



**BOARD OF ADJUSTMENT HEARING  
OCTOBER 7, 2019**

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**BOARD OF ADJUSTMENT HEARING  
OCTOBER 7, 2019 – 6:00 P.M.  
KENAI CITY COUNCIL CHAMBERS**

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**AGENDA**  
**BOARD OF ADJUSTMENT HEARING**  
**OCTOBER 7, 2019 – 6:00 P.M.**  
**KENAI CITY COUNCIL CHAMBERS**  
**210 FIDALGO AVE., KENAI, AK 99611**  
<http://www.kenai.city>

**Appeals of Planning and Zoning Commission Action Granting a Conditional Use Permit to Applicant, ACG, LLC, to Operate an Approximately 250 Square-Foot Retail Marijuana Store within an Existing Commercial Building, Located at 12516 Kenai Spur Highway, Lot 2, C Plaza Subdivision.**

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. PREVIOUS MINUTES**
  - 1. Minutes of June 21, 2016 (Twait/Morning)
  - 2. Minutes of August 23, 2016 (Isaacs)
  - 3. Minutes of February 20, 2018 (McIntosh)
- D. OPENING STATEMENT**
  - 1. Brian Gabriel, Board Chair
- E. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**
- F. PUBLIC COMMENT (5 minutes)**
- G. STAFF REPORT (15 minutes)**
- H. APPELLANT**
  - 1. Kenai Christian Church (30 minutes)
  - 2. David Hall (30 minutes)
- I. APPELLEE**
  - 1. ACG, LLC Representative (30 minutes)
- J. APPELLANT REBUTTAL**
  - 1. Kenai Christian Church (10 minutes)
  - 2. David Hall (10 minutes)
- K. APPELLEE REBUTTAL**
  - 1. ACG, LLC Representative (10 minutes)
- L. APPELLANT CLOSING ARGUMENT**
  - 1. Kenai Christian Church (5 minutes)
  - 2. David Hall (5 minutes)

**M. APPELLANT CLOSING ARGUMENT**

1. ACG, LLC Representative (*5 minutes*)

**N. DELIBERATIONS** (*Deliberations may be held in public or adjudicative sessions*)

*Please contact the City Clerk's Office at 907-283-8231 for additional information or questions.*

**MINUTES**  
**BOARD OF ADJUSTMENT HEARING**  
**JUNE 21, 2016 – 6:00 P.M.**  
**KENAI CITY COUNCIL CHAMBERS**  
**210 FIDALGO AVE., KENAI, AK 99611**  
<http://www.kenai.city>

**Appeal of Animal Control Officer's Action on an Application for an Animal Control  
Kennel License to Keep Four or More Dogs on the Premises Located at 1808 Julie Anna  
Drive, Kenai AK; Appeal Submitted by Jeffery Twait and Heather Morning.**

**A. CALL TO ORDER**

The City of Kenai Board of Adjustment convened on June 21, 2016, in City Hall Council Chambers, Kenai, AK. Board Chair Pat Porter called the meeting to order at 6:00 p.m.

**B. ROLL CALL**

There were present:

Pat Porter, Chair  
Henry Knackstedt  
Tim Navarre

Brian Gabriel  
Mike Boyle

**C. OPENING STATEMENT**

Chairperson Porter provided the opening statement introducing Appellants Jeffery Twait and Heather Morning, and Appellee Chief Animal Control Officer Jessica Hendrickson.

**D. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**

City Clerk Modigh administered the oath for all persons providing evidence and testimony.

**E. PUBLIC COMMENT (5 minutes)**

Lynette Kennedy spoke in opposition of one of the applicant's cat that uses her yard and on her deck and snarls at her cat on the back deck. Her house is directly across the street from the applicant and has witnessed the cat. Kennedy did not speak in opposition of the dogs generally. Noted it was not uncommon for other neighborhood dogs to roam the road.

It was noted for the record that this permit being discussed is related to dogs and not cats.

Karin R. Bahma spoke in opposition, stating that in the past more than recently, dogs incessant barking caused her to contend with hearing conversations in her own yard. She noted that since the matter was addressed by the City requiring a kennel permit, the level of barking has much improved and she had not noticed anything recently. Ms. Bahma reiterated though that a kennel would be inappropriate for the neighborhood. She spoke in opposition to the applicants' cats visiting her fenced yard digging up plants and on her deck.

David Salmon spoke in favor of the current covenants and opposition to the kennel license. He noted it currently stated "three animals" and a cat should be included in that when determining the number of allowed animals the applicants can have.

There being no one else wishing to be heard, Mayor Porter informed the Board a new evidence item was provided to the City Clerk after the deadline and asked the Board for good cause if they would like to accept the evidence.

Attorney Bloom noted that it was public comment that was submitted after the deadline. City Clerk Modigh added that it was received 42 minutes after the deadline by a person in the same neighborhood of the applicants'.

**MOTION:**

Knackstedt **MOVED** to accept the additional evidence; Navarre **SECONDED**.

The new evidence was provided to both parties for review prior to the board voting on accepting the new evidence.

There was no objection from either parties for the board to accept as new evidence.

**VOTE:**

YEA: Porter, Gabriel, Knackstedt, Boyle, Navarre

NAY:

**MOTION PASSED UNANIMOUSLY.**

The new evidence was provided to the Board for review.

**F. APPELLANT (30 minutes)**

Mrs. Morning reiterated that they have complied with the requirements of the kennel license. The applicants have satisfied the requirements of the Chief Animal Control Officer and was reevaluated on June 15 and found compliant. The applicants described all of their animals, breed, age and sex.

Mr. Twait addressed the new evidence but noted there were many points that were not accurate in it. He noted that he had never been to the house to retrieve his dogs, it was Mrs. Morning and that this was not very recent. He agreed that a couple of the dogs are 1.5 years old and tend to run when they were able to jump the current fence, a four-foot

chain link created as a good neighbor fence. However, the six-foot panels have been installed and secured to prevent the animals from being to leave the premises. Twait noted that he was working with the neighbor on the fence and had an understanding and verbal consent regarding the location of the fence approximately one foot on their property. He was surprised when he received the letter about encroachment on their property.

Twait added that they had never heard of any issues with their cats. He noted that they have met all the requirements of the animal control; the fence was complete, sight obscuring and a contact number was provided to the neighbors for direct contact with any issues in the future.

Was noted that this was not a commercial permit; clarified that there were six dogs total and did not plan on getting additional dogs.

**G. APPELLEE (30 minutes)**

Chief Animal Control Officer Hendrickson reported that she received notification on January 23 of complaints, and issued a notice to the residence of the need for a permit. The owners submitted an application for the permit and letters were received by neighbors in opposition. A letter was sent to the owners noting changes needing to be made before considering approval of such permit.

Animal control visited the property the first time on April 15 and then visited a second time on June 15. It was noted that there have been no further complaints called into Animal Control recently and that the applicants have satisfied all requirements of animal control. Officer Hendrickson stated that at this time the Animal Control supported the kennel license for this residence. She noted that the license is required for a review in January with a similar process.

It was noted that there was not a provision within code that requires a certain square footage per dog.

Hendrickson noted that the permit was initially denied due to the dogs not being contained. This was denied with provisions to meet for approval.

**H. APPELLANT REBUTTAL (10 minutes)**

None.

**I. APPELLEE REBUTTAL (10 minutes)**

None.

**J. APPELLANT CLOSING ARGUMENT (5 minutes)**

Thanked all for their time and found this to be an interesting and a learning process.

**K. APPELLEE CLOSING ARGUMENT (5 minutes)**

None.

The fence was discussed and where it was on the neighbor's property line. Twait noted that the fence does not run straight.

Being no further comments; Chairperson Porter requested a motion to enter an adjudicatory session. Board Member Gabriel **MOVED** and Board Member Boyle **SECONDED**.

**VOTE:**

YEA: Gabriel, Knackstedt, Boyle, Navarre, Porter

NAY:

**MOTION PASSED UNANIMOUSLY.**

**L. DELIBERATIONS (Deliberations may be held in public or adjudicative sessions)**

Chairperson Porter advised that the Board had 30 days to provide a decision.

With no further business before the Board, it adjourned into adjudicatory session for deliberation at 6:46 p.m.

**MINUTES**  
**BOARD OF ADJUSTMENT HEARING**  
**AUGUST 23, 2016 – 6:00 P.M.**  
**KENAI CITY COUNCIL CHAMBERS**  
**210 FIDALGO AVE., KENAI, AK 99611**  
<http://www.kenai.city>

**Appeal Filed by Ronald and Deniece Isaacs, Appealing the Decision of the Planning and Zoning Commission to Deny a Conditional Use Permit for a Marijuana Retail Store and Limited Cultivation Located at 11888 Kenai Spur Highway, Swanson Square #3, Kenai, AK.**

**A. CALL TO ORDER**

The City of Kenai Board of Adjustment convened on August 23, 2016, in City Hall Council Chambers, Kenai, AK. Board Chair Brian Gabriel called the meeting to order at 6:00 p.m.

**B. ROLL CALL**

There were present:

Brian Gabriel, Chair  
Mike Boyle  
Tim Navarre

Henry Knackstedt  
Bob Molloy

**C. PREVIOUS MINUTES**

1. \*Minutes of May 16, 2016
2. \*Minutes of December 8, 2015

**MOTION:**

Board Member Molloy **MOVED** to approve the previous minutes of May 16, 2016 and December 8, 2015 and requested unanimous consent; Board Member Knackstedt **SECONDED**.

**VOTE:** There being no objections, **SO ORDERED**.

**D. OPENING STATEMENT**

Chairperson Gabriel provided the opening statement introducing Appellants Ronald and Deniece Isaacs, and City of Kenai Planner Mathew Kelley.

Board Member Navarre informed the Board that the appellants inquired about the possible use of his commercial space; no agreement was made. Chairperson Gabriel noted that it was determined that was not a conflict of interest and Board Member Navarre may continue in the hearing.

**E. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**

City Clerk Modigh administered the oath for all persons providing evidence and testimony.

**F. PUBLIC COMMENT (5 minutes)**

Richard Hultberg spoke in opposition to this permit. He noted he spent 30 years in education as a principal and teacher and does not want it in the community of Kenai. He stated nothing good comes from drugs and he thanked the Board for their time and consideration.

Joan Kirkham spoke in opposition, representing St. Francis Episcopal Church, located within the 500 feet proximity of the proposed marijuana facility. She reported that the congregation voted significantly in opposition of the facility. Kirkham added that there are two 12-step programs that the church hosts for weekly and it would be very inappropriate to have such facility in such close proximity. A marijuana facility does not relate good values of what the church teaches or who they represent.

Mike Polocz expressed sympathy for what the new business owners have to go through to start a business; however, he spoke in opposition of a marijuana facility. He stated the proposed facility is within 500 feet of a church and drug and alcohol counseling center. Polocz added this is a moral issue, approving such facility in that location would be wrong and noted it was a legal issue as this would not meet the City ordinance minimum 500 feet requirement. He stated that if this is approved, he has legal counsel retained and would file suits immediately.

David Hodge spoke in support of Majestic Gardens. He stated cannabis users are not bad people. He added that various local businesses are shutting down and this is an employment opportunity. Hodge noted that it is nationally discussed that people are using cannabis to get off of actual drugs, that cannabis was medicinal.

**G. STAFF REPORT (15 minutes)**

City Attorney Bloom clarified that City Planner Matt Kelley is not a party to this proceeding and he is not presenting oral argument, he is only providing a staff report that he provided to the Planning and Zoning Commission.

City Planner Kelley reviewed his staff report, which was provided in the packet, noting the This is an application for the operation a Commercial Marijuana Establishment (CME) consisting of an approximately 480-square-foot Retail Marijuana Store and an approximately 498-square-foot Marijuana Cultivation Facility, Limited. The proposed CME would be located within an existing approximately 1,630-square-foot commercial retail space (Unit 3) within an existing commercial building, located on an approximately 1.67-acre parcel.

He noted that Kenai Municipal Code 14.20.150(d) details the intent and application process for conditional uses. The code also specifies the review criteria that must be satisfied prior to issue the permit.



Kelley noted that based on the application and a review of the criteria required to approve the permit, it was the recommendation of staff that the proposed Conditional Use Permit application be denied without prejudice because it does not comply with Kenai Municipal Code Section 14.20.330.

It was clarified that the proposed CME would be located within 500 feet of the outer boundaries of two Recreation and Youth Centers. According to the City of Kenai's Geographic Information System (GIS) there are baseball fields which are operated by the City of Kenai located on South Spruce Street. Furthermore, located on Main Street Loop and further bound by First Avenue and Birch Street are softball fields which are operated by the City of Kenai. On South Spruce Street, the baseball fields are located on 12 legally separate Government Lots. Government Lot Number 86 which is located south of Government Lot 62 contains a portion of the closest baseball field to the proposed CME.

Pursuant to the submitted application materials, the applicants have submitted a survey which shows that the proposed CME would be located approximately 505 feet from the north eastern corner of the grass area directly adjacent to South Spruce Street. In discussions with the applicants, they have indicated that the outer boundary of the baseball field would be this corner because that is the closest entrance and parking area to the baseball fields. Pursuant to KMC 14.20.330(f)(2), buffer distances are measured from the closest exterior wall of the CME to the outer boundaries of the Recreation or Youth Center. In this case, it is the understanding of staff that this measurement would be taken from the front door of the proposed CME, to the property line northeastern corner of Government Lot 86; which is approximately 455 feet.

#### **H. APPELLANT (30 minutes)**

Deniece Isaacs noted about the buffer zones, the shortest pedestrian route is shown on real life access on how children might be able to get there; pedestrian routes are also used in alcohol regulations, stating it is no new way to determine the distance for buffer zones; however, the GIS is a tool that the State, City and Borough uses but with disclaimers stating it was not to be used a survey tool as there may be discrepancies. She pointed out the differences between a flat map or screen to survey distance and measurements are different than the actual terrain and accurate measurements. She further noted that the softball fields are for all ages and alcohol is allowed. Isaacs referred to Kenai 12.25.010 in support of the proposed property lines. She added that the determined property line for the baseball field was determined based on the location of the Dipnet fishery sign stating it's parking area and overflow parking area; thus, not part of the baseball fields.

Isaacs referred to various technologies to measure the distances between their proposed facility, requesting amendments of plats, easements, reroutes, and/or reconsidering the boundary of the little league park.

Ron Isaacs noted that they hired a person to do a survey, not use of inaccurate technology. They have measured various business distances and he noted it is difficult to find a location in the community but found the distance with this location met the minimum requirement of 500 feet buffer. He further reminded the Board that marijuana was voted in favor in Alaska by majority of people.

The Isaacs thanked the Board for their time and consideration.

Discussion with the Board and appellants occurred regarding the distances and measurements.

Being no further comments; Chairperson Gabriel requested a motion to enter an adjudicatory session. Board Member Boyle **MOVED** to enter adjudicatory session; Knackstedt **SECONDED**.

**VOTE:**

YEA: Gabriel, Knackstedt, Boyle, Navarre, Molloy  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**I. DELIBERATIONS** *(Deliberations may be held in public or adjudicative sessions)*

Chairperson Gabriel advised that the Board had 30 days to provide a decision.

With no further business before the Board, it adjourned into adjudicatory session for deliberation at 7:04 p.m.

**MINUTES**  
**BOARD OF ADJUSTMENT HEARING**  
**FEBRUARY 20, 2018 – 6:00 P.M.**  
**KENAI CITY COUNCIL CHAMBERS**  
**210 FIDALGO AVE., KENAI, AK 99611**  
<http://www.kenai.city>

**Appeal of Planning and Zoning Commission Action Granting a Conditional Use Permit to Applicant, Ryan Tunseth, to Operate an Approximately 1,396 Square-Foot Retail Marijuana Store within an Existing Commercial Building, Located at 10767 Kenai Spur Highway, Suite D, Lot 1-C, Spur Subdivision No. 2.**

**A. CALL TO ORDER**

The City of Kenai Board of Adjustment convened on February 20, 2018, in City Hall Council Chambers, Kenai, AK. Board Chair Brian Gabriel called the meeting to order at 6:00 p.m.

