

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

**MINUTES**

**A. CALL TO ORDER**

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

**1. Pledge of Allegiance**

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

**2. Roll Call**

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

Commissioners absent:

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

A quorum was present.

**3. Agenda Approval**

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

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

**MOTION:**

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

**4. Consent Agenda**

**MOTION:**

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

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

5. \*Excused absences – None

**B. APPROVAL OF MINUTES**

1. \*April 28, 2021

The minutes were approved by the Consent Agenda.

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

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

**E. CONSIDERATION OF PLATS**

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

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

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

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

**MOTION:**

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

**VOTE:**

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

NAY:

**MOTION PASSED UNANIMOUSLY.**

**F. PUBLIC HEARINGS**

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

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

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

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

#### **MOTION:**

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

Chair Twait opened for public hearing.

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

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

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

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

some people find to be undesirable.

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

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

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

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

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

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

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

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

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

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

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

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

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

**MOTION TO AMEND:**

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

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

**VOTE ON AMENDMENT:**

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

**MOTION FAILED.**

**MOTION TO POSTPONE:**

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

**VOTE ON POSTPONEMENT:**

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

**MOTION FAILED.**

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

## VOTE ON MAIN MOTION:

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

## MOTION PASSED UNANIMOUSLY.

Chair Twait noted the fifteen-day appeal period.

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

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

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

## MOTION:

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

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

Chair Twait opened for public hearing.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**VOTE:**

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

**MOTION PASSED.**

Chair Twait noted the fifteen-day appeal period.

**MOTION:**

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

Chair Twait opened for public hearing.

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

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

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



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

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

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

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

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

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

**VOTE:**

YEA: Greenberg

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

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

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

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

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

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

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

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

**MOTION FAILED.**

Chair Twait noted the fifteen-day appeal period.

G. **UNFINISHED BUSINESS** – None.

H. **NEW BUSINESS**

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

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

**MOTION:**

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

**VOTE:**

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

**MOTION PASSED UNANIMOUSLY.**

I. **PENDING ITEMS** – None.

J. **REPORTS**

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

K. **ADDITIONAL PUBLIC COMMENT**

1. Citizens Comments

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

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

2. Council Comments

**L. INFORMATIONAL ITEMS**

**M. NEXT MEETING ATTENDANCE NOTIFICATION**

1. May 26, 2021

**N. COMMISSION COMMENTS & QUESTIONS**

Commissioner Greenberg noted that he appreciated the lively debate.

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

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

**O. ADJOURNMENT**

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

Minutes prepared and submitted by:



Meghan Thibodeau  
Deputy City Clerk

