

Introduced by: Chairman
Date: April 4, 1972

Hearing: May 2, 1972

KENAI PENINSULA BOROUGH

ORDINANCE 72-3

AN ORDINANCE ENTITLED: "AN ORDINANCE CONCERNING REZONING
WITHIN THE CITY OF SEWARD"

BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA
BOROUGH:

Section 1. The following described area
located within the City of Seward and the
Municipal Zoning District is hereby rezoned.

Lots 29 through 40, Block 12, Original
Townsite of Seward, Alaska, from Single
Family Residential (R-1) classification
to (C.N.) Neighborhood Commercial clas-
sification.

Section 2. The official zoning map of the
City of Seward is hereby amended to reflect
the change provided in Section 1.

Section 3. This ordinance takes effect
thirty (30) days after enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS 2 DAY OF May, 1972.

C. E. F. Noah
Assembly President

ATTEST:

Frances B. Burrell
Borough Clerk



KENAI PENINSULA BOROUGH

Box 850 Phone 262-4441
SOLDOTNA, ALASKA 99669

GEORGE A. NAVARRE
CHAIRMAN

April 27, 1972

M E M O R A N D U M

TO: KENAI PENINSULA BOROUGH ASSEMBLY

FROM: KENAI PENINSULA BOROUGH PLANNING & ZONING COMMISSION

SUBJECT: WAGGY REZONING REQUEST - LOTS 29 - 40, BLOCK 12,
ORIGINAL TOWNSITE SEWARD

At the April 24, 1972, meeting, the Planning Commission considered the petition of Mr. Norman Waggy for the rezoning of Lots 29-40, Block 12, Original Townsite of Seward from "R-1", Low Density Residential, to "CN", Neighborhood Commercial. Mr. Waggy's purpose in requesting the rezoning was to allow for the expansion of the existing restaurant (The Fo'c's'le) and to provide for additional off street parking. The planning staff, in their report on this matter, noted:

1. The Seward City Planning Commission, at the advertised public hearing, on April 12, 1972, by unanimous vote recommended the rezoning be granted.
2. The Planning Commission has received five letters in regard to the rezoning. All five letters supported the petitioners request.
3. The existing land use in the area is primarily residential and commercial zoning of the subject property would result in the isolated expansion of an incompatible land use. In addition, the recently adopted land use plan suggests the area be developed into High Density Residential and that the existing and proposed transportation network is not designed for the increased traffic which would be generated by the commercial use. In summary, it was the planning staff's recommendation that the zoning request be denied.

Following the staff report, the Public Hearing was opened with the applicant speaking in favor of the matter and Mrs. Whitmore speaking in opposition.

Following considerable discussion by the Commission, Commissioner English moved that the rezoning request be recommended to the Assembly, seconded by Commissioner Baldwin. The motion was carried by the following roll call vote.

YES: Commissioners Baldwin, Dimmick, Holly, Leirer,
English and Strandberg

NO: Commissioners Hursch, Peck and Poppin

Attached is a complete excerpt of the Planning Commission minutes of April 24, 1972.

Ordinance 72-3 introduced April 4, 1972, if adopted, will accomplish the recommendation of the Planning Commission.

KENAI PENINSULA BOROUGH

MEETING OF THE PLANNING & ZONING COMMISSION - APRIL 24, 1972

7:30 P. M. - BOROUGH BUILDING - SOLDOTNA

This meeting was called to order by Chairman Strandberg at 7:45 P.M.

PRESENT: Commissioners Baldwin, Dimmick (arriving 8:45 P.M.), English, Holly, Hursch, Leirer, Peck, Poppin (arriving 7:50 P.M.), and Strandberg

ALSO PRESENT: Mr. Ralph R. Darbyshire, Planning Director, Mr. G. S. Best, Associate Planner, Mrs. Virginia Gibbs, Planning Technician, Mrs. Carolyn Thompson, Planning Department Secretary, Mr. Norman C. Waggy, and Mrs. Elsie Whitmore

AGENDA ITEM 1. PUBLIC HEARING

A. WAGGY REZONING - LOTS 29 - 40 BLOCK 12 ORIGINAL TOWNSITE SEWARD

Mr. Best read the following letter from Mr. Norman C. Waggy regarding the rezoning:

"It is my desire to request a rezoning of my properties in Block 12 of the original townsite of the city of Seward, Lots 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40.