**B. ROLL CALL**

There were present:

Brian Gabriel, Chair	Jim Glendening
Robert Molloy	Henry Knackstedt
Glense Pettey	Mike Boyle

**C. OPENING STATEMENT**

Board Chair Gabriel provided an opening statement.

**D. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY**

City Clerk Heinz administered the oath for all persons providing evidence and testimony.

**E. PUBLIC COMMENT (5 minutes)**

Patricia Patterson spoke in support of Mr. Tunseth's business noting she was in favor of one's self-determination; also noted that her tobacco store observed a reduction in consumers in the past 10 years. She added that there were requirements regarding smell not emanating from the suite and that tenant complaints were addressed. Ms. Patterson explained that she owned High Bush Buds and discussed the misconception with marijuana noting half of her marijuana purchasers were over 45 and had disposable income to spend. She pointed out that seed to sale occurred within 70 miles and the money stayed in the community which was good for the economy.

Dollynda Phelps spoke in favor of marijuana retail stores noting millions of dollars had been spent and tax revenues had increased. She added the marijuana industry had

impacted the black market and that its responsible regulation supported the community economically.

Dustin Every spoke in favor of the marijuana retail store noting he was happy to see responsible business owners who gave him confidence that marijuana was being commercialized responsibly. He noted he was an oilfield worker which did not make a good customer but that marijuana had a unique opportunity to add diversity to the economy. He spoke in favor of business owners establishing in the community that was their home and operating in manner that complied with regulations.

Kathryn Staskon spoke in support of the issuance of the Conditional Use Permit noting she spoke in front of the Planning and Zoning Commission as well.

Tina Humphrey noted she cultivated stating there was nothing wrong with marijuana. She added that she had been married 28 for years, consumed and raised kids, and that her kids never saw her smoke.

Leif Abel spoke in support of Mr. Tunseth's retail store noting the cannabis industry stuck together during elections and land use issues. He asked the Board to use reason and the code to make the right decision and remember the hard work people put into the industry and the jobs created.

Tasha Groessel spoke in support of the industry noting impacts nation-wide.

**F. STAFF REPORT (15 Minutes)**

City Manager Ostrander provided a staff report noting KMC 14.20 governed Conditional Use Permits, stated the criteria for issuance of a Conditional Use Permit, and how the application met each criteria. He also reviewed the six criteria which were added to the Conditional Use Permit.

Clarification was provided that the permit's purpose was for sale only and not use of marijuana, provided the definition of recreational youth center, and noted the adjacent Millennium Square was not in the City's inventory of parks per the definition of park.

**G. APPELLANT (30 minutes)**

Mr. McIntosh noted he agreed with most of the commenters stating he was not against marijuana but was against the one location adding that the use of marijuana related to a community was not adequately addressed pointing out some people were susceptible to addiction. He also noted that the Comprehensive Plan called to maintain existing recreational opportunities pointing out that even though Millennium Square wasn't identified as a park, there was a plan to build an event park there based on the KOOL Committee Study and the business could not be in harmony with the Comprehensive Plan because of the future opportunity of the Millennium Square property across the street. He suggested the marijuana business may affect families attending events at Millennium Square.

Mr. McIntosh further argued that the business was not in compliance with federal law therefore couldn't meet the City code or a condition in the Conditional Use Permit suggesting the interpretation of federal law was regulations outside of marijuana.

Mr. McIntosh clarified funding had not been included in the FY18 budget for the event park opportunity suggesting the success of the park was based on the success of the Bluff Erosion Project.

Finally, Mr. McIntosh stated he didn't agree with the interpretation of code related to the definition of "recreation center."

#### **H. APPELLEE (30 minutes)**

Mr. Tunseth expressed gratitude for the Board's support urging the Board to uphold the code and deny the appeal. He discussed the appeal itself noting the Planning and Zoning Commission's motion to reconsider their initial decision passed with four votes and on reconsideration, the Conditional Use Permit was granted by a majority. He addressed concerns noting odor control would not be an issue as the product was pre-packaged and suggested tenant complaints were overstated noting a Commissioner stated they felt misled by the tenants regarding the wall between spaces.

Mr. Tunseth noted the area referred to as Millennium Square, and the adjacent business properties were zoned Commercial Mixed Use and reiterated staff found his business's use consistent with requirements. He added his business would be filling a vacant space, bring surveillance, and would not negatively impact the area. He also added that the business was close to public safety, had robust security, and had developed operation policies to prevent diversion to minors.

Mr. Tunseth pointed out that he worked with City staff and put a lot of time and effort into his business plan, genuinely wanted to fix it if it needed fixed, that he intended on being a good partner to the City, and wanted the opportunity to resolve issues in the event they came up.

Jana Weltzin, Mr. Tunseth's attorney, noted the language in the Conditional Use Permit was standard language statewide, pointed out the burden was on the appellant to highlight the defects, and complemented staff on the comprehensive staff report provided with the Conditional Use Permit. She also pointed out compromises marijuana businesses made on advertising, lighting, signs, and warnings and suggested that compromise was a two-way street.

Ms. Weltzin spoke to standing pointing out Mr. McIntosh's first application was denied for not identifying harm and later provided harm which was general and not specific to his person. She discussed a recent Supreme Court case which upheld requirements that an appeal allege something unique; a matter that is different than that of the general public. She asked that the Board rule against Mr. McIntosh for not satisfying the burden of proof.

Clarification was provided that the main business door was on the river side of building and, by design, the door placement would mitigate cross clientele from the neighboring business. Clarification was also provided that there was intent to avoid using parking near

the adjacent building and present the business the other way to mitigate issues with neighboring businesses.

Odor controls were addressed including fans, humidity units, filters, and isolation from the neighboring suite. Clarification was provided that the state allowed for protesting annually.

**I. APPELLANT REBUTTAL (10 minutes)**

Mr. McIntosh reiterated that his concern was with the specific location. He pointed out the Cole Memorandum provided advice that marijuana commercialization by states wasn't going to be followed up on but with a new administration, the state was left to determine a path forward.

Mr. McIntosh he questioned why federal law was being challenged when the City expected everything else to be obeyed; pointed out that when there was a difference in federal and state law, federal law prevailed.

**J. APPELLEE REBUTTAL (10 minutes)**

Ms. Weltzin advised the Cole Memorandum provided a priority scheme, leaving marijuana to be regulated by the states and the new administration rescinded eight priorities; however those eight priorities were integral to the judicial system.

Mr. Tunseth pointed out the newspaper ran a story about his business and the next day the appeal was brought but the appellant didn't attend previous meetings. He also noted the first page in the appellant's submittal was against Council Member Navarre; he asked the Board to consider the applicant's motivations.

**K. APPELLANT CLOSING ARGUMENT (5 minutes)**

In closing, Mr. McIntosh stated the appeal wasn't about marijuana, it was about obeying the law; that a republic is by rule of law. The ultimate bottom line was civil obedience regarding the rule of law and the rule of law said marijuana was illegal.

**L. APPELLEE CLOSING ARGUMENT (5 minutes)**

In closing, Mr. Tunseth suggested that if it was about marijuana, it would not have been about his Conditional Use Permit. He offered gratitude to the Board and noted he was not happy about how the appeal played out but respected the process. He added the marijuana industry was not an easy industry to get into and that people worked hard to make marijuana a responsible industry. Finally, Mr. Tunseth stated he trusted the City, thanked the staff for their hard work, and requested that if there were no findings of law, that there was expediency in the decision.

**M. DELIBERATIONS (Deliberations may be held in public or adjudicative sessions)**

Board Chair Gabriel advised that the Board had 30 days to provide a decision.

With no further business before the Board, it adjourned into adjudicatory session for deliberation.

## **BOARD OF ADJUSTMENT HEARING**

### **Notice of Hearing**

The Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday. For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. Notice of the time and place of such hearing shall be mailed to all interested parties and to all property owners within five-hundred feet (500') of the property involved at least fifteen (15) days prior to the hearing. Notices to the appellant and/or applicant for the action or determination must be sent by certified mail, return receipt requested.

### **Type of Hearing**

The Board of Adjustment Hearing will be conducted in compliance with the City of Kenai Municipal Code 14.20.290, reasonable regulations of the Board and other applicable law. The Board of Adjustment is a quasi-judicial board. The hearing is public and is recorded. All persons presenting evidence and testimony shall do so under oath, administered by the City Clerk. This hearing will be conducted less formally with regard to rules of evidence and other court rules of procedure than in a judicial courtroom.

The hearing before the Board is de-novo; the Board will review both the facts and law presented during the hearing and submitted timely. Evidence and written arguments to be considered by the Board must be submitted to the City Clerk by **noon on Thursday, September 26, 2019**. A packet containing all evidence of written argument, timely submitted, will be provided to all parties as soon as possible after the submission date. The Clerk will include in the packet the record previously submitted to the Planning and Zoning Commission. A list of witnesses any party intends to have testify during the hearing must be provided to the City Clerk by the date evidence is due. New tangible evidence not timely submitted to the City Clerk will normally not be admitted unless good cause is shown as to why the evidence could not be timely submitted. A decision to include the evidence will be decided by the board. All evidence considered in this matter should be in the record before the Board as previously provided to the parties. The Appellant, or party applying to the Board, has the burden of proof to show entitlement to relief.

### **Hearing Procedures**

Any requested revision to the agenda or procedures by a party must be made to the Board and approved by the Board prior to the start of the hearing.

Members of the public may have five minutes each to address the Board prior to any presentations.

Staff will be allowed 15 minutes to provide a report to the Board at the beginning of the hearing.

Following the staff report, each party will be allowed 30 minutes to present its case. The Appellants will present their cases first. During the parties' presentation of the case, the parties may call witnesses. Any witness that testifies during the presentation of the case by either party, unless excused by the Board with concurrence of the parties, must remain available to be called during rebuttal, at which time cross examination may occur. Each party will be allowed 10 minutes for rebuttal and 5 minutes for closing arguments.

Upon recognition by the Chair, Board Members may question the parties and their witnesses. Questioning by the Board may take place at any time before the hearing is closed. Questioning by the Board and responsive answers will not count against a party's time.

### **Hearing Deliberation & Decision**

The Board may undertake deliberations immediately upon the conclusion of the hearing on appeal or may take the matter under advisement and meet at such other time as is convenient for deliberations until a decision is rendered.

The Board requires a quorum of four and a majority of those assembled to make a decision. The Board must issue a decision within 30 days of the hearing date. The Board may reverse, remand or affirm, wholly or in part, or may modify the order, requirement, decision or determination, as ought to be made, and to that end shall have the powers of the body from whom the appeal is taken.

Deliberations need not be in public and may be conducted with the City Attorney. A written decision will be issued and will indicate how each board member voted. Copies of the decision shall be promptly posted on the City's official website and mailed to all parties participating in the appeal. The written decision shall trigger the timeline for any appeal to the Superior Court.





## Kenai Planning & Zoning Commission - Regular Meeting

August 14, 2019 – 7:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

<https://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. \*July 24, 2019

#### 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

1. **Resolution PZ2019-31** - The Original Preliminary Plat of Evergreen Subdivision 2019 Replat, submitted by McLane Consulting, Inc., P.O. Box 498, Soldotna, AK 99669, on behalf of Wallace and Leona Jackson, P.O. Box 1948, Kenai, AK 99611.

#### F. PUBLIC HEARINGS

1. **Resolution PZ2019-27** - Application for a Conditional Use Permit to Operate an Approximately Retail Marijuana Store Described as Lot 2, C Plaza Subdivision and

Located at 12516 Kenai Spur Highway. The application was submitted by ACG, LLC, 5455 Kenai Spur Highway, Kenai, AK 99611.

2. **Resolution PZ2019-29** - Recommending the Council of the City of Kenai Amend Kenai Municipal Code 14.20.330 - Standards for Commercial Marijuana Establishments, to Incorporate Hours of Operation for Retail Marijuana Establishments into the City of Kenai's Code of Ordinances.
3. **Resolution PZ2019-32** - Recommending the Council of the City of Kenai Enact Ordinance 3072-2019 to Renaming, Repealing, and Re-enacting Kenai Municipal Code Title 22-General Fund Lands, Renaming Title 21-City Airport and Airport Lands, and Repealing Kenai Municipal Code Chapter 21.15-Lease and Sale of Airport Lands Outside of the Airport Reserve to Encourage Responsible Growth and Development to Support a Thriving Business, Recreation and Cultural Community through Responsible Land Policies and Practices.

**G. UNFINISHED BUSINESS**

**H. NEW BUSINESS**

1. **Action/Approval**- Application for Lease of City-owned Land within the Airport Reserve Described as a Portion of Tract A, General Aviation Apron Subdivision No. 2 and Located at 209 N. Willow Street. The application was submitted by SOAR International Ministries, P.O. Box 1714, Kenai, AK 99611.

**I. PENDING ITEMS**

**J. REPORTS**

1. City Council
2. Borough Planning
3. 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. August 27, 2019 – 6pm Sign Code Work Session
2. August 28, 2019 – 6pm iPad Training

3. August 28, 2019 – 7pm Regular Meeting

N. **COMMISSION COMMENTS AND QUESTIONS**

O. **ADJOURNMENT**



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## STAFF REPORT

To: Planning & Zoning Commission

Date: August 9, 2019

Subject: Resolution PZ2019-27 – Conditional Use Permit – Retail Marijuana Store

Applicant: ACG, LLC  
Marc Theiler, Representative  
Roger Boyd, Representative  
P.O. Box 1016  
Soldotna, AK 99669

Property Owner: ACG, LLC  
386 Heath Place  
Soldotna, AK 99669

Requested Action: Conditional Use Permit – Retail Marijuana Store

Legal Description: Lot 2, C Plaza Subdivision

Property Address: 12516 Kenai Spur Highway

KPB Parcel No: 04314013

Lot Size: 42,253 square feet (0.97 acres)

Existing Zoning: General Commercial (CG)

Current Land Use: Marijuana Product Manufacturing Facility

Land Use Plan: Mixed Use (MU)

## GENERAL INFORMATION

### Application

The City has received an application for an approximately 250 square foot retail marijuana store from ACG, LLC d/b/a Red Run Cannabis Company, LLC (applicant). An additional 50 square



feet will be used for storage related to the retail marijuana store. The retail marijuana store would be located in the same building as an existing 2,500 square foot marijuana product manufacturing facility that was granted a conditional use permit on June 28, 2017, through Resolution PZ2017-20. PZ2017-20 also granted a conditional use permit for an approximately 3,000 square foot marijuana cultivation facility within the same building, but the applicant wrote the City in December 2018 stating they no longer were pursuing the marijuana cultivation facility and wanted that use deleted from the conditional use permit. The building is approximately 5,500 square feet in size, was built in 1977, and is located on an approximately 42,253 square foot lot. Access is from the Kenai Spur Highway between McKinley Street and Haller Street. Second Avenue borders the north edge of the parcel. The building is connected to City water and sewer.

Public Notice, Public Comment

KMC 14.20.150(b) details application requirements for conditional use permits. City staff deemed the application to be complete and the City is in receipt of the application fee. Pursuant to KMC 14.20.280, Public hearing and notifications, City staff published notice of the public hearing in the *Peninsula Clarion* newspaper, notification was sent to adjacent property owners within 500 feet, and notification was posted on the property. The City has not received any comments as of August 7, 2019.

