

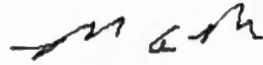
Kenai Peninsula Borough

Planning Department – Land Management Division

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP
Max Best, Planning Director MB
Scott Huff, Platting Manager SH

FROM: Marcus Mueller, Land Management Officer 

DATE: November 21, 2019

RE: Ordinance 2019-33, Amending KPB 20.10.030 and KPB 20.90.010 to Clarify Applicability of Subdivision Requirements (Mayor)

KPB Title 20 governs matters related to the subdivision of land within the Kenai Peninsula Borough. Language within this title has caused uncertainty about whether leases must meet subdivision requirements. To promote the efficient use of land within the borough, the land management division recommends that clarifying language be adopted to exempt leases from subdivision requirements.

KPB 20.10.030(A) provides that, "No person shall transfer, sell, offer to sell, or enter into a contract to sell land that must be subdivided under this ordinance until an approved final plat has been recorded." This language can be interpreted to apply to leases. This ordinance would clarify that KPB 20.10.030(A) does not apply to land leases.

Other Alaska municipalities have adopted similar language by either excepting leases from their subdivision requirements or defining the parameters for when leases would need to meet subdivision requirements. The proposed language is very similar to the language used by the Ketchikan Gateway Borough and the City and Borough of Juneau.

Currently, the borough requires itself to subdivide prior to leasing a portion of a piece of borough property. Due to efficiency and logistical issues, subdivision prior to leasing is not always in the best interest of the borough. Currently the borough does not affirmatively enforce private leases that strictly speaking would need to meet borough subdivision requirements. Exempting leases from the

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applicability of the subdivision requirements would provide clarity and allow for consistent treatment of leases.

If the borough continues to require subdivision prior to leasing a portion of larger parcels of land, it will result in subdivision of small lease areas within larger parcels. These subdivided areas for lease purposes would often be undesirable tracts of land and, under the current code, these tracts would require numerous exceptions to the subdivision requirements. Specific to communication tower sites, requiring subdivision is a burden that will cost the borough in lost revenue opportunity and also burden the development of communications systems.

In addition, requiring leases to meet subdivision requirements impacts private enterprise. Where a landowner wants to lease a small area of a larger parcel, requiring subdivision can leave the landowner with the option of either having to lease the entire parcel, even if the tenant is not in need of the entire parcel, or creating an undesirable tract to encompass the lease area which may only be used for a limited term. Such an option fails to promote the efficient use of land.

Your consideration of this ordinance is appreciated.