



KENAI

May 31, 2022

Board of Adjustment Packet  
Hoising – Cabin Rentals & Guide Service

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**BOARD OF ADJUSTMENT HEARING  
MAY 31, 2022 – 5:00 P.M.  
KENAI CITY COUNCIL CHAMBERS**

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**AGENDA**  
**BOARD OF ADJUSTMENT HEARING**  
**MAY 31, 2022 – 5:00 P.M.**  
**KENAI CITY COUNCIL CHAMBERS**  
**210 FIDALGO AVE., KENAI, AK 99611**  
<http://kenai.city>

**Appeal of the Planning and Zoning Commission Action Denying a Conditional Use Permit to Applicant Thomas L. Hoelsing, to operate Cabin Rentals and Guide Service at 1025 Angler Drive, Lot 3, Angler Acres Subdivision Part four, Platt #84-235.**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PREVIOUS MINUTES**

1. Minutes of July 20, 2021 (*Schlehofer*)
2. Minutes of July 23, 2021 (*Schlehofer*)
3. Minutes of July 30, 2021 (*TKC, LLC*)

**D. OPENING STATEMENT**

1. Brian Gabriel, Board Chair

**E. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**

**F. PUBLIC COMMENT (*5 minutes per Conditional Use Permit, for a total aggregate time of 10 minutes per speaker.*)**

**G. STAFF REPORT (*15 minutes*)**

**H. APPELLANT**

1. Thomas L. Hoelsing (*45 minutes*)

**I. APPELLEE**

1. City of Kenai Administration, represented by Ryan Foster, City of Kenai Planning Director (*30 minutes*)

**J. APPELLANT REBUTTAL**

1. Thomas L. Hoelsing (*15 minutes*)

**K. APPELLEE REBUTTAL**

1. City of Kenai Administration, represented by Ryan Foster, City of Kenai Planning Director (*15 minutes*)

**L. APPELLANT CLOSING ARGUMENTS**

1. Thomas L. Hoelsing (*10 minutes*)

**M. APPELLEE CLOSING ARGUMENTS**

1. City of Kenai Administration, represented by Ryan Foster, City of Kenai Planning Director (*10 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.*

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**MINUTES**  
**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, for a Guide Service at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.**

**A. CALL TO ORDER**

The City of Kenai Board of Adjustment convened on July 20, 2021, 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  
Victoria Askin  
Glense Pettey  
Bob Molloy

Jim Glendening  
Henry Knackstedt  
Tea Winger

**C. MINUTES**

1. Minutes of October 7, 2019

**MOTION:**

Vice Board Member Molloy **MOVED** to approve the minutes of October 7, 2019 and requested **UNANIMOUS CONSENT**. Board Member Winger **SECONDED** the motion.

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

**D. OPENING STATEMENT**

Board Chair Gabriel provided an opening statement.

Appellants and Appellee introduced themselves.

Board Chair Gabriel passed the gavel to Vice Chair Molloy, and declared a potential conflict noting that a member of the neighborhood called him shortly after the Planning and Zoning Commission meeting. Vice Chair Molloy ruled that Chair Gabriel did not have a conflict.

Board Member Pettey declared that some of the appellants were clients of her business. Chair Gabriel ruled that Member Pettey did not have a conflict.

Board Member Knackstedt declared that he attended the Planning and Zoning Commission meeting of May 12, 2021. Chair Gabriel ruled that Board Member Knackstedt did not have a conflict.

Board Member Glendening declared that he attended the Planning and Zoning Commission meeting as liaison to the Commission. Chair Gabriel ruled that Glendening did not have a conflict.

Mr. Baldwin requested that late filed evidence be allowed to be submitted as visual aids noting the group of appellants missed the deadline noted in the letter sent to the primary appellant; also noted that there were no adopted regulations related to evidence submission.

Mr. Schlehofer had no objection to the inclusion of the visual aids.

The Board ruled that the late filed visual aid evidence could be included.

Ms. Dolchok requested that the late filed evidence, her letter of opposition, be allowed to be submitted noting that it substantially said the same thing as a letter provided in the certified record.

Mr. Schlehofer had no objection to the inclusion of the late filed letter.

The Board ruled that the late filed letter could be included.

**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)**

None.

**G. STAFF REPORT (15 Minutes)**

Planning Director Foster reviewed his staff report provided in the certified record noting that at the meeting of May 12, 2021, two resolutions for separate conditional use permits (CUP) for this property were considered at the same time, but the hearing tonight was only for Resolution No. PZ2021-16.

Clarification was provided that staff doesn't review covenants as they are legal agreements between property owners and the City is not a party to that contract. Clarification was also provided that the dock would need to be approved by the Kenai River Center and building permit would be needed; further clarified that after submitting the application, the applicant noted it would be highly unlikely that a dock would be built on the property.

Staff's analysis of the non-economic value to the neighborhood was explained, noting that it included buffers and amount of activity such as vehicle trips. It was clarified that non-economic value is subjective and per the application and use of property for the guide services, staff's analysis was that it is not different from any other property owner.

Clarification of Rural Residential zoning was provided, and it was noted that per the Land Use Table and code, many non-residential uses that can be permitted through the CUP process. Director Foster explained the process of annual reports submitted by CUP owners, violation



investigations, and permit revocation as provided in code. He noted that violations are brought to staff's attention who would work with the CUP owner on remedying the violations prior to the revocation process. Foster stated that he did not know an example of a case when a criteria could not be met for a CUP for guide services in a Rural Residential area.

An explanation was provided that any noise complaints would be connected to the permit because a condition of the permit is to meet local regulations, so if a non-zoning issue came up it could still trigger a review of the permit per code.

The Board questioned Director Foster about other CUPs in the area; Foster noted he was unaware of any others in the applicant's neighborhood. It was noted that public comments from the Planning and Zoning meeting drew comparisons between this applicant's neighborhood and Angler Drive as they are both zoned Rural Residential, and it was noted that guide service was allowed by code in both areas through CUPs.

#### **H. APPELLANTS (30 minutes each)**

##### 1. Rick Baldwin

Appellant Amber Every introduced a video newly introduced as evidence. She explained that she made the video to show the character of the neighborhood.

Appellant Pete Coots described his reasons for moving into the neighborhood from Nikiski, including the residential zoning and covenants that limited use to single-family residential. He described the character of the neighborhood, and stated that he welcomes the appellee as a neighbor but is against business owners who knowingly buy property with the intent to violate covenants.

Appellant Charlotte Coots showed aerial images of their neighborhood, explaining that there are currently only residential homes and no businesses operating. She drew comparisons with the Angler Drive neighborhood, explaining that they are also zoned residential but has many businesses operating with CUPs and the neighborhood character has changed as a result. She stated that considering the problems that Angler Drive residents have voiced, she did not believe the current process for CUP revocation is working. She asked the Board to listen to the voices of the community.

Rick Baldwin noted that allowing the requested CUP would be poor long-term planning decision. Referring to Planning code for CUPs, he noted that the overriding principle was to assure that the proposed use would be compatible with the surroundings. He stated that the application failed demonstrate this compatibility and explained how the hours of operation, early morning activity, noise, and presence of unknown travelers would put strain on the neighborhood; noted that this could set a precedent for more guiding operations in the subdivision and that the Board has the discretion to deny the permit request in the best interest of long-term planning for the neighborhood. He argued against the findings of the Planning and Zoning Commission, explaining how the use was not consistent with the purpose of the chapter nor and the purpose and intent of the zoning district as it would destabilize the neighborhood, violate the residential character, and impact surrounding property values. He also referred to the goals of the Comprehensive Plan, noting that this CUP would not promote quality of life, protect the livability of existing neighborhoods, and would not be a land use strategy that implements a forward-looking approach to community growth and development. He noted that the Planning Commissioners made no additional specific findings about the guide service and he discussed

the findings they made justifying the decision to deny the lodging permit. He drew comparison between Angler Drive and his neighborhood, and asked the Board to commit to the goals of the Comprehensive Plan and protect the livability of their subdivision.

**I. APPELLEE (30 minutes)**

1. Dean Schlehofer

Mr. Schlehofer explained that he had set up a 24-hour video camera outside his home and had recorded no noise and timed how long it took to leave the neighborhood from his property; noted that there has only been one boat there the whole time, and other neighbors have boats so it was not out of character for the neighborhood. He explained that no clients would come to his home so there would be no traffic from strangers and shared the directions he gave to clients on meeting him outside his property. Mr. Schlehofer expressed doubt about complaints of noise and traffic, and explained that his guides keep their boats on their own private properties. He reiterated that clients would not come to his home and questioned whether all guides in Kenai, who do the same, have CUPs from their home. He explained that he does often work early and on different schedules based on tides but the timing and noise should not be a problem; expressed skepticism over neighbors' comparisons between his business and those on Angler Drive explaining he does not know much about Angler business but his own background is spotless and he welcomed neighbors to get to know him. He noted that he felt that he was under scrutiny and being watched by neighbors and explained that other neighbors have jobs where they need to get up and leave early in the morning. He shared that he had had an interaction with a neighbor who was insensitive to his inability to hear, which was a form of discrimination.

Mr. Schlehofer addressed concerns about the inclusion of a private dock in his application noting he was no longer looking to build a dock on his property as it is not feasible. He noted that he intended to increase the value of his home and would not let it become a property which would bring down the value of other homes in the vicinity. He expressed frustration over what he felt was constant scrutiny on his property from neighbors. He spoke to his reputation as a guide and community member and explained how there was no difference between his property and others for anyone to be suspicious of. He discussed how the original real estate listing stated the property was a great business opportunity and was assured by the previous owners that his business would be a good fit for the neighborhood. He expressed shock and disappointment over being misled and having assumptions made about him by neighbors; noted he wanted to hear the concerns of neighbors, but expressed frustration over why construction of a fence was acceptable to neighbors but him starting his car in the morning was not.

**J. APPELLANT REBUTTAL (10 minutes each)**

1. Dennis Barnard

Mr. Barnard noted he had met Mr. Schlehofer's father prior to the property purchase and discussed the lodging and guide business, and had advised him that it would not be allowed based on the covenants and encouraged him to look at other areas. He expressed concern over the potential for additional CUPs to be permitted in the neighborhood. He noted that there was more than one boat on the property, and that he can hear tires in the morning. He noted that the fence construction was intended to block other neighbors' lights. Mr. Barnard also noted that the entire community had signed a petition against this business in their neighborhood and that he was upset that it was approved by the Planning and Zoning Commission. He noted that he had nothing against Mr. Schlehofer personally and he may have a difficult time finding a similar

property in the City, but he did not appreciate that after he had advised his father they went to get a CUP instead. He noted this is an invasion of a residential area.

Rick Baldwin clarified that Mr. Schlehofer was not on trial, and the case was about a Planning decision creating a precedent for more future CUPs that could be a detriment to the neighborhood. He explained that there were no assurances for the neighbors in the terms of the permit that he would continue to operate as he currently was; expressed doubt given that he had ignored the contractual obligations of the covenants. Mr. Baldwin noted that policy decisions should not be based on individuals at the time, but about what it could do over time. Expressed concern that a precedent would be set and more businesses come in.

**K. APPELLEE REBUTTAL (10 minutes)**

1. Dean Schlehofer

Mr. Schlehofer responded to comments made by Mr. Barnard, noting that his father has never been here and it was just his friend. He noted that he does not get up at 5:00 AM every day; his schedule varies with the tides and seasons. Mr. Schlehofer addressed his neighbors' concerns about decreasing property values, noting that waterfront property was very desirable; reiterated that there would be no dock there and only one boat in the front of the property so people wouldn't even know there was a guide business there because the drift boat and equipment storage was kept in the back. He stated that he was not aware of the covenants, did not believe he signed them, and had been assured by the realtor that his business would not be in conflict with the neighborhood.

**L. APPELLANT CLOSING ARGUMENT (5 minutes)**

1. Dennis Barnard

In closing, Mr. Baldwin reiterated that this issue was not about Mr. Schlehofer or how he runs his guiding service, but was about the issue of long-term planning. He expressed doubt about how Mr. Schlehofer would run his business in the future if he was granted the CUP and speculated that he may use the property more extensively than he had been. Mr. Baldwin stated that their main concern was that it may set a precedent for future Councils and Commissions to grant CUPs. He referenced CUP code, noting that permits can only be granted if it is true that the use is consistent with zoning and that it would not violate the residential character of the environment; he argued that this was not true, that it was not in accordance with the Comprehensive Plan which conveys that citizens and quality of life comes before business profits. Mr. Baldwin noted that Kenai was a great place to live and he wants to keep it that way, specifically his neighborhood; emphasized that strategies should be forward-looking, and the Board's decision should be in the best long-term interest of the citizens.

**M. APPELLEE CLOSING ARGUMENT (5 minutes)**

1. Dean Schlehofer

In closing, Mr. Schlehofer noted that people want to stay right on the Kenai River so they wouldn't be coming to his place or into the neighborhood. He noted that May was a very light month for his business and June through August were his busier months before slowing down again in the fall. He confirmed that the clients will be meeting him outside his property and explained that there will not be added traffic.

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

In response to questions from the Board, Dennis Barnard explained previous bear sightings he had in the neighborhood.

Rick Baldwin clarified that the homeowners association of the neighborhood had previously been dormant but had gathered in response to this issue; and that the organization was an unincorporated association operating pursuant to the contractual relationship established by the covenants.

The appellants were asked how many residents of the neighborhood relied on the covenants when making the decision to buy their home, and seventeen were counted who were present at the meeting.

In response to questions from the Board, Mr. Schlehofer clarified his decision to purchase property noting that the public dock nearby would work better for his business than having a dock on his property. He explained that he did not intend to grow his business, clarified that he had independent contractors working for him as guides, and did not have any employees. He explained that he cleaned his boat in another area and fish were cleaned on the shore and not at his home. He clarified that he was currently working as a guide, he parked his boat at home, and met his clients offsite but there were no other business activities happening on the property other than some computer work. Mr. Schlehofer stated that there would only be one boat on his property apart from a drift boat in the back, and guides would never park their boat on his property. He clarified that his property on Dolchok is his primary residence year-round, he has a home office but all of the bookings go through a booking agent located in Anchorage.

**MOTION:**

Vice Board Member Molloy **MOVED** to adjourn into adjudicatory session. Board Member Askin **SECONDED** the motion.

It was clarified that the City Attorney could attend the deliberative session.

**VOTE:**

YEA: Gabriel, Pettey, Knackstedt, Glendening, Molloy, Winger, Askin

NAY:

**MOTION PASSED UNANIMOUSLY.**

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.

**MINUTES**  
**BOARD OF ADJUSTMENT HEARING**  
**JULY 23, 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 Denying a Conditional Use Permit to Applicant, Dean Schlehofer, for Lodging at 345 Dolchok Lane, Lot 4, Block 4, Basin View Subdivision Part 3.**

**A. CALL TO ORDER**

The City of Kenai Board of Adjustment convened on July 23, 2021, in City Hall Council Chambers, Kenai, AK. Board Chair Brian Gabriel called the meeting to order at 6:03 p.m.

**B. ROLL CALL**

There were present:

Brian Gabriel, Chair  
Victoria Askin  
Glense Pettey  
Bob Molloy

Jim Glendening  
Henry Knackstedt  
Tea Winger

**C. OPENING STATEMENT**

Board Chair Gabriel provided an opening statement.

Board Chair Gabriel passed the gavel to Vice Chair Molloy, and declared a potential conflict noting that a member of the neighborhood called him shortly after the Planning and Zoning Commission meeting. Vice Chair Molloy ruled that Chair Gabriel did not have a conflict.

Board Member Knackstedt declared that he attended the Planning and Zoning Commission meeting of May 12, 2021. Chair Gabriel ruled that Board Member Knackstedt did not have a conflict.

Board Member Glendening declared that he attended the Planning and Zoning Commission meeting as liaison to the Commission. Chair Gabriel ruled that Glendening did not have a conflict.

**D. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**

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

**E. PUBLIC COMMENT (5 minutes)**

Rick Baldwin noted that there were many members of the public in the audience who had organized in opposition to this case, and requested that these members of the public concede their public comment time to three specified members of the neighborhood. The following

audience members agreed: Jerry Huf, Greg Davis, Craig Cheek, Bobby Baldwin, Ruby Christopherson, Mary Loveland, Fred Wolsterman, Frances Eurick.

Diedre Cheek introduced a video of the neighborhood.

Charlotte Coots read a statement from her husband Pete Coots, which described their reasons for moving into the neighborhood from Nikiski, including the residential zoning and covenants that limited use to single-family residential. The character of the neighborhood was described, and stated that they welcome the applicant as a neighbor but is against business owners who knowingly buy property with the intent to violate covenants. It was noted that the issue has galvanized the neighborhood to organize in opposition.

Charlotte Coots showed aerial images of their neighborhood, explaining that there are currently only residential homes and no businesses operating. She referred to the applicant's statements that his business would not change the quality of life or character of the neighborhood, and explained how a lodging business would operate outside of normal business hours which could cause disturbances in the neighborhood. She drew comparisons with the Angler Drive neighborhood, explaining that they were also zoned residential but has many businesses operating with conditional use permits (CUP) and the neighborhood character changing as a result. She noted that granting the permit would go against the goals of the Comprehensive Plan, and asked the Board to listen to the voices of the community.

