

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

**REQUESTED REVISIONS TO THE PACKET**

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

May 10, 2021

City of Kenai  
Planning & Zoning Commission

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

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

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

Respectfully,

Evelyn Dolchok Huf  
700 Dolchok Lane  
Kenai, AK 99611

## Wilma Anderson

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

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

To whom this may concern

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

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

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

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

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

Sent from my iPad

## Wilma Anderson

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

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



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

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

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

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

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

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

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

May 10, 2021

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

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

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

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

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

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

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

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

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

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

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

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

6) "Specific conditions deemed necessary"

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

May 10, 2021

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

Do not approve these permits.

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

Samantha Singleton

## Wilma Anderson

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

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



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

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

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

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

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

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

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

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



***"Preserve the rural, open quality of the environment"***

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Peter M. Coots  
385 Dolchok Lane  
Kenai, AK 99611

## Wilma Anderson

---

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

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

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

Respectfully,  
Suzanne Klaben  
325 Dolchok lane

## Wilma Anderson

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

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Yes, I approve.

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

Mr. Plagge,

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

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

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

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

Willie Anderson

Planning Assistant

210 Fidalgo Avenue

Kenai, AK 99611

907-283-8237 Phone

## Wilma Anderson

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**From:** Kelsey Daniel <kelsey\_daniel20@hotmail.com>  
**Sent:** Wednesday, May 12, 2021 12:41 PM  
**To:** Wilma Anderson; Ryan Foster  
**Subject:** Opposition to Resolution PZ2021-16 and PZ2021-17

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

To the City of Kenai Planning and Zoning Board,

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

Thank you,

Kelsey Daniel  
570 Dolchok Lane  
Kenai, AK 99611

## OPPOSITION TO APPLICATION FOR CONDITIONAL USE PERMIT

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

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

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

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

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

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

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

Respectfully submitted,

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

Robin P. Lemay  
Printed name.  
Robin P. Lemay  
Signature  
5055 Kim N Ang Ct  
Street Address

David Lemay  
Printed name  
David Lemay  
Signature  
5055 Kim N. Ang Ct  
Street Address

Kelsey Daniel  
Printed name  
Kelsey Daniel  
Signature  
570 DOLCHOK LN  
Street Address

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

Mark Junek

Printed name.

Mark Junek

Signature

3065 Kim N Ang Ct

Street Address

C.R. Baldwin

Printed name

C.R. Baldwin

Signature

3080 Kim-N-Ang Ct.

Street Address

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

Lisa Langham

Printed name.

Lisa Langham

Signature

3070 Basin View Way

Street Address

BARBARA L. BALDWIN

Printed name

Barbara L. Baldwin

Signature

3080 KIM-N-ANG CT.

Street Address

465 Cub Ct  
3075 Kim-N-Ang Ct

Jerry Huff

Printed name.

Jerry Huff

Signature

765 Ame's Rd.

Street Address

Mykle Ables

Printed name

Mykle Ables

Signature

3070 Kim-n-Ang Ct

Street Address

Franz Plagge

Printed name.

Franz Plagge

Signature

370 & 390 Dolchok LN

Street Address

Pamela Ables

Printed name

Pamela Ables

Signature

3070 Kim N Ang Ct

Street Address

Joshua Sornig

Printed name.

Joshua Sornig

Signature

4460 Beaver loop rd.

Street Address

CHARLES E. EUBANK

Printed name

Charles E. Eubank

Signature

3050 KIM-N-ANG CT

Street Address

**OPPOSITION TO APPLICATION FOR CONDITIONAL USE PERMIT**

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

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

1. The proposed use is inconsistent with the purpose of KMC 14.20. The intent of the chapter is "to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment." The neighborhood of the undersigned is such an environment. The proposed use would destabilize the environment and render it less attractive for the current single-family homes. It would add additional traffic, uncontrolled noise of persons who have no ties to the neighborhood and no particular motivation to act as would the typical residential neighbor. The value of homes for residential purposes within the neighborhood would thus be diminished and their value as potential additional "lodges" enhanced, thereby contributing to market instability and a decline in the value of the neighborhood for single-family residential purposes.
2. The proposed use is incompatible with the surroundings and does not meet the conditions and requirements of KMC 14.20. The neighborhood is currently a quiet residential neighborhood of people who respect each other's privacy and for the most part are considerate of their neighbors. To the extent that most people have cars and boats, they are screened from view, thus contributing to an attractive environment. The parking area of the "lodge" is not screened from the road and adding to the owner's vehicles and boat trailers the vehicles of clients of the fishing guides would create an eyesore not presently existing anywhere else in the neighborhood. As noted above, adding a transient population of people with little incentive to act responsibly is sure to add a level of noise not currently existing – and the noise is most likely to begin as early as 5:00 a.m., at a time of year when most residents sleep with their windows open because of the heat.
3. The proposed use would be in violation of the subdivision covenants. The Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Basinview Subdivision Part 3 provides at Section 2(c):

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

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

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

Respectfully submitted,

\_\_\_\_\_  
 Printed name: WACK PADGETT  
 \_\_\_\_\_  
 Signature: [Handwritten Signature]  
 \_\_\_\_\_  
 Street Address: 855 Ames Road  
Kenai, AK 99611

\_\_\_\_\_  
 Printed name: Ronald Rogelsky  
 \_\_\_\_\_  
 Signature: [Handwritten Signature]  
 \_\_\_\_\_  
 Street Address: 945 Ames Rd  
Kenai AK 99611

Printed name.

Printed name

Signature

\_\_\_\_\_

Street Address

*Harris N Miller*

Printed name.

*Harris N Miller*

Signature

*Harris N Miller*

Street Address

*911 Ames Rd  
Kenai Alaska 99611*

Printed name.

*Don Meyer*

Signature

*Don Meyer*

Street Address

*620 Ames Rd  
Kenai, AK*

Printed name.

*Jane Mathies-Holtan*

Signature

*Jane V. Mathies Holtan*

Street Address

*430 Ames Rd  
Kenai AK*

Printed name.

*Terry Davis*

Signature

*Terry Davis*

Street Address

*785 Ames Rd  
Kenai, AK*

Signature

\_\_\_\_\_

Street Address

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

Printed name

*VALERIE A. EUBANK*

Signature

*Valerie A Eubank*

Street Address

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Printed name

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Signature

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Signature

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Street Address

## Wilma Anderson

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

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



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

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

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

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

---

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

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

Sincerely,

1-29851-47

BOL. 216 PAGE 242

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

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P.O. Box 53 Kenai, AK

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

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

RECITAL

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

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

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

COVENANTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

*Ronald T. Dolchok*  
RONALD T. DOLCHOK

STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT ) ss

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

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



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