



KENAI

July 20, 2021

Board of Adjustment Packet
Barnard/Schlehofer - Guide Service

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**BOARD OF ADJUSTMENT HEARING
JULY 20, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS**

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MATERIALS SUBMITTED BY PARTIES – None.

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AGENDA
BOARD OF ADJUSTMENT HEARING
JULY 20, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
<http://www.kenai.city>

Appeal of Planning and Zoning Commission Action Approving a Conditional Use Permit to Applicant, Dean Schlehofer, to Operate a Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. PREVIOUS MINUTES**
 - 1. Minutes of October 7, 2019 (ACG, LLC)
- D. OPENING STATEMENT**
 - 1. Brian Gabriel, Board Chair
- E. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**
- F. PUBLIC COMMENT (5 minutes)**
- G. STAFF REPORT (15 minutes)**
- H. APPELLANT**
 - 1. Dennis Barnard (30 minutes)
- I. APPELLEE**
 - 1. Dean Schlehofer (30 minutes)
- J. APPELLANT REBUTTAL**
 - 1. Dennis Barnard (10 minutes)
- K. APPELLEE REBUTTAL**
 - 1. Dean Schlehofer (10 minutes)
- L. APPELLANT CLOSING ARGUMENT**
 - 1. Dennis Barnard (5 minutes)
- M. APPELLEE CLOSING ARGUMENT**
 - 1. Dean Schlehofer (5 minutes)
- N. DELIBERATIONS (Deliberations may be held in public or adjudicative sessions)**

Please contact the City Clerk's Office at 907-283-8231 for additional information or questions.

MINUTES
BOARD OF ADJUSTMENT HEARING
OCTOBER 7, 2019 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
<http://www.kenai.city>

Appeal of Planning and Zoning Commission Action Granting a Conditional Use Permit to Applicant, ACG, LLC, to Operate an Approximately 250 Square-Foot Retail Marijuana Store within an Existing Commercial Building, Located at 12516 Kenai Spur Highway, Lot 2, C Plaza Subdivision.

A. CALL TO ORDER

The City of Kenai Board of Adjustment convened on October 7, 2019, in City Hall Council Chambers, Kenai, AK. Board Chair Brian Gabriel called the meeting to order at 6:00 p.m.

B. ROLL CALL

There were present:

Brian Gabriel, Chair
Tim Navarre
Glenese Pettey

Jim Glendening
Henry Knackstedt

C. MINUTES

1. Minutes of June 21, 2016
2. Minutes of August 23, 2016
3. Minutes of February 20, 2018

MOTION:

Board Member Knackstedt **MOVED** to approve the minutes of June 21, 2016, August 23, and February 20, 2018 and requested **UNANIMOUS CONSENT**. Board Member Navarre **SECONDED** the motion.

VOTE: There being no objections; **SO ORDERED**.

D. OPENING STATEMENT

Board Chair Gabriel provided an opening statement.

Board Member Molloy declared a conflict noting he had a relationship with Kenai Christian Church and may not be able to be unbiased in the matter and was excused.

E. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY

City Clerk Heinz administered the oath for all persons providing evidence and testimony.

F. PUBLIC COMMENT (5 minutes)

Kurt Hallum spoke with concern that marijuana would affect his grandkids stating some didn't feel comfortable bringing kids to the area. He also spoke about an article which reported that in the ten states with legalized commercial marijuana, neighborhoods with one or more establishment saw increased crime based on 2013 police data.

Al Weeks noted he was concerned about proliferation but understood City leadership's desire to be open for business. He suggested that, when building a community, leaders needed to be sure they were making a community where people wanted to live. He also spoke about his work in low income neighborhoods and how those neighborhoods catered to this industry.

G. STAFF REPORT (15 Minutes)

City Planner Appleby reviewed her staff report provided in the certified record noting the application was for a 250 square-foot Marijuana Retail Store located in an existing Marijuana Manufacturing Facility. She added that in 2017 Conditional Use Permits were granted for a Cultivation Facility and a Manufacturing Facility but the applicant only pursued the Manufacturing Facility. Ms. Appleby also reviewed Conditional Use Permit review criteria in Kenai Municipal Code and how the application met the review criteria.

Clarification was provided that she found no new uses in the area that conflicted with the buffer, the former City Planner did site visits to determine the main entrance of the church, and that she referred to his analyses; she added that there had been no complaints on that permit since its approval. Ms. Appleby noted the property was previously operated as a social club/alcohol establishment suggesting it could be assumed there was less traffic as marijuana establishment as compared to a bar.

H. APPELLANTS (30 minutes each)

1. Kenai Christian Church

Mr. Meyers noted he had been a minister at Kenai Christian Church for fourteen years, thanked the Planning and Zoning Commission for discussing the matter, and expressed appreciation for the time of the appeal board. He also expressed gratitude to the City Clerk for keeping communications open. Mr. Meyers stated he couldn't be present at the August Planning and Zoning Commission hearing but submitted his comments by letter for the Planning and Zoning Commission to read prior to the meeting.

When reviewing the video of the August 2019 meeting, Mr. Meyers re-stated a discussion the Commission had, referring to the 2017 decision and whether the use technically met the distance requirements in code and the establishment of the main entrance as the north entrance due to its use. He clarified that in fact, attendees of weddings and funerals used the west entrance because that was where the chapel was located. Mr. Meyers re-stated another discussion the Commission had regarding the limitations on where marijuana establishments could exist and the need to take emotion out of the decision on whether or not the application met the code. He argued that the applicant didn't meet the distance requirement, questioning where exactly the 504-foot distance was measured from and to, pointing out that the west entrance is 420-feet which was clearly within the buffer zone. Mr. Meyers pointed out the distances drawn on two different maps provided in

the materials but stated they were irrelevant due to the definition in code. He stated the west entrance was also a main entrance to the building and provided a list of events and reasons the west entrance was utilized. Mr. Meyers noted that grocery stores have multiple main entrances and likewise, the church had two main entrances.

Mr. Meyers called Robert DeVold as a witness stating Mr. DeVold started the congregation fifty years ago. Mr. DeVold noted when the applicants were considering converting the property, which was formerly a Moose Lodge, he met with Roger Boyd in his office and was told it would only be a cultivation facility and that it would never become a retail facility. He also noted the Planning and Zoning Commission met and approved the application for a cultivation facility adding that he had been told after the meeting that it would never become a marijuana retail store. Mr. DeVold noted it was right that most people didn't know the facility was there, currently. He added that people should keep their word if they could but recognized that rules could be changed; expressed concern that the rules of the game had changed.

Mr. Meyers noted Mr. DeVold had offered testimony in the 2017 decision that the McKinley Street entrance was used every day but the north entrance was used twice a week. He pointed out that in 2017 they were told the marijuana facility would not be open to the public.

Clarification was provided regarding the church's multipurpose room and occasional sports practices and games, the address on their postcard being 104 McKinley Street, packages were delivered and fire inspectors entered through the McKinley Street entrance as the administrative offices were located near that entrance, and there was not an accredited school in the building. There was discussion regarding the determination of the "main" entrance of the church, notification provided to the church regarding determination of the "main" entrance, and the different doors and accessibility. Mr. Meyers added that he gave a tour to two men, one of which he remembered to be Planning and Zoning Commission Chair Twait. It was noted the approach of the Alcohol and Marijuana Control Office's determination of distance was unknown and the church objected to the Conditional Use Permit for the manufacturing facility and testified to that at the time.

The City Attorney clarified the decision would not affect the manufacturing facility Conditional Use Permit.

2. David Hall

Mr. Hall explained he and his wife owned Northwood Plaza which they purchased in 2016, were rebuilding, and was fully occupied. He noted they saw it as an opportunity to bring new life to Kenai and the atmosphere drew them to the area, pointing out the major housing areas to north and south. He also noted the Moose Lodge was virtually non-existent when they purchased their building, had envisioned purchasing the Moose Lodge building and creating a town square, and were disappointed that they missed the opportunity.

Mr. Hall stated the plaza space was used by many people to minister to others noting bible studies were often held in the open areas of the building or in the coffee shop. He added he was trying to make it a safe place to be proud of where people didn't have to worry about negatively influencing kids or men.

Mr. Hall spoke about the Friendship Mission being nearby noting the high level of involvement in the Mission, taking the men in, helping with needs, and ministering to them. He noted men from the Mission have attended the church and the negative distractions of drugs and alcohol nearby.

He pointed out this Conditional Use Permit put a Retail Marijuana Store right in front of them. He also discussed distances to other sensitive uses pointing out a nearby dance studio.

Mr. Hall discussed the value of neighborhoods not being significantly impacted and questioned how that was determined suggesting that public safety was debatable. He suggested nesting a marijuana retail store in the middle neighborhoods, a church, and a dance studio was not healthy for a community. He also suggested that if religious activities taking place on a regular basis in the Plaza were considered, the 500-foot buffer would not be met. Finally, Mr. Hall added that, from his observation during the work at the Northwood Plaza, he would say that the McKinley Street entrance was used greater than any other entrance, stating that on Sunday evenings, 80% of the parishioners used the McKinley Street door.

During discussion, it was noted one of the businesses in the building had a liquor license and Mr. Hall pointed out it was a beer and wine license and stated he hadn't seen any negative effects. Mr. Hall clarified that both tenant spaces and foyer spaces were used for bible studies and other church related meetings. He added that he had been approached by a group in 2019 who wanted to put a church in one of the tenant spaces but he was already in discussions with another tenant. Mr. Hall was asked if he objected to the manufacturing facility; he indicated he did object to the manufacturing facility but he didn't appeal at the time because he didn't know it could be appealed.

I. **APPELLEE** (30 minutes)

1. ACG, LLC

Mr. Theiler noted he had been involved throughout the marijuana legalization initiative and had heard all of the horror stories and crime statistics noting it was unfortunate the conversation was not evolving as there hadn't been a single negative impact in any retail establishment in Kenai or Anchorage. He pointed out that before his company purchased the facility, there was a liquor license associated with the facility and, in the past, black market drug deals frequently took place near the building and since they've been in the facility, they've done a lot of work to run off the dealers. He also pointed out that his company moving into the area has made the area safer as they have thirty-two webcams around the area. He added that marijuana was an option for people moving away from alcohol, pills, and escape. No groups in Northwood plaza meet definition.

Mr. Theiler addressed Mr. Hall's appeal by stating that no groups meeting in the Northwood Plaza met the definition which would require a buffer. Mr. Theiler addressed Mr. Meyers' appeal point, re-questioning the 500-foot buffer point, by stating that on two separate occasions the Planning and Zoning Commission definitively pointed out the marijuana facility met the criteria. He also reviewed the staff report which also stated the facility met the review criteria. He noted the same arguments had all also been made in 2017. He suggested a covered arctic entry was created because it would serve as the main entrance. He has added that he and his staff have watched surveillance video and there was no question the north entrance of the church was the main entrance used and there was no evidence, surveys, or other testimony submitted to the contrary that would change or correlate to how the Planning and Zoning Commission had erred in judgement in any way.

Mr. Theiler clarified that the entrance matter was elaborated on in great length at the first hearing and nothing had changed adding that the City Planner spent time watching activities at the church and the north entrance, with the covered arctic entryway, was predominantly used. He also noted that testimony from people using the church and city staff witnessing and observing was what city staff relied on in making the determination that the north entrance was the main entrance; there

was no interference or influence from ACG, LLC. Mr. Theiler also clarified that Eric Durlath was no longer with the ownership group, that initially they applied for permits for both a manufacturing facility and a cultivation facility but withdrew the request for the cultivation facility and weren't thinking about retail at the time but, economics required a bigger market share.

J. APPELLANT REBUTTAL (10 minutes each)

1. Kenai Christian Church

Mr. Meyers addressed Mr. Theiler's statement that nothing had changed by stating that his involvement in and getting up to speed had changed. He noted he wasn't using hysterics or shenanigans but instead was pointing out facts because he felt facts were being overlooked. He also noted there were already three marijuana retail stores in the area, why add a fourth suggesting the area was saturated. Mr. Meyers noted the word "approximately," was included in distance measurements provided. He also addressed the arctic entry was constructed at the north entrance because the McKinley street entrance didn't have the space. Finally, Mr. Meyers pointed out that when the city staff observed the church, they didn't observe 24-hours a day, suggesting they only observed on Sunday morning.

Mr. Meyers clarified the church didn't have the opportunity to establish a main door from their point of view, explained which doors were used for certain functions, and stated that he believed the west door off of McKinley Street was the main door. He added that some functions take place in the multipurpose room because they outgrew the building off of McKinley.

2. David Hall

Mr. Hall addressed Mr. Theiler's statement by stating that there was new information, specifically clarifications on footage adding that he believed the main door of the church was clearly the door on McKinley Street. He added that, given the definition of the 1,000-foot rule, it could be that Northwood Plaza's buffer should be 1,000-feet because nearly every form of group, including educational study groups and bible study groups, utilizes that mall at some point in time. He also noted that they don't have covers over any entrances to denote a main entrance.

K. APPELLEE REBUTTAL (10 minutes)

1. ACG, LLC

Mr. Theiler stated he wasn't poking fun or being hypocritical noting he was used to outrageous accusations regarding the marijuana industry and, when the accusations didn't come to fruition, they became silly and not based on any reality. He added that one building has one main public entrance and re-stated that on two separate occasions the Planning and Zoning Commission found, supported by the land survey, that the covered entrance was the main entrance and met the 500-foot criteria. Mr. Theiler also noted that city staff conducted site visits during the week and on multiple Sundays and observed the public primarily using the covered main entrance adding that his own staff, observed most people using the covered main entrance. Mr. Theiler suggested the cannabis industry was not being met with unconditional love but instead, gamesmanship and fear. He added that they had initiatives for their staff relating to healthy eating and eliminating alcohol and cigarettes. Finally, Mr. Theiler noted nothing correlated that marijuana stores were wrecking neighborhoods but instead had helped hundreds of people in the community.

L. APPELLANT CLOSING ARGUMENT (5 minutes)

1. Kenai Christian Church

In closing, Mr. Meyers thanked the Board for their time, stated they weren't against cannabis but pointed out buffer zones were in place because the City saw impacts which needed the buffer.

2. David Hall

In closing, Mr. Hall thanked the Board adding that it was an honor to get up and speak. He noted that a main door isn't normally locked during business hours pointing out that, during testimony, it was stated the north entrance of the church with the covered entrance, was locked during the week. He also pointed out that he couldn't lock any of the main doors in the Northwood Plaza. Mr. Hall suggested marijuana was a gateway drug to other drugs but recognized marijuana was beneficial to some, medically, and also recognized the very serious decision to be made. Finally, Mr. Hall stated he opposed anything that altered one's mind.

M. APPELLEE CLOSING ARGUMENT (5 minutes)

1. ACG, LLC

In closing, Mr. Theiler noted they provided a survey from Segeser Surveys which stated their position, that their facility was adequately 515 feet from the only main entrance that's been found twice adding that the survey was the only evidence that stated that.

Clarification was provided that staff could be a fact witness and testify to the facts they observed and given the need for a determination of a main entrance, the Board of Adjustment would need to make that determination.

The definition of church, as provided in the code, was provided.

Clarification was provided that the parties didn't appeal in 2017 because they didn't know they could at that time.

N. DELIBERATIONS (Deliberations may be held in public or adjudicative sessions)

Board Chair Gabriel advised that the Board had 30 days to provide a decision.

With no further business before the Board, it adjourned into adjudicatory session for deliberation.

The adjudicatory session was continued to October 9, 2019 at 5:30 p.m.

After reconvening in open session the board considered the following:

MOTION:

Board Member Pettey **MOVED** to reverse the decision of the Planning and Zoning Commission approving the Conditional Use Permit for ACG, LLC, to operate a retail marijuana establishment, because the main public entrance to the church now faces McKinley Street and does not meet the 500-foot required separation distance between the proposed retail establishment and the main public entrance to the church. Board Member Glendening **SECONDED** the motion.

VOTE:

YEA: Gabriel, Navarre, Knackstedt, Pettey, Glendening

NAY:

MOTION PASSED UNANIMOUSLY.

DRAFT

BOARD OF ADJUSTMENT HEARING

Notice of Hearing

The Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday. For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. Notice of the time and place of such hearing shall be mailed to all interested parties and to all property owners within three hundred feet (300') of the property involved at least fifteen (15) days prior to the hearing. Notices to the appellant and/or applicant for the action or determination must be sent by certified mail, return receipt requested.

Type of Hearing

The Board of Adjustment Hearing will be conducted in compliance with the City of Kenai Municipal Code 14.20.290, reasonable regulations of the Board and other applicable law. The Board of Adjustment is a quasi-judicial board. The hearing is public and is recorded. All persons presenting evidence and testimony shall do so under oath, administered by the City Clerk. This hearing will be conducted less formally with regard to rules of evidence and other court rules of procedure than in a judicial courtroom.

The hearing before the Board is de-novo; the Board will review both the facts and law presented during the hearing and submitted timely. Evidence and written arguments to be considered by the Board must be submitted to the City Clerk by **noon on Friday, July 9, 2021**. A packet containing all evidence of written argument, timely submitted, will be provided to all parties as soon as possible after the submission date. The Clerk will include in the packet the record previously submitted to the Planning and Zoning Commission. A list of witnesses any party intends to have testify during the hearing must be provided to the City Clerk by the date evidence is due. New tangible evidence not timely submitted to the City Clerk will normally not be admitted unless good cause is shown as to why the evidence could not be timely submitted. A decision to include the evidence will be decided by the board. All evidence considered in this matter should be in the record before the Board as previously provided to the parties. The Appellant, or party applying to the Board, has the burden of proof to show entitlement to relief.

Hearing Procedures

Any requested revision to the agenda or procedures by a party must be made to the Board and approved by the Board prior to the start of the hearing.

Members of the public may have five minutes each to address the Board prior to any presentations.

Staff will be allowed 15 minutes to provide a report to the Board at the beginning of the hearing.

Following the staff report, each party will be allowed 30 minutes to present its case. The Appellants will present their cases first. During the parties' presentation of the case, the parties may call witnesses. Any witness that testifies during the presentation of the case by either party, unless excused by the Board with concurrence of the parties, must remain available to be called during rebuttal, at which time cross examination may occur. Each party will be allowed 10 minutes for rebuttal and 5 minutes for closing arguments.

Upon recognition by the Chair, Board Members may question the parties and their witnesses. Questioning by the Board may take place at any time before the hearing is closed. Questioning by the Board and responsive answers will not count against a party's time.

Hearing Deliberation & Decision

The Board may undertake deliberations immediately upon the conclusion of the hearing on appeal or may take the matter under advisement and meet at such other time as is convenient for deliberations until a decision is rendered.

The Board requires a quorum of four and a majority of those assembled to make a decision. The Board must issue a decision within 30 days of the hearing date. The Board may reverse, remand or affirm, wholly or in part, or may modify the order, requirement, decision or determination, as ought to be made, and to that end shall have the powers of the body from whom the appeal is taken.

Deliberations need not be in public and may be conducted with the City Attorney. A written decision will be issued and will indicate how each board member voted. Copies of the decision shall be promptly posted on the City's official website and mailed to all parties participating in the appeal. The written decision shall trigger the timeline for any appeal to the Superior Court.



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-16**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A CONDITIONAL USE PERMIT FOR GUIDE SERVICE.

APPLICANT: Dean Michael Schlehofer

PROPERTY ADDRESS: 345 Dolchok Lane

LEGAL DESCRIPTION: Lot 4, Block 4, Basin View Subdivision Part 3

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04926211

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on April 15, 2021; and,

WHEREAS, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met pursuant to Kenai Municipal Code 14.20.150; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on May 6, 2021, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The proposed guide service and lodging meets the intent of the Rural Residential Zone (RR) to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The specific intent in establishing this zone is:

(1) To separate residential structures to an extent which will:

- (A) Preserve the rural, open quality of the environment;
- (B) Prevent health hazards in areas not served by public water and sewer.

(2) To prohibit uses which would:

- (A) Violate the residential character of the environment;
- (B) Generate heavy traffic in predominantly residential areas.

The guide services and lodging are proposed to take place in an existing single family home, there are no proposed physical changes that would violate the residential character of the neighborhood. The maximum capacity of four bedrooms for lodging is not anticipated to generate heavy traffic in the neighborhood, and likely results in roughly the same number of vehicle trips as other single family homes in the neighborhood. The KMC 14.22 Land Use Table provides that Guide Services and Lodging are a conditional use; therefore, a conditional use permit must be granted for the operation of these services. The applicant has provided illustrations of the layout of the property and floor plans/elevations of the single family home.

2. *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: This parcel is approximately 1.94 acres in size and contains a large paved driveway in the front of the residence to accommodate parking of guest vehicles. The aerial photo provided by the applicant indicates that the distances between the structures and the tree line provides a natural buffer between the properties. The parcels located to the North, South, East and West are zoned rural residential and have similar single family residential uses as the subject property. The value of adjacent properties should not be significantly impacted by the addition of guide services and lodging uses, the physical characteristics of the property remain unchanged.

3. *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai. The tourism industry is an important component for economic development within the City of Kenai. The guide services, bed and breakfast, cabin rentals, and lodging businesses support the tourism industry. Low-density residential land uses typically include single-family low-density, large lots with individual on-site water supply and wastewater disposal systems.

Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

- ED-9 Capitalize on the tourism industry by marketing Kenai as a destination for recreational activities, conventions, festivals, arts, cultural and other events.

4. *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: City water and sewer lines are not available in this area; therefore, the property owner has installed a private water well and septic system. Natural gas, electricity and telephone services are available. Dolchok Avenue is a paved road which is maintained by the City of Kenai. The operation of a guide service and lodge will not impact these facilities.

5. *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Criteria Met: The property is serviced by a private well and septic system which have been installed by the property owner. Public utilities are available and access to the property is via a City maintained paved road. There is no reason to believe that the operation of the guide service and lodge will be harmful to the public safety, health or welfare of the community.

6. KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

See Conditions of Approval as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That a conditional use permit is granted to Dean Michael Schlehofer for a Guide Service for property described as Lot 4, Block 4, Basin View Subdivision Part 3, and located at 345 Dolchok Lane.

Section 2. That the conditional use permit is subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
3. Biennial fire inspection must be completed by the Fire Marshal for the City of Kenai.
4. The applicant will meet with City staff for on-site inspections when requested.
5. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
6. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
7. Before a floating dock can be installed, the property owner must receive the proper permits from the Kenai River Center.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 12th day of May, 2021.

JEFF TWAIT, CHAIRPERSON

ATTEST:

JAMIE HEINZ, MMC, CITY CLERK



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

STAFF REPORT

TO: Planning and Zoning Commission
FROM: Ryan Foster, Planning Director
DATE: May 6, 2021
SUBJECT: PZ2021-16 – Conditional Use Permit – Guide Service
PZ2021-17 – Conditional Use Permit - Lodging

Applicant: Dean Michael Schlehofer
P.O. Box 201565
Anchorage, Alaska 99520-1565

Legal Description: Lot 4, Block 4, Basin View Subdivision Part 3

Property Address: 345 Dolchok Lane

KPB Parcel No: 04926211

Lot Size: 1.94 Acres (approximately 84,506 square feet)

Existing Zoning: Rural Residential

Current Land Use: Single Family Dwelling

Land Use Plan: Low Density Residential

GENERAL INFORMATION

The applicant recently purchased this property, and would like to conduct a guide service and lodge from the premises. Kenai Municipal Code 14.22 Land Use Table provides that a guide service and lodge are a conditional use; therefore, the applicant has submitted an application for a Conditional Use Permit. The applicant states that the purpose for this conditional use request is to help him serve King of the River's clients, who have booked with him to sleep over and leave in the morning to join a professional guide for fishing on King of the River's riverboats on the Kenai or Kasilof Rivers. This is a 100% fishing service that includes accommodations. He does not offer any accommodations without first booking a fishing trip.

Application, Public Notice, Public Comment

Pursuant to Kenai Municipal Code 14.20.280(c) notices of the public hearing for the conditional use were mailed to property owners within a three hundred-foot (300') periphery of the subject property. City staff published notice of the public hearing in the *Peninsula Clarion*. The applicant submitted an Affidavit of Posting verifying a sign was placed on the parcel with information on the public hearing for the conditional use request.