Rick Baldwin noted that allowing the requested CUP would be poor long-term planning decision. Referring to Planning code for CUPs, he noted that the overriding principle was to assure that the proposed use would be compatible with the surroundings and this was recognized by the Planning & Zoning Commission. He stated that the application fails demonstrate this compatibility, and explained how the hours of operation, early morning activity, late-night noise, and presence of unknown travelers would be to the detriment of the neighborhood. He noted there was a large travel trailer in front of his property, and he didn't know who would be staying there. He noted that the Planning & Zoning Commission had the discretion to deny the permit in the best interest of the neighborhood and based on long-term planning considerations. He discussed the findings of the Commission, suggesting that the conditions were not satisfied; explaining how the use was not consistent with the purpose of the chapter nor the purpose and intent of the zoning district as it would destabilize the neighborhood, violate the residential character, and impact surrounding property values. He also referred to the goals of the Comprehensive Plan, noting that this CUP would not promote quality of life, protect the livability of existing neighborhoods, promote land uses that are in harmony with surrounding uses, nor would it be a land use strategy that implements a forward-looking approach to community growth and development. He noted that given these findings, it is the appellant's burden to provide proof. He praised the Planning & Zoning Commission for adhering to the code and the Comprehensive Plan, and for adopting a long-term planning view when making their decision. He drew comparison between Angler Driver and his neighborhood, and asked the Board to commit to the goals of the Comprehensive Plan and protect the livability of their subdivision.

#### **F. STAFF REPORT (15 Minutes)**

Planning Director Foster reviewed his staff report provided in the certified record noting that at the meeting of May 12, 2021, two resolutions for separate conditional use permits (CUP) for this property were considered at the same time, but the hearing tonight was only for Resolution No. PZ2021-17.

Clarification was provided that there were no other CUPs in this neighborhood. He noted the code addresses specifications for short-term rental lodging, bed & breakfasts and dormitories but is silent on Airbnb.

**G. APPELLANTS (30 minutes each)**

1. Dean Schlehofer

Appellant Dean Schlehofer explained how the views expressed by the neighborhood differed greatly from the impression he was given from the previous owners, who had told him the neighbors would be fine with a guide service and lodging business. He discussed how lodging businesses do not necessarily lead to bad behavior from guests, and he had strict policies for them to adhere to. He explained the traffic route to his home, noting that guests could not go beyond 300 feet from his property. He noted that there are many lodging businesses and Airbnbs in Kenai and the reviews are overall very positive; also noted his own positive rating. Mr. Schlehofer clarified his guests were there to fish and not to party, that they would not be on property during the day, and would also only be there seasonally. He addressed concerns about the value of homes and explained his plans for future renovations and how this would have a positive impact on the value of neighboring homes.

Concerning the comparisons between this neighborhood and Angler Drive, he noted that he did not understand why this was the only neighborhood being consistently compared when it is not necessarily the same. He provided more explanation of the routine guests would have when they stayed with him. He explained that he had been led to believe this would be a great business opportunity by the realtor and would probably not have moved forward with the purchase had he known there would be this opposition. Mr. Schlehofer noted that this neighborhood should not be compared directly with Angler Drive, because Angler is closer to the river and because of this there would not be the same domino effect of CUP issuance that neighbors have expressed concerns of. He stated that he had made a list of pros and cons, pros including little noise during May, guests arriving in only one vehicle, property located at the end of the neighborhood, and a quiet environment. Noted there was one neighbor who was very concerned and has added a wall to their property. He explained that he has been running a camera 24/7 to record any potential problems. Mr. Schlehofer discussed comments made during the previous meeting regarding the water level and shared that he saw people kayaking in it.

**H. APPELLEE (30 minutes)**

1. Ryan Foster

Director Foster clarified his relationship to the Planning & Zoning Commission, noting that as the staff liaison he provides support and guidance through staff analysis and recommendations, and the record is made of his contributions as well as those of the applicant and public. He noted that the Commission, is independent and has decision-making authority, and that his position is one of objectivity. He emphasized that it is not his place this evening to weigh in on the Planning & Zoning Commission's decision, as their findings and decision needs to speak for themselves.

**I. APPELLANT REBUTTAL (10 minutes each)**

1. Dean Schlehofer

Mr. Schlehofer noted that this neighborhood should meet prospective homebuyers first to understand their intentions and let them know what is approved in the neighborhood. He explained he had been clear about his intentions with the realtor and previous homeowner; knowing the community's restrictions would have saved him a lot of stress.

**J. APPELLEE REBUTTAL (10 minutes)**

1. Ryan Foster

Director Foster stated he had no further comments.

**K. APPELLANT CLOSING ARGUMENT (5 minutes)**

1. Dean Schlehofer

In closing, Mr. Schlehofer stated that he hoped the neighborhood would give him a chance and see that his business is not like those on Angler Drive. His business would provide a quality and safe experience that won't interfere with the neighborhood.

**L. APPELLEE CLOSING ARGUMENT (5 minutes)**

1. Ryan Foster

Director Foster stated he had no further comments.

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

In response to questions from the Board, Mr. Schlehofer clarified that he had chosen his realtor because he was very professional, had knowledge of waterfront businesses, and came highly recommended. He clarified that he does not have employees but utilizes independent contractors, and clients would be responsible for their own transportation to and from the lodging accommodations.

In response to public comments, Mr. Schlehofer clarified that there was a trailer on his property to be used by potential deck hands adding he has a waiver letter from the State which allows a deck hand to assist in communications with guests. He noted that guests would not be staying in the trailer.

Mr. Schlehofer provided clarification that his previous comments about guests not going beyond 300 feet from his property was based on his understanding of the City's notification of CUP application to neighbors living within 300 feet of his property.

He clarified that fish would be cleaned and filleted at the location where it was caught and vacuum-sealed in his garage; fish processing would not be done by clients.

In response to questions from the Board, Director Foster clarified that in this role as Planning & Zoning Commission staff liaison, he was not able to speak to the decisions of that independent body, and had spoken to the City Attorney in regards to the Board of Adjustment process.



Director Foster noted that he was not familiar with the part of the code dealing with quiet hours, as it is outside Title 14. He noted that in this CUP application there was a statement regarding the business's quiet hours.

**MOTION:**

Vice Board Member Molloy **MOVED** to adjourn into adjudicatory session. Board Member Askin **SECONDED** the motion.

**VOTE:**

YEA: Gabriel, Pettey, Knackstedt, Glendening, Molloy, Winger, Askin

NAY:

**MOTION PASSED UNANIMOUSLY.**

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.

DRAFT

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**MINUTES**  
**BOARD OF ADJUSTMENT HEARING**  
**JULY 30, 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, TKC, LLC, for Eight Single Family Dwellings in a Suburban Residential Zone, Government Lot 26, Section 31, Township 6 North, Range 11 West and Located at 1714 Fourth Avenue.**

**A. CALL TO ORDER**

The City of Kenai Board of Adjustment convened on July 30, 2021, 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  
Victoria Askin  
Glense Pettey  
Bob Molloy

Jim Glendening  
Henry Knackstedt  
Tea Winger

**C. OPENING STATEMENT**

Board Chair Gabriel provided an opening statement.

Council Member Knackstedt declared that he has done work for Byler Contracting but had not discussed this case with them; he noted he could make an unbiased decision. Chair Gabriel ruled that Member Pettey did not have a conflict.

**D. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**

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

**E. PUBLIC COMMENT (5 minutes)**

Violetta Strait explained that her neighborhood was small and new construction resulted in increased traffic and crime. She expressed concern that properties in the neighborhood would become unsafe and trashy. She noted there have already been problems on her street and if more people come in, there could be increased police presence and traffic. She expressed concern that the crowding of eight buildings on one lot will cause property values and safety to go downhill.

Jerry Strait noted his wife intended to express that eight homes on this lot was too many and believed that four homes on that space would be more sufficient. He noted that a development

may look good initially but could change over time. He expressed concern about decreasing property values, and noted he saw similarities between this development and construction camps or prison camps. He reiterated concerns that the number of houses in this area would be too many, and it was only a matter of time before it deteriorated.

Mark Shinn noted the neighborhood was a quiet dead-end street with no lights and this development would create unwanted extra traffic. He expressed concerns that eight houses would be too many on this land and would disrupt the view from his home; would result in more traffic, noise, and crime. He suggested alternative development plans, explained his reasons for wanting to live there, and suggested that the character should not be changed.

Star McCloud noted that everyone that spoke had said very wise words. She explained her concerns about congestion and decreased property values, noting that many neighborhood residents were retired and there to stay. She expressed the view that the Board should see the neighborhood for themselves.

Joe Doshen explained that there was a bus stop on that corner, the garbage truck had a hard time accessing the street, and kids play in the street and stand at the bus stop. He noted that this neighborhood was quiet, there was no room for more houses across the street and he did not want more people coming in.

Sherry Shinn expressed concern for her neighborhood, kids riding bikes in the street, and the crowding of parked cars on the street; explained her reasons for moving to the neighborhood, and the problems that could be presented by rental homes in the area such as visible bags of trash outside, strange kids in her yard, decreasing property values, and increased crime.

Fred Braun explained that he owned several lots in the area and that he had sold two lots to Byler Construction who built two very nice small homes on them. He noted his perspective is that of both a property owner in the neighborhood and also a realtor; that the development was nearly completed, that he was impressed with the project, and believed it has provided value to the community. He explained how the lease application was designed for professional people, did not allow animals or smokers, and that rental opportunities in the area were extremely limited. He noted that as currently written, seven homes can legally be built without a CUP, and that the construction of these units would increase sales tax and property tax for the City and Borough.

Judy Walker inquired whether the owner intended to live in the area and who would keep the units maintained and well-kept. She noted that across from the church, trees had been clear-cut to build small homes; expressed concerns regarding decreasing property values, increased crime, and noise. She stated opposition toward any rentals in this area.

Shannon Fitt explained how her properties were adjacent to the CUP applicant's property, noted she had realtor experience, expressed concern over eight houses being built on this property, and how it would decrease property values. She explained that there has been issues with increased crime in the area and expressed strong opposition to having the houses built adjacent to her property as they may attract low income families.

Kerry Malone noted where she lived in relation to the property in question and how she had observed drug users in the area. She expressed concern for wildlife that used the property, the number of houses to be built on the lot, and the driveway exiting onto a street where children play.

Ron Dukowitz noted there were too many rentals in the neighborhood already; that renters pile junk outside, and he was not in favor of any more rentals in the area.

**F. STAFF REPORT (15 Minutes)**

Planning Director Foster reviewed his staff report provided in the certified record explaining that the application was for a Conditional Use Permit for the purpose of constructing eight single-family dwelling units. The criteria for conditional use permits was reviewed and it was explained how the application had met the criteria.

Clarification was provided that staff's analysis was that the existing public services and facilities would be able to accommodate the proposed development, and that the landscape site plan showing utility lines had been approved by the Public Works Director and Fire Marshal. An explanation of typical use for Suburban Residential zoning was given. Director Foster noted that a landscape site plan would need to be approved by Planning & Zoning as a condition of the permit, and that screening and snow storage would be addressed in that plan. He explained that the Fire Marshal would review and provide comments to ensure emergency vehicle access and fire hydrants were sufficient to serve the area. He clarified that if the lot were to be subdivided no CUP would be required, and four units on each parcel was permitted by code. He noted that the Kenai Peninsula Borough Platting Commission preliminarily approved the subdivision into two lots.

**G. APPELLANTS (30 minutes each)**

1. Wayne Jones

Appellant Wayne Jones noted that the responsibility of the Planning & Zoning Commission and Board of Adjustment should be to protect the rights of residents to the use and enjoyment of their neighborhood and value of their property. Noted the opposition from the neighborhood suggesting that it would run counter to those goals and would not support the character, quality, or integrity of the neighborhood. He expressed concerns over increased traffic presenting a danger to children and pets, and the potential negative impact on property values. He asked that the Board overturn the Planning & Zoning decision to grant the permit and not be swayed by commercial developers. He suggested that instead of sending notifications to neighbors via postcard, the City should put in a greater effort to gather input from neighbors. Mr. Jones stated that residents were taxpayers and the City should be working for them.

In response to questions from the Board, Mr. Jones clarified that he would be negatively impacted by the development because it would be out of character for the neighborhood. He noted that people who were looking to buy a home would not want to do so near these rental homes and in the long term would diminish the seller's market. He stated that the area has reached a saturation point of rentals and that renters in general often have no investment in the property they inhabit, are more transient, may leave the property in poor condition, and may participate in unethical activities. Mr. Jones reiterated his concerns about density, traffic, and the potential danger to the school bus stop and children.

**H. APPELLEE (30 minutes)**

1. TKC, LLC

The Appellee was not present to comment.

I. **APPELLANT REBUTTAL** (10 minutes each)

1. Wayne Jones

J. **APPELLEE REBUTTAL** (10 minutes)

1. TKC, LLC

K. **APPELLANT CLOSING ARGUMENT** (5 minutes)

1. Wayne Jones

In closing, Mr. Jones noted that he appreciated the opportunity for the neighborhood to come and express concerns. He noted that there was trepidation among the neighbors that they won't be heard and expressed hope that the Board would not be swayed by commercial interests and would take seriously the concerns of residents.

L. **APPELLEE CLOSING ARGUMENT** (5 minutes)

1. TKC, LLC

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

**MOTION:**

Vice Board Member Molloy **MOVED** to adjourn into adjudicatory session. Board Member Winger **SECONDED** the motion.

**VOTE:**

YEA: Gabriel, Knackstedt, Glendening, Molloy, Winger, Askin

NAY:

**MOTION PASSED UNANIMOUSLY.**

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.

## **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 open to the 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 Kenai City Clerk, 210 Fidalgo Ave., Kenai, AK 99611 or [cityclerk@kenai.city](mailto:cityclerk@kenai.city) by **noon on Friday, May 20, 2022**. 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.

Prior to any presentations, members of the public may address the Board at the beginning of the hearing. Members of the public will have five minutes each to speak on each of the conditional use permit, for a total aggregate time of 10 minutes per speaker.

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 45 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 15 minutes for rebuttal and 10 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 in an adjudicatory session 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.





Failed

**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. 2022-08**

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

APPLICANT: Thomas Hoelsing

PROPERTY ADDRESS: 1025 Angler Drive

LEGAL DESCRIPTION: Lot 3, Anglers Acres Subdivision Part 4

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04939041

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on March 22, 2022; 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 April 13, 2022, 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(e)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The proposed cabin rentals (1 two story, 2 one story) meets the intent of the Rural Residential (RR) Zone 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 existing cabins are consistent with the intent of the Rural Residential District by preserving the rural, open quality of the environment with a site design that preserves many trees and creates privacy between neighboring parcels and Angler Drive. While cabin rentals and guide services would generate consistent vehicle trips, it would likely not generate heavy traffic, those persons renting cabins/guide services would generate approximately as many trips as a year round residence on the property. KMC 14.22 Land Use Table permits the three cabins on a Rural Residential property.

The Land Use Table provides that Cabin Rentals are a conditional use for the Rural Residential zoning district; therefore, a conditional use permit must be granted for the operation of rental cabins. The applicant has provided a site plan that provides the layout of the cabin and parking.

The Land Use Table provides that a Guide Service is a conditional use for the Rural Residential zoning district; therefore, a conditional use permit must be granted for the operation of a guide service.

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

Criteria Met. The parcel located to the north is a residential cabin, to the east is Beaver Creek, to the south is a lodge and guide service, and to the west is a commercial marijuana cultivation facility. Angler Drive consists of Rural Residential zoned parcels and has many conditional use permits for uses such as lodges, cabin rentals, guide services, and marijuana cultivation. The subject property, with cabin rentals and a guide service, would fit in with the character of the neighborhood by land use, lot size, lot orientation, and natural character of the property. Both the economic and noneconomic value of adjacent properties should not be significantly impacted by the use of cabin rentals and a guide service. All improvements on the subject property are existing.

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

Criteria Met. The Land Use Plan, from the 2016 Comprehensive Plan, proposes a Low Density Residential land use for this neighborhood. The Low Density Residential Land Use Classification is defined in the Comprehensive Plan:

*“Low Density Residential because of location or poor site conditions is intended for large-lot single-family low-density residential development. The area will typically be developed with individual on-site water supply and wastewater disposal systems. Streets will typically be constructed to rural street standards (i.e., gravel) and sidewalks will not be typically included in the subdivision design. Rural Residential becomes Low Density Residential to avoid confusion with zoning category.”*

The subject parcel has similar land use, lot size and orientation, on-site water and wastewater systems, and low density as neighboring properties. Angler Drive is paved, and constructed to a higher standard than gravel rural streets, with no sidewalks.

The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

Goal 1 of the Comprehensive Plan is to promote and encourage quality of life in Kenai.

- Q-4 Promote the siting and design of land uses that are in harmony and scale with surrounding uses

Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai.

- 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(e)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met. The subject property is accessed via Angler Drive, a paved, City maintained road. City water and sewer is not in the vicinity of the subject property, therefore, onsite water and wastewater treatment and disposal systems are necessary and located on the property. The property has access to electricity, gas, and telephone services.

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

Criteria Met: The use of a rental cabin and guide services will not be harmful to public safety, health, or welfare. Staff believes that services are available to adequately serve this development. There are recommended conditions with requirements related to public safety, health, and welfare:

- 2. Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director. This condition ensures site plan and landscaping requirements are met, including for vehicle parking.
- 9. Quiet Hours are 10pm to 6am. This condition would help ensure the welfare of neighbors is protected from noise.

6. *KMC 14.150(e)(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 Thomas Hoelsing for Cabin Rentals for property described as Lot 3, Anglers Acres Subdivision Part 4, and located at 1025 Angler Drive.

**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. Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director.
3. Prior to beginning any construction or renovations, 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 31<sup>st</sup> 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.
9. Quiet Hours are 10pm to 5am.
10. On-Site Manager must be available while in operation so the City has someone local who can answer questions.
11. Must follow KMC Fire code for overnight occupancy for registered guests.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,  
this 13th day of April, 2022.