**ANALYSIS**

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Kenai Municipal Code 14.20.150(d) – Review Criteria for Conditional Use Permits

KMC 14.20.150 contains review criteria for conditional use permits. The application for a retail marijuana store is evaluated against these criteria as follows:

- *KMC 14.20.150(d)(1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The subject parcel is within the General Commercial (CG) Zone. Previous to the use of the building as a marijuana product manufacturing facility and purchase by the applicant, it was used to operate the Peninsula Moose Lodge until its closure in 2017. The Peninsula Moose Lodge was a private social club with a restaurant and bar and is a principally permitted use in the CG Zone. The marijuana product manufacturing facility would continue to operate in the building proposed for a retail marijuana store. The product manufacturing facility is not open to the public and would remain in an area of the building without public access. The application notes the exterior of the existing building will remain largely unchanged with minimal new signage. The applicant did note their intent to modify the conditional use permit for the marijuana manufacturing facility in the near future to expand the square footage allowed for that activity in the building. A condition will be added to ensure the marijuana manufacturing permit is modified when there is a change in the use or the conditions of the use.

Retail marijuana stores are a conditional use within the CG Zone and require a conditional use permit. KMC 14.20.120 outlines the intent of the CG zone to provide for areas with a broad range of retail, wholesale, and service establishments, with uses regulated to concentrate commercial development to the greatest extent possible. Residences and other

non-commercial uses are not principally permitted in the CG Zone. A retail marijuana store is a commercial use that aligns with the intent of the CG Zone.

The retail marijuana store would primarily be accessed via the Kenai Spur Highway. The Kenai Spur Highway is classified by the State of Alaska Department of Transportation and Public Facilities as a Major Collector. A collector is defined as “A road classification applicable to roads serving a mixture of local access and through traffic, for which the volume, average speed, and trip length of vehicles using the road are usually lower than for principal or minor arterials, but higher than for local roads.” Furthermore, KMC 14.20.320 defines a Collector as “...a street located and designed for the primary purpose of carrying traffic and of connecting major areas of the City”. It would be unlikely that vehicles would continue northbound along McKinley Street or Haller Street and bring additional traffic into the Suburban Residential (RS) Zone to the north of the subject parcel. The application also notes the proposed retail marijuana store to be a low volume business. Thus, the proposed retail marijuana store would meet the intent of the CG Zone while not adversely impacting the intent of the adjacent RS Zone by generating heavy traffic.

- *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: The proposed retail store would occupy a structure that has a permitted marijuana cultivation facility. The adjacent property to the east has commercial development, including a restaurant, coffee shop, and retail and grocery stores. To the west is an auto repair business. The proposed location fronts the Kenai Spur Highway. Across the Kenai Spur Highway to the south are undeveloped parcels within the Suburban Residential Zone. North of the commercial development where the retail marijuana store would be located are homes in the Suburban Residential Zone. The applicant states proposed operating hours to be approximately 10am-10pm.

Off-street parking requirements in KMC 14.20.250(8) for a “Manufacturing/Industrial, research and laboratories”, which requires one (1) space for every 500 square feet of floor area plus three (3) for patron parking. Retail sales of non-bulky items requires one (1) space for every 300 square feet of floor area. This would mean 14 parking spaces are required. There is sufficient space on site in the parking lot and this will be verified with any site plans submitted to the City associated with building modifications.

City staff conducted a site visit on July 26, 2019. The retail marijuana store would be contained within a fully enclosed secure indoor facility as required by KMC 14.20.330(d). City staff noticed the dumpster was not enclosed, which is required with site plan approval. The enclosure of the dumpster is added as a condition of approval.

If the dumpster is enclosed and local, state, and federal laws are followed as conditions of the conditional use permit, City staff does not believe the value of the adjoining property and neighborhood would be significantly impaired.

- *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The Land Use Plan within the 2016 *Imagine Kenai 2030 Comprehensive Plan* identifies the subject parcels as Mixed Use (MU). The Land Use Plan describes the City’s

vision of a generalized desirable pattern of land uses, but it is not a zoning ordinance. The plan defines MU as “Mixed Use is intended for a compatible mix of residential, retail, service, office, public, institutional and recreational uses. Uses are co-located in an integrated way that supports sustainable forms of transport such as public transport, walking and biking, and increases neighborhood amenities. Compatibility issues are addressed through careful site layout and building design.” The proposed retail marijuana store aligns with the vision for land use in the City of Kenai as it will add a retail store. The subject building along with the adjacent strip mall should be considered into City plans to improve pedestrian access in order to help achieve the Mixed Use vision of development as outline in the Land Use Plan.

The proposed use is in line with goals and objectives identified in the Comprehensive Plan, including the vision for Goal 2 – Economic Development to provide a built environment for long-term economic viability and growth that promotes affordable residential development. The application notes the retail marijuana store business will create jobs and tax revenue while being consistent with other surrounding commercial uses.

- *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: City water and sewer serve the subject property. The site also has connections to natural gas, telephone, and three phase electric power. The parking lot is paved with adequate spaces.

- *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Criteria Met: ACG, LLC d/b/a Red Run Cannabis Company, LLC has applied for a license for a retail marijuana store from the State of Alaska Marijuana Control Office (AMCO) and would not operate until obtaining the license. The applicant currently holds a license for its existing manufacturing facility on the premises from AMCO. ACG, LLC d/ba/ Red Run Cannabis Company, LLC also has a business license with the State of Alaska and has record of paying taxes to the Kenai Peninsula Borough.

KMC 14.20.330(e) requires the retail marijuana store not emit an odor that is detectable by the public. The application notes that odors will be treated on site with the building already designed to contain odors from the manufacturing facility.

The existing conditional use permit granted in 2017 through Resolution PZ2017-20 for the marijuana manufacturing facility met the buffer distances for retail marijuana stores required in KMC 14.20.330(f). City staff again checked the buffer distances required to make sure the following buffer distances required by KMC 14.20.330(f) were still met:

- (1) 1,000 feet of any primary and secondary schools (K-12) and 500 feet of any vocational programs, post-secondary schools including but not limited to trade, technical, or vocational schools, colleges and universities, recreation or youth centers, correctional facilities, churches, and state licensed substance abuse treatment facilities providing substance abuse treatment; and,
- (2) Buffer distances shall be measured as the closest distance from the perimeter of a stand-alone commercial marijuana establishment structure to the outer

boundaries of the school, recreation or youth center, or the main public entrance of a church, correctional facility, or a substance abuse treatment facility providing substance abuse treatment. If the commercial marijuana establishment occupies only a portion of a structure, buffer distances are measured as the closest distance from the perimeter of the closest interior wall segregating the commercial marijuana establishment from other uses, or available uses in the structure, or an exterior wall if closer, to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church or correctional facility, a substance abuse treatment facility providing substance abuse treatment.

Resolution PZ2017-20 discussed Kenai Christian Church being located to the east of the parcel with a public entrance off of McKinley Street, but that Kenai Christian Church still met the buffer requirements of City Code for commercial marijuana facilities because it was over 500 feet away. City staff used mapping software to review property owners within 500 and 1,000 of the parcel in August 2019. The location for the retail marijuana store that would be added the building with an existing marijuana manufacturing facility still meets buffers distances required by City Code and would not have a harmful impact to public safety, health, or welfare.

- *KMC 14.150(d)(6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.*

Recommended conditions are stated under recommendations.

## **RECOMMENDATIONS**

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Staff recommends the Planning and Zoning Commission approve the Resolution PZ2019-27 with the following conditions:

1. Further development of the property shall conform to all federal, State of Alaska, and local regulations.
2. Prior to operation of the retail marijuana establishment, the applicant shall submit a copy of an approved and fully executed license from the State of Alaska Alcohol and Marijuana Control Office. The applicant shall comply with all regulations as stipulated by the State of Alaska Marijuana Control Office.
3. Pursuant to Kenai Municipal Code Section 14.20.330(e), the Commercial Marijuana Establishment shall not emit an odor that is detectable by the public from outside the Commercial Marijuana Establishment.
4. Pursuant to Kenai Municipal Code Section, 14.20.150(f) the applicant shall submit an Annual Report to the City of Kenai.
5. The applicant will enclose the dumpster on the premises with a sight-obscuring



structure to meet requirements outlined in KMC 14.25.045 for their site plan of the premises.

6. The applicant will also comply with the conditions of PZ2017-20 granting their commercial marijuana manufacturing facility conditional use permit for the facility in the same building and modify that permit if the use changes.

## **ATTACHMENTS**

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- A. Resolution No. PZ2019-27
- B. Application
- C. Map



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**CITY OF KENAI  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. PZ2019-27**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI  
**GRANTING** A REQUEST FOR A CONDITIONAL USE PERMIT FOR A RETAIL MARIJUANA  
STORE TO:

APPLICANT: ACG, LLC

USE: RETAIL MARIJUANA STORE

LEGAL DESCRIPTION: LOT 2, C PLAZA SUBDIVISION

PHYSICAL ADDRESS: 12516 KENAI SPUR HIGHWAY

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04314013

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City; and,

WHEREAS, the application affects land zoned as General Commercial (CG); and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on August 14, 2019, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications; and,

WHEREAS, the Planning and Zoning Commission finds the application meets the requirements for issuing a conditional use permit that are outlined in Kenai Municipal Code 14.20.150 and has made the following findings:

1. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(1)* *The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;*

Criteria Met: The subject parcel is within the General Commercial (CG) Zone. Previous to the use of the building as a marijuana product manufacturing facility and purchase by the applicant, it was used to operate the Peninsula Moose Lodge until its closure in 2017. The Peninsula Moose Lodge was a private social club with a restaurant and bar and is a principally permitted use in the CG Zone. The marijuana product manufacturing facility would continue to operate in the building proposed for a retail marijuana store. The product manufacturing facility is not open to the public and would remain in an area of the building without public access. The application notes the exterior of the existing building will remain

largely unchanged with minimal new signage. The applicant did note their intent to modify the conditional use permit for the marijuana manufacturing facility in the near future to expand the square footage allowed for that activity in the building. A condition will be added to ensure the marijuana manufacturing permit is modified when there is a change in the use or the conditions of the use.

Retail marijuana stores are a conditional use within the CG Zone and require a conditional use permit. KMC 14.20.120 outlines the intent of the CG zone to provide for areas with a broad range of retail, wholesale, and service establishments, with uses regulated to concentrate commercial development to the greatest extent possible. Residences and other non-commercial uses are not principally permitted in the CG Zone. A retail marijuana store is a commercial use that aligns with the intent of the CG Zone.

The retail marijuana store would primarily be accessed via the Kenai Spur Highway. The Kenai Spur Highway is classified by the State of Alaska Department of Transportation and Public Facilities as a Major Collector. A collector is defined as "A road classification applicable to roads serving a mixture of local access and through traffic, for which the volume, average speed, and trip length of vehicles using the road are usually lower than for principal or minor arterials, but higher than for local roads." Furthermore, KMC 14.20.320 defines a Collector as "...a street located and designed for the primary purpose of carrying traffic and of connecting major areas of the City". It would be unlikely that vehicles would continue northbound along McKinley Street or Haller Street and bring additional traffic into the Suburban Residential (RS) Zone to the north of the subject parcel. The application also notes the proposed retail marijuana store to be a low volume business. Thus, the proposed retail marijuana store would meet the intent of the CG Zone while not adversely impacting the intent of the adjacent RS Zone by generating heavy traffic.

2. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(2) The value of the adjoining property and neighborhood will not be significantly impaired;*

Criteria Met: The proposed retail store would occupy a structure that has a permitted marijuana cultivation facility. The adjacent property to the east has commercial development, including a restaurant, coffee shop, and retail and grocery stores. To the west is an auto repair business. The proposed location fronts the Kenai Spur Highway. Across the Kenai Spur Highway to the south are undeveloped parcels within the Suburban Residential Zone. North of the commercial development where the retail marijuana store would be located are homes in the Suburban Residential Zone. The applicant states proposed operating hours to be approximately 10am-10pm.

Off-street parking requirements in KMC 14.20.250(8) for a "Manufacturing/Industrial, research and laboratories", which requires one (1) space for every 500 square feet of floor area plus three (3) for patron parking. Retail sales of non-bulky items requires one (1) space for every 300 square feet of floor area. This would mean 14 parking spaces are required. There is sufficient space on site in the parking lot and this will be verified with any site plans submitted to the City associated with building modifications.

City staff conducted a site visit on July 26, 2019. The retail marijuana store would be contained within a fully enclosed secure indoor facility as required by KMC 14.20.330(d). City staff noticed the dumpster was not enclosed, which is required with site plan approval. The enclosure of the dumpster is added as a condition of approval.

If the dumpster is enclosed and local, state, and federal laws are followed as conditions of the conditional use permit, City staff does not believe the value of the adjoining property and neighborhood would be significantly impaired.

3. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(3) The proposed use is in harmony with the Comprehensive Plan;*

Criteria Met: The Land Use Plan within the 2016 Imagine Kenai 2030 Comprehensive Plan identifies the subject parcels as Mixed Use (MU). The Land Use Plan describes the City's vision of a generalized desirable pattern of land uses, but it is not a zoning ordinance. The plan defines MU as "Mixed Use is intended for a compatible mix of residential, retail, service, office, public, institutional and recreational uses. Uses are co-located in an integrated way that supports sustainable forms of transport such as public transport, walking and biking, and increases neighborhood amenities. Compatibility issues are addressed through careful site layout and building design." The proposed retail marijuana store aligns with the vision for land use in the City of Kenai as it will add a retail store. The subject building along with the adjacent strip mall should be considered into City plans to improve pedestrian access in order to help achieve the Mixed Use vision of development as outline in the Land Use Plan.

The proposed use is in line with goals and objectives identified in the Comprehensive Plan, including the vision for Goal 2 – Economic Development to provide a built environment for long-term economic viability and growth that promotes affordable residential development. The application notes the retail marijuana store business will create jobs and tax revenue while being consistent with other surrounding commercial uses.

4. The applicant meets criteria for conditional use permits in *KMC 14.20.150(d)(4) Public services and facilities are adequate to serve the proposed use;*

Criteria Met: City water and sewer serve the subject property. The site also has connections to natural gas, telephone, and three phase electric power. The parking lot is paved with adequate spaces.

5. The applicant meets criteria for conditional use permits in *KMC 14.150(d)(5) The proposed use will not be harmful to the public safety, health or welfare;*

Criteria Met: ACG, LLC d/b/a Red Run Cannabis Company, LLC has applied for a license for a retail marijuana store from the State of Alaska Marijuana Control Office (AMCO) and would not operate until obtaining the license. The applicant currently holds a license for its existing manufacturing facility on the premises from AMCO. ACG, LLC d/b/a/ Red Run Cannabis Company, LLC also has a business license with the State of Alaska and has record of paying taxes to the Kenai Peninsula Borough.

KMC 14.20.330(e) requires the retail marijuana store not emit an odor that is detectable by the public. The application notes that odors will be treated on site with the building already designed to contain odors from the manufacturing facility.

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- (1) 1,000 feet of any primary and secondary schools (K-12) and 500 feet of any vocational programs, post-secondary schools including but not limited to trade, technical, or vocational schools, colleges and universities, recreation or youth centers, correctional facilities, churches, and state licensed substance abuse treatment facilities providing substance abuse treatment; and,
- (2) Buffer distances shall be measured as the closest distance from the perimeter of a stand-alone commercial marijuana establishment structure to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church, correctional facility, or a substance abuse treatment facility providing substance abuse treatment. If the commercial marijuana establishment occupies only a portion of a structure, buffer distances are measured as the closest distance from the perimeter of the closest interior wall segregating the commercial marijuana establishment from other uses, or available uses in the structure, or an exterior wall if closer, to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church or correctional facility, a substance abuse treatment facility providing substance abuse treatment.

Resolution PZ2017-20 discussed Kenai Christian Church being located to the east of the parcel with a public entrance off of McKinley Street, but that Kenai Christian Church still met the buffer requirements of City Code for commercial marijuana facilities because it was over 500 feet away. City staff used mapping software to review property owners within 500 and 1,000 of the parcel in August 2019. The location for the retail marijuana store that would be added the building with an existing marijuana manufacturing facility still meets buffers distances required by City Code and would not have a harmful impact to public safety, health, or welfare.