ANALYSIS

Kenai Municipal Code 14.20.150(d) – Review Criteria for Conditional Use Permits

Pursuant to KMC 14.20.150(a), the intent of a conditional use permit is to allow some uses that may be compatible with the designated principal uses in specific zoning districts provided certain conditions are met. KMC 14.20.150(d)-Conditional Use Permits Review Criteria states six conditions that the Planning and Zoning Commission must deem to exist when establishing findings prior to issuing a conditional use permit:

Criteria # 1: The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district.

Applicant Response: The operation of the fishing season is between May and September/early October. Our fishing service provides clients with accommodations on the property, where they will stay overnight between 6 p.m. (check in) and check out early in the morning (5 a.m.- 8:00 a.m.) before their fishing trips with King of the River. The average number clients sleep over is four or five people per night for the entire summer. Our lodging includes four rooms, and our maximum capacity is eight clients. May and September are usually slow, June and August are typically busy, and the month of July is extremely popular. We operate no other activities except fishing and accommodations on the property at 345 Dolchok Lane. During the day, it will be frequently vacated/empty, especially between May and September, while clients are on the riverboats with the guides. The lodging will only be occupied with clients in the evening until early morning. There is no service in the winter from mid-October to April.

Beaver Creek is closed to fishing all year round, under ADFG's regulations. King of the River clients are not allowed to fish on the waterfront of 345 Dolchok Lane.

King of the River does not offer any cooked meals to clients, except a continental breakfast (yogurt, hard-boiled egg, bagels, danish, snack bar, etc.) in each room with mini refrigerators. The lower level of the house has a full kitchen. The clients can bring their own meals to cook in using the full kitchen on the lower level. Cooking is prohibited elsewhere in the rooms.

All rooms are included in the floor plan maps to show the safest ways to exit the house.

Staff Response: The proposed guide service and lodging meets the intent of the Rural Residential Zone (RR) to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The specific intent in establishing this zone is:

- (1) To separate residential structures to an extent which will:
 - (A) Preserve the rural, open quality of the environment;
 - (B) Prevent health hazards in areas not served by public water and sewer.

- (2) To prohibit uses which would:
 - (A) Violate the residential character of the environment;
 - (B) Generate heavy traffic in predominantly residential areas.

The guide services and lodging are proposed to take place in an existing single family home, there are no proposed physical changes that would violate the residential character of the neighborhood. The maximum capacity of four bedrooms for lodging is not anticipated to generate heavy traffic in the neighborhood, and likely results in roughly the same number of vehicle trips as other single family homes in the neighborhood. The KMC 14.22 Land Use Table provides that Guide Services and Lodging are a conditional use; therefore, a conditional use permit must be granted for the operation of these services. The applicant has provided illustrations of the layout of the property and floor plans/elevations of the single family home.

Criteria #2: The value of the adjoining property and neighborhood will not be significantly impaired.

Applicant Response: The property is nearly two acres, which is wide open. The north-side neighbor has wooden fences, with nearly no visibility between the neighbor's property and our property. The south-side neighbor has almost no visibility of our property because of the forest pines. The south-side neighbor's home is closer to the Beaver Creek. It is farther from the 345 Dolchok Lane home than the north-side neighbor, and there is minimal visibility between us.

The parking lot at 345 Dolchok Lane can fit many vehicles; however, most likely between four and eight of our clients will use one to three vehicle parking spaces daily.

Staff Response: This parcel is approximately 1.94 acres in size and contains a large paved driveway in the front of the residence to accommodate parking of guest vehicles. The aerial photo provided by the applicant indicates that the distances between the structures and the tree line provides a natural buffer between the properties. The parcels located to the North, South, East and West are zoned rural residential and have similar single family residential uses as the subject property. The value of adjacent properties should not be significantly impacted by the addition of guide services and lodging uses, the physical characteristics of the property remain unchanged.

Criteria #3: The proposed use is in harmony with the Comprehensive Plan.

Applicant Response: Each room will include a laminated letter on the wall with the property instructions and restrictions (rules of the lodging) to ensure the safety and harmony of all guests.

Sample Letter:



Welcome to King of the River Accommodations

And welcome to Alaska! We ask that our guests respect the following house rules:

1. Quiet hours begin at 10 p.m.
2. We are a tobacco-free facility.
3. No cleaning/filleting/vacuuuming any fish (outside/inside or in the kitchen). Note King of the River provides fish processing.
4. Please remove your shoes before entering the rooms.
5. If staying for one night only, please remove your belongings in the morning before fishing. If staying for multiple nights, your belongings may be left until the last morning of your stay.
6. Meet at your fishing site (Kenai River, Kasilof, or Ninilchik) at (time of meeting)

It takes approximately four minutes to drive from the King of the River's lodge to Eagle Rock State Site Parking Lot/Dock, 30 minutes to Kasilof Recreational State Park, and 50 minutes to Deep Creek State Recreation Area.

For King of the River fishing, there are two things you need to remember:

- 1) In the morning, please park your vehicle in one of the following parking lots: Eagle Rock Launch, Kasilof Recreational State Park/Launch, or Deep Creek State Park.
- 2) Please DO NOT ENTER or roam around the properties of our north- and south-side neighbors because they are private property. Please respect our neighbors.

Staff Response: The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai. The tourism industry is an important component for economic development within the City of Kenai. The guide services, bed and breakfast, cabin rentals, and lodging businesses support the tourism industry. Low-density residential land uses typically include single-family low-density, large lots with individual on-site water supply and wastewater disposal systems.

Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

- ED-9 Capitalize on the tourism industry by marketing Kenai as a destination for recreational activities, conventions, festivals, arts, cultural and other events.

Criteria #4: Public services and facilities are adequate to serve the proposed use.

Applicant Response: We have limited public services and facilities on our property because it will only be used for overnight accommodations when King of the River clients have booked and scheduled fishing trips with us. This is not a public *offer* and is only available to clients who have booked with King of the River through phone, email, or other correspondence before they appear at the property. Clients can search for information



about us through our website, social media, and other advertisements. When the clients schedule/book with us, a booking agent will attach a file reservation form along with a confirmation letter via email, including directions, information, what to bring, policies, time to meet, and so on. We do not accept any clients who show up at the property without a confirmation letter or a reservation with King of the River.

Staff Response: City water and sewer lines are not available in this area; therefore, the property owner has installed a private water well and septic system. Natural gas, electricity and telephone services are available. Dolchok Avenue is a paved road which is maintained by the City of Kenai. The operation of a guide service and lodge will not impact these facilities.

Criteria #5: The proposed use will not be harmful to the public safety, health or welfare.

Applicant Response: There are no foreseeable harms to public safety, health, or welfare on the property of 345 Dolchok Lane because a helper, my family, and I are in the house most of the time while the clients are with us.

Staff Response: The property is serviced by a private well and septic system which have been installed by the property owner. Public utilities are available and access to the property is via a City maintained paved road. There is no reason to believe that the operation of the guide service and lodge will be harmful to the public safety, health or welfare of the community.

Criteria # 6: Specific conditions deemed necessary.

Applicant Response: Not at this time; however, I plan to research building a floating dock on Beaver Creek this summer for installation in 2022 or 2023. It is difficult to observe or comprehend whether the waterfront creek would adapt well to a floating dock or access to the Kenai River because of the low tide water level. I purchased the property on March 12, 2021. Because the creek was frozen solid at that time, it was difficult to observe or access it in the early spring because of the snow (thickness) conditions. The previous owners had never tried to use their boats on Beaver Creek. Additionally, it is 1.6 miles away from the property to the confluence of the Kenai River. The creek might be inaccessible due to possible low water conditions such as gravel bars. I will have a full answer for the next season. I have no intention of pursuing any other measures that would *affect* access, screening, site development, building design, or business operation on my property.

Staff Response: See Conditions of Approval as set forth below.

RECOMMENDATIONS

City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (d)(1) through (d)(4) of Kenai Municipal Code 14.20.185, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, subject to the following conditions:



1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
3. Biennial fire inspection must be completed by the Fire Marshal for the City of Kenai.
4. The applicant will meet with City staff for on-site inspections when requested.
5. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
6. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
7. Before a floating dock can be installed, the property owner must receive the proper permits from the Kenai River Center.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

ATTACHMENTS

- A. Resolution No. PZ2021-16
- B. Resolution No. PZ2021-17
- C. Application
- D. Site Plan Aerials
- E. Floor Plans/Elevation Drawings
- F. Aerial Map
- G. Email Responses





**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-16**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A CONDITIONAL USE PERMIT FOR GUIDE SERVICE.

APPLICANT: Dean Michael Schlehofer

PROPERTY ADDRESS: 345 Dolchok Lane

LEGAL DESCRIPTION: Lot 4, Block 4, Basin View Subdivision Part 3

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04926211

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on April 15, 2021; and,

WHEREAS, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met pursuant to Kenai Municipal Code 14.20.150; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on May 6, 2021, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The proposed guide service and lodging meets the intent of the Rural Residential Zone (RR) to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The specific intent in establishing this zone is:

(1) To separate residential structures to an extent which will:

- (A) Preserve the rural, open quality of the environment;
- (B) Prevent health hazards in areas not served by public water and sewer.

(2) To prohibit uses which would:

- (A) Violate the residential character of the environment;
- (B) Generate heavy traffic in predominantly residential areas.

The guide services and lodging are proposed to take place in an existing single family home, there are no proposed physical changes that would violate the residential character of the neighborhood. The maximum capacity of four bedrooms for lodging is not anticipated to generate heavy traffic in the neighborhood, and likely results in roughly the same number of vehicle trips as other single family homes in the neighborhood. The KMC 14.22 Land Use Table provides that Guide Services and Lodging are a conditional use; therefore, a conditional use permit must be granted for the operation of these services. The applicant has provided illustrations of the layout of the property and floor plans/elevations of the single family home.

2. *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: This parcel is approximately 1.94 acres in size and contains a large paved driveway in the front of the residence to accommodate parking of guest vehicles. The aerial photo provided by the applicant indicates that the distances between the structures and the tree line provides a natural buffer between the properties. The parcels located to the North, South, East and West are zoned rural residential and have similar single family residential uses as the subject property. The value of adjacent properties should not be significantly impacted by the addition of guide services and lodging uses, the physical characteristics of the property remain unchanged.

3. *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai. The tourism industry is an important component for economic development within the City of Kenai. The guide services, bed and breakfast, cabin rentals, and lodging businesses support the tourism industry. Low-density residential land uses typically include single-family low-density, large lots with individual on-site water supply and wastewater disposal systems.

Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

- ED-9 Capitalize on the tourism industry by marketing Kenai as a destination for recreational activities, conventions, festivals, arts, cultural and other events.

4. *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: City water and sewer lines are not available in this area; therefore, the property owner has installed a private water well and septic system. Natural gas, electricity and telephone services are available. Dolchok Avenue is a paved road which is maintained by the City of Kenai. The operation of a guide service and lodge will not impact these facilities.

5. *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Criteria Met: The property is serviced by a private well and septic system which have been installed by the property owner. Public utilities are available and access to the property is via a City maintained paved road. There is no reason to believe that the operation of the guide service and lodge will be harmful to the public safety, health or welfare of the community.

6. KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

See Conditions of Approval as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That a conditional use permit is granted to Dean Michael Schlehofer for a Guide Service for property described as Lot 4, Block 4, Basin View Subdivision Part 3, and located at 345 Dolchok Lane.

Section 2. That the conditional use permit is subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
3. Biennial fire inspection must be completed by the Fire Marshal for the City of Kenai.
4. The applicant will meet with City staff for on-site inspections when requested.
5. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
6. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
7. Before a floating dock can be installed, the property owner must receive the proper permits from the Kenai River Center.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 12th day of May, 2021.

JEFF TWAIT, CHAIRPERSON

ATTEST:

JAMIE HEINZ, MMC, CITY CLERK



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-17**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A CONDITIONAL USE PERMIT FOR LODGING.

APPLICANT: Dean Michael Schlehofer

PROPERTY ADDRESS: 345 Dolchok Lane

LEGAL DESCRIPTION: Lot 4, Block 4, Basin View Subdivision Part 3

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04926211

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on April 15, 2021; and,

WHEREAS, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met pursuant to Kenai Municipal Code 14.20.150; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on May 6, 2021, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The proposed guide service and lodging meets the intent of the Rural Residential Zone (RR) to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The specific intent in establishing this zone is:

(1) To separate residential structures to an extent which will:

- (A) Preserve the rural, open quality of the environment;
- (B) Prevent health hazards in areas not served by public water and sewer.

(2) To prohibit uses which would:

- (A) Violate the residential character of the environment;
- (B) Generate heavy traffic in predominantly residential areas.

The guide services and lodging are proposed to take place in an existing single family home, there are no proposed physical changes that would violate the residential character of the neighborhood. The maximum capacity of four bedrooms for lodging is not anticipated to generate heavy traffic in the neighborhood, and likely results in roughly the same number of vehicle trips as other single family homes in the neighborhood. The KMC 14.22 Land Use Table provides that Guide Services and Lodging are a conditional use; therefore, a conditional use permit must be granted for the operation of these services. The applicant has provided illustrations of the layout of the property and floor plans/elevations of the single family home.

2. *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: This parcel is approximately 1.94 acres in size and contains a large paved driveway in the front of the residence to accommodate parking of guest vehicles. The aerial photo provided by the applicant indicates that the distances between the structures and the tree line provides a natural buffer between the properties. The parcels located to the North, South, East and West are zoned rural residential and have similar single family residential uses as the subject property. The value of adjacent properties should not be significantly impacted by the addition of guide services and lodging uses, the physical characteristics of the property remain unchanged.

3. *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai. The tourism industry is an important component for economic development within the City of Kenai. The guide services, bed and breakfast, cabin rentals, and lodging businesses support the tourism industry. Low-density residential land uses typically include single-family low-density, large lots with individual on-site water supply and wastewater disposal systems.

Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

- ED-9 Capitalize on the tourism industry by marketing Kenai as a destination for recreational activities, conventions, festivals, arts, cultural and other events.

4. *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: City water and sewer lines are not available in this area; therefore, the property owner has installed a private water well and septic system. Natural gas, electricity and telephone services are available. Dolchok Avenue is a paved road which is maintained by the City of Kenai. The operation of a guide service and lodge will not impact these facilities.

5. *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Criteria Met: The property is serviced by a private well and septic system which have been installed by the property owner. Public utilities are available and access to the property is via a City maintained paved road. There is no reason to believe that the operation of the guide service and lodge will be harmful to the public safety, health or welfare of the community.

6. KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

See Conditions of Approval as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That a conditional use permit is granted to Dean Michael Schlehofer for Lodging for property described as Lot 4, Block 4, Basin View Subdivision Part 3, and located at 345 Dolchok Lane.

Section 2. That the conditional use permit is subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
3. Biennial fire inspection must be completed by the Fire Marshal for the City of Kenai.
4. The applicant will meet with City staff for on-site inspections when requested.
5. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
6. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
7. Before a floating dock can be installed, the property owner must receive the proper permits from the Kenai River Center.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 12th day of May, 2021.

JEFF TWAIT, CHAIRPERSON

ATTEST:

JAMIE HEINZ, MMC, CITY CLERK



Conditional Use Permit Application

City of Kenai
Planning and Zoning Department
210 Fidalgo Avenue
Kenai, AK 99611
(907) 283-8200
planning@kenai.city
www.kenai.city/planning

PROPERTY OWNER

Name:	Dean Michael Schlehofer				
Mailing Address:	PO Box 201565				
City:	Anchorage	State:	AK	Zip Code:	99520-1565
Phone Number(s):	907-268-5519				
Email:	mykingoftheriver@gmail.com				

PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)

Name:					
Mailing Address:					
City:		State:		Zip Code:	
Phone Number(s):					
Email:					

PROPERTY INFORMATION

Kenai Peninsula Borough Parcel # (Property Tax ID):	04926211
Physical Address:	345 Dolchok Lane, Kenai AK 99611
Legal Description:	Basin View Pt3 L4 B4
Zoning:	Rural Residential
Acres:	1.94

CONDITIONAL USE DESCRIPTION

(include site plan/floor plan with square footages)
(include State Business License and KPB Tax Compliance if applicable)

How is this property currently being used?	Fishing Guide Lodging
--	-----------------------

Conditional Use Requested for (attach additional sheets if necessary):

See attached:

Explain how the conditional use is consistent with purposes and intent of the zoning district of the property:

See attached:

Explain how the value of adjoining property and neighborhood will not be significantly impaired by the conditional use:

See attached:



Use of surrounding property - north:	Driveway/parking lots, access to the lower level of the house
Use of surrounding property - south:	South side of a large deck, open green field
Use of surrounding property - east:	Entry to lower level, driveway parking lot, view of Beaver Creek
Use of surrounding property - west:	See attached:

Explain how the conditional use is in harmony with the City's Comprehensive Plan:
See attached:

Are public services and facilities on the property adequate to serve the proposed conditional use?
See attached:

Explain how the conditional use will not be harmful to public safety, health, or welfare:
See attached:

Are there any measures with access, screening, site development, building design, or business operation that will lessen potential impacts of the conditional use to neighbors?
See attached:

AUTHORITY TO APPLY FOR CONDITIONAL USE:
I hereby certify that (I am) (I have been authorized to act for) owner of the property described above and that I petition for a conditional use permit in conformance with Title 14 of the Kenai Municipal Code. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff of the Planning and Zoning Commission for administrative reasons. I understand that a site visit may be required to process this application. City of Kenai personnel are authorized to access the above-referenced property for the purpose of processing this application.

Signature:		Date:	4/15/2021
Print Name:	DEAN SCHLEHOFER	Title/Business:	GUIDE / OWNER

For City Use Only	Date Application Fee Received:	4/15/21
	PZ Resolution Number:	2021-16 Fishing Guide 2021-17 Lodging

1) Conditional Use Requested (attach additional sheets if necessary):

This purpose for this Conditional Use Request is to help us serve King of the River's clients, who have booked with us to sleep over and leave in the morning to join a professional guide for fishing on King of the River's riverboats on the Kenai or Kasilof Rivers. This is a 100% fishing service that includes accommodations. We do not offer any accommodations without first booking a fishing trip.

2) Explain how the conditional use is consistent with the purposes and intent of the zoning district of the property:

The operation of the fishing season is between May and September/early October. Our fishing service provides clients with accommodations on the property, where they will stay overnight between 6 p.m. (check in) and check out early in the morning (5 a.m.- 8:00 a.m.) before their fishing trips with King of the River. The average number clients sleep over is four or five people per night for the entire summer. Our lodging includes four rooms, and our maximum capacity is eight clients. May and September are usually slow, June and August are typically busy, and the month of July is extremely popular. We operate no other activities except fishing and accommodations on the property at 345 Dolchok Lane. During the day, it will be frequently vacated/empty, especially between May and September, while clients are on the riverboats with the guides. The lodging will only be occupied with clients in the evening until early morning.

There is no service in the winter from mid-October to April.

3) Explain how the value of the adjoining property and neighborhood will not be significantly impaired by the conditional use:

The property is nearly two acres, which is wide open. The north-side neighbor has wooden fences, with nearly no visibility between the neighbor's property and our property. The south-side neighbor has almost no visibility of our property because of the forest pines. The south-side neighbor's home is closer to the Beaver Creek. It is farther from the 345 Dolchok Lane home than the north-side neighbor, and there is minimal visibility between us.

The parking lot at 345 Dolchok Lane can fit many vehicles; however, most likely between four and eight of our clients will use one to three vehicle parking spaces daily.

See "A," "B," and "C" files attached (top view photos)

- Use of surrounding property – north: Driveway/parking lots, access to the lower level of the house
- Use of surrounding property – south: South side of a large deck, open green field
- Use of surrounding property – east: Entry to lower level, driveway parking lot, view of Beaver Creek
- Use of surrounding property – west: Large parking lots for the main level, exit to Dolchok Lane/Beaver Loop Road

4) Explain how the conditional use is in harmony with the City's Comprehensive Plan:

Each room will include a laminated letter on the wall with the property instructions and restrictions (rules of the lodging) to ensure the safety and harmony of all guests.

Sample Letter:

Welcome to King of the River Accommodations

And welcome to Alaska! We ask that our guests respect the following house rules:

1. Quiet hours begin at 10 p.m.
2. We are a tobacco-free facility.
3. No cleaning/filleting/vacuuming any fish (outside/inside or in the kitchen).
Note King of the River provides fish processing.
4. Please remove your shoes before entering the rooms.
5. If staying for one night only, please remove your belongings in the morning before fishing. If staying for multiple nights, your belongings may be left until the last morning of your stay.
6. Meet at your fishing site (Kenai River, Kasilof, or Ninilchik) at (time of meeting) _____.

It takes approximately four minutes to drive from the King of the River's lodge to Eagle Rock State Site Parking Lot/Dock, 30 minutes to Kasilof Recreational State Park, and 50 minutes to Deep Creek State Recreation Area.

For King of the River fishing, there are two things you need to remember:
1) In the morning, please park your vehicle in one of the following parking lots: Eagle Rock Launch, Kasilof Recreational State Park/Launch, or Deep Creek State Park.

2) Please DO NOT ENTER or roam around the properties of our north- and south-side neighbors because they are private property. Please respect our neighbors.

4) Are public services and facilities on the property adequate to serve the proposed conditional use?

We have limited public services and facilities on our property because it will only be used for overnight accommodations when King of the River clients have booked and scheduled fishing trips with us. This is not a public offer and is only available to clients who have booked with King of the River through phone, email, or other correspondence before they appear at the property. Clients can search for information about us through our website, social media, and other advertisements. When the clients schedule/book with us, a booking agent will attach a file reservation form along with a confirmation letter via email, including directions, information, what to bring, policies, time to meet, and so on. We do not accept any clients who show up at the property without a confirmation letter or a reservation with King of the River.

5) Explain how the conditional use will not be harmful to public safety, health, or welfare:

There are no foreseeable harms to public safety, health, or welfare on the property of 345 Dolchok Lane because a helper, my family, and I are in the house most of the time while the clients are with us.

Introduction: Dean Schlehofer, Professional Guide and Owner

I am the founder and owner of King of the River fishing, established in 1992. I have served thousands of clients. Summer 2021 will be my 30th year in business. I have lived in and been a resident of Alaska since June 1981. I received my first Coast Guard license in 1996, and I have been guiding ever since. I received my 6th license in March 2021 (renewal every five years). I run my business solo and have a proven record of safely guiding over 14,000 clients on the Kenai/Kasilof Rivers. I spend 70–80 days of the year guiding 10- to 12-hour charters on these waters. Some quick math shows that I have in excess of 23,000 hours on the water.

My philosophy as a guide is to conduct myself at the highest professional level and provide the best service I can as a Kenai/Kasilof River guide. My excellent safety record is due to my 36 years of experience on the rivers. I believe in ensuring the utmost safety and health of all my clients, on my property and in the riverboats.

King of the River does not offer any cooked meals to clients, except a continental breakfast (yogurt, hard-boiled egg, bagels, danish, snack bar, etc.) in each room with mini refrigerators. The lower level of the house has a full kitchen. The clients can bring their own meals to cook in using the full kitchen on the lower level. Cooking is prohibited elsewhere in the rooms.

Beaver Creek is closed to fishing all year round, under ADFG's regulations. King of the River clients are not allowed to fish on the waterfront of 345 Dolchok Lane.

All rooms are included in the floor plan maps to show the safest ways to exit the house.

- 6) Are there any measures with access, screening, site development, building design, or business operation that will lessen the potential impacts of the conditional use for neighbors?

Not at this time; however, I plan to research building a floating dock on Beaver Creek this summer for installation in 2022 or 2023. It is difficult to observe or comprehend whether the waterfront creek would adapt well to a floating dock or access to the Kenai River because of the low tide water level. I purchased the property on March 12, 2021. Because the creek was frozen solid at that time, it was difficult to observe or access it in the early spring because of the snow (thickness) conditions. The previous owners had never tried to use their boats on Beaver Creek. Additionally, it is 1.6 miles away from the property to the confluence of the Kenai River. The creek might be inaccessible due to possible low water conditions such as gravel bars. I will have a full answer for the next season. I have no intention of pursuing any other measures that would affect access, screening, site development, building design, or business operation on my property.

