



**Kenai Planning & Zoning Commission -
Regular Meeting**

July 14, 2021 – 7:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

****Telephonic/Virtual Information on Page 2****

www.kenai.city

Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda
5. *Excused Absences

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.

B. APPROVAL OF MINUTES

- [1.](#) *Regular Meeting of June 23, 2021

C. SCHEDULED PUBLIC COMMENT

Public comment limited to ten (10) minutes per speaker)

D. UNSCHEDULED PUBLIC COMMENT

*(Public comment limited to three (3) minutes per speaker;
thirty (30) minutes aggregated)*

E. CONSIDERATION OF PLATS

F. PUBLIC HEARINGS

- [1.](#) **Resolution PZ2021-26** - Application for a Variance Permit to Allow for a Rear Yard Setback of Five Feet where a Twenty-Foot Setback is Required and Height Restriction of Twelve Feet for a One-Story Accessory Building on Property Described as Lot 5, Block 3, Deepwood Park Subdivision Amended, and Located at 110 Deepwood Ct., Kenai, AK 99611. The Application was Submitted by Brad Nyquist, P.O. Box 1821, Kenai AK 99611.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

- 1. Action/Approval** - Special Use Permit to Kenai Chamber of Commerce and Visitor Center for the Moosemeat John Cabin.
- 2. Action/Approval** - Recommendation for Ordinance No. 3222-2021 - Determining that Real Property Described as Lot 1A, Block 1, Deshka Subdivision, City-Owned Airport Land Located Outside the Airport Reserve, is not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals (2016), LLC.
- 3. Action/Approval** - Recommendation for Ordinance No. 3221-2021- Determining that real property described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, city-owned airport land located outside the airport reserve, is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals, an Alaska Partnership.

I. PENDING ITEMS

J. REPORTS

- 1.** City Council
- 2.** Kenai Peninsula Borough Planning
- 3.** City Administration

K. ADDITIONAL PUBLIC COMMENT

(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)

- 1.** Citizens Comments *(Public comment limited to five (5) minutes per speaker)*
- 2.** Council Comments

L. INFORMATIONAL ITEMS

M. NEXT MEETING ATTENDANCE NOTIFICATION

- 1.** July 28, 2021

N. COMMISSION COMMENTS AND QUESTIONS

O. ADJOURNMENT

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Join Zoom Meeting

<https://us02web.zoom.us/j/85370273695> **OR Call:** (253) 215-8782 or (301) 715-8592

Meeting ID: 853 7027 3695 **Passcode:** 916890

**KENAI PLANNING & ZONING COMMISSION
REGULAR MEETING
JUNE 23, 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, J. Halstead, G. Greenberg, D. Fikes, G. Woodard

Commissioners absent: A. Douthit, R. Springer

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.1.

Resolution PZ2021-24

- Emails objecting to Conditional Use Permit application for fire wood bundling business (storage yard)

MOTION:

Commissioner Halstead **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 Halstead **MOVED** to approve the consent agenda and Commissioner Woodard **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 – A. Douthit, R. Springer

B. APPROVAL OF MINUTES

1. *Regular Meeting of June 9, 2021

The minutes were approved by the Consent Agenda.

C. SCHEDULED PUBLIC COMMENT – None.

D. UNSCHEDULED PUBLIC COMMENT – None.

Kelly Kelso discussed industrial development near her neighborhood. She noted that at a previous Planning & Zoning Commission meeting regarding such development, she felt as though the Commission listened to the wishes of the neighborhood, and asked the Commission to consider the integrity of the residential area when considering future development proposals.

Barb Christian reiterated the previous public comments of her neighbor, noting that she is interested in keeping industrial development as attractive as possible. She suggested keeping colors green and brown so it blends in, and expressed concern about glaring lights and wetlands protection.

E. CONSIDERATION OF PLATS – None.

F. PUBLIC HEARINGS

1. **Resolution PZ2021-24** - Application for a Conditional Use Permit for a firewood bundling business (storage yard) in the Rural Residential zone, on Lot 24, Block 3, VIP Ranch Estates Subd. Part 6, and located at 2825 Bowpicker Lane. The application was submitted by Tracey Hedlund-Smith, 2740 Set Net Ct., Kenai, AK 99611.

MOTION:

Commissioner Halstead **MOVED** to approve Resolution No. PZ2021-24 and Vice Chair Fikes **SECONDED** the motion.

Planning Director Foster presented his staff report with information provided in packet explaining that the applicant wishes to obtain a Conditional Use Permit (CUP) for the purposes of splitting and bundling firewood for sale. He noted that there had been an error in sign posting which had been corrected. 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. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
3. The applicant will meet with City staff for on-site inspections when requested.
4. 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).
5. 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.
6. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

Chair Twait opened for public hearing.

Joe Lyons spoke in opposition to the CUP, expressing concern over spruce bark beetles, hours of operation, noise from the log splitter, fire danger and lack of a buffer zone.

Martha Eldridge explained that many trees that had already been removed from the area due to spruce bark beetles, and expressed concern over noise and resulting stress on the neighborhood children, removal of wildlife habitat, and fire danger.

Mary Rowley expressed concern about road access to the property, the diminishing number of trees on the property affecting the noise buffer, spraying wood with chemicals and water contamination, effects on home insurance rates, and increased dust.

Andrea Johnson spoke in opposition and asked the Commission to order on-site inspection. She stated that she had found discrepancies such as application statements being misleading or untrue, and the error in posting the hearing date. She expressed concern for road usage, excessive operating hours, increase of spruce bark beetles, and tree removal.

Trudy Jones noted that her main concern is road access to the land, and suggested the Commission get more information about trucking safety because of the children who play in these streets.

Matt Smith explained that they had purchased this property because they did not want it to be developed. He clarified that the wood is seasoned to prevent beetles. He explained that it is a family business that will not significantly increase traffic nor bring in many trees from outside, and if successful will only exist on that property only until they move to a commercial property elsewhere.

Gene Backstrom explained he is concerned about the noise and traffic affecting the children in the neighborhood. He expressed doubt about claims that it is a temporary location.

Barbara Backstrom expressing concern for children in the area due to noise and traffic, and commercial activities taking place in a residential area.

Greg Baiser noted that his main concern was hearing the noise. He asked whether it would be possible to provide the applicant the CUP on a temporary basis. He expressed concern for large vehicle traffic and long hours of operation.

Tracey Hedlund-Smith explained that she intends for this to be a small family business, and that they will not be working during all listed hours of operation. She clarified that any traffic will be

deliveries and the public will not be coming to pick up from the property. She noted that as a family with children whose home is adjacent to this property, they are very invested in maintaining low traffic and fire safety in the area.

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

Discussion from the Commission included the level of noise and traffic that the business would generate, its effects on the spruce bark beetle infestation, and fire hazard concerns.

Clarification was provided on the annual review process for CUPs and that there are provisions in code to rescind CUPs through this process, but they are not specific to noise complaints. It was explained that there is not currently precedent in code for issuing a CUP for only a limited period of time.

They considered whether conditions should be imposed regarding hours of operation, restricting the time limit of the CUP, noise complaints, and the applicant's plan for fire hazard mitigation.

MOTION TO AMEND:

Vice Chair Fikes **MOVED** to amend Resolution PZ2021-24 by adding Condition 7 to state that hours of operation for splitting will not include Saturday or Sunday. Halstead **SECONDED** the motion.

The Commission discussed the effect of noise on the neighborhood during the weekends.

VOTE ON AMENDMENT:

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

MOTION PASSED.

MOTION TO AMEND:

Commissioner Greenberg **MOVED** to amend Resolution PZ2021-24 by adding Condition 8 that includes a requirement for practicing defensible space as defined by Division of Forestry. Vice Chair Fikes **SECONDED** the motion.

VOTE ON AMENDMENT:

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

MOTION PASSED UNANIMOUSLY.

VOTE ON MAIN MOTION AS AMENDED:

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

MOTION PASSED.

Commission Chair Twait noted the 15-day appeal period.

MOTION TO RECONSIDER THE QUESTION:

Commissioner Greenberg **MOVED** to reconsider the question to approve Resolution PZ2021-24. Commissioner Woodard **SECONDED** the motion. There were no objections; **SO ORDERED.**

MOTION TO AMEND:

Commissioner Greenberg **MOVED** to amend Resolution PZ2021-24 by changing Condition 7 to state that hours of operation for splitting will not include Saturday or Sunday unless the applicant uses an electric splitter.

VOTE ON AMENDMENT:

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

MOTION PASSED UNANIMOUSLY.

VOTE ON MAIN MOTION AS AMENDED:

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

MOTION PASSED UNANIMOUSLY.

G. UNFINISHED BUSINESS – None.

H. NEW BUSINESS

- 1. Action/Approval** - Conditionally Donating Certain City Owned Property Described as Two Approximate 1 1/4 Acre Parcels to be Subdivided from a Portion of the 72 Acre More or Less Portion of the SE 1/4 Lying East of Tract A Kenai Meadows (KPB Parcel No. 039 010 65) To Kenai Peninsula Housing Initiative for the Development of Restricted Income and Senior Housing.

MOTION:

Vice Chair Fikes **MOVED** to recommend approval of Conditionally Donating Certain City Owned Property Described as Two Approximate 1 1/4 Acre Parcels to be Subdivided from a Portion of the 72 Acre More or Less Portion of the SE 1/4 Lying East of Tract A Kenai Meadows (KPB Parcel No. 039 010 65) To Kenai Peninsula Housing Initiative for the Development of Restricted Income and Senior Housing. and Commissioner Halstead **SECONDED** the motion.

Clarification was provided that the City had previously donated parcels to Kenai Peninsula Housing Initiative for low income and senior housing and those projects are now complete. They are now requesting two additional parcels, and staff recommends approving this with the addition of a 60 foot right-of-way, which would provide access to 72 acres of City-owned land.

Discussion included the potential for future development in the area and extension of water and sewer services.

VOTE:

YEA: Greenberg, Woodard, Twait, Halstead, Fikes

NAY:

MOTION PASSED UNANIMOUSLY.

2. **Action/Approval** - Conditionally Donating Certain City Owned Property Described as One Approximate 2 Acre Parcel to be Subdivided from a Portion of the 6.8 Acre More or Less Portion of the East of Tract 4, Baron Park Subdivision (KPB Parcel No. 045 010 35) to Triumvirate Theatre for the Development of a Theatre Facility.

MOTION:

Commissioner Halstead **MOVED** to recommend approval of Conditionally Donating Certain City Owned Property Described as One Approximate 2 Acre Parcel to be Subdivided from a Portion of the 6.8 Acre More or Less Portion of the East of Tract 4, Baron Park Subdivision (KPB Parcel No. 045 010 35) to Triumvirate Theatre for the Development of a Theatre Facility. Commissioner Woodard **SECONDED** the motion.

Clarification was provided that the theatre's previous facility burned down in February 2021 and they are looking to rebuild. The new theatre would be approximately 5,000 square feet, is centrally located and next to the site of the future dog park. The value of the donation and the timeframe for construction was discussed.

VOTE:

YEA: Twait, Halstead, Fikes, Greenberg, Woodard

NAY:

MOTION PASSED UNANIMOUSLY.

I. **PENDING ITEMS** – None.

J. **REPORTS**

1. **City Council** – Council Member Glendening reported on the actions from the June 16, 2021 City Council meeting, and upcoming Board of Adjustment hearings.
2. **Borough Planning** – No report.
3. **City Administration** – Planning Director Foster reported on the following:
 - Upcoming meeting on July 14, 2021 is anticipated to include one assignment, one Special Use Permit, and two proposed land sale ordinances.

K. **ADDITIONAL PUBLIC COMMENT** – None.

L. **INFORMATIONAL ITEMS**

M. NEXT MEETING ATTENDANCE NOTIFICATION

1. July 14, 2021

N. COMMISSION COMMENTS & QUESTIONS

Commissioner Halstead thanked Director Foster for the well-presented training.

Commissioner Greenberg thanked Director Foster for the training work session.

Vice Chair Fikes thanked Director Foster for the training presentation.

Chair Twait discussed land use maps that had previously been in Chambers, and requested they be reprinted.

O. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 9:27 p.m.

Minutes prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-26**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **GRANTING** A VARIANCE PERMIT TO ALLOW FOR A REAR YARD SETBACK OF FIVE FEET WHERE A TWENTY-FOOT SETBACK IS REQUIRED; AND A VARIANCE TO ALLOW FOR A HEIGHT OF SEVENTEEN FEET FOR A ONE STORY ACCESSORY STRUCTURE LOCATED AT LOT 5, BLOCK 3, DEEPWOOD PARK SUBDIVISION AMENDED

APPLICANT: Brad Nyquist

PROPERTY ADDRESS: 110 Deepwood Court

LEGAL DESCRIPTION: Lot 5, Block 3, Deepwood Park Subdivision Amended

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04938035

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150, Variance permit – Permit Application, was submitted to the City; and,

WHEREAS, Kenai Municipal Code 14.24.020 – General Requirements requires a rear yard setback of twenty-feet (20') in the Suburban Residential (SR) zone;

WHEREAS, Kenai Municipal Code 14.20.200(a)(5) – Accessory Structures - provides that “one story in height is a maximum of twelve feet (12’) high as measured from the ground to the highest point of the subject structure roof”; and

WHEREAS, the applicant has demonstrated with plans and other documents that all of the conditions have been found to exist as a prerequisite to issuance of a variance permit pursuant to Kenai Municipal Code 14.20.180(c), Variance permit – Review Criteria; and,

WHEREAS, the Planning and Zoning Commission finds:

1. *Special conditions or circumstances are present which are peculiar to the land or structures involved which are not applicable to other lands or structures in the same zoning district.*

Applicant Response: The 20 ft. ROW is not a usable space for constructing a road or usable pathway due to swamp nature. The structure in question will still be set back 20 to 25 feet from the neighbors lot line. This is basically an unusable piece of property for normal use and would love to use this low area as usable space. Moving 20 feet off my back line would encroach upon large birch trees.