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

**Section 1.** That a conditional use permit for a retail marijuana store is granted to ACG, LLC.

**Section 2.** That the conditional use 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 operation of the retail marijuana establishment, the applicant shall submit a copy of an approved and fully executed license from the State of Alaska Alcohol and Marijuana Control Office. The applicant shall comply with all regulations as stipulated by the State of Alaska Marijuana Control Office.
3. Pursuant to Kenai Municipal Code Section 14.20.330(e), the Commercial Marijuana Establishment shall not emit an odor that is detectable by the public from outside the Commercial Marijuana Establishment.
4. Pursuant to Kenai Municipal Code Section, 14.20.150(f) the applicant shall submit an Annual Report to the City of Kenai.
5. The applicant will enclose the dumpster on the premises with a sight-obscuring

structure to meet requirements outlined in KMC 14.25.045 for their site plan of the premises.

6. The applicant will also comply with the conditions of PZ2017-20 granting their commercial marijuana manufacturing facility conditional use permit for the facility in the same building and modify that permit if the use changes.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 14th day of AUGUST, 2019.

\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

ATTEST:

\_\_\_\_\_  
JAMIE HEINZ, CMC, CITY CLERK

DRAFT





APPLICATION FOR CONDITIONAL USE PERMIT  
KMC 14.20.150

PROPERTY OWNER	PETITIONER REPRESENTATIVE
Name: ACG, LLC	Name: Marc Theiler / Roger Boyd
Mailing Address: 5455 Kenai Spur Hwy	Mailing Address: 5455 Kenai Spur Hwy
City, State Zip: Kenai, AK 99611	City, State Zip: Kenai, AK 99611
Phone Number: (907) 953-9453	Phone Number: (907) 953-9453
Fax Number:	Fax Number: N/A
Email: marc@redruncannabiscompany.com	Email: marc@redruncannabiscompany.com

PROPERTY INFORMATION
Property Tax ID #: 04314013
Site Street Address: 12516 Kenai Spur Hwy
Current Legal Description: T 6N R 11W SEC 31 Seward Meridian KN 0910028 C PLAZA SUB LOT 2
Conditional Use Requested For: (Describe the project, and use additional sheets if necessary)
Red Run Cannabis Company is requesting the City of Kenai for a Conditional Use Permit to allow our company to operate a legally licensed Cannabis Retail Establishment located at the above listed Site Street Address (12516 Kenai Spur Hwy).
Zoning: General Commercial
Acreage: 42,450 S.F.

DOCUMENTATION
Required Attachments:
Completed Application Form
Site Plan/Floor Plan with Square Footage
\$250 Fee (plus applicable sales tax)
KPB Tax Compliance (if applicable)
State Business License (if applicable)

**AUTHORITY TO APPLY FOR CONDITIONAL USE:**

I hereby certify that (I am) (I have been authorized to act for) owner of the property described above and that I petition for a conditional use permit in conformance with Title 14 of the Kenai Municipal Code. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff of the Planning and Zoning Commission for administrative reasons. I understand that a site visit may be required to process this application. City of Kenai personnel are authorized to access the above-referenced property for the purpose of processing this application.

Date: 7/19/19	Signature: Roger Boyd
---------------	-----------------------

PZ 2019-27

398-7848  
rogerboyd@hotmail.com



**CONDITIONAL USE STANDARD (KMC 14.20.150)**

The Planning and Zoning Commission may only approve the conditional use if the Commission finds that the following six (6) standards are satisfied. Each standard must have a response in as much detail as it takes to explain how your project satisfies the standard. The burden of proof rests with you. Feel free to use additional paper if needed.

The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district:

The value of the adjoining property and neighborhood will not be significantly impaired:

*addendum*

The proposed use is in harmony with the Comprehensive Plan:

*attached*

Public services and facilities are adequate to serve the proposed use:

*see*

The proposed use will not be harmful to the public safety, health or welfare:



Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

**LAND USE**

Describe current use of property covered by this application:

Cannabis manufacturing facility,

Surrounding property: (Describe how land adjacent to the property is currently being used)

North: 2nd Ave. Sub rban Resditenial Zone, residential

South: Kenai Spur Hwy, SR zone, undeveloped

East: C-Plaza Shopping Center, GC zone

West: Todds Garage, Auto Repair GC zone

**PROCEDURES FOR PERMITS REQUIRING PUBLIC HEARINGS AND NOTIFICATIONS**

The permit you have applied for may require Public Hearing and Notification under KMC 14.20.280. The Planning and Zoning Commission meets the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of each month. To meet notice requirements, the Planning Department must receive your completed application **21 days prior** to the meeting when the Public Hearing is scheduled.

- Applications requiring Public Hearings must be filed no later than noon on the date of the deadline.
- Home Occupations and Landscape/Site Plans do not require a Public Hearing.
- Allow up to 4 weeks for the permitting process.
- If required:
  - The Fire Inspection Report must be received prior to processing the application.
  - The Affidavit of Posting must be received 2 weeks prior to the hearing date in order to schedule a public hearing.
  - Resolutions cannot be issued until expiration of the 15-day appeal period.
  - Resolutions cannot be issued until documentation is received that the certificate of compliance is met.

**WHEN YOU HAVE A COMPLETED APPLICATION, CALL 283-8237 TO SCHEDULE AN APPOINTMENT WITH THE PLANNING DEPARTMENT TO REVIEW THE APPLICATION.**

**IF THE APPLICATION IS DETERMINED COMPLETE AND ACCEPTED, THE PUBLIC HEARING FEE OF \$125 PLUS TAX WILL BE COLLECTED. YOU WILL BE GIVEN A SIGN TO POST AND AN AFFIDAVIT OF POSTING TO SIGN AND RETURN TO THE PLANNING DEPARTMENT TO BEGIN PROCESSING THE APPLICATION.**

## Addendum to Conditional Use Permit for Lot 2, C Plaza Subdivision

1. The proposed use is consistent with the intent of the General Commercial zoning district and is allowed in the GC zone with a Conditional Use Permit. It will consist of a Cannabis Retail establishment which is similar to and compatible with other established commercial uses in the area including the Cannabis Manufacturing facility currently in the same building. The proposed use is a low volume business, providing an appropriate transition area between existing commercial and residential districts.
2. The value of the adjoining property and neighborhood will not be significantly impaired by the proposed use. The exterior of the existing building will remain largely unchanged with minimal new signage. Currently the space is unused so the successful development of the proposed new business will enhance the surrounding property values by creating jobs, and will bring new vitality and tax revenue to the City of Kenai.
3. The proposed use is in harmony with the Comprehensive plan. The proposed Retail cannabis establishment is typical uses for GC zone and will provide new jobs and new commercial development in the city of Kenai. It will help boost the surrounding neighborhood by occupying a vacant space and provide 3 to 6 new jobs.
4. Public services and facilities are adequate to serve the proposed use. The site is served by City of Kenai water and sewer as well as natural gas, telephone and three phase electric power. It has a main entrance off Kenai Spur highway, an arterial roadway, and a back drive off 2<sup>nd</sup> Avenue with a paved parking lot oversized for the intended use. It is within the central area of Kenai and well served by City Police and Fire services.
5. The proposed use will not be harmful to the public safety, health or welfare: The proposed use will consist of a small retail outlet. Any odors will be treated and contained on site. The facility's use will be regulated by and conform to stringent state regulations and licensing requirements designed specifically to protect the public safety, health and welfare.

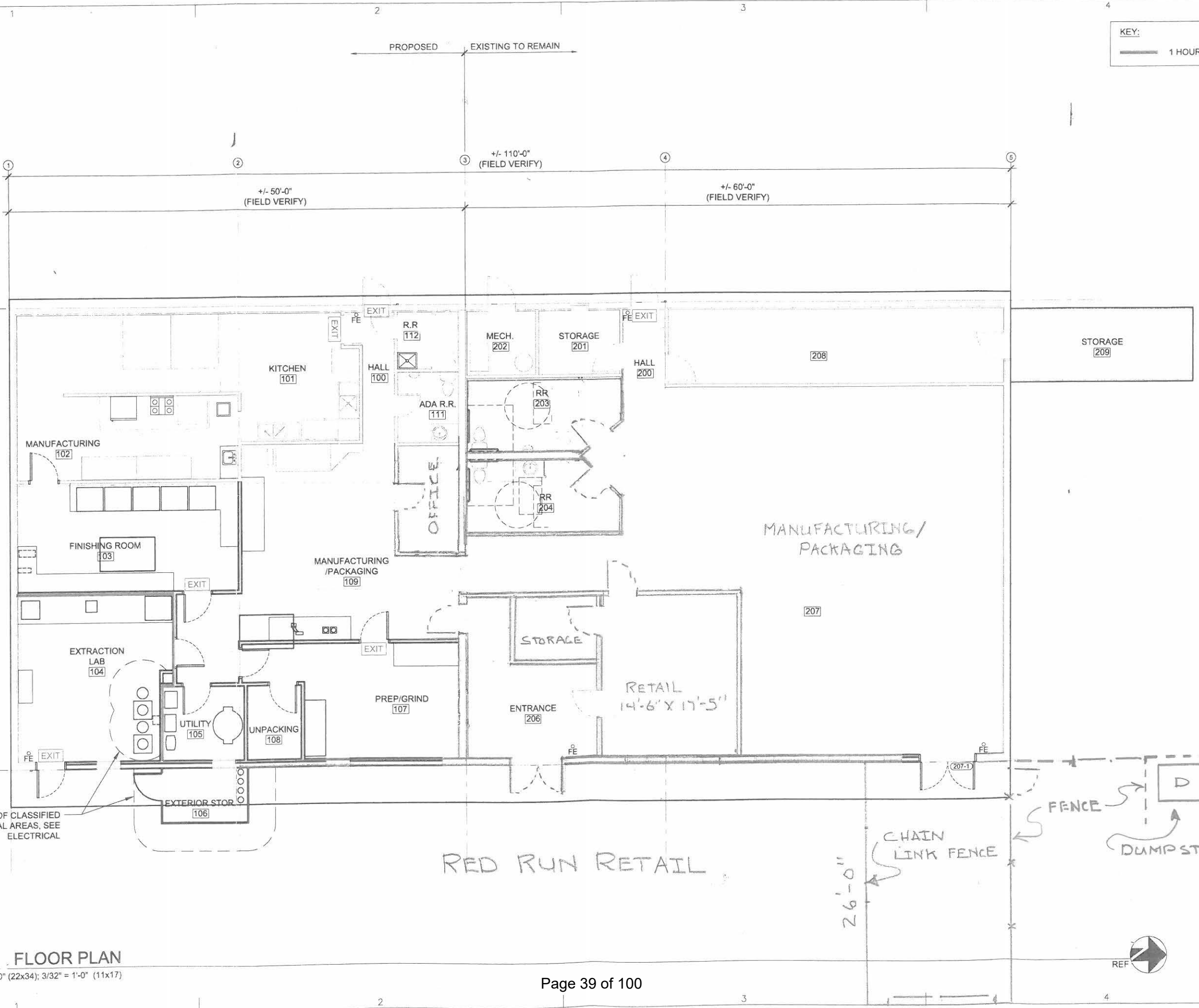
FOR CONSTRUCTION

PLOTTED 1/2 SCALE

SCALE: AS SHOWN

AutoCAD FILE: 1724\_g1.dwg

KEY:  
1 HOUR FIRE PARTITION



PROJECT: RED RUN MANUFACTURING PROJECT  
CLIENT: ROGER BOYD (907) 398-7848 rogerboyd@hotmail.com

DESIGN BY: PK  
DRAWN: AB, EF  
CHECKED: PK  
JOB NO: 1724  
DATE: February 1, 2018  
REVISIONS:  
KLAUDER & COMPANY ARCHITECTS, INC.  
606 Petersen Way  
Kenai, Alaska 99611  
Tel (907) 283-1919 : Fax (907) 283-0450  
klauder@alaska.net

EXTENTS OF CLASSIFIED ELECTRICAL AREAS, SEE ELECTRICAL

CATEGORY: SHEET:  
**G 1.0**  
SHEET CONTENTS:  
CODE FLOOR PLAN

A1 FLOOR PLAN  
G1.0 3/16" = 1'-0" (22x34); 3/32" = 1'-0" (11x17)

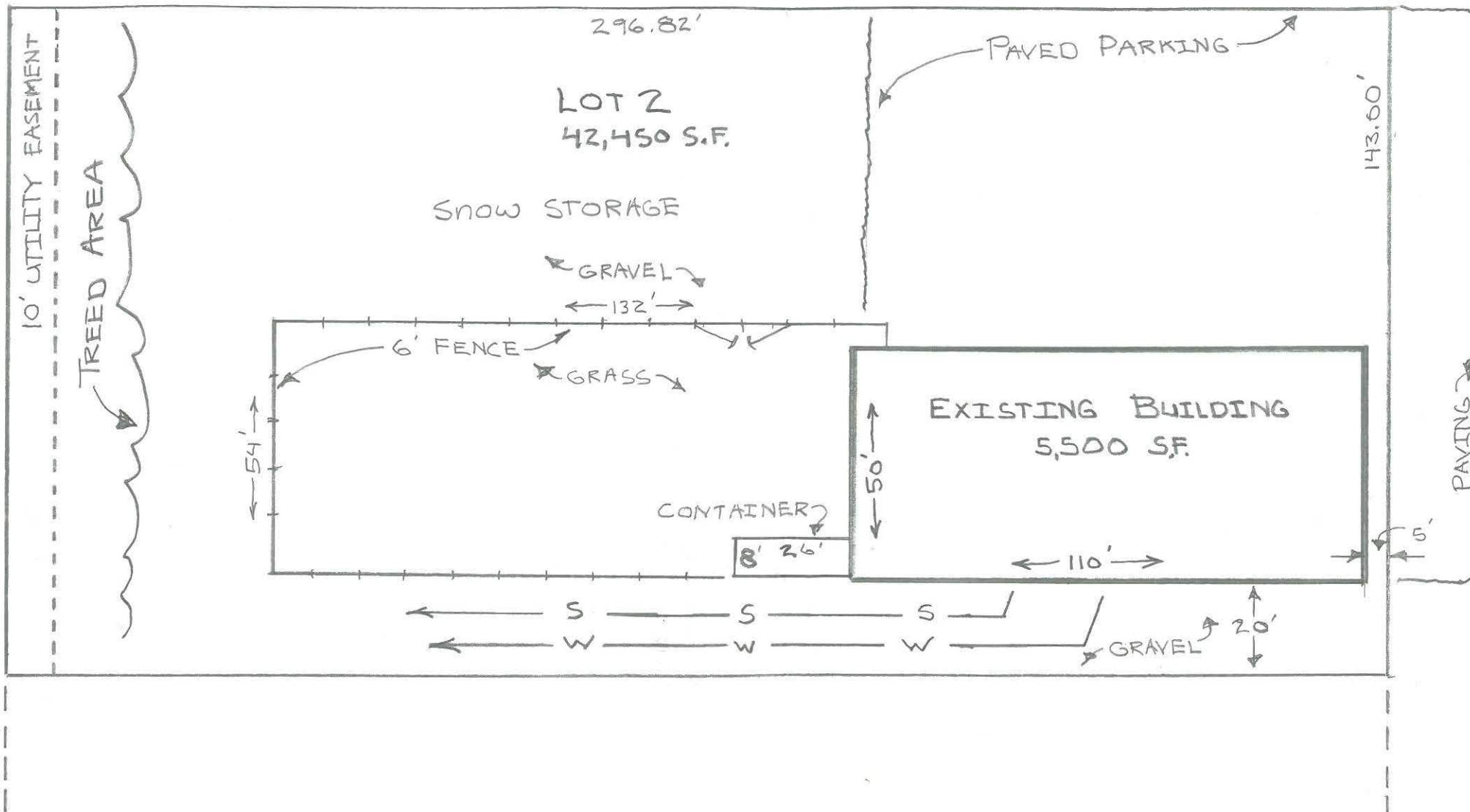






LOT 1 C-PLAZA SUB.  
1.562 AC.