A



NTS

B

2019-08-16 22:17:35
-151.13568 +60.65551



NTS

C



D



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REAR SIDE ENTRY

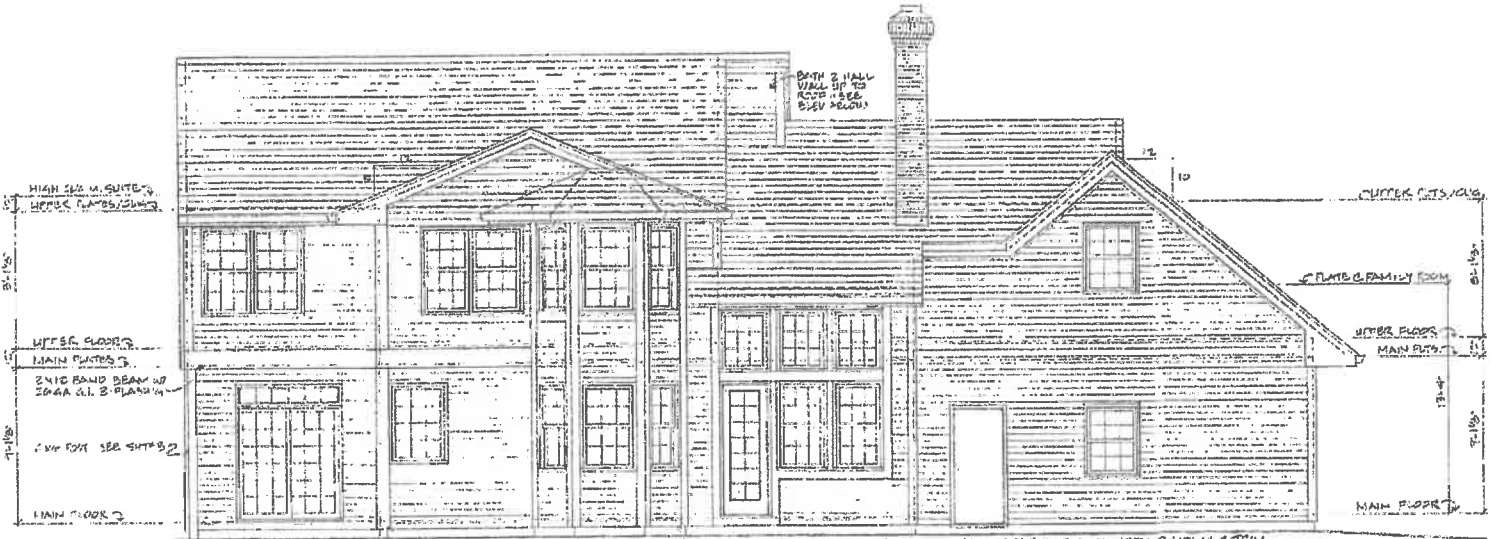
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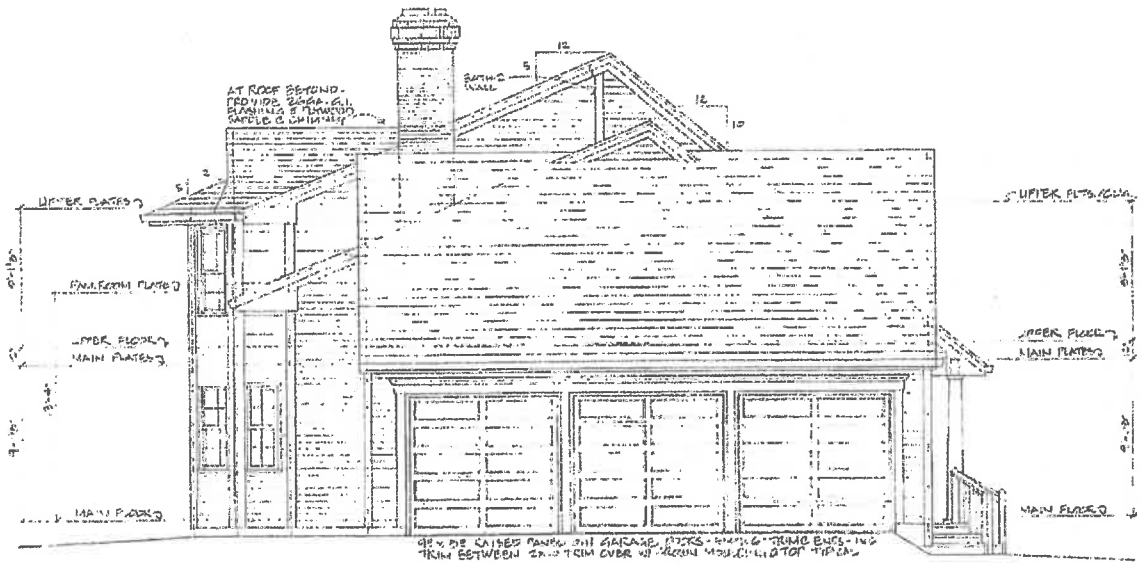
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Page 43 of 140
FRONT SIDE ENTRY

Professional seal and stamp required for construction documents. This drawing is a preliminary design and is not to be used for construction. All dimensions, materials, and finishes are subject to change without notice. The contractor is responsible for obtaining all necessary permits and for complying with all applicable codes and regulations. The architect is not responsible for any errors or omissions in this drawing. © 2013 Mark Stewart Architecture, Inc. All rights reserved.



REAR ELEVATION: 1/4"=1'-0"



LEFT SIDE ELEVATION: 1/4"=1'-0"

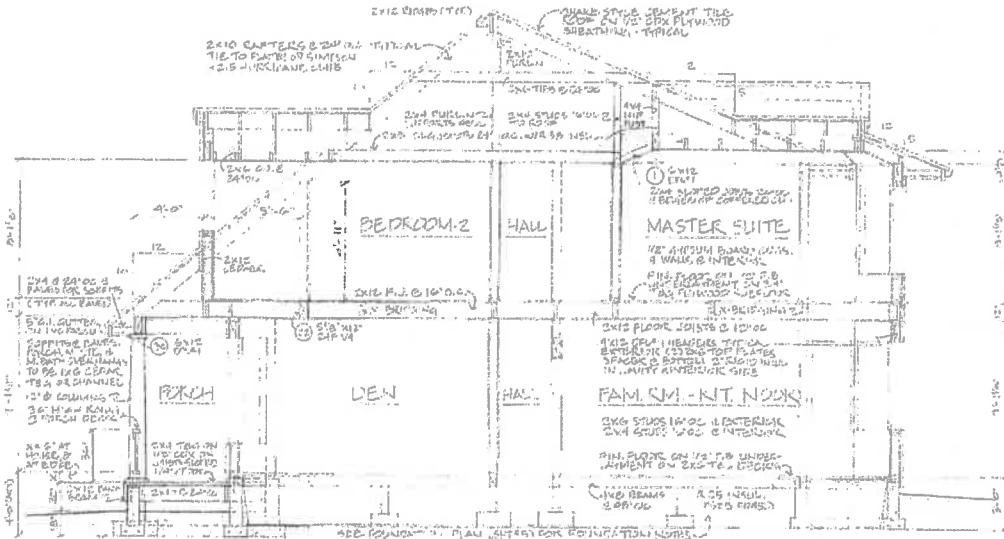
Designer
Mark Stewart
 The Leading Edge
 Home Design
 (503) 224-7450

Mark Stewart

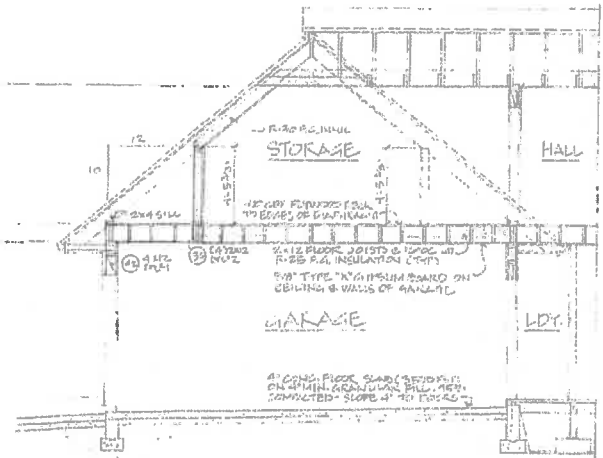
514 N.W. 11th, Suite 202, Portland, Oregon 97209

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DATE	08/14
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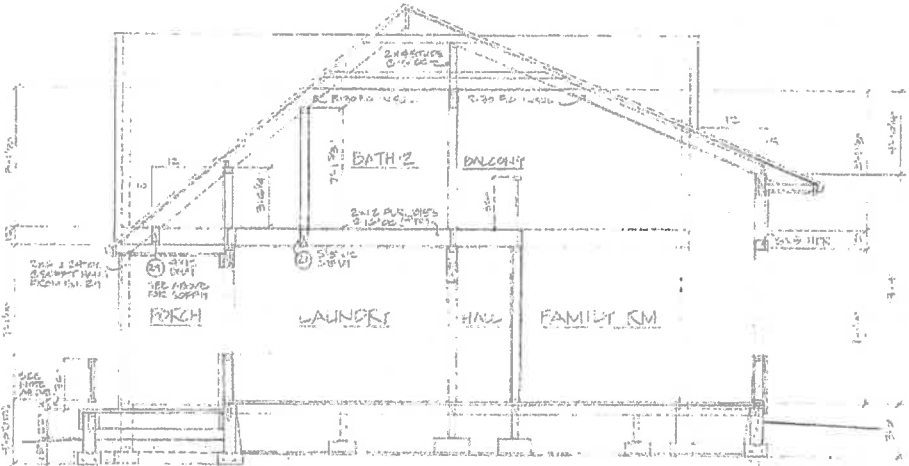
These drawings were prepared by the Designer and are not to be used for any other project without the written consent of the Designer. The Designer shall not be responsible for any errors or omissions in these drawings. The Designer shall not be responsible for any construction methods or materials used in the construction of the project. The Designer shall not be responsible for any construction methods or materials used in the construction of the project. The Designer shall not be responsible for any construction methods or materials used in the construction of the project.



(A) CROSS SECTION: 1/4" = 1'-0"
 NOTES ABOVE APPLY TO ALL SECT UNLESS NOTED OTHERWISE ON DRAWING



(C) SECTION: 1/4" = 1'-0"



(B) CROSS SECTION: 1/4" = 1'-0"

Designer
Mark Stewart
 the leading edge
 Home Design
 (503) 224-7450

PLAN # 142453
 PROJECT
 DESIGNED
 DRAWING # 128
 PAGE
7
 OF 7



RESOLUTIONS PZ2021-16 & PZ2021-17
Parcel 04926211
345 Dolchok Lane
Lot 4, Block 4, Basin View Subd. Part 3



Wilma Anderson

From: Josh Schultz <jschu88@gmail.com>
Sent: Wednesday, May 5, 2021 10:43 PM
To: Wilma Anderson
Subject: Resolutions PZ2021-16 and PZ2021-17

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Wilma,

My wife Rebecca Schultz and I at 375 Dolchok Lane oppose this application for rezoning. This would be against the neighborhood covenants, inject a transient population through the neighborhood and the creek at their residence would not support boat traffic. I feel there are places for a guide service and lodging but this neighborhood is not a good location.

Thank you,

Josh Schultz

May 6, 2021

Planning and Zoning Commissioners:

Unfortunately, we are unable to attend the May 12th planning commission meeting that will address the Conditional Use Permit for a lodge and guide service business at 345 Dolchok Lane (Resolutions PZ2021-16 and PZ2021-17). We would like to express our opposition to approval of this conditional use permit in this letter.

We have lived on Dolchok Lane for almost 20 years. We chose the neighborhood for its residential non-business character, and we have known and appreciated for all that time that businesses were not allowed in the neighborhood due to the neighborhood covenants. In fact, we appreciated the character of the neighborhood so much that we sold our first house on the street and bought and moved into another on the same street. Many of us that still live in the neighborhood participated in paying for the street improvements through the LID process and certainly not with the intention that we would be improving and paying to pave a street to the benefit of a business moving in and violating the neighborhood covenants.

We believe this business conflicts with the restrictions in KMC 14.20.150. This section requires the "separation of residential structures to an extent which will allow for adequate light, air and privacy." This residence, driveway and deck are all open to the street with limited trees separating it from neighbors. Since the neighborhood is in the throes of the beetle kill destruction, the opening up of the neighborhood to less privacy and more noise will continue in the next few years. That Code section also "prohibits uses which would: (A) Violate the residential character of the environment; (B) Generate heavy traffic in predominantly residential areas." We believe this business would clearly violate both of those provisions. Operating the residential home as a fishing lodge with all the customers and guide traffic every day, which will likely include early morning traffic, will clearly violate the residential nature of the subdivision and create heavier traffic and additional noise. KMC 14.20.150 speaks to not impairing the value of the adjoining property and neighborhood. It is not uncommon for this neighborhood to experience noise from the racetrack and gun range across the highway during the summer months, and the introduction of another source of summer business noise into the neighborhood, especially to the close neighbors, could impact property values and property sales. KMC 14.20.150 also requires that the proposal be in harmony with the City's comprehensive plan. We believe that this proposal conflicts with Goal #1, in that it does not protect the livability of existing neighborhoods (Q-2), and it does not promote land uses that are in harmony with surrounding uses (Q-4). This proposal also seems to conflict with Goal 2 of the Comprehensive plan which suggests promoting reuse of business property downtown and along the Kenai Spur (ED-3) and, prior to zoning, minimizing potential conflicts with non-business uses through site design (ED-6). Goal #3 suggests that the City "Establish siting and design standards so that development is in harmony and scale with surrounding uses (LU-1); and, "Review Zoning Code to consider use of buffers and buffer zones to separate incompatible land uses. Review landscaping ordinance to ensure buffers are required to protect neighborhoods (LU-6)." It seems that the Comprehensive Plan goes to great length to suggest the preservation of the neighborhood when considering the introduction of business, and this business location clearly conflicts with the nature of the neighborhood.

We are concerned that the allowance of a lodge and fishing guide business in clear violation of the neighborhood covenants could permanently change the nature of the subdivision. There are many properties in the neighborhood that are on Beaver Creek with views and with creek access, and many of those are possibly even more conducive to similar business activities. Those property owners are currently operating within the neighborhood covenants and not operating businesses in the neighborhood. However, if this Conditional Use Permit were authorized it seems there would be no reason not to authorize one on every other property in the neighborhood.

We appreciate your consideration of this matter. We ask you to deny the Conditional Use Permit and retain the residential nature of the neighborhood that all residents bought into when they purchased property in the neighborhood.

Thank You,

Dave & Lara Ross
365 Dolchok Ln.
Kenai, AK 99611

Wilma Anderson

From: S Jurek <mcjurek@gmail.com>
Sent: Thursday, May 6, 2021 8:53 PM
To: planning@kenai.city; Wilma Anderson
Cc: alex@douthits.com; ggreenberg@akmapco.com; woodard.g@outlook.com;
joe@digitsak.com; Ryan Foster
Subject: Resolutions PZ2021-16 and PZ2021-17

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Ms. Anderson and members of the Planning & Zoning Commission,

We are residents of Basinview Subdivision. We value this area and we were attracted to it because it is a quiet, residential-only neighborhood. However, we are very concerned about two upcoming resolutions.

We oppose Resolutions PZ2021-16 and PZ2021-17, which are conditional use permits for guide services and lodging in Lot 4, Block 4 of Basinview Subdivision Part 3 at 345 Dolchok Lane in Kenai. The Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Basinview Subdivision Part 3 (Book 216, Page 242 of the Kenai Recording District, State of Alaska) explicitly states in paragraph 2 (c) "No lot shall be used for other than single family residential purposes".

Allowing a guide service and lodge in our neighborhood willfully and deliberately violates the neighborhood's covenant. Furthermore, it will destroy the ambiance of this peaceful area. We oppose the resolutions for these reasons.

Thank you,
Frances and Mark Jurek
3065 Kim N Ang Court
Kenai, AK 99611

PLANNING & ZONING COMMISSION

Resolution PZ2021-16 – Conditional Use Permit – Guide Service

Resolution PZ2021-17 – Conditional Use Permit – Lodging

345 Dolchok Lane

SUMMARY

Applicant: Dean Michael Schlehofer
P.O. Box 201565
Anchorage, Alaska 99520-1565

Legal Description: Lot 4, Block 4, Basin View Subdivision Part 3

Property Address: 345 Dolchok Lane

KPB Parcel No: 04926211

Lot Size: 1.94 Acres (approximately 84,506 square feet)

Existing Zoning: Rural Residential

Current Land Use: Single Family Dwelling

Land Use Plan: Low Density Residential

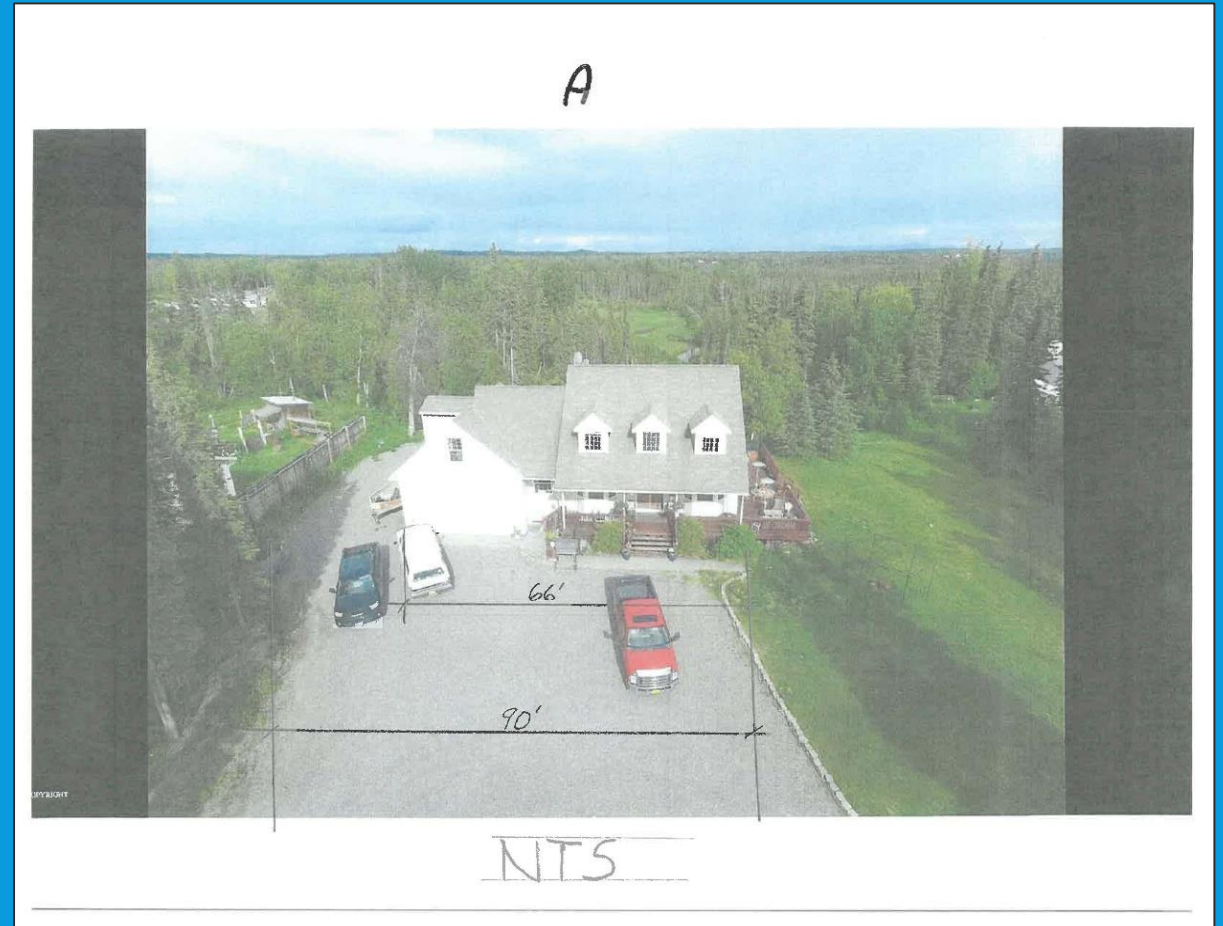


SUMMARY

- The applicant recently purchased this property, and would like to conduct a guide service and lodge from the premises.
- Kenai Municipal Code 14.22 Land Use Table provides that a guide service and lodge are a conditional use, requiring a conditional use permit.
- The applicant states that the purpose for this conditional use request is to help him serve King of the River's clients, who have booked with him to sleep over and leave in the morning to join a professional guide for fishing on King of the River's riverboats on the Kenai or Kasilof Rivers.
- This is a 100% fishing service that includes accommodations and the applicant does not offer any accommodations without first booking a fishing trip.

SITE PLAN

- Site plan identifies the layout of the existing subject property.



STAFF ANALYSIS

- Kenai Municipal Code 14.20.150(d) – Review Criteria for Conditional Use Permits
- Pursuant to KMC 14.20.150(a), the intent of a conditional use permit is to allow some uses that may be compatible with the designated principal uses in specific zoning districts provided certain conditions are met. KMC 14.20.150(d)- Conditional Use Permits Review Criteria states six conditions that the Planning and Zoning Commission must deem to exist when establishing findings prior to issuing a conditional use permit:

REVIEW CRITERIA

- *Criteria #1: The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district.*
- *Criteria #2: The value of the adjoining property and neighborhood will not be significantly impaired.*
- *Criteria #3: The proposed use is in harmony with the Comprehensive Plan.*
- *Criteria #4: Public services and facilities are adequate to serve the proposed use.*
- *Criteria #5: The proposed use will not be harmful to the public safety, health or welfare.*
- *Criteria #6: Specific conditions deemed necessary.*

RECOMMENDATIONS

- City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (d)(1) through (d)(4) of Kenai Municipal Code 14.20.185, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, subject to the following conditions:
 1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
 2. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
 3. Biennial fire inspection must be completed by the Fire Marshal for the City of Kenai.
 4. The applicant will meet with City staff for on-site inspections when requested.

RECOMMENDATIONS CONTINUED

5. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
6. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
7. Before a floating dock can be installed, the property owner must receive the proper permits from the Kenai River Center.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

ATTACHMENTS

- A. Resolution PZ2021-16
- B. Resolution PZ2021-17
- C. Application
- D. Draft Site Plan
- E. Floor Plans/Elevation Drawings
- F. Aerial Map
- G. Email Responses

A. RESOLUTION PZ2021-16



CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-16

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A CONDITIONAL USE PERMIT FOR GUIDE SERVICE.

APPLICANT: Dean Michael Schlehofer

PROPERTY ADDRESS: 345 Dolchok Lane

LEGAL DESCRIPTION: Lot 4, Block 4, Basin View Subdivision Part 3

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04926211

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on April 15, 2021; and,

WHEREAS, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met pursuant to Kenai Municipal Code 14.20.150; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on May 6, 2021, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The proposed guide service and lodging meets the intent of the Rural Residential Zone (RR) to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The specific intent in establishing this zone is:

- (1) To separate residential structures to an extent which will:
 - (A) Preserve the rural, open quality of the environment;
 - (B) Prevent health hazards in areas not served by public water and sewer.
- (2) To prohibit uses which would:
 - (A) Violate the residential character of the environment;
 - (B) Generate heavy traffic in predominantly residential areas.

Resolution No. PZ2021-16
Page 2 of 4

The guide services and lodging are proposed to take place in an existing single family home, there are no proposed physical changes that would violate the residential character of the neighborhood. The maximum capacity of four bedrooms for lodging is not anticipated to generate heavy traffic in the neighborhood, and likely results in roughly the same number of vehicle trips as other single family homes in the neighborhood. The KMC 14.22 Land Use Table provides that Guide Services and Lodging are a conditional use; therefore, a conditional use permit must be granted for the operation of these services. The applicant has provided illustrations of the layout of the property and floor plans/elevations of the single family home.