\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

ATTEST:

\_\_\_\_\_  
Michelle M. Saner, MMC, City Clerk



Failed

**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. 2022-09**

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

APPLICANT: Thomas Hoelsing

PROPERTY ADDRESS: 1025 Angler Drive

LEGAL DESCRIPTION: Lot 3, Anglers Acres Subdivision Part 4

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04939041

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on March 22, 2022; 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 April 13, 2022, 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(e)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The proposed cabin rentals (1 two story, 2 one story) meets the intent of the Rural Residential (RR) Zone 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 existing cabins are consistent with the intent of the Rural Residential District by preserving the rural, open quality of the environment with a site design that preserves many trees and creates privacy between neighboring parcels and Angler Drive. While cabin rentals and guide services would generate consistent vehicle trips, it would likely not generate heavy traffic, those persons renting cabins/guide services would generate approximately as many trips as a year round residence on the property. KMC 14.22 Land Use Table permits the three cabins on a Rural Residential property.

The Land Use Table provides that Cabin Rentals are a conditional use for the Rural Residential zoning district; therefore, a conditional use permit must be granted for the operation of rental cabins. The applicant has provided a site plan that provides the layout of the cabin and parking.

The Land Use Table provides that a Guide Service is a conditional use for the Rural Residential zoning district; therefore, a conditional use permit must be granted for the operation of a guide service.

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

Criteria Met. The parcel located to the north is a residential cabin, to the east is Beaver Creek, to the south is a lodge and guide service, and to the west is a commercial marijuana cultivation facility. Angler Drive consists of Rural Residential zoned parcels and has many conditional use permits for uses such as lodges, cabin rentals, guide services, and marijuana cultivation. The subject property, with cabin rentals and a guide service, would fit in with the character of the neighborhood by land use, lot size, lot orientation, and natural character of the property. Both the economic and noneconomic value of adjacent properties should not be significantly impacted by the use of cabin rentals and a guide service. All improvements on the subject property are existing.

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

Criteria Met. The Land Use Plan, from the 2016 Comprehensive Plan, proposes a Low Density Residential land use for this neighborhood. The Low Density Residential Land Use Classification is defined in the Comprehensive Plan:

*“Low Density Residential because of location or poor site conditions is intended for large-lot single-family low-density residential development. The area will typically be developed with individual on-site water supply and wastewater disposal systems. Streets will typically be constructed to rural street standards (i.e., gravel) and sidewalks will not be typically included in the subdivision design. Rural Residential becomes Low Density Residential to avoid confusion with zoning category.”*

The subject parcel has similar land use, lot size and orientation, on-site water and wastewater systems, and low density as neighboring properties. Angler Drive is paved, and constructed to a higher standard than gravel rural streets, with no sidewalks.

The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

Goal 1 of the Comprehensive Plan is to promote and encourage quality of life in Kenai.

- Q-4 Promote the siting and design of land uses that are in harmony and scale with surrounding uses

Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai.

- 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(e)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met. The subject property is accessed via Angler Drive, a paved, City maintained road. City water and sewer is not in the vicinity of the subject property, therefore, onsite water and wastewater treatment and disposal systems are necessary and located on the property. The property has access to electricity, gas, and telephone services.

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

Criteria Met: The use of a rental cabin and guide services will not be harmful to public safety, health, or welfare. Staff believes that services are available to adequately serve this development. There are recommended conditions with requirements related to public safety, health, and welfare:

- 2. Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director. This condition ensures site plan and landscaping requirements are met, including for vehicle parking.
- 9. Quiet Hours are 10pm to 6am. This condition would help ensure the welfare of neighbors is protected from noise.

6. *KMC 14.150(e)(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 Thomas Hoelsing for Cabin Rentals for property described as Lot 3, Anglers Acres Subdivision Part 4, and located at 1025 Angler Drive.

**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. Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director.
3. Prior to beginning any construction or renovations, 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 31<sup>st</sup> 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.
9. Quiet Hours are 10pm to 6am.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,  
this 13th day of April, 2022.

\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

ATTEST:

\_\_\_\_\_  
Michelle M. Saner, MMC, City Clerk





# KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | [www.kenai.city](http://www.kenai.city)

## MEMORANDUM

**TO:** Planning & Zoning Commission  
**FROM:** Meghan Thibodeau, Deputy City Clerk  
**DATE:** April 8, 2022  
**SUBJECT:** **Resolution PZ2022-09 Staff Report**

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Please note that the staff report for Resolution PZ2022-09 is shared with Resolution PZ2022-08 and can be found on page 11 of the April 14, 2022 Planning & Zoning Commission meeting packet.

The permanent record of this staff report will be filed with PZ2022-08.



# 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:** April 7, 2022  
**SUBJECT:** PZ2022-08 – Conditional Use Permit – Cabin Rentals  
PZ2022-09 – Conditional Use Permit – Guide Service

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**Applicant:** Thomas Hoelsing  
1865 Fredericksen Street  
Fremont, Nebraska 68025

**Legal Description:** Lot 3, Anglers Acres Subdivision Part 4

**Property Address:** 1025 Angler Drive

**KPB Parcel No:** 04939041

**Lot Size:** 1.15 Acres (50,094 square feet)

**Existing Zoning:** Rural Residential (RR)

**Current Land Use:** Residential Dwelling

**Land Use Plan:** Low Density Residential

### GENERAL INFORMATION

The applicant, Thomas Hoelsing, has submitted a conditional use permit application for Cabin Rentals (PZ2022-08) and Guide Service (PZ2022-09) at 1025 Angler Drive.

Cabin rentals are listed as a conditional use within the Rural Residential zone in Kenai Municipal Code 14.22.010, Land Use Table. KMC 14.20.320 Definitions, defines cabin rentals, “Cabin rentals” means the renting out of one (1) or more individual, detached dwelling units or buildings to provide overnight sleeping accommodations for a period of less than thirty (30) consecutive days.

Guide Service is listed as a conditional use within the Rural Residential zone in Kenai Municipal Code 14.22.010, Land Use Table. KMC 14.20.320 Definitions, defines guide service, “Guide

Service” means any activity on any premises used for collecting or returning persons from recreational trips when remuneration is provided for the service.

On September 13, 2021 and January 17, 2022 planning staff mailed a notice of Kenai Municipal Code Violation for 1025 Angler Drive for operating cabin rentals without a conditional use permit and that without a conditional use permit, would be unable to rent cabins for the 2022 summer season (see 2<sup>nd</sup> letter attached).

#### 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(e) – 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(e)-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 request is consistent and mindful of KMC 14.20.150 (a). The uses requested are allowed under the Land Use Table (KMC 14.22.010) and will not impact surrounding property. Whether the property is utilized for daily rental and fishing or by owners for daily use and fishing will not impact surrounding properties. Significant driveway, parking improvements bring the property current with "Off street parking" KMC 14.20.250, see attachment #1.

Staff Response: The proposed cabin rentals (1 two story, 2 one story) meets the intent of the Rural Residential (RR) Zone 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 existing cabins are consistent with the intent of the Rural Residential District by preserving the rural, open quality of the environment with a site design that preserves many trees and creates privacy between neighboring parcels and Angler Drive. While cabin rentals and guide services would generate consistent vehicle trips, it would likely not generate heavy traffic, those persons renting cabins/guide services would generate approximately as many trips as a year round residence on the property. KMC 14.22 Land Use Table permits the three cabins on a Rural Residential property.

The Land Use Table provides that Cabin Rentals are a conditional use for the Rural Residential zoning district; therefore, a conditional use permit must be granted for the operation of rental cabins. The applicant has provided a site plan that provides the layout of the cabins and parking.

The Land Use Table provides that a Guide Service is a conditional use for the Rural Residential zoning district; therefore, a conditional use permit must be granted for the operation of a guide service.

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

Applicant Response: Uses will not violate the recreational character of the neighborhood. All properties on the east side of Angler drive abut either Beaver Creek or the Kenai River and are involved in recreational fishing, either guided or private. At least two properties on the west side on Angler have easements to cross specific lots on the east side for purposes of fishing. Requested use is in harmony with the character of the neighborhood and will not impact property values.

Staff Response: The parcel located to the north is a residential cabin, to the east is Beaver Creek, to the south is a lodge and guide service, and to the west is a commercial marijuana cultivation facility. Angler Drive consists of Rural Residential zoned parcels and has many conditional use permits for uses such as lodges, cabin rentals, guide services, and marijuana cultivation. The subject property, with cabin rentals and a guide service, would fit in with the character of the neighborhood by land use, lot size, lot orientation, and natural character of the property. Both the economic and noneconomic value of adjacent properties should not be significantly impacted by the use of cabin rentals and a guide service. All improvements on the subject property are existing.

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

Applicant Response: Requested use is in line with City of Kenai Comprehensive Plan, specifically Goal 2. Further section 4.4.5-Visitor Industry-indicates 500,000 people visit the Kenai Peninsula annually, two thirds during June/July/August. It also identifies economic benefit generated via local spending on recreational fishing. The requested CUP will expand capacity during peak. Use does not conflict with any objective listed in Goal 8.



Staff Response: The Land Use Plan, from the 2016 Comprehensive Plan, proposes a Low Density Residential land use for this neighborhood. The Low Density Residential Land Use Classification is defined in the Comprehensive Plan:

*“Low Density Residential because of location or poor site conditions is intended for large-lot single-family low-density residential development. The area will typically be developed with individual on-site water supply and wastewater disposal systems. Streets will typically be constructed to rural street standards (i.e., gravel) and sidewalks will not be typically included in the subdivision design. Rural Residential becomes Low Density Residential to avoid confusion with zoning category.”*

The subject parcel has similar land use, lot size and orientation, on-site water and wastewater systems, and low density as neighboring properties. Angler Drive is paved, and constructed to a higher standard than gravel rural streets, with no sidewalks.

The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

Goal 1 of the Comprehensive Plan is to promote and encourage quality of life in Kenai.

- Q-4 Promote the siting and design of land uses that are in harmony and scale with surrounding uses

Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai.

- 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: Angler Drive properties are typically served by well, septic, natural gas and electricity. Applicant has replaced an aging rusted steel septic with a modern properly engineered, permitted, installed and DEC approved septic system. Applicant has installed a new natural gas service, enhanced electrical service and significantly upgraded the drive way so all parking will be on the property, not public road right away, and be compliant with KMC 14.20.250.

Staff Response: The subject property is accessed via Angler Drive, a paved, City maintained road. City water and sewer is not in the vicinity of the subject property, therefore, onsite water and wastewater treatment and disposal systems are necessary and located on the property. The property has access to electricity, gas, and telephone services.

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

Applicant Response: A CUP for "cabin rental & guide service" will not be harmful to public safety, health, or welfare. The cabins are located on the East end of the site boarding Beaver Creek and for the rental season are barely visible from the road. As mentioned



both public services and the property itself have been significantly upgraded. The applicant intends to emphasize "quiet enjoyment" for all occupants of the property.

Staff Response: The use of a rental cabin and guide services will not be harmful to public safety, health, or welfare. Staff believes that services are available to adequately serve this development. There are recommended conditions with requirements related to public safety, health, and welfare:

- 2. *Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director.* This condition ensures site plan and landscaping requirements are met, including for vehicle parking.
- 9. *Quiet Hours are 10pm to 6am.* This condition would help ensure the welfare of neighbors is protected from noise.

**Criteria # 6: Specific conditions deemed necessary.**

Applicant Response: As stated the proposed use, short term rental for fishing and guide services will be consistent with the owners personal use since acquiring the property almost three years ago. Owner intends to emphasize "quiet enjoyment" to renters so their use is consistent with his use since he acquired the property. As no measures have been suggested in the past none are contemplated.

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

## RECOMMENDATIONS

### PZ2022-08 Cabin Rentals

City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (e)(1) through (e)(6) of Kenai Municipal Code 14.20.150, 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. Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director.
3. Prior to beginning any construction or renovations, 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 31<sup>st</sup> 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.
9. Quiet Hours are 10pm to 6am.

#### PZ2022-09 Guide Service

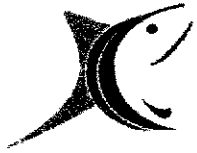
City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (e)(1) through (e)(6) of Kenai Municipal Code 14.20.150, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, subject to the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director.
3. Prior to beginning any construction or renovations, 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 31<sup>st</sup> 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.
9. Quiet Hours are 10pm to 6am.

#### ATTACHMENTS

- A. Application
- B. Draft Site Plan
- C. Aerial Map
- D. Kenai Municipal Code Violation Letter dated January 17, 2022





# 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:	Thomas L. Hoelsing						
Mailing Address:	1865 Fredericksen	City:	Fremont	State:	NE	Zip Code:	68025
Phone Number(s):	402-720-4968						
Email:	thoesing@msn.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):	Pin #04939041						
Physical Address:	1025 Angler Drive, Kenai, Ak						
Legal Description:	Lot 3, Anglers Acres Subdivision Part Four, platt #84-235						
Zoning:	Rural Residential, RR						
Acres:	1.15 acres						

### 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?	Private seasonal use
--	----------------------

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

A Conditional Use Permit for "cabin rental and guide service" is requested.

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

The request is consistent and mindful of KMC 14.20.150 (a). The uses requested are allowed under the Land Use Table (KMC 14.22.010) and will not impact surrounding property. Whether the property is utilized for daily rental and fishing or by owners for daily use and fishing will not impact surrounding properties. Significant driveway, parking improvements bring the property current with "Off street parking" KMC 14.20.250, see attachment #1.

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

Uses will not violate the recreational character of the neighborhood. All properties on the east side of Angler drive abut either Beaver Creek or the Kenai River and are involved in recreational fishing, either guided or private. At least two properties on the west side on Angler have easements to cross specific lots on the east side for purposes of fishing. Requested use is in harmony with the character of the neighborhood and will not impact property values.



Use of surrounding property - north:	Private Seasonal Cabin		
Use of surrounding property - south:	Property has CUP for cabin rental and guide service		
Use of surrounding property - east:	Beaver Creek is to the east		
Use of surrounding property - west:	Property has CUP for Commercial Marijuana Cultivation		
Explain how the conditional use is in harmony with the City's Comprehensive Plan:			
Requested use is in line with City of Kenai Comprehensive Plan, specifically Goal 2. Further section 4.4.5-Visitor Industry-indicates 500,000 people visit the Kenai Peninsula annually, two thirds during June/July/August. It also identifies economic benefit generated via local spending on recreational fishing. The requested CUP will expand capacity during peak. Use does not conflict with any objective listed in Goal 8.			
Are public services and facilities on the property adequate to serve the proposed conditional use?			
Angler Drive properties are typically served by well, septic, natural gas and electricity. Applicant has replaced an aging rusted steel septic with a modern properly engineered, permitted, installed and DEC approved septic system. Applicant has installed a new natural gas service, enhanced electrical service and significantly upgraded the drive way so all parking will be on the property, not public road right away, and be compliant with KMC 14.20.250.			
Explain how the conditional use will not be harmful to public safety, health, or welfare:			
A CUP for "cabin rental & guide service" will not be harmful to public safety, health, or welfare. The cabins are located on the East end of the site boarding Beaver Creek and for the rental season are barely visible from the road. As mentioned both public services and the property itself have been significantly upgraded. The applicant intends to emphasize "quiet enjoyment" for all occupants of the property.			
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?			
As stated the proposed use, short term rental for fishing and guide services will be consistent with the owners personal use since acquiring the property almost three years ago. Owner intends to emphasize "quiet enjoyment" to renters so their use is consistent with his use since he acquired the property. As no measures have been suggested in the past none are contemplated.			
<b>AUTHORITY TO APPLY FOR CONDITIONAL USE:</b>			
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:	Thomas Hoesing		Date: 3-22-22
Print Name:	Thomas Hoesing	Title/Business:	OWNER
<b>For City Use Only</b>		Date Application Fee Received:	
		PZ Resolution Number:	

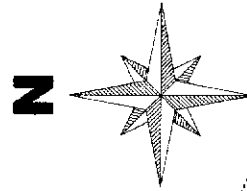


PREMIER CONSULTING SURVEYS  
 16425 SANDSPRINGER DR.  
 DENVER, CO 80242  
 (303) 544-1600

DATE: 05/27/2020  
 PROJECT: ANGLERS ACRES SUBD. PART 4

SCALE: 1" = 20'

1



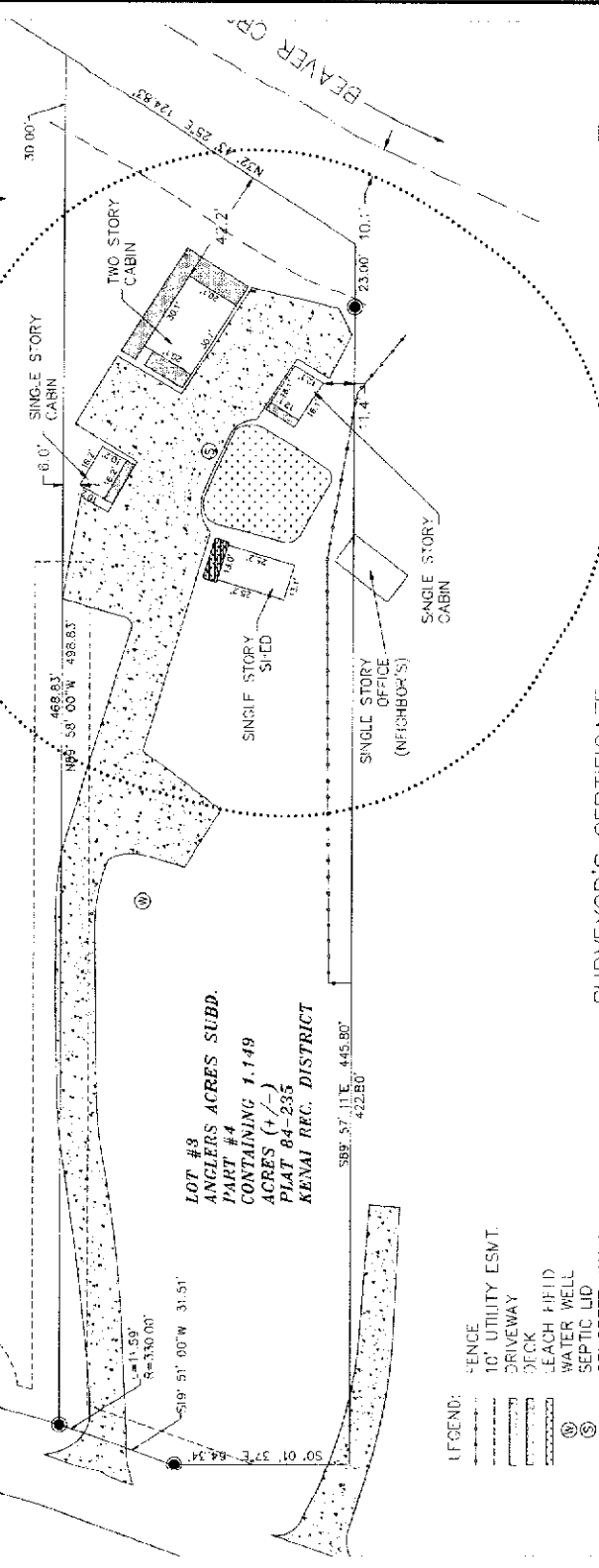
LOT #1

LOT #2

ANCHLER DRIVE (60' R.C.W.)