2ND AVE. 33' R/W



KENAI SPUR HWY

ACGG LLC.

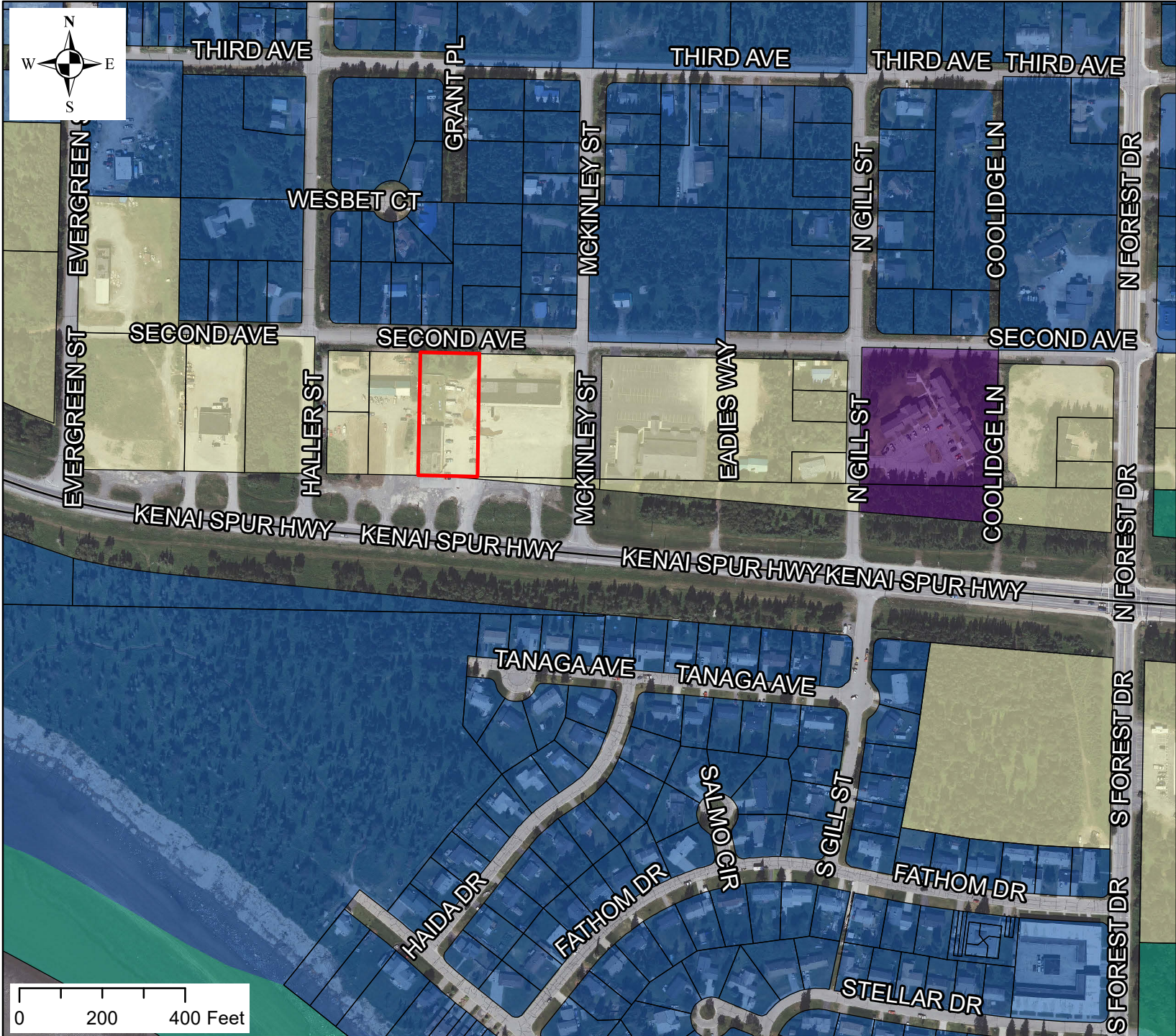
LOT 2 C-PLAZA SUB.

SCALE 1" = 30'

5/18/17

1/2 35'





**Map for PZ2019-27  
(1:4,000 Scale)**

**04314013  
Lot 2,  
C Plaza Subd**

**LEGEND**

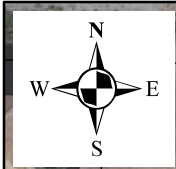
- Zoning**
- Conservation
  - Suburban Residential
  - Urban Residential
  - General Commercial



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.

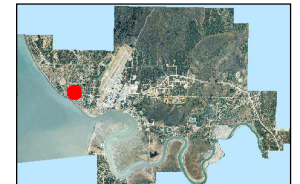
**Date: 8/7/2019**





**Map for PZ2019-27  
(1:800 Scale)**

**04314013  
Lot 2,  
C Plaza Subd**



**MCKINLEY ST**

**KENAI SPUR HWY**

0 40 80 Feet

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.

**Date: 8/7/2019**

**KENAI PLANNING & ZONING COMMISSION  
REGULAR MEETING  
AUGUST 14, 2019 – 7:00 P.M.  
KENAI CITY COUNCIL CHAMBERS  
210 FIDALGO AVENUE, KENAI, ALASKA  
CHAIR JEFF TWAIT, PRESIDING**

**MINUTES**

**A. CALL TO ORDER**

Commission Chair Twait called the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

Commission Chair Twait led those assembled in the Pledge of the Allegiance.

2. Roll Call

Commissioners present: Chair J. Twait, Vice-Chair D. Fikes, R. Springer, J. Halstead

Commissioners absent: V. Askin, T. McIntyre, G. Greenberg

Staff/Council Liaison present: City Planner E. Appleby, Planning Assistant W. Anderson, City Clerk J. Heinz, City Attorney S. Bloom, Council Liaison B. Molloy

A quorum was present.

3. Agenda Approval

The following revisions to the packet were noted:

Add to item F.1. Resolution No. PZ2019-27  
• Public Comment

Add to item F.2. Resolution No. PZ2019-29  
• Public Comment

**MOTION:**

Commissioner Halstead **MOVED** to approve the agenda with the additions to the packet and Commissioner Springer **SECONDED** the motion. There were no objections; **SO ORDERED**.

4. Consent Agenda

**MOTION:**

Commissioner Halstead **MOVED** to approve the consent agenda and Commissioner Springer

**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 – V. Askin, T. McIntyre, G. Greenberg

**B. \*APPROVAL OF MINUTES**

1. July 24, 2019

The minutes were approved by the Consent Agenda.

**C. SCHEDULED PUBLIC COMMENT** – None.

**D. UNSCHEDULED PUBLIC COMMENT** – None.

**E. CONSIDERATION OF PLATS**

1. **Resolution PZ2019-31** - The Original Preliminary Plat of Evergreen Subdivision 2019 Replat, submitted by McLane Consulting, Inc., P.O. Box 498, Soldotna, AK 99669, on behalf of Wallace and Leona Jackson, P.O. Box 1948, Kenai, AK 99611.

**MOTION:**

Commissioner Halstead **MOVED** to approve Resolution No. PZ2019-31 and Commissioner Springer **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the plat vacated a property line between two lots so the accessory structure stood on the same lot as the residence and recommended approval with the following condition:

- Further development of the property shall conform to all federal, State of Alaska, and local regulations.

Chair Twait opened the floor for public testimony; there being no one wishing to be heard, public comment was closed.

Clarification was provided that water could be provided to the garage so long as it did not cross another property line and would be a part of the Building Permit process.

**VOTE:**

YEA: Springer, Fikes, Twait, Halstead

NAY:

**MOTION PASSED UNANIMOUSLY.**



## **F. PUBLIC HEARINGS**

1. **Resolution PZ2019-27** - Application for a Conditional Use Permit to Operate an Approximately Retail Marijuana Store Described as Lot 2, C Plaza Subdivision and Located at 12516 Kenai Spur Highway. The application was submitted by ACG, LLC, 5455 Kenai Spur Highway, Kenai, AK 99611.

### **MOTION:**

Commissioner Springer **MOVED** to approve Resolution No. PZ2019-27 and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the Conditional Use Permit would allow an approximately 250 square foot Retail Marijuana Store area within an already permitted Marijuana Product Manufacturing Facility and, based on the review of criteria, found that the permit could be approved with the following conditions:

- Further development of the property shall conform to all federal, State of Alaska, and local regulations;
- Prior to operation of the retail marijuana establishment, the applicant shall submit a copy of an approved and fully executed license from the State of Alaska Alcohol and Marijuana Control Office. The applicant shall comply with all regulations stipulated by the State of Alaska Marijuana Control Office;
- Pursuant to Kenai Municipal Code Section 14.20.330(e), the Commercial Establishment shall not emit an odor that is detectable by the public from outside the Commercial Marijuana Establishment;
- Pursuant to Kenai Municipal Code Section, 14.20.150(f) the applicant shall submit an Annual Report to the City of Kenai;
- The applicant will enclose the dumpster on the premises with a sight-obscuring structure to meet requirements outlined in KMC 14.25.045 for their site plan of the premises;
- The applicant will also comply with the conditions of PZ2017-20 granting their Commercial Marijuana Product Manufacturing Facility Conditional Use Permit for the facility in the same building and modify that permit if the use changes.

Chair Twait opened the floor for public testimony.

Roger Boyd, Principal of ACG, LLC, addressed the letter from Kenai Christian Church provided in the laydown noting the former Planner watched the church on several occasions during the permitting process for the Marijuana Product Manufacturing Facility in 2017 and it was determined the main entrance of the church was further than the required distance and noted a neon beer sign was closer to the church than 500-feet. He pointed out regulations being in place brought marijuana off the black market. Finally, Mr. Boyd provided a history of the building and suggested marijuana retail shops were similar to small neighborhood convenience stores.

David Hall spoke against the Conditional Use Permit noting the family orientation of the adjacent strip mall, which he owned; also noted his building shared a parking lot with the subject building and expressed concern with the measurement of distance between the facility and church. He added that the coffee shop in the plaza occasionally hosted bible studies and the Friendship Mission for men was nearby.

There being no one else wishing to be heard, public comment was closed.

Clarification was provided that in 2017, it was found that the main entrance door to be 504-feet from the marijuana establishment using GIS Software and a survey showed 516-feet from proposed establishment to the main, covered entrance of the church.

The applicant noted the double glass doors would be the main entrance to the Marijuana Retail Store; the same entrance as the former establishment.

It was noted that the establishment had been operating as a manufacturing facility without complaint and legally met the requirements.

Clarification was provided that, in 2017, there wasn't a condition put in place regarding signage, just that a sign permit be obtained.

Appreciation was expressed for the testimony presented, it was noted the legal criteria had been met and the Commission members agreed with staff's findings and would support the Permit.

Clarification provided that a Conditional Use Permit for each use was preferred so, if one use was ended, the associated permit would expire with the specific use.

**VOTE:**

YEA: Springer, Fikes, Twait, Halstead  
NAY:

**MOTION PASSED UNANIMOUSLY.**

Commission Chair Twait noted the fifteen-day appeal period.

2. **Resolution PZ2019-29** - Recommending the Council of the City of Kenai Amend Kenai Municipal Code 14.20.330 - Standards for Commercial Marijuana Establishments, to Incorporate Hours of Operation for Retail Marijuana Establishments into the City of Kenai's Code of Ordinances.

**MOTION:**

Commissioner Halstead **MOVED** to approve Resolution No. PZ2019-29 and Commissioner Springer **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the recommendation would go to City Council to amend the Municipal Code to provide local closure requirement be from 2:00 a.m. to 8:00 a.m., consistent with other areas in the Kenai Peninsula Borough; also noted the State of Alaska's regulations were from 5:00 a.m. to 8:00 a.m.

Chair Twait opened the floor for public testimony.

Ron Isaacs spoke against the resolution noting alcohol establishments could be open later; suggested alcohol and other drugs were more dangerous than marijuana. Mr. Isaacs also suggested that if a retail marijuana store wanted to stay open until 5:00 a.m. during times of high

volume, such as during the Dipnet Fishery, they should be able to.

There being no one else wishing to be heard, public comment was closed.

It was noted the desire was to match the Kenai Peninsula Borough regulations so there was no undue advantage.

The suggestion was made that it may be an issue for Kenai to be open later than Soldotna in terms of a customer driving to get product. Cost effectiveness of being open versus being closed during slow times was also discussed.

**VOTE:**

YEA: Springer, Fikes, Twait, Halstead  
NAY:

**MOTION PASSED UNANIMOUSLY.**

3. **Resolution PZ2019-32** - Recommending the Council of the City of Kenai Enact Ordinance 3072-2019 to Renaming, Repealing, and Re-enacting Kenai Municipal Code Title 22-General Fund Lands, Renaming Title 21-City Airport and Airport Lands, and Repealing Kenai Municipal Code Chapter 21.15-Lease and Sale of Airport Lands Outside of the Airport Reserve to Encourage Responsible Growth and Development to Support a Thriving Business, Recreation and Cultural Community through Responsible Land Policies and Practices.

**MOTION:**

Commissioner Springer **MOVED** to approve Resolution No. PZ2019-32 and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting that a working group within Administration developed the policies and procedures and Council had referred the Ordinance to the Commission for a recommendation. She added that the Ordinance offered development incentives, provided for a competitive lease and sale process, and required development to discourage speculation. Appleby also noted the proposed changes aligned with two objectives identified in the Comprehensive Plan.

Chair Twait opened the floor for public testimony; there being no one wishing to be heard, public comment was closed.

**VOTE:**

YEA: Springer, Fikes, Twait, Halstead  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**G. UNFINISHED BUSINESS – None.**

**H. NEW BUSINESS**

1. **Action/Approval-** Application for Lease of City-owned Land within the Airport Reserve Described as a Portion of Tract A, General Aviation Apron Subdivision No. 2 and Located at 209 N. Willow Street. The application was submitted by SOAR International Ministries, P.O. Box 1714, Kenai, AK 99611.

**MOTION:**

Commissioner Halstead **MOVED** to recommend approval of the SOAR lease application and Commissioner Springer **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting this was a re-application after SOAR did not take development action on its former application as required and an extension on the timeline for the necessary development was not granted. She added that the proposed development was to construct a 120-foot x 180-foot hangar with associated office facility and tie-down space for flight training and aircraft part sales.

Clarification was provided that a Site Plan and Building Permit would be required prior to a certain percentage of tree removal or construction.

**VOTE:**

YEA: Springer, Fikes, Twait, Halstead  
NAY:

**MOTION PASSED UNANIMOUSLY.**

**I. PENDING ITEMS** – None.

**J. REPORTS**

1. **City Council** – Council Member Molloy reviewed the action agenda from the August 7 City Council meeting.
2. **Borough Planning** – Vice-Chair Fikes reported action from the August 12 Borough Planning and Platting Committee meetings.
3. **Administration** – City Planner Appleby reported on the following:
  - Upcoming meetings; and
  - Attended a Kenai Peninsula Borough Alaska LNG Project Advisory Committee meeting.