Staff Response: Staff discussed with the applicant the possibility of decreasing the size of the deck structure so that he could comply with Kenai Municipal Code 14.20.200(2) which

states as follows:

Covered but unenclosed passenger landings, or storage sheds of not more than two hundred (200) square feet, with no side or end longer than sixteen feet (16'), and not more than one (1) story in height may extend into the rear yard, but such structure shall not be closer than five feet (5') to the rear lot line; and

Applicant felt that reducing the size of the deck would not leave enough usable space for him to install a railing and that would create a safety issue.

The applicant has indicated that the area behind his residence is sloped and that the area where he wishes to construct the deck and accessory structure (storage shed) is the flattest part of the property.

The distance between the deck and property line will be five feet; however, there is a twenty-foot right-of-way adjacent to the applicant's property line that would provide for an additional twenty-feet from the rear neighbor's property line. Said right-of-way is reserved for use as drainage and non-vehicular transportation corridors.

2. *The special conditions or circumstances have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute a pecuniary hardship or inconvenience.*

Applicant Response: The property behind the house is sloped and the West end (back) is the flattest part of the property. If the structure is placed in other open areas of the property, I would have to remove remaining deciduous trees: I have removed 11 beetle-kill spruce trees in the last year. A structure in any other open part of the property would shade the garden and greenhouse. A structure in other open spaces on the lot would be more visible to the North and South neighbors due to height on more elevated portions of the lot. The space at the far back part of the lot is not suitable for any other purpose or activity other than this proposal. It is a low, flat area and in my opinion, this is the best management of the space on this lot.

Staff Response: Staff finds that it is reasonable for the applicant to place the deck and accessory structure in the proposed location since placing it at another location on the lot would necessitate the removal of additional trees. Also, the applicant states that would not be visible by any neighbor as it is in a low area on the property; the location is twenty-feet (20') in elevation lower than the residence. A five foot rear yard setback should not negatively impact the adjacent 20 foot ROW.

3. *The granting of the variance shall not authorize a use that is not a permitted principal use in the zoning district in which the property is located.*

Applicant Response: There is no restriction in zoning that I am aware of for a deck to be built and used in this space. If I put a structure on it would be a building for personal use only.

Staff Response: An accessory structure (storage shed) is a permitted use within the Suburban Residential (RS) Zone of the City of Kenai. The square footage of the structures located on the property, including the proposed accessory structure is under the maximum lot coverage of 4,835 square feet as allowed in the Suburban Residential Zone (RS).

4. *The granting of a variance shall be the minimum variance that will provide for the reasonable use of the land and/or structure.*

Applicant Response: The request for reasonable use of my property with the variance of allowing a 5 foot setback instead of 20 feet for a deck structure greater than 200 sq. ft. (up to 360 sq. ft), and variance of height for a single story structure to 17 feet above grade due to the deck ht of 5 ft above grade, and would be the minimum variance and not encroach any greater.

Staff Response: The granting of a variance of fifteen-feet provides for a five foot rear yard setback will provide a minimum variance that will provide for the reasonable use of the subject property. Based on the topography and existing structures on the property, the variance for setback would allow for the siting of the storage building on the property, where no other locations would be suitable.

The granting of a variance of five-feet provides for a seventeen foot building height will provide a minimum variance that will provide for the reasonable use of the subject property. Based on the topography of the property, including elevation change and being a lower-lying area of the backyard, the variance for building height would allow for the construction of a 5 foot deck above grade, the storage building peak is 12 feet above the 5 foot deck height for a total of 17 feet.

5. *The granting of a variance shall not be based upon other non-conforming land uses or structures within the same land use or zoning district.*

Applicant Response: The evaluation of this variance application is not based upon other variance permits within the same zoning district.

Staff Response: This variance is not based upon other non-conforming land uses or structures with the same land use or zoning district.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That a Variance Permit is granted to Brad Nyquist relaxing the setback requirements as set forth in Kenai Municipal Code 14.24.020 – General Requirements; and

That a Variance Permit is granted to Brad Nyquist relaxing the height requirement twelve feet (12') for a one-story structure as set forth in Kenai Municipal Code 14.20.200(a)(5).

Section 2. That the variance permit is 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 commencement of construction of the deck, the owner shall obtain a Building Permit from the Building Official for the City of Kenai.
3. Prior to commencement of construction of the accessory structure (shed), the owner shall obtain a Building Permit from the Building Official for the City of Kenai.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,
this 14th day of July, 2021.

JEFF TWAIT, CHAIRPERSON

ATTEST:

JAMIE HEINZ, MMC, CITY CLERK



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

STAFF REPORT

TO: Planning and Zoning Commission

FROM: Ryan Foster, Planning Director

DATE: July 8, 2021

SUBJECT: PZ2021-26 – Variance Permit – Rear Yard Setback and Building Height Requirements

Applicant: Brad Nyquist
P.O. Box 1821
Kenai, AK 9611

Legal Description: Lot 5, Block 3, Deepwood Park Subdivision Amended

Property Address: 110 Deepwood Court

KPB Parcel No: 04938035

Lot Size: .37 acres (approximately 16,117 square feet)

Existing Zoning: Suburban Residential (RS)

Current Land Use: Single Family Dwelling

Land Use Plan: Suburban Residential

GENERAL INFORMATION

Brad Nyquist wishes to construct an approximately 320 square foot deck on his property. The deck structure would be 16 x 20 feet (approximately 320 square feet), and the walkway leading to the deck will be 4 x 10 (approximately 40 square feet). Kenai Municipal Code 14.24.020 provides that the rear yard setback is twenty feet. An application has been submitted by Mr. Nyquist for a variance of fifteen feet, which will result in a five-foot rear yard setback.

Mr. Nyquist plans to construct a 10 X 20 storage building (120 square feet) on top of the deck. Kenai Municipal Code 14.20.200(a)(5) - Accessory Structures provides that “one story in height is a maximum of twelve feet (12’) high as measured from the ground to the highest point of the subject structure roof”. Since the accessory structure will be sitting on the deck which is five feet above grade, the height of the accessory structure will be approximately seventeen feet (17’).

Application, Public Notice, Public Comment

City staff received a complete application for a Variance Permit. Pursuant to Kenai Municipal Code 14.20.280(c) notices of the public hearing were mailed to property owners within a 300 feet of the subject property. City staff published notice of the public hearing in the *Peninsula Clarion*. The applicant submitted an Affidavit of Posting verifying a sign was placed on the parcel with information on the public hearing for the maximum lot coverage variance request.

ANALYSIS

KMC 14.20.180 details the intent, application, and review criteria for a Variance Permit. The Commission shall establish a finding that all of the following conditions exist as a prerequisite to issuance of a Variance Permit:

1. *Special conditions or circumstances are present which are peculiar to the land or structures involved which are not applicable to other lands or structures in the same zoning district.*

Applicant Response: The 20 ft. ROW is not a usable space for constructing a road or usable pathway due to swamp nature. The structure in question will still be set back 20 to 25 feet from the neighbor's lot line. This is basically an unusable piece of property for normal use and would love to use this low area as usable space. Moving 20 feet off my back line would encroach upon large birch trees.

Staff Response: Staff discussed with the applicant the possibility of decreasing the size of the deck structure so that he could comply with Kenai Municipal Code 14.20.200(2) which states as follows:

Covered but unenclosed passenger landings, or storage sheds of not more than two hundred (200) square feet, with no side or end longer than sixteen feet (16'), and not more than one (1) story in height may extend into the rear yard, but such structure shall not be closer than five feet (5') to the rear lot line; and

Applicant stated that reducing the size of the deck would not leave enough usable space for him to install a railing and that would create a safety issue.

The applicant has indicated that the area behind his residence is sloped and that the area where he wishes to construct the deck and accessory structure (storage shed) is the flattest part of the property.

The distance between the deck and property line will be five feet; however, there is a twenty-foot right-of-way adjacent to the applicant's property line that would provide for an additional twenty-feet from the rear neighbor's property line. Said right-of-way is reserved for use as drainage and non-vehicular transportation corridors.

2. *The special conditions or circumstances have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute a pecuniary hardship or inconvenience.*

Applicant Response: The property behind the house is sloped and the West end (back) is



the flattest part of the property. If the structure is placed in other open areas of the property, I would have to remove remaining deciduous trees: I have removed 11 beetle-kill spruce trees in the last year. A structure in any other open part of the property would shade the garden and greenhouse. A structure in other open spaces on the lot would be more visible to the North and South neighbors due to height on more elevated portions of the lot. The space at the far back part of the lot is not suitable for any other purpose or activity other than this proposal. It is a low, flat area and in my opinion, this is the best management of the space on this lot.

Staff Response: Staff finds that it is reasonable for the applicant to place the deck and accessory structure in the proposed location since placing it at another location on the lot would necessitate the removal of additional trees or structures. Also, the applicant states that it would not be visible by any neighbor as it is in a low area on the property; the location is twenty-feet (20') in elevation lower than the residence. A five foot rear yard setback should not negatively impact the adjacent 20 foot ROW.

3. *The granting of the variance shall not authorize a use that is not a permitted principal use in the zoning district in which the property is located.*

Applicant Response: There is no restriction in zoning that I am aware of for a deck to be built and used in this space. If I put a structure on it would be a building for personal use only.

Staff Response: An accessory structure (storage shed) is a permitted use within the Suburban Residential (RS) Zone of the City of Kenai. The square footage of the structures located on the property, including the proposed accessory structure is under the maximum lot coverage of 4,835 square feet as allowed in the Suburban Residential Zone (RS).

4. *The granting of a variance shall be the minimum variance that will provide for the reasonable use of the land and/or structure.*

Applicant Response: The request for reasonable use of my property with the variance of allowing a 5 foot setback instead of 20 feet for a deck structure greater than 200 sq. ft. (up to 360 sq. ft), and variance of height for a single story structure to 17 feet above grade due to the deck ht of 5 ft above grade, and would be the minimum variance and not encroach any greater.

Staff Response: The granting of a variance of fifteen-feet provides for a five foot rear yard setback will provide a minimum variance that will provide for the reasonable use of the subject property. Based on the topography and existing structures on the property, the variance for setback would allow for the siting of the storage building on the property, where no other locations would be suitable.

The granting of a variance of five-feet provides for a seventeen foot building height will provide a minimum variance that will provide for the reasonable use of the subject property. Based on the topography of the property, including elevation change and being a lower-lying area of the backyard, the variance for building height would allow for the construction of a 5 foot deck above grade, the storage building peak is 12 feet above the 5 foot deck height for a total of 17 feet.



5. *The granting of a variance shall not be based upon other non-conforming land uses or structures within the same land use or zoning district.*

Applicant Response: The evaluation of this variance application is not based upon other variance permits within the same zoning district.

Staff Response: This variance is not based upon other non-conforming land uses or structures with the same land use or zoning district.

City staff finds the applicant meets the criteria for issuance of a Variance Permit in accordance with KMC 14.20.180, Variance permits, and recommends that the Planning and Zoning Commission approve the Variance Permit application, 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 commencement of construction of the deck, the owner shall obtain a Building Permit from the Building Official for the City of Kenai.
3. Prior to commencement of construction of the accessory structure (shed), the owner shall obtain a Building Permit from the Building Official for the City of Kenai.

ATTACHMENTS

- A. Application
- B. Site Plan
- C. Aerial Map





Variance 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:	Brad nyquist				
Mailing Address:	P O Box 1821				
City:	Kenai	State:	Alaska	Zip Code:	99611
Phone Number(s):	Home:283-1683 Cell: 6901097				
Email:					

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):	04938035
Physical Address:	110 Deepwood Court
Legal Description:	T5N R 11W SEC 4 Seward, Meridian KN0840158, Deepwood Park Sub Amended Lot 5 Block 3
Zoning:	Residential Dwelling - Single
Acres:	0.37

VARIANCE DESCRIPTION

(include site plan with square footages and elevations of all existing/proposed buildings)
(use additional pages if necessary to answer questions)

A variance permit is the relaxation of the development requirements to provide relief when the literal enforcement would deprive a property owner of the reasonable use of their real property. The requirements for a variance permit in City Code must be met for a variance to be granted.

How is this property currently being used?	Residential single family , only home
Use of surrounding property - north:	Residential single family dwelling
Use of surrounding property - south:	Residential single family dwelling
Use of surrounding property - east:	Street (Deepwood Court) residential sing fam on other side
Use of surrounding property - west:	20 ft. ROW in drainage for non motorized use, residential property beyond

Variance Requested for (attach additional sheets if necessary):

Requesting variance regarding the set back from the back property line on west side. Request to build an elevated deck with possible 120 sq ft structure on own property, to be no closer than 5 ft to the 20 ft ROW established.

SEE ADDITIONAL SHEET.

Explain the special conditions or circumstances present which are peculiar to the land or structure involved which are not applicable to other land or structures in the same land use or zoning district:

The 20 ft ROW is not in a usable space for constructing a road or usable pathway due to swamp nature. The structure in question will still be set back 20 to 25 feet from neighbors lot line. This is basically an unusable piece of property for normal use and would love to use this low area as usable space. moving 20 feet off my back line would encroach upon large birch trees. See attached document.