30' ANCHOR EASEMENT

LOT #8  
 ANGLERS ACRES SUBD.  
 PART #4  
 CONTAINING 1.149  
 ACRES (+/-)  
 PLAT 84-235  
 KENAI REC. DISTRICT



**SURVEYOR'S CERTIFICATE:**

I, MICHAEL KELLER, HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THIS AS-BUILT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT ALL DIMENSIONS AND DETAILS ARE CORRECT.

- LEGEND:**
- FENCE
  - - - 10' UTILITY ESMT
  - ==== DRIVEWAY
  - ===== DECK
  - LEACH FIELD
  - WATER WELL
  - SEPTIC LID
  - CONCRETE WALK
  - TOP OF EX. BLUFF
  - FOUND. REBAR
  - VEGETATION LINC.
  - LEACH FIELD 100' OFFSET





STATE OF ALASKA  
 DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
**CONSTRUCTION AND OPERATION CERTIFICATE**  
 FOR  
**DOMESTIC WASTEWATER DISPOSAL SYSTEMS**

**A. APPROVAL TO CONSTRUCT**

Plans for the construction or modification of (1500 gal ST/LS & 720 sq ft pressurized bed)  
 Anglers Acres Sub Pt4 L3 - (2-br cabin & two 1-br cabins)  
 (ADEC Plan Tracking Number 28104) domestic wastewater disposal system  
 located in Kenai, Alaska, submitted in accordance with 18 AAC 72.210  
 by Tauriainen Engineering & Testing - Clayton Spittler, P.E. have been reviewed and are

- approved.
- conditionally approved (see attached conditions). JULY 17, 2019 LTR

BY Monica T. English Environmental Engineering Associate JULY 17, 2019  
 TITLE DATE

If construction has not started within two years of the approval date, this certificate is void and new plans and specifications must be submitted for review and approval before construction.

**B. APPROVED CHANGE ORDERS**

Change (contract order number or descriptive reference)	Approved by	Date

**C. APPROVAL TO OPERATE**

The "APPROVAL TO OPERATE" section must be completed and signed by the Department before this system is made available for use.

The construction of the \_\_\_\_\_ Above Referenced \_\_\_\_\_ domestic wastewater disposal system was completed on \_\_\_\_\_ (date). The system is hereby granted **interim** approval to operate for 90 days following the completion date.

BY \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_  
 As-built/record drawings, submitted to the Department, or an inspection by the Department, has confirmed that the domestic wastewater disposal system was constructed in substantial conformance with the approved plans. **The system is hereby granted final approval to operate.**

BY [Signature] Environmental Engineering Associate 3/9/22  
 TITLE DATE

Distribution: 1. Retain original for project file  
 2. Make copies for distribution

(Rev 4/97)



**PZ2022-08 CUP Cabin Rentals**  
**PZ2022-09 CUP Guide Service**  
**1025 Angler Drive**  
**Parcel 04939041**



Data Source: Kenai Peninsula Borough. Data is for graphic representation only. Imagery may not match true parcel boundaries.



January 17, 2022

Thomas L Hoelsing  
1865 Frederiksen St  
Fremont, NE 68025

RE: 1025 Angler Drive – (Lot 3, Angler Acres Subdivision Part 4)

To Whom It May Concern:

**2<sup>nd</sup> NOTICE OF KENAI MUNICIPAL CODE VIOLATION**

On September 13, 2021, the City of Kenai mailed a notice of code violation for 1025 Angler Drive, Kenai, AK. City staff determined the property to be in violation of Kenai Municipal Code, as follows:

**14.20.150 (a) Intent.** It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The allowed uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed.

**14.20.320 (b) Specific definitions.**

“Cabin rentals” means the renting out of one (1) or more individual, detached dwelling units or buildings to provide overnight sleeping accommodations for a period of less than thirty (30) consecutive days.

**VIOLATION:** Operating Cabin Rentals without a Conditional Use Permit: City staff have been notified, and verified, that the operation of Cabin Rentals has been occurring at 1025 Angler Drive, Kenai, AK, which is in the Rural Residential zoning district. Per 14.22.010 Land use table, Cabin Rentals requires a conditional use permit for the Rural Residential zoning district. There are no records of a conditional use permit for Cabin Rentals for 1025 Angler Drive, and therefore, the operation of Cabin Rentals is a violation of Kenai Municipal Code 14.20.150 Conditional use permit.

Violation(s) to KMC 14.20.260 Administration, Enforcement and Penalties allows the City to assess an administrative fine up to \$250.00 a day. Violation(s) to KMC 13.05.010 Penalties for Violations allows the City to issue a civil penalty up to \$500.00 a day.

Without a conditional use permit, you will be unable to rent cabins, including for the upcoming 2022 summer season. If you would like to discuss this notice, or have questions about the conditional use permit process, you may contact me at 907-283-8235 or [rfoster@kenai.city](mailto:rfoster@kenai.city).

CITY OF KENAI



Ryan Foster  
Planning Director

SENT VIA REGULAR MAIL AND CERTIFIED MAIL 7020 0640 0002 2738 5169



# PLANNING & ZONING COMMISSION

Resolution PZ2022-08 – Conditional Use Permit – Cabin Rentals

Resolution PZ2022-09 – Conditional Use Permit – Guide Service

1025 Angler Drive

# SUMMARY

**Applicant:** Thomas Hoelsing  
1865 Fredericksen Street  
Fremont, Nebraska 68025

**Legal Description:** Lot 3, Anglers Acres Subdivision Part 4

**Property Address:** 1025 Angler Drive

**KPB Parcel No:** 04939041

**Lot Size:** 1.15 Acres (50,094 square feet)

**Existing Zoning:** Rural Residential (RR)

**Current Land Use:** Residential Dwellings

**Land Use Plan:** Low Density Residential





# SUMMARY

- Cabin Rentals and Guide Service are listed as a conditional uses within the Rural Residential zone in Kenai Municipal Code 14.22.010.
- KMC 14.20.320 Definitions, “Cabin rentals” means the renting out of one (1) or more individual, detached dwelling units or buildings to provide overnight sleeping accommodations for a period of less than thirty (30) consecutive days.
- KMC 14.20.320 Definitions, “Guide Service” means any activity on any premises used for collecting or returning persons from recreational trips when remuneration is provided for the service.
- On September 13, 2021 and January 17, 2022 planning staff mailed a notice of KMC Violation for 1025 Angler Drive for operating cabin rentals without a conditional use permit and that without a conditional use permit, would be unable to rent cabins for the 2022 summer season (see 2<sup>nd</sup> letter attached).



# STAFF ANALYSIS

- Kenai Municipal Code 14.20.150(e) – 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(e)- 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 economic and noneconomic 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

- PZ2022-08 Cabin Rentals and PZ2022-09 Guide Service
- City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (e)(1) through (e)(6) of Kenai Municipal Code 14.20.150, 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. Prior to starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director.
  3. Prior to beginning any construction or renovations, 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.


# RECOMMENDATIONS CONTINUED

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(l)(5).
7. Pursuant to KMC 14.20.150(l)(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.
9. Quiet Hours are 10pm to 6am.

# ATTACHMENTS

- A. Application
- B. Draft Site Plan
- C. Aerial Map
- D. Kenai Municipal Code Violation Letter dated January 17, 2022

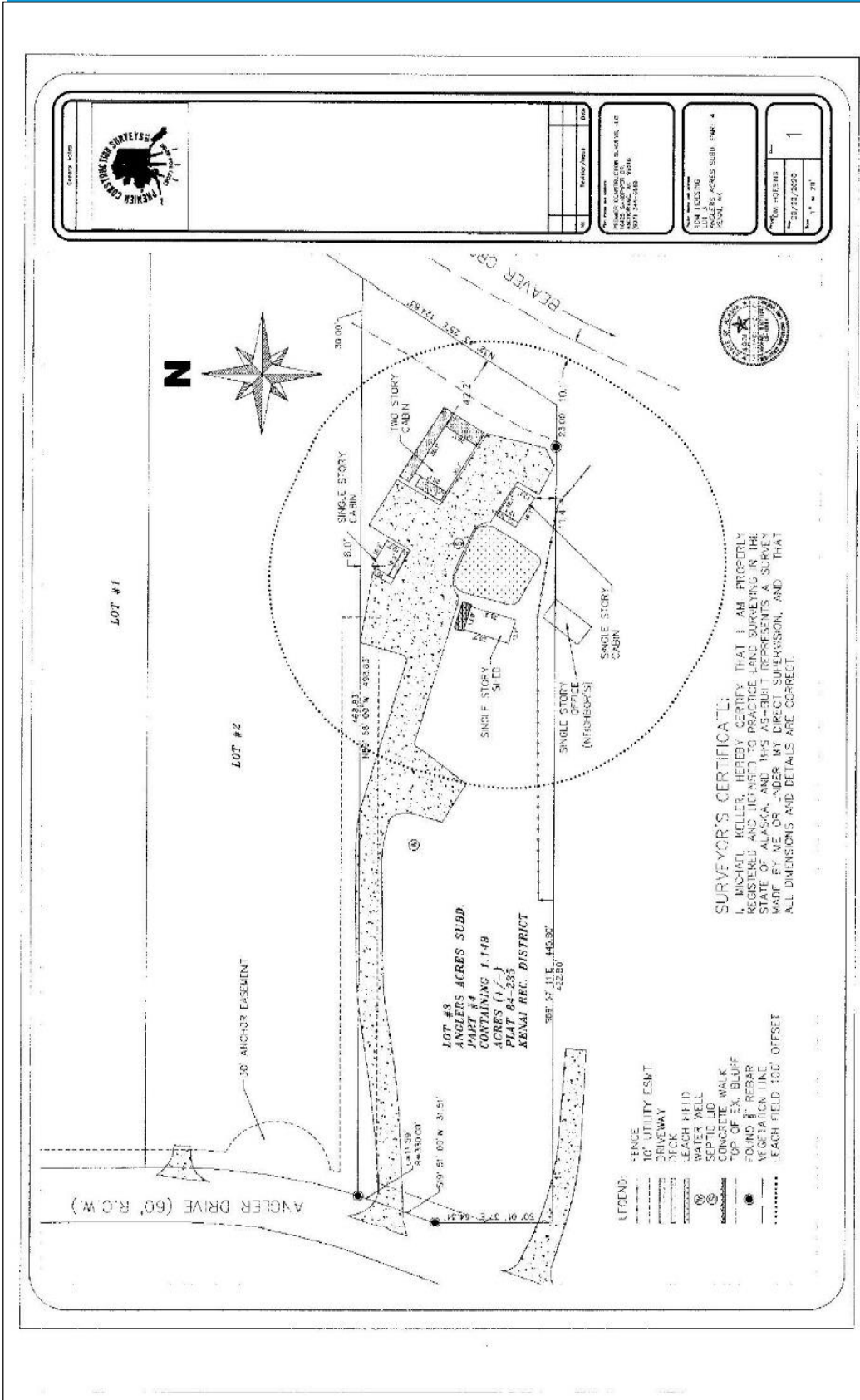
# A. APPLICATION

 <h2 style="text-align: center;">Conditional Use Permit Application</h2>		City of Kenai Planning and Zoning Department 210 Fidalgo Avenue Kenai, AK 99611 (907) 283-8200 planning@kenai.city www.kenai.city/planning	
<b>PROPERTY OWNER</b>			
Name:	Thomas L. Hoelsing	City:	Fremont
Mailing Address:	1865 Fredericksen	State:	NE
Phone Number(s):	402-720-4968	Zip Code:	68025
Email:	thoesling@msn.com		
<b>PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)</b>			
Name:		City:	
Mailing Address:		State:	
Phone Number(s):		Zip Code:	
<b>PROPERTY INFORMATION</b>			
Kenai Peninsula Borough Parcel # (Property Tax ID):	Pin #04939041		
Physical Address:	1025 Angler Drive, Kenai, AK		
Legal Description:	Lot 3, Anglers Acres Subdivision Part Four, plat #84-235		
Zoning:	Rural Residential, RR		
Acres:	1.15 acres		
<b>CONDITIONAL USE DESCRIPTION</b> (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?	Private seasonal use		
Conditional Use Requested for (attach additional sheets if necessary):	A Conditional Use Permit for "cabin rental and guide service" is requested.		
Explain how the conditional use is consistent with purposes and intent of the zoning district of the property: The request is consistent and mindful of KMC 14.20.150 (b). The uses requested are allowed under the Land Use Table (KMC 14.22.010) and will not impact surrounding property. Whether the property is utilized for daily rental and fishing or by owners for daily use and fishing will not impact surrounding properties. Significant driveway, parking improvements bring the property current with "off street parking" KMC 14.20.250, see attachment #1.			
Explain how the value of adjoining property and neighborhood will not be significantly impaired by the conditional use: Uses will not violate the recreational character of the neighborhood. All properties on the east side of Angler drive about either Beaver Creek or the Kenai River and are involved in recreational fishing, either guided or private. At least two properties on the west side on Angler have easements to cross specific lots on the east side for purposes of fishing. Requested use is in harmony with the character of the neighborhood and will not impact property values.			

Use of surrounding property - north:	Private Seasonal Cabin
Use of surrounding property - south:	Property has CUP for cabin rental and guide service
Use of surrounding property - east:	Beaver Creek is to the east
Use of surrounding property - west:	Property has CUP for Commercial Marijuana Cultivation
Explain how the conditional use is in harmony with the City's Comprehensive Plan: Requested use is in line with City of Kenai Comprehensive Plan, specifically Goal 2. Further section 4.4.5-Visitor Industry-indicates 500,000 people visit the Kenai Peninsula annually, two thirds during June/July/August. It also identifies economic benefit generated via local spending on recreational fishing. The requested CUP will expand capacity during peak. Use does not conflict with any objective listed in Goal 8.	
Are public services and facilities on the property adequate to serve the proposed conditional use? Angler Drive properties are typically served by well, septic, natural gas and electricity. Applicant has replaced an aging rusted steel septic with a modern properly engineered, permitted, installed and DEC approved septic system. Applicant has installed a new natural gas service, enhanced electrical service and significantly upgraded the drive way so all parking will be on the property, not public road right away, and be compliant with KMC 14.20.250.	
Explain how the conditional use will not be harmful to public safety, health, or welfare: A CUP for "cabin rental & guide service" will not be harmful to public safety, health, or welfare. The cabins are located on the East end of the site bordering Beaver Creek and for the rental season are barely visible from the road. As mentioned both public services and the property itself have been significantly upgraded. The applicant intends to emphasize "quiet enjoyment" for all occupants of the property.	
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? As stated the proposed use, short term rental for fishing and guide services will be consistent with the owners personal use since acquiring the property almost three years ago. Owner intends to emphasize "quiet enjoyment" to renters so their use is consistent with his use since he acquired the property. As no measures have been suggested in the past, none are contemplated.	
<b>AUTHORITY TO APPLY FOR CONDITIONAL USE:</b> 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:	<i>Thomas L. Hoelsing</i>
Print Name:	Thomas Hoelsing
Date:	3-22-22
Title/Business:	OWNER
Date Application Fee Received:	
PZ Resolution Number:	



# B. SITE PLAN



# C. AERIAL MAP



# D. KMC CODE VIOLATION LETTER



January 17, 2022  
Thomas L Hoelsing  
1865 Frederiksen St  
Fremont, NE 68025

RE: 1025 Angler Drive – (Lot 3, Angler Acres Subdivision Part 4)  
To Whom It May Concern:

### 2<sup>nd</sup> NOTICE OF KENAI MUNICIPAL CODE VIOLATION

On September 13, 2021, the City of Kenai mailed a notice of code violation for 1025 Angler Drive, Kenai, AK. City staff determined the property to be in violation of Kenai Municipal Code, as follows:

**14.20.150 (a)** Intent. It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The allowed uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed.


### 14.20.320 (b) Specific definitions.

"Cabin rentals" means the renting out of one (1) or more individual, detached dwelling units or buildings to provide overnight sleeping accommodations for a period of less than thirty (30) consecutive days.

**VIOLATION:** Operating Cabin Rentals without a Conditional Use Permit: City staff have been notified, and verified, that the operation of Cabin Rentals has been occurring at 1025 Angler Drive, Kenai, AK, which is in the Rural Residential zoning district. Per 14.22.010 Land use table, Cabin Rentals requires a conditional use permit for the Rural Residential zoning district. There are no records of a conditional use permit for Cabin Rentals for 1025 Angler Drive, and therefore, the operation of Cabin Rentals is a violation of Kenai Municipal Code 14.20.150 Conditional use permit.

Violation(s) to KMC 14.20.260 Administration, Enforcement and Penalties allows the City to assess an administrative fine up to \$250.00 a day. Violation(s) to KMC 13.05.010 Penalties for Violations allows the City to issue a civil penalty up to \$500.00 a day.

