will not allow any significant moving of gravel. Only within house site development on the one acre lots will moving of gravel be allowed.

This does relate to the land sale ordinance and there is a proposed amendment to the 160-acre parcel. At the March 5<sup>th</sup> Assembly meeting the 160-acre was amended for the land sale to be reduced to 120-acres. It is expected that the LOZ Ordinance will be amended by the Assembly to 120-acres to match the proposed sale ordinance. It is expected that the remaining 40 acres will not be included in the proposal as it moves forward.

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment and read the rules by which public comment may be taken.

1. Carolyn Ostrander, 48585 Runner's Ave., Soldotna

Ms. Ostrander requests that the borough property at the end of Murwood Avenue be considered for this local option zone. This would prevent the property at the end of the road to be used as a gravel pit or an undesirable development in their residential neighborhood. As previously mentioned this property has issues with pollution and has a high water table. The neighborhood hopes to move the local option zoning forward so that the community can have some input in how this property is developed. She thanked the commission for their previous recommendations on the property and for listening to their concerns.

2. Paul Ostrander, 109 Birch St., Kenai

Mr. Ostrander owns a home in Murwood Subdivision directly across Murwood Avenue from the 160-acre parcel. He is supporting the local option zone. He wanted to commend Assembly members Bagley and Hibbert for the work they have done with the neighborhood. There have been multiple neighborhood meetings that they have attended. Many of the amendments that will be seen over the next month or two are because of their willingness to listen to the neighborhood and their concerns. Their work is appreciated.

Mr. Ostrander wanted some clarification on something Mr. Mueller mentioned. It was regarding the amendment that modifies it from 160-acres to 120-acres for sale. He wanted to know if the 40-

acres being removed will have local option zone apply to it or if it would remain without any local option zoning.

Commissioner Foster wanted to know if Mr. Ostrander's subdivision was within a local option zoning district. Mr. Ostrander said that their subdivision is not within a local option zone. They do have covenants that are more restrictive than the local option zone and are enforced in their subdivision. His wife is pursuing a local option zone for a portion of their neighborhood that would go on top of the covenants and it would mirror this local option zone. Commissioner Foster was glad to hear it because he found when one covenant is broken that soon many follow and soon anything goes.

Chairman Martin asked Mr. Mueller to address Mr. Ostrander's question. Mr. Mueller stated that it is expected that an amendment will go before the Assembly to reduce the 160-acre LOZ to 120-acres by removing the southwest corner. That is the area nearest the known contamination site. If this is done, the area removed will be not zoned and have no zoning parameters. This is a layered set of actions with land classification, local option zoning and the sale ordinance. He does not recall if the Assembly has made the amendment to the current classification proposal to reduce it to 120-acres or if they will be doing that in the future. If the Assembly does the amendment then it will not be zoned, not designated through classification, and not sold.

3. Tony Prior, 48650 Murwood Ave., Soldotna

Mr. Prior is directly across the street from the 160-acres. He also wanted to thank Assembly members Bagley and Hibbert for meeting with the neighborhood. They have listened and the removal of the 40-acres on the southwest corner is a step in the right direction. The known contamination site borders the other 40 acres in the southeast section. It is possible that the contamination has spread to both of the back 40-acres. He suggests that maybe 80-acres instead of just the 40 be removed.

Mr. Prior is in support of the local option zoning for the property that is directly across from their neighborhood. This will allow them to have an input on what maintains the property values of their homes. If the gravel onsite is disturbed it could cause interaquifer leakage. This then could possibly go into their aquifer that their wells draw from and could possibly contaminate their wells. The borough needs to do their due diligence and check into the whole backside before anything is done. He agrees and appreciates the time everyone has put into letting the local option zone be put in place.

Commissioner Ecklund wanted to know if he has read and was aware of what is contained in KPB 21.44.160, the rules by which a single-family R-1 LOZ operates and if the neighborhood is comfortable with those rules. Mr. Prior said they have and agree with them.

4. Robin Davis, 36485 Pingo St., Soldotna

Mr. Davis wanted to thank Brent Hibbert and Dale Bagley for all the support they have given them. They have had several neighborhood meetings in regard to this property and the sale of the property. They came to those meetings and listened to the neighbors and put together the legislature necessary to address their concerns. He is in support of the LOZ for the property as one of the neighbors in the area.

Mr. Davis wanted to update the commission on the status of the proposed K-Beach Advisory Planning Commission (APC). At a previous meeting many neighbors of Murwood asked for a delay in the sale of this property and for others in the K-Beach area to give them a chance to form an APC to advise the Planning Commission on all issues associated with the K-Beach area. The establishment of the K-Beach APC is moving forward. An APC has not been formed in over 20 years so staff has had to work on the process. One concerned citizen has to send a letter to the Mayor and Mr. Davis has done so. The Mayor responded promptly to the request to form the APC. Mr. Davis has more than the minimum signatures on the petition that are necessary but he wants to gain a few more. He currently envisions that the commission will be very comprehensive. His



current thoughts are that the APC boundary will go from the Soldotna city limits on K-Beach to Kasilof. That area is being looked at because there are many areas of concern such as business, residential home owner, agricultural and flooding. The mayor will appoint those that sit on the APC and he is hoping that at least one of the two registered professional civil engineers who live in the proposed area will be able to serve on the APC. There are a couple of other engineers, concerned business owners and homeowners that can be part of the APC.

5. Steve Widmer, 48425 Murwood Ave., Soldotna

Mr. Widmer is to the east of the 160 acres. He wanted to thank the Assembly members that joined them for several meetings for supporting their ideas and making this a more viable alternative. He is retired from law enforcement and moved to Murwood about 6 years ago. When he heard about a possible gravel pit he was very concerned about the traffic. Murwood is a busy road and he is raising a grandson and they have had some close calls on the road. He thinks if it is turned into a residential area with a 120-acre plan that it is a reasonable alternative versus having gravel trucks and the related traffic. He is in support of the LOZ.

Seeing and hearing no one else wishing to speak, the public hearing was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to forward Ordinance 2019-07 amending KPB 21.46.040 zoning a 160-Acre parcel creating the Murwood South Single Family Residential R-1 Local Option Zoning District onto the Assembly for approval.

Commissioner Carluccio wanted to discuss the mention of it being amended to 120-acres and if staff recommends that the commission amend the motion to reflect that possible amendment. Mr. Mueller recommended that at a minimum a discussion should be held. If the commission would like to amend the motion or reflect that they have considered that potential amendment in the discussion. Commissioner Carluccio stated that it appears it will be amended in some way, whether a reduction of 40-acres or 80-acres. An amendment that reflects a possible reduction in that amount may be needed.

Commissioner Ecklund as maker of the motion, and agreed upon by Commissioner Carluccio, to amend the motion to the following to acknowledge that the acreage may be less than 160.

**AMENDED MOTION:** Commissioner Ecklund moved, seconded by Commissioner Carluccio to forward Ordinance 2019-07 amending KPB 21.46.040 zoning a 160-acre parcel or less whether it be 120 or 80 that create the Murwood South Single Family Residential R-1 Local Option Zoning District onto the Assembly for approval.

Commissioner Ecklund commented that she was really glad to see this come forward. It seemed like the selling of the property was being rushed. She is glad that it was postponed and that the Assembly worked so well with the neighborhood to bring it back as an LOZ. She hopes more people that want to protect the area in which they live will look at the options of an LOZ to help minimize some undesirable activities.

**MOTION PASSED:** Seeing and hearing no discussion or objection the motion passed by unanimous consent.