2. *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: This parcel is approximately 1.94 acres in size and contains a large paved driveway in the front of the residence to accommodate parking of guest vehicles. The aerial photo provided by the applicant indicates that the distances between the structures and the tree line provides a natural buffer between the properties. The parcels located to the North, South, East and West are zoned rural residential and have similar single family residential uses as the subject property. The value of adjacent properties should not be significantly impacted by the addition of guide services and lodging uses, the physical characteristics of the property remain unchanged.

3. *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai. The tourism industry is an important component for economic development within the City of Kenai. The guide services, bed and breakfast, cabin rentals, and lodging businesses support the tourism industry. Low-density residential land uses typically include single-family low-density, large lots with individual on-site water supply and wastewater disposal systems.

Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

- ED-9 Capitalize on the tourism industry by marketing Kenai as a destination for recreational activities, conventions, festivals, arts, cultural and other events.

4. *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: City water and sewer lines are not available in this area; therefore, the property owner has installed a private water well and septic system. Natural gas, electricity and telephone services are available. Dolchok Avenue is a paved road which is maintained by the City of Kenai. The operation of a guide service and lodge will not impact these facilities.

5. *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

A. RESOLUTION PZ2021-16 CONTINUED

Resolution No. PZ2021-16
Page 3 of 4

Criteria Met: The property is serviced by a private well and septic system which have been installed by the property owner. Public utilities are available and access to the property is via a City maintained paved road. There is no reason to believe that the operation of the guide service and lodge will be harmful to the public safety, health or welfare of the community.

6. KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

See Conditions of Approval as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That a conditional use permit is granted to Dean Michael Schlehofer for a Guide Service for property described as Lot 4, Block 4, Basin View Subdivision Part 3, and located at 345 Dolchok Lane.

Section 2. That the conditional use permit is subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
3. Biennial fire inspection must be completed by the Fire Marshal for the City of Kenai.
4. The applicant will meet with City staff for on-site inspections when requested.
5. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
6. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
7. Before a floating dock can be installed, the property owner must receive the proper permits from the Kenai River Center.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 12th day of May, 2021.

Resolution No. PZ2021-16
Page 4 of 4

ATTEST:

JEFF TWAIT, CHAIRPERSON

JAMIE HEINZ, MMC, CITY CLERK

B. RESOLUTION PZ2021-17



CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-17

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A CONDITIONAL USE PERMIT FOR LODGING.

APPLICANT: Dean Michael Schlehofer

PROPERTY ADDRESS: 345 Dolchok Lane

LEGAL DESCRIPTION: Lot 4, Block 4, Basin View Subdivision Part 3

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04926211

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on April 15, 2021; and,

WHEREAS, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met pursuant to Kenai Municipal Code 14.20.150; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on May 6, 2021, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The proposed guide service and lodging meets the intent of the Rural Residential Zone (RR) to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The specific intent in establishing this zone is:

- (1) To separate residential structures to an extent which will:
 - (A) Preserve the rural, open quality of the environment;
 - (B) Prevent health hazards in areas not served by public water and sewer.
- (2) To prohibit uses which would:
 - (A) Violate the residential character of the environment;
 - (B) Generate heavy traffic in predominantly residential areas.

Resolution No. PZ2021-17
Page 2 of 4

The guide services and lodging are proposed to take place in an existing single family home, there are no proposed physical changes that would violate the residential character of the neighborhood. The maximum capacity of four bedrooms for lodging is not anticipated to generate heavy traffic in the neighborhood, and likely results in roughly the same number of vehicle trips as other single family homes in the neighborhood. The KMC 14.22 Land Use Table provides that Guide Services and Lodging are a conditional use; therefore, a conditional use permit must be granted for the operation of these services. The applicant has provided illustrations of the layout of the property and floor plans/elevations of the single family home.

2. *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: This parcel is approximately 1.94 acres in size and contains a large paved driveway in the front of the residence to accommodate parking of guest vehicles. The aerial photo provided by the applicant indicates that the distances between the structures and the tree line provides a natural buffer between the properties. The parcels located to the North, South, East and West are zoned rural residential and have similar single family residential uses as the subject property. The value of adjacent properties should not be significantly impacted by the addition of guide services and lodging uses, the physical characteristics of the property remain unchanged.

3. *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai. The tourism industry is an important component for economic development within the City of Kenai. The guide services, bed and breakfast, cabin rentals, and lodging businesses support the tourism industry. Low-density residential land uses typically include single-family low-density, large lots with individual on-site water supply and wastewater disposal systems.

Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

- ED-9 Capitalize on the tourism industry by marketing Kenai as a destination for recreational activities, conventions, festivals, arts, cultural and other events.

4. *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: City water and sewer lines are not available in this area; therefore, the property owner has installed a private water well and septic system. Natural gas, electricity and telephone services are available. Dolchok Avenue is a paved road which is maintained by the City of Kenai. The operation of a guide service and lodge will not impact these facilities.

5. *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

B. RESOLUTION PZ2021-17 CONTINUED

Resolution No. PZ2021-17
Page 3 of 4

Criteria Met: The property is serviced by a private well and septic system which have been installed by the property owner. Public utilities are available and access to the property is via a City maintained paved road. There is no reason to believe that the operation of the guide service and lodge will be harmful to the public safety, health or welfare of the community.

6. KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

See Conditions of Approval as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That a conditional use permit is granted to Dean Michael Schlehofer for Lodging for property described as Lot 4, Block 4, Basin View Subdivision Part 3, and located at 345 Dolchok Lane.

Section 2. That the conditional use permit is subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
3. Biennial fire inspection must be completed by the Fire Marshal for the City of Kenai.
4. The applicant will meet with City staff for on-site inspections when requested.
5. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
6. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
7. Before a floating dock can be installed, the property owner must receive the proper permits from the Kenai River Center.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 12th day of May, 2021.

Resolution No. PZ2021-17
Page 4 of 4

ATTEST:

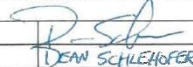
JEFF TWAIT, CHAIRPERSON

JAMIE HEINZ, MMC, CITY CLERK

C. APPLICATION

		Conditional Use Permit Application		<small>City of Kenai Planning and Zoning Department 210 Fidalgo Avenue Kenai, AK 99611 (907) 283-8200 planning@kenai.city www.kenai.city/planning</small>	
				PROPERTY OWNER	
Name:	Dean Michael Schlehofer				
Mailing Address:	PO Box 201565				
City:	Anchorage	State:	AK	Zip Code:	99520-1565
Phone Number(s):	907-268-5519				
Email:	mykingoftheriver@gmail.com				
PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)					
Name:					
Mailing Address:					
City:		State:		Zip Code:	
Phone Number(s):					
Email:					
PROPERTY INFORMATION					
Kenai Peninsula Borough Parcel # (Property Tax ID):	04926211				
Physical Address:	345 Dolchok Lane, Kenai AK 99611				
Legal Description:	Basin View Pt3 L4 B4				
Zoning:	Rural Residential				
Acres:	1.94				
CONDITIONAL USE DESCRIPTION <small>(include site plan/floor plan with square footages) (include State Business License and KPB Tax Compliance if applicable)</small>					
How is this property currently being used?	Fishing Guide Lodging				
Conditional Use Requested for (attach additional sheets if necessary):					
See attached:					
Explain how the conditional use is consistent with purposes and intent of the zoning district of the property:					
See attached:					
Explain how the value of adjoining property and neighborhood will not be significantly impaired by the conditional use:					
See attached:					

RECEIVED
 CITY OF KENAI
 DATE 4-15-21
 PLANNING DEPARTMENT

Use of surrounding property - north:	Driveway/parking lots, access to the lower level of the house
Use of surrounding property - south:	South side of a large deck, open green field
Use of surrounding property - east:	Entry to lower level, driveway parking lot, view of Beaver Creek
Use of surrounding property - west:	See attached:
Explain how the conditional use is in harmony with the City's Comprehensive Plan:	
See attached:	
Are public services and facilities on the property adequate to serve the proposed conditional use?	
See attached:	
Explain how the conditional use will not be harmful to public safety, health, or welfare:	
See attached:	
Are there any measures with access, screening, site development, building design, or business operation that will lessen potential impacts of the conditional use to neighbors?	
See attached:	
AUTHORITY TO APPLY FOR CONDITIONAL USE: I hereby certify that (I am) (I have been authorized to act for) owner of the property described above and that I petition for a conditional use permit in conformance with Title 14 of the Kenai Municipal Code. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff of the Planning and Zoning Commission for administrative reasons. I understand that a site visit may be required to process this application. City of Kenai personnel are authorized to access the above-referenced property for the purpose of processing this application.	
Signature:	
Date:	4/15/2021
Print Name:	DEAN SCHLEHOFER
Title/Business:	GUIDE / OWNER
For City Use Only	Date Application Fee Received: 4/15/21 PZ Resolution Number: 2021-16 Fishing Guide 2021-17 Lodging

C. APPLICATION CONTINUED

1) Conditional Use Requested (attach additional sheets if necessary):

This purpose for this Conditional Use Request is to help us serve King of the River's clients, who have booked with us to sleep over and leave in the morning to join a professional guide for fishing on King of the River's riverboats on the Kenai or Kasilof Rivers. This is a 100% fishing service that includes accommodations. We do not offer any accommodations without first booking a fishing trip.

2) Explain how the conditional use is consistent with the purposes and intent of the zoning district of the property:

The operation of the fishing season is between May and September/early October. Our fishing service provides clients with accommodations on the property, where they will stay overnight between 6 p.m. (check in) and check out early in the morning (5 a.m.- 8:00 a.m.) before their fishing trips with King of the River. The average number clients sleep over is four or five people per night for the entire summer. Our lodging includes four rooms, and our maximum capacity is eight clients. May and September are usually slow, June and August are typically busy, and the month of July is extremely popular. We operate no other activities except fishing and accommodations on the property at 345 Dolchok Lane. During the day, it will be frequently vacated/empty, especially between May and September, while clients are on the riverboats with the guides. The lodging will only be occupied with clients in the evening until early morning.

There is no service in the winter from mid-October to April.

3) Explain how the value of the adjoining property and neighborhood will not be significantly impaired by the conditional use:

The property is nearly two acres, which is wide open. The north-side neighbor has wooden fences, with nearly no visibility between the neighbor's property and our property. The south-side neighbor has almost no visibility of our property because of the forest pines. The south-side neighbor's home is closer to the Beaver Creek. It is farther from the 345 Dolchok Lane home than the north-side neighbor, and there is minimal visibility between us.

The parking lot at 345 Dolchok Lane can fit many vehicles; however, most likely between four and eight of our clients will use one to three vehicle parking spaces daily.

See "A," "B," and "C" files attached (top view photos)

- Use of surrounding property – north: Driveway/parking lots, access to the lower level of the house
- Use of surrounding property – south: South side of a large deck, open green field
- Use of surrounding property – east: Entry to lower level, driveway parking lot, view of Beaver Creek
- Use of surrounding property – west: Large parking lots for the main level, exit to Dolchok Lane/Beaver Loop Road

4) Explain how the conditional use is in harmony with the City's Comprehensive Plan:

Each room will include a laminated letter on the wall with the property instructions and restrictions (rules of the lodging) to ensure the safety and harmony of all guests.

Sample Letter:

Welcome to King of the River Accommodations

And welcome to Alaska! We ask that our guests respect the following house rules:

1. Quiet hours begin at 10 p.m.
2. We are a tobacco-free facility.
3. No cleaning/filleting/vacuuming any fish (outside/inside or in the kitchen). Note King of the River provides fish processing.
4. Please remove your shoes before entering the rooms.
5. If staying for one night only, please remove your belongings in the morning before fishing. If staying for multiple nights, your belongings may be left until the last morning of your stay.
6. Meet at your fishing site (Kenai River, Kasilof, or Ninilchik) at (time of meeting) _____.

It takes approximately four minutes to drive from the King of the River's lodge to Eagle Rock State Site Parking Lot/Dock, 30 minutes to Kasilof Recreational State Park, and 50 minutes to Deep Creek State Recreation Area.

C. APPLICATION CONTINUED

For King of the River fishing, there are two things you need to remember:
1) In the morning, please park your vehicle in one of the following parking lots: Eagle Rock Launch, Kasilof Recreational State Park/Launch, or Deep Creek State Park.
2) Please DO NOT ENTER or roam around the properties of our north- and south-side neighbors because they are private property. Please respect our neighbors.

4) Are public services and facilities on the property adequate to serve the proposed conditional use?

We have limited public services and facilities on our property because it will only be used for overnight accommodations when King of the River clients have booked and scheduled fishing trips with us. This is not a public offer and is only available to clients who have booked with King of the River through phone, email, or other correspondence before they appear at the property. Clients can search for information about us through our website, social media, and other advertisements. When the clients schedule/book with us, a booking agent will attach a file reservation form along with a confirmation letter via email, including directions, information, what to bring, policies, time to meet, and so on. We do not accept any clients who show up at the property without a confirmation letter or a reservation with King of the River.

5) Explain how the conditional use will not be harmful to public safety, health, or welfare:

There are no foreseeable harms to public safety, health, or welfare on the property of 345 Dolchok Lane because a helper, my family, and I are in the house most of the time while the clients are with us.

Introduction: Dean Schlehofer, Professional Guide and Owner

I am the founder and owner of King of the River fishing, established in 1992. I have served thousands of clients. Summer 2021 will be my 30th year in business. I have lived in and been a resident of Alaska since June 1981. I received my first Coast Guard license in 1996, and I have been guiding ever since. I received my 6th license in March 2021 (renewal every five years). I run my business solo and have a proven record of safely guiding over 14,000 clients on the Kenai/Kasilof Rivers. I spend 70-80 days of the year guiding 10- to 12-hour charters on these waters. Some quick math shows that I have in excess of 23,000 hours on the water.

My philosophy as a guide is to conduct myself at the highest professional level and provide the best service I can as a Kenai/Kasilof River guide. My excellent safety record is due to my 36 years of experience on the rivers. I believe in ensuring the utmost safety and health of all my clients, on my property and in the riverboats.

King of the River does not offer any cooked meals to clients, except a continental breakfast (yogurt, hard-boiled egg, bagels, danish, snack bar, etc.) in each room with mini refrigerators. The lower level of the house has a full kitchen. The clients can bring their own meals to cook in using the full kitchen on the lower level. Cooking is prohibited elsewhere in the rooms.

Beaver Creek is closed to fishing all year round, under ADFG's regulations. King of the River clients are not allowed to fish on the waterfront of 345 Dolchok Lane.

All rooms are included in the floor plan maps to show the safest ways to exit the house.

6) Are there any measures with access, screening, site development, building design, or business operation that will lessen the potential impacts of the conditional use for neighbors?

Not at this time; however, I plan to research building a floating dock on Beaver Creek this summer for installation in 2022 or 2023. It is difficult to observe or comprehend whether the waterfront creek would adapt well to a floating dock or access to the Kenai River because of the low tide water level. I purchased the property on March 12, 2021. Because the creek was frozen solid at that time, it was difficult to observe or access it in the early spring because of the snow (thickness) conditions. The previous owners had never tried to use their boats on Beaver Creek. Additionally, it is 1.6 miles away from the property to the confluence of the Kenai River. The creek might be inaccessible due to possible low water conditions such as gravel bars. I will have a full answer for the next season. I have no intention of pursuing any other measures that would affect access, screening, site development, building design, or business operation on my property.

D. SITE PLAN AERIALS

A



NTS

B

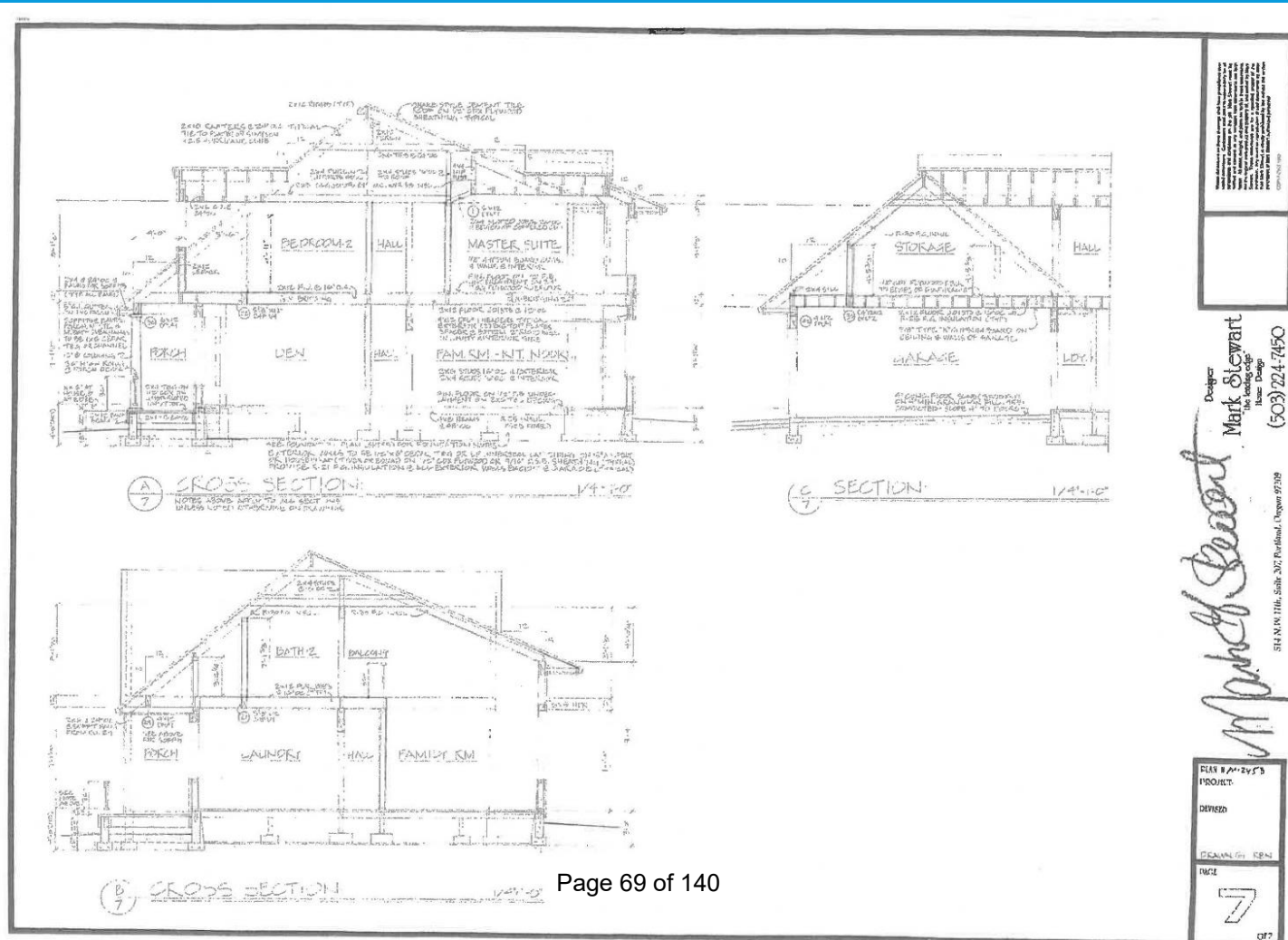


NTS

E. FLOOR PLANS/ELEVATION DRAWINGS



E. FLOOR PLANS/ELEVATION DRAWINGS



F. AERIAL MAP



G. EMAIL RESPONSES

Wilma Anderson

From: Josh Schultz <jschu88@gmail.com>
Sent: Wednesday, May 5, 2021 10:43 PM
To: Wilma Anderson
Subject: Resolutions PZ2021-16 and PZ2021-17

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Wilma,

My wife Rebecca Schultz and I at 375 Dolchok Lane oppose this application for rezoning. This would be against the neighborhood covenants, inject a transient population through the neighborhood and the creek at their residence would not support boat traffic. I feel there are places for a guide service and lodging but this neighborhood is not a good location.

Thank you,

Josh Schultz

May 6, 2021

Planning and Zoning Commissioners:

Unfortunately, we are unable to attend the May 12th planning commission meeting that will address the Conditional Use Permit for a lodge and guide service business at 345 Dolchok Lane (Resolutions PZ2021-16 and PZ2021-17). We would like to express our opposition to approval of this conditional use permit in this letter.

We have lived on Dolchok Lane for almost 20 years. We chose the neighborhood for its residential non-business character, and we have known and appreciated for all that time that businesses were not allowed in the neighborhood due to the neighborhood covenants. In fact, we appreciated the character of the neighborhood so much that we sold our first house on the street and bought and moved into another on the same street. Many of us that still live in the neighborhood participated in paying for the street improvements through the LID process and certainly not with the intention that we would be improving and paying to pave a street to the benefit of a business moving in and violating the neighborhood covenants.

We believe this business conflicts with the restrictions in KMC 14.20.150. This section requires the "separation of residential structures to an extent which will allow for adequate light, air and privacy." This residence, driveway and deck are all open to the street with limited trees separating it from neighbors. Since the neighborhood is in the throes of the beetle kill destruction, the opening up of the neighborhood to less privacy and more noise will continue in the next few years. That Code section also "prohibits uses which would: (A) Violate the residential character of the environment; (B) Generate heavy traffic in predominantly residential areas." We believe this business would clearly violate both of those provisions. Operating the residential home as a fishing lodge with all the customers and guide traffic every day, which will likely include early morning traffic, will clearly violate the residential nature of the subdivision and create heavier traffic and additional noise. KMC 14.20.150 speaks to not impairing the value of the adjoining property and neighborhood. It is not uncommon for this neighborhood to experience noise from the racetrack and gun range across the highway during the summer months, and the introduction of another source of summer business noise into the neighborhood, especially to the close neighbors, could impact property values and property sales. KMC 14.20.150 also requires that the proposal be in harmony with the City's comprehensive plan. We believe that this proposal conflicts with Goal #1, in that it does not protect the livability of existing neighborhoods (Q-2), and it does not promote land uses that are in harmony with surrounding uses (Q-4). This proposal also seems to conflict with Goal 2 of the Comprehensive plan which suggests promoting reuse of business property downtown and along the Kenai Spur (ED-3) and, prior to zoning, minimizing potential conflicts with non-business uses through site design (ED-6). Goal #3 suggests that the City "Establish siting and design standards so that development is in harmony and scale with surrounding uses (LU-1); and, "Review Zoning Code to consider use of buffers and buffer zones to separate incompatible land uses. Review landscaping ordinance to ensure buffers are required to protect neighborhoods (LU-6)." It seems that the Comprehensive Plan goes to great length to suggest the preservation of the neighborhood when considering the introduction of business, and this business location clearly conflicts with the nature of the neighborhood.

G. EMAIL RESPONSES

We are concerned that the allowance of a lodge and fishing guide business in clear violation of the neighborhood covenants could permanently change the nature of the subdivision. There are many properties in the neighborhood that are on Beaver Creek with views and with creek access, and many of those are possibly even more conducive to similar business activities. Those property owners are currently operating within the neighborhood covenants and not operating businesses in the neighborhood. However, if this Conditional Use Permit were authorized it seems there would be no reason not to authorize one on every other property in the neighborhood.

We appreciate your consideration of this matter. We ask you to deny the Conditional Use Permit and retain the residential nature of the neighborhood that all residents bought into when they purchased property in the neighborhood.

Thank You,

Dave & Lara Ross
365 Dolchok Ln.
Kenai, AK 99611

Wilma Anderson

From: S Jurek <mcjurek@gmail.com>
Sent: Thursday, May 6, 2021 8:53 PM
To: planning@kenai.city; Wilma Anderson
alex@douthits.com; ggreenberg@akmapco.com; woodard.g@outlook.com;
Cc: joe@digitsak.com; Ryan Foster
Subject: Resolutions PZ2021-16 and PZ2021-17

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Dear Ms. Anderson and members of the Planning & Zoning Commission,

We are residents of Basinview Subdivision. We value this area and we were attracted to it because it is a quiet, residential-only neighborhood. However, we are very concerned about two upcoming resolutions.