Without a conditional use permit, you will be unable to rent cabins, including for the upcoming 2022 summer season. If you would like to discuss this notice, or have questions about the conditional use permit process, you may contact me at 907-283-8235 or [rfoster@kenai.city](mailto:rfoster@kenai.city).

CITY OF KENAI  
  
Ryan Foster  
Planning Director

SENT VIA REGULAR MAIL AND CERTIFIED MAIL 7020 0640 0002 2738 5169



City of Kenai  
210 Fidalgo Ave  
Kenai, AK 99611  
(907) 283-7535

XBP Confirmation Number: 117552669

▶ Transaction detail for payment to City of Kenai.		Date: 03/23/2022 - 3:28:22 PM MT	
Transaction Number: 169268588PT VisaXXXX-XXXX-XXXX-5365 Status: Successful			
Account #	Item	Quantity	Item Amount
	CH - Permits - CUPVariance	1	\$250.00
	CH - Sales Tax	1	\$15.00

**TOTAL: \$265.00**

**Billing Information**  
Thomas Hoefing  
, 99611  
thoefing@msn.com

Transaction taken by: Admin twilliamson

**APRIL 13, 2022  
PLANNING & ZONING COMMISSION  
ADDITIONAL MATERIAL/REVISIONS**

**REQUESTED ADDITIONS TO THE PACKET:**

**ACTION**

**ITEM**

**REQUESTED BY**

Add to item F.1 & F.2

**Resolution PZ2022-08 & PZ2022-09**

- Public Comment

Planning Director

April 11, 2022

City of Kenai, Planning & Zoning Commission  
210 Fidalgo Ave  
Kenai AK, 99611

RE: Opposition to CUP Application 1025 Angler Drive

Dear Commissioners:

We formally voice our opposition to the approval of the Application for Conditional Use Permits (CUP) for Cabin Rentals (PZ2022-08) and Guide Service (PZ2022-09), for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive Kenai Alaska 99611.

The applicant, Mr. Hoelsing, has several miss-leading and inaccurate statements in his application. His property has been used as rental cabins without a CUP for the last 3 years as represented by the commercially produced sign advertising his cabins in the attached photo. Whilst Mr. Hoelsing does not live in Alaska and only visits a few weeks each year, the cabins have been managed by Foster's Alaska Cabins 1005 Angler Drive. This results in frequent illegal golf cart and ATV traffic on the blind corner on Angler Drive between the two non-adjacent properties. Also since he does not live here, there is no way that he can guarantee his occupants are quiet. There are multiple references to creating a quiet enjoyment for the renters and occupants however, he has personally shown us anything but quiet enjoyment by participating in loud music activities.

His claim that this does not violate the recreational character of the neighborhood and that all properties on the east side of Angler drive are involved in fishing activities is not correct. This is a rural residential zone not a recreational area and a number of full time residence on the creek do not have docks or even participate in fishing activities. The reference of not violating the recreation character of the neighbor is an incorrect assumption as it is zoned as Rural Residential not recreational. His prior activities have had significant negative impacts on nearby properties; trespassing, noise, and property damage.

As a matter of record, the reference to Beaver Creek on Ames and Angler Drive is not precise as that section is actually a branch of the Kenai River and part of the Kenai River Special Management Area. Considering the guide CUP application, the changes in recent years with a reduction of King Salmon fishing has greatly focused fishing activity on Red Salmon. This has significantly increased the water taxi service and traffic in Beaver Creek for Red Salmon fishing. Adding another guide service and dock system will negatively impact the Riparian Zone.

Based on these comments, input, history and activity of the applicant, we believe approval of these CUPs will allow activity that will negatively impact ours and our neighbor's properties.

We recommend that you do not approve either of the CUP applications.

Sincerely,

*MJ Loveland Ron Rogalsky*

MJ Loveland & Ron Rogalsky  
1003 Angler Dr., 945 Ames Road  
PO Box 35 Kenai 99611  
907 398-9237/907 398-9238

**Carol & Mack Padgett**

855 Ames Road  
Kenai, AK 99611

April 11, 2022

City of Kenai, Planning & Zoning Department  
210 Fidalgo Ave.  
Kenai, AK 99611

Dear Commissioners:

We would like to voice our opposition to the approval of the Application for Conditional Use Permits for Cabin Rentals (PZ2022-08) and Guide Service (PZ2022-09), for the property described as Lot 3, Angler Acres Subdivision Part 4, Located at 1025 Angler Drive, Kenai, Alaska 99611.

In your review of the application, our opinion is that Planning and Zoning considers the neighborhood to be Angler Drive with the consideration of impacts based on the road. We suggest that you consider the neighborhood to be Beaver Creek rather than Angler Drive. In our opinion, Beaver Creek's carrying capacity for yet another guide service with cabins has been exceeded and the summer activity does not emphasize "quite enjoyment" for the neighborhood. We also suggest that you consider the impact to the riparian habitat created by another operation, following the precedent of one dock with five to eight boats.

We purchased our property and built our home on Ames Road because of the access, and quiet nature, of Beaver Creek, compared to the summertime nature of the Kenai River. We have watched that quiet nature deteriorate over recent years with the addition of guide services and cabin rentals catering to tourists that have no appreciation for the neighborhood where they are spending their Alaskan Vacation.

Although the requested use is in line with City of Kenai Comprehensive Plan, we suggest that you look no further than 1005 Angler Drive to see the best example of disregard for "quiet enjoyment" within a neighborhood. During the Summer months, Foster's Alaska Cabins offers all inclusive recreation that includes live music on Thursday, Friday, and Saturday nights. The racket generated by this activity can clearly be heard along Beaver Creek and Ames Road. One can only imagine the impact to adjoining property owners.

We are concerned that Mr. Hoelsing's operation will follow the precedent being set by Foster's Alaska Cabins. The application states that "no measures have been contemplated regarding ways to minimize the potential impacts of the conditional use to the neighbors". What recourse do we, as neighbors, have when the actual operation does become an obstacle to "quite enjoyment"?

Increased activity will definitely impact surrounding property owners. We suggest that you do not approve this application as a means to preserve what little harmony remains within our neighborhood, also known as Beaver Creek.

Sincerely,



Mack & Carol Padgett  
855 Ames Road, Kenai AK 99611

To: City of Kenai, Planning and Zoning Commission  
From: Jim Richardson and Barbara Baker  
1015 Angler Drive, Kenai  
RE: Resolutions PZ2022-08 and PZ2022-09

Commission Members.....

Thank you for the opportunity to comment on these applications for Conditional Use Permits. We are the directly adjacent neighbors to the north of this property, and have been there for over 30 years.

On the face of it, the application could be innocuous: small scale cabin rentals and guiding.

But, the problem is that the City of Kenai, and the Conditional Use Permit process does not work at protecting neighborhoods from adverse impacts from operators that create problems. There is no effective enforcement or process to monitor and if necessary revoke permits that create problems. This situation is a case in point.

The applicant Mr. Hoelsing at 1025 Angler Drive states that he operates in a reasonable manner so as not to disturb the nature of the neighborhood. That is not the case. Mr. Hoelsing is a resident of Nebraska who only visits occasionally for a short period. This business was turned over to Jason Foster, who operates it as a portion of his operation at 1005 Angler Drive. As Planning and Zoning has heard many times, we are constantly disturbed by vehicles and golf carts running back and forth between 1025 and 1005 sometimes dozens of times/day, frequently playing loud music on the vehicles. Noise complaints are on file with the police and City Manager regarding this persistent problem. An equally difficult issue is that for the past two summers, clients from this property have added to the noise and disturbances associated with inebriated partying at the outdoor tent operated at 1005 Angler Drive.

We have had trespassers come across our property to traverse between 1025 Angler Drive and the 'entertainment/outdoor nightclub tent' operated at 1005 Angler Drive. I called in a report on at least one of these occurrences and your Kenai police made a visit to inform the residents at 1025 that they could not trespass on adjacent property.

To prevent incursions for a portion of our property where the driveway at 1005 Angler Drive runs to the very edge of our property, I put up marker stakes and a fence. That was knocked down and destroyed three times. The third time, I filed a report with the Kenai police. A officer came by and suggested there was nothing the City of Kenai could do and that I could file a civil lawsuit to recover the cost of the fences.

Because of Mr. Hoelsing's choice for manager of his property, we have no reason to believe that this coming summer will be any better than the past two. And because of the manner



in which the business is managed, this operation adds to the problems at 1005 Angler Drive. Therefore, we cannot support this CP application at this time. Ideally, a business of this type could operate in a normal and respectful manner, but that has not been the case the past two years and we have no reason to expect a difference in the future.

If the City of Kenai is intent on allowing commercial activity on this site, you should take the care to make some stipulations in the CUP that would be attached to the it. Specifically.

- The long distance owner of this operation should require that the property maintains an on-site full time manager/operator to ensure a reasonable operation that functions within acceptable norms of impact to the neighborhood that a full time manager/operator be living on the property to ensure a reasonable operation.
- That the permit be for a specific maximum number of visitor/clients. There are currently two cabins on the property, one full size and one small. A reasonable maximum might be a total of 7 guest/visitors is suggested.
- That a stipulation for noise and disturbance be attached to the permit to not allow loud drinking parties and loud music at any time, but especially from 9 PM to 6 AM.
- That guests at this property (1025 Angler Drive) be limited to activities on that property without trespassing on other properties. For example, the past practice for clients attend the outdoor nightclub and loud entertainment center at 1005 Angler Drive.
- Due to the past problems of operation on this location, we recommend that guide operations should not be allowed at this time. If, after a period of operation the business is able to operate in a reasonable manner, perhaps expansion of the CUP would be considered.

These stipulations would have no effect if not strictly enforced by the City of Kenai. The CUP should explicitly lay out sanctions, including withdrawal of the permit if problems continue. For example, if police noise/disturbance calls reach 10 times, that would trigger a permit review.

We have a suggestion for a way to easily improve coordination and communication between the City of Kenai and the Planning and Zoning Commission that could help address 'problem' permits. The Commission could add a regular aspect to their annual schedule to ask the City Manager, the Chief of Police and the City Planner about any CUP's that are causing problems? You can take the initiative to make this happen.

Thank you for the opportunity to comment on this permit application. I would be happy to answer any questions you may have.

**From:** [rusty\\_huf](#)  
**To:** [Ryan Foster](#)  
**Cc:** [rusty\\_huf](#)  
**Subject:** Resolutions PZ2022 / PZ2022-09  
**Date:** Tuesday, April 12, 2022 2:15:54 PM

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

Jerry (Rusty) Huf  
765 Ames Rd  
Kenai AK 99611

April 12 2022

City of Kenai Planning & Zoning Department  
210 Fidalgo Ave.  
Kenai AK 99611

Dear Commissioners:

I'am writing this letter in opposition of an Application for CUP's PZ2022-08 & PZ2022-09 for Cabin Rentals and Guide Services for the property described as Lot # Angler Acres Subdivision at 1025 Angler Drive, Kenai AK. 99611

I have several concerns with yet another High Volume Guide Fishery located on Beaver Creek, the Guiding industry in this area has changed significantly over the past several years do to the lack of Kenai River King Salmon fishing opportunities, It's gone from one or two trips a day in and out of Beaver Creek to pick up and drop off clients per Guide Boat to nonstop traffic dropping off clients on the banks and picking up clients at all hours night and day, the Sockeye fishery is a highly unregulated on the Kenai River and as such has been exploited regularly by some of the businesses along Beaver Creek therefore increasing traffic in Beaver Creek, It is the opinion of myself and most private property owners along Beaver Creek that this area is way beyond carrying capacity and is not considered quiet enjoyment of our neighborhood, it's quite the opposite for the Private Property Owners along Angler Drive and most importantly Beaver Creek, Its my opinion that CUP's are handed out freely by the Planning and Zoning Department because based on City Code allows for this type of activity zoned RR and in my opinion with total disregard for personal property owners especially with this type of high capacity high volume businesses, I believe the Comprehensive Plan carries more weight than the City Code that allows this activity in residential neighborhoods, the Comprehensive Plan states it is intended to promote and encourage Quality of Life and Protect the Livability of Neighborhoods, lets not lose sight that even though this area has been over run with Commercial Fishing and Lodging activities it is still a Residential Neighborhood and the rights of other private property owners should have top priority when it comes to issuing CUP's, Angler Drive is not the only residential area effected by by this activity, on Beaver Creek there are approximately 25 other private homes along Beaver Creek and every CUP issued for this type of activity deteriorates the quality of life and livability of our neighborhood.

Also according to Mr Hoesing's Application he is not a Resident and does not live in the area and also states that he has owned the property for close to three years. It is also common knowledge that this property has been managed and used by Jason Foster as part of Fosters Alaska Cabins business without a CUP for much of this time and is just another property in the area used as part Fosters Alaska Cabins Business, and is far from a traditional quiet Cabin

Rental and Guide Service. I think the Commissioners are all aware of the business model of Fosters Alaska Cabins with outdoor eating and drinking with live music, golf carts traveling from several other properties in the neighborhood at all hours of the night and day the list is long, I believe this business is operating way beyond the intended uses set forth on the original CUP and has become a detriment to the neighborhood and this property will just add more unwanted traffic, noise and other unwanted activities to this already exploited area of our neighborhood.

I think the Conditional Use Permitting process falls short on individual property rights and as such needs significant upgrades to protect personal property owners that have invested a lifetime of hard work and a considerable amount of money to carve out a home that they can enjoy and someday pass on to others to enjoy without being overrun with this type of high volume activity. I know that in my 30 years of living on Beaver Creek the quality of live and livability of my home that I built with my own hands has diminished dramatically do to this commercial activity called Guided Fishing and Cabin Rentals.

I know I speak for myself and many of my neighbors in asking this board to deny this application, I don't think Mr Hoelsing has proven that his business will not be just another detriment to our neighborhood for personal gain at the expense of others, I believe every time one of these CUP's is approved it devalues my property not only in terms of monetary value but most importantly quality of life value

Sincerely,

Jerry (Rusty) Huf  
765 Ames Road  
Kenai Alaska, 99611



# KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | [www.kenai.city](http://www.kenai.city)

April 14, 2022

Thomas Hoelsing  
1865 Frederickson St  
Fremont, NE 68025

RE: Resolution PZ2022-08 (Cabin Rentals) & PZ2022-09 (Guide Service) - Conditional Use Permits – 1025 Angler Drive

Dear Mr. Hoelsing:

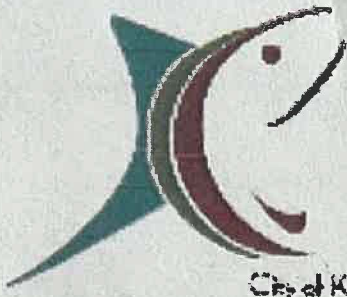
At their meeting on April 13, 2022 the City of Kenai Planning & Zoning Commission denied the Conditional Use Permits for PZ2022-08 Cabin Rentals and PZ2022-09 Guide Service for the property located at 1025 Angler Drive. Decisions made by the Commission are subject to a 15-day appeal period. Appeals must be filed in writing with the City Clerk.

The appeal period expires at 5 p.m. on April 28, 2022. If you wish to appeal the decision rendered by the Planning and Zoning Commission, please contact the City Clerk at 907-283-8246 or [ssaner@kenai.city](mailto:ssaner@kenai.city).

If I can be of further assistance, please contact me at 907-283-8237 or [krector@kenai.city](mailto:krector@kenai.city).

Sincerely,

Katie Rector  
Planning Assistant



# KENAI

City of Kenai | 210 Fishings Ave, Kenai, AK 99501-7704 | 907.383.7535 | www.kenai.city

## AFFIDAVIT OF POSTING PUBLIC HEARING NOTICE

I hereby certify that I have posted a Notice of Public Hearing as prescribed by Kenai Municipal Code 14.20.280 (d) on the property that

THOMAS HOESING (Name of Applicant) has petitioned for a  
CONDITIONAL USE PERMIT

The notice was posted on the date of 4/1/22, which is at least 10 days prior to the public hearing on this petition. I acknowledge this Notice must be posted so as to be visible from each improved street adjacent to the property and must be maintained and displayed until all public hearings have been completed. I acknowledge that the Notice must be removed within 5 days after the hearing.

Attested and signed by:  
Thomas Hoelsing  
Signature

THOMAS HOESING  
Printed Name

\_\_\_\_\_  
Date

Property Address: 1025 ANGLER DR

Legal Description: \_\_\_\_\_

KPB Parcel #: \_\_\_\_\_

P&Z Resolution #: \_\_\_\_\_  
PZ: \_\_\_\_\_

**CITY OF KENAI**  
**PUBLIC NOTICE**  **KENAI**

The owner of 013, Angler Acres, Subdivision, Part 4  
Legal Description Address  
1025 Angler Dr, Kenai, AK 99581 has applied to the City  
of Kenai for a Conditional Use Permit  
The proposed use is Cabin Rentals / Guide Service  
A public hearing will take place before the Kenai Planning & Zoning Commission at 7 P.M.  
on April 13, 2022 at  
the City Council Chambers - 216 Fidalgo Ave.

All interested persons are invited to attend the meeting and participate in the discussion. An agenda will be available at the City of Kenai, Planning Department, 216 Fidalgo, Kenai, Alaska 99581. Further information may be obtained by calling 907-486-4100, or City Hall, at 907-486-4100. For more information visit [www.kenai.ak.gov](http://www.kenai.ak.gov)

1025 Angler Drive  
Big Nauti  
Rusty Fish hook  
Dirty Oar



Dear Property Owner:

The following application is being reviewed by the City of Kenai Planning and Zoning Commission:

**Resolutions PZ2022-08 / PZ2022-09** – Application for a Conditional Use Permit for Cabin Rentals (PZ2022-08) and Guide Service (PZ2022-09), for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive, Kenai, Alaska 99611. The application was submitted by Thomas Hoelsing, 1865 Fredericksen St, Fremont NE 68025

The City of Kenai Planning & Zoning Commission has scheduled a public hearing in the Kenai City Hall Council Chambers at 210 Fidalgo Avenue, Kenai, Alaska at 7:00 p.m. on Wednesday, **April 13, 2022**. The public is invited to participate. Telephonic and virtual participation options will be posted closer to the public hearing date to follow State guidelines for gatherings. Please visit [www.kenai.city](http://www.kenai.city) for the most current information. Your comments and participation is encouraged.