Explain the special conditions or circumstances present that have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute pecuniary (monetary) hardship or inconvenience:

See the attached document

Explain how this variance will not authorize a use that is not a permitted principal use in the zoning district in which the property is located:

There is no restriction in zoning that I am aware of for a deck to be built or used in this space. If I put a structure on it it would be a building for personal use only.

Explain how the variance shall be the minimum variance that will provide for the reasonable use of the land and/or structure:

The request for reasonable use of my property with the variance of allowing a 5 foot setback instead of 20 ft. for a deck structure greater than 200 sq ft (up to 360 sq ft), and variance of height for a single story structure to 17 feet above grade due to the deck ht of 5 ft above grade, and would be the minimum variance and not encroach any greater.

Explain how the granting of a variance shall not be based upon other nonconforming land uses or structures within the same land use or zoning district:

This is an original request and not based upon any other nonconforming land uses or structures within the same land use or zoning district.

AUTHORITY TO APPLY FOR A VARIANCE:

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 variance 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 variance. 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.

Signature:  Date: June 23, 2021

Print Name: Bradford V. Nyquist Title/Business:

For City Use Only

Date Application Fee Received: 6-23-2021
PZ Resolution Number: P2 2021-26

Explain the special conditions or circumstances present that have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute pecuniary (monetary) hardship or inconvenience:

The purpose of requesting the variance for specific location:

- The property behind the house is sloped and the West end (back) portion is the flattest part of the property.
- If the structure is placed in other open areas of the property, I would have to remove remaining deciduous trees; I have removed 11 beetle-kill spruce trees in the last year.
- A structure in any other open part of the property would shade the garden and greenhouse.
- A structure in other open spaces on the lot would be more visible to the North and South neighbors due to height on more elevated portions of the lot.
- The space at the far back part of the lot is not suitable for any other purpose or activity other than this proposal. It is a low, flat area and in my opinion, this is the best management of the space on this lot.
- The location proposed is set back 5 feet from the back lot line and is 25 feet from neighboring back lot opposite the non-motorized ROW.
- This location is the best management and stewardship of the property.

The purpose of requesting variance for size of decking more than 200 sf:

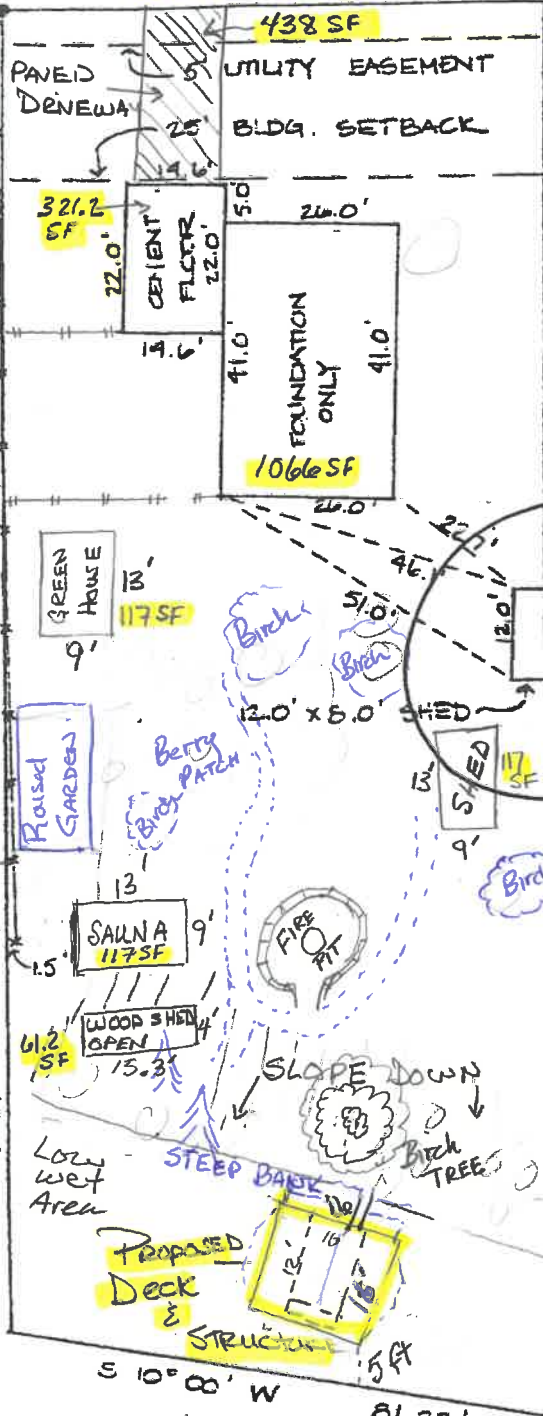
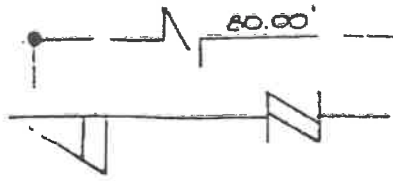
- The available land space allows for a deck space of more than 200 sf. I propose a deck of 360 sf. This includes a 16' x 20' deck and a 4' x 10' walkway to access the deck.
- A deck of 380 sf would be safer, allow for a railing that does not take away from usable space, allows for structure of 120 sf and maintenance of both the structure and deck.
- The deck structure would not be visible by any neighbor as it is in a low area on the property; the location is 20' in elevation lower than the house.

The purpose of requesting a variance for height restriction (defined single story of 12'):

- The deck structure as planned will be 5' above grade; this will be safer to access on a level walkway and eliminate stairs on the steep grade.
- The highest point of a 12' structure on top of the 5' platform will be a few feet below grade level of the house on the property; the structure will not obstruct the view of any neighbor.

The location proposed is the safest and offers the most prudent management land use for this project.

16th AVENUE SE 60' ROW
 110 DEEPWOOD COURT
 SOUTH 80.00'



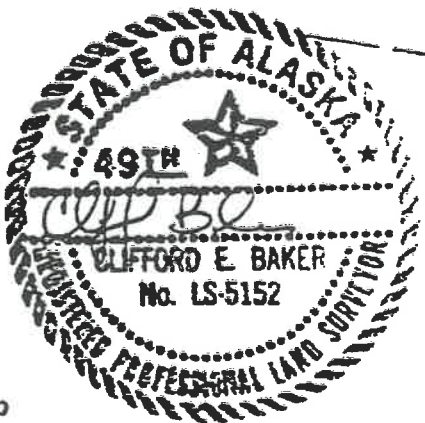
Shed no longer here

New Location

4' HIGH CHAIN-LINK FENCE
 EXISTING STRUCTURE SQF: 2,237.4
 LOT SQF: 16,223.0

NOTE: CITY SEWER + WATER

NOTE: FENCE ENCROACHMENT NORTH PROPERTY LINE
 SHED ENCROACHMENT SOUTH PROPERTY LINE



LOT SURVEY CERTIFICATION

LOT 5 BLOCK 3 TRACT
 DEEPWOOD PARK SUBDIVISION

As-Built Certificate:
 I hereby certify that I have surveyed the following described property:



RESOLUTION PZ2021-26 VARIANCE PERMIT
110 Deepwood Court
Lot 5, Block 3, Deepwood Park Subd. Amended
KPB #04938035



PLANNING & ZONING COMMISSION

Resolution PZ2021-26 – Variance Permit – Rear Yard Setback and Building Height
110 Deepwood Court

SUMMARY

Applicant: Brad Nyquist
P.O. Box 1821
Kenai, AK 9611

Legal Description: Lot 5, Block 3, Deepwood Park Subdivision Amended

Property Address: 110 Deepwood Court

KPB Parcel No: 04938035

Lot Size: .37 acres (16,117 square feet)

Existing Zoning: Suburban Residential

Current Land Use: Single Family Dwelling

Land Use Plan: Suburban Residential



SUMMARY

- Brad Nyquist wishes to construct an approximately 320 square foot deck on his property. The deck structure would be 16 x 20 feet (approximately 320 square feet), and the walkway leading to the deck will be 4 x 10 (approximately 40 square feet). Kenai Municipal Code 14.24.020 provides that the rear yard setback is twenty feet. An application has been submitted by Mr. Nyquist for a variance of fifteen feet, which will result in a five-foot rear yard setback.
- Mr. Nyquist plans to construct a 10 X 20 storage building (120 square feet) on top of the deck. Kenai Municipal Code 14.20.200(a)(5) - Accessory Structures provides that “one story in height is a maximum of twelve feet (12’) high as measured from the ground to the highest point of the subject structure roof”. Since the accessory structure will be sitting on the deck which is five feet above grade, the height of the accessory structure will be approximately seventeen feet (17’).

STAFF ANALYSIS

- KMC 14.20.180 details the intent, application, and review criteria for a Variance Permit. The Commission shall establish a finding that all of the following conditions exist as a prerequisite to issuance of a Variance Permit:

REVIEW CRITERIA

- *Criteria #1: Special conditions or circumstances are present which are peculiar to the land or structures involved which are not applicable to other lands or structures in the same zoning district.*
- *Criteria #2: The special conditions or circumstances have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute a pecuniary hardship or inconvenience.*
- *Criteria #3: The granting of the variance shall not authorize a use that is not a permitted principal use in the zoning district in which the property is located.*
- *Criteria #4: The granting of a variance shall be the minimum variance that will provide for the reasonable use of the land and/or structure.*
- *Criteria #5: The granting of a variance shall not be based upon other non-conforming land uses or structures within the same land use or zoning district.*

RECOMMENDATIONS

- City staff finds the applicant meets the criteria for issuance of a Variance Permit in accordance with KMC 14.20.180, Variance permits, and recommends that the Planning and Zoning Commission approve the Variance Permit application, 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 commencement of construction of the deck, the owner shall obtain a Building Permit from the Building Official for the City of Kenai.
 - 3. Prior to commencement of construction of the accessory structure (shed), the owner shall obtain a Building Permit from the Building Official for the City of Kenai.

ATTACHMENTS

- A. Resolution 2021-26
- B. Application
- C. Site Plan
- D. Aerial Map

A. RESOLUTION



CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-26

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **GRANTING** A VARIANCE PERMIT TO ALLOW FOR A REAR YARD SETBACK OF FIVE FEET WHERE A TWENTY-FOOT SETBACK IS REQUIRED, AND A VARIANCE TO ALLOW FOR A HEIGHT OF SEVENTEEN FEET FOR A ONE STORY ACCESSORY STRUCTURE LOCATED AT LOT 5, BLOCK 3, DEEPWOOD PARK SUBDIVISION AMENDED

APPLICANT: Brad Nyquist

PROPERTY ADDRESS: 110 Deepwood Court

LEGAL DESCRIPTION: Lot 5, Block 3, Deepwood Park Subdivision Amended

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04938035

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150, Variance permit – Permit Application, was submitted to the City; and,

WHEREAS, Kenai Municipal Code 14.24.020 – General Requirements requires a rear yard setback of twenty-feet (20') in the Suburban Residential (SR) zone;

WHEREAS, Kenai Municipal Code 14.20.200(a)(5) – Accessory Structures - provides that "one story in height is a maximum of twelve feet (12') high as measured from the ground to the highest point of the subject structure roof"; and

WHEREAS, the applicant has demonstrated with plans and other documents that all of the conditions have been found to exist as a prerequisite to issuance of a variance permit pursuant to Kenai Municipal Code 14.20.180(c), Variance permit – Review Criteria; and,

WHEREAS, the Planning and Zoning Commission finds:

1. *Special conditions or circumstances are present which are peculiar to the land or structures involved which are not applicable to other lands or structures in the same zoning district.*

Applicant Response: The 20 ft. ROW is not a usable space for constructing a road or usable pathway due to swamp nature. The structure in question will still be set back 20 to 25 feet from the neighbors lot line. This is basically an unusable piece of property for normal use and would love to use this low area as usable space. Moving 20 feet off my back line would encroach upon large birch trees.

Staff Response: Staff discussed with the applicant the possibility of decreasing the size of the deck structure so that he could comply with Kenai Municipal Code 14.20.200(2) which

Resolution No. PZ2021-26
Page 2 of 4

states as follows:

Covered but unenclosed passenger landings, or storage sheds of not more than two hundred (200) square feet, with no side or end longer than sixteen feet (16'), and not more than one (1) story in height may extend into the rear yard, but such structure shall not be closer than five feet (5') to the rear lot line; and

Applicant felt that reducing the size of the deck would not leave enough usable space for him to install a railing and that would create a safety issue.

The applicant has indicated that the area behind his residence is sloped and that the area where he wishes to construct the deck and accessory structure (storage shed) is the flattest part of the property.

The distance between the deck and property line will be five feet; however, there is a twenty-foot right-of-way adjacent to the applicant's property line that would provide for an additional twenty-feet from the rear neighbor's property line. Said right-of-way is reserved for use as drainage and non-vehicular transportation corridors.

2. *The special conditions or circumstances have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute a pecuniary hardship or inconvenience.*

Applicant Response: The property behind the house is sloped and the West end (back) is the flattest part of the property. If the structure is placed in other open areas of the property, I would have to remove remaining deciduous trees: I have removed 11 beetle-kill spruce trees in the last year. A structure in any other open part of the property would shade the garden and greenhouse. A structure in other open spaces on the lot would be more visible to the North and South neighbors due to height on more elevated portions of the lot. The space at the far back part of the lot is not suitable for any other purpose or activity other than this proposal. It is a low, flat area and in my opinion, this is the best management of the space on this lot.

Staff Response: Staff finds that it is reasonable for the applicant to place the deck and accessory structure in the proposed location since placing it at another location on the lot would necessitate the removal of additional trees. Also, the applicant states that would not be visible by any neighbor as it is in a low area on the property; the location is twenty-feet (20') in elevation lower than the residence. A five foot rear yard setback should not negatively impact the adjacent 20 foot ROW.