We oppose Resolutions PZ2021-16 and PZ2021-17, which are conditional use permits for guide services and lodging in Lot 4, Block 4 of Basinview Subdivision Part 3 at 345 Dolchok Lane in Kenai. The Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Basinview Subdivision Part 3 (Book 216, Page 242 of the Kenai Recording District, State of Alaska) explicitly states in paragraph 2 (c) "No lot shall be used for other than single family residential purposes".

Allowing a guide service and lodge in our neighborhood willfully and deliberately violates the neighborhood's covenant. Furthermore, it will destroy the ambiance of this peaceful area. We oppose the resolutions for these reasons.

Thank you,
Frances and Mark Jurek
3065 Kim N Ang Court
Kenai, AK 99611

**MAY 12, 2021
 PLANNING AND ZONING COMMISSION MEETING
 ADDITIONAL MATERIAL REVISION**

REQUESTED REVISIONS TO THE PACKET

ACTION	ITEM	REQUESTED BY
Add to Item F2	E-mails objecting to Guide Service and Lodging	Residents
Add to Item F2	Covenants, Conditions and Restrictions Basin View Subd. Part 3	Resident

May 10, 2021

City of Kenai
Planning & Zoning Commission

Dolchok subdivision has always been a single-family dwelling neighborhood and that is why I've bought and sold property in this neighborhood. I have lived in this neighborhood for 29 years. I've raised my children and now I see my children's generation raising their children in this neighborhood. To change the dynamic that has been established would be detrimental to the area. To expect those lodging and touring the area to remain respectful is not realistic. If we have a family neighborhood, we know each other and watch out for each other's children and property. There is no vested interest when one is passing through to keep and maintain the safety of the neighborhood.

1. Property values – what could we expect with our property values? “The value of adjacent properties should not be significantly impacted by the addition of guide services and lodging uses”; there is nothing concrete in this statement that would make this statement fact. Those looking for a family neighborhood will look elsewhere.
2. Traffic – the increased traffic will be a safety concern. You can place speed limit signs up but from experience of my time residing on Ames I can attest that the tourists do not look to speed limit signs or to the fact that they may be speeding by a residence with children. They are on “vacation mode” and your residence is of little concern to them.
3. Noise – Sound travels up and down Beaver Creek. I've been sitting on my deck and have heard the party crew from Foster's on Angler and I'm the 7th house up the creek from them. We do not want to create an atmosphere of having to rely on the police to maintain peace and quiet.
4. I have many unwanted sight seers each year coming down to my property and I do not want this to increase. I question the motives and do not need to have others scoping out my property.

I strongly oppose any conditional use permit being issued for 345 Dolchok Lane or any neighbor to begin a lodging and guide business in Dolchok Subdivision. What are the assurances that these permits are policed? I do not believe there are any checks and balances and that is based upon my years of experience of residing in this area.

Respectfully,

Evelyn Dolchok Huf
700 Dolchok Lane
Kenai, AK 99611

Wilma Anderson

From: Ruby Christopherson <blancherrc@hotmail.com>
Sent: Monday, May 10, 2021 3:11 PM
To: Wilma Anderson
Subject: Dolchok lane application

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To whom this may concern

I am apposing the permit for guide service and lodging for the property at lot 4 block 4 basin view subdivision located 345 dolchok lane , Kenai Ak 99611.

Reasons are we are a single family subdivision to start with.

I feel my property value will go down if the permit is allowed . I live at 350 dolchok lane almost across from the property that is asking for the permit . I feel the added traffic coming into this subdivision would not be a plus several residents who live here walk out to the bike path to walk . Plus I feel people staying at the lodge would not care as to how much noise they could make because they do not live here . We have children living in our subdivision and I watch for them playing people who do not live here would be unaware of their presence.

Please consider the residents of basin view subdivision we all bought to live in a single house subdivision.

Thank you,
Ruby Christopherson
350 Dolchok lane
Kenai , Alaska 99611
Part 1 Lot 1

Sent from my iPad

Wilma Anderson

From: Ryan Foster
Sent: Monday, May 10, 2021 8:04 AM
To: Wilma Anderson
Subject: FW: Conditional Use Application, 345 Dolchok Lane

Ryan Foster
Planning Director
City of Kenai
907-283-8235



From: Rick Baldwin <Rick@baldwinandbutler.com>
Sent: Saturday, May 8, 2021 10:59 AM
To: Ryan Foster <rfoster@kenai.city>
Subject: Conditional Use Application, 345 Dolchok Lane

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To the members of the Kenai City Planning and Zoning Committee,

We are opposed to the granting of the Conditional Use Permit for the property located at 345 Dolchok Lane. The Basin View Subdivision in which we reside was created to be a single family residence neighborhood. The covenants of the neighborhood specifically limit the use of the lots to the purpose of single residence.

Allowing a lodge and guide serviced to operate in our neighborhood would change the quality of neighborhood life for the families and working people who reside in our quiet neighborhood. Lodge businesses and fishing guide services increase traffic and operate by nature during early and late morning hours, increasing the noise levels on Dolchok Lane, Cub Court and Kim-n-Ang Court. While the immediate neighbors would suffer the most detrimental impact, noise travels up and down Beaver Creek to impact additional dwellings.

Granting this conditional use would set a precedent of change in our neighborhood. We do not want our neighborhood to become an alley of lodges and fishing guide services like those which have destroyed the residential character of Angler Drive.

We would ask the Planning Commission to preserve the Basin View Subdivision as an area for single residences and quiet family life.

I am writing this letter to support my stance of **opposition** regarding the conditional use permits requested at 345 Dolchok Lane.

The applicant and "staff" commented on how the applicant shall meet criteria #1-6. Below are my rebuttals to those claims.

- 1) "The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district."
 - A) The applicant states the businesses will only be in operation during the summer, as if that were a positive. That is when everyone else is outside enjoying the weather, creek, and snow free activities too. He states guests will "only" be at the residence from evening until morning - when residents are also typically home. These are the times residents will also be utilizing the roads, woods, and paths that connect our neighborhood as well as our own private outdoor spaces.
 - B) Staff response states that he "meets the intent of RR zoning to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment" - specifically: not violating the "residential character of the environment." This simply isn't true. The definition of character in this case is "the aggregate of distinctive qualities" or "main or essential nature." The essential nature of the Basin View subdivision is single family homes. Having signage to direct a guest to a lodge is not of residential character. "Large parking lots" - Direct quote from Mr. Schlehofer, page 92 of the agenda packet - are not of residential character. *Multiple* vehicles, far above what a typical residential home would have, are not of residential character. The sheer noise from increased vehicle and foot traffic is not of residential character. The document actually says it "likely" results in "roughly" the same amount of traffic of a single family home. Firstly, that's some extremely vague, reaching language. Secondly, single family homes do not have *3plus* vehicles leaving every single morning, including weekends, often before 6am. You cannot make that claim. Aesthetics aside, alienating an entire neighborhood is certainly not of residential character. This business does not fall into line with our covenants. It would not be attractive physically. It would not be an attraction to those in the market for properties in quiet, close knit neighborhoods.
- 2) "The value of the adjoining property and neighborhood will not be significantly impaired."
 - A) There's a lot of explaining about fences and "wide open" spaces here. But the facts are that noise carries over fences, and the property is at the head of the road and will be seen by *every person* that travels Dolchok. Property across the road will have a view of essentially a parking lot.
 - B) Has a realtor given input here? How about an assessor? I'd like to see what the value difference would *actually* be. I don't see how "staff" are qualified to say whether a property value will be impacted by the creation of a business within a quiet residential community. I do know as someone currently in the process of creating a forever home for my family, I would never choose to live next door to a revolving door lodge instead of another family.

3) "The proposed use is in harmony with the Comprehensive Plan." The responses here don't even seem like they're addressing the same thing, but alas..

A) A letter was provided to show how they will have safety and harmony for *guests*, not residents. Quiet hours begin at 10. So from 6pm-10pm where will guests be? What will they be doing? Will they be outside around a fire pit drinking and carrying on? This says the grounds are tobacco free, **not** smoke free. They did provide one little sentence asking guests not to "roam" our neighborhood. People, especially tourists, ignore signs directly in their faces. This isn't going to be effective. People are inherently nosy, and astoundingly dense. There will be people constantly either lost or looking for river access that doesn't exist. People already go down driveways that have "no river access" posted, we don't need that daily.

B) The "staff" response basically says you're willing to ignore an entire community for the sake of money. They can support tourism down Angler where all the other guides are. Or somewhere else completely. Not in our space that we've chosen specifically because it's **not** a tourist destination. A lodge and guide service down this street does not market Kenai as a destination for festivals, conventions, or arts. Plus this man doesn't even *live* here; he lives in Anchorage and his money will go with him.

4) "Public services and facilities are adequate to serve the proposed use"

A) Just because you don't *accept* people who show up unannounced, doesn't mean they won't.

B) Water and sewer may not be an issue here (and that is assuming the septic has been updated to account for all of the additional guests in and out and their showers), but it is *Dolchok Lane*, not Avenue.

5) "The proposed use will not be harmful to the public safety, health or welfare."

A) Now this is where we have our main concerns. Being in the home, or "family" being in the home doesn't address the issues here. Again, this family does not live here, they have no interest in our neighborhood other than just using it for revenue. There will be increased population all summer, every day. Our children play outside. Our families use the roads for exercise, both us and our pets. It is a huge safety concern to have new strangers every day up and down our road. Will some of these strangers be a threat to our children? Most likely. Will they travel at a safe speed? Definitely not. The only issues I had living on Ames Road was traffic from the lodge at the end of the road; guides and guests constantly driving too fast and posing a danger to myself and my sister for years. Tourists do not care about speed limits, children on bikes, people walking dogs, moose, or private property. Once a business is established, that address is familiar to more people. This neighborhood is one of those hidden treasures that a lot of people don't really see. I don't want it to be "exposed" in advertising and draw in solicitors and thieves.

B) As stated above, there are quite clearly many reasons to believe the operations would be harmful.

6) "Specific conditions deemed necessary"

A) To the extent of my knowledge he couldn't get boats up that far anyway, however, could he, it would be another extremely problematic endeavor. Boats up and down the creek every day would cause harm to the banks. It could cause damage to other personal

May 10, 2021

docks. Not only are boats loud, but passengers can be, and often are, even louder. Let's not even get to a place where we need to worry about this.

Do not approve these permits.

My goal has been to build a home on Dolchok Lane, next to my family. Next to my childhood home. In the area my family homesteaded. Near my friends. To move away from the *constant* noise and nuisance and traffic that comes with having too many neighbors that don't care about each other. To have a space where my children can play **safely** outside my home. My goal has been this neighborhood exactly the way it's been my entire life. If these permits are granted, that is all in jeopardy.

Samantha Singleton

Wilma Anderson

From: Ryan Foster
Sent: Wednesday, May 12, 2021 2:28 PM
To: Wilma Anderson
Subject: FW: Opposition to Resolutions PZ2021-16 and PZ2021-17

Ryan Foster
Planning Director
City of Kenai
907-283-8235



From: Pete Coots <petecoots@gmail.com>
Sent: Wednesday, May 12, 2021 1:14 AM
To: planning@kenai.city; Ryan Foster <rfoster@kenai.city>
Cc: woodard.g@outlook.com; joe@digitsak.com; ggreenberg@akmapco.com; alex@douthits.com; Jim Glendening <jglendening@kenai.city>
Subject: Opposition to Resolutions PZ2021-16 and PZ2021-17

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Good evening Mr. Foster, City of Kenai Planning/Zoning Commission and City Council Liaison Mr. Glendening:

I am writing in strong opposition to Resolutions PZ2021-16 and PZ2021-17 conditional use application for operation of a fishing lodge in our small family neighborhood in the Basin View Subdivision.

Our lovely neighborhood is enjoying a re-emergence as a great family-centered neighborhood with many young families purchasing single family residences. Adding a commercial fishing lodge is in direct conflict with the use and character of our neighborhood.

My basic research of the Kenai Municipal Code, lead me to review the Kenai Zoning Code (KZC), 14.20.080 and the intent of rural residential zone-

"is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment."

And further, in KZC 14.20.080 (a)(1)(A)-

"Preserve the rural, open quality of the environment"

Unfortunately, approval of a tourist-based fishing lodge with a continually transient population will greatly alter the character of our residential neighborhood. Additionally, all property owners will see reduced property values.

A fishing lodge will bring a throw-away culture of out of state tourists littering garbage, fish carcasses, encouraging bear activity and culture of late night partying for those on vacation, as is clearly seen during the dipnet season in the City of Kenai.

KZC continues in 14.20.080 (a)(1)(B)-

"Prevent health hazards in areas not served by public water and sewer."

Any functioning lodge would clearly need to be able to provide the needs of its guests. Which by nature would mean use of kitchen, toilets, showers and laundry.

Linen service on a daily and weekly basis for all the guests, requires high volume use of water and produces excessive wastewater which would clearly exceed the Alaska DEC engineered septic system design for a four bedroom single family residence. The failure of the residential system and contamination of soils and runoff will pollute the ecosystem of Beaver Creek, one of the Kenai Peninsula Borough's protected anadromous water bodies which feeds the Kenai River.

KZC 14.20.080 (a)(2) further states the intent of the rural residential zone:

"To prohibit uses which would: (A) Violate the residential character of the environment; (B) Generate heavy traffic in predominantly residential areas."

The high turnover during the tourist season would increase the traffic excessively in our neighborhood. Access by families with small children riding bikes via Dolchok Lane to the newly added recreational path on Beaver Loop Road would be hindered as guests were checking in, checking out and as guides back in boats for wash down and process large amounts of fish.

Our family chose to relocate and become tax payers in the City of Kenai in a covenanted neighborhood from the unincorporated areas of Nikiski to protect the investment in our home and property. We may be forced to relocate to another city which enforces zoning regulations in the near future if this business is allowed to operate in our neighborhood to avoid negative property valuations.

I hope you carefully consider the long-term impacts of granting a conditional use permit in our neighborhood. There are pre-established areas in the City for fish lodges and river access, unfortunately the upper Beaver Creek and the Basin View Subdivision is not conducive for business and commercial enterprises.

All of our neighbors are united in this matter and have realized our jointly agreed upon subdivision covenants are in need of updating and possible retention of legal counsel. Moving forward, reestablishment of the homeowners association is under consideration. Future annual applications for conditional use will be opposed as well.

Sincerely,

Peter M. Coots
385 Dolchok Lane
Kenai, AK 99611

Wilma Anderson

From: Suzanne K <suzanneklaben@gmail.com>
Sent: Tuesday, May 11, 2021 6:05 AM
To: Wilma Anderson
Subject: Resolution pz2021-16 and pz2021-17

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Hello,
I am a home owner in Basin View subdivision and have lived here for nearly 3 decades. I am very strongly opposed to any changes in our subdivision that would allow a permit for a guide service or lodge. I live one lot over from the proposed lodge. We chose this family neighborhood for a reason. We love the quiet family atmosphere. If the city allows this to happen the value of my home and adjoining lot will decrease. Please do not decrease the value of my home and neighborhood so that a business with an Anchorage address can make more money.
I am strongly against resolution pz2021-16 and pz2021-17 on lot4 block 4 Basin View subdivision part 3 located at 345 Dolchok lane. Please do NOT allow this to happen.

Respectfully,
Suzanne Klaben
325 Dolchok lane

Wilma Anderson

From: Plagge <plaggeak@gmail.com>
Sent: Wednesday, May 12, 2021 11:54 AM
To: Wilma Anderson
Cc: Ryan Foster
Subject: Re: I am writing about the Guide Service and Lodging on 345 Dolchok Lane, Franz & Hilde Plagge are absolutely "Against it ".It is to close to our Property which is 390 and 370 Dolchok Lane.

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Yes, I approve.

On Wed, May 12, 2021 at 9:15 AM Wilma Anderson <wanderson@kenai.city> wrote:

Mr. Plagge,

I am in receipt of your comments. Since the comments are posted on the subject line, they cannot be read unless you scroll to the end of the line. I have copied your comments and placed them below:

I am writing about the Guide Service and Lodging on 345 Dolchok Lane, Franz & Hilde Plagge are absolutely "Against it ".It is to close to our Property which is 390 and 370 Dolchok Lane.

Would you please confirm that these are the comments that you wish me to forward to the Planning & Zoning Commission.

If you have any questions, please give me a call.

Willie Anderson

Planning Assistant

210 Fidalgo Avenue

Kenai, AK 99611

907-283-8237 Phone

Wilma Anderson

From: Kelsey Daniel <kelsey_daniel20@hotmail.com>
Sent: Wednesday, May 12, 2021 12:41 PM
To: Wilma Anderson; Ryan Foster
Subject: Opposition to Resolution PZ2021-16 and PZ2021-17

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To the City of Kenai Planning and Zoning Board,

Although I didn't reside at 3055 Kim-N-Ang Ct during my childhood, I spent countless time there. I believe it to have been my second home. It was the home of my best friend Nyle LeMay and where her parents still live. We would run and play and do fun things together. Reflecting back on the time I spent there, I loved how quiet, peaceful, private, and safe this neighborhood is. Now that I have a family of my own, a quiet, peaceful, private, and safe neighborhood is where I want to raise my children. An opportunity to buy a house in this very neighborhood came available in 2017 and my husband and I took it! We reside at 570 Dolchok and can't imagine a better home and neighborhood for our children. The type of neighborhood that my kids can play outside and ride bikes up and down the road without worry. That vision is now being threatened by PZ2021-16 and 17, opening the door to daily out-of-town traffic, as well as the litter, noise, and disturbances that these strangers will bring. Strangers that may not share the same values we do and that could care less about this being a single family neighborhood. My husband, my children, and I absolutely love Basin View Subdivision the way is and was intended to be. Respectfully, please do not grant these permits and/or fundamentally alter it.

Thank you,

Kelsey Daniel
570 Dolchok Lane
Kenai, AK 99611

OPPOSITION TO APPLICATION FOR CONDITIONAL USE PERMIT

The undersigned, all owners and residents of the Dolchok and Ames neighborhoods, hereby voice their opposition to the adoption of Resolution 2021-17 and to the granting of the application for conditional use permit referred to therein.

KMC 14.20.150(a) provides that the commission may issue a conditional use permit if the conditions and requirements of the chapter are met. The present application does not meet the conditions of the chapter and for that reason the commission is urged to reject the application.

1. The proposed use is inconsistent with the purpose of KMC 14.20. The intent of the chapter is “to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment.” The neighborhood of the undersigned is such an environment. The proposed use would destabilize the environment and render it less attractive for the current single-family homes. It would add additional traffic, uncontrolled noise of persons who have no ties to the neighborhood and no particular motivation to act as would the typical residential neighbor. The value of homes for residential purposes within the neighborhood would thus be diminished and their value as potential additional “lodges” enhanced, thereby contributing to market instability and a decline in the value of the neighborhood for single-family residential purposes.
2. The proposed use is incompatible with the surroundings and does not meet the conditions and requirements of KMC 14.20. The neighborhood is currently a quiet residential neighborhood of people who respect each other’s privacy and for the most part are considerate of their neighbors. To the extent that most people have cars and boats, they are screened from view, thus contributing to an attractive environment. The parking area of the “lodge” is not screened from the road and adding to the owner’s vehicles and boat trailers the vehicles of clients of the fishing guides would create an eyesore not presently existing anywhere else in the neighborhood. As noted above, adding a transient population of people with little incentive to act responsibly is sure to add a level of noise not currently existing – and the noise is most likely

to begin as early as 5:00 a.m., at a time of year when most residents sleep with their windows open because of the heat.

3. The proposed use would be in violation of the subdivision covenants. The Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Basinview Subdivision Part 3 provides at Section 2(c):

(c). No lot shall be used for other than single family residential purposes.

Subdivision covenants are in the nature of a contract among the owners of lots in a subdivision. They are enforceable by the courts and any owner in the subdivision has the right to apply to the courts for enforcement. In this case that should not be necessary, because the commission should honor the agreement that has been made among the neighbors. It is, after all, the neighboring owners who can best define the nature and character of their neighborhood. They made that determination by purchasing their lots in the subdivision with full knowledge of the underlying covenants. That being the case the only responsible course of action would be for the commission to reject the application.

Respectfully submitted,

Evelyn Huf
Printed name.
Evelyn Huf
Signature
700 Dolchok Ln
Street Address

Owen Dukowitz
Printed name
Owen Dukowitz
Signature
635 Dolchok Ln
Street Address

Mylee Niederhauer
Printed name
Mylee Niederhauer
Signature
635 Dolchok Ln
Street Address

MARK LARSON
Printed name
Mark Larson
Signature
3040 Kim n Ang
Street Address

Tabatha Chanley
Printed name.
Tabatha Chanley
Signature
515 Dolchok Kenai Ak 99611
Street Address

Jeanie Coston
Printed name
Jeanie M. Coston
Signature
470 Dolchok Ln
Street Address

Suzanne & Paul Klaben
Printed name.
Suzanne Klaben
Signature
325 Dolchok Lane
Street Address Kenai 99611

CRAIG CHEEK
Printed name
Craig Cheek
Signature
455 Cub Court
Street Address KENAI AK

Dennis L. Barnard
Printed name.
Dennis L. Barnard
Signature
335 Dolchok
Street Address

Deirdre Cheek
Printed name
Deirdre Cheek
Signature
455 Cub Court
Street Address Kenai AK 99611

PIETE ACHAPATE COOKS
Printed name.
Piete Cooks
Signature
305 Dolchok Ln.
Street Address KENAI, AK 99611

Viann Mack
Printed name
Viann Mack
Signature
485 Dolchok Lane
Street Address

JOHN COSTON
Printed name.
John Coston
Signature
470 DOLCHOK LANE
Street Address

Julie + Dave Derry
Printed name
Julie Derry
Signature
495 Dolchok Lane
Street Address

MARILYN Wolsterman
Printed name.
Marilyn Wolsterman
Signature
555 Dolchok Ln Kenai
Street Address

Fred Wolsterman
Printed name
Fred Wolsterman
Signature
555 Dolchok Ln Kenai
Street Address

Phillip Daniel
Printed name
Phillip Daniel
Signature
570 Dolchok Ln
Street Address

Ruby Christopherson
Printed name
Ruby Christopherson
Signature
350 Dolchok Ln
Street Address

TIM HIPPI
Printed name.
TIM HIPPI
Signature
590 POLCHOK LN
Street Address

Amber + Travis Every
Printed name
Amber + Travis Every
Signature
360 Dolchok LN Kenai
Street Address

Robin P. Lemay
Printed name.
Robin P. Lemay
Signature
5055 KIM N ANG CT
Street Address

David Lemay
Printed name
David Lemay
Signature
5055 KIM N ANG CT
Street Address

Kelsey Daniel
Printed name
Kelsey Daniel
Signature
570 Dolchok Ln
Street Address

JASON HOBART
Printed name
Jason Hobart
Signature
3500 KIM N ANG CT
Street Address

Mark Junek

Printed name.

Mark Junek

Signature

3065 Kim N Ang Ct

Street Address

Lisa Langham

Printed name.

Lisa Langham

Signature

3070 Basin View Way

Street Address

Jerry Huff

Printed name.

Jerry Huff

Signature

765 Ame's Rd.

Street Address

Franz Plagge

Printed name.

Franz Plagge

Signature

370 & 390 Dolchok LN

Street Address

Joshua Sornig

Printed name.

Joshua Sornig

Signature

4460 Beaver loop rd.

Street Address

C.R. Baldwin

Printed name

C.R. Baldwin

Signature

3080 Kim-N-Ang Ct.

Street Address

465 Cub Ct.
3075 Kim-N-Ang Ct.

BARBARA L. BALDWIN

Printed name

Barbara L. Baldwin

Signature

3080 KIM-N-ANG CT.

Street Address

465 Cub Ct
3075 Kim-N-Ang Ct

Mykle Ables

Printed name

Mykle Ables

Signature

3070 Kim-n-Ang Ct

Street Address

Pamela Ables

Printed name

Pamela Ables

Signature

3070 Kim N Ang Ct

Street Address

CHARLES E. EUBANK

Printed name

Charles E. Eubank

Signature

3050 KIM-N-ANG CT

Street Address

OPPOSITION TO APPLICATION FOR CONDITIONAL USE PERMIT

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KMC 14.20.150(a) provides that the commission may issue a conditional use permit if the conditions and requirements of the chapter are met. The present application does not meet the conditions of the chapter and for that reason the commission is urged to reject the application.

