

**KENAI PLANNING & ZONING COMMISSION –
REGULAR MEETING
JANUARY 25, 2023 – 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 January 25, 2023, 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, G. Woodard, G. Greenberg, J. Glendening, D. Fikes, J. Coston

Commissioners absent: J. Halstead

Staff/Council Liaison present: Planning Director L. Mitchell, Vice Mayor J. Baisden, Deputy Clerk M. Thibodeau, City Attorney S. Bloom, Chief Animal Control Officer J. Hendrickson

A quorum was present.

3. Agenda Approval

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

ACTION

ITEM

Add to item F.2

Action/Approval – Recommending the Kenai City Council Enact Ordinance No. 3332-2023

- Public Comment

MOTION:

Commissioner Greenberg **MOVED** to approve the agenda with the requested revisions. Commissioner Fikes **SECONDED** the motion. There being no objection; **SO ORDERED**.

4. Consent Agenda

MOTION:

Commissioner Greenberg **MOVED** to approve the consent agenda. Commissioner Fikes **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 – J. Halstead

B. APPROVAL OF MINUTES

1. *Regular Meeting of December 28, 2022

Approved by the consent agenda.

C. SCHEDULED PUBLIC COMMENTS – None.

D. UNSCHEDULED PUBLIC COMMENTS – None.

E. CONSIDERATION OF PLATS – None.

F. PUBLIC HEARINGS

1. **Resolution PZ2023-01** – A Request by Joe Rizzo for a Conditional Use Permit to Allow a Performing Arts Center on the Eastern Portion of the Property Described as Tract 4A of Baron Park 2020 Replat, Located at 450 Marathon Road in the Light Industrial (IL) Zone.

MOTION:

Commissioner Fikes **MOVED** to adopt Resolution PZ2023-01. Commissioner Greenberg **SECONDED** the motion.

Planning Director Mitchell presented her staff report with information provided in the packet explaining that the applicant is requesting a Conditional Use Permit (CUP) for a Performing Arts Center. Clarification was provided that the proposed use would be on the eastern portion, approximately two acres of the 5.844 acre lot, and that the plan would be to construct a two-story building to accommodate an audience of up to 150 people. It was noted that the City Council had enacted an ordinance to conditionally donate the land for this project, and the stipulations have been extended for completion of the improvement. The criteria for CUPs were reviewed; it was noted the application met the criteria and City staff recommends approval subject to the following conditions:

1. Any development or use of the property shall comply with all applicable Federal, State of Alaska, and City regulations regardless of whether or not the requirements are listed as conditions for the approval of the Conditional Use Permit.
2. Upon request, the applicant or applicant's representative shall meet with City staff for an on-site inspection.
3. Prior to issuance of a building permit, a landscape/site plan must be reviewed and approved by the Planning and Zoning Department.

Applicant Joe Rizzo explained that Triumvirate has raised approximately \$800,000 from various sources, including corporations, small foundations, and local donors. The project also has secured a grant of \$1 million from the Rasmussen Foundation and has been awarded an additional \$1 million grant through the USDA and Rural Development, through a congressionally directed spending through Senator Murkowski's office. The project team includes an architect from K&A Design Studio, as well as an experienced project manager. A survey to subdivide the property has been ordered and scheduled, and the cost of the survey will be covered by Triumvirate.

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

The Commission expressed support, noting that the project will be a great asset to the community, has been well thought out, and that Mr. Rizzo has been faithful in coming to the City with updates and planning a realistic timeline.

VOTE:

YEA: Fikes, Woodard, Greenberg, Coston, Glendening, Twait

NAY: None.

MOTION PASSED UNANIMOUSLY.

Chair Twait noted the fifteen-day appeal period.

2. **Action/Approval** – Recommending the Kenai City Council Enact Ordinance No. 3332-2023 – Amending Kenai Municipal Code Section 3.10.070-Livestock within the City Limits, to Allow a Maximum of Twelve (12) Chicken Hens to be Kept on Certain Lots Less than 40,000 Square Feet within the City of Kenai.

MOTION:

Commissioner Fikes **MOVED** to recommend the Kenai City Council enact Ordinance No. 3332-2023. Commissioner Woodard **SECONDED** the motion.

Director Mitchell noted that the ordinance is Council-sponsored and proposes to amend the current livestock code to allow a maximum of twelve chicken hens to be kept on certain lots less than 40,000 square feet within city limits. The ordinance addresses the zones prohibited under the current code and provides guidelines for setbacks for coops and enclosures for the allowed chicken hens.

Council Member Douthit explained that he sponsored this ordinance to allow food security in the community by allowing residents to keep a limited number of chickens for eggs and a food source, independent from grocery stores. The ordinance was proposed before the current egg shortage but aligns with the current situation. Douthit cites that many other communities in Alaska and nationwide have similar ordinances and it is becoming a popular trend. The ordinance allows for a small enclosure of up to 12 chickens, enough for a reasonably sized family to have a source of eggs. Douthit also mentioned that this will address the issue of illegal chicken coops in the city, as they are only addressed when there are complaints.