More information may be obtained by contacting Ryan Foster, Planning Director, at 907-283-8235. Your comments and/or attendance regarding the proposals are encouraged. Written comments may be mailed to the City of Kenai, Planning & Zoning Department, 210 Fidalgo Ave., Kenai, AK 99611 or by email: [rfoster@kenai.city](mailto:rfoster@kenai.city)

**You are being sent this notice because you own/lease property within 300 feet of the project site or an interested party.**

Dear Property Owner:

The following application is being reviewed by the City of Kenai Planning and Zoning Commission:

**Resolutions PZ2022-08 / PZ2022-09** – Application for a Conditional Use Permit for Cabin Rentals (PZ2022-08) and Guide Service (PZ2022-09), for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive, Kenai, Alaska 99611. The application was submitted by Thomas Hoelsing, 1865 Fredericksen St, Fremont NE 68025

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**KENAI**

City of Kenai  
Planning & Zoning Department  
210 Fidalgo Avenue  
Kenai, Alaska 99611  
planning@kenai.city  
www.kenai.city/planning

**IMPORTANT NOTICE ABOUT YOUR PROPERTY**



**KENAI**

City of Kenai  
Planning & Zoning Department  
210 Fidalgo Avenue  
Kenai, Alaska 99611  
planning@kenai.city  
www.kenai.city/planning

**IMPORTANT NOTICE ABOUT YOUR PROPERTY**



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Planning & Zoning Department  
210 Fidalgo Avenue  
Kenai, Alaska 99611  
planning@kenai.city  
www.kenai.city/planning

**IMPORTANT NOTICE ABOUT YOUR PROPERTY**



ALASKA STATE D N R  
WILD KENAI ADVENTURES LLC  
VOTH RICK & STEVEN  
REYNOLDS JACKIE S  
FOSTER LANDING INC  
RICHARDSON JAMES A & BAKER BARBARA A  
HOESING BARBARA S THOMAS L  
HUDSON DEVON RAY  
HUDSON KRISTIE KAY  
STASKON KATHRYN A  
LOWE BRYAN R  
LOWE BRYSON R  
LOWE RACHEL L  
CURRENT PROPERTY OWNER  
LOVELAND MARY JEAN & ROGALSKY RONALD R  
ANGLER ENTERPRISES INC

550 W 7TH AVE STE 650  
747 SE DOVER LN  
1035 ANGLER DR  
36025 REEF DR  
1005 ANGLER DR  
1543 E 26TH AVE  
1865 FREDERIKSEN ST  
PO BOX T35  
1010 ANGLER DR  
1030 ANGLER DR  
1529 PEY DR  
1502 PEY DR  
1205 5TH CT  
945 AMES RD  
PO BOX 35  
PO BOX 303

ANCHORAGE, AK 99501  
MADRAS, OR 97741  
KENAI, AK 99611  
KENAI, AK 99611  
KENAI, AK 99611  
ANCHORAGE, AK 99508  
FREMONT, NE 68025  
HANAPEPE, HI 96716  
KENAI, AK 99611  
KENAI, AK 99611  
KENAI, AK 99611  
KENAI, AK 99611  
KENAI, AK 99611  
KENAI, AK 99611  
KENAI, AK 99611  
KENAI, AK 99611  
SOLDOTNA, AK 99669



# KENAI

CITY OF KENAI  
PLANNING & ZONING COMMISSION  
Notice of Meeting

City of Kenai Council Chambers  
210 Fidalgo Avenue, Kenai, AK 99611

The following agenda items will be before the City of Kenai Planning and Zoning Commission at their meeting starting at 7:00 p.m. on **April 13, 2022**.

## PUBLIC HEARINGS

1. **Resolution PZ2022-08** – Application for a Conditional Use Permit for Cabin Rentals for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive, Kenai, Alaska 99611. The application was submitted by Thomas Hoelsing, 1865 Fredericksen St, Fremont NE 68025
2. **Resolution PZ2022-09** – Application for a Conditional Use Permit for a Guide Service for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive, Kenai, Alaska 99611. The application was submitted by Thomas Hoelsing, 1865 Fredericksen St, Fremont NE 68025

The public is invited to attend the meeting and to participate virtually/telephonically. Additional information is available through the Planning and Zoning Department at [planning@kenai.city](mailto:planning@kenai.city) and (907) 283-8235, or on the City's website at [www.kenai.city](http://www.kenai.city).

Ryan Foster, Planning & Zoning Administration  
BOA Packet Page No. 68

Publish: April 7, 2022

2646856

**KENAI PLANNING & ZONING COMMISSION  
REGULAR MEETING  
APRIL 13, 2022 – 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, A. Douthit, G. Woodard, J. Halstead, V. Askin, D. Fikes, G. Greenberg

Commissioners absent:

Staff/Council Liaison present: Planning Director R. Foster, Administrative Assistant K. Rector, Deputy Clerk M. Thibodeau, Council Liaison T. Winger

A quorum was present.

**3. Agenda Approval**

**MOTION:**

Commissioner Halstead **MOVED** to approve the agenda. Commissioner Askin **SECONDED** the motion. There were no objections; **SO ORDERED**.

**4. Consent Agenda**

**MOTION:**

Commissioner Halstead **MOVED** to approve the consent agenda. Commissioner Askin **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. \*Regular Meeting of March 23, 2022

Approved by the consent agenda.

**C. SCHEDULED PUBLIC COMMENT** – None.

**D. UNSCHEDULED PUBLIC COMMENT** – None.

**E. CONSIDERATION OF PLATS** – None.

**F. PUBLIC HEARINGS**

1. **Resolution PZ2022-08** - Application for a Conditional Use Permit for Cabin Rentals for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive, Kenai, Alaska 99611. The application was submitted by Thomas Hoelsing, 1865 Fredericksen St, Fremont NE 68025

**MOTION:**

Vice Chair Douthit **MOVED** to approve Resolution PZ2022-08. Commissioner Woodard **SECONDED** the motion.

Planning Director Foster presented his staff report with information provided in the packet explaining that the applicant wishes to obtain conditional use permits (CUP) for cabin rentals (PZ2022-08) and for a guide service (PZ2022-09). The criteria for conditional use permits was reviewed; it was noted the application met the criteria and City staff recommends approval of both CUPs, 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 starting any business operations, a landscape/site plan must be reviewed and approved by the Planning Director.
3. Prior to beginning any construction or renovations, 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(l)(5).
7. Pursuant to KMC 14.20.150(l)(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.
9. Quiet Hours are 10pm to 6am.

Applicant Tom Hoelsing explained that he believes his application meets the criteria in Kenai Municipal Code for CUPs, and that he understands the conditions of the CUP and does not expect a conflict with his business operations. He clarified that he intends to use Airbnb and VRBO for bookings of seasonal lodging.

Chair Twait opened for public hearing.

Jim Richardson stated his opposition to this CUP as written, noting that he had provided written testimony that included recommended stipulations the commission could add. He explained that in recent years he had experienced a number of problems from local CUP operators including increased traffic from trucks and golf carts, increased noise level, and lodgers trespassing on his property. He discussed suggested recommendations including specifying the number of cabins and guides, improving the communication between City staff and the Planning & Zoning Commission, and specifying the number of noise complaints that can be made against a property before permit revocation.

Jerry Huf stated his opposition to this CUP, noting that he had provided written testimony that was included in the laydown. He explained that he wants to protect the neighborhood from people who don't live there year-round and operate businesses in a way that degrades property values. He shared his experiences living in a neighborhood with several CUP businesses, noting multiple issues including decreased property values, noise and traffic. He noted problems with another CUP business in the neighborhood, and said that Mr. Hoelsing's business is another branch of this same business. He expressed frustration that he felt his concerns had not been heard when they were previously brought to the City.

Greg Anderson stated his opposition partially based on the City's inability to enforce the conditions of a CUP. He stated that there are no consequences for a CUP owner when they violate their conditions, and he is concerned about businesses expanding their scope beyond what they are permitted. He noted that he had heard that a different CUP business will be running Mr. Hoelsing's property, and that the expansion of businesses in the neighborhood had changed the dynamic and worsened conditions for residents. He expressed frustration about the lack of response to violations from the City.

Mack Padgett noted that he has seen a deterioration in the quality of life in the Beaver Creek neighborhood with the increase of high volume operators. He encouraged the commission to consider Beaver Creek as a residential neighborhood, and stated that his neighborhood has to fight CUPs at inception because they are difficult to revoke.

Jason Foster encouraged the commission to research complaints against this business, noting that he is not the kind of operator described in previous testimony. He said that this is a nice business, that the City has been enforcing violations, and the complaints being voiced are one-sided.

Tom Hoelsing answered questions from the commission, explaining that prior to the purchase of this property he had been told by the former City Planner that his business would not require a CUP. He clarified that the first notice issued by Director Foster had been sent to his mailing address in Nebraska, and that he had been advertising on Airbnb for about a year and a half.

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

Director Foster clarified the changes made to the Kenai Municipal Code on conditional use permits, which included informing the Planning & Zoning Commission of violations. He explained how enforcement in the Planning Department is driven by complaints, which are investigated and if verified with evidence a code violation letter will be issued to the CUP owner. He emphasized that code provides CUP owners an opportunity to come up with a remedy for their violation, and

if remediation does not occur the CUP may come back before the commission for revocation. He noted that the conditions provided in the staff report are recommendations that the commission has the power to make changes to, and that conditions help in the management and enforcement of CUPs.

The commission discussed how the changes to the CUP code are less than a year old and the results have yet to be seen in a summer season. Clarification was provided that police records for complaint calls on this property had not been requested.

Commissioner Halstead stated that he believed that the City does not currently have the resources to enforce the CUP requirements. He stated that Criteria #2 "*KMC 14.20.150(e)(2) The economic and noneconomic value of the adjoining property and neighborhood will not be significantly impaired*" has not been met, as evidenced by the neighbors who provided testimony that the non-economic value of the area has been affected; Criteria #3 "*KMC 14.20.150(e)(3) The proposed use is in harmony with the Comprehensive Plan*" has not been met because this CUP will create an unacceptable neighborhood atmosphere that people will not want to be a part of; and that it also fails to meet Criteria #5 "*KMC 14.150(e)(5) The proposed use will not be harmful to the public safety, health or welfare.*" He stated that he opposes this resolution.

Commissioner Woodard stated her opposition, noting that she agreed with the comments of Commissioner Halstead.

Vice Chair Douthit discussed how adding more conditions could provide further means for enforcement. He stated he is in favor of the resolution but believes there is room to provide the ability for more enforcement.

The commission deliberated whether additional conditions they add could effectively be enforced with the City's resources.

Commissioner Fikes stated that based on the testimony heard tonight and at previous meetings about CUP use in this neighborhood, the applicant's history of operating his business without a CUP and his plans to not be present at the location, and the City's lack of an enforcement mechanism, her findings are that she does not believe that the harmony of the neighborhood will be kept up and that the value of the neighborhood will be diminished. She noted that there have been some changes in the CUP code but not enough for her to feel confident and to be in favor of this resolution, and for these reasons she would oppose it.

Director Foster clarified that he had included his recommendation for Condition #9 "Quiet Hours are 10pm to 6am" based on recent commission decisions on cabin rentals and dormitories.

The commission considered conditions that had been recommended from written public testimony, including making quiet hours consistent with other CUP businesses in the area, requiring a local contact that is responsible for ensuring conditions are met, and limiting the number of guests or beds on the property. It was noted that trespassing issues should be handled by law enforcement.

Clarification was provided on the revocation process for CUPs as provided in the City code. Director Foster noted that once a complaint is received, it must be investigated and verified prior to citing a code violation; he reiterated that once the CUP owner receives a code violation letter, the burden is put on the permit holder to determine and notify staff of how they propose to resolve

the violation within a reasonable timeframe. He explained that if no remedy has been made within a reasonable time, Director Foster could recommend that the permit come before the Planning & Zoning Commission for a hearing to consider revocation.

The commission considered the timeframe required to observe the effects of enforcement efforts, which can potentially span an entire season of a business's operations; it was suggested that this process be expedited to avoid this issue. Concern was expressed about placing limits on the number of guests, and it was noted that there is not an effective mechanism for enforcing this.

Chair Twait noted that the application is similar to previous ones approved by the commission, but since then CUP code had been changed to include that a neighborhood's noneconomic value not be significantly impaired under Criteria #2, a point which is relevant to this application; he noted that the upcoming summer season will show whether the new code changes have the desired effect for this neighborhood. He stated he opposed the resolution with the idea that the effect of the changes be observed for the upcoming summer season, and explained that the public testimony shows that the quality of life in this neighborhood has diminished which speaks to its noneconomic value. He encouraged the applicant to re-apply for the CUP after this summer season.

It was noted that not issuing a permit in anticipation of a violation that hasn't occurred yet because of the presumption that the City can't enforce it sets a dangerous precedent which could discourage future business owners from applying for permits.

It was noted that Jason Foster had been cited last year for violations and his remedy has not yet been demonstrated during his normal summer business season, and he may be helping to manage Tom Hoelsing's property.

Tom Hoelsing clarified that Cyndi Hannah will be providing cleaning and check-in services for this property in Mr. Hoelsing's absence. He noted that he has properties in multiple states and has had no problems from neighbors; he questioned where the burden of proof was for the neighbor's accusation, and asked the commission to consider his application for what happens on his own property.

Commission discussed whether additional information such as police reports would be helpful, or if testimony is sufficient; they considered whether additional time to develop more conditions could be beneficial.

**MOTION TO AMEND:**

Vice Chair Douthit **MOVED** to amend Condition #9 to read "Quiet Hours are 10pm to 5am." Commissioner Halstead **SECONDED** the motion.

**VOTE ON AMENDMENT:**

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

**MOTION PASSED.**

**MOTION TO AMEND:**

Vice Chair Douthit **MOVED** to add a condition requiring a local manager who will be responsible for the property while in operation. Commissioner Halstead **SECONDED** the motion.

**VOTE ON AMENDMENT:**

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

**MOTION PASSED.**

The commission discussed adding a condition to limit the number of visitors at the property, and how that might be determined. Director Foster clarified that a Fire Marshal inspection is part of the CUP process.

**MOTION TO AMEND:**

Vice Chair Douthit **MOVED** to add a condition that the number of registered overnight occupants be limited to the City's fire code regulations for the number of people allowed for the size of dwelling. Commissioner Woodard **SECONDED** the motion.

**VOTE ON AMENDMENT:**

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

**MOTION PASSED.**

Clarification was provided that there is no set number of complaints that will result in CUP revocation; an explanation of the notice of violation and permit revocation procedures was provided.

**VOTE ON MAIN MOTION AS AMENDED:**

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

**MOTION FAILED.**

Chair Twait noted the fifteen-day appeal period.

2. **Resolution PZ2022-09** - Application for a Conditional Use Permit for a Guide Service for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive, Kenai, Alaska 99611. The application was submitted by Thomas Hoelsing, 1865 Fredericksen St, Fremont NE 68025

**MOTION:**

Commissioner Halstead **MOVED** to approve Resolution PZ2022-09. Commissioner Woodard **SECONDED** the motion.

It was noted that the staff report for PZ2022-09 was shared with PZ2022-08 and had been provided earlier in the meeting.

Applicant Tom Hoelsing stated that he would like his application to stand on its own, and that it is not fair to vote based on assumptions about someone's future performance. He expressed uncertainty about what good a guide service CUP would do for him without lodging.



Chair Twait opened for public hearing.

Jerry Huf, noting that the applicant will not have lodging nor a dock and is not a registered guide, expressed doubt about his business plan. He referred to the Comprehensive Plan's goal to maintain quality of life, and stated that he had seen this diminish in his neighborhood because of CUP business operations. He noted that residents are highly inconvenienced by this sort of activity, and once granted CUPs the operations will expand to become high volume businesses. He asked the commission to focus on the area as a residential neighborhood with year-round residents.

Greg Anderson questioned how the applicant could run a guide service with no dock, and noted that the Parks service may need to approve the property which he has not seen happen.

Mack Padgett stated that the carrying capacity of Beaver Creek is beyond its limit, and encouraged the commission to look at what is happening to it and how it impacts the health of the Kenai River.

Jim Richardson stated that he had once served as the president of Kenai River Special Management area, and clarified what the dock requirements were when they were first developed. He stated that he had previously pointed out violations but could not get enforcement, discussed the limitations of law and code enforcement, and emphasized the need for better communication. Stated that he opposed the guide service based on past problems at this location.

MJ Loveland stated that Beaver Creek is part of the Kenai River, and she believes it is at its capacity for number of boats and opposes allowing any more boating activities there.

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

The commission discussed postponement based on possible appeal of PZ2022-08, noting that the applicant may no longer want this CUP based on the denial of his cabin rental CUP.

Chair Twait stated that the applicant could run a guide business from the property and launch his boats from another location, but he would vote no based on the applicant's testimony.

Vice Chair Douthit stated he would vote no based on the testimony of the applicant, who said that without the cabins he didn't see the need for having a guide service. He noted that he feasibly could run a guide service on the property without a dock, but he agreed with the applicant and doesn't feel it necessary.

Commissioner Greenberg stated that he would vote yes because the applicant could feasibly run a guide service from the property.

Commissioner Askin stated that she would vote no based on the applicant's statements and out of concern for the condition of Beaver Creek.

Commissioner Fikes stated that she would vote no, noting that additional testimony from the applicant about his plans for the guide service would have been helpful; based on his testimony from PZ2022-08 she did not see how the neighborhood would benefit from this business.

