



## Conditional Use Permit Application

City of Kenai  
Planning and Zoning Department  
210 Fidalgo Avenue  
Kenai, AK 99611  
(907) 283-8200  
planning@kenai.city  
www.kenai.city/planning

### PROPERTY OWNER

Name: Steve Agne + Jackey Hess  
Mailing Address: PO BOX 244661  
City: Anchorage State: AK AK Zip Code: 99524  
Phone Number(s): (907) 229-0583 (907) 440-9332  
Email: AKSteveA@hotmail.com

### PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)

Name:   
Mailing Address:   
City: State: Zip Code:   
Phone Number(s):   
Email:

### PROPERTY INFORMATION

Kenai Peninsula Borough Parcel # (Property Tax ID): 04910134C002  
Physical Address: 2101 BowPicker Lane, Unit C502 Kenai AK  
Legal Description: T05N, R11W sect 8+17, Kn 1022-036 Unit C52  
Zoning: IH, PUD P2-2021-10  
Acres: .12

### CONDITIONAL USE DESCRIPTION

(include site plan/floor plan with square footages)  
(include State Business License and KPB Tax Compliance if applicable)

How is this property currently being used? Please see attached memo  
Conditional Use Requested for (attach additional sheets if necessary):

See Attached Memo

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

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

Use of surrounding property - north:	
Use of surrounding property - south:	
Use of surrounding property - east:	
Use of surrounding property - west:	
Explain how the conditional use is in harmony with the City's Comprehensive Plan:	
Are public services and facilities on the property adequate to serve the proposed conditional use?	
Explain how the conditional use will not be harmful to public safety, health, or welfare:	
Are there any measures with access, screening, site development, building design, or business operation that will lessen potential impacts of the conditional use to neighbors?	
<p><b>AUTHORITY TO APPLY FOR CONDITIONAL USE:</b></p> <p>I hereby certify that (I am) (I have been authorized to act for) owner of the property described above and that I petition for a conditional use permit in conformance with Title 14 of the Kenai Municipal Code. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff of the Planning and Zoning Commission for administrative reasons. I understand that a site visit may be required to process this application. City of Kenai personnel are authorized to access the above-referenced property for the purpose of processing this application.</p>	
Signature:	<div>Stephen M Agn</div> <div>Date: 1-11-2024</div>
Print Name:	<div>Stephen M. Agn</div> <div>Title/Business: OWNER Unit CS-2</div>
<div>For City Use Only</div> <div>Date Application Fee Received:</div> <div>PZ Resolution Number:</div>	

## **Memorandum in Support of Conditional User Permit Application**

**Authorizing Short Term Rentals within:** Home Port Planned Unit Development PZ 2021-10

**Submitted By:** Steve Agni, Co-Owner of Unit CS-2, Home Port PUD

**Date:** 1/10/2024

This Memorandum will supplement and become a part of the Conditional Use Permit Application submitted by Steve Agni and Jackey Hess owners of Unit CS-2 and pertain to ALL units now or hereafter constructed within the approved PUD area pursuant to PZ 2021-10.

**How is the Property currently being used:** The Property is being used for residential purposes including short term rental in the summer of 2022 and limited home office activity.

**Conditional Use Requested:** The Conditional Use requested is the authorization of short term rental of the entire dwelling, consistent with limitations specified in the Declaration of Covenants Conditions and Restrictions filed in the Kenai Recording District Document No. 22-060024-0. Bed and Breakfast activities involving the rental of a room or portion of a dwelling are not part of or requested by this application.

**Explain how the Conditional Use is consistent with the purposes and intent of the zoning district of the property:** The IH or Heavy Industrial district zoning applicable to the property allows for many industrial and commercial activities that are most appropriate when separated from other residential uses. The PUD passed in 2021 by the Planning Commission added residential uses to the Property. It did not restrict or otherwise limit the property to traditional residential use. PUD 2021-10 added use authorization. It did not limit use authorization.

Short term rentals are a modern expression of residential use, but are clearly a residential use and activity. Persons renting the dwelling unit use it to occupy and live within in. They conduct the residential purpose albeit for it limited period of time and that activity is consistent with the multiple and varied types of uses contemplated with the "IH" zone.

**Use of Surrounding Property North:** Undevelopable wetlands parcel of about twenty acres.

**Use of Surrounding Property South:** Commercial lodging, offices and dining. The "Cannery Lodge."

**Use of Surrounding Property East:** Kenai River and undevelopable wetlands exceeding 100 acres.

**Use of Surrounding Property West:** Right of way, Cannery road with Industrial and wetlands.

**Explain how the conditional use is in harmony with the City's Comprehensive Plan:** The City of Kenai Comprehensive Plan has recognized that the historic fish processing activity along the Kenai River which includes this Property are no longer viable as commercial fish processing. The land and facilities comprising this area must be re-purposed to serve usages that are economically productive and add much needed assessed value. New residential activity and development that does not intrude into existing neighborhoods that allows for short term rentals will contribute to the viability of new development and ultimately enhance the assessed value of these legacy fish processing sites.

**Are public services and facilities on the property adequate to serve the proposed Conditional Use.**

As concluded by the Planning Commission in 2021, public and private utilities and services are present in sufficient kind and quantity to support up to sixty dwelling units.

**Explain how the Conditional Use will not be harmful to the public safety, health or welfare:** There are no existing residential properties that adjoin or are even within ordinary hearing distance of the PUD site or the specific unit CS-02 described here. This Conditional Use activity, short term rentals is being authorized in a new development that is physically separated by very large distances from existing residential development. Any new buyer or resident in the new Home Port Development is charged with knowledge of the Recorded Declarations governing the property. That Declaration addresses short term rentals specifically and provides strict controls on the activity enforced by the Home Owners Association granted power to enforce the terms with the right to impose penalties and exercise liens against non-compliant owners and activities. A copy of the relevant sections of the recorded Declaration is attached here.