Located on lots 38, 39 and 40 are two buildings, one at 100 Adams St. and one at 104 Adams St. Presently doing business in the location at 104 Adams St. is The Fo'c's'le Restaurant and ten feet west is 100 Adams St. building. It is my plan to unitize the two buildings into one and thereby expand the restaurant. I have more than adequate off street parking area and can comply with future needs if this request is fulfilled.

The request specifically is for rezoning of the above lots to "CN" as described in the present zoning ordinance of the city of Seward. The present zoning is R-1 and allows no business use or expansion.

The accesses to the properties Lots 29 thru 38 are presently limited to the adjacent alleyway since no street actually exists from Adams and First Avenue south to Washington St. In order to utilize the use of Lots 29 thru 38 for parking with entry and exit from Adams St. I also wish to have the street right of way vacated from Adams to Washington Sts.

Sincerely,

/s/ Norman C. Waggy
Norman C. Waggy"

Mr. Best noted that public notice was sent out to advertise for the public hearing of the City of Seward Planning & Zoning Commission on April 12, 1972, the Kenai Peninsula Borough Planning & Zoning Commission on April 24, 1972, and the Ordinance hearing which will be held on May 2, 1972. It was published in the Phoenix Log on March 30, April 6, and April 13. Also noted by Mr. Best was that out of the 40 notices sent out by certified mail, only one had not been returned receipted and that one had been refused.

An excerpt was read from the City of Seward Planning & Zoning Commission minutes (Item 9 - 2) by Mr. Best.

"Public Hearing to rezone Lots 29-40, Block 12, Original Townsite of Seward from S-1 Single Family Residential District to CN-Neighborhood Commercial District. Chrm. Leirer opened the Public Hearing at 8:56 P.M. Mrs. Elsie Whitmore, Mr. Don Oldow and Mr. Crisp asked several questions which Mr. Waggy and the Commission answered. Mrs. Whitmore stated that she objects to the rezoning. Mr. Oldow has limited objections to the rezoning. He does not think that all the lots need to be rezoned. Mr. Crisp does not object to the existing business but is and would object to additional traffic and noise in the area. A representative for Jack Goodwell stated that Mr. Goodwell has no objection to the rezoning. Mrs. James said that she has no objection to the rezoning either. Pat Williams asked to be excused to contact representatives of the Episcopal Church. Mrs. Williams was unable to contact enough of the Church members for a representation. Speaking for herself, Mrs. Williams, stated that she was in favor of the rezoning. Comm. Beissner moved, seconded by Comm. Mai, to rezone Lots 29-40, Block 12, Original Townsite of Seward from S-1, Single Family Residential District to CN-Neighborhood Commercial District. Passed unanimously."

"Sincerely,

/s/

April M. Tuthill
Secretary

Mr. Best continued, reading letters from the following interested citizens: Mrs. Virginia H. Darling of Brown & Hawkins, Mr. Donald Hayes, the Seward Trading Company. In reviewing the background it was noted that a similar request was initiated in 1969, (R-1 to Limited Commercial) on the same property. The Seward Advisory Planning Commission voted 4 - 3 to deny rezoning, the Kenai Peninsula Borough Planning Commission voted to approve, 5 - 1, and the Kenai Peninsula Borough Assembly voted 8 - 1 to deny.

The planning staff has reviewed the request and finds that the existing land use in the area is primarily residential and commercial zoning of the subject property would result in the expansion of an incompatible land use. In addition, the recently adopted land use plan suggests the area be developed into medium density residential and the existing and proposed transportation network is not designed for the increased traffic which would be generated by the commercial uses. It is suggested the Planning Commission recommend to the Assembly that the rezoning be denied.

A letter which was hand carried to the meeting by Mr. Waggy from K. L. Knighten of the Fish House was read by Mr. Best. All of the letters received from interested citizens were in favor of the rezoning.

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Mr. Best pointed out on a map the location of the lots which Mr. Waggy wants rezoned. Commissioner Peck asked if this would constitute spot zoning. Mr. Best stated that he was unable to advise if it would actually be considered spot zoning and that it would take a court to make that decision. Commissioner Holly asked if it was the intent of Mr. Waggy to rezone the whole area into Neighborhood Commercial. Mr. Best said that this request is mainly for expansion of the restaurant and parking facilities.

Chairman Strandberg declared the hearing open to the public.

Mrs. Elsie Whitmore, 306 - First Avenue (Lots 23, 24 & 25 Block 13), Seward, was given the floor by Chairman Strandberg. Mrs. Whitmore stated that she objects to the rezoning as the street is not wide enough, more dust and noise would be created and that she doesn't want a parking lot located next to her. She does not want to have to move to the country in order to just have a house.

