



Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

THRU: Charlie Pierce, Borough Mayor 

FROM: Max J. Best, Planning Director 

DATE: December 18, 2019

RE: Ordinance 2019-33; An Ordinance Amending KPB 20.10.030 and 20.90.010 to Clarify Applicability of Subdivision Requirements

The Kenai Peninsula Borough Planning Commission reviewed the subject Ordinance during their regularly scheduled December 16, 2019 meeting.

A motion passed by unanimous consent to recommend approval of Ordinance 2019-33.

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

WHEREAS, the Kenai Peninsula Borough Planning Commission held a public hearing on December 16, 2019, and recommended approval by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARINGS

3. Ordinance 2019-33, Amending KPB 20.10.030 and KPB 20.90.010 to Clarify Applicability of Subdivision Requirements.

Staff Report given by Marcus Mueller

PC Meeting: December 16, 2019

This will add language under Chapter 20.10.030. The statement reads, "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 amendment will have it go onto say, "For purposes of this provision the term "transfer" means transfer of ownership and does not include a lease, license or permit." In Chapter 20.90.010, the definition of subdivision would include "A designation of boundaries of a portion of a parcel of land solely for the purpose of a land lease is not a subdivision." This addresses a number of issues that are experienced in Land Management in working through land agreements. The language that is presently in code leaves open an interpretation that to lease land a subdivision of the land is required. Other municipalities have added versions of this language to clarify whether leases are intended to be part of subdivision requirements or not. This is following Ketchikan Gateway Borough and the City and Borough of Juneau. When working on communication tower leases Land Management has seen how the need for a subdivision does not make sense. There is a tower at the Nikiski Fire Station #1 and is integrated into the site. It is not practical to subdivide and if that prevents entering into a lease agreement it takes a major management or agreement tool away. When something like that is subdivided, it creates an impractical parcel. A subdivision was done for a communication tower by Tsalteshi Trails and it required almost every exception. The memorandum explains some other situations where it can make it awkward. The amendment to code that is proposed would make an affirmative statement that leases are not intended to invoke a subdivision requirement.

END OF STAFF REPORT

Chairman Martin asked if anyone from the public wished to comment on this item. Seeing and hearing no one wishing to comment, Chairman Martin closed public comment and opened discussion among the Commission.

MOTION: Commissioner Carluccio moved, seconded by Commissioner Bentz, to forward to the Assembly a recommendation to approve Ordinance 2019-33, amending KPB 20.10.030 and KPB 20.90.10 to clarify applicability of subdivision requirements.

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