

**KENAI PLANNING & ZONING COMMISSION –  
REGULAR MEETING  
SEPTEMBER 14, 2022 – 7:00 P.M.  
KENAI CITY COUNCIL CHAMBERS  
210 FIDALGO AVE., KENAI, AK 99611  
CHAIR JEFF TWAIT, PRESIDING**

**MINUTES**

**A. CALL TO ORDER**

A Regular Meeting of the Kenai Planning & Zoning Commission was held on September 14, 2022, in City Hall Council Chambers, Kenai, AK. Chair Twait called the meeting to order at approximately 7:00 p.m.

**1. Pledge of Allegiance**

Chair Twait led those assembled in the Pledge of Allegiance.

**2. Roll Call**

There were present:

Commissioners present: J. Twait, A. Douthit, G. Woodard, V. Askin, J. Halstead

Commissioners absent: G. Greenberg, D. Fikes

Staff/Council Liaison present: Interim Planning Director M. Best, Vice Mayor J. Glendening, Deputy Clerk M. Thibodeau

A quorum was present.

**3. Agenda Approval**

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

**ACTION**

**ITEM**

Add to item H.2

**Recommending Ordinance 3312-2022**

- Improvement Description
- Improvement Design
- Substitute Ordinance 3312-2022
- Ordinance 3312-2022 Planning Memo to Council
- Substitute Ordinance 3312-2022 City Manager Memo to Council

**MOTION:**

Commissioner Askin **MOVED** to approve the agenda with the requested revisions, and requested to move all items under H. New Business to be heard ahead of F. Public hearings. Commissioner Halstead **SECONDED** the motion. There being no objection; **SO ORDERED.**

**4. Consent Agenda**

**MOTION:**

Commissioner Halstead **MOVED** to approve the consent agenda. Commissioner Askin **SECONDED** the motion. There being no objection; **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 August 24, 2022

Approved by the consent agenda.

**C. SCHEDULED PUBLIC COMMENTS** – None.

**D. UNSCHEDULED PUBLIC COMMENTS** – None.

**E. CONSIDERATION OF PLATS** – None.

**F. UNFINISHED BUSINESS** – None.

**H. NEW BUSINESS**

1. **Action/Approval** – Recommending the Kenai City Council Approve Ordinance 3311-2022 Determining That Real Property Described as Lot 5, Block 1, Gusty Subdivision Addition No. 1, According to Plat No. 83-126 Kenai Recording District, City-Owned Airport Land Located Outside The Airport Reserve, is Not Needed for a Public Purpose, Waiving KMC 22.05.095 Methods of Sale or Disposal and Authorizing The Sale of The Property to Aaron Swanson dba Forever Business Plaza LLC.

**MOTION:**

Commissioner Halstead **MOVED** to recommend the City Council enact Ordinance 3311-2022. Commissioner Askin **SECONDED** the motion.

Director Best provided a staff report explaining that this purchase was based on Resolution 2018-12 which allows the purchase of leased properties that had substantial building development. This policy was in effect until July 6, 2021 but due to prior illness and death the prior lessee was unable to take advantage of the policy; Aaron Swanson, d/b/a Forever Business Plaza LLC is the new lessee and wants to purchase the property at fair market value, excluding the lease-constructed improvements. Best noted the sale is consistent with the goals and objectives of the Comprehensive Plan, and the Planning staff recommends approval.

Clarification was provided that the time to apply to purchase a leased property under Resolution 2018-12 expired, but this would allow an exception to be made due to lessee passing away before he could take advantage of the legislation.

**VOTE:**

YEA: Askin, Woodard, Douthit, Halstead, Twait

NAY: None.

**MOTION PASSED UNANIMOUSLY.**

2. **Action/Approval** – Recommending the Kenai City Council Approve Ordinance No. 3312-2022 Determining Lot 4, Block 1, Gusty Subdivision Addition No. 1 Amended Is Not Needed for a Public Purpose and Approving The Execution of a Lease With an Option to Purchase Between The City Of Kenai And Aaron Swanson for The Property.