3. *The granting of the variance shall not authorize a use that is not a permitted principal use in the zoning district in which the property is located.*

Applicant Response: There is no restriction in zoning that I am aware of for a deck to be built and used in this space. It I put a structure on it would be a building for personal use only.

Staff Response: An accessory structure (storage shed) is a permitted use within the Suburban Residential (RS) Zone of the City of Kenai. The square footage of the structures located on the property, including the proposed accessory structure is under the maximum lot coverage of 4,835 square feet as allowed in the Suburban Residential Zone (RS).

A. RESOLUTION CONTINUED

Resolution No. PZ2021-26
Page 3 of 4

4. *The granting of a variance shall be the minimum variance that will provide for the reasonable use of the land and/or structure.*

Applicant Response: The request for reasonable use of my property with the variance of allowing a 5 foot setback instead of 20 feet for a deck structure greater than 200 sq. ft. (up to 360 sq. ft), and variance of height for a single story structure to 17 feet above grade due to the deck ht of 5 ft above grade, and would be the minimum variance and not encroach any greater.

Staff Response: The granting of a variance of fifteen-feet provides for a five foot rear yard setback will provide a minimum variance that will provide for the reasonable use of the subject property. Based on the topography and existing structures on the property, the variance for setback would allow for the siting of the storage building on the property, where no other locations would be suitable.

The granting of a variance of five-feet provides for a seventeen foot building height will provide a minimum variance that will provide for the reasonable use of the subject property. Based on the topography of the property, including elevation change and being a lower-lying area of the backyard, the variance for building height would allow for the construction of a 5 foot deck above grade, the storage building peak is 12 feet above the 5 foot deck height for a total of 17 feet.

5. *The granting of a variance shall not be based upon other non-conforming land uses or structures within the same land use or zoning district.*

Applicant Response: The evaluation of this variance application is not based upon other variance permits within the same zoning district.

Staff Response: This variance is not based upon other non-conforming land uses or structures with the same land use or zoning district.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

- Section 1. That a Variance Permit is granted to Brad Nyquist relaxing the setback requirements as set forth in Kenai Municipal Code 14.24.020 – General Requirements; and

That a Variance Permit is granted to Brad Nyquist relaxing the height requirement twelve feet (12') for a one-story structure as set forth in Kenai Municipal Code 14.20.200(a)(5).

- Section 2. That the variance permit is 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 commencement of construction of the deck, the owner shall obtain a Building Permit from the Building Official for the City of Kenai.
3. Prior to commencement of construction of the accessory structure (shed), the owner shall obtain a Building Permit from the Building Official for the City of Kenai.

Resolution No. PZ2021-26
Page 4 of 4


PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 14th day of July, 2021.

ATTEST:

JEFF TWAIT, CHAIRPERSON

JAMIE HEINZ, MMC, CITY CLERK

B. APPLICATION

 Variance 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:	Brad nyquist		
Mailing Address:	P O Box 1821		
City:	Kenai	State:	Alaska Zip Code: 99611
Phone Number(s):	Home:283-1683 Cell: 6901097		
Email:			
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):	04938035		
Physical Address:	110 Deepwood Court		
Legal Description:	T5N R 11W SEC 4 Seward, Meridian KN0840158, Deepwood Park Sub Amended Lot 5 Block 3		
Zoning:	Residential Dwelling - Single		
Acres:	0.37		
VARIANCE DESCRIPTION (include site plan with square footages and elevations of all existing/proposed buildings) (use additional pages if necessary to answer questions)			
<p>A variance permit is the relaxation of the development requirements to provide relief when the literal enforcement would deprive a property owner of the reasonable use of their real property. The requirements for a variance permit in City Code must be met for a variance to be granted.</p>			
How is this property currently being used?	Residential single family , only home		
Use of surrounding property - north:	Residential single family dwelling		
Use of surrounding property - south:	Residential single family dwelling		
Use of surrounding property - east:	Street (Deepwood Court) residential sing fam on other side		
Use of surrounding property - west:	20 ft. ROW in drainage for non motorized use, residential property beyond		
Variance Requested for (attach additional sheets if necessary):			
Requesting variance regarding the set back from the back property line on west side. Request to build an elevated deck with possible 120 sq ft structure on own property, to be no closer than 5 ft to the 20 ft ROW established.			
<i>SEE ADDITIONAL SHEET.</i>			

<p>Explain the special conditions or circumstances present which are peculiar to the land or structure involved which are not applicable to other land or structures in the same land use or zoning district:</p> <p>The 20 ft ROW is not in a usable space for constructing a road or usable pathway due to swamp nature. The structure in question will still be set back 20 to 25 feet from neighbors lot line. This is basically an unusable piece of property for normal use and would love to use this low area as usable space. moving 20 feet off my back line would encroach upon large birch trees. See attached document.</p>
<p>Explain the special conditions or circumstances present that have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute pecuniary (monetary) hardship or inconvenience:</p> <p>See the attached document</p>
<p>Explain how this variance will not authorize a use that is not a permitted principal use in the zoning district in which the property is located:</p> <p>There is no restriction in zoning that I am aware of for a deck to be built or used in this space. If I put a structure on it it would be a building for personal use only.</p>
<p>Explain how the variance shall be the minimum variance that will provide for the reasonable use of the land and/or structure:</p> <p>The request for reasonable use of my property with the variance of allowing a 5 foot setback instead of 20 ft. for a deck structure greater than 200 sq ft (up to 360 sq ft), and variance of height for a single story structure to 17 feet above grade due to the deck ht of 5 ft above grade, and would be the minimum variance and not encroach any greater.</p>
<p>Explain how the granting of a variance shall not be based upon other nonconforming land uses or structures within the same land use or zoning district:</p> <p>This is an original request and not based upon any other nonconforming land uses or structures within the same land use or zoning district.</p>
<p>AUTHORITY TO APPLY FOR A VARIANCE: 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 variance 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 variance. 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>
<p>Signature: <i>Bradford V. Nyquist</i> Date: June 23, 2021</p> <p>Print Name: Bradford V. Nyquist Title/Business:</p>
<p style="text-align: right;">Date Application Fee Received: 6-23-2021 PZ Resolution Number: PZ 2021-26</p>

B. APPLICATION CONTINUED

Explain the special conditions or circumstances present that have not been caused by actions of the applicant and such conditions and circumstances do not merely constitute pecuniary (monetary) hardship or inconvenience:

The purpose of requesting the variance for specific location:

- The property behind the house is sloped and the West end (back) portion is the flattest part of the property.
- If the structure is placed in other open areas of the property, I would have to remove remaining deciduous trees; I have removed 11 beetle-kill spruce trees in the last year.
- A structure in any other open part of the property would shade the garden and greenhouse.
- A structure in other open spaces on the lot would be more visible to the North and South neighbors due to height on more elevated portions of the lot.
- The space at the far back part of the lot is not suitable for any other purpose or activity other than this proposal. It is a low, flat area and in my opinion, this is the best management of the space on this lot.
- The location proposed is set back 5 feet from the back lot line and is 25 feet from neighboring back lot opposite the non-motorized ROW.
- This location is the best management and stewardship of the property.

The purpose of requesting variance for size of decking more than 200 sf:

- The available land space allows for a deck space of more than 200 sf. I propose a deck of 360 sf. This includes a 16' x 20' deck and a 4' x 10' walkway to access the deck.
- A deck of 360 sf would be safer, allow for a railing that does not take away from usable space, allows for structure of 120 sf and maintenance of both the structure and deck.
- The deck structure would not be visible by any neighbor as it is in a low area on the property; the location is 20' in elevation lower than the house.

The purpose of requesting a variance for height restriction (defined single story of 12'):

- The deck structure as planned will be 5' above grade; this will be safer to access on a level walkway and eliminate stairs on the steep grade.
- The highest point of a 12' structure on top of the 5' platform will be a few feet below grade level of the house on the property; the structure will not obstruct the view of any neighbor.

The location proposed is the safest and offers the most prudent management land use for this project.

D. AERIAL MAP





KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Planning and Zoning Commission
FROM: Ryan Foster, Planning Director
DATE: July 8, 2021
SUBJECT: **Special Use Permit for Kenai Chamber of Commerce and Visitor Center for the Moosemeat John Cabin**

The Kenai Chamber of Commerce and Visitor Center has requested a Special Use Permit to use and operate the Moosemeat John Cabin located on approximately 10,000 square feet (100 feet x 100 feet) of Lot 1, Gusty Subdivision No. 8, a City-owned parcel upon which the Kenai Visitor and Cultural Center is also located. Since 2013, the Kenai Chamber of Commerce and Visitor Center has allowed the use of the Moosemeat John Cabin during the summer months by the Kenai Historical Society in conjunction with its operations in Old Town Kenai. The Kenai Chamber of Commerce operated on the premises from 1977 until 2012. In 2012, the Kenai Chamber of Commerce merged with the Kenai Convention and Visitor's Bureau to form the new entity, "Kenai Chamber of Commerce and Visitor Center".

A Special Use Permit that was granted for the use of the Moosemeat John Cabin for twelve months between July 31, 2020 and July 30, 2021. The Kenai Chamber of Commerce and Visitor Center would like a Special Use Permit for the same use of the Moosemeat John Cabin for July 31, 2021 to July 30, 2022. The Kenai Chamber of Commerce and Visitor Center complied with the terms of the Special Use Permit for the Moosemeat John Cabin for previous years of issuance.

If the City Council approves the attached Special Use Permit with Kenai Chamber of Commerce and Visitor Center for the Moosemeat John Cabin, the City Manager will sign the Special Use Permit granting the continued use of the cabin by the Kenai Chamber on behalf of the City.

Please review the attached draft special use permit and application materials.

Does the Commission recommend City Council approve the execution of a special use permit to the Kenai Chamber of Commerce and Visitor Center?

Attachments

- A. Special Use Permit Application
- B. Aerial map

C. Special Use Permit for Moosemeat John Cabin





**City of Kenai
Special Use Permit
Application**

Application Date: _____

Applicant Information

Name of Applicant:	Kenai Chamber of Commerce and Visitor's Center						
Mailing Address:	11471 Kenai Spur Hwy.	City:	Kenai	State:	AK	Zip Code:	99611
Phone Number(s):	Home Phone: ()		Work/ Message Phone: ()907-283-1991				
E-mail: (Optional)	info@kenaichamber.org						
Name to Appear on Permit:	Kenai Chamber of Commerce and Visitor's Center						
Mailing Address:	11471 Kenai Spur Hwy.	City:	Kenai	State:	AK	Zip Code:	99611
Phone Number(s):	Home Phone: ()		Work/ Message Phone: ()907-283-1991				
E-mail: (Optional)	info@kenaichamber.org						
Type of Applicant:	<input type="checkbox"/> Individual (at least 18 years of age) <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Government <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Other _____						

Property Information

Legal or physical description of the property:
Southeast 100ft. x 100ft. portion of Lot 1, Gusty Subdivision, Addition No. 8

Description of the proposed business or activity intended:
Moosemeat John Cabin

Is the area to be used in front of or immediately adjacent to any established business offering the same or similar products or services upon a fixed location? YES NO

Would the use under this permit interfere with other businesses through excessive noise, odor, or other nuisances? YES NO

If you answered yes to any of the above questions, please explain:

What is the term requested (not to exceed one year)? July 30, 2021 - July 31, 2022

Requested Starting Date: August 1, 2021

Signature:  Date: June 17, 2021

Print Name: Brittany Brown Title: Executive Director

For City Use Only:	Date Application Fee Received: <u>6/17/2021</u>
<input type="checkbox"/> General Fund <input type="checkbox"/> Airport Reserve Land	City Council Action/Resolution: _____
<input type="checkbox"/> Airport Fund <input type="checkbox"/> Outside Airport Reserve	Account Number: _____



**Moosemeat John Cabin
Special Use Permit**

**Southeast 100 ft x 100 ft
portion of
Lot 1, Gusty Subd,
Addition No. 8**



The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

SPECIAL USE PERMIT

The CITY OF KENAI (City), for the consideration, and pursuant to the conditions set out below, hereby grants the Kenai Chamber of Commerce and Visitor Center (PERMITTEE) the right to use the Premises, identified on the attached Exhibit A to this Permit, and described as:

The southeast 100 foot x 100 foot portion of Lot 1, Gusty Subdivision, Addition No. 8, Kenai Recording District, according to Plat No. 91-9, to use and operate the "Moosemeat John" Cabin.

1. **Use/Term.** Permittee shall have use of the Premises on the 31st day of July 2021 through the 30th day of July 2022.
2. **Fee.** The Permittee shall not be charged a fee for the use or privilege specified herein.
3. **No Exclusivity.** The use by the Permittee of the Premises is limited to the purposes specified herein and is not intended to grant any exclusive use to the described Premises except as otherwise provided herein. This use is also subject to City, Borough, and State laws and regulations and the reasonable administrative actions of the City for the protection and maintenance of the Premises and of adjacent and contiguous lands or facilities.
4. **Improvements.** Permittee shall not make any permanent improvements to the Premises.
5. **Preparation of Premises.** It is Permittee's responsibility to prepare the Premises and to assure itself to its own satisfaction that the Premises are safe for its purposes. The City does not make any warranty or guaranty of the suitability of the Premises for Permittee's intended purposes.
6. **Trash and Debris.** The Premises must be returned to its original condition at the end of each use. Clean up and/or repair charges beyond normal wear and tear will be billed to Permittee based upon cost of repair. Debris and trash shall be collected and removed from the Premises by Permittee. Permittee shall alert City (Parks and Recreation Department) of unsightly, unsanitary, dirty or other conditions on the Premises which exist prior to Permittee's use.
7. **No Alcohol or Illegal Substances.** No possession or consumption of alcoholic beverages, marijuana or illegal substances is permitted on the Premises.
8. **No Joint Venture.** The City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises.
9. **Personalty.** Any or all personal property placed or used upon lands or in facilities may be removed and/or impounded by the City, and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25 per day. The City of Kenai is not responsible for any damage to or theft of any personalty of Permittee or its invitees to the Premises.