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

**L. INFORMATIONAL ITEMS** – None.

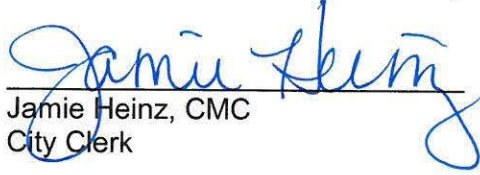
**M. NEXT MEETING ATTENDANCE NOTIFICATION** – August 28, 2019

**N. COMMISSION COMMENTS & QUESTIONS** – None.

**O. ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 8:45 p.m.

Minutes prepared and submitted by:

  
\_\_\_\_\_  
Jamie Heinz, CMC  
City Clerk







**CITY OF KENAI  
APPEAL TO THE BOARD OF  
ADJUSTMENT**

City of Kenai  
210 Fidalgo Avenue  
Kenai, AK 99611  
Phone: 283-8231  
Fax: 283-5068  
Email: [cityclerk@kenai.city](mailto:cityclerk@kenai.city)

**Contact Information**

Name of Appellant: <i>Adam Meyers</i>	Date: <i>8/26/19</i>
Daytime Phone No.: <i>907-283-4559</i>	Email Address: <i>adam@KenaiChristianChurch.org</i>
Appellant's Physical Address: <i>104 McKinley Street, Kenai, AK 99611</i>	
Appellant's Mailing Address: <i>104 McKinley Street, Kenai, AK 99611</i>	

**Appeal Information**

Description of the decision being appealed:  
*Resolution PZ2019-27 Application for a Conditional Use Permit to operate a retail marijuana retail store located at 12516 Kenai Spur Highway, Kenai, AK 99611. Approved on 8/14/19*

Subject Property Owner's Name and Address: *Roger Boyd ACG, LLC*

Subject Property Street Address: *12516 Kenai Spur Highway, Kenai, AK 99611*

Decision was  Approved  Denied Date of Decision: *8/14/19*

Decision was made by  Administrative Official  Planning & Zoning Commission

Check One:

I am the applicant for the action taken or determination, or the owner of the property that is the subject of the action or determination under appeal.

I am the administrative official.

I am a legal occupant or owner of an interest in real property who can show the decision has or could have an adverse effect on the use, enjoyment, or value of that real property. An interest which is no different from that of the general public is not sufficient to make a person aggrieved. To be a "party of record," participation with either oral or written comments at the hearing before the Planning and Zoning commission or before the administrative official making a final decision must be shown.

Description of Harm (Note: An interest which is no different from that of the general public is not sufficient.):  
*Originally Kenai Christian Church was told that the facility would not become a retail store. Also, the retail store is in violation of the 500 ft buffer zone directly affecting minors who attend the church.*

I am seeking relief as follows:  
*Reverse the decision to approve Resolution PZ2019-27 and not allow a retail marijuana store to proceed.*

Signature of Appellant: *Adam K. Meyers*

FOR CITY CLERK'S OFFICE USE ONLY: Receipt Stamp: <b>RECEIVED</b>  AUG 26 2019	Appellant <input checked="" type="checkbox"/> Owns <input type="checkbox"/> Leases, Lease Requested
	Appellant Participated <input type="checkbox"/> Orally <input checked="" type="checkbox"/> In Writing
	Appellant Paid Pursuant to <input checked="" type="checkbox"/> Fee Schedule <input type="checkbox"/> Fee Reduction Form
	Copy provided to Appellant <input checked="" type="checkbox"/> In Person <input checked="" type="checkbox"/> By Mail
	By: <i>Jamie</i>
Application <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied for _____	
Date Appellant Notified: <i>August 27, 2019</i>	





**CITY OF KENAI  
APPEAL TO THE BOARD OF  
ADJUSTMENT**

City of Kenai  
210 Fidalgo Avenue  
Kenai, AK 99611  
Phone: 283-8231  
Fax: 283-5068  
Email: [cityclerk@kenai.city](mailto:cityclerk@kenai.city)

<b>Contact Information</b>	
Name of Appellant: <i>David Hall</i>	Date: <i>8/29/19</i>
Daytime Phone No.: <i>907 690 6144</i>	Email Address: <i>d.hallAK907@gmail.com</i>
Appellant's Physical Address: <i>12498 Kenai Spur Hwy, Kenai AK 99611</i>	
Appellant's Mailing Address: <i>48110 David Hall Road, Kenai AK 99611</i>	
<b>Appeal Information</b>	
Description of the decision being appealed: <i>Resolution PZ 2019-27 Application for a conditional use permit to operate a retail marijuana retail store located at 12516 Kenai Spur Highway, Kenai AK 99611, approved on 8/14/19.</i>	
Subject Property Owner's Name and Address: <i>ACG, LLC</i>	
Subject Property Street Address: <i>12516 Kenai Spur highway, Kenai, AK 99611</i>	
Decision was <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied	Date of Decision: <i>8/14/19</i>
Decision was made by <input type="checkbox"/> Administrative Official <input checked="" type="checkbox"/> Planning & Zoning Commission	
Check One: <input type="checkbox"/> I am the applicant for the action taken or determination, or the owner of the property that is the subject of the action or determination under appeal. <input type="checkbox"/> I am the administrative official. <input checked="" type="checkbox"/> I am a legal occupant or owner of an interest in real property who can show the decision has or could have an adverse effect on the use, enjoyment, or value of that real property. An interest which is no different from that of the general public is not sufficient to make a person aggrieved. To be a "party of record," participation with either oral or written comments at the hearing before the Planning and Zoning commission or before the administrative official making a final decision must be shown.	
Description of Harm (Note: An interest which is no different from that of the general public is not sufficient.): <i>Various religious groups meet in the Northwood Plaza on a regular basis and conduct religious activities of which Resolution PZ 2019-27 would be infringing on the 500' buffer zone.</i>	
I am seeking relief as follows: <i>Reverse the decision to approve Resolution PZ 2019-27 and not allow a retail marijuana store to proceed.</i>	
Signature of Appellant:	<i>David Hall</i>
FOR CITY CLERK'S OFFICE USE ONLY: Receipt Stamp: <b>RECEIVED</b>  AUG 29 2019	Appellant <input checked="" type="checkbox"/> Owns <input type="checkbox"/> Leases, Lease Requested Appellant Participated <input checked="" type="checkbox"/> Orally <input type="checkbox"/> In Writing Appellant Paid Pursuant to <input checked="" type="checkbox"/> Fee Schedule <input type="checkbox"/> Fee Reduction Form Copy provided to Appellant <input checked="" type="checkbox"/> In Person <input checked="" type="checkbox"/> By Mail By: <i>Jamie</i> Application <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied for _____ Date Appellant Notified: <i>8/30/19</i>

## MEMORANDUM

**TO:** Mayor Brian Gabriel and Kenai City Council  
**FROM:** Jamie Heinz, CMC, City Clerk  
**DATE:** August 29, 2019  
**SUBJECT:** **Appeal of Planning and Zoning Commission Action**

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Applications appealing the Planning and Zoning Commission's decision to approve a Conditional Use Permit to applicant, ACG, LLC, to operate an approximately 250 square-foot Retail Marijuana Store within an existing commercial building, located at 12516 Kenai Spur Highway, Lot 2, C Plaza Subdivision have been received.

KMC 14.20.290(f)(1), "Appeals - Board of Adjustment" provides,

(1) The Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday under KMC 23.40.020(a)(1)-(10) and (b). For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. Notice of the time and place of such hearing shall be mailed to all parties interested and to all property owners within 300 feet of the property involved at least fifteen (15) days prior to the hearing. Notices to the appellant and/or applicant for the action or determination must be sent by certified mail, return receipt requested.

The following information is provided to help in setting a Board of Adjustment hearing date:

<b>FORTY-FIVE DAY END DATE</b>	<b>Thursday, October 10, 2019</b>
<b>COUNCIL MEETING DATES (within 45-day requirement)</b>	<b>Wednesday, September 18, 2019 Wednesday, October 2, 2019</b>
<b>SIXTY-DAY END DATE</b>	<b>Friday, October 25, 2019</b>
<b>COUNCIL MEETING DATE(S) (within 60-day requirement)</b>	<b>Wednesday, September 18, 2019 Wednesday, October 2, 2019 Wednesday, October 16, 2019</b>



Pursuant to KMC 14.20.290 referenced above, the City is required to provide notice of the hearing at least fifteen (15) days prior to the hearing. As such, to comply with the notice requirements, the hearing must be scheduled no sooner than Friday, September 20, 2019.

KMC 14.20.290 allows for an extension, "For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal."



*"Village with a Past, City with a Future"*

210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: 907-283-7535 / Fax: 907-283-3014  
www.kenai.city

September 6, 2019

Mailed Via: USPS Certified Mail  
7016 1970 0000 3401 0713 &  
Return Receipt

Adam Meyers  
c/o Kenai Christian Church  
104 McKinley Street  
Kenai, AK 99611

RE: **BOARD OF ADJUSTMENT HEARING** – Appeal of Planning and Zoning Commission Action Approving a Conditional Use Permit to applicant, ACG, LLC, to operate an approximately 250 square-foot Retail Marijuana Store within an existing commercial building, located at 12516 Kenai Spur Highway, Lot 2, C Plaza Subdivision.

This letter is to inform you that the Board of Adjustment Hearing for the above-referenced matter has been scheduled for **Monday, October 7, 2019, beginning at 6:00 p.m.** The hearing will be held at City Hall in Council Chambers located at 210 Fidalgo Avenue, Kenai, AK 99611. Kenai Municipal Code (KMC) 14.20.290 states that a hearing shall be held within 45 days of the appeal being filed, however, should the forty-fifth day fall on a weened or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday.

Pursuant to KMC 14.20.290, a Notice of Hearing will be mailed to you by certified mail at least 15 days prior to the hearing. Property owners within 300 feet of the referenced property, as well as other interested parties, will also be mailed the Notice of Hearing within 15 days of the hearing.

A packet of information will be provided to you and the Board of Adjustment prior to the hearing. **The deadline for you to submit information, to be included in the Board of Adjustment Hearing packet, related to your appeal is noon on Thursday, September 26, 2018.** This would be your opportunity to introduce additional evidence to support your appeal. The Board of Adjustment Hearing packet will be distributed to all

parties in advance of the hearing. Enclosed is information related to the hearing process.

If you have any questions, please contact me at 283-8231 or [jheinz@kenai.city](mailto:jheinz@kenai.city).

CITY OF KENAI



Jamie Heinz, CMC  
City Clerk

CC: ACG, LLC, Appellee  
Scott Bloom, City Attorney  
Paul Ostrander, City Manager  
Elizabeth Appleby, City Planner  
Board of Adjustment

Enclosure

## **BOARD OF ADJUSTMENT HEARING**

### **Notice of Hearing**

The Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday. For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. Notice of the time and place of such hearing shall be mailed to all interested parties and to all property owners within five-hundred feet (500') of the property involved at least fifteen (15) days prior to the hearing. Notices to the appellant and/or applicant for the action or determination must be sent by certified mail, return receipt requested.

### **Type of Hearing**

The Board of Adjustment Hearing will be conducted in compliance with the City of Kenai Municipal Code 14.20.290, reasonable regulations of the Board and other applicable law. The Board of Adjustment is a quasi-judicial board. The hearing is public and is recorded. All persons presenting evidence and testimony shall do so under oath, administered by the City Clerk. This hearing will be conducted less formally with regard to rules of evidence and other court rules of procedure than in a judicial courtroom.

The hearing before the Board is de-novo; the Board will review both the facts and law presented during the hearing and submitted timely. Evidence and written arguments to be considered by the Board must be submitted to the City Clerk by **noon on Thursday, September 26, 2019**. A packet containing all evidence of written argument, timely submitted, will be provided to all parties as soon as possible after the submission date. The Clerk will include in the packet the record previously submitted to the Planning and Zoning Commission. A list of witnesses any party intends to have testify during the hearing must be provided to the City Clerk by the date evidence is due. New tangible evidence not timely submitted to the City Clerk will normally not be admitted unless good cause is shown as to why the evidence could not be timely submitted. A decision to include the evidence will be decided by the board. All evidence considered in this matter should be in the record before the Board as previously provided to the parties. The Appellant, or party applying to the Board, has the burden of proof to show entitlement to relief.

### **Hearing Procedures**

Any requested revision to the agenda or procedures by a party must be made to the Board and approved by the Board prior to the start of the hearing.

Members of the public may have five minutes each to address the Board prior to any presentations.

Staff will be allowed 15 minutes to provide a report to the Board at the beginning of the hearing.

Following the staff report, each party will be allowed 30 minutes to present its case. The Appellants will present their cases first. During the parties' presentation of the case, the parties may call witnesses. Any witness that testifies during the presentation of the case by either party, unless excused by the Board with concurrence of the parties, must remain available to be called during rebuttal, at which time cross examination may occur. Each party will be allowed 10 minutes for rebuttal and 5 minutes for closing arguments.

Upon recognition by the Chair, Board Members may question the parties and their witnesses. Questioning by the Board may take place at any time before the hearing is closed. Questioning by the Board and responsive answers will not count against a party's time.

### **Hearing Deliberation & Decision**

The Board may undertake deliberations immediately upon the conclusion of the hearing on appeal or may take the matter under advisement and meet at such other time as is convenient for deliberations until a decision is rendered.

The Board requires a quorum of four and a majority of those assembled to make a decision. The Board must issue a decision within 30 days of the hearing date. The Board may reverse, remand or affirm, wholly or in part, or may modify the order, requirement, decision or determination, as ought to be made, and to that end shall have the powers of the body from whom the appeal is taken.

Deliberations need not be in public and may be conducted with the City Attorney. A written decision will be issued and will indicate how each board member voted. Copies of the decision shall be promptly posted on the City's official website and mailed to all parties participating in the appeal. The written decision shall trigger the timeline for any appeal to the Superior Court.



*"Village with a Past, City with a Future"*

210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: 907-283-7535 / Fax: 907-283-3014  
www.kenai.city

September 6, 2019

Mailed Via: USPS Certified Mail  
7016 1970 0000 3401 0720 &  
Return Receipt

David Hall  
48110 David Hall Road  
Kenai, AK 99611

RE: **BOARD OF ADJUSTMENT HEARING** – Appeal of Planning and Zoning Commission Action Approving a Conditional Use Permit to applicant, ACG, LLC, to operate an approximately 250 square-foot Retail Marijuana Store within an existing commercial building, located at 12516 Kenai Spur Highway, Lot 2, C Plaza Subdivision.

This letter is to inform you that the Board of Adjustment Hearing for the above-referenced matter has been scheduled for **Monday, October 7, 2019, beginning at 6:00 p.m.** The hearing will be held at City Hall in Council Chambers located at 210 Fidalgo Avenue, Kenai, AK 99611. Kenai Municipal Code (KMC) 14.20.290 states that a hearing shall be held within 45 days of the appeal being filed, however, should the forty-fifth day fall on a weened or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday.

Pursuant to KMC 14.20.290, a Notice of Hearing will be mailed to you by certified mail at least 15 days prior to the hearing. Property owners within 300 feet of the referenced property, as well as other interested parties, will also be mailed the Notice of Hearing within 15 days of the hearing.

A packet of information will be provided to you and the Board of Adjustment prior to the hearing. **The deadline for you to submit information, to be included in the Board of Adjustment Hearing packet, related to your appeal is noon on Thursday, September 26, 2018.** This would be your opportunity to introduce additional evidence to support your appeal. The Board of Adjustment Hearing packet will be distributed to all

parties in advance of the hearing. Enclosed is information related to the hearing process.

If you have any questions, please contact me at 283-8231 or [jheinz@kenai.city](mailto:jheinz@kenai.city).

CITY OF KENAI



Jamie Heinz, CMC  
City Clerk

CC: ACG, LLC, Appellee  
Scott Bloom, City Attorney  
Paul Ostrander, City Manager  
Elizabeth Appleby, City Planner  
Board of Adjustment

Enclosure

## **BOARD OF ADJUSTMENT HEARING**

### **Notice of Hearing**

The Board of Adjustment shall ordinarily set a date for and hold a hearing on all appeals within forty-five (45) days of the filing of the appeal. However, should the forty-fifth day fall on a weekend or a municipal holiday, the hearing may be scheduled for the next following weekday which is not a municipal holiday. For good cause, the Board of Adjustment may hold the hearing up to sixty (60) days after the filing of the appeal. Notice of the time and place of such hearing shall be mailed to all interested parties and to all property owners within five-hundred feet (500') of the property involved at least fifteen (15) days prior to the hearing. Notices to the appellant and/or applicant for the action or determination must be sent by certified mail, return receipt requested.