Commissioner Halstead stated that he votes no based on the applicant's testimony and his

absence from the rest of the commission's discussion on the guide service. He stated that a guide could potentially run a guide service without a dock if the boat was moved to another dock.

Commissioner Woodard stated that she voted no because the applicant said the guide service CUP wouldn't be useful to have without the cabin rental CUP. She noted that she couldn't see how he could bring boats into the area without damaging the environment.

**VOTE:**

YEA: Greenberg

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

**MOTION FAILED.**

Chair Twait noted the fifteen-day appeal period.

**G. UNFINISHED BUSINESS – None.**

**H. NEW BUSINESS**

- 1. Action/Approval** - Special Use Permit to Weaver Brothers, Inc. for Truck Trailer Storage.

**MOTION:**

Commissioner Askin **MOVED** to recommend approval of the Special Use Permit to Weaver Brothers, Inc. for Truck Trailer Storage. Commissioner Halstead **SECONDED** the motion.

Director Foster provided a staff report noting that the same Special Use Permit (SUP) came before the commission last summer, and this year's request is for the same five parcels. He noted that the parcels are adjacent to existing leases Weaver Brothers has, the reason for the SUP is expansion beyond their lease, and the SUP would be for one year.

Clarification was provided that this SUP is for the same lots as the previous year and Weaver Brothers currently has trailers on them, and that SUPs are issued for a maximum of twelve months. Director Foster stated he does not believe the utilization of these parcels would impact other properties in the area.

**VOTE:**

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

NAY: None

**MOTION PASSED UNANIMOUSLY.**

- 2. Action/Approval** - Resolution No. 2022-XX – Approving the Execution of a Lease to Joel Caldwell.

**MOTION:**

Commissioner Askin **MOVED** to recommend approval of the Execution of a Lease to Joel Caldwell. Commissioner Woodard **SECONDED** the motion.

Director Foster provided a staff report noting that Joel Caldwell had proposed an estimated

\$100,000 in improvements to the property which include additional storage, restroom facility and paving, to be completed within two years of signing the lease. The activities noted on the application is aircraft storage and maintenance, and the requested lease term is seventeen years. He noted that to date no competing lease applications have been submitted.

**VOTE:**

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

NAY: None

**MOTION PASSED UNANIMOUSLY.**

**I. PENDING ITEMS** – None.

**J. REPORTS**

1. **City Council** – Council Member Winger reported on the actions of the April 6, 2022 City Council Meeting.
2. **Borough Planning** – Commissioner Fikes reported on the actions of the March 21, 2022 Kenai Peninsula Borough Planning meeting.
3. **City Administration** – Planning Director Foster reported on the following:
  - Next Commission meeting on April 27, 2022 will include a CUP application.
  - Upcoming meetings on the Kenai Waterfront Revitalization project will be held on May 2<sup>nd</sup> and 3<sup>rd</sup>.

**K. ADDITIONAL PUBLIC COMMENT** – None.

**L. INFORMATIONAL ITEMS**

1. Kenai Dog Park Program

Council Member Winger noted that there will be a resolution at the next City Council meeting to consider a land donation for the Kenai Dog Park.

**M. NEXT MEETING ATTENDANCE NOTIFICATION**

1. April 27, 2022

**N. COMMISSION COMMENTS & QUESTIONS**

Council Member Askin noted that it had been a good meeting.

Commissioner Halstead noted that he would like to have a template to guide the commission when adding criteria to a guide service CUP, and suggested scheduling a work session.

Commissioner Greenberg stated that an underlying problem is that people have lost confidence in the process, and asked the commission to consider how to build back that confidence so that a permit can be evaluated on its own merit.

Commissioner Fikes agreed that a work session or discussion would be beneficial, because placing conditions will provide a tool for enforcement. She expressed concern about whether changing conditions for CUP applicants will be fair to past or future applicants.

Vice Chair Douthit agreed that a work session will help to clarify understanding of enforcement issues, and in adding enforceable conditions to a CUP the community's trust in the process can be built back.

Council Liaison Winger noted she will bring the commission's concerns to Council, and encourages scheduling a work session with the City Attorney.

Chair Twait recognized the passing of Mayor Gabriel's mother.

**O. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 10:03 p.m.

Minutes prepared and submitted by:



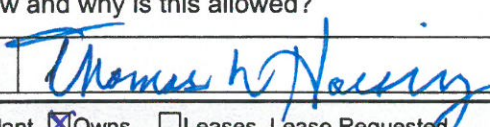
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Meghan Thibodeau  
Deputy City Clerk



**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](mailto:cityclerk@kenai.city)

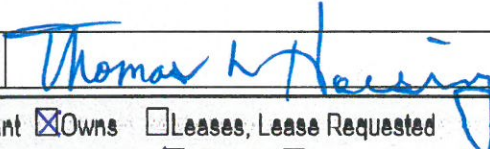
<b>Contact Information</b>	
Name of Appellant: Thomas L Hoelsing	Date: April 25, 2022
Daytime Phone No.: 402- <sup>238</sup> 420-4968	Email Address: thoelsing@msn.com
Appellant's Physical Address: 1865 Frederiksen St Fremont, Ne 68025	
Appellant's Mailing Address: Same	
<b>Appeal Information</b>	
Description of the decision being appealed: This appeal is for the decision denying the Conditional Use Permit Application PZ2022-08. A complete Application was submitted to planning and zoning per the cities instructions, was reviewed by staff, and deemed to have met all the necessary criteria in the Kenai Municipal Code. And was recommended for approval by the city planning director. The commissioners reasoning for denial was based on a number of issues that had nothing to do with my property at 1025 Angler Dr.	
Subject Property Owner's Name and Address: Thomas L Hoelsing	
Subject Property Street Address: 1025 Angler Dr Kenai, AK	
Decision was <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Denied	Date of Decision: 4-13-2022
Decision was made by <input type="checkbox"/> Administrative Official <input checked="" type="checkbox"/> Planning & Zoning Commission	
Check One: <input checked="" type="checkbox"/> 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. <input type="checkbox"/> I am the administrative official. <input type="checkbox"/> 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.): The denial of this CUP has eliminated my ability to recoup any of the substantial capital invested in property renovations designed to meet the requirements for a cabin rental CUP. Being singled out as the first, and only CUP denied for cabin rentals on Angler Dr has damaged my online and personal reputation in a manner that money alone can not adequately compensate.	
I am seeking relief as follows: A review of the appeal. And an investigation into the breakdown in city governance allowing the denial of lawful compliant requests based on items clearly outside city code. The city is not treating all applicants equally and fairly. How and why is this allowed?	
Signature of Appellant: 	
FOR CITY CLERK'S OFFICE USE ONLY: Receipt Stamp:	Appellant <input checked="" type="checkbox"/> Owns <input type="checkbox"/> Leases, Lease Requested Appellant Participated <input checked="" type="checkbox"/> Orally <input 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 type="checkbox"/> In Person <input checked="" type="checkbox"/> By Mail By: <u>S. Sauer</u> Application <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied for _____ Date Appellant Notified: <u>4-28-22</u>

RECEIVED  
APR 28 2022  
CITY OF KENAI CLERK'S OFFICE



**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](mailto:cityclerk@kenai.city)

<b>Contact Information</b>	
Name of Appellant: Thomas L Hoelsing	Date: April 25, 2022
Daytime Phone No.: 402-426-4968	Email Address: thoelsing@msn.com
Appellant's Physical Address: 1865 Frederiksen St Fremont, Ne 68025	
Appellant's Mailing Address: Same	
<b>Appeal Information</b>	
Description of the decision being appealed: This appeal is for the denial of CUP PZ2022-09 A complete Application was submitted to planning and zoning per the cities instruction, was reviewed by staff, and deemed to have met all the necessary criteria in the Kenai Municipal Code. And was recommended for approval by the city planning director. The decision to deny was based on a number of issues not pertaining to the property at 1025 Angler Dr. Some commissioners seemed to be confused as to who actually governs Beaver Creek .	
Subject Property Owner's Name and Address: Thomas L Hoelsing	
Subject Property Street Address: 1025 Angler Dr Kenai, AK	
Decision was <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Denied	Date of Decision: 4-13-2022
Decision was made by <input type="checkbox"/> Administrative Official <input checked="" type="checkbox"/> Planning & Zoning Commission	
Check One: <input checked="" type="checkbox"/> 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. <input type="checkbox"/> I am the administrative official. <input type="checkbox"/> 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.): The denial of this CUP has eliminated the ability to recoup any of the substantial capital invested in property renovations designed to meet the requirements for the CUP. The denial of this CUP has damaged my online and personal reputation in a manner that money alone can not adequately compensate.	
I am seeking relief as follows: A review of the denial. And a review of the process that allows individuals with an agenda and individuals with no standing to influence commissioners votes with false and misleading "Testimony".	
Signature of Appellant: 	
FOR CITY CLERK'S OFFICE USE ONLY: Receipt Stamp:	Appellant <input checked="" type="checkbox"/> Owns <input type="checkbox"/> Leases, Lease Requested Appellant Participated <input checked="" type="checkbox"/> Orally <input 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 type="checkbox"/> In Person <input checked="" type="checkbox"/> By Mail By: <u>S. Saner</u> Application <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied for _____ Date Appellant Notified: <u>4-28-22</u>

CITY OF KENAI CLERK'S OFFICE  
APR 28 2022



# 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:** Shellie Saner, MMC, City Clerk

**DATE:** April 28, 2022

**SUBJECT:** **Appeal of a Planning and Zoning Commission Action Denying Conditional Use Permits to Applicant Thomas L. Hoelsing, to Operate a Cabin Rental and Guide Service at 1025 Angler Drive, Lot 3, Angler Acres Subdivision Part Four, Platt #84-235**

An application to appeal the above-referenced matter was received on April 28, 2022. 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:

<b>FORTY-FIVE DAY END DATE</b>	<b>Saturday, June 8, 2022 which would be extended to Monday, June 20, 2022 per KMC 14.20.290(f)(1)</b>
<b>COUNCIL MEETING DATES (within 45-day requirement)</b>	<b>Wednesday, June 1, 2022 Wednesday, June 15, 2022</b>
<b>SIXTY-DAY END DATE</b>	<b>Sunday, July 3, 2022</b>
<b>COUNCIL MEETING DATE(S) (within 60-day requirement)</b>	<b>Wednesday, June 1, 2022 Wednesday, June 15, 2022</b>

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, May 20, 2022.

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."



# KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | [www.kenai.city](http://www.kenai.city)

May 6, 2022

Mailed Via: USPS Certified Mail, Return Receipt  
7020 0640 0002 2738 7422  
Emailed to: [thoesing@msn.com](mailto:thoesing@msn.com)

Thomas L. Hoelsing  
1865 Frederiksen St.  
Fremont, NE 68025

RE: **BOARD OF ADJUSTMENT HEARING** – Appeal of Planning and Zoning Commission Action Denying a Conditional Use Permit for “Cabin Rental” and “Guide Service” at 1025 Angler Drive, Kenai, AK, Lot 3, Angler Acres Subdivision Part Four, Platt #84-235.

**Hearing Scheduled:** This letter is to inform you that the Board of Adjustment Hearing for the above-referenced matters has been scheduled for **Tuesday, May 31, 2022, beginning at 5:00 p.m.** The hearing will be held at City Hall in Council Chambers located at 210 Fidalgo Avenue, Kenai, AK 99611. A packet of information will be provided to you and the Board of Adjustment prior to the hearing.

**Information/Evidence Deadline:** The deadline to submit information, to be included in the Board of Adjustment Hearing packet, related to your appeal is **noon on Friday, May 20, 2022**; please submit to Kenai City Clerk, 210 Fidalgo Ave., Kenai, AK 99611 or [cityclerk@kenai.city](mailto:cityclerk@kenai.city). 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.

**Notice:** Pursuant to KMC 14.20.290, this Notice of Hearing has been 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, have also been mailed the Notice of Hearing within 15 days of the hearing.

If you have any questions, please contact me at 283-8231 or [ssaner@kenai.city](mailto:ssaner@kenai.city).

Sincerely,

Shellie Saner, MMC  
City Clerk

Email CC: Scott Bloom, City Attorney;  
Paul Ostrander, City Manager  
Ryan Foster, Planning Director  
Board of Adjustment

Enclosure: Board of Adjustment Procedures



## **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 open to the 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 Kenai City Clerk, 210 Fidalgo Ave., Kenai, AK 99611 or [cityclerk@kenai.city](mailto:cityclerk@kenai.city) by **noon on Friday, May 20, 2022**. 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.

Prior to any presentations, members of the public may address the Board at the beginning of the hearing. Members of the public will have five minutes each to speak on each of the conditional use permit, for a total aggregate time of 10 minutes per speaker.

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 45 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 15 minutes for rebuttal and 10 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 in an adjudicatory session 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.

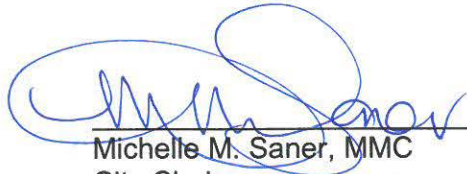
**AFFIDAVIT OF SERVICE**

I, Michelle M. Saner, City Clerk for the City of Kenai, Alaska, do hereby certify that on the sixth day of May, 2022, I mailed or caused to be mailed the foregoing Notice of Hearing before the Board of Adjustment of the following appeal:

*Appeal of Planning and Zoning Commission Action Denying a Conditional Use Permit for Cabin Rentals and Guide Services at 1025 Angler Drive, Kenai, Alaska, Lot 3, Angler Acres Subdivision Part Four, Platt #84-235.*

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.

  
\_\_\_\_\_  
Michelle M. Saner, MMC  
City Clerk

**Dear Property Owner:**

The Kenai City Council will convene as the Board of Adjustment on **Tuesday, May 31, 2022** at 5:00 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 Denying a Conditional Use Permit for Cabin Rentals and Guide Services at 1025 Angler Drive, Kenai, Alaska, Lot 3, Angler Acres Subdivision Part Four, Platt #84-235.**

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, May 20, 2022 and may be mailed to the Office of the City Clerk, 210 Fidalgo Ave., Kenai, AK 99611 or by email: cityclerk@kenai.city. ~ Shellie Saner, City Clerk, 907-283-8231

Thank you.

**Dear Property Owner:**

The Kenai City Council will convene as the Board of Adjustment on **Tuesday, May 31, 2022** at 5:00 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 Denying a Conditional Use Permit for Cabin Rentals and Guide Services at 1025 Angler Drive, Kenai, Alaska, Lot 3, Angler Acres Subdivision Part Four, Platt #84-235.**

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, May 20, 2022 and may be mailed to the Office of the City Clerk, 210 Fidalgo Ave., Kenai, AK 99611 or by email: cityclerk@kenai.city. ~ Shellie Saner, City Clerk, 907-283-8231

Thank you.



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

## IMPORTANT NOTICE



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

## IMPORTANT NOTICE

State of Alaska, DNR  
550 W 7th Ave. Ste. 650  
Anchorage, AK 99501

Wild Kenai Adventures LLC  
747 SE Dover Ln.  
Madras, OR 97741

Rick & Steven Voth  
1035 Angler Dr.  
Kenai, AK 99611

Jackie S. Reynolds  
36025 Reef Dr.  
Kenai, AK 99611

Foster Landing Inc.  
1005 Angler Dr.  
Kenai, AK 99611

James Richardson & Barbara Baker  
1543 E 26th Ave.  
Anchorage, AK 99508

Barbara & Thomas Hoelsing  
1865 Frederiksen St.  
Fremont, NE 68025

Devon Ray Hudson  
PO Box T35  
Hanapepe, HI 96716

Kristie Kay Hudson  
1010 Angler Dr.  
Kenai, AK 99611

Kathryn A. Staskon  
1030 Angler Dr.  
Kenai, AK 99611

Byran R. Lowe  
1529 Pey Dr.  
Kenai, AK 99611

Bryson R. Lowe  
1502 Pey Dr.  
Kenai, AK 99611

Jerry Huf  
765 Ames Rd  
Kenai, AK 99611

Greg Anderson  
1110 Angler Dr.  
Kenai, AK 99611

Mack Padgett  
855 Ames Rd.  
Kenai, AK 99611

Mary Jean Loveland &  
Ronald R. Rogalsky  
P.O. Box 35  
Kenai, AK 99611

Angler Enterprises, Inc.  
P.O. Box 303  
Soldotna, AK 99669

Current Property Owner  
945 Ames Rd.  
Kenai, AK 99611

Rachel L. Lowe  
1205 5th Ct  
Kenai, AK 99611



## PUBLIC NOTICE

The Kenai City Council will convene as the Board of Adjustment on Tuesday, May 31, 2022, at 5:00 p.m. in the Council Chambers at 210 Fidalgo Avenue, Kenai. The following item will be heard at that time:

**Appeal Filed by Applicant, Thomas L. Hoelsing, Appealing the Decision of the Planning and Zoning Commission to Deny Conditional Use Permits for Cabin Rentals and Guide Services at 1025 Angler Drive, Kenai, Alaska, Lot 3, Angler Acres Subdivision Part Four, Platt #84-235.**

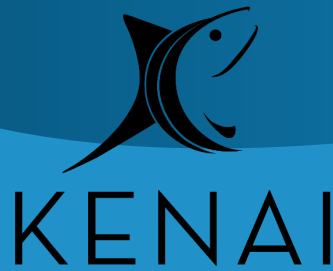
The public is invited to attend and testimony will be taken. Any questions related to this public notice may be directed to the Kenai City Clerk's Office at 283-2831 or [cityclerk@kenai.city](mailto:cityclerk@kenai.city).