1. The proposed use is inconsistent with the purpose of KMC 14.20. The intent of the chapter is "to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment." The neighborhood of the undersigned is such an environment. The proposed use would destabilize the environment and render it less attractive for the current single-family homes. It would add additional traffic, uncontrolled noise of persons who have no ties to the neighborhood and no particular motivation to act as would the typical residential neighbor. The value of homes for residential purposes within the neighborhood would thus be diminished and their value as potential additional "lodges" enhanced, thereby contributing to market instability and a decline in the value of the neighborhood for single-family residential purposes.
2. The proposed use is incompatible with the surroundings and does not meet the conditions and requirements of KMC 14.20. The neighborhood is currently a quiet residential neighborhood of people who respect each other's privacy and for the most part are considerate of their neighbors. To the extent that most people have cars and boats, they are screened from view, thus contributing to an attractive environment. The parking area of the "lodge" is not screened from the road and adding to the owner's vehicles and boat trailers the vehicles of clients of the fishing guides would create an eyesore not presently existing anywhere else in the neighborhood. As noted above, adding a transient population of people with little incentive to act responsibly is sure to add a level of noise not currently existing – and the noise is most likely to begin as early as 5:00 a.m., at a time of year when most residents sleep with their windows open because of the heat.
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(c). No lot shall be used for other than single family residential purposes.

Subdivision covenants are in the nature of a contract among the owners of lots in a subdivision.

They are enforceable by the courts and any owner in the subdivision has the right to apply to the courts for enforcement. In this case that should not be necessary, because the commission should honor the agreement that has been made among the neighbors. It is, after all, the neighboring owners who can best define the nature and character of their neighborhood. They made that determination by purchasing their lots in the subdivision with full knowledge of the underlying covenants. That being the case the only responsible course of action would be for the commission to reject the application.

Respectfully submitted,

 Printed name: WACK PADGETT

 Signature: Wack Padgett

 Street Address: 855 Ames Road
Kenai, AK 99611

 Printed name: Ronald Rogelsky

 Signature: Rogelsky

 Street Address: 945 Ames Rd
Kenai AK 99611

Signature

Street Address

Harris N Miller

Printed name.

Harris N Miller

Signature

Harris N Miller

Street Address

*911 Ames Rd
Kenai Alaska 99611*

Printed name.

Don Meyer

Signature

Don Meyer

Street Address

*620 Ames Rd
Kenai, AK*

Printed name.

Jane Mathies-Holtan

Signature

Jane V. Mathies Holtan

Street Address

*430 Ames Rd
Kenai AK*

Printed name.

Terry Davis

Signature

Terry Davis

Street Address

*785 Ames Rd
Kenai, AK*

Signature

Street Address

*3050 Kim-n-Ang Ct.
Kenai, Ak, 99611*

Printed name

VALERIE A. EUBANK

Signature

Valerie A Eubank

Street Address

Printed name

Signature

Street Address

Printed name

Signature

Street Address

Printed name

Signature

Street Address

Wilma Anderson

From: Ryan Foster
Sent: Wednesday, May 12, 2021 2:31 PM
To: Wilma Anderson
Subject: FW: Conditional Use Application, 345 Dolchok Lane
Attachments: CRB Res Cov.pdf

Ryan Foster
Planning Director
City of Kenai
907-283-8235



From: Rick Baldwin <Rick@baldwinandbutler.com>
Sent: Monday, May 10, 2021 4:28 PM
To: Ryan Foster <rfoster@kenai.city>
Subject: RE: Conditional Use Application, 345 Dolchok Lane

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Thank you, Ryan. I've attached a copy of the subdivision covenants for Basinview Subdivision which will be referred to in testimony. Would you please add them to the record as well?
Thank you for your help.
Rick and Bobbie

*Rick Baldwin
Baldwin & Butler, LLC
125 N. Willow
Kenai, Alaska 99611
(907) 283-7167*

From: Ryan Foster <rfoster@kenai.city>
Sent: Monday, May 10, 2021 12:39 PM
To: Rick Baldwin <Rick@baldwinandbutler.com>
Subject: RE: Conditional Use Application, 345 Dolchok Lane

Thanks Rick, we will add this as a laydown for the packet on Wednesday.

Sincerely,

1-29851-47

BOL. 216 PAGE 242

Cowan, Gillespie & Jefferson
A Professional Corporation
P.O. Box 1681
Kenai, Alaska 99611
(907) 283-7187

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P.O. Box 53 Kenai, AK

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RESERVATIONS OF
EASEMENTS FOR BASINVIEW SUBDIVISION PART 3

THIS DECLARATION, made in the Third Judicial District,
State of Alaska, this 27 day of July, 1983, by the
undersigned, together with all persons adopting this Declaration,
herein referred to as "Declarants".

RECITAL

The Declarants are the fee-simple owners of the
following described real property:

LOTS ONE (1), TWO (2), THREE (3), and
FOUR (4) in BLOCK THREE, LOTS ONE (1)
through FIVE (5) in BLOCK TWO (2), LOTS
ONE (1) through TWENTY FIVE (25) in BLOCK
FOUR (4), and TRACT A of BLOCK FOUR
(4) in BASINVIEW SUBDIVISION PART 3,
a subdivision of TRACT 2 of DOLCHOCK-
KENAI SUBDIVISION (according to Plat No.
83-103) and the undivided remainder of
the S 1/2 NW 1/4 and NW 1/4 SW 1/4,
Section 1, TSN, R11W, Seward Meridian,
Located in the Kenai Recording District,
Third Judicial District, State of Alaska,
according to Plat No. 83-173, recorded
in Book _____, at Page _____,
in the office of the Kenai Recorder, Third
Judicial District, State of Alaska.

Declarants hereby make the following Declaration as to
covenants, restrictions, limitations and conditions to which the
above-described real property, and any additions thereto, (herein
referred to as the "properties"), may be put, hereby specifying
that said Declaration shall constitute covenants to run with the
land which shall be binding on Declarants, their successors and
assigns, and all subsequent owners of all or any part of said
properties and improvements, together with their grantees,
successors, heirs, executors, administrators, devisees or
assigns. Declarants, in order to establish the covenants,
conditions, restrictions and reservations or granting of
easements for the properties, hereby covenant and agree to be
bound by this Declaration.

COVENANTS

Declarants, their successors and assigns, by this
Declaration, and all future owners of lots, by their acceptance
of their deeds, covenant and agree as follows:

1. No Further Subdivision. The area of the lots
herein described, or any lots subsequently added hereto, shall
not be reduced in size by resubdivision, except that lots may be
eliminated by resubdivision, nor may any owner bring any action
for partition, it being agreed that this restriction is necessary
in order to preserve the rights of the owners. Except as
specifically provided herein, the lots shall be occupied and used
by the respective owners only as a private dwelling for the
owner, his family, tenants and social guests, and for no other
purpose.

2. Land Use And Building Type. (a). All improvements
are to be on a permanent foundation.

(b). The exterior of any improvement must be completed

1 within one year from the date of start of construction.

2 (c). No lot shall be used for other than single family
3 residential purposes.

4 (d). Dwellings must meet or exceed the specifications
5 of the Uniform Building Code. The floor area of the structure,
6 exclusive of open porches and garages, shall not be less than
7 1000 square feet for a one story dwelling, nor less than 1400
8 square feet for a dwelling of more than one story. No building
9 shall be located on any lot nearer than twenty (20) feet to the
10 front lot line, or nearer than ten (10) feet to any side lot
11 line. No structure except a fence or hedge shall be located any
12 nearer to the rear of the property line than the building setback
13 line as shown on the recorded plat.

14 (e). To insure natural growth screening and esthetics
15 between dwelling structures, no lot shall be clear-cut more than
16 fifty percent (50%) of the total lot area, except that trees may
17 be thinned and undergrowth cleared.

18 3. Water Supply And Sanitary Facilities. Individual
19 water supply systems and sewage disposal systems on each lot
20 shall be installed and maintained in compliance with the
21 standards and requirements of the State of Alaska. All dwellings
22 shall have indoor sanitary facilities, and no outhouse shall be
23 maintained on any lot. No lot shall be used or maintained as a
24 dumping ground for rubbish or junk vehicles. Trash, garbage or
25 other waste shall be kept only in sanitary containers. All
26 equipment for the storage or disposal of such material shall be
27 kept in a clean and sanitary condition. All water supply and
28 sewage disposal systems shall be permitted only in conformance
29 with applicable requirements of 18 AAC 70, 18 AAC 72, and 18 AAC
30 80.

31 4. Easements. Easements for the installation and
32 maintenance of utilities are reserved as shown on the recorded
33 plat. For the purposes of this subdivision, "utilities" shall be
34 deemed to refer to cable television lines, in addition to other
types of utilities.

35 5. Nuisances. No noxious or offensive activity shall
36 be carried on upon any lot, nor shall anything be done therein
37 which may be or may become an annoyance or nuisance to the
38 neighborhood. No animals, livestock or poultry of any kind shall
39 be raised, bred or kept on any lot for commercial purposes.
40 Dogs, cats or other household pets may be kept, but no dog teams
41 shall be kept on any lot. All animals shall be confined upon the
42 owner's lot.

43 6. Signs. No sign of any kind shall be displayed to
44 the public view on any lot except one (1) professional sign of
45 not more than one square foot, one sign of not more than five
46 square feet advertising the property for sale or rent, or signs
47 used by a builder to advertise the property during the
48 construction and sale period.

49 7. Temporary Structures. No structure of temporary
50 character, trailer, basement, tent, shack, garage, barn or
51 other outbuilding shall be used on any lot at any time as a
52 residence, either temporarily or permanent.

53 8. Parking or Vehicle Storage. In order to maintain
54 quality standards, no inoperable vehicles of any kind, including
so-called antiques, may be kept on the property unless fully
contained inside the owner's garage. Any officer of the
Association created by this Declaration shall be authorized to

1 order the removal of any such offending vehicle, and to contract
2 with any vehicle towing business to remove the same from any lot
3 or street within the subdivision. In the event of suit being
brought against such officer as a result of his actions in this
regard, the Association shall indemnify him and hold him harmless
from any loss incurred by virtue of said suit.

4 9. Additional Lots. Additional lots within the
5 BASINVIEW SUBDIVISION PART 3 may be added to the properties upon
6 the owner of such lots executing and recording an appropriate
7 instrument declaring that this Declaration shall be binding upon
8 such lots and adopting the terms hereof. Upon the recording of
9 such an instrument, all such lots shall be deemed to have been
described herein, and the covenants, conditions, restrictions,
limitations and privileges set forth herein shall be binding upon
and shall inure to the benefit of all owners of such additional
lots, their successors and assigns, to the same extent as though
said lots were originally described herein.

10 10. Compliance. Enforcement shall be by proceedings
11 at law or in equity against any person or persons violating or
12 attempting to violate any covenant, either to restrain violation
or to recover damages, and such actions may be brought by the
owner or owners of record of any lot in the subdivision.

13 11. Homeowners Association. The BASINVIEW SUBDIVISION
14 PART 3 HOMEOWNERS ASSOCIATION, hereinafter called the
15 Association, is created by this instrument. Whether or not
16 contained in any deed issued subsequent to the date of
17 recordation of this instrument, each grantee of any deed in the
18 properties shall be deemed to be a member of the Association,
19 subject to all obligations created hereby and entitled to all
rights of such membership as set forth in this instrument, or of
any bylaws the Association may adopt hereunder. The Association
may, from time to time, adopt bylaws. Such bylaws, to be
effective, must be approved by a two-thirds (2/3) majority vote
of the lot owners.

20 12. Membership and Voting Rights. (a). Every owner
21 of each lot which is contained in the properties shall be a
22 member of the Association. Membership shall be appurtenant to
and may not be separated from ownership of any lot which is
subject to assessment.

23 (b). The owner of each lot shall be entitled to one
24 vote for each lot owned by him. In the event multiple owners own
25 one lot, they shall have one vote among them which shall be cast
by their unanimously selected designee. Voting rights will
remain at all times with the owner of each respective lot.

26 (c). The Association shall elect a President and
27 Secretary-Treasurer at each annual meeting. Until the first
28 annual meeting, the initial President shall be Ronald T.
Dolchok, and the Secretary-Treasurer shall be Ronald
T. Dolchok.

29 (d). The mailing address for the Association shall be
30 the then current address of the President of the Association.

31 15. Conveyance of Property by Grantor. RONALD DOLCHOK
32 by executing this Agreement on behalf of the property interests
33 that he represents in this subdivision hereby conveys to the
34 Homeowners Association TRACT A of BLOCK FOUR (4), BASINVIEW
SUBDIVISION PART 3. The purpose of the granting of this lot is
to allow all members of the Association access to Beaver Creek
for purposes of boat launching and other recreational pursuits.
Each lot owner shall be vested in an undivided 1/34th interest in

Tract A, Block Four (4), Basinview Subdivision Part 3.

14. Power to Levy by Homeowners Association. Each party signing this Agreement hereby acknowledges and understands that the Association will have the right to levy against all its members for maintenance of the deeded access in Tract A, Block Four (4) provided to the Association by Ronald Dolchok.

15. Termination. The covenants and restrictions hereby imposed shall terminate, and this instrument shall cease to be of any force and effect on January 31, 2083.

16. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

The foregoing restrictions and conditions for building and use in the named subdivision are hereby declared and adopted by the owner of the subdivision, and all easements created, granted and reserved are declared to be the act of the owner and all conditions on purchase and ownership of property in the subdivision shall be deemed and considered as covenants running with the land.

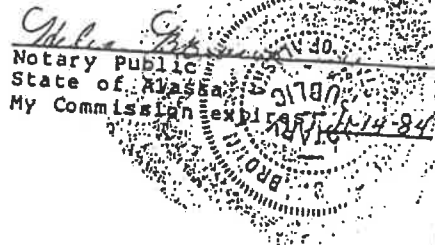
IN WITNESS WHEREOF, the Declarants herein have signed their names on the day and year first hereinabove mentioned.

Ronald T. Dolchok
RONALD T. DOLCHOK

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss

THIS IS TO CERTIFY that on the 27 day of July 1983, before me, the undersigned Notary Public in and for the State of Alaska, personally appeared RONALD T. DOLCHOK, known to me to be the person named in and who executed the foregoing instrument, and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.



83-009160

1700

AUG 17 9 46 AM '83

REQUESTED BY Atg

ADDRESS 13332

**KENAI PLANNING & ZONING COMMISSION
REGULAR MEETING
MAY 12, 2021 – 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, ALASKA
CHAIR JEFF TWAIT, PRESIDING**

MINUTES

A. CALL TO ORDER

Chair Twait called the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

Chair Twait led those assembled in the Pledge of the Allegiance.

2. Roll Call

Commissioners present: J. Twait, D. Fikes, J. Halstead, G. Woodard, G. Greenberg,
A. Douthit, R. Springer

Commissioners absent:

Staff/Council Liaison present: Planning Director R. Foster, Planning Assistant W.
Anderson, Deputy City Clerk M. Thibodeau, Council Liaison
J. Glendening

A quorum was present.

3. Agenda Approval

Chair Twait noted the following revisions to the agenda and packet:

- Add to item F.2. **Resolutions PZ2021-16 and PZ2021-17**
- Emails objecting to Guide Service and Lodging
 - Covenants, Conditions and Restrictions Basin View Subd.
Part 3

MOTION:

Commissioner Greenberg **MOVED** to approve the agenda with requested additions and
Commissioner Woodard **SECONDED** the motion. There were no objections; **SO ORDERED.**

4. Consent Agenda

MOTION:

Commissioner Greenberg **MOVED** to approve the consent agenda and Vice Chair Fikes
SECONDED the motion. There were no objections; **SO ORDERED.**

All items listed with an asterisk () are considered to be routine and non-controversial by the Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commission Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda as part of the General Orders.

5. *Excused absences – None

B. APPROVAL OF MINUTES

1. *April 28, 2021

The minutes were approved by the Consent Agenda.

C. SCHEDULED PUBLIC COMMENT – None.

D. UNSCHEDULED PUBLIC COMMENT – None.

E. CONSIDERATION OF PLATS

1. **Resolution PZ2021-14** – Preliminary Subdivision Plat of FBO Subdivision No. 11, submitted by Segesser Surveys, 30485 Rosland Street, Soldotna, AK 99669, on behalf of City of Kenai, 210 Fidalgo Avenue, Kenai, AK 99611

Planning Director Foster presented his staff report with information provided in packet noting that the City of Kenai wishes to increase the size of the Lot 3 for the construction of a sand storage building for maintenance of the airfield. The preliminary plat of FBO Subdivision No. 11 will move the property line between two lots approximately 125 feet, resulting in a larger lot for the sand storage building and a smaller lot that is leased to the State of Alaska, Division of Forestry.

Approval of the plat was recommended, subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.

MOTION:

Commissioner Greenberg **MOVED** to approve Resolution No. PZ2021-14 with staff recommendations and Commissioner Douthit **SECONDED** the motion.

VOTE:

YEA: Springer, Halstead, Douthit, Fikes, Greenberg, Woodard, Twait

NAY:

MOTION PASSED UNANIMOUSLY.

F. PUBLIC HEARINGS

1. **Resolution PZ2021-15** – Application for a Conditional Use Permit for Cabin Rentals for the property described as Lot 3, James H Cowan Estates, located at

1050 Angler Drive, Kenai, Alaska 99611. The application was submitted by Bryan Lowe, Rachel Lowe and Bryson Lowe, 411 Eadies Way, Kenai, AK 99611

Planning Director Foster presented his staff report with information provided in packet explaining that the applicant wishes to obtain a Conditional Use Permit for a cabin rental business. The criteria for conditional use permits was reviewed; it was noted the application met the criteria and City staff recommends approval subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. Prior to issuance of a Building Permit, a landscape/site plan must be reviewed and approved by the Planning Director.
3. Prior to beginning construction of the project, a building permit must be issued by the Building Official for the City of Kenai.
4. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
5. The applicant will meet with City staff for on-site inspections when requested.
6. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(i)(5).
7. Pursuant to KMC 14.20.150(i)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
8. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

MOTION:

Commissioner Douthit **MOVED** to approve Resolution No. PZ2021-15 with staff recommendations and Commissioner Woodard **SECONDED** the motion.

Chair Twait opened for public hearing.

Jerry Huf stated that he believed the City should not issue any more Conditional Use Permits (CUP) until the CUP process changes because, after issuing a CUP the City does not do enough to enforce the conditions of the permit. He stated that he knew of individuals that had been issued CUPs who don't follow the conditions and there are complaints from neighbors and the City should be addressing this.

Ron Rogalsky emphasized the importance of Criteria #2 "*KMC 14.20.150(d)(d) The value of the adjoining property and neighborhood will not be significantly impaired,*" noting how the actions of neighbors can devalue one's own property and neighborhood. He noted that CUPs are often used to bypass the rules of zoning.

Rick Baldwin encouraged the commission to consider the impact of the proposed use on the surrounding property. He stated that the key question to ask is whether the CUP would prohibit uses which would violate the residential character of the neighborhood environment, and noted that due to the number of businesses already operating on Angler Drive, there is very little residential character left.

Jerry Huf commented that Angler Drive is saturated with businesses operating under CUPs and, while most businesses owners are responsible and live in the area, some do not. He stated that Angler Drive used to be a residential neighborhood but it has evolved into a tourism area which

some people find to be undesirable.

Jim Richardson noted that as a longtime resident of the area, he had observed the rising number of CUPs. He clarified that he had previously researched the number of CUPs in the area and found that at the time not all of these businesses were reporting income and paying taxes on it. He also noted that his plans to retire in this area has changed, because he has had issues with trespassing, partying, riding golf carts on the road, loud music, and attempts to work with the police and the City to resolve these issues have been unsuccessful.

Rachel Lowe explained that she is involved in this project, she has lived in the area for most of her life and her family has been involved in lodging businesses there for generations. She explained that lodges help bring tourism to Kenai and boost the economy through taxes and money spent at local businesses. She clarified that her intent is not to allow partying, but to invest in this business as an upstanding place that people will want to return to. She also noted that, while she was growing up, very few year-round residents lived there and the area has been primarily for charter businesses and lodging so it is not a new change.

There being no one wishing to be heard, the public hearing was closed.

Clarification was provided that more detailed schematics of the operation will be provided by the applicant per the conditions of the CUP. The question was raised about the work the applicant may have already done on the property and it was clarified that the property is classified as being vacant without a structure, and groundwork or clearing that has been done would not be getting ahead of the CUP.

Concerns were expressed about the City's process for addressing complaints towards CUP properties, and clarification was provided that CUPs were reviewed on an annual basis and if problems arise, those permits can be revoked by the Planning & Zoning Commission through a public hearing.

Commissioner Greenberg noted that there are many other CUPs in the area that have all gone through the same approval process along with annual reviews, and that because this application meets all the criteria it would be unfair to vote against it.

Commissioner Douthit, referring to a public comment that this would affect the environment of the neighborhood, noted that with so many similar businesses in the subdivision it is actually consistent with what many neighbors are doing and prospective homeowners would be well aware of this environment, so voting against it would be counterproductive.

Chair Twait recognized that there may be issues with CUP properties that the Commission is not being made aware of and noted that, when they approve a permit like this it is with the intention that if things are not being run the way they should, the permit can be revoked. He noted that he believes this application falls within the parameters of a CUP and meets the criteria to qualify. It was clarified that there is a process in Kenai Municipal Code that outlines how the process of revocation for a CUP occurs.

Vice Chair Fikes expressed concern that the business model presented in the CUP application is too vague and ambiguous, and when met with this kind of opposition it presents a difficult situation if the Commission is not receiving feedback about permits.

Commissioner Greenberg noted that the applicant for this particular CUP is a different person who has met the necessary criteria.

Clarification was provided that revocation of a CUP can be done based on an annual review or any other investigation undertaken, and one reason that the Planning & Zoning Commission can revoke a CUP is if they violate the terms of the permit.

Discussion included potential conditions which could be attached to the resolution and how that could affect the enforcement of conditions or revocation, and whether other CUP property owners in the area are held to similar conditions. The applicant clarified that she would be the onsite manager and other family members would also be working there, and they would be overseeing the operation.

Vice Chair Fikes clarified that the areas she found incomplete in the application were details regarding management's availability, which she believed were relevant due to the number of concerned parties in the audience. It was clarified that hours of operation are not a requirement of the application, but it is within the purview of the commission to ask for this.

MOTION TO AMEND:

Vice Chair Fikes **MOVED** to amend PZ2021-15 to include the following condition under Section 2: "9. No loud noises past the hour of 10pm until the hour of 5am." Commissioner Halstead **SECONDED** the motion.

Questions were raised about how noise complaints can be investigated and enforced, and the process by which the Commission receives information about complaints and other violations which could result in permit revocation.

VOTE ON AMENDMENT:

YEA: Halstead, Fikes, Twait
NAY: Douthit, Greenberg, Woodard, Springer

MOTION FAILED.

MOTION TO POSTPONE:

Commissioner Halstead **MOVED** to postpone PZ2021-15 until the Planning & Zoning Commission meeting of May 26, 2021, with the intent of having a work session prior to the meeting. Commissioner Douthit **SECONDED** the motion.

VOTE ON POSTPONEMENT:

YEA: Fikes, Woodard, Halstead
NAY: Douthit, Greenberg, Twait, Springer

MOTION FAILED.

The comment was made that the main issue that should be addressed is a breakdown in communication on the enforcement side, and not necessarily this specific permit application.

VOTE ON MAIN MOTION:

YEA: Fikes, Greenberg, Woodard, Twait, Springer, Halstead, Douthit
NAY:

MOTION PASSED UNANIMOUSLY.

