

DENIED

KENAI PENINSULA BOROUGH PLANNING COMMISSION RESOLUTION 2011-14

A RESOLUTION GRANTING APPROVAL OF A CONDITIONAL USE PERMIT TO EXPAND A PRIOR EXISTING STRUCTURE BY CONSTRUCTING A DECK CANOPY WITHIN THE HABITAT PROTECTION DISTRICT OF THE KENAI RIVER

WHEREAS, Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and

WHEREAS, public notice was sent to all property owners within a 300ft. radius of the proposed activity; and

WHEREAS, public notice was published in the *Peninsula Clarion*, *Homer News* and *Seward Phoenix Log* on June 23, 2011 as provided in Section 21.20.010; and

WHEREAS, public testimony was received at the June 27, 2011 meeting of the Kenai Peninsula Borough Planning Commission; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Planning Commission makes the following findings of fact pursuant to Section 21.18.081:

1. The expansion of a prior existing structure within the 50-foot Habitat Protection District requires a conditional use permit pursuant to KPB 21.18.090.
2. This proposed project is within the habitat protection district as defined by KPB 21.18.040.
3. A prior existing structure already exists and adding a transparent canopy to the structure will not cause significant erosion, sedimentation, damage within the habitat protection district or an increase in ground or surface water pollution.
4. The addition of a canopy to the prior existing structure will not cause physical damage to adjoining property owners.

Section 2. That the Planning Commission finds the proposed activity meets the requirements of KPB 21.18 so long as it is conducted in accordance with the conditions of this resolution and as described below.

This project is located on the right bank of a slough of the Kenai River at river mile 14.6, on Lot 27, Block 7, Castaway Cove Sub Amended, Section 19, T. 5 N., R. 10 W., S.M., AK, (KPB Parcel I.D:055-253-18). The street address of the parcel is 45414 Caught A Snag Road.

The permittee, Juan D. Gomez, is authorized to construct a collapsible, aluminum framed canopy with clear plastic sheeting and gutters over an existing elevated light penetrating deck. The proposed canopy will measure 10-feet by 20-feet.

The permittee is responsible for the actions of the contractors, agents, or other persons who perform work to accomplish the approved plan.

1) If changes to the approved project described above are proposed prior to or during its siting, construction, or operation the permittee is required to notify the River Center to determine if additional approval is required.

Finding: This is an administrative condition and is necessary to ensure continuing compliance with permit terms and conditions.

2) The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.

Finding: Kenai Peninsula Borough Coastal Management Program policy 2.2. Erosion states: "Developers shall retain existing vegetative cover in designated erosion-prone areas to the greatest extent practicable. In cases where development or other activities lead to removal of vegetation, erosion shall be prevented or, if it occurs, shall be remedied through revegetation (with native species if available) or by other suitable measures."

3) The construction or installation phase of this conditional use permit must be completed within one calendar year from the date of the permit's issuance, or the conditional use permit shall expire. However, prior to its expiration date, the River Center Director upon written request may grant a conditional use permit extension for 12 months.

Finding: This is an administrative condition and is necessary to ensure compliance with KPB 21.18.080(A).

4) Once effective, this Conditional Use Permit is valid for as long as the structures and activities remain in compliance with all applicable laws including the conditions of this Conditional Use Permit.

Finding: This is an administrative condition and is necessary to ensure compliance with permit terms and conditions. This condition is also consistent with KPB 21.18.020.

5) The proposed canopy must be designed and installed to meet KPB floodplain/floodway requirements.

Finding: Portions of this project fall within the mapped floodplain. This is an administrative condition necessary to ensure compliance with other sections of Borough code.

6) Fuel storage within the habitat protection district is prohibited.

Finding: This condition is to prevent the introduction of hydrocarbons into the Kenai River, and is consistent with KPB 21.18.010 (C).

7) In addition to the penalties provided by KPB 21.18.110, the Planning Commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of this permit. The River Center Director shall provide at least 30 days written notice to the permittee of a revocation hearing before the Planning Commission.

The permittee, Juan D. Gomez, hereby agrees to comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.

The permittee, Juan D. Gomez, is responsible for determining the need for any other municipal, state or federal permits and acquiring the same. The permittee must abide by all applicable municipal, state, and federal laws.

Finding: This condition is to ensure continued compliance with KPB 21.18.

8) This Conditional Use Permit shall become effective on signing by the Planning Commission Chairman or Vice Chairman.

Finding: This condition embraces the intent and is not inconsistent with KPB 21.18.

Section 3. The Kenai Peninsula Borough Planning Commission authorizes the issuance of a Conditional Use Permit for the construction and installation of a collapsible, aluminum framed canopy with clear plastic sheeting and gutters over an existing elevated light penetrating deck. The proposed canopy will measure 10-feet by 20-feet.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____ 2011.

THIS CONDITIONAL USE PERMIT IS EFFECTIVE ON THIS ____ DAY OF _____, 2011.

Blair Martin, Vice Chairperson
Planning Commission

ATTEST:

Patricia Hartley
Administrative Assistant