10. **Assumption of Risk.** Permittee assumes full control and sole responsibility as between Permittee and City for the activities of Permittee, its personnel, employees, and persons acting on behalf of or under the authority of the Permittee anywhere on the Premises. Permittee shall provide all proper safeguards and shall assume all risks incurred in its activities on the Premises and its exercise of the privileges granted in this Permit.
11. **No Waiver.** Failure to insist upon a strict compliance with the terms, conditions, and requirements herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions, or requirements.
12. **Insurance.** Permittee shall secure and keep in force adequate insurance, as stated below, to protect City and Permittee. Where specific limits are stated, the limits are the minimum acceptable limits. If Permittee's insurance policy contains higher limits, City is entitled to coverage to the extent of the higher limits.
 - A. Commercial General Liability Insurance, including Premises, all operations, property damage, personal injury and death, broad-form contractual, with a per-occurrence limit of not less than \$1,000,000 combined single limit. The policy must name the City as an additional insured.
 - B. Worker's Compensation Insurance with coverage for all employees engaged in work under this Permit or at the Premises as required by AS 23.30.045. Permittee is further responsible to provide Worker's Compensation Insurance for any subcontractor who directly or indirectly provides services to Permittee under this Permit.
 - C. All insurance required must meet the following additional requirements:
 - i. All policies will be by a company/corporation currently rated "A-" or better by A.M. Best.
 - ii. Permittee shall submit to the City proof of continuous insurance coverage in the form of insurance policies, certificates, endorsements, or a combination thereof, and signed by a person authorized by the insurer to bind coverage on its behalf.
 - iii. Permittee shall request a waiver of subrogation against City from Permittee's insurer and the waiver of subrogation, where possible, shall be provided at no cost to City.
 - iv. Provide the City with notification at least thirty (30) days before any termination, cancellation, or material change in insurance coverage of any policy required hereunder.
 - v. Evidence of insurance coverage must be submitted to City prior to any use.

City may increase the amount or revise the type of required insurance on written demand without requiring amendments to this Permit. City will base any increase or revision on reasonable and justifiable grounds. Within two weeks of the written demand, Permittee shall submit to City evidence of insurance coverage that meets the requirements of the City.

- 13. **No Discrimination.** Permittee will not discriminate on the grounds of race, color, religion, national origin, ancestry, age, or sex against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or State law. Permittee recognizes the right of the City to take any action necessary to enforce this requirement.
- 14. **Contact Information.** The Contact information for the Permittee, and the person in responsible charge for Permittee during the term of the Permit, for purposes of notice and all communications from City to Permittee is:

Brittany Brown
Executive Director
Kenai Chamber of Commerce & Visitor Center
11471 Kenai Spur Hwy.
Kenai, AK 99611

- 15. **Indemnity, Defend, and Hold Harmless Agreement:** Permittee agrees to fully indemnify, defend, and hold harmless, the City of Kenai, its officers, agents, employees, and volunteers from and against all actions, damages, costs, liability, claims, losses, judgments, penalties, and expenses of every type and description, including any fees and/or costs reasonably incurred by the City's staff attorneys and outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of the Permittee in connection with or arising from or out of Permittee's activities on or use of the Premises. This shall be a continuing obligation and shall remain in effect after termination of this Permit.
- 16. **Authority.** By signing this Permit, Permittee represents that it has read this agreement and it agrees to be bound by the terms and conditions herein and that the person signing this Permit is duly authorized by the organization to bind the organization hereunder.

CITY OF KENAI

KENAI CHAMBER OF COMMERCE & VISITOR CENTER

By: _____

By: _____

Paul Ostrander
City Manager

Date

_____(Title) Date

ACKNOWLEDGMENTS

STATE OF ALASKA

) ss

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this ___ day of _____, 2021, the foregoing instrument was acknowledged before me by Paul Ostrander, City Manager of the City of Kenai, Alaska, an Alaska home rule municipality, on behalf of the City.

Notary Public for Alaska

My Commission Expires: _____

STATE OF ALASKA

) ss

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this ___ day of _____, 2021, the foregoing instrument was acknowledged before me by _____ (Title) on behalf of _____

Notary Public for Alaska

My Commission Expires: _____

ATTEST:

Jamie Heinz, CMC, City Clerk

SEAL:

APPROVED AS TO FORM:

Scott M. Bloom, City Attorney



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Ryan Foster, Planning Director

DATE: June 24, 2021

SUBJECT: **Ordinance No. 3222-2021 - Determining that real property described as Lot 1A, Block 1, Deshka Subdivision, city-owned airport land located outside the airport reserve, is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals (2016), LLC**

The City has received a request to purchase the above City-owned leased land outside the Airport Reserve with substantial constructed leasehold improvements pursuant to the City's Policy for Sale of Specific Airport Leased Lands, approved by Resolution No. 2018-12.

Schilling Rentals (2016), LLC is the current lessee of Lot 1A, Block 1, Deshka Subdivision, which was entered into on November 3, 1975, with assignment to Schilling Rentals on July 7, 2017. The current use is for a jewelry store. The 55-year lease term expires on June 30, 2030 and is in good standing.

On May 20, 1966 the Federal Aviation Administration (FAA), released the property for sale for other than airport purposes, allowing the property to be sold at fair market value. All revenues from the sale would be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport as required by the Deed of Release.

The City's Policy does not provide for the sale of any specific property, but only a method for such sale, subject to the Ordinances of the City of Kenai. The policy is in effect until July 6, 2021. Any specific sale must be separately approved by the City Council, which may approve or disapprove any such sale, in its sole discretion. Schilling Rentals requests to purchase the property at its fair market value excluding lessee-constructed improvements as determined by an appraisal and a minimum new investment in the construction of new permanent improvements on the premises equal to 25% of the fair market value of the land within three years of sale.

Schilling Rentals submitted a good-faith deposit and the City ordered an appraisal to be performed on the property as-if vacant. The fair market value of the property was determined to be \$250,000 by an appraisal performed by MacSwain Associates, LLC on May 18, 2021. Based on the amount of the appraisal, Schilling Rentals (2016), LLC proposes to meet the minimum new investment requirement equal to \$62,500 on the premises within three years of the sale. The City will verify the value of the improvements using an estimate from a licensed contractor.

If the City Council approves Ordinance 3222-2021, City Administration may proceed with a sale.

Please review the attached materials.

Does the Commission recommend Council approve the subject property is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals (2016), LLC?

Attachment A: Aerial Map of 419 Frontage Road

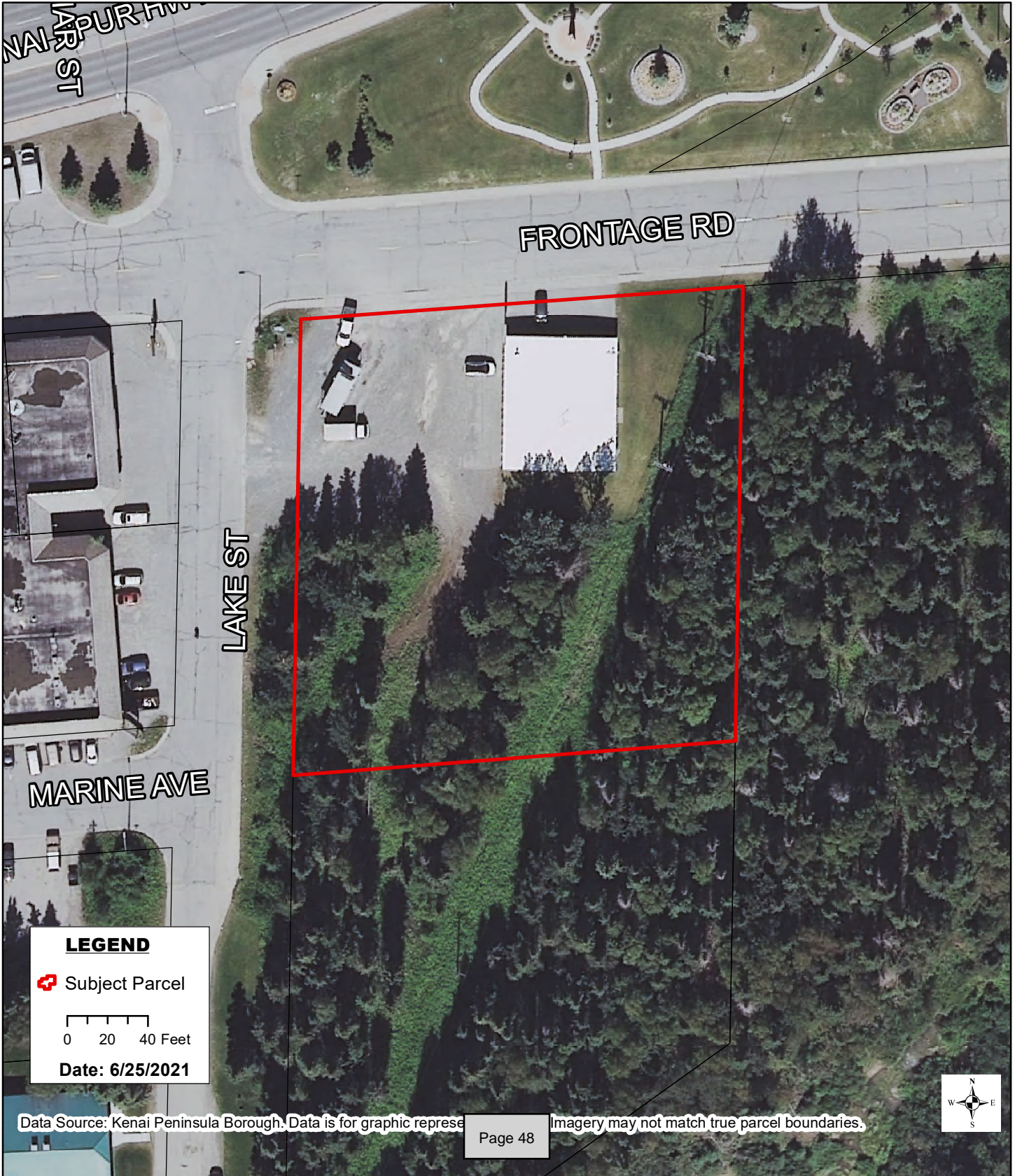
Attachment B: Email request to begin the process for purchasing 419 Frontage Road

Attachment C: Ordinance 3222-2021






ORDINANCE 3222-2021
KPB # 04705501
Lot 1A, Block 1, Deshka Subdivision



LEGEND

 Subject Parcel

0 20 40 Feet

Date: 6/25/2021



From: [Duane Bannock](#)
To: [Ryan Foster](#)
Subject: Purchase of City lease Lots - Schilling Rentals
Date: Wednesday, April 28, 2021 8:13:20 PM

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

Good Morning Mr Foster

Thank you for the time on the phone to discuss the process and procedure that may lead to Schilling Rentals purchasing the following properties from the City of Kenai:

1. 100 Trading Bay Rd KPB Parcel ID: 04323031
2. 419 Frontage Rd KPB Parcel ID: 04705501

Schilling Rentals, an Alaska Partnership is the current leaseholder of the above properties.

Property #1 has met the improvement threshold; it has been suggested that KPB property tax values may be acceptable to establish the city's requirement

Property #2 likely has not met the improvement threshold and we seek your guidance on the necessary investment amount

As discussed yesterday, the City will accept \$1,750.00 for each of the above properties to initiate the required appraisal as well as conform with the timeline as described in Resolution 2018-12. Also, your office notified me that there a credit of \$900.00 in the name of Schilling Rentals; we request that credit be applied to this transaction.

Accordingly, I will deliver a check from Schilling Rentals in the amount of \$2,600.00 as a deposit.

Once the appraisal has been reviewed and agreed to, we will cheerfully sign the Purchase and Sale Agreement.

Thank you

Duane Bannock
Schilling Rentals
47 Spur View Drive
Kenai, AK 99611
907 283 3660 Uptown Motel office
907 398 2316 cell



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3222-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, DETERMINING THAT REAL PROPERTY DESCRIBED AS LOT 1A, BLOCK 1, DESHKA SUBDIVISION, ACCORDING TO PLAT NO. K-1577 CITY-OWNED AIRPORT LAND LOCATED OUTSIDE THE AIRPORT RESERVE, IS NOT NEEDED FOR A PUBLIC PURPOSE AND AUTHORIZING THE SALE OF THE PROPERTY TO SCHILLING RENTALS (2016), LLC.