Chair Twait noted the fifteen-day appeal period.

2. **Resolutions PZ2021-16 and PZ2021-17** – Application for a Conditional Use Permit for a Guide Service and Lodging for the property described as Lot 4, Block 4, Basin View Subdivision Part 3, located at 345 Dolchok Lane, Kenai, Alaska 99611. The application was submitted by Dean M. Schlehofer, P.O. Box 201565, Anchorage, AK 99520-1565

Planning Director Foster presented his staff report with information provided in packet noting that the applicant would like to conduct a fishing guide service and lodging accommodations for his clients. The criteria for conditional use permits was reviewed; it was noted the application met the criteria and City staff recommends approval subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.

MOTION:

Commissioner Douthit **MOVED** to approve of Resolution No. PZ2021-16 with staff recommendations and Commissioner Greenberg **SECONDED** the motion.

Commissioner Douthit disclosed that he is a registered fishing guide and he has no financial gain or personal interest in this or anything else pertaining to this, nor does he have any kind of personal relationship with the owner of this property. Chair Twait noted that he does not see a conflict of interest.

Chair Twait opened for public hearing.

Evelyn Dolchok Huf stated her opposition to the resolution. She explained that the area has always been a single-family dwelling neighborhood, and to change the established dynamic would be detrimental. She referenced KMC 14.29.150(d)(2) *The value of the adjoining property will not be significantly impaired*, noting that those looking for a family neighborhood would look elsewhere. She expressed concerns about safety, increased traffic, noise, and the ability of the City to enforce conditions of these permits.

Rick Baldwin clarified that his remarks would be in opposition to the guide service. He questioned how the business would operate and whether the application was complete enough for approval. He stated that the key question the Commission should be asking is whether the proposed use of the CUP is compatible with the character of the neighborhood as determined in the covenants, and that the Commission should give deference to these covenants.

Jerry Huf expressed concern about the inclusion of conditions for a dock in the resolution, noting that allowing this would open the door for others to ask for more permits. He stated his opposition, noting concern for the character of the neighborhood.

Mylee Niederhauser questioned how the applicant had begun to advertise this business online prior to the approval of his permit. She expressed opposition to the resolution, noting concerns about noise and trespassing.

Charlotte Coots stated her opposition to both permits for guide service and lodging. She noted the family-centered character of the neighborhood and that a fishing lodge would be in direct conflict with it, as some family activities would not be possible with these businesses operating there. She expressed concerns about how the river could be accessed from this property, the increased water and septic needs of a lodge leading to pollution of the anadromous ecosystem, increased traffic, safety, and adherence to covenants.

Elaine Larson emphasized the family-centered character of the neighborhood, noting that the residents oppose this because it would *"Violate the residential character of the environment"* which is a prohibited use under Criteria #1, *"KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district."* She also referred to Criteria #2 *"KMC. 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired"* explaining that she is very concerned about her property values and it sets a precedent for allowing other guide services.

Phil Daniel questioned the data collection process for Criteria #2 *"KMC. 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired"* noting that the driveway is gravel and not paved, the aerial photo is not current and the tree line may not provide a natural buffer in the future due to spruce bark beetles. He encouraged the Commission to see the property for themselves, noting that it is a neighborhood the residents do not want to change the character of.

Dean Schlehofer, applicant, responded to an earlier testimony regarding his online advertisement and clarified that it is a very old website which had not been updated since he moved and he intends to change. He explained that he had concerns for the neighborhood prior to purchasing the property and only did so after conducting his own research. He addressed concerns regarding how his clients would access the river, their road access and how he intends to manage the traffic. He suggested allowing a year trial for his business and revisiting concerns after that point. He also clarified details regarding his bookings, boat storage, parking, months of operation and occupancy, and scope of guide services.

Mark Larson clarified that his opposition is nothing personal against the applicant, but that CUP approval can be a slippery slope and he would rather not see that situation in this neighborhood.

Ron Rogalsky thanked the Commission and noted that he had heard that bookings are already in place and construction has already started for this operation.

Barbara Baldwin read "Opposition to Application for Conditional Use Permit" as provided in the laydown into the record, clarifying that it was signed by over forty people in the neighborhood.

Duane Mayes spoke to the character and integrity of the applicant, noting their history of working together and the applicant's reputation as a successful guide, businessman and leader in the deaf community.

Amber Every stated her opposition to the resolution, expressing concern over a change to the neighborhood dynamic, noise, loss of privacy, negative impacts on property value, unsafe road

conditions as a result of boats on the road, overcrowding on the property, and widespread opposition from neighbors.

There being no one wishing to be heard, the public hearing was closed.

The applicant provided clarification on his previous location of business, expected hours of operation for the guide service, whether guests need to be booked on fishing trips, the traffic from other potential employees.

Discussion included the possibility of a one-year trial, and it was noted that there is not currently a process in place for these kinds of permit conditions.

The applicant provided clarification on the number of employees for the guide service that would operate from the property, and how much of the business as done on the property versus at off-site locations.

VOTE:

YEA: Greenberg, Twait, Halstead, Douthit
NAY: Woodard, Springer, Fikes

MOTION PASSED.

Chair Twait noted the fifteen-day appeal period.

MOTION:

Vice Chair Fikes **MOVED** to approve Resolution No. PZ2021-17 with staff recommendations and Commissioner Douthit **SECONDED** the motion.

Chair Twait opened for public hearing.

Rick Baldwin stated his opposition, and noting there was a large trailer on site which, along with other vehicles, has clogged up the parking lot. He referenced the findings in the staff report under Criteria #1 *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district* in which it states "there are no proposed physical changes that would violate the residential character of the neighborhood," arguing that the character can be violated by non-physical changes such as an increase in noise. He responded to staff findings under Criteria #4 *"KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan"* which state "The Comprehensive Plan has goals to support businesses and economic development" by stating that economic development should never override quality of life.

Chuck Eubank questioned how the applicant will operate his business within the subdivision and his need for a permit, stated his opposition to the resolution and warned against setting a precedent.

Kelsey Daniel expressed concern for the safety of neighborhood children, traffic, littering, noise and disturbances, strangers on the road, and boats backing out.

Amber Every clarified that her opposition is nothing personal against the applicant, but that he had agreed to the neighborhood's covenants. She stated that if the Commission approves his application it will be setting a precedent for others.

Dean Schlehofer stated that he understands the concerns about the safety of neighborhood children, and is very careful to keep an eye out for children around boats and other vehicles.

There being no one wishing to be heard, the public hearing was closed.

Clarification was provided that there is a 50-foot anadromous stream buffer along Beaver Creek. Discussion included lodging capacity, the possibility of hosting lodgers in recreational vehicles, and how restrictions on these aspects of the business could be enforced if added.

Chair Twait re-opened for public hearing to hear the testimony of Valerie Eubank, who questioned the recreational vehicle on the applicant's property.

Clarification was provided that there are no other CUPs in this subdivision.

VOTE:

YEA: Greenberg

NAY: Twait, Springer, Halstead, Douthit, Fikes Woodard

Chair Twait clarified that he voted no out of concern for the character of the neighborhood being altered.

Commissioner Springer clarified that he voted no because it is a residential neighborhood, and we don't want to go down the path of allowing commercial activity in a residential area.

Commissioner Halstead clarified that he voted no due to the number of neighbors in opposition to it, the safety of the neighborhood and the overall expectations of the area.

Commissioner Douthit clarified that he voted no due to the overwhelming feelings of the neighborhood and their worries about traffic, opening up doors for increased lodging in the future, and not going with the ambiance of the neighborhood.

Vice Chair Fikes clarified that she voted no due to health and safety, increased traffic, the area being a rural residential zone and the expectation of a certain quality of life, and the value of people's property which could change due to proximity to a 24-hour business. She noted that with no other CUPs in the area, we shouldn't open that door.

Commissioner Greenberg clarified that he voted yes because the zone is the same, the permit is the same, and this is the fair and equal way to apply the code.

Commissioner Woodard clarified that she voted no because she can't overlook that every resident of the area is in opposition to it, and passing it means the area could end up like Angler Drive.

MOTION FAILED.

Chair Twait noted the fifteen-day appeal period.

G. UNFINISHED BUSINESS – None.

H. NEW BUSINESS

1. **Action/Approval** – Application for Lease of City-owned Lane within the Airport Reserve described as Tract A-2, General Aviation Apron Subdivision No. 7. The application was submitted by SOAR International Ministries, P.O. Box 1714, Kenai, AK 99611

Planning Director Foster presented his staff report with information provided in packet noting a draft Resolution and memorandum for consideration for Council which is first being presented to the Planning & Zoning Commission and Airport Commission for approval. He noted that the applicant has requested an amendment to the approved lease execution resolution, so that the 100 foot by 110 foot connecting office facility, with an aggregate cost of \$1,500,000, can be completed no later than June 30, 2025, two years later than the other required improvements.

MOTION:

Vice Chair Fikes **MOVED** to recommend approval of Application for Lease of City-owned Lane within the Airport Reserve described as Tract A-2, General Aviation Apron Subdivision No. 7. Commissioner Woodard **SECONDED** the motion.

VOTE:

YEA: Springer, Douthit, Fikes, Greenberg, Woodard, Twait
NAY:

MOTION PASSED UNANIMOUSLY.

I. PENDING ITEMS – None.

J. REPORTS

1. **City Council** – Council Member Glendening reported on the actions from the May 5, 2021 City Council meeting.
2. **Borough Planning** – Vice Chair Fikes reported on the actions from the May 10, 2021 Kenai Peninsula Borough Planning meeting.
3. **City Administration** – Planning Director Foster reported on the following:
 - Upcoming meeting on May 26, 2021 will include four plats, one Conditional Use Permit and one Special Use Permit.

K. ADDITIONAL PUBLIC COMMENT

1. Citizens Comments

Rick Baldwin thanked the Commission and asked them to think seriously about their decision regarding PZ2021-16, noting that it sets a precedent for other guide businesses to come to the

neighborhood. He noted that there is a procedural way to change the decision and implored them to reconsider.

2. Council Comments

L. INFORMATIONAL ITEMS

M. NEXT MEETING ATTENDANCE NOTIFICATION

1. May 26, 2021

N. COMMISSION COMMENTS & QUESTIONS

Commissioner Greenberg noted that he appreciated the lively debate.

Commissioner Woodard noted she will not be able to attend the next meeting on May 26, 2021.

Vice Chair Fikes noted that in June the Kenai Peninsula Borough will be offering commissioners training on vacation coding and setbacks, and encouraged those who are interested to attend.

O. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 11:17 p.m.

Minutes prepared and submitted by:



Meghan Thibodeau
Deputy City Clerk





CITY OF KENAI
APPEAL TO THE BOARD OF
ADJUSTMENT

City of Kenai
210 Fidalgo Avenue
Kenai, AK 99611
Phone: 283-8231
Fax: 283-5068
Email: cityclerk@kenai.city

Contact Information *Joined by the persons on Attachment to this Appeal*

Name of Appellant: *Dennis L. Bernard* Date:

Daytime Phone No.: *907-398-9156* Email Address: *dennisbernard@gci.com*

Appellant's Physical Address: *335 Dolchok Lane*

Appellant's Mailing Address: *Same*

Appeal Information

Description of the decision being appealed:
Grant of Conditional Use Permit for guide service to Michael Dean Schlehofer.

Subject Property Owner's Name and Address: *Michael Dean Schlehofer*

Subject Property Street Address: *345 Dolchok Lane*

Decision was Approved Denied Date of Decision: *5/12/2021*

Decision was made by Administrative Official Planning & Zoning Commission

Check One:
 I am the applicant for the action taken or determination, or the owner of the property that is the subject of the action or determination under appeal.
 I am the administrative official.
 I am a legal occupant or owner of an interest in real property who can show the decision has or could have an adverse effect on the use, enjoyment, or value of that real property. An interest which is no different from that of the general public is not sufficient to make a person aggrieved. To be a "party of record," participation with either oral or written comments at the hearing before the Planning and Zoning commission or before the administrative official making a final decision must be shown.

Description of Harm (Note: An interest which is no different from that of the general public is not sufficient.):
Please see statement on Attachment to Appeal to Board of Adjustment at pages 10 and 11.

I am seeking relief as follows:
Denial of Application for Conditional Use Permit for guide service.

Signature of Appellant: *Dennis L. Bernard*

FOR CITY CLERK'S OFFICE USE ONLY: Receipt Stamp: 	Appellant <input checked="" type="checkbox"/> Owns <input type="checkbox"/> Leases, Lease Requested Appellant Participated <input type="checkbox"/> Orally <input checked="" type="checkbox"/> In Writing Appellant Paid Pursuant to <input checked="" type="checkbox"/> Fee Schedule <input type="checkbox"/> Fee Reduction Form Copy provided to Appellant <input checked="" type="checkbox"/> In Person <input checked="" type="checkbox"/> By Mail By: <i>[Signature]</i> Application <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied for _____ Date Appellant Notified: <i>5/21/2021</i>
	Page 109 of 140

ATTACHMENT TO
APPEAL TO THE BOARD OF ADJUSTMENT

Name of Appellant: <i>Paul Klaben</i>	Date: <i>5/20/21</i>
Daytime Phone No:	Email Address:
Appellant's Physical Address: <i>325 Dolchok Lane Kenai, AK 99611</i>	
Appellant's Mailing Address: <i>Same</i>	
Name of Appellant: <i>Charlotte Coots</i>	Date: <i>5/20/20</i>
Daytime Phone No: <i>907 299-2193</i>	Email Address: <i>charsharpe@yahoo</i>
Appellant's Physical Address: <i>385 DOLCHOK LANE KENAI, AK 99611</i>	
Appellant's Mailing Address: <i>Same as above</i>	
Name of Appellant: <i>Rubi Christopherson</i>	Date: <i>5/20/21</i>
Daytime Phone No:	Email Address:
Appellant's Physical Address: <i>350 Dolchok Lane Kenai, AK 99611</i>	
Appellant's Mailing Address:	
Name of Appellant: <i>VALERIE A. EUBANK</i>	Date: <i>5/20/21</i>
Daytime Phone No: <i>907 398-1673</i>	Email Address: <i>eubankvalerie@gmail.com</i>
Appellant's Physical Address: <i>3050 Hem-N-Ang Ct., Kenai, AK 99611</i>	
Appellant's Mailing Address: <i>SAME</i>	
Name of Appellant: <i>CHARLES E. EUBANK</i>	Date: <i>5/20/21</i>
Daytime Phone No: <i>(907) 398-3117</i>	Email Address: <i>SAME AS ABOVE</i>
Appellant's Physical Address: <i>3050 Hem-N-Ang Ct., Kenai, AK 99611</i>	
Appellant's Mailing Address: <i>SAME</i>	

Name of Appellant: PETER M. COOTS	Date: 5/20/21
Daytime Phone No: 907.252.8332	Email Address: petecoots@gmail.com
Appellant's Physical Address: 365 DOLCHOK LANE	
Appellant's Mailing Address: SAME	

Name of Appellant: Evelyn Dolchok (Huf)	Date: 5/20/21
Daytime Phone No: 907 398 4779	Email Address: evelynhuf@yahoo.com
Appellant's Physical Address: 700 Dolchok Ln - Kenai, AK	
Appellant's Mailing Address: Same	

Name of Appellant: Phillip Daniel	Date: 5/20/21
Daytime Phone No: 690-6692	Email Address: akpdaniel@gmail.com
Appellant's Physical Address: 570 Dolchok LN	
Appellant's Mailing Address:	

Name of Appellant: Deirdre J Cheek	Date: 5/20/2021
Daytime Phone No:	Email Address:
Appellant's Physical Address: 455 Cub Court, Kenai AK 99611	
Appellant's Mailing Address: same as physical address	

Name of Appellant: Mark Jurek	Date: 5/20/2021
Daytime Phone No: 713 582 6601	Email Address: mcjurek@gmail.com
Appellant's Physical Address: 3065 Kim N Ang Ct. Kenai AK 99611	
Appellant's Mailing Address: Same	

Name of Appellant: FRANCES JUREK	Date: 5/20/21
Daytime Phone No: 713-569-4828	Email Address:
Appellant's Physical Address: 3065 KIM N ANG CT, KENAI AK 99611	
Appellant's Mailing Address: SAME	

Name of Appellant: Joshua Schultz	Date: 5-20-21
Daytime Phone No: 509-768-8022	Email Address: jschw88@gmail.com
Appellant's Physical Address: 375 Dolchok Lane	
Appellant's Mailing Address: 375 Dolchok Lane	
Name of Appellant: Rebecca Schultz	Date: 5.20.21
Daytime Phone No: 360-584-4208	Email Address: rjschultz47@gmail.com
Appellant's Physical Address: 375 Dolchok Lane	
Appellant's Mailing Address: 375 Dolchok Lane	
Name of Appellant: Lara Ross	Date: 5-20-21
Daytime Phone No: 907 252-8247	Email Address: lross@outlook.com
Appellant's Physical Address: 365 Dolchok Lane	
Appellant's Mailing Address: 365 Dolchok Lane	
Name of Appellant: DAVID ROSS	Date: 5.20.21
Daytime Phone No: 907 394 3555	Email Address: davidmross71@gmail.com
Appellant's Physical Address: 365 Dolchok Lane	
Appellant's Mailing Address: 365 Dolchok Lane	
Name of Appellant: Amy Kauffman	Date: 5.20.21
Daytime Phone No: 907-231-6615	Email Address: kauffman70@gmail.com
Appellant's Physical Address: 3060 Kim-n-Ang Court	
Appellant's Mailing Address: 3060 Kim-n-Ang Court	
Name of Appellant: Jason Hobart	Date: 5.20.21
Daytime Phone No: 907-598-5889	Email Address: jasonhobart@yahoo.com
Appellant's Physical Address: 3060 Kim-n-Ang Court	
Appellant's Mailing Address: 3060 Kim-n-Ang Court	

Name of Appellant: BARBARA BALDWIN	Date: 5/20/21
Daytime Phone No: 907 283-7086	Email Address: bobdrebaldw@gmail.com
Appellant's Physical Address: 3080 Kim-n-Ang Ct.	
Appellant's Mailing Address: 3080 Kim-n-Ang Ct.	

Name of Appellant: Charles R. Baldwin	Date: 5/20/2021
Daytime Phone No: 907 283-7086	Email Address: rick@baldwinandbutler.com
Appellant's Physical Address: 3080 Kim-N-Ang Ct.	
Appellant's Mailing Address: Same	

Name of Appellant: Viann Mack	Date: 5/22/21
Daytime Phone No: (907) 252-9480	Email Address: vrmack2010@hotmail.com
Appellant's Physical Address: 485 Dolchok Lane.	
Appellant's Mailing Address: Same.	

Name of Appellant: Kelsey Daniel	Date: 5-22-21
Daytime Phone No: 907-252-7427	Email Address: kelsey-daniel20@hotmail.com
Appellant's Physical Address: 570 Dolchok Lane	
Appellant's Mailing Address: Same	

Name of Appellant: Elaine Larson	Date: 5-22-21
Daytime Phone No: 907-252-9808	Email Address:
Appellant's Physical Address: 3040 Kim-N-Ang Ct	elaine.m.larson@gmail.com
Appellant's Mailing Address: Same	

Name of Appellant: MARK LARSON	Date: 5-22-21
Daytime Phone No: 907) 252-3058	Email Address:
Appellant's Physical Address: 3040 Kim-n-Ang Ct.	larsonml2@gmail.com
Appellant's Mailing Address: Same	

Name of Appellant: <i>Myka D. Ables</i>	
Daytime Phone No: <i>907-953-7854</i>	Date: <i>5-22-21</i>
Appellant's Physical Address: <i>3070 Kama-Ang Ct. 99611</i>	Email Address: <i>mykaables@gmail.com</i>
Appellant's Mailing Address: <i>→</i>	
Name of Appellant: <i>Pamela J. Ables</i>	
Daytime Phone No: <i>(907) 953-9091</i>	Date: <i>5-22-21</i>
Appellant's Physical Address: <i>3070 Kama-Ang Ct 99611</i>	Email Address: <i>pamables@outlook.com</i>
Appellant's Mailing Address: <i>Same as physical</i>	
Name of Appellant: <i>Ang & Heif</i>	
Daytime Phone No:	Date: <i>5-22-21</i>
Appellant's Physical Address: <i>710 Dolchok</i>	Email Address: <i>Rusthof@yahoo.com</i>
Appellant's Mailing Address: <i>765 Anas Rd. KENAI</i>	
Name of Appellant: <i>Tim MIPPI</i>	
Daytime Phone No: <i>907 953-3602</i>	Date: <i>22-5-21</i>
Appellant's Physical Address: <i>500 Dolchok</i>	Email Address:
Appellant's Mailing Address:	
Name of Appellant: <i>Amber Evely</i>	
Daytime Phone No: <i>907-252-8224</i>	Date: <i>5-22-21</i>
Appellant's Physical Address: <i>360 Dolchok LN Kenai</i>	Email Address: <i>aevly45@gmail.com</i>
Appellant's Mailing Address: <i>360 Dolchok LN Kenai, AK 99611</i>	
Name of Appellant: <i>Julie + Dave Dewey</i>	
Daytime Phone No: <i>907-398-8436</i>	Date: <i>5/23/2021</i>
Appellant's Physical Address: <i>495 Dolchok Lane</i>	Email Address: <i>love.dave.52@gmail.com</i>
Appellant's Mailing Address <i>PO Box 2882 Kenai</i>	

Name of Appellant: MARILYN Wolsterman	
Daytime Phone No: 707-252-7464	Date: 5-23-2021
Appellant's Physical Address: 555 Dolchok, Kenai	Email Address: eaglesak@live.com
Appellant's Mailing Address: 555 Dolchok Lane, Kenai, AK 99611	

Name of Appellant: FRED Wolsterman	
Daytime Phone No: 907-252-7333	Date: 5-23-2021
Appellant's Physical Address: 555 Dolchok	Email Address: eaglesak@live.com
Appellant's Mailing Address: 555 Dolchok Lane, Kenai, AK 99611	

Name of Appellant: DAVE LEWIS	
Daytime Phone No: 907-394-6094	Date: 5-23-21
Appellant's Physical Address: 3055 KUMU ANGC I	Email Address: Dave & Lewis@blue.com
Appellant's Mailing Address: SAME AS ABOVE	

Name of Appellant: Mylee Niederhauer	
Daytime Phone No: 690-5420	Date: 5-23-21
Appellant's Physical Address: 635 Dolchok Ln	Email Address: myleeniederhauer@hotmail.com
Appellant's Mailing Address: Simon Sukowitz	Simon Sukowitz

Name of Appellant: 635 Dolchok Ln Kenai AK 99611	
Daytime Phone No: 394. 1026	Date: 5.23.21
Appellant's Physical Address:	Email Address: KenaiKingcatcher@gmail.com
Appellant's Mailing Address:	

Name of Appellant: Franz Plagge	
Daytime Phone No:	Date: 5/23/2021
Appellant's Physical Address: 4384 Beaver Loop Rd	Email Address:
Appellant's Mailing Address: Kenai AK 99611	

Name of Appellant: <u>Craig Cheek</u>	
Daytime Phone No: <u>907-252-8347</u>	Date:
Appellant's Physical Address: <u>455 Cub Court, Kenai</u>	Email Address: <u>chcheek@hotmail.com</u>
Appellant's Mailing Address: <u>same as above</u>	

Name of Appellant: <u>Suzanne Klaben</u>	
Daytime Phone No: <u>283-3691</u>	Date: <u>5/25/21</u>
Appellant's Physical Address: <u>325 Dolchok Lane, Kenai</u>	Email Address: <u>SuzanneKlaben@gmail.com</u>
Appellant's Mailing Address: <u>325 Dolchok Lane, Kenai</u>	

Name of Appellant: <u>Tabatha Chanley</u>	
Daytime Phone No: <u>907 690 0445</u>	Date: <u>5/25/21</u>
Appellant's Physical Address: <u>575 Dolchok Kenai Ak</u>	Email Address: <u>MNC12 @msn.com</u>
Appellant's Mailing Address: <u>575 Dolchok, Kenai Ak 99611</u>	

Name of Appellant: <u>Robin P Lemay</u>	
Daytime Phone No: <u>907 953 4600</u>	Date: <u>5.26.21</u>
Appellant's Physical Address: <u>3055 Kim. N. Ang Ct</u>	Email Address: <u>lemayway@hotmail.com</u>
Appellant's Mailing Address: <u>same</u>	

Name of Appellant:	
Daytime Phone No:	Date:
Appellant's Physical Address:	Email Address:
Appellant's Mailing Address:	

Name of Appellant:	
Daytime Phone No:	Date:
Appellant's Physical Address:	Email Address:
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Description of Harm:

The Appellants are all owners and residents of the Dolchok Avenue and Ames Avenue neighborhood. The lot owners purchased their homes in this area, expecting that the area was zoned Rural Residential in order to promote the stated purpose in the code of creating "a stable and attractive residential environment." The neighborhood of the undersigned Appellants is a stable and attractive residential environment, the type of neighborhood which achieves the purpose of KMC 14.20.080. There are presently no commercial uses within the neighborhood.