### **Type of Hearing**

The Board of Adjustment Hearing will be conducted in compliance with the City of Kenai Municipal Code 14.20.290, reasonable regulations of the Board and other applicable law. The Board of Adjustment is a quasi-judicial board. The hearing is public and is recorded. All persons presenting evidence and testimony shall do so under oath, administered by the City Clerk. This hearing will be conducted less formally with regard to rules of evidence and other court rules of procedure than in a judicial courtroom.

The hearing before the Board is de-novo; the Board will review both the facts and law presented during the hearing and submitted timely. Evidence and written arguments to be considered by the Board must be submitted to the City Clerk by **noon on Thursday, September 26, 2019**. A packet containing all evidence of written argument, timely submitted, will be provided to all parties as soon as possible after the submission date. The Clerk will include in the packet the record previously submitted to the Planning and Zoning Commission. A list of witnesses any party intends to have testify during the hearing must be provided to the City Clerk by the date evidence is due. New tangible evidence not timely submitted to the City Clerk will normally not be admitted unless good cause is shown as to why the evidence could not be timely submitted. A decision to include the evidence will be decided by the board. All evidence considered in this matter should be in the record before the Board as previously provided to the parties. The Appellant, or party applying to the Board, has the burden of proof to show entitlement to relief.

### **Hearing Procedures**

Any requested revision to the agenda or procedures by a party must be made to the Board and approved by the Board prior to the start of the hearing.



Members of the public may have five minutes each to address the Board prior to any presentations.

Staff will be allowed 15 minutes to provide a report to the Board at the beginning of the hearing.

Following the staff report, each party will be allowed 30 minutes to present its case. The Appellants will present their cases first. During the parties' presentation of the case, the parties may call witnesses. Any witness that testifies during the presentation of the case by either party, unless excused by the Board with concurrence of the parties, must remain available to be called during rebuttal, at which time cross examination may occur. Each party will be allowed 10 minutes for rebuttal and 5 minutes for closing arguments.

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**AFFIDAVIT OF SERVICE**

I, Jamie Heinz, City Clerk for the City of Kenai, Alaska, do hereby certify that on the twentieth day of September, 2019, I mailed or caused to be mailed the foregoing Notice of Hearing before the Board of Adjustment of the following appeal:

Appeals Filed by Kenai Christian Church and David Hall, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant ACG, LLC, to operate a Retail Marijuana Store within an existing commercial building, located at 12516 Kenai Spur Highway, Kenai, AK.

This notice was sent by first class mail to all residents within 500 feet of the subject property and all other interested parties as required by KMC 14.20.290. The list of recipients of the notice is attached herewith.

Further this affiant sayeth naught.

  
\_\_\_\_\_  
JAMIE HEINZ  
City Clerk

**Dear Property Owner:**

The Kenai City Council will convene as the Board of Adjustment on **Monday, October 7, 2019, at 6:00 p.m. in the Council Chambers, 210 Fidalgo Avenue, Kenai, Alaska.** The following will be heard by the Board:

**Appeals Filed by Kenai Christian Church and David Hall, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant ACG, LLC, to operate a Retail Marijuana Store within an existing commercial building, located at 12516 Kenai Spur Highway, Kenai, AK.**

Because you are a property owner within 500 feet of the above-mentioned property or have stated interest in the subject, you are hereby notified of the hearing date, time, and place, pursuant to KMC 14.20.290. Your comments and/or attendance regarding this appeal are encouraged. Written comments will be accepted until noon on Thursday, September 26, 2019 and may be mailed to the Office of the City Clerk, 210 Fidalgo Ave., Kenai, AK 99611 or by email: [jheinz@kenai.city](mailto:jheinz@kenai.city). ~ Jamie Heinz, City Clerk, 907-283-8231

Thank you.

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Thank you.

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Thank you.



City of Kenai  
Office of the City Clerk  
210 Fidalgo Avenue  
Kenai, Alaska 99611



City of Kenai  
Office of the City Clerk  
210 Fidalgo Avenue  
Kenai, Alaska 99611

## IMPORTANT NOTICE

## IMPORTANT NOTICE



City of Kenai  
Office of the City Clerk  
210 Fidalgo Avenue  
Kenai, Alaska 99611



City of Kenai  
Office of the City Clerk  
210 Fidalgo Avenue  
Kenai, Alaska 99611

## IMPORTANT NOTICE

## IMPORTANT NOTICE

Parcel: 04712001  
STEPHENS STEPHEN W  
PO BOX 83495  
FAIRBANKS, AK 99708

Parcel: 04712002  
NUNN AGNES A  
PO BOX 737  
KENAI, AK 99611

Parcel: 04712002  
NUNN JASON M  
PO BOX 737  
KENAI, AK 99611

Parcel: 04712003  
TOTH STEVEN G  
1618 TANAGA AVE  
KENAI, AK 99611

Parcel: 04712004  
DAVIS DWIGHT  
1616 TANAGA AVE  
KENAI, AK 99611

Parcel: 04712004  
DAVIS HELEN U  
1616 TANAGA AVE  
KENAI, AK 99611

Parcel: 04712005  
CLARK COREY RUSSELL  
1614 TANAGA AVE  
KENAI, AK 99611

Parcel: 04712027  
DUNCAN DOROTHY  
1000 E MALLOY BRIDGE RD APT 1502  
SEAGOVILLE, TX 75159

Parcel: 04701027  
LOFSTEDT (BUD) VERNON L  
PO BOX 1616  
KENAI, AK 99611

Parcel: 04310006  
ROSS W THOMAS JR & ALEDA  
2119 55TH ST  
LUBBOCK, TX 79412

Parcel: 04310009  
HUETT JESSIE STACI  
39694 DAWSON CIR  
KENAI, AK 99611

Parcel: 04310009  
HUETT ROBERT EDWARD III  
39694 DAWSON CIR  
KENAI, AK 99611

Parcel: 04310015  
THOMPSON LAVAR K  
211 MCKINLEY ST  
KENAI, AK 99611

Parcel: 04310015  
THOMPSON SHARON K  
211 MCKINLEY ST  
KENAI, AK 99611

Parcel: 04310016  
BORUD BJORN  
1129 NE 16TH ST  
FORT LAUDERDALE, FL 33304

Parcel: 04310016  
BORUD THERESA A  
1129 NE 16TH ST  
FORT LAUDERDALE, FL 33304

Parcel: 04310017  
TRESSLER BUDD C  
PO BOX 781  
KENAI, AK 99611

Parcel: 04310018  
DIAMOND KANDI LYNN ROGERS  
942 SW WOODBRIDGE CT  
TOPEKA, KS 66606

Parcel: 04310018  
ROGERS-DIAMOND KANDI LYNN  
942 SW WOODBRIDGE CT  
TOPEKA, KS 66606

Parcel: 04310019  
DIAMOND KANDI LYNN ROGERS  
942 SW WOODBRIDGE CT  
TOPEKA, KS 66606

Parcel: 04310019  
ROGERS-DIAMOND KANDI LYNN  
942 SW WOODBRIDGE CT  
TOPEKA, KS 66606

Parcel: 04310020  
FRANKLIN NICHOLAS  
PO BOX 301  
KENAI, AK 99611

Parcel: 04310021  
DIAMOND KANDI LYNN ROGERS  
942 SW WOODBRIDGE CT  
TOPEKA, KS 66606

Parcel: 04310021  
ROGERS-DIAMOND KANDI LYNN  
942 SW WOODBRIDGE CT  
TOPEKA, KS 66606

Parcel: 04310022  
CRAMER KAREN L  
33185 ECHO LAKE RD  
SOLDOTNA, AK 99669

Parcel: 04310023  
DIXON MICHAEL D  
309 HALLER ST  
KENAI, AK 99611

Parcel: 04310024  
FROG CREEK PROPERTIES LLC  
PO BOX 2482  
KENAI, AK 99611

Parcel: 04310031  
TANDY LINDA K  
729 E 75TH AVE  
ANCHORAGE, AK 99518

Parcel: 04310032  
DUDLEY JANICE L  
205 MCKINLEY ST  
KENAI, AK 99611

Parcel: 04310033  
BOUTWELL ANNA A  
PO BOX 7  
KENAI, AK 99611

Parcel: 04310033  
BOUTWELL JEREMY HEATH  
PO BOX 7  
KENAI, AK 99611

Parcel: 04310034  
GARNET PAUL J  
PO BOX 148  
KASILOF, AK 99610

Parcel: 04310035  
GARNET PAUL J  
PO BOX 148  
KASILOF, AK 99610

Parcel: 04310036  
GARNET PAUL J  
PO BOX 148  
KASILOF, AK 99610

Parcel: 04310038  
NORTH R & R LLC  
PO BOX 7079  
NIKISKI, AK 99635

Parcel: 04310038  
REDISKE LYLA  
PO BOX 7079  
NIKISKI, AK 99635

Parcel: 04310041  
ALTIG STEVEN B  
1715 WESBET CT  
KENAI, AK 99611

Parcel: 04310042  
REDISKE CHARLES L  
PO BOX 7079  
NIKISKI, AK 99635

Parcel: 04310043  
MAPES NANCY E  
PO BOX 276  
KENAI, AK 99611

Parcel: 04310044  
MAPES NANCY E  
PO BOX 276  
KENAI, AK 99611

Parcel: 04310046  
MARTIN CHASE L  
205 HALLER ST  
KENAI, AK 99611

Parcel: 04311006  
WALKER NORMA I  
PO BOX 1912  
PALMER, AK 99645

Parcel: 04311019  
GRAHAM CURTIS D  
208 MCKINLEY ST  
KENAI, AK 99611

Parcel: 04314002  
ER SERVICES LLC  
PO BOX 7687  
NIKISKI, AK 99635

Parcel: 04314003  
EASTBERG EDWIN ALVIN TRUST  
AGREEMENT  
2613 DRAPER DR  
ANCHORAGE, AK 99517

Parcel: 04314005  
SLAUGHTER TARA  
49358 TYENA KA RD  
SOLDOTNA, AK 99669

Parcel: 04314005  
SLAUGHTER TODD  
12528 KENAI SPUR HWY  
KENAI, AK 99611

Parcel: 04314009  
KENAI CITY OF  
210 FIDALGO AVE STE 200  
KENAI, AK 99611

Parcel: 04314010  
KENAI CITY OF  
210 FIDALGO AVE STE 200  
KENAI, AK 99611

Parcel: 04314011  
SLAUGHTER TARA  
49358 TYENA KA RD  
SOLDOTNA, AK 99669

Parcel: 04314011  
SLAUGHTER TODD  
12528 KENAI SPUR HWY  
KENAI, AK 99611

Parcel: 04314012  
SLAUGHTER TARA  
49358 TYENA KA RD  
SOLDOTNA, AK 99669

Parcel: 04314012  
SLAUGHTER TODD  
12528 KENAI SPUR HWY  
KENAI, AK 99611

Parcel: 04314013  
ACG LLC  
386 HEATH PL  
SOLDOTNA, AK 99669

Parcel: 04314014  
HALL DAVID MICHAEL  
48110 DAVID HALL RD  
KENAI, AK 99611

Parcel: 04314014  
HALL TINA ANNE  
48110 DAVID HALL RD  
KENAI, AK 99611

Parcel: 04315011  
KENAI CITY OF  
210 FIDALGO AVE STE 200  
KENAI, AK 99611

Parcel: 04315013  
KENAI CITY OF  
210 FIDALGO AVE STE 200  
KENAI, AK 99611

Parcel: 04315023  
KENAI CHRISTIAN CHURCH  
104 MCKINLEY ST  
KENAI, AK 99611

Parcel: 04315023  
KENAI CHRISTIAN CHURCH INCORPORATED  
104 MCKINLEY ST  
KENAI, AK 99611







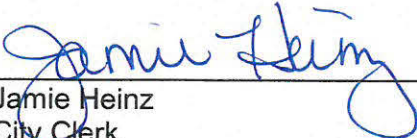
**AFFIDAVIT OF SERVICE**

I, Jamie Heinz, Clerk for the City of Kenai, Alaska, do hereby certify that on the twentieth day of September, 2019, I posted or caused to be posted the foregoing Notice of Hearing before the Board of Adjustment of the following appeal:

Appeals Filed by Kenai Christian Church and David Hall, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant ACG, LLC, to operate a Retail Marijuana Store within an existing commercial building, located at 12516 Kenai Spur Highway, Kenai, AK.

This notice was posted on the City Bulletin Board within City Hall on September 20, 2019. A copy of the notice is attached.

Further this affiant sayeth naught.

  
\_\_\_\_\_  
Jamie Heinz  
City Clerk





# City of Kenai Public Notice

**Notice is hereby given;** the Kenai City Council will convene as the Board of Adjustment on **Monday, October 7, 2019, at 6:00 p.m.** in the Council Chambers at 210 Fidalgo Avenue, Kenai. The following will be heard at that time:

**Appeals Filed by Kenai Christian Church and David Hall, Appealing the Decision of the Planning and Zoning Commission to Approve a Conditional Use Permit, to Applicant ACG, LLC, to operate a Retail Marijuana Store within an existing commercial building, located at 12516 Kenai Spur Highway, Kenai, AK.**

The public is invited to attend and testimony will be taken. The agenda and any supporting documents can be located on the City's website, [www.kenai.city](http://www.kenai.city). Any questions related to this public notice may be directed to the Kenai City Clerk's Office at 283-8231 or [cityclerk@kenai.city](mailto:cityclerk@kenai.city).

Jamie Heinz, CMC  
City Clerk

**AFFIDAVIT OF SERVICE**

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This notice was posted in the Peninsula Clarion newspaper on September 29 and October 4, 2019. A copy of the notice is attached.

Further this affiant sayeth naught.

  
\_\_\_\_\_  
Jamie Heinz  
City Clerk



## PUBLIC NOTICE

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Jamie Heinz, CMC, City Clerk  
Publish: 9/29/19, 10/4/19

D/211

## STAFF REPORT

To: Planning & Zoning Commission

Date: June 28, 2017

Res: PZ17-20

### GENERAL INFORMATION

Applicant: ACG LLC.  
386 Heath Place  
Soldotna, AK 99669

Representative: Roger Boyd  
37095 K-Beach Road  
Kenai, AK 99611

Property Owner: Peninsula Moose Lodge  
PO Box 309  
Kenai, AK 99611

---

**Requested Action:** Application for a Conditional Use Permit to operate an approximately 3,000-square-foot Marijuana Cultivation Facility, Standard and an approximately 2,500-square-foot Marijuana Product Manufacturing Facility, within an existing approximately 5,500-square-foot commercial building.

**Legal Description:** Lot 2, C-Plaza Subdivision  
**Street Address:** 12516 Kenai Spur Highway  
**KPB Parcel No.:** 04314013  
**Existing Zoning:** CG – General Commercial  
**Current Land Use:** Commercial Building  
**Land Use Plan:** Mixed Use

### ANALYSIS

#### General Information:

This is an application for the construction and operation of Commercial Marijuana Establishment (CME) consisting of an approximately 3,000-square-foot Marijuana Cultivation Facility, Standard and an approximately 2,500-square-foot Marijuana Product Manufacturing Facility. The proposed CME would be located within an existing approximately 5,500-square-foot commercial building, located on an approximately 42,253-square-foot lot.

The subject parcel is accessed via the Kenai Spur Highway and is located approximately 1,000 feet west of North Gill Street between McKinley Street and Haller Street. The subject parcel is also bound by Second Avenue to the North, and is served by City of Kenai water and sewer.

The subject parcel is developed with an existing approximately 5,500-square-foot commercial building which was built in 1977.

