

Diamond Willow Estates/Ravenwood LOZ

17 March 2015

Dear Borough Assembly,

We are requesting approval of the Diamond Willow/Ravenwood R-1 Local Option Zoning for the same reasons as the previous LOZ: to protect our property value, drinking water, quality of life and provide safety for our children.

The Board of Adjustment over turned the Planning Commissions decision to deny the gravel pit on Jan 21, 2015. We, as nearby landowners, are fearful of the irreversible damage this may cause to the surrounding neighborhood. We, as a neighborhood will have to be extra vigilant because the Kenai Borough has a poor track record of enforcing material site regulation.

To make matters worse, the current owner and operator (Mr. Sean Cude) cannot be trusted. In a letter he wrote to the Borough, dated 10 Dec 2014 (Page 2/3) he states: I have several other similar operations in the area and have with the State of Alaska regulators an excellent reputation for clean and careful operation. We visited one of these sites Mr. Cude operates under the name NRD. What we discovered was horrific (See page 4/5). I am certain the refuse seen in these photographs, including a used vehicle fuel tank does not qualify as approved fill material. In addition to the illegal dumping, the residential lot that is adjacent to the grandfathered material site has been excavated to near exhaustion of its gravel, all without material site permit. This activity was reported to the Kenai Borough and the email (page 6/7) was sent to the property owner. This clearly debunks any claim by Mr. Cude that he is an honest and conscientious developer in the community.

Although Mr Cude has been granted the Material Site Permit from the Board of Adjustment. We implore the Assembly to approve the R-1 LOZ in its entirety, so when the gravel has been removed and property reclaimed, it will not become a graveyard of Sean Cude's construction remnants, which would be a serious hazard to what would otherwise be a quiet, peaceful and safe neighborhood.


Travis Penrod
Diamond Willow Estates Homeowner.

Agenda Item M-5

Committee Lands

Page Number 40

December 10, 2014

Dear Mr. Best:

Can you please include this short memo of my concerns in the Assembly and Planning Commission packets regarding the introduction of the second LOZ?

Thank you

Sean Cude

- My existing gravel pit is located on Tracts A and Lots C, D, and E and these are within the proposed LOZ. The entire matter is currently pending before the Board of Adjustment for decision about a conditional use permit. The Borough Staff itself has recommended granting the conditional use permit. I have proposed numerous voluntary measures to reduce impact to an even greater extent than required by local and state law, including rerouting any trucks directly to paved Ciechanski Road, bypassing smaller unpaved roads.
- In prior testimony, the persons proposing the LOZ were clear that the proposed LOZ zoning districts are intended as an offensive measure to prevent this long time use.
- This pit has been in operation for more than 30 years and is not some new use. The residents of the houses in the area first built after this pit and other larger pits in the area were in operation.
- The State of Alaska DEC recently wrote to the Kenai Peninsula Borough praising my careful and clean operations. **I have several other similar operations in the area and have with the State of Alaska regulators an excellent reputation for clean and careful operation.**
- I own a river lot immediately adjacent to these lots and intend to reside there. I would not foul the land near my own river property. If financially feasible, I intend to reclaim this small gravel operation as a hay field for horses.
- The old pit has been only partially refilled and reclaimed so far. It is very expensive to do this and financial reasons would preclude completely refilling and restoring the old pit to a better state than the legal minimum if I am forced out of any gravel operations that would help pay for more comprehensive restoration. This is clearly in the long-term benefit of the entire neighborhood.
- I have only recently purchased the property and am a new owner. I believe that any current concerns arose as a result of a prior owner's operations and the much larger, rather unsightly QAP gravel pit across the road, which is not included in any LOZ and over which I have no control. Yet, for reasons that have not been made clear to me, those much larger operations are not being affected by any proposals here.
- I have taken many actions to clean up any prior concerns and to prevent any new problems. I am taking steps to ensure that only clean natural fill material is being included in the reclamation, and nothing which might cause any ground water problems.