Planning Director Mitchell pointed out that the amendment would be to Title III which is the purview of Animal Control, and requires the keeping of chicken hens to be consistent with the terms of this title, including sanitary conditions. Further discussion involved chicken locations on smaller lots, sizing requirements, current CUP process for keeping chickens, prohibition of roosters in the ordinance, and staff enforcement.

Chair Twait opened for public hearing.

Dan Conetta spoke in opposition to the proposed ordinance, noting that allowing chickens in densely populated neighborhoods like Woodland Subdivision would compromise the character and integrity of the residential neighborhood and create an imbalance between those who want chickens in their residential neighborhoods and those who do not. He suggested alternatives such as adding the RS zone to the prohibit zoning districts, establishing a minimum lot size for raising chickens, or equal treatment for subdivisions with similar profiles.

Dave Howard testified in opposition to the ordinance, citing a personal experience of having a neighbor's renters build a chicken farm with a CUP that did not meet the required conditions. He noted that there is a lack of resources and manpower in the City to enforce code and property lines and that this could lead to conflicts in the neighborhood. He suggested that the City should focus on enhancing and enforcing Animal Control and Planning and Zoning to enforce the code as it is.

Barbara Kennedy testified in support of the ordinance. She emphasized the importance of building proper enclosures for chickens and the responsibility that comes with owning them and spoke about the educational value of raising chickens and the positive impact it has had on her family, specifically her child and her elderly mother. She also mentioned that not everyone will want chickens and that the ordinance is simply legalizing what is already happening in the community.

Ryan Tedford testified in support of the ordinance, noting that he supported allowing residents to raise chickens on their property as long as they are contained in coops and runs. He believes this is a sustainable idea, particularly in light of rising egg prices and the cost of shipping goods to rural areas in Alaska. He does not believe there should be a limit on the number of chickens that can be kept as long as they are properly maintained and confined. He emphasized the importance of sustainability and the positive impact it can have on the community.

Lisa Hansen testified in support of the ordinance, and shared personal experience with keeping chickens on her lot. She stated that 12 hens is not very many and she was easily able to maintain 25-30 hens on an 11,000 foot lot. She highlighted the importance of food security in Alaska, and stated that the noise from chickens is a minor inconvenience compared to the benefits of having a local food source. She also argued that allowing chickens is a step towards legalizing an already common practice in the area, and that a boom in chicken ownership would be short lived if the ordinance passes.

Bob Molloy expressed that he does not support the ordinance as written, and requested that the Commission consider recommending that it not be enacted as written and that it be referred back to the Commission for work sessions. He highlighted several issues with the ordinance, including inequity in zones; lack of regulations for locations of containment areas; and lack of standards for dimensions, materials, and appearance of containment structures; lack of protection against predators; lack of regulations for waste removal and odor; and lack of enforcement and resources for enforcement.

Kristine Schmidt testified in opposition to the ordinance, stating that the current ordinance is unclear and vague and that the same ordinance failed 10 years ago. She also stated that people need specific regulations, enforcement mechanisms, and more Planning and Animal Control staff to make the ordinance work. She also expressed concerns about commercial sales, homeowner consent for tenants, and the appearance of the neighborhood with multiple chicken pens.

Carol Freas stated that she believes that there are many areas of the ordinance that need further review and consideration, as shown by the concerns expressed in letters submitted to the Commission. She also pointed out that other areas of the code could be affected if the ordinance is passed. Freas urged the Commission to refer the ordinance back to the Council, taking into account the points of concern that have been submitted and discussed during the meeting.

Lisa Hansen noted that 40 members of the Woodland Estate Facebook group expressed favor for the ordinance and were excited about the opportunity to have chickens for themselves and their families. She pointed out that there are no setback rules for dog houses or fences, and that chickens can provide food for the community in case of economic shut down.

Council Member Douthit provided clarification in response to questions from the Commission, including omission of RS1 and RS2 from the ordinance and the possibility of additional work sessions to get public consensus. Support was expressed for the ordinance, stating that it provides a path forward for those who want to have chickens.

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

Chief Animal Control Officer Hendrickson clarified the mechanism for Animal Control code enforcement, stating that her department is complaint-driven and would not know about illegal chicken coops until it was reported to them.

Further discussion involved enforcement of a previous Board of Adjustment decision involving livestock, code definitions of livestock including other aviary species, possible postponement of the ordinance to provide more time to hold work sessions and address public concerns, Council's motion to refer the ordinance to the Commission for recommendation, the potential burden of this ordinance on Animal

Control staff, the responsibility of paying for surveys to validate complaints about chicken coop locations, the average number of chickens to supply a family with eggs.

The Commission deliberated how best to provide their recommendations to Council. Some members expressed their support for the ordinance, stating it provides a path forward for those who wish to have chickens as pets or for food. Concerns were also expressed over the ordinance's lack of clarity, the possibility of disputes between neighbors, and the need to clarify issues such as setbacks. It was suggested that a work session be scheduled to further refine the ordinance.