Shellie Saner, MMC, City Clerk  
Publish: 5/24/22, 5/28/22

### Affidavit of Publication & Posting

I Michelle M. Saner, City Clerk for the City of Kenai, Alaska do hereby certify that on the 16<sup>th</sup> day of May 2022, I electronically mailed or caused to be published the foregoing Notice of Hearing before the Board of Adjustment to the Peninsula Clarion and requested that this notice be published in the May 24<sup>th</sup> and 28<sup>th</sup> editions of their newspaper. On the 11<sup>th</sup> day of May the notice was also posted at Kenai City Hall and on the internet at [www.kenai.city](http://www.kenai.city).

  
Michelle M. Saner, MMC, City Clerk



# City of Kenai Public Notice

**Notice is hereby given;** the Kenai City Council will convene as the Board of Adjustment on **Tuesday, May 31, 2022, at 5:00 p.m.** in the Council Chambers at 210 Fidalgo Avenue, Kenai. The following will be heard at that time:

**Appeal Filed by Thomas Hoelsing, Appealing the Decision of the Planning and Zoning Commission to Deny Conditional Use Permits for Cabin Rentals and Guide Services at 1025 Angler Drive, Kenai, Alaska, Lot 3, Angler Acres Subdivision Part Four, Plat #84-235.**

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](http://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](mailto:cityclerk@kenai.city).

Shellie Saner, MMC  
City Clerk

Posted: 5/11/22  
Michelle M. Saner, MMC, City Clerk



**From:** [Shellie Saner](#)  
**To:** [TOM HOESING](#)  
**Cc:** [Meghan Thibodeau](#); [Scott Bloom](#)  
**Subject:** Re: Record Request  
**Date:** Thursday, May 19, 2022 7:21:57 PM

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Mr. Hoelsing,

I am currently traveling for work. I have copied Deputy Clerk Thibodeau for the purpose of responding to your statement regarding an incomplete CUP list.

The evidence due date cannot be extended as my office is required to distribute the hearing packet to all parties prior to the hearing; and

Pursuant to the BOA Procedures that were sent to you via certified mail and email, “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.”

Evidence is due Friday, May 20, 2022 by noon.

Thank you,  
Shellie Saner  
Kenai City Clerk

Sent from my iPhone

On May 19, 2022, at 5:01 PM, TOM HOESING <[thoesing@msn.com](mailto:thoesing@msn.com)> wrote:

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

Shellie,

I have received a list of Conditional Use Permits (CUP) provided by the city in response to my records request for same. The list is incomplete. As requested please provide a complete listing of all CUPs issued in the Angler Acres subdivision.

As a result of the incomplete list, thru no fault of mine, I also request the deadline, noon on 5.20.2022 to file information with the City of Kenai in regard to my appeal be extended. Said extension to be a reasonable amount of time after receipt of the complete and accurate records request from the City of Kenai.

As you are the City Clerk I believe you are the appropriate party to request said

extension, if not please direct me to the appropriate office, Thank you.

Tom Hoelsing

**Carol & Mack Padgett**

855 Ames Road  
Kenai, AK 99611

May 10, 2022

City of Kenai, Office of the City Clerk  
210 Fidalgo Ave.  
Kenai, AK 99611

Dear Council Members:

We would like to strongly encourage you to uphold the Kenai Planning & Zoning denial of the Application for Conditional Use Permits for Cabin Rentals (PZ2022-08) and Guide Service (PZ2022-09), for the property described as Lot 3, Angler Acres Subdivision Part 4, Located at 1025 Angler Drive, Kenai, Alaska 99611.

We fully support the Planning & Zoning decision and encourage you to deny the appeal. We maintain that the neighborhood impacted is Beaver Creek rather than simply Angler Drive. In our opinion, Beaver Creek's carrying capacity for yet another guide service with cabins has been exceeded and the recent summer activity does not emphasize "quiet enjoyment" for the neighborhood. We also suggest that you consider the impact to the riparian habitat created by another operation, following the precedent of one dock with five to eight boats.

We purchased our property and built our home on Ames Road because of the access, and quiet nature, of Beaver Creek, compared to the summertime nature of the Kenai River. We have watched that quiet nature deteriorate over recent years with the addition of guide services and cabin rentals catering to tourists that have no appreciation for the neighborhood where they are spending their Alaskan Vacation.

Although the requested use is in line with City of Kenai Comprehensive Plan, we suggest that you look no further than 1005 Angler Drive to see the best example of disregard for "quiet enjoyment" within a neighborhood. During the Summer months, Foster's Alaska Cabins offers all-inclusive recreation that includes live music on Thursday, Friday, and Saturday nights. The racket generated by this activity can clearly be heard along Beaver Creek and Ames Road. One can only imagine the impact to adjoining property owners.

We are concerned that Mr. Hoelsing's operation will follow the precedent being set by Foster's Alaska Cabins. The application states that "no measures have been contemplated regarding ways to minimize the potential impacts of the conditional use to the neighbors". What recourse do we, as neighbors, have when the actual operation does become an obstacle to "quiet enjoyment"?

Increased activity will definitely impact surrounding property owners and what we consider to be "quality of life" along Beaver Creek. We suggest that you do not approve this application as a means to preserve what little harmony remains within our neighborhood, also known as Beaver Creek.

Sincerely,



Mack & Carol Padgett  
855 Ames Road, Kenai AK 99611

**From:** [Yahoo Beaver Creek](#)  
**To:** [City Clerk](#)  
**Subject:** Conditional Use Permit Appeal, 1025 Angler Drive  
**Date:** Wednesday, May 18, 2022 8:53:22 AM

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

Shellie,

We are property owners and have a conditional use permit at 1215 Angler Drive. We are opposed to a new conditional use permit at 1025 Angler Drive.

Over the years, and especially in the last couple of years, there has been a considerable increase in boat traffic and road traffic (vehicle, pedestrian, golf carts, etc) on Angler Drive. This has not come from private property owners, but from lodges and fishing businesses adding additional guide boats to existing docks and new activities. We support responsible business, but it is our feeling that the additional density has already negatively affected quality of life for permanent residents and the experience for many visitors.

More density will not improve the current climate.

Keith & Jane Holtan  
Beaver Creek Cabins & Guide Service

**From:** [rusty\\_huf](#)  
**To:** [City Clerk](#)  
**Subject:** Fwd: Resolutions PZ2022 / PZ2022-09  
**Date:** Wednesday, May 18, 2022 10:54:56 AM

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Jerry (Rusty) Huf  
765 Ames Rd  
Kenai AK 99611

>> April 12 2022

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>> City of Kenai City Council  
>> 210 Fidalgo Ave.  
>> Kenai AK 99611

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>> Dear Council Members

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>> I'am writing this letter in opposition of an Application for CUP's PZ2022-08 & PZ2022-09 for Cabin Rentals and Guide Services for the property described as Lot 3 # Angler Acres Subdivision at 1025 Angler Drive, Kenai AK. 99611

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>> I have several concerns with yet another High Volume Guide Fishery located on Beaver Creek, the Guiding industry in this area has changed significantly over the past several years do to the lack of Kenai River King Salmon fishing opportunities, It's gone from one or two trips a day in and out of Beaver Creek to pick up and drop off clients per Guide Boat to nonstop traffic dropping off clients on the banks and picking up clients at all hours night and day, the Sockeye fishery is a highly unregulated on the Kenai River and as such has been exploited regularly by some of the businesses along Beaver Creek therefore increasing traffic in Beaver Creek, It is the opinion of myself and most private property owners along Beaver Creek that this area is way beyond carrying capacity and is not considered quiet enjoyment of our neighborhood, it's quite the opposite for the Private Property Owners along Angler Drive and most importantly Beaver Creek, Its my opinion that CUP's are handed out freely by the Planning and Zoning Department solely

>> based on City Code that allows for this type of activity for properties zoned RR and in my opinion with total disregard for personal property owners especially with this type of high capacity high volume businesses, I believe the Comprehensive Plan carries more weight than the City Code that allows this activity in residential neighborhoods, the Comprehensive Plan states it is intended to promote and encourage Quality of Life and Protect the Livability of Neighborhoods, lets not lose sight that even though this area has been over run with Commercial Fishing and Lodging activities it is still a Residential Neighborhood and the rights of other private property owners should have top priority when it comes to issuing CUP's, Angler Drive is not the only residential area effected by by

this activity, on Beaver Creek there are approximately 25 other private homes along Beaver Creek and every CUP issued for this type of activity deteriorates the quality of life and livability of our neighborhood.

>>

>> Also according to Mr Hoelsing's Application he is not a Resident and does not live in the area and also states that he has owned the property for close to three years. It is also common knowledge that this property has been managed and used by Jason Foster as part of Fosters Alaska Cabins business without a CUP for much of this time and is just another property in the area used as part Fosters Alaska Cabins Business, and is far from a traditional quiet Cabin Rental and Guide Service. I think the Commissioners are all aware of the business model of Fosters Alaska Cabins with outdoor eating and drinking with live music, golf carts traveling from several other properties in the neighborhood at all hours of the night and day the list is long, I believe this business is operating way beyond the intended uses set forth on the original CUP and has become a detriment to the neighborhood and this property will just add more unwanted traffic, noise and other unwanted activities to this already exploited area of our neighborhood.

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>> I think the Conditional Use Permitting process falls short on individual property rights and as such needs significant upgrades to protect personal property owners that have invested a lifetime of hard work and a considerable amount of money to carve out a home that they can enjoy and someday pass on to others to enjoy without being overrun with this type of high volume activity. I know that in my 30 years of living on Beaver Creek the quality of life and livability of my home that I built with my own hands has diminished dramatically do to this commercial activity called Guided Fishing and Cabin Rentals.

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>> I know I speak for myself and many of my neighbors in asking this board to deny this application, I don't think Mr Hoelsing has proven that his business will not be just another detriment to our neighborhood for personal gain at the expense of others, I believe every time one of these CUP's is approved it devalues my property not only in terms of monetary value but most importantly quality of life value

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>> Sincerely,

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>> Jerry (Rusty) Huf

>> 765 Ames Road

>> Kenai Alaska, 99611

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May 18, 2022

City of Kenai, City Council, Board of Adjustment  
210 Fidalgo Ave  
Kenai AK, 99611

RE: Opposition to CUP Applications for 1025 Angler Drive

Dear Council Members:

We formally voice our opposition to the approval of the application for Conditional Use Permits (CUP) for Cabin Rentals (PZ2022-08) and Guide Service (PZ2022-09), for the property described as Lot 3, Angler Acres Subdivision Part 4, located at 1025 Angler Drive Kenai Alaska 99611.

The Planning and Zoning Commission appropriately denied both CUP applications for Cabin Rentals and Guide Service. As the additional CUP would effect the economic and non-economic values of the surrounding neighborhood and adjacent properties.

The applicant, Mr. Hoelsing, had several miss-leading and inaccurate statements in his original application. His property has already been used as rental cabins without a CUP for the last 3 years. The first year was long term rental to a road construction crew and the past two seasons have been short term vacation rentals listed through AirBnB. Since Mr. Hoelsing does not live in Alaska and only visits a few weeks each year, the cabins have been managed/hosted by Foster's Alaska Cabins 1005 Angler Drive through AirBnB. This has resulted in frequent illegal golf cart and ATV traffic on the blind corner on Angler Drive between the two non-adjacent properties.

Also, since he does not live here, there is no way that he can guarantee his occupants are quiet. In the CUP application, there are multiple references to creating a quiet enjoyment for the renters and occupants. However, Mr. Hoelsing has personally shown us anything but quiet enjoyment by participating in loud music activities at 1005 Angler. Additionally, the AirBnB descriptions for the three cabins also advertise nightly dinner and live music options which take place at 1005 Angler (See the Attached AirBnB description).

His claim that this does not violate the recreational character of the neighborhood and that all properties on the east side of Angler drive are involved in fishing activities is also not correct. This is a rural residential zone not a recreational area and a number of full time residence on the creek do not have docks or even participate in fishing activities. The reference of not violating the recreational character of the neighbor is an incorrect assumption as it is zoned as Rural Residential not recreational. His prior activities have had significant negative impacts on nearby properties; trespassing, noise, and property damage.

As a matter of record, the reference to Beaver Creek on Ames and Angler Drive is not precise as that section is actually a branch of the Kenai River and part of the Kenai River Special Management Area. The Kenai River is a non-renewable resource that we should protect. The reduction of King Salmon returns and poor escapement numbers in recent years has greatly focused fishing activity on Red Salmon. This has significantly increased the water taxi service

and boat traffic in Beaver Creek for Red Salmon bank fishing. It has also increased river bank damage and erosion. The property at 1025 Angler does not have a river dock. The addition of another river dock on the Kenai River in Beaver creek would negatively impact the river with more boat traffic and more damage to the river bank. Therefore, we believe adding another guide service and another dock system on Beaver Creek will negatively impact the Riparian Zone.

Based on these comments, input, history and activity of the applicant, we believe approval of these CUPs will allow activity that will negatively impact ours and our neighbor's properties.

We recommend that you do not approve either of the CUP applications.

Sincerely,

*MJ Loveland Ron Rogalsky*

MJ Loveland & Ron Rogalsky  
1003 Angler Dr., 945 Ames Road  
PO Box 35 Kenai 99611  
907 398-9237/907 398-9238





## About this space

Welcome to The Alaska Cabins! We are located just off of the majestic Kenai River on Beaver Creek, a short distance from Kenai. We offer any type of adventure that you've dreamed of doing in Alaska. We can customize packages that are all-inclusive and tailored to your desires of the perfect Alaskan vacation. From cabins to rental cars, fish processing to guided fishing we really provide it all! Ask us about our dinners and live music at night for a vacation you'll never forget!

### The space

The Big Nauti is an authentic Alaskan log cabin. There is a full kitchen and full bathroom with an on demand water heater. The living/dining space has a multitude of windows overlooking Beaver Creek. There are two bedrooms upstairs. One has two full/queen beds and one single bed. The second bedroom has a single bed and also a bunk bed with twin over full. There is also a pull out loveseat. There are 3 cabins of different sizes on the property. Outside there is a picnic table for all cabins to share. There is also a table and chairs on your deck for just you.

### Guest access

You have the entire cabin privately to yourselves. It has a full kitchen and full bathroom with unlimited hot water.

Be

1

2 double  
beds, 1  
single bed

1 double  
bed, 1 bunk  
bed

**From:** [Gregory Schumacher](#)  
**To:** [Gregory Schumacher](#); [City Clerk](#)  
**Subject:** Angler drive  
**Date:** Wednesday, May 18, 2022 9:23:24 AM

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

To whom it may concern

I live at 1315 Angler drive. It has come to my attention that there is yet another attempt to expand guide services for fish that barely exist in order to make more money.

Angler drive is still the home of local taxpayers who enjoy the area for its quiet home town feeling.

I do not support additional conditional use permits (guide boats) to be offered in the beaver creek area. It is over running the street, and the creek. Specifically Please do not proceed with another permit at 1025 angler.

Greg Schumacher  
907-330-7834

**From:** [Ross Harding](#)  
**To:** [City Clerk](#)  
**Subject:** FW: 1025 Angler Drive  
**Date:** Friday, May 20, 2022 9:39:08 AM

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

To whom it may concern.

I am a Home owner with a conditional use permit at 1535 Angler Dr. I have lived here for over 20 years and raised my two children here on Angler drive. I am currently opposing any new conditional use permits for lodging on Angler drive. Adding any new additional lodging does not contribute anything positive to the neighborhood at this time. I have seen that in the last few years Vehicle Traffic including Golf Cart use has increased dramatically effecting local residences.

Ross Harding  
1535 Angler Dr

Sent from [Mail](#) for Windows

**From:** [Joshua Cook](#)  
**To:** [City Clerk](#)  
**Subject:** Angler Dr. Conditional Use Permit  
**Date:** Friday, May 20, 2022 10:34:29 AM

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

To whom it may concern -

I am a home owner at 1335 Angler Dr and have a concern with another lodging conditional use permit on our street. I live at the mouth of beaver creek and have noticed a huge increase of traffic and noise coming from up the creek over the last couple of years taking away from the wild/natural habitat this area is known for. There has also been an increase of vehicle/atv/golf cart traffic on the road that has been a burden on us Angler Dr. Residents.

I strongly oppose any new lodging conditional use permits on Angler Dr. at this time.

Thank You  
Joshua Cook

**From:** [elainerainey@alaska.net](mailto:elainerainey@alaska.net)  
**To:** [City Clerk](#)  
**Subject:** Appeal of Planning and Zoning Commission" written comment " Conditional Use Permit Lot 3 Angler Acres  
**Date:** Friday, May 20, 2022 11:01:03 AM

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Attn: Kenai City Council

Re: Conditional Use Permit for Cabin Rentals and guide Services

1025 Angler Drive, Kenai

Lot 3 Angler Acres S/D Part 4

My home "residential" is 1405 Angler Drive, my property is located at the confluence of Beaver Creek and the Kenai River. I have lived at this location since 2002. My prior home was located on L30, Angler Drive, from 1990 to 2001 and was a lodge with 2 detached cabins. The lodge subcontracted all fishing to guides.

Over the past 5 years the changes I see to the impact to "The Beaver Creek" is the about of boat traffic on the Creek. They main change is because of the decline of King Salmon and basically no fishing of King Salmon has increased the fishing of red salmon. The Cabin Rentals and Guide Services taxi their clients from Beaver Creek to the banks of the Kenai River to fish reds. If red fishing is good, the drop off and pick up's are a short period of time which increases the boat traffic and impact on this very small narrow creek which causes "bank erosion issues", unlike King fishing which was a normal 6 hours on the River. Over the past 5 years more cabins have been added to the properties on Beaver Creek, more boats are mooring on this small creek.

I support small business and support fishing on the Kenai River. Out of the first eight properties on Angler Drive on the Creek six cabin rentals and lodges with guide services. One property is a residential and the subject property that is appealing.

I use to sit on my dock and enjoy watching the swan's, ducks, eagles, sandhill cranes and moose in a peaceful setting, now I watch the traffic go in and out with a lot more noise and bad language.

Elaine Rainey