**MOTION:**

Commissioner Halstead **MOVED** to recommend the City Council enact Substitute Ordinance 3312-2022. Vice Chair Douthit **SECONDED** the motion.



Director Best provided a staff report explaining that the City had received a Competitive Lease with a Sale Purchase application from Aaron Swanson d/b/a Forever Business Plaza LLC; the proposed use of the parcel which is currently vacant would be to construct a Pita Pit restaurant. He noted that the City of Kenai Land Management Inventory and Recommendation List recommended the property for disposal, and that the applicant would be responsible for completing development of the property within two years of the execution of the lease.

Applicant Aaron Swanson explained that this is for the lot next to the lot addressed in Ordinance 3311-2022, and his intent is to develop it into a Pita Pit restaurant; he wants to build it in a way that would allow expansion on the property in the future. He clarified that the new structure would be separate from the Pita Pit food truck and operate as a standalone restaurant, and that there is not yet a final completion date due to many moving parts including coordination with Pita Pit corporate.

Support was expressed for development of underutilized lots in the City, and for the Lease to Purchase option being taken advantage of.

**VOTE:**

YEA: Woodard, Douthit, Halstead, Twait, Askin

NAY: None.

**MOTION PASSED UNANIMOUSLY.**

- 3. Action/Approval** – Recommending the Kenai City Council Approve Resolution No. 2022-XX – Approving the Renewal of a Lease on Airport Reserve Lands between the City of Kenai and the Federal Aviation Administration for the Automated Flight Service Station Facility on Lot 7A-1, FBO Subdivision No. 5.

**MOTION:**

Commissioner Askin **MOVED** to recommend the City Council adopt Resolution No. 2022-XX, approving the renewal of a lease to the Federal Aviation Administration for the Automated Flight Service Station Facility. Vice Chair Douthit **SECONDED** the motion.

Director Best explained that the Federal Aviation Administration had applied to renew a lease for the automated flight service station and satellite communication network facility which has been operated since 1983. He noted that this use is consistent with the Comprehensive Plan and staff recommended approval.

**VOTE:**

YEA: Halstead, Twait, Askin, Woodard, Douthit

NAY: None.

**MOTION PASSED UNANIMOUSLY.**

- 4. Action/Approval** – Recommending the Kenai City Council Enact Ordinance 3314-2022 Extending The Time Period for Completion of The Action Items Necessary for The Conditional Donation of An Approximate 2 Acre Parcel to be Subdivided From A Portion Of The 6.8 Acre More or Less Portion of The East of Tract 4a, Baron Park 2020 Replat (KPB Parcel No. 04501035) to Triumvirate Theatre for The Development of a Theatre Facility.

**MOTION:**

Commissioner Askin **MOVED** to recommend the City Council enact Substitute Ordinance 3314-2022. Vice Chair Douthit **SECONDED** the motion.

Director Best reported that Ordinance No. 3219-2021 provided for the conditional donation of a parcel of land to Triumvirate Theatre for the development of a theatre. He noted that Triumvirate's Executive Director has kept the City apprised of the theatre's progress, and that staff recommended approval.



Joe Rizzo, Triumvirate Theatre's Executive Director, explained that they intend to hold off on construction until plans are complete and funding has been secured. He provided an update on the Triumvirate's current finances, upcoming funding opportunities and projected timelines dependent on the funding.

Clarification was provided that Triumvirate is still in the conceptual drawings phase and that the design may change. Timelines for potential funding opportunities were explained in regards to how they affect their project schedule and prompted their current extension request, and that this extension will lengthen their time period to meet the conditions of the original donation to two years from the original deadline. It was noted that the length of time it would take to complete a survey was also a consideration in the extension request, and that the survey would need to be completed within a set timeframe.

**VOTE:**

YEA: Douthit, Halstead, Twait, Askin, Woodard

NAY: None.

**MOTION PASSED UNANIMOUSLY.**

**F. PUBLIC HEARINGS**

1. **Resolution PZ2022-23** – Recommending the Kenai City Council Enact Ordinance 3316-2022 Amending Kenai Municipal Code 14.20.150-Conditional Use Permits, To Further Clarify Roles And Responsibilities Of Applicants, The Planning Director, And The Planning Commission In The Conditional Use Process.