Some of the lots front on Beaver Creek, which provides access to the Kenai River. Almost all of the other lots are located not more than one lot away from Beaver Creek. Granting a permit to use the subject property to conduct a guiding business would destabilize the current attractive environment of the neighborhood and render it less attractive for the current single-family homes.

The subject application would clearly violate the residential character of the neighborhood. A guide business is by its very nature incompatible with character of the neighborhood, where children play in the streets and most people value peaceful sleep past 5 a.m. The typical guide business begins around 5:00 every morning accompanied by the noise and commotion incident to loading and hooking up boats, conversations among guides and their clients and mobilizing

for the day. This, during a time of year when most residents sleep with their windows open. Such a use would add additional traffic, and uncontrolled noise of persons who have no ties to the neighborhood and no particular motivation to behave as would the typical residential neighbor.

The value of the lots for residential purposes within the neighborhood would thus be diminished as would the quality of life. Perversely, the commercial value of the lots fronting on Beaver Creek would likely be enhanced by such a change because of their potential as commercial guiding lots. Every one of these lots has better access to the Kenai River than does the subject lot. Granting the subject application will result over time in these lots being turned, one by one, into guide uses, contributing to market instability and a decline in the value of the neighborhood for single-family residential purposes. Thus would begin the disintegration of yet another residential neighborhood with in the City of Kenai.

Signature of Appellant:

Paul Klaben
Printed name
Paul Klaben
Signature

Charlotte A. Coofs
Printed name
Charlotte Coofs
Signature

Ruby Christopherson
Printed name
Ruby Christopherson
Signature

Deirdre J Cheek
Printed name
Deirdre J Cheek
Signature

VALERIE A. EUBANK
Printed name
Valerie A Eubank
Signature

CHARLES E. EUBANK
Printed name
Charles E Eubank
Signature

PETER M. COOTS
Printed name
P M Coofs
Signature

Evelyn Dolchok (recently Hus)
Printed name
Evelyn Dolchok
Signature

Phillip Daniel
Printed name
Phillip Daniel
Signature

Mark Juneck
Printed name
Mark Juneck
Signature

FRANCES JUREK
Printed name.
Frances Jurek
Signature

Rebecca Schultz
Printed name
Rebecca Schultz
Signature

JOSHUA SCHULTZ
Printed name
Joshua Schultz
Signature

David Ross
Printed name
David Ross
Signature

Lara Ross
Printed name
Lara Ross
Signature

BARBARA BALDWIN
Printed name
Barbara Baldwin
Signature

Amy KAUFFMAN
Printed name
Amy Kauffman
Signature

JASON HOBERT
Printed name
Jason Hobert
Signature

Charles R. Baldwin
Printed name
Charles R. Baldwin
Signature

Vlann Mack
Printed name
Vlann Mack
Signature

Kelsey Daniel
Printed name
Kelsey Daniel
Signature

Elaine Larson
Printed name
Elaine Larson
Signature

MARK LARSON
Printed name
Mark L. Larson
Signature

Mykle Ables
Printed name
Mykle Ables
Signature

Pamela J. Ables

Printed name.

Pamela Ables

Signature

DAVID LEWIS

Printed name

David Lewis

Signature

Jerry C Huff

Printed name.

Jerry Huff

Signature

Mylee Niederhauser

Printed name

Mylee Niederhauser

Signature

TIM KIPPI

Printed name.

Tim Kippi

Signature

SWEN DUKOWITZ

Printed name

Sven Dukowitz

Signature

Amber Every

Printed name.

Amber Every

Signature

Franz Ploger

Printed name

Franz Ploger

Signature

Julie Derry

Printed name.

Julie Derry

Signature

DAVID DERRY

Printed name

David Derry

Signature

MARILYN WOLSTERMAN

Printed name.

Marilyn Wolsterman

Signature

Suzanne Klaben

Printed name

Suzanne Klaben

Signature

FRED WOLSTERMAN

Printed name.

Fred Wolsterman

Signature

Tabatha Chanley

Printed name

Tabatha Chanley

Signature

CRAIG CHEEK

Printed name.

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KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

FROM: Jamie Heinz, MMC, City Clerk

DATE: May 27, 2021

SUBJECT: **Appeal of a Planning and Zoning Commission Action Approving a Conditional Use Permit to Applicant, Dean Schlehofer, to Operate a Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.**

An application to appeal the above-referenced matter was received on May 26, 2021.

KMC 14.20.290(f)(1), "Appeals - Board of Adjustment" provides,

(1) The Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday under KMC 23.40.020(a)(1)-(10) and (b). For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. Notice of the time and place of such hearing shall be mailed to all parties interested and to all property owners within 300 feet of the property involved at least fifteen (15) days prior to the hearing. Notices to the appellant and/or applicant for the action or determination must be sent by certified mail, return receipt requested.

The following information is provided to help in setting a Board of Adjustment hearing date:

FORTY-FIVE DAY END DATE	Saturday, July 10, 2021 which would be extended to Monday, July 12, 2021 per KMC 14.20.290(f)(1)
COUNCIL MEETING DATES (within 45-day requirement)	Wednesday, June 16, 2021 Wednesday, July 7, 2021
SIXTY-DAY END DATE	Sunday, July 25, 2021
COUNCIL MEETING DATE(S) (within 60-day requirement)	Wednesday, June 16, 2021 Wednesday, July 7, 2021

Pursuant to KMC 14.20.290 referenced above, the City is required to provide notice of the hearing at least fifteen (15) days prior to the hearing. As such, to comply with the notice requirements, the hearing must be scheduled no sooner than Friday, June 18, 2021.

KMC 14.20.290 allows for an extension, "For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal."





June 3, 2021

Mailed Via: USPS Certified Mail
7020 0090 0000 3505 8348 &
Return Receipt

Dennis Barnard
335 Dolchok Lane
Kenai, AK 99611

RE: **BOARD OF ADJUSTMENT HEARING** – Appeal of Planning and Zoning Commission Action Denying a Conditional Use Permit for Lodging at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

This letter is to inform you that the Board of Adjustment Hearing for the above-referenced matter has been scheduled for **Tuesday, July 20, 2021, beginning at 6:00 p.m.** The hearing will be held at City Hall in Council Chambers located at 210 Fidalgo Avenue, Kenai, AK 99611. Kenai Municipal Code (KMC) 14.20.290 states that, [t]he Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday under KMC 23.40.020(a)(1)-(10) and (b). For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. The cause for holding the hearing beyond the forty-five (45) days of the filing of the appeal is conflicting schedules of members and availability of the attorney.

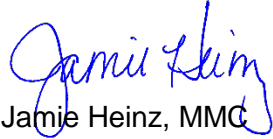
Pursuant to KMC 14.20.290, a Notice of Hearing will be mailed to you by certified mail at least 15 days prior to the hearing. Property owners within 300 feet of the referenced property, as well as other interested parties, will also be mailed the Notice of Hearing within 15 days of the hearing.

A packet of information will be provided to you and the Board of Adjustment prior to the hearing. **The deadline for you to submit information, to be included in the Board of Adjustment Hearing packet, related to your appeal is noon on Friday, July 9, 2021.** This would be your opportunity to introduce additional evidence to support your appeal. The Board of Adjustment

Hearing packet will be distributed to all parties in advance of the hearing. Enclosed is information related to the hearing process.

If you have any questions, please contact me at 283-8231 or jheinz@kenai.city.

Sincerely,



Jamie Heinz, MMC
City Clerk

CC: Dean Schlehofer, Appellee
Scott Bloom, City Attorney
Paul Ostrander, City Manager
Ryan Foster, Planning Director
Board of Adjustment

Enclosure



BOARD OF ADJUSTMENT HEARING

Notice of Hearing

The Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday. For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. Notice of the time and place of such hearing shall be mailed to all interested parties and to all property owners within three hundred feet (300') of the property involved at least fifteen (15) days prior to the hearing. Notices to the appellant and/or applicant for the action or determination must be sent by certified mail, return receipt requested.

Type of Hearing

The Board of Adjustment Hearing will be conducted in compliance with the City of Kenai Municipal Code 14.20.290, reasonable regulations of the Board and other applicable law. The Board of Adjustment is a quasi-judicial board. The hearing is public and is recorded. All persons presenting evidence and testimony shall do so under oath, administered by the City Clerk. This hearing will be conducted less formally with regard to rules of evidence and other court rules of procedure than in a judicial courtroom.

The hearing before the Board is de-novo; the Board will review both the facts and law presented during the hearing and submitted timely. Evidence and written arguments to be considered by the Board must be submitted to the City Clerk by **noon on Friday, July 9, 2021**. A packet containing all evidence of written argument, timely submitted, will be provided to all parties as soon as possible after the submission date. The Clerk will include in the packet the record previously submitted to the Planning and Zoning Commission. A list of witnesses any party intends to have testify during the hearing must be provided to the City Clerk by the date evidence is due. New tangible evidence not timely submitted to the City Clerk will normally not be admitted unless good cause is shown as to why the evidence could not be timely submitted. A decision to include the evidence will be decided by the board. All evidence considered in this matter should be in the record before the Board as previously provided to the parties. The Appellant, or party applying to the Board, has the burden of proof to show entitlement to relief.

Hearing Procedures

Any requested revision to the agenda or procedures by a party must be made to the Board and approved by the Board prior to the start of the hearing.

Members of the public may have five minutes each to address the Board prior to any presentations.

Staff will be allowed 15 minutes to provide a report to the Board at the beginning of the hearing.

Following the staff report, each party will be allowed 30 minutes to present its case. The Appellants will present their cases first. During the parties' presentation of the case, the parties may call witnesses. Any witness that testifies during the presentation of the case by either party, unless excused by the Board with concurrence of the parties, must remain available to be called during rebuttal, at which time cross examination may occur. Each party will be allowed 10 minutes for rebuttal and 5 minutes for closing arguments.

Upon recognition by the Chair, Board Members may question the parties and their witnesses. Questioning by the Board may take place at any time before the hearing is closed. Questioning by the Board and responsive answers will not count against a party's time.

Hearing Deliberation & Decision

The Board may undertake deliberations immediately upon the conclusion of the hearing on appeal or may take the matter under advisement and meet at such other time as is convenient for deliberations until a decision is rendered.

The Board requires a quorum of four and a majority of those assembled to make a decision. The Board must issue a decision within 30 days of the hearing date. The Board may reverse, remand or affirm, wholly or in part, or may modify the order, requirement, decision or determination, as ought to be made, and to that end shall have the powers of the body from whom the appeal is taken.

Deliberations need not be in public and may be conducted with the City Attorney. A written decision will be issued and will indicate how each board member voted. Copies of the decision shall be promptly posted on the City's official website and mailed to all parties participating in the appeal. The written decision shall trigger the timeline for any appeal to the Superior Court.



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

CORRECTED LETTER

June 11, 2021

Mailed Via: USPS Certified Mail
7020 0090 0000 3505 8348 &
Return Receipt

Dennis Barnard
335 Dolchok Lane
Kenai, AK 99611

RE: **BOARD OF ADJUSTMENT HEARING** – Appeal of Planning and Zoning Commission Action Denying a Conditional Use Permit for Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

This letter is to inform you that the Board of Adjustment Hearing for the above-referenced matter has been scheduled for **Tuesday, July 20, 2021, beginning at 6:00 p.m.** The hearing will be held at City Hall in Council Chambers located at 210 Fidalgo Avenue, Kenai, AK 99611. Kenai Municipal Code (KMC) 14.20.290 states that, [t]he Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday under KMC 23.40.020(a)(1)-(10) and (b). For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. The cause for holding the hearing beyond the forty-five (45) days of the filing of the appeal is conflicting schedules of members and availability of the attorney.

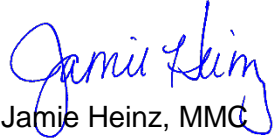
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Hearing packet will be distributed to all parties in advance of the hearing. Enclosed is information related to the hearing process.

If you have any questions, please contact me at 283-8231 or jheinz@kenai.city.

Sincerely,



Jamie Heinz, MMC
City Clerk

CC: Dean Schlehofer, Appellee
Scott Bloom, City Attorney
Paul Ostrander, City Manager
Ryan Foster, Planning Director
Board of Adjustment

Enclosure




AFFIDAVIT OF SERVICE

I, Jamie Heinz, City Clerk for the City of Kenai, Alaska, do hereby certify that on the thirtieth day of June, 2021, I mailed or caused to be mailed the foregoing Notice of Hearing before the Board of Adjustment of the following appeal:

Appeal Filed by Dennis Barnard, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant Dean Schlehofer, for Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

This notice was sent by first class mail to all residents within 300 feet of the subject property and all other interested parties as required by KMC 14.20.290. The list of recipients of the notice is attached herewith.

Further this affiant sayeth naught.



Jamie Heinz
City Clerk

Dear Property Owner:

The Kenai City Council will convene as the Board of Adjustment on **Tuesday, July 20, 2021**, at 6:00 p.m. in the Council Chambers, 210 Fidalgo Avenue, Kenai, Alaska. The following will be heard by the Board:

Appeal of Planning and Zoning Commission Action Approving a Conditional Use Permit for Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

Because you are a property owner within 300 feet of the above-mentioned property or have stated interest in the subject, you are hereby notified of the hearing date, time, and place, pursuant to KMC 14.20.290. Your comments and/or attendance regarding this appeal are encouraged. Written comments will be accepted until noon on Friday, July 9, 2021 and may be mailed to the Office of the City Clerk, 210 Fidalgo Ave., Kenai, AK 99611 or by email: jheinz@kenai.city. ~ Jamie Heinz, City Clerk, 907-283-8231

Thank you.

Dear Property Owner:

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Thank you.

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Thank you.

Dear Property Owner:

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Thank you.



City of Kenai
Office of the City Clerk
210 Fidalgo Avenue
Kenai, Alaska 99611



City of Kenai
Office of the City Clerk
210 Fidalgo Avenue
Kenai, Alaska 99611

IMPORTANT NOTICE

IMPORTANT NOTICE



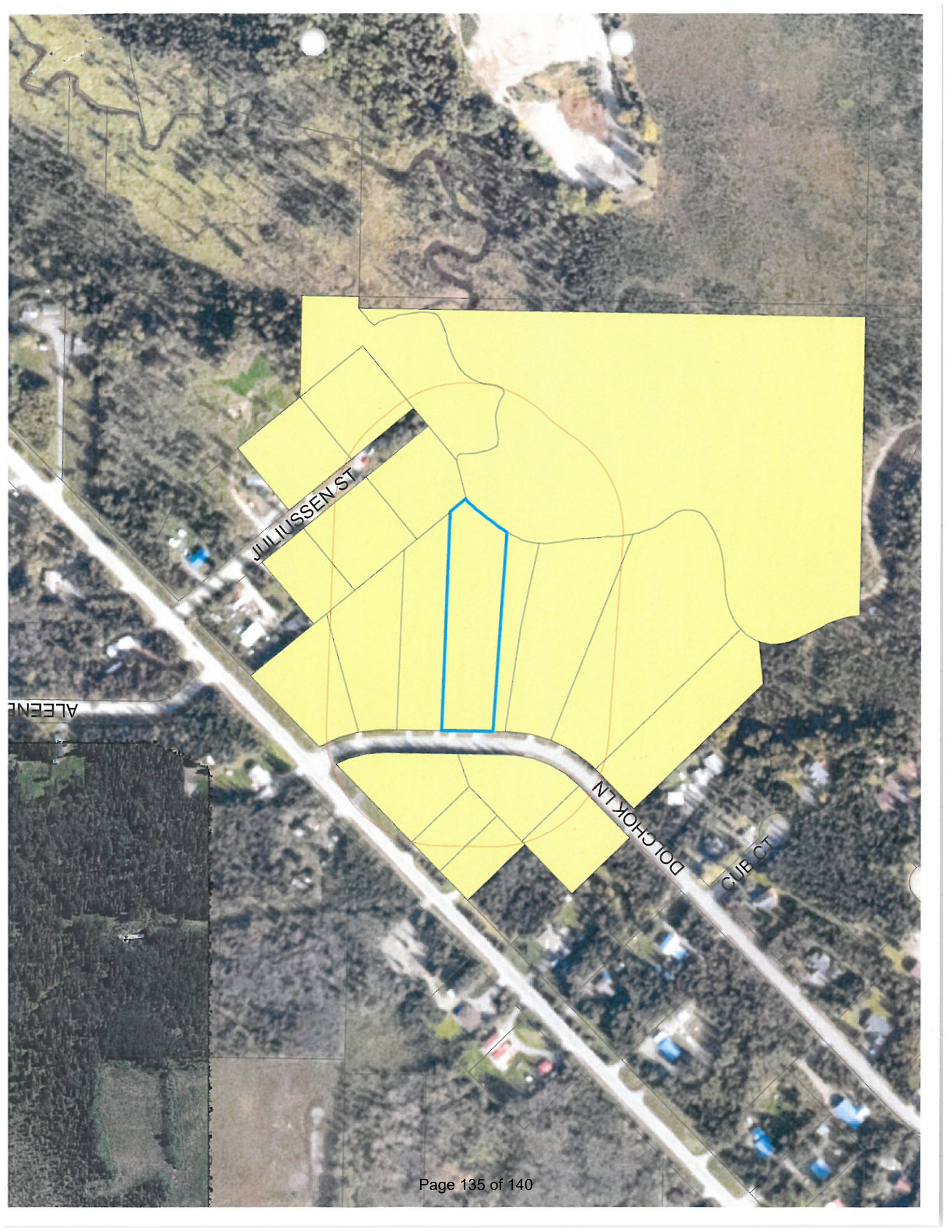
City of Kenai
Office of the City Clerk
210 Fidalgo Avenue
Kenai, Alaska 99611



City of Kenai
Office of the City Clerk
210 Fidalgo Avenue
Kenai, Alaska 99611

IMPORTANT NOTICE

IMPORTANT NOTICE



JULISSEN ST

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DOLCHOK LN

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Parcel: 04926031
DÄGEL KARL M
285 JULIUSSEN ST
KENAI, AK 99611

Parcel: 04926037
SEGURA PEGGY A
270 JULIUSSEN ST
KENAI, AK 99611

Parcel: 04926038
POTTON WENDY M
PO BOX 1827
KENAI, AK 99611

Parcel: 04926039
SMITH BELINDA R
4460 BEAVER LOOP RD
KENAI, AK 99611

Parcel: 04926039
SMITH JOSHUA T
4460 BEAVER LOOP RD
KENAI, AK 99611

Parcel: 04926065
LOGAN (AKA HAYES) RONETTE M
280 JULIUSSEN ST
KENAI, AK 99611

Parcel: 04926066
JACKSON WALLACE R & RONETTE M
280 JULIUSSEN ST
KENAI, AK 99611

Parcel: 04926067
HUTCHISON CHRISTINE A
281 JULIUSSEN ST
KENAI, AK 99611

Parcel: 04926067
SCHEFFERT MARK B
281 JULIUSSEN ST
KENAI, AK 99611

Parcel: 04926201
CHRISTOPHERSON RUBY R
350 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926202
EVERY AMBER
360 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926202
EVERY MICHAEL T
360 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926203
PLAGGE FRANZ A & HILDEGARD A
4384 BEAVER LOOP RD
KENAI, AK 99611

Parcel: 04926207
SCHULTZ JOSHUA L
375 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926207
SCHULTZ REBECCA J
375 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926208
ROSS DAVID
365 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926208
ROSS LARA
365 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926209
CRIM BRENDA D
355 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926210
KENAI CITY OF
210 FIDALGO AVE STE 200
KENAI, AK 99611

Parcel: 04926211
BENTON HEATHER C
11614 HUMMER BAY LOOP
EAGLE RIVER, AK 99577

Parcel: 04926211
MARYJANOWSK MICHAEL E
345 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926212
BARNARD DENNIS L
335 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926212
BARNARD DENNIS LEROY
335 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926213
KLABEN PAUL E & SUZANNE M
325 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926214
KLABEN PAUL E & SUZANNE M
325 DOLCHOK LN
KENAI, AK 99611

Parcel: 04926215
CHADWICK JAMES F
4433 WILKERSON MANOR DR SE
SMYRNA, GA 30080

Parcel: 04926216
KENAI CITY OF
210 FIDALGO AVE STE 200
KENAI, AK 99611

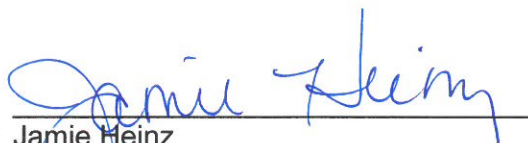
AFFIDAVIT OF SERVICE

I, Jamie Heinz, Clerk for the City of Kenai, Alaska, do hereby certify that on the thirtieth day of June, 2021, I posted or caused to be posted the foregoing Notice of Hearing before the Board of Adjustment of the following appeal:

Appeal Filed by Dennis Barnard, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant Dean Schlehofer, for Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

This notice was posted in the Peninsula Clarion newspaper on July 13, 2021 and July 16, 2021. A copy of the notice is attached.

Further this affiant sayeth naught.



Jamie Heinz
City Clerk



PUBLIC NOTICE

The Kenai City Council will convene as the Board of Adjustment on Tuesday, July 20, 2021, at 6:00 p.m. in the Council Chambers at 215 Adalga Avenue, Kenai. The following item will be heard at that time:

Appeal Filed by Dennis Barnard, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant Dean Schlehofer, for Guide Service at 34 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

The public is invited to attend and testimony will be taken. Any questions related to this public notice may be directed to the Kenai City Clerk's Office at 283-2831 or cityclerk@kenai.city

Jamie Heinz, MMC, City Clerk
Publish: 7/13/21, 7/16/21

D/211

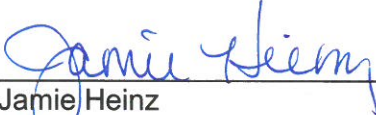
AFFIDAVIT OF SERVICE

I, Jamie Heinz, Clerk for the City of Kenai, Alaska, do hereby certify that on the thirtieth day of June, 2021, I posted or caused to be posted the foregoing Notice of Hearing before the Board of Adjustment of the following appeal:

Appeal Filed by Dennis Barnard, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant Dean Schlehofer, for Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

This notice was posted on the City Bulletin Board within City Hall on June 30, 2021. A copy of the notice is attached.

Further this affiant sayeth naught.



Jamie Heinz
City Clerk



City of Kenai Public Notice

Notice is hereby given; the Kenai City Council will convene as the Board of Adjustment on **Tuesday, July 20, 2021, at 6:00 p.m.** in the Council Chambers at 210 Fidalgo Avenue, Kenai. The following will be heard at that time:

Appeal Filed by Dennis Barnard, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to applicant, Dean Schlehofer, for Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.

The public is invited to attend and testimony will be taken. The agenda and any supporting documents can be located on the City's website, www.kenai.city. Any questions related to this public notice may be directed to the Kenai City Clerk's Office at 283-8231 or cityclerk@kenai.city.

Jamie Heinz, CMC
City Clerk

AS 44.62.310

Posted: 6/30/21
Jamie Heinz, MMC, City Clerk