**Are there any measures with access, screening, site development, building design or business operations that will lessen the potential activities of the use to neighbors:** In addition to the physical separation and the HOA management of the PUD, specific building attributes are included in the new dwellings constructed at Home Port. Anticipating short term rentals, the new residential units have fire suppression sprinklers installed to current lodging codes. Windows and view-scapes have been placed in the dwellings to minimize view to and from adjacent units, while emphasizing views to the open spaces. Parking is provided both as enclosed within the dwelling and in specified outdoor spaces, all subject to HOA control. The entire Home Port development is now controlled by an automatic access gate intended to limit access only to Owners and authorized guests.

**Conclusion:** Short term rentals at Home Port are limited to stays of three days or more and require a rental of the entire dwelling unit all subject to a rigorous set of limitations set forth in the recorded Declaration that renters and owners are all subject to. There are no existing dwellings nearby to the property that could be affected if there was any undesirable results. Short term rentals are in fact a residential activity and use that are conducted by individuals who occupy the dwelling for a time shorter than traditional rentals. When subject to proper controls this activity will enhance assessed values and enjoyment of property for both Owners and the occupants.

*Thank you for your approval of this Conditional Use Application allowing short term rentals within the Homeport PUD (PZ 2021-10) consistent with the Recorded Declaration.*

- (d) Each lease must attorn to the Association as landlord solely for the purpose of enforcing the restrictions of the Documents following Notice and Hearing to the Unit Owner, and an opportunity to cure the violation, and then by direct levy, injunction and/or eviction by summary process, against the tenant(s). The Association will not otherwise assume the responsibilities or obligations of the Unit Owner under the lease.
- (e) A true and complete copy of the lease, the name and current telephone contact number of each tenant, and the name and current telephone contact number of the Unit Owner (or their designated agent), shall be provided to the Executive Board at least five (5) days prior to the first day of the lease term. The Unit Owner shall promptly provide the Executive Board with written notice of any termination of the lease.
- (f) A copy of the Rules must be conspicuously posted or displayed within the Unit.
- (g) The Unit Owner must either be personally available by telephone or have a designated agent available by telephone at all times during the term of the lease. If a Unit Owner will not be personally available, the name and telephone contact number of their designated agent shall be provided to the Association in writing prior to the first day of the lease term. The Unit Owner or their designated agent must be able to promptly contact the tenant(s) for purposes of addressing any complaints and/or violations of the Documents.
- (h) The Unit Owner must obtain and maintain appropriate insurance coverage for property damage or personal injury caused by any tenant(s) or otherwise arising from the lease of the Unit. Proof of such insurance shall promptly be provided to the Executive Board upon request.
- (i) The Unit Owner shall remain liable for compliance with the Documents, and shall be responsible for securing such compliance from the tenant(s) of the Unit.
- (j) The Unit Owner shall be responsible for the payment of all assessments or fines that are assessed by the Association as a result of the actions or omissions of any tenant(s) or their guests.

**Section 9.28 - Transient Usage.** No Unit may be used for bed and breakfast, transient, hotel or motel purposes. If a Unit is owned or leased by a business entity or individually owned business, the occupancy of the Unit by employees or guests of the business is permitted only if the same employee(s) or guest(s) intends to occupy the Unit for a period of at least three (3) days.



within the Common Elements unless expressly authorized by, and then subject to such conditions as may be imposed by, the Executive Board:

- (i) Disposing of lawn or yard waste.
- (ii) Disposing of Garbage or other materials.
- (iii) Cutting, mowing, harvesting, or disturbing the trees, shrubbery, or other natural vegetation.
- (iv) Overnight camping or the erection of tents or other shelters.
- (v) Processing fish or other animals.

Section 9.25 - Compliance with Documents and Law. The use of a Unit and all activities within the Common Interest Community shall be in compliance with the provisions of the Declaration and other Documents, and Unit Owners and Improvements within a Unit shall comply with and conform to all applicable Federal, State, and local laws and regulations. A violating Unit Owner shall hold the Association and other Unit Owners harmless from all demands, claims, fines, penalties, costs, fees, damages, losses, awards, judgments and liabilities that in any way arise out of, result from, the violation thereof or non-compliance therewith.

Section 9.26 - Liability for Hazardous Materials. In the event that any fuel, oil, lubricant, or other Hazardous Material is spilled, released or discharged in any Unit or in, on or about any Common Element, or any property or surface or ground water adjacent thereto, the Unit Owner who caused or suffered, or whose invitee caused or suffered, such spill, release or discharge, shall: (a) promptly respond to and remediate such spill, release or discharge in accordance with the requirements of applicable law; and (b) defend, indemnify and hold harmless the Association, the other Unit Owners and the State from all demands, claims, fees, fines, penalties, judgments, awards, costs, damages, losses, obligations, and liabilities that in any way arise out of, result from or are based upon any legal obligation to respond to, remediate and/or dispose of such spilled, released or discharged fuel, oil, lubricant, or Hazardous Material.

Section 9.27 - Leasing. No Unit, or any portion thereof, may be conveyed pursuant to a time-sharing plan. A Unit may be rented only by a written lease, subject to the following:

- (a) The lease shall be for the entire Unit. A lease of only a portion of a Unit is prohibited.
- (b) Each lease must have a lease term of at least three (3) days, which lease term must be entered into in good faith.
- (c) Each lease must incorporate the terms and restrictions of the Documents as a personal obligation of each tenant.