**MOTION:**

Vice Chair Douthit **MOVED** to approve Resolution PZ2022-23. Commissioner Woodard **SECONDED** the motion.

Director Best noted that the sectional analysis in the packet provided by Vice Mayor Glendening offers a good explanation of the proposed changes.

Vice Mayor Glendening explained the purpose of the Ordinance, how it could provide structure for discussions of conditional use permits (CUP) being granted, modified or denied. Clarification was provided on the proposed changes to code, including how the Commission does not have to give deference to the Planning Director's recommendation; the definition of "deference"; and how the changes will promote a more thorough examination of the City's land use table and code by the Commission.

There was discussion regarding the definition of "substantial evidence" and how it will be used to demonstrate that the decisions of the Commission come from evidence-based reasoning; the instructive benefits of the proposed language for new commissioners; and whether the proposed language would increase the potential for appeals of CUP decisions.

The Commission discussed #6 as outlined on the sectional analysis memorandum, which would "Amend 14.20.150(e) by adding language that clarifies that conditions placed on conditional use permits by the Commission must be based on applicable City Code," and whether it could restrict the Commission's ability to add conditions. Clarification was provided that City Code supports the Commission's ability to place conditions on CUPs to ensure that they would be compatible with their surroundings.

It was noted that improvement to the CUP enforcement process was needed, but that this is currently limited by staff availability.

Chair Twait opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

The purpose of the Ordinance for confirming the roles and responsibilities of the Planning and Zoning Commission in the CUP process was discussed.



Further clarification was provided on the #2 as outlined on the sectional analysis memorandum, "Amend 14.20.150(b) to require the City Manager report the results of any CUP application appeals made to him or her to the City Council"; it was noted this does not affect the Commission's responsibilities.

**MOTION TO AMEND:**

Vice Chair Douthit **MOVED** to amend the #6 on the sectional analysis memorandum of Resolution PZ2022-23 to read: "Amend 14.20.150(e) by adding language that clarifies that conditions placed on conditional use permits by the Commission ~~must~~ may be based on applicable City Code." Commissioner Woodard **SECONDED** the motion.

Clarification was provided that amendments can be made to the resolution and not the memorandum, and that the word "must" does not appear in 14.20.150(e). The motion was withdrawn with concurrence from the second.

**VOTE:**

YEA: Twait, Askin, Woodard, Douthit, Halstead

NAY: None.

**MOTION PASSED UNANIMOUSLY.**

I. **PENDING ITEMS** – None.

J. **REPORTS**

1. City Council – Vice Mayor Glendening reported on the actions of the September 7, 2022 City Council Meeting.
2. Kenai Peninsula Borough Planning – No report.
3. City Administration – Interim Planning Director Best reported on the following:
  - The new Planning Director starts next week.
  - No items have been submitted for the September 28, 2022 Planning & Zoning Commission Meeting.
  - The new Planning Assistant began this week and is being trained by the former Planning Assistant.
  - Discussed how code enforcement is very important but is limited by the current number of available staff, and that investing in that staff would benefit the City immensely.
  - This will be Interim Director Best's last meeting, and he expressed appreciation for City staff.

K. **ADDITIONAL PUBLIC COMMENTS** – None.

L. **INFORMATION ITEMS** – None.

M. **NEXT MEETING ATTENDANCE NOTIFICATION**

1. September 28, 2022

N. **COMMISSION COMMENTS & QUESTIONS**

Commissioner Woodard expressed appreciation for Interim Director Best's work with the City.

Commissioner Askin thanked Interim Director Best.

Commissioner Halstead noted that the sectional analysis of Ordinance 3316-2022 would be good information for new commissioners. Noted that enforcement is still an issue in the CUP process, and the differing opinions of the Commission is very beneficial to their discussions.

Vice Chair expressed appreciation for Interim Director Best.

Chair Twait asked about applications for Planning and Zoning Commission vacancies.

**O. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 8:30 p.m.

Minutes prepared and submitted by:



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Meghan Thibodeau  
Deputy City Clerk