WHEREAS, the City of Kenai received a quitclaim deed from the Federal Aviation Administration (FAA) on December 1, 1963, to nearly 2,000 acres of land subject to certain restrictions, including that no property shall be used, leased, sold salvaged, or disposed of for reasons other than for airport purposes; and,

WHEREAS, on May 20, 1966, the FAA executed a Deed of Release, for an area of land subject to the Quitclaim Deed allowing for the lease, sale, or disposal of Lot 1A, Block 1, Deshka Subdivision, for other than airport purposes; and,

WHEREAS, the City has received a request to purchase Lot 1A, Block 1, Deshka Subdivision, according to Plat K-1577 (the Property) from the current Lessee; and,

WHEREAS, KMC 22.05.110 – Determination as to need for public purpose, provides that the City Council, may determine whether land is no longer needed for public purpose; and,

WHEREAS, the Property is leased to Schilling Rentals (2016), LLC and developed for private commercial use and is not needed for a public purpose; and,

WHEREAS, Resolution No. 2018-12 amended the City's Policy for sale of specific Airport Land Lots and the subject property is one of the properties addressed in the policy; and,

WHEREAS, the sale of this property is in the best interest of the City and Airport and encourages new development and/or improvements to the property; and,

WHEREAS, KMC 22.05.100 – Sale procedure, the minimum acceptable offer for the land shall be the fair market value.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. Statement of Ownership: That the City of Kenai is the owner of Lot 1A, Block 1, Deshka Subdivision, according to Plat K-1577 (the Property).

Section 2. Public Purpose and Best Interest Findings: That the Property is not needed for future public municipal or airport purposes. Under the Airport Layout Plan, the Property is designated for non-aviation commercial or light-industrial uses. The sale of the Property is in the best interests

of the City and Airport, as it serves a purpose of continuing commercial growth and investment in the City.

Section 3. Authorization of Sale: That the Kenai City Council hereby authorizes the City Manager to sell the City-owned lands described as Lot 1A, Block 1, Deshka Subdivision, according to Plat K-1577, under the procedures and terms established for the sale of lands, as set forth in KMC 22.05.100 et seq. and subject to the following additional essential terms and conditions of sale under the Policy for Sale of Specific Airport Leased Lands approved by City of Kenai Resolution No. 2018-12:

- a) The sale will be made through a negotiated sale to Schilling Rentals (2016), LLC for a sum not less than the fair market value of the land excluding lessee-constructed improvements as determined by an appraisal and a minimum new investment in the construction of new permanent improvements on the premises equal to 25% of the fair market value of the land within three (3) years of sale.

Section 4. Title: That title shall be conveyed by quitclaim deed. Any instrument conveying title to the Property shall include the following restrictions, promises, and/or covenants:

- a) that the City of Kenai reserves unto that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Property, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on or at and for taking off from or operating on Kenai Municipal Airport; and,
- b) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to restrict the height of structures, objects of natural grown, and other obstructions on the Property to a height of not more than 242 feet above mean sea level; and,
- c) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to prevent any use of the Property which would interfere with landing or taking off of aircraft at the Kenai Municipal Airport, or otherwise constitute an airport hazard; and,
- d) that all covenants heretofore stated shall run with the land and shall inure to the benefit of, and be binding upon the heirs, executors, administrators, successors, transferees, and assigns of the parties to the contract for sale and conveyance.

Section 5. Proceeds of Sale: That should a sale of the Property be finalized, all revenues from the sale shall be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport and as otherwise required in the Deed of Release dated May 20, 1966.

Section 6. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 4th day of August, 2021.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Introduced: July 7, 2021
Enacted: August 4, 2021
Effective: September 4, 2021



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Ryan Foster, Planning Director

DATE: June 24, 2021

SUBJECT: **Ordinance No. 3221-2021 - Determining that real property described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, city-owned airport land located outside the airport reserve, is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals, an Alaska Partnership**

The City has received a request to purchase the above City-owned leased land outside the Airport Reserve with substantial constructed leasehold improvements pursuant to the City's Policy for Sale of Specific Airport Leased Lands, approved by Resolution No. 2018-12.

Schilling Rentals, an Alaska Partnership is the current lessee of Lot 4A, Block 3, Cook Inlet Air Park 2014 Replat, which was entered into on March 1, 1967. The current use is for a medical office and clinic building and includes substantial recent improvements to the building made by the Lessee. The 55-year lease term expires on June 30, 2022 and is in good standing.

On August 20, 1970, the Federal Aviation Administration (FAA), released the property for sale for other than airport purposes, allowing the property to be sold at fair market value. All revenues from the sale would be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport as required by the Deed of Release.

The City's Policy does not provide for the sale of any specific property, but only a method for such sale, subject to the Ordinances of the City of Kenai. The policy is in effect until July 6, 2021. Any specific sale must be separately approved by the City Council, which may approve or disapprove any such sale, in its sole discretion. Schilling Rentals requests to purchase the property at its fair market value excluding lessee-constructed improvements as determined by an appraisal and value of improvements greater than or equal to four times the appraised fair market value of the land.

Schilling Rentals submitted a good-faith deposit and the City ordered an appraisal to be performed on the property as-if vacant. The fair market value of the property was determined to be \$300,000 by an appraisal performed by MacSwain Associates, LLC on May 18, 2021. Based on the amount of the appraisal, Schilling Rentals proposes to meet the minimum value of improvements

requirement greater than or equal to four times the appraised fair market value of the land, which is \$1,200,000. Attachment B identifies a total improvement value of \$2,005,700.

If the City Council approves the sale, City Administration may proceed with a sale.

Please review the attached materials.

Does the Commission recommend Council approve the subject property is not needed for a public purpose and authorizing the sale of the property to Schilling Rentals, an Alaska Partnership?

Attachment A: Aerial Map of 100 Trading Bay Road

Attachment B: Email request to begin the process for purchasing 100 Trading Bay Road

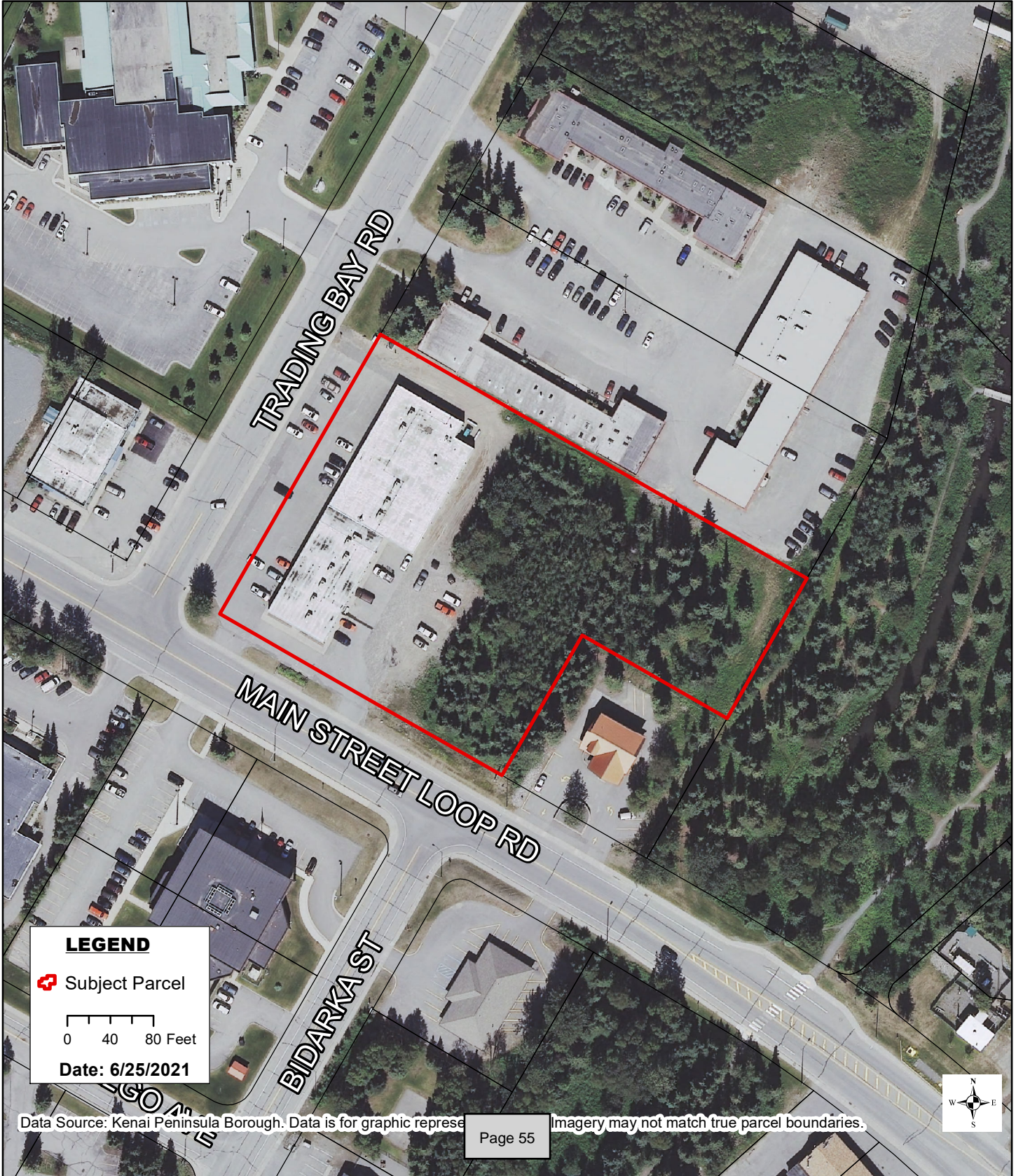
Attachment C: Submitted value of improvements of 100 Trading Bay Road

Attachment D: Ordinance 3221-2021





ORDINANCE 3221-2021
KPB # 04323031
Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat



From: [Duane Bannock](#)
To: [Ryan Foster](#)
Subject: Purchase of City lease Lots - Schilling Rentals
Date: Wednesday, April 28, 2021 8:13:20 PM

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

Good Morning Mr Foster

Thank you for the time on the phone to discuss the process and procedure that may lead to Schilling Rentals purchasing the following properties from the City of Kenai:

1. 100 Trading Bay Rd KPB Parcel ID: 04323031
2. 419 Frontage Rd KPB Parcel ID: 04705501

Schilling Rentals, an Alaska Partnership is the current leaseholder of the above properties.

Property #1 has met the improvement threshold; it has been suggested that KPB property tax values may be acceptable to establish the city's requirement

Property #2 likely has not met the improvement threshold and we seek your guidance on the necessary investment amount

As discussed yesterday, the City will accept \$1,750.00 for each of the above properties to initiate the required appraisal as well as conform with the timeline as described in Resolution 2018-12. Also, your office notified me that there a credit of \$900.00 in the name of Schilling Rentals; we request that credit be applied to this transaction.

Accordingly, I will deliver a check from Schilling Rentals in the amount of \$2,600.00 as a deposit.

Once the appraisal has been reviewed and agreed to, we will cheerfully sign the Purchase and Sale Agreement.

Thank you

Duane Bannock
Schilling Rentals
47 Spur View Drive
Kenai, AK 99611
907 283 3660 Uptown Motel office
907 398 2316 cell

04323031LH01

SCHILLING RENTALS ALASKA PARTNERSHIP

100 TRADING BAY RD

651

ADMINISTRATIVE INFORMATION

PARCEL NUMBER 04323031LH01
Parent Parcel Number 04323018
Property Address 100 TRADING BAY RD
Neighborhood 120 Central Peninsula-Kenai
Property Class 651 651 Leased Commercial
TAXING DISTRICT INFORMATION
Jurisdiction 1
Area 001 KPB
District 30 Kenai City
Routing Number 2056

OWNERSHIP - Deeded Owner

SCHILLING RENTALS ALASKA PARTNERSHIP
47 SPUR VIEW DR
KENAI, AK 99611-6879
T 6N R 11W SEC 32 Seward Herdiana KN LEASEHOLD EST
CREATED BY LSE 38/115 UN
LT 4A, COOK INLET INDUSTRIAL AIR PARK 2014 REPLAT
RMB014021

TAX ID 04323018LH01

TRANSFER OF OWNERSHIP

Printed 06/14/2021

Card No. 1 of 2

COMMERCIAL

VALUATION RECORD

Assessment Year	01/01/2016	01/01/2017	01/01/2018	01/01/2019	01/01/2020	01/01/2021	Worksheet
Reason for Change	MAIN	MAIN	MAIN	MAIN	MAIN	MAIN	
VALUATION	I	0	0	0	0	0	
Appraised Value	B	632600	645200	560500	558600	416300	2005700
VALUATION	T	632600	645200	560500	558600	416300	2005700
Assessed Value	L	90900	80700	69700	57800	45000	229100
	B	632600	645200	560500	558600	416300	2005700
	T	723500	725900	630200	616400	461300	2234800

LAND DATA AND CALCULATIONS

Land Type	Rating	Measured	Table	Prod. Factor	Base	Adjusted	Extended	Influence	Value
	Soll ID	Acceage	Effective	Depth	Rate	Rate	Value	Factor	SV
I Forced Value		0.0	0.0	1.00	229100.00	229100.00	229100 Q	0%	229100

ELD: Building Notes
KENAI 2018 Surgery Center of Kenai, #8115 remodel of existing
Building Declared Value: \$500,000.00
ROR: Resides on Parcel 04323031
PREVIOUS PIN PRIOR TO 2019 04323018LH01

Supplemental Cards
TRUE TAX VALUE

2021 Fee Value prior to
Possessory Interest
Calculation

SR
6/14/21

Supplemental Cards
TOTAL LAND VALUE

IMPROVEMENT DATA

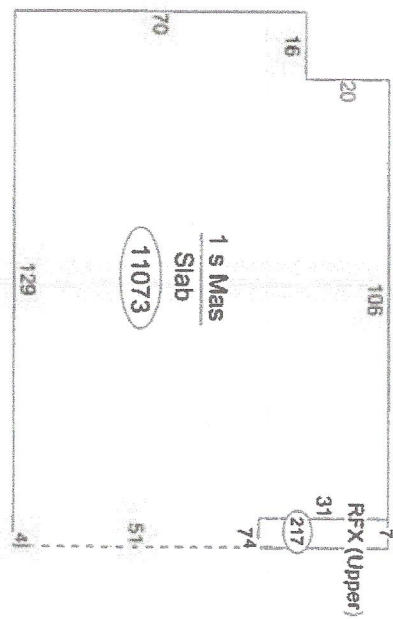
043230311M01

Property Class: 651
100 TRADING HWY RD

PHYSICAL CHARACTERISTICS

ROOFING				
Built-up				
WALLS				
Frame	B	1	2	0
Brick		Yes		
Metal				
Guard				
FRAMING				
F Res	B	1	2	0
	0	11073	0	0
HEATING AND AIR CONDITIONING				
Heat	B	1	2	0
	0	11073	0	0