Additional clarification was provided that commercial production of eggs in a residential zone would be in violation, and that the ordinance as written provides that the containment structure may be up to 25 feet from the front yard. Further discussion involved scalability of allowed chickens per household size or residential zone.

MOTION TO INCLUDE CONDITION:

Commissioner Greenberg **MOVED** to recommend that the City Council schedule a Planning & Zoning and/or City Council Work Session prior to enactment of Ordinance No. 3332-2023. Commissioner Woodard **SECONDED** the motion.

VOTE ON MOTION TO INCLUDE CONDITION:

YEA: Greenberg, Coston, Glendening, Twait, Fikes, Woodard

NAY: None.

MOTION TO INCLUDE CONDITION PASSED UNANIMOUSLY.

MOTION TO INCLUDE CONDITION:

Commissioner Greenberg **MOVED** to recommend Council amend Ordinance No. 3332-2023 to include provisions that containment of chickens be restricted to the back of the house in the rear yard. Commissioner Glendening **SECONDED** the motion.

Clarification was provided that the rear yard is defined as everything behind the rear building façade.

VOTE ON MOTION TO INCLUDE CONDITION:

YEA: Glendening, Twait, Fikes, Woodard, Greenberg, Coston

NAY: None.

MOTION TO INCLUDE CONDITION PASSED UNANIMOUSLY.

VOTE ON PRIMARY MOTION AS AMENDED TO INCLUDE CONDITIONS:

YEA: Coston, Glendening, Twait, Fikes, Woodard, Greenberg

NAY: None.

PRIMARY MOTION TO INCLUDE CONDITIONS PASSED UNANIMOUSLY.

G. UNFINISHED BUSINESS – None.

H. NEW BUSINESS

- 1. Action/Approval - Time Extension for Compliance with the Conditional Use Permit Conditions in Resolution PZ2021-38.**

MOTION:

Commissioner Glendening **MOVED** to approve a Time Extension for Compliance with the Conditional Use Permit Conditions in Resolution PZ2021-38. Commissioner Fikes **SECONDED** the motion.

Planning Director Mitchell presented her staff report explaining that the application is requesting a one-year time extension for a Conditional Use Permit (CUP) that was approved on November 10, 2021 for a recreational vehicle park. According to Title 14, the permit has one year to establish the operation before it lapses. However, due to time constraints and the winter season, the applicant had not been able to properly pave for the RV park and is not ready to operate, and an extension is needed to comply with the conditions listed in the resolution PZ2021-38.

VOTE:

YEA: Woodard, Greenberg, Coston, Glendening, Twait, Fikes

NAY: None.

MOTION PASSED UNANIMOUSLY.

I. PENDING ITEMS – None.

J. REPORTS

1. City Council – Vice Mayor Baisden noted that he appreciated the public’s input and the Commission’s discussion during the meeting, and the issue will be taken up by Council at their next meeting on February 1, 2023.
2. Kenai Peninsula Borough Planning – Commissioner Fikes reported on the actions of the January 23, 2023 Kenai Peninsula Borough Planning Meeting.
3. City Administration – Planning Director Mitchell reported on the following:
 - Tentative work session schedule provided in the packet.
 - Update on CUP annual reports: CUP transfers were previously issued as a resolution separate from original resolution; will be working to clean up the record and streamline the process for the future.
 - Planning Administrative Assistant III position has been posted and will close next week.
 - She will be meeting with the State Historic Preservation Office to update them on the City’s historic preservation; the City is eligible for grants if we meet requirements which include holding historic preservation meetings with commissioners that have backgrounds in architecture, history, or archaeology.

K. ADDITIONAL PUBLIC COMMENTS

Kristine Schmidt shared information about the changes to the RS zone restrictions in the 90s, and how zoning changes came about when planning responsibilities were transferred from the Borough to the City. She explained that the City of Wasilla requires administrative approval or permits for chickens and advocated for permits to keep track of chicken ownership in the neighborhood.

L. INFORMATION ITEMS – None.

M. NEXT MEETING ATTENDANCE NOTIFICATION

1. Next Meeting Date: February 8, 2023

Commissioner Greenberg noted that he may be absent.

N. COMMISSION COMMENTS & QUESTIONS

Commissioner Glendening thanked everyone for their hard work, expressed appreciation for the discussion, and thanked Planning Director Mitchell for her leadership.

Commissioner Coston thanked Chair Twait.

Commissioner Greenberg noted that the Commission had a good discussion, and there would be value in having a work session where experts could weigh in on the issue.

Commissioner Fikes noted the difficulty in finding a solution that would address all concerns in the timeframe provided, and said she hoped the Council will listen to the Commission's recommendations moving forward.

O. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 9:49 p.m.

Minutes prepared and submitted by:



Meghan Thibodeau
Deputy City Clerk