- This pit is much smaller than any of the several surrounding gravel pits still in approved operation. Materials from this small pit were largely used to pave Ciechanski Road.
- Currently, much of the old pit operations along Virginia Avenue has been fully reclaimed is currently used by KPB and the State of Alaska to refill the old pit with clean natural materials from their construction. I have removed any known improper materials.
- The lots are not suitable for constructing safe housing because they have been already mined for gravel in the past or are the uncompacted fill.
- The Diamond Willow Estates Building and Use Restrictions have always exempted my lots from any restrictions that applied to the surrounding residential uses and those decades-old covenants permits non-residential uses.. While I am in compliance, some of the most vocal opponents of the gravel pit themselves have been violating their own covenants and not enforcing them.
- This is not just a quiet residential neighborhood. In addition to my pit, there are three other gravel pits in the area, including a much larger one operated by Quality Asphalt Paving across Ciechanski. The other gravel pits are much larger and more visually intrusive. There is also a boat yard and shop, A-1 Enterprises, directly across Canvasback from me. There also are hay fields, commercial agricultural , and a sport-fish guiding business and lodge in the neighborhood.
- The Borough found that there is no evidence of any well water impairment although this pit has existed for many years. The Borough noted that there are many intervening septic systems located on small lots between the residences and the Cude pit, and the several much larger gravel pits in the area.



ABOVE: RND, Inc site on Kenai Spur Hwy...more illegal solid waste dumping on Sean Cude property... is this is how the Kenai Peninsula Borough plans to police our "reclamation" site also? 3-4-2015



ABOVE: More illegal dumping allowed by Borough and Alaska DEC Solid Waste at Cude's NRD site on Spur Highway...why has Alaska DEC allowed this to continue? 3-4-2015



ABOVE: RND, Inc one of Sean Cude's MANY LLC's...and his "reclamation" process...obviously NOT adhering to any environmental code or Material Site Standards...site located on Kenai Spur Hwy 3-4-15



ABOVE: Automobile fuel tank and debris dumped in RND, Inc site...supposedly policed and overseen by Kenai Peninsula Borough and Alaska DEC Solid Waste 3-4-15

Fwd: Material Site Info

Tuesday, March 17, 2015 12:27 PM

From: "Crystal Penrod" <diamondwillowhomeowners@gmail.com>
To: tgp.alaska@yahoo.com

----- Forwarded message -----

From: Wall, Bruce <bwall@kpb.us>
Date: Thursday, March 12, 2015
Subject: Material Site Info
To: Crystal Penrod <diamondwillowhomeowners@gmail.com>

Crystal,

Thank you for the information on the material site in North Kenai. A letter is being sent by Certified Mail to the owner of Parcel 017-270-43 that notifies them that they must obtain a permit before continuing to extract material.

Bruce

From: Crystal Penrod [mailto:diamondwillowhomeowners@gmail.com]
Sent: Wednesday, March 11, 2015 11:09 PM
To: Wall, Bruce
Subject: Re: Material Site Info

Hi Bruce,

The borough has this property listed as "residential" with no industrial use, no CLUP on file, and no mention of a waste monofill. The DEC list of approved items for this site did not include the majority of what is actually dumped there, and according to them, the site was inspected last September and found in compliance. RND, INC (current owner) doesn't even have a current valid business license to operate anything...curious, don't you think? Anyway, I appreciate your input on the property, and the info on ownership. Have a great day!
Crystal Penrod

On Wed, Mar 11, 2015 at 3:33 PM, Wall, Bruce <bwall@kpb.us> wrote:

I did speak to DEC. *Inert waste* (construction debris etc.) that is permitted in an approved landfill is different from *exempt waste* (concrete, stumps, etc.) that does not require a landfill permit. Just so that we are on the same page.

From: Crystal Penrod [mailto:diamondwillowhomeowners@gmail.com]
Sent: Wednesday, March 11, 2015 2:58 PM

To: Wall, Bruce
Subject: Re: Material Site Info

Hi again,

The DEC says he has a permit for "inert fill" which is a list of items like concrete, Tree stumps, overburden, untreated lumber, similar to what the CLUP permit allows. So the gross dumping that has occurred there of fuel tanks, metal debris, tires, etc is definitely NOT allowed. The site was definitely excavated of material at some point, and is now being used for illegal material. This is not a solid waste dump...according to DEC in Anchorage. Listed as Material Site with inert fill permit. Thanks for your insight. ..
Crystal

On Wednesday, March 11, 2015, Wall, Bruce <bwall@kpb.us> wrote:

I did go out there this morning. On the way back, I stopped and spoke to the landfill manager at his office. I also spoke to the owner on the phone.

Of course, the landfill is regulated by the state and we do not have anything to do with that. The operator and the owner assured me that no gravel is going off site and is only being used as landfill cover. They were both under the impression that the nature of the use was not regulated by the borough.

It is a grey area in the ordinance. I am still looking into it.