01



Item Description	Units	Cost	Total	Pct
M & S Cost Database Date: 10/2020				
Building Cost New	0	0.00	2069466	
Depreciated Cost	0	0.00	1303764	
Rounded Total	0	0.00	1303890	
RFV/	217	12.95	2810	
Total Exterior Features Value			1770	
Depreciated Ext Features			1305570	
Total Before Adjustments			30	
Neighborhood Adjustment			1305600	
TOTAL VALUE			1305600	

SPECIAL FEATURES

Description	Value
C NEDDEF	0.00
01 PAVING	0.00

SUMMARY OF IMPROVEMENTS

(LCR: 100.00)

ID	Use	Stry Hgt	Const Type	Grade	Year Const	Year Eff	Base Rate	Fear-Adj	Size or Area	Computed Value	PhysObsrMarket	Value
C	NEDDEF	0.00	H5	F	1971	1998	0.00	N	0.00	11073	0	1305600
01	PAVING	0.00	H5	A	1989	1998	1.75	N	1.75	7200	12600	2500

Data Collector/Date
SR 11/06/2018

Appraiser/Date

Neighborhood
High 120 AV

Supplemental Cards
TOTAL IMPROVEMENT VALUE 1308100

Date _____

VALUATION RECORD

Assessment Year _____
 Reason for Change _____
 VALUATION _____

Site Description

LAND DATA AND CALCULATIONS

Rating	Measured	Table	Prod. Factor	Base	Adjusted	Extended	Influence	Value
Soil ID	Acreage	Effective	Depth Factor	Rate	Rate	Value	Factor	
-or- Actual	-or- Frontage	Depth	-or- Square feet					
Land Type	Frontage	Effective	Square feet	Rate	Adjusted	Extended	Influence	Value

2021 Fee Value prior to Possessory Interest Calculation

SL
6/14/21

Supplemental Cards
 TOTAL LAND VALUE

IMPROVEMENT DATA

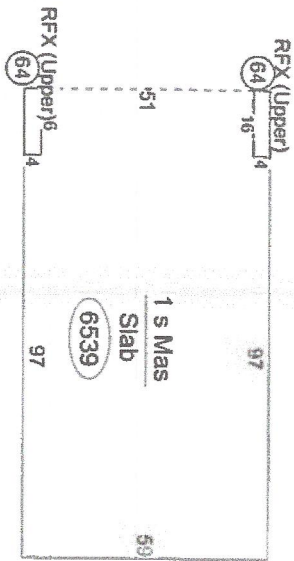
043230311M01

Property Class: 651
100 TRADING BAY RD

PHYSICAL CHARACTERISTICS

ROOFING	Built-up	B	1	2	0
WALLS	Frame	B	1	2	0
	Brick		Yes		
	Metal				
	Guard				
FRAMING		B	1	2	0
F Res		0	6539	0	0
HEATING AND AIR CONDITIONING		B	1	2	0
Heat		0	6539	0	0

01 02



Item Description	Units	Cost	Total	Pct
Building Cost New	0	0.00	1096721	
Depreciated Cost	0	0.00	690934	
Rounded Total	0	0.00	690900	
RFX/	64	12.97	830	
Total Exterior Features Value			1050	
Depreciated Ext Features			691950	
Total Before Adjustments			50	
Neighborhood Adjustment			692000	
TOTAL VALUE			692000	

M & S Cost Database Date: 10/2020

(LCM: 100.00)

SPECIAL FEATURES

Description	Value	ID	Use	Story	Const	Year Eff	Base	Feat-	Adj	Size or	Computed	PhysObsol	Market	%	Value						
				Hgt	Type	Const	Rate	ures	Rate	Area	Value	Depr	Adj	Comp							
C	NEDOFF	01	PAVING	0.00	05	F	1967	1998	AV	0.00	N	0.00	1.75	12500	6539	21880	80	0	100	100	692000
02	CONEX	0.00				A	1989	1998	AV	1.75	N	1.75	1200	8x 20	1200	1200	0	0	100	100	4400
						A	3000	3000	AV	1200	N	1200						0	100	100	1200

SUMMARY OF IMPROVEMENTS

Data Collector/Date

SR 11/06/2018

Appraiser/Date

Neighborhood

High 120 AV

Supplemental Cards

TOTAL IMPROVEMENT VALUE 697600



CITY OF KENAI

ORDINANCE NO. 3221-2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, DETERMINING THAT REAL PROPERTY DESCRIBED AS LOT 4A, BLOCK 3, COOK INLET INDUSTRIAL AIR PARK 2014 REPLAT, ACCORDING TO PLAT NO. 2014-21 CITY-OWNED AIRPORT LAND LOCATED OUTSIDE THE AIRPORT RESERVE, IS NOT NEEDED FOR A PUBLIC PURPOSE AND AUTHORIZING THE SALE OF THE PROPERTY TO SCHILLING RENTALS, AN ALASKA PARTNERSHIP.

WHEREAS, the City of Kenai received a quitclaim deed from the Federal Aviation Administration (FAA) on December 1, 1963, to nearly 2,000 acres of land subject to certain restrictions, including that no property shall be used, leased, sold salvaged, or disposed of for reasons other than for airport purposes; and,

WHEREAS, on August 20, 1970, the FAA executed a Deed of Release, for an area of land subject to the Quitclaim Deed allowing for the lease, sale, or disposal of Lot 4A, Block 3, Cook Inlet Industrial Air Park Subdivision, 2014 Replat, for other than airport purposes; and,

WHEREAS, the City has received a request to purchase Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, according to Plat No. 2014-21 (the Property) from the current Lessee; and,

WHEREAS, KMC 22.05.110 – Determination as to need for public purpose, provides that the City Council, may determine whether land is no longer needed for public purpose; and,

WHEREAS, the Property is leased to Schilling Rentals, an Alaska Partnership and developed for private commercial use and is not needed for a public purpose; and,

WHEREAS, Resolution No. 2018-12 amended the City's Policy for sale of specific Airport Land Lots and the subject property is one of the properties addressed in the policy; and,

WHEREAS, the sale of this property is in the best interest of the City and Airport and encourages new development and/or improvements to the property; and,

WHEREAS, KMC 22.05.100 – Sale procedure, the minimum acceptable offer for the land shall be the fair market value.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. Statement of Ownership: That the City of Kenai is the owner of Lot 4A, Cook Inlet Industrial Air Park 2014 Replat, according to Plat No. 2014-21 (the Property).

Section 2. Public Purpose and Best Interest Findings: That the Property is not needed for future public municipal or airport purposes. Under the Airport Layout Plan, the Property is designated for non-aviation commercial or light-industrial uses. The sale of the Property is in the best interests

of the City and Airport, as it serves a purpose of continuing commercial growth and investment in the City.

Section 3. Authorization of Sale: That the Kenai City Council hereby authorizes the City Manager to sell the City-owned lands described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, according to Plat 2014-21, under the procedures and terms established for the sale of lands, as set forth in KMC 22.05.100 et seq. and subject to the following additional essential terms and conditions of sale under the Policy for Sale of Specific Airport Leased Lands approved by City of Kenai Resolution No. 2018-12:

- a) The sale will be made through a negotiated sale to Schilling Rentals, an Alaska Partnership for a sum not less than the fair market value of the land excluding lessee-constructed improvements as determined by an appraisal and meet the minimum value of improvements requirement greater than or equal to four times the appraised fair market value of the land, which is \$1,200,000.

Section 4. Title: That title shall be conveyed by quitclaim deed. Any instrument conveying title to the Property shall include the following restrictions, promises, and/or covenants:

- a) that the City of Kenai reserves unto that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Property, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on or at and for taking off from or operating on Kenai Municipal Airport; and,
- b) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to restrict the height of structures, objects of natural grown, and other obstructions on the Property to a height of not more than 242 feet above mean sea level; and,
- c) that the grantee expressly agree for itself and its heirs, executors, administrators, successors, transferees, and assigns to prevent any use of the Property which would interfere with landing or taking off of aircraft at the Kenai Municipal Airport, or otherwise constitute an airport hazard; and,
- d) that all covenants heretofore stated shall run with the land and shall inure to the benefit of, and be binding upon the heirs, executors, administrators, successors, transferees, and assigns of the parties to the contract for sale and conveyance.

Section 5. Proceeds of Sale: That should a sale of the Property be finalized, all revenues from the sale shall be deposited in the Airport Land Sale Permanent Fund for use in the development, improvement, and operation of the Kenai Municipal Airport and as otherwise required in the Deed of Release dated August 20, 1970.

Section 6. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 4th day of August, 2021.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, MMC, City Clerk

Introduced: July 7, 2021
Enacted: August 4, 2021
Effective: September 4, 2021



Kenai City Council - Regular Meeting

July 07, 2021 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

****Telephonic/Virtual Information on Page 4****

www.kenai.city

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comment limited to three (3) minutes) per speaker; thirty (30) minutes aggregated*)

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council 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.

B. SCHEDULED PUBLIC COMMENTS

(Public comment limited to ten (10) minutes per speaker)

C. UNSCHEDULED PUBLIC COMMENTS

(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)

D. PUBLIC HEARINGS

1. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3217-2021** - Conditionally Donating Certain City Owned Property Described as Two Approximate 1 1/4 Acre Parcels to be Subdivided from a Portion of the 72 Acre More or Less Portion of the SE 1/4 Lying East of Tract A Kenai Meadows (KPB Parcel No. 039 010 65) To Kenai Peninsula Housing Initiative for the Development of Restricted Income and Senior Housing. (Mayor Gabriel, Vice Mayor Molloy, Council Member Winger)
[Clerk's Note: At the June 16th Meeting, this Ordinance was Postponed to this Meeting; a Motion to Enact is On the Floor.]
2. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3219-2021** - Conditionally Donating Certain City Owned Property Described as One Approximate 2 Acre Parcel to be Subdivided from a Portion of the 6.8 Acre More or Less Portion of the East of Tract 4, Baron Park Subdivision (KPB Parcel No. 045 01 035) to Triumvirate Theatre for the Development of a Theatre Facility. (Administration)
[Clerk's Note: At the June 16th Meeting, this Ordinance was Postponed to this Meeting; a Motion to Enact is On the Floor.]

3. **ENACTED UNANIMOUSLY. Ordinance No. 3225-2021** - Accepting and Appropriating a Go Further Fund Building Capacity Grant from Meals on Wheels America for the Kenai Senior Center's Ability to Meet the Increased Need Brought on by COVID-19, Expanding Comprehensive Services and Drive Innovation in the Areas of Nutrition and Socialization. (Administration)
 1. Motion for Introduction
 2. Motion for Second Reading (Requires a Unanimous Vote)
 3. Motion for Adoption (Requires Five Affirmative Votes)
4. **ADOPTED UNANIMOUSLY. Resolution No. 2021-46** - Adopting Joint Resolution No. 2021-001 of the Assembly of the Kenai Peninsula Borough and Councils of the Cities of Homer, Kenai, Seldovia, Seward and Soldotna Respectively, for the Purpose of Intergovernmental Administration of Borough and City Elections. (City Clerk)
5. **ADOPTED UNANIMOUSLY. Resolution No. 2021-47** - Accepting Coronavirus State and Local Fiscal Recovery Funds Award to Non-Entitlement Units of Local Government From the State Of Alaska Department of Commerce, Community and Economic Development. (Administration)
6. **ADOPTED UNANIMOUSLY AS AMENDED. Resolution No. 2021-48** - Authorizing a Service Agreement for the Personal Use Fishery Dumpsters and Portable Restrooms. (Administration)
7. **ADOPTED UNANIMOUSLY. Resolution No. 2021-49** - Authorizing A Contract Award to Supply Operational Chemicals for the City's Water Treatment and Wastewater Treatment Facilities. (Administration)
8. **ADOPTED UNANIMOUSLY. Resolution No. 2021-50** - Authorizing a Service Contract Extension to Provide Refueling Services for City Facility Fuel Tanks. (Administration)
9. **ADOPTED UNANIMOUSLY. Resolution No. 2021-51** - Amending the Schedule of Rates, Charges, and Fees to Incorporate Changes to Facility Rental Gym Fees at the Kenai Recreation Center. (Administration)
10. **ADOPTED UNANIMOUSLY. Resolution No. 2021-52** - Opposing Amendment 14 to the Fishery Management Plan for Salmon Fisheries in the EEZ Off Alaska. (Mayor Gabriel and All Council Members)

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of June 16, 2021. (City Clerk)

F. UNFINISHED BUSINESS

G. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Bills to be Ratified. (Administration)