Mr. Norman Waggy was given the floor by Chairman Strandberg. Mr. Waggy stated that he bought this property from the Methodist Church to be commercial property. He stated that it does look like an excessive amount of property for parking but that he has quite a bit of business from tour buses which take quite a bit of room in which to park and turn around. Commissioner Holly asked what the width of the street is. Mr. Waggy said that he thought it was the same width as all the other streets which run east and west in town which he thought was 60 feet. Chairman Strandberg asked if the street was gravel surface. Mr. Waggy stated that at this time it is not the width of the street which is the problem, but the maintenance of it. Mr. Waggy stated that with the parking area in the back, it would relieve the street parking. Commissioner Poppin asked if there was an alleyway between the two rows of lots. Mr. Waggy stated that it was an alleyway 20 feet wide but that the City had utility poles down it about 4 feet in and that actually is a one lane alley. He stated that it could not be used as an exit as it against the Ordinance. Mr. Waggy then showed a plan of the lot's'le expanded. Commissioner Holly asked if Mr. Best had gotten a poll of the people who were sent the notices. Mr. Best stated that he had received four letters in favor of the rezoning but that out of those four he didn't know how many had been mailed the public notice.

Chairman Strandberg asked if there was any one else to be heard for the public hearing. Mr. Waggy stated that the reason he is asking for CN (Neighborhood Commercial) is that the City of Seward does not have an R-4 in their Ordinance. That R-3 is the highest residential use in the zone. R-3 doesn't, under the Borough's ordinance or any of the others, allow any commercial establishments. Commissioner Strandberg called for any other persons to be heard. There being none, the public hearing was closed. After the hearing was closed the Planning Commission discussed the following items (Mrs. Dimmick arrive

1. CN (Neighborhood Commercial) was explained
2. Possibility of spot rezoning

Commission English moved that the rezoning request be recommended to the assembly, seconded by Commissioner Baldwin. A roll call vote was taken with the following results:

Yes: Commissioners Baldwin, Dimmick, Holly, Leirer, English, and Strandberg

No: Commissioners Hursch, Peck and Poppin

Public hearing will be held before the Borough Assembly on May 2, 1972.

AGENDA ITEM 2. CONSIDERATION OF SUBMITTED PLATS:

A. BOYER (DAVID N.) SUBDIVISION (PRELIMINARY)

Mr. Best presented the staff report noting this subdivision is located in the Harbor View vicinity in the City of Kenai. The following letter from the subdivider was read by Mr. Best:

"Please find enclosed six (6) copies of plat for Boyer property in Kenai. Request "exception" on entry or street width requirements from Bluff St. into area noted as A on plat. Also request approval of plat for record purposes.

Yours truly,
/s/ David N. Boyer"

A letter from the City of Kenai Advisory Planning & Zoning Commission was read which contained the following questions and comments:

- "1. Whether the 16' entry to lot A belongs to lot A or to the lot West of Lot A.
2. The access to lot A appears to be too narrow.
3. Does the lot directly East of lot A have ingress and egress?
4. Recommend all lots be identified by numbering."

Mr. Best then read a letter which he had written Mr. Boyer and asked Mr. Boyer to answer the questions of the Kenai Advisory Planning & Zoning Commission directly with a copy of the letter to him.

The planning staff has reviewed the plat and request and suggest the plat and exception request be tabled to give the City of Kenai time to receive answers to its questions and reach a decision.

Commissioner Leirer moved to table the request, seconded by Commissioner Dimmick. The motion was passed unanimously.

B. BIRCH HILL SUBDIVISION (PRELIMINARY/FINAL)

Mr. Best presented the staff report noting this subdivision is located just west of the Kenai Spur Hwy. approximately 2 1/2 miles north of the Soldotna "Y" and is a resub of the Lancashire Homestead plat. The following letter from the subdivider was read by Mr. Best:

"This is a subdivision of Tract One of the Lancashire Homestead, with my home situated on Tract one-B. I plan to develop Tract One-A for rural residential use with individual water and sewer systems.

I request an exception from the Subd. regulations regarding the 3 to 1 depth ratio for Tract One-A due to topography.

Re: Section line right-of-way vacation.

I hereby petition the Kenai Peninsula Borough to take appropriate action necessary to vacate the section line right-of-way common to Sections 17 and 18 thru this subd. as shown on plat, due to topo-