Bruce Wall
Planner
Kenai Peninsula Borough
907-714-2206

From: Crystal Penrod [mailto:diamondwillowhomeowners@gmail.com]
Sent: Wednesday, March 11, 2015 1:37 PM
To: Wall, Bruce
Subject: Re: Material Site Info

Thanks Bruce...it isn't too far north of Kenai...two lots down from fire station. Really scary stuff there...c

On Wednesday, March 11, 2015, Wall, Bruce <bwall@kpb.us> wrote:

Page 6

Crystal,

Foster Construction applied for Prior Existing Use status for Parcel 017-260-59 on 4/13/1999. It was approved by the planning director on 5/24/1999. Our records indicate that the parcel had been used as a material site since 1960. The Prior Existing Use status stays with the land when ownership is changed.

Parcel 017-260-59 is not an approved material site. In reviewing the aerial photography it does not appear that any movement of material had occurred on that parcel between 1996 and 2003. It appears that trees were cleared on the parcel and some minor movement of material had taken place between 2003 and 2012. It did not appear that the material site on the adjacent property had expanded onto this property.

I will try to go out there today and take a look at it. Let me know if there is additional information that you would like.

Bruce

From: Crystal Perrod [mailto:diamondwillowhomeowners@gmail.com]

Sent: Tuesday, March 10, 2015 8:25 PM

To: Wall, Bruce

Subject: Material Site Info

Hi Bruce,

I'm hoping you can assist me in locating the Material Site Permit info on the property listed below. There are two lots, connected, all used as Material Site and in reclamation process now. I'd like to have the applicant's name, year permit was applied and granted, any transfer of permit, etc. that you have on file. Thanks for your time!

Crystal Perrod

—

Diamond Willow Homeowners

Post Office Box 374

Kenai, AK 99611

Crystal Perrod, Chair



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Environmental
Conservation

OFFICE OF THE COMMISSIONER

Post Office Box 111800
410 Willoughby Avenue, Suite 303
Juneau Alaska 99811 1800
Main: 907 465 5066
Fax: 907.465 5070
www.dec.alaska.gov

February 12, 2015

Crystal J. Penrod
P.O. Box 374
Kenai, AK 99611

Re: Public Records Act Request to Alaska Department of
Environmental Conservation dated February 5, 2015

Dear Ms. Penrod:

On February 5, 2015, the Alaska Department of Environmental Conservation (ADEC) received a Public Records Act Request from you requesting copies of any and all complaints filed through this agency for seventeen separate companies identified in your request.

Staff from a number of divisions with the Alaska Department of Environmental Conservation have done a preliminary search and estimate that there are **approximately 280 pages of documents responsive to your request.** Photocopy charges for these documents are **\$0.25** per page (see AS 40.25.115(c), which would yield an estimated copying cost of **\$70.00.**

In addition, we anticipate that the staff time to reply to your request will exceed the five hours described in Alaska Statute at AS 40.25.100, therefore those costs will be charged to you in addition to the photocopy costs involved. Our preliminary estimate for staff time for thirteen separate employees is seven hours at an approximate **cost of \$525.00** While duplicates may exist in the documents, it would take additional staff time to sort through and eliminate those duplicates. Before we can proceed with this request, we need to confirm that you are **willing to reimburse the department for these costs.**

If these records appear to be **too voluminous for your needs,** I might suggest that you try to narrow down or clarify your request to a particular area of interest or a particular time period. For example, the Division of Water Engineering Support and Plan review staff would have to search through two file drawers and six boxes of archived complaints to obtain copies of the complaints you are requesting. If you limit your request to more recent

complaints in the active files, that could decrease the staff search time and the costs involved. Please note that the figures quoted above are preliminary estimates and the actual costs will be dependent on the final number of documents provided and the actual staff time required to find and copy those records. Pursuant to Alaska's public record regulations, the time limits outlined in those regulations will not begin to run again until we receive your response. If you have any questions, please feel free to contact me at (907) 465-5061 or email at gary.mendivil@alaska.gov.

Sincerely,



Gary Mendivil
Environmental Program Specialist

Cc: Steve Russell (DEC)
Don Fritz (DEC)
Michael Charland (DEC)
John Kuterbach (DEC)
Moses Parrish (DEC)
LuAnn Bower (DEC)
Renee Evans (DEC)
Monica English (DEC)
Jeremy Ayers (DEC)
Jeremy Ptak (DEC)
Geraldine Forgue (DEC)
Lori Aldrich (DEC)