2. **APPROVED BY THE CONSENT AGENDA. *Action/Approval** - Purchase Orders Over \$15,000. (Administration)
3. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 8/4/2021. *Ordinance No. 3221-2021** - Determining that Real Property Described as Lot 4A, Block 3, Cook Inlet Industrial Air Park 2014 Replat, According to Plan No. 2014-21, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals, an Alaska Partnership. (Administration)
4. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 8/4/2021. *Ordinance No. 3222-2021** - Determining that Real Property Described as Lot 1A, Block 1, Dshka Subdivision, According to Plat No. K-1577, City-Owned Airport Land Located Outside the Airport Reserve, is Not Needed for a Public Purpose and Authorizing the Sale of the Property to Schilling Rentals (2016), LLC. (Administration)
5. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 8/4/2021. *Ordinance No. 3223-2021** - Increasing Fiscal Year 2021 Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting a Grant from the US Department of Transportation Passed through the State of Alaska Department of Transportation and Public Facilities for Traffic Enforcement Overtime Expenditures. (Administration)
6. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 8/4/2021. *Ordinance No. 3224-2021** - Repealing and Reenacting Kenai Municipal Code Title 6 - Elections, to Provide Clarity, Housekeeping, and Process Improvements. (Vice Mayor Molloy and City Clerk)
7. **AGREED TO RESUME NORMAL SEATING IN COUNCIL CHAMBERS. Action/Approval** - Resume Normal Seating in Council Chambers for All Council and Commission Meetings. (City Clerk)
8. **APPROVED CONTINUATION OF PUBLIC PARTICIPATION BY ZOOM FOR NON-ADJUDICATORY MEETINGS UNTIL MARCH 2022. Action/Approval** - Public Participation by Zoom for Council and Commission Meetings. (City Clerk)
9. **WORK SESSION SCHEDULED FOR 8/4/2021. Discussion** - Introduction of Kenai Waterfront Revitalization and Economic Development Incentives and Request to Schedule a Work Session. (Administration)

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging
2. Airport Commission
3. Harbor Commission
4. Parks and Recreation Commission
5. Planning and Zoning Commission

6. Beautification Committee
7. Mini-Grant Steering Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

1. City Manager
2. City Attorney
3. **BOARD OF ADJUSTMENT HEARING SET FOR 8/16/2021 AT 6:00 P.M.** City Clerk

K. ADDITIONAL PUBLIC COMMENT

1. Citizens Comments (*Public comment limited to five (5) minutes per speaker*)
2. Council Comments

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Join Zoom Meeting

<https://us02web.zoom.us/j/85259568763>

Meeting ID: 852 5956 8763 **Passcode:** 496867

OR

Dial In: (253) 215-8782 or (301) 715-8592

Meeting ID: 852 5956 8763 **Passcode:** 496867



Plat Committee Final Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2215 • (907) 714-2378 Fax
Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

Melanie Aeschliman, Planning Director • Charlie Pierce, Borough Mayor
Paulette Bokenko-Carluccio – City of Seldovia ~ Robert Ruffner – Anchor Point/Ninilchik/Kasilof/Clam Gulch
Pamela Gillham – Ridge Way ~ Cindy Ecklund – City of Seward ~ Franco Venuti, Alternate – City of Homer

June 28, 2021
6:30 p.m.

Zoom Meeting Link: <https://zoom.us/j/2084259541>
Zoom Toll Free Phone Numbers: 888 788 0099 or 877 853 5247
Zoom Meeting ID: 208 425 9541

The hearing procedure for the Plat Committee public hearings is as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDA

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If you wish to comment on a consent agenda item, please advise the recording secretary before the meeting begins, and she will inform the Chair of your wish to comment.

***1. Agenda**

***2. Member / Alternate Excused Absences**

Robert Ruffner – Anchor Point/Ninilchik/Clam Gulch/Kasilof

***3. Minutes**

6-14-21 Plat Committee Meeting Minutes

D. OLD BUSINESS - None

E. NEW BUSINESS

- 1. Kinder Subdivision; KPB File 2021-079
Tony Wilson / Bartolowits
Location: Fairway Ave. & Cohoe Loop Rd.
Cohoe Area
- 2. Skyline Drive Subdivision No. 7A; KPB File 2021-083
Ability Surveys / Dubber
Location: Westhill Rd.
City of Homer
- 3. Fourth of July Creek Subdivision Seward Marine Industrial Center Fire Department Replat
KPB 2021-080
Enterprise Engineering Inc. / City of Seward
Location: Delphin St., Morris Ave., Mustang Ave. & Jellison Ave.
City of Seward
- 4. King's Creek 2021 Replat; KPB File 2021-081
Geovera LLC / Baker
Location: Wilderness Ln. & Sarah St.; Fitz Creek Area
Kachemak APC
- 5. Oberts Subdivision; KPB File 2021-082
Segesser Surveys / Oberts
Location: Adkins Rd. & Akeve Ave.
Sterling Area
- 6. TKC2 Subdivision; KPB File 2021-078
Segesser Surveys / TKC LLC
Location: Fourth Ave., Haller St. & Madison Ln.
City of Kenai

F. PUBLIC COMMENT

G. ADJOURNMENT

MISCELLANEOUS INFORMATIONAL ITEMS

NEXT REGULARLY SCHEDULED PLAT COMMITTEE MEETING

The next regularly scheduled Planning Commission meeting will be held **Monday, July 12 2021 at 6:00 PM** which the public will only be able to attend via Zoom:

Zoom Meeting Link: <https://zoom.us/j/2084259541>
Zoom Toll Free Phone Numbers: 888 788 0099 or 877 853 5247
Zoom Meeting ID: 208 425 9541

KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

Phone: 907-714-2215
Phone: toll free within the Borough 1-800-478-4441, extension 2215
Fax: 907-714-2378
E-mail address: planning@kpb.us
Website: <http://www.kpb.us/planning-dept/planning-home>

Written comments will be accepted until 1:00 p.m. on the last business day (usually a Friday) before the day of the Plat Committee meeting in which the item is being heard. If voluminous information and materials are submitted staff may request seven copies be submitted. Maps, graphics, photographs, and typewritten information that is submitted at the meeting must be limited to 10 pages. Seven copies should be given

to the recording secretary to provide the information to each Committee member. If using large format visual aids (i.e. poster, large-scale maps, etc.) please provide a small copy (8 ½ x 11) or digital file for the recording secretary. Audio, videos, and movies are not allowed as testimony. If testimony is given by reading a prepared statement, please provide a copy of that statement to the recording secretary.

An interested party may request that the Planning Commission review a decision of the Plat Committee by filing a written request within 10 days of the written notice of decision in accordance with KPB 2.40.080.



Planning Commission Final Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2215 • (907) 714-2378 Fax
Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

Melanie Aeschliman, Planning Director • Charlie Pierce, Borough Mayor

Blair Martin, Chair – Kalifornsky Beach ~ Robert Ruffner, Vice Chair – Kasilof/Clam Gulch

Syverine Abrahamson-Bentz, Parliamentarian – Anchor Point/Ninilchik ~ Jeremy Brantley – Sterling

Paulette Bokenko-Carluccio – City of Seldovia ~ Cindy Ecklund – City of Seward ~ Pamela Gillham – Ridge Way

Davin Chesser – Northwest Borough ~ Diane Fikes – City of Kenai ~ Virginia Morgan – East Peninsula ~ Franco Venuti – City of Homer

June 28, 2021

7:30 p.m.

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- 7) The Chair closes the hearing and no further public comment will be heard.
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A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDAS

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If you wish to comment on a consent agenda item, please advise the recording secretary before the meeting begins, and she will inform the Chair of your wish to comment.

***1. Time Extension Request - None**

***2. Planning Commission Resolutions-None**

***3. Plats Granted Administrative Approval**

- a. Grant Fritz Subdivision #5; KPB File 2020-042
- b. Misty Acres 2020 Replat; KPB File 2020-114
- c. Saindon Subd 2020 Addition; KPB File 2020-083

***4. Plats Granted Final Approval (20.10.040)**

***5. Plat Amendment Request - None**

***6. Commissioner Excused Absences**

- a. Robert Ruffner – Anchor Point/Ninilchik/Clam Gulch/Kasilof
- b. Davin Chesser – Northwest Borough

***7. Minutes**

- a. June 14, 2021 Planning Commission Meeting

D. OLD BUSINESS - None**E. NEW BUSINESS**

1. Conditional Use Permit; PC Resolution 2021-20
Petitioner: Jennifer Coghill
Location: 51475 Dragonfly St.; Nikiski Area; PIN 01309217
Request: Install a boat ramp for access to water, and grade between the house and lake for safety by removing overburden and placing approximately 15 cubic yards of gravel on a parcel within the 50-foot Habitat Protection District of Daniels Lake
2. Conditional Use Permit; PC Resolution 2021-21
Petitioner: Randy Kleinsmith
Location: 35859 Sabaca Rd.; Soldotna; PIN 05748324
Request: Install a chain link fence on a parcel within the 50-foot Habitat Protection District of the Kenai River, in Soldotna, Alaska
3. Conditional Use Permit; PC Resolution 2021-19
Petitioner: Chugach National Forest
PIN: 03510013; Hope Area
Request: Construct a 100-foot by 20-foot bridge on a parcel within the 50-foot Habitat Protection District of Resurrection Creek, near Hope
4. Marijuana Cultivation Facility License
Applicant: Smoking Joe's Terps Co.; Landowner: Thom, Jacob D.
Location: 22845 Cache Street, Kasilof; PIN 13344109
5. Resolution 2021-__: Classifying certain parcels of Borough owned land in the Nikiski, K-Beach, Sterling Hope, Homer, Skilak Lake, Cooper Landing and Beluga areas.
6. Ordinance 2021-__: Authorizing the sale of certain parcels of borough land by outcry auction followed by an over-the-counter land sale.

F. PLAT COMMITTEE REPORT - Plat Committee will review 6 Plats**G. OTHER**

1. Plat Committee – July/Aug/September (4 Members/1Alternate)
2. July 12, 2021 Planning Commission Meeting via Zoom Only

H. PUBLIC COMMENT/PRESENTATION (Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)

- I. DIRECTOR'S COMMENTS
- J. COMMISSIONER COMMENTS
- K. ADJOURNMENT

MISCELLANEOUS INFORMATIONAL ITEMS

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

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ADVISORY PLANNING COMMISSION MEETINGS

ADVISORY COMMISSION	MEETING LOCATION	DATE	TIME
Anchor Point	Zoom		7:00 PM
Cooper Landing	Zoom		6:00 PM
Funny River	Funny River Community Center		7:00 PM
Kalifornsky	Zoom		6:00 PM
Kachemak Bay	Zoom		7:00 PM
Moose Pass	Moose Pass Sportsman Club		6:00 PM
Hope / Sunrise	Zoom		7:00 PM

NOTE: Advisory planning commission meetings are subject to change. Please verify the meeting date, location, and time with the advisory planning commission chairperson. Chairperson contact information is on each advisory planning commission website. Links to the websites can be found on the Planning Department website.

CONTACT INFORMATION

KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

Phone: 907-714-2215
 Phone: toll free within the Borough 1-800-478-4441, extension 2215
 Fax: 907-714-2378
 e-mail address: planning@kpb.us
 website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees.

Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly. Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.



Plat Committee Tentative Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2215 • (907) 714-2378 Fax
Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

Melanie Aeschliman, Planning Director • Charlie Pierce, Borough Mayor
Paulette Bokenko-Carluccio – City of Seldovia ~ Robert Ruffner – Kasilof/Clam Gulch
Pamela Gillham – Ridge Way ~ Cindy Ecklund – City of Seward ~ Franco Venuti, Alternate – City of Homer

July 12, 2021
6:00 p.m.

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A. CALL TO ORDER

B. ROLL CALL

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***1. Agenda**

***2. Member / Alternate Excused Absences**

***3. Minutes**

June 28, 2021 Plat Committee Meeting Minutes

D. OLD BUSINESS - None

E. NEW BUSINESS

1. Tide View Heights #2; KPB File 2021-088
Johnson Surveying/Padget & Smith
Location: Ames Road
City of Kenai
2. Kenai Landing Subdivision 2021 Addition; KPB File 2021-089
Edge Survey & Design LLC/PRL Logistics Inc. & Kenai Landing Inc.
Location: Bowpicker Lane, Seacatch Drive & Columbia Street
City of Kenai
3. Birchwood Subdivision Sherman Addition No. 2; KPB File 2021-090
McLane Consulting Inc./Ciufu & Seymour
Location: Reger Road & Edgington Road
Sterling Area
4. Bay View Subdivision 2018; KPB File 2021-087
Ability Surveys/Freeman Holdings of Arkansas LLC
Location: Lake Shore Drive
City of Homer
5. Spruce Woods Subdivision 1975 Addition, Tract 1 Replat; KPB File 2021-091
Ability Surveys/Roth
Location: Saber Avenue E., Yukon Street & East End Road
Fritz Creek Area
Kachemak Bay APC

F. PUBLIC COMMENT**G. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS****NEXT REGULARLY SCHEDULED PLAT COMMITTEE MEETING**

The next regularly scheduled Plat Committee meeting will be held **Monday, August 9, 2021** in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at **5:30 p.m.**

KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

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Written comments will be accepted until 1:00 p.m. on the last business day (usually a Friday) before the day of the Plat Committee meeting in which the item is being heard. If voluminous information and materials are submitted staff may request seven copies be submitted. Maps, graphics, photographs, and typewritten information that is submitted at the meeting must be limited to 10 pages. Seven copies should be given to the recording secretary to provide the information to each Committee member. If using large format visual aids (i.e. poster, large-scale maps, etc.) please provide a small copy (8 ½ x 11) or digital file for the recording secretary. Audio, videos, and movies are not allowed as testimony. If testimony is given by reading a prepared statement, please provide a copy of that statement to the recording secretary.

An interested party may request that the Planning Commission review a decision of the Plat Committee by filing a written request within 10 days of the written notice of decision in accordance with KPB 2.40.080.