KMC 14.20.150(d) details the intent and application process for conditional uses. The code also specifies the review criteria that must be satisfied prior to issue the permit. The criteria are:

- (1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;

The subject parcel is zoned General Commercial (CG), and is therefore subject to the Principal Permitted and Conditional land-uses as shown on KMC 14.22.010 - Land Use Table. Pursuant to Ordinance, 2870-2016 as approved by the Council of the City of Kenai on January 20, 2016, which became effective on February 19, 2016, a Marijuana Cultivation Facility, Standard and a Marijuana Product Manufacturing Facility Limited may be established and operated under a Conditional Use Permit within the General Commercial Zone.

The General Commercial Zone, as outlined in KMC 14.20.120 is intended to provide for areas where a broad range of retail, wholesale, and service establishments is desirable. Uses are regulated to concentrate commercial development to the greatest extent possible and to prevent any uses, which would have an adverse effect upon nearby properties. New single-family and two-family residential uses and other noncommercial uses, except as otherwise provided in this chapter, are not permitted in this zone as principal uses because it is intended that land classified in this zone be reserved for commercial purposes, and because a commercial zone is not suited to the uses excluded above.

The subject commercial building was constructed in 1977 and has operated as the Peninsula Moose Lodge until its closure in 2017. The operation of the Peninsula Moose Lodge consisted of a private social club and included a private restaurant and bar. Pursuant to KMC 14.20.010 – Land Use Table, a Fraternal Organization and a Restaurant/Bar are a principally permitted use within the General Commercial Zone.

As proposed, the Commercial Marijuana Establishment would consist of an approximately 3,000-square-foot Marijuana Cultivation Facility and a 2,500-square-foot Marijuana Product Manufacturing Facility. According to the submitted application, the proposed CME would not be open to the public, and would only be used as a Marijuana Cultivation Facility and Product Manufacturing Facility.

The Kenai Spur Highway is classified by the State of Alaska Department of Transportation and Public Facilities as a Major Collector. A collector is defined as “A road classification applicable to roads serving a mixture of local access and through traffic, for which the volume, average speed, and trip length of vehicles using the road are usually lower than for principal or minor arterials, but higher than for local roads.” Furthermore, KMC 14.20.320 defines a Collector as “...a street located and designed for the primary purpose of carrying through traffic and of connecting major areas of the City”.

Pursuant to the submitted site plan, primary access to the subject Commercial Marijuana Establishment (CME) would be from the Kenai Spur Highway. Therefore, impacts to the surrounding neighborhood would be minimal, concerning vehicular access.

Therefore, given the above discussion within the context of the proposed land-use project, it seems reasonable the proposed Commercial Marijuana Establishment would be consistent with the purpose of KMC 14.20.150 and the intent of the General Commercial Zoning District given the compliance with staff recommended specific conditions of approval.

- (2) The value of the adjoining property and neighborhood will not be significantly impaired;

The proposed development must comply with the requirements of KMC 14.20.330 – Standards for Commercial Marijuana Establishments. In addition, the proposed development must also comply with Alaska Statute 17.38, an Act to Tax and Regulate the Production, Sale, and Use of marijuana as well as Alaska Administrative Code – Title 3 – Marijuana Control Board – Omnibus licensure requirements and procedures for marijuana establishments.

Pursuant to KMC 14.20.010 – Land Use Table, a Marijuana Cultivation Facility, Standard and a Marijuana Product Manufacturing Facility may be established in the General Commercial Zone with a Conditional Use Permit. In addition, pursuant to KMC 14.20.330 – Standards for Commercial Marijuana Establishments, provisions have been put in place to help mitigate impacts to the value of adjoining property and the surrounding neighborhood.

Pursuant to the submitted application materials and a site visit by staff, the proposed CME would comply with the requirements contained within KMC 14.20.330. As reviewed by staff, the proposed CME would be contained within a fully enclosed secure indoor facility as required by KMC 14.20.330(d), thereby, helping to mitigate the potential impact to surrounding property owners. In addition, pursuant to KMC 14.20.330(e) all CME's shall not emit an odor that is detectable by the public from outside the CME. Pursuant to the submitted supplemental application materials, the applicant has indicated that they will implement an Odor Control Plan. The Odor Control Plan will consist of carbon filters and use of negative air pressure. Furthermore, the applicant has indicated that Marijuana Product Manufacturing portion of the proposed CME would not generate any odors, which would be detectable by the public.

Concerning visual impacts and auditory impacts of the proposed CME, pursuant to the KMC 14.20.330 the proposed CME would be located within a fully enclosed secure commercial building. Chapter 14.25 details the requirements of the submission and approval of a Landscape Site Plan. KMC 14.25.020 gives the requirements and in part states that a Landscape Site Plan is required for all commercial development, which requires a change of use under KMC 14.20.250(a). The proposed project requires a change of use under KMC 14.20.250(a) – Off-street parking and loading requirements requires the submission of a Landscape Site Plan because the proposed use of the building is a change of use. A Landscape Site Plan will be required to be approved by the Planning Department prior to issuance of the Building Permit.



The Landscape Site Plan will need to demonstrate compliance with the off-street parking requirements in KMC 14.20.250(8) for a "Manufacturing/Industrial, research and laboratories", which requires One (1) space for every 500 square feet of gross floor area plus three (3) for patron parking and "Nurseries and greenhouses" which requires One (1) space per 500 square feet of gross floor area. Therefore, 8-spaces will be required for the Marijuana Product Manufacturing Facility and 6-spaces will be required for the Marijuana Cultivation Facility, Standard for 16 off-street parking spaces.

Pursuant to Alaska Statue 17.38, an Act to Tax and Regulate the Production, Sale, and Use of marijuana as well as Alaska Administrative Code – Title 3 – Marijuana Control Board – Omnibus licensure requirements and procedures for marijuana establishments an appropriate license for a Marijuana Establishment will have to be issued by the State of Alaska Marijuana Control Board. Staff therefore recommends that a condition be added to require that prior to operation of the CME, a copy of the approved appropriate license be furnished to the City of Kenai.

Therefore, provided that all conditions recommended by staff and the Planning and Zoning Commission are followed, staff believes that the value of the adjoining property and neighborhood will not be significantly impaired.

(3) The proposed use is in harmony with the Comprehensive Plan;

The subject parcel is defined in the 2030 Imagine Kenai Comprehensive Plan as Mixed Use (MU). The plan defines MU as "*Mixed Use is intended for a compatible mix of residential, retail, service, office, public, institutional and recreational uses. Use are co-located in an integrated way that supports sustainable forms of transport such as public transport, walking and biking, and increases neighborhood amenities. Compatibility issues are addressed through careful site layout and building design.*"

Goal 3 – Land Use of the 2030 Imagine Kenai Comprehensive Plan seeks to discuss land use strategies to implement a forward-looking approach to community growth and development. Objective LU-1 states "Establish siting and design standards so that development is in harmony and scale with surrounding uses." The applicants have inducted that they do not plan to enlarge the existing commercial building nor change its overall design. The proposed use would not be open to the public, and there would be use of minimal signage. Therefore, there will be minimal evidence of the proposed change of use for the proposed project and would largely go unnoticed by the public. Therefore, as proposed, the developed would be in harmony with the 2030 Imagine Kenai Comprehensive Plan.

(4) Public services and facilities are adequate to serve the propose use;

City water and sewer serve the subject property. City of Kenai police and fire department resources are sufficient to serve the proposed use.

(5) The proposed use will not be harmful to the public safety, health, or welfare;

The proposed use is to establish and operate a Commercial Marijuana Establishment consisting of an approximately 3,000-square-foot Marijuana Cultivation Facility, Standard and an approximately 5,500-square-foot Marijuana Product Manufacturing Facility.

The proposed CME would be located within an existing approximately 5,500-square-foot commercial building, located on an approximately 42,253-square-foot lot. Pursuant to the submitted application, and KMC 14.20.330(e) the CME would not emit an odor that is detectable by the public. The CME would also require the approval and issuance of a Standard Marijuana Cultivation Facility license and a Marijuana Product Manufacturing license from the State of Alaska Marijuana Control Board. Both licenses are subject to the provisions found in Alaska Statute 17.38, an Act to Tax and Regulate the Production, Sale, and Use of marijuana as well as Alaska Administrative Code – Title 3 – Marijuana Control Board – Omnibus licensure requirements and procedures for marijuana establishments.

KMC 14.20.330(f) provides that no portion of a CME can be located within the following buffer distances:

*(1) 1,000 feet of any primary and secondary schools (K-12) and 500 feet of any vocational programs, post-secondary schools including but not limited to trade, technical, or vocational schools, colleges and universities, recreation or youth centers, correctional facilities, churches, and state licensed substance abuse treatment facilities providing substance abuse treatment; and,*

*(2) Buffer distances shall be measured as the closest distance from the perimeter of a stand-alone commercial marijuana establishment structure to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church, correctional facility, or a substance abuse treatment facility providing substance abuse treatment. If the commercial marijuana establishment occupies only a portion of a structure, buffer distances are measured as the closest distance from the perimeter of the closest interior wall segregating the commercial marijuana establishment from other uses, or available uses in the structure, or an exterior wall if closer, to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church or correctional facility, a substance abuse treatment facility providing substance abuse treatment.*

Located east of the proposed CME is Kenai Christian Church, which was constructed in 1971 with a Sanctuary and public entrance off McKinley Street. In 1982, Kenai Christian Church added an addition and constructed a new Sanctuary and a new public entrance located north of the then existing public entrance leading from a newly constructed and expanded parking area. Then in 2004, a new covered entry with artic entry was constructed to provide covered access to the church from the parking area located to the north.

KMC 14.20.330(f) requires that buffer distances for churches be measured from the closest distance from the perimeter of the CME to the main public entrance of a church. In speaking with Kenai Christian Church, and in conducting a site visit both during the week and on multiple Sunday's, staff observed that the public primarily uses the covered entrance, which is located off the main parking area to access, the church.

In reviewing the City's Geographic Information System, staff measured the distance from the closest exterior wall of the proposed CME to the covered entrance and determined that it is approximately 504 feet in length. Staff also measured the distance from the entrance located off McKinley Street and determined that it is approximately 420 feet in length. The applicant has submitted a survey, which shows the distance from the entry of the proposed CME to the covered entry of the church and shows that its distance is 516 feet in length.



Thus, staff feels that the buffer distance from the closest exterior wall of the proposed CME to the main covered artic entrance of Kenai Christian Church is over 500 feet in length and that the proposed project meets the buffer requirements of KMC 14.20.330(f).

Therefore, giving the above discussion and proposed conditions of approval, staff believes that they proposed Commercial Marijuana Establishment, would not have a harmful impact to the public safety, health or welfare.

(6) Any and all specific conditions deemed necessary by the commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

1. Further development of the property shall conform to all Federal, State, and local regulations.
2. A building permit will be required for the construction of the Commercial Marijuana Establishment as shown on the submitted floor plan.
3. Prior to issuance of the Building Permit, the applicant shall submit a Landscape Site Plan for review and approval by Planning Administration. The Landscape Site Plan shall demonstrate compliance with Kenai Municipal Code Chapter 14.25 – Landscaping/Site Plan Regulations.
4. All Marijuana Product Manufacturing methods shall conform to the requirements within the International Fire Code.
5. Prior to operation of the Marijuana Cultivation Facility, Standard and/or the Marijuana Product Manufacturing Facility, the applicant shall submit a copy of the approved and fully executed license from the Alaska Alcohol & Marijuana Control Board. The property owner shall comply with all regulations as stipulated by the State of Alaska Marijuana Control Board.
6. A Sign Permit will be required for the construction of any proposed signage.
7. Pursuant to Kenai Municipal Code Section, 14.20.150(f) the property owner shall submit an Annual Report to the City of Kenai.

## **RECOMMENDATIONS**

Based on the application and a review of the criteria required to approve the permit, it is the recommendation of staff that the proposed Conditional Use Permit for the establishment and operation of a Commercial Marijuana Establishment consisting of a Marijuana Cultivation Facility, Standard and a Marijuana Product Manufacturing Facility be approved, subject to the following conditions:

The issuance of the Conditional Use Permit shall be conditioned upon the following:

1. Further development of the property shall conform to all Federal, State, and local regulations.
2. A building permit will be required for the construction of the Commercial Marijuana Establishment as shown on the submitted floor plan.
3. Prior to issuance of the Building Permit, the property owner shall submit a Landscape Site Plan for review and approval by Planning Administration. The Landscape Site Plan shall demonstrate compliance with Kenai Municipal Code Chapter 14.25 – Landscaping/Site Plan Regulations.
4. All Marijuana Product Manufacturing methods shall conform to the requirements within the International Fire Code.
5. Prior to operation of the Marijuana Cultivation Facility, Standard and/or the Marijuana Product Manufacturing Facility, the property owner shall submit a copy of the approved and fully executed license from the Alaska Alcohol & Marijuana Control Board. The property owner shall comply with all regulations as stipulated by the State of Alaska Marijuana Control Board.
6. A Sign Permit will be required for the construction of any proposed signage.
7. Pursuant to Kenai Municipal Code Section, 14.20.150(f) the property owner shall submit an Annual Report to the City of Kenai.

## **ATTACHMENTS:**

1. Resolution No. PZ17-20
2. Application
3. Supplemental Application Information
4. Site Plan
5. Map
6. Public Notice, Application for Marijuana Establishment License



## *"Village with a Past, City with a Future"*

210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: 907-283-7535 / Fax: 907-283-3014  
www.kenai.city

### **CITY OF KENAI PLANNING AND ZONING COMMISSION RESOLUTION NO. PZ17-20 CONDITIONAL USE PERMIT**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **GRANTING** A REQUEST FOR A CONDITIONAL USE PERMIT TO OPERATE AN APPROXIMATELY 3,000-SQUARE-FOOT MARIJUANA CULTIVATION FACILITY, STANDARD, AND AN APPROXIMATELY 2,500-SQUARE-FOOT MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN AN EXISTING APPROXIMATELY 5,500-SQUARE-FOOT COMMERCIAL BUILDING.

APPLICANT: ACG LLC.

PROPERTY ADDRESS: 12516 Kenai Spur Highway, Kenai, AK 99611

LEGAL DESCRIPTION: Lot 2, C-Plaza Subdivision

KENAI PENINSULA BOROUGH PARCEL NO: 04314013

**WHEREAS**, an application meeting the requirements of Section 14.20.150 has been submitted and received on May 19, 2017; and,

**WHEREAS**, the application affects land which is zoned as General Commercial (CG); and,

**WHEREAS**, a duly advertised public hearing as required by Kenai Municipal Code 14.20.153 was conducted by the Planning and Zoning Commission on June 28, 2017; and,

**WHEREAS**, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met; and,

**WHEREAS**, Kenai Municipal Code 14.20.150 details the intent and application process for conditional uses and specifies the review criteria that must be satisfied prior to issuing the permit, which are the following:

- (1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district.

The subject parcel is zoned General Commercial (CG), and is therefore subject to the Principal Permitted and Conditional land-uses as shown on KMC 14.22.010 - Land Use Table.

Pursuant to Ordinance, 2870-2016 as approved by the Council of the City of Kenai on January 20, 2016, which became effective on February 19, 2016, a Marijuana Cultivation Facility, Standard and a Marijuana Product Manufacturing Facility Limited may be established and operated under a Conditional Use Permit within the General Commercial Zone.

The General Commercial Zone, as outlined in KMC 14.20.120 is intended to provide for areas where a broad range of retail, wholesale, and service establishments is desirable. Uses are regulated to concentrate commercial development to the greatest extent possible and to prevent any uses, which would have an adverse effect upon nearby properties. New single-family and two-family residential uses and other noncommercial uses, except as otherwise provided in this chapter, are not permitted in this zone as principal uses because it is intended that land classified in this zone be reserved for commercial purposes, and because a commercial zone is not suited to the uses excluded above.

The subject commercial building was constructed in 1977 and has operated as the Peninsula Moose Lodge until its closure in 2017. The operation of the Peninsula Moose Lodge consisted of a private social club and included a private restaurant and bar. Pursuant to KMC 14.20.010 – Land Use Table, a Fraternal Organization and a Restaurant/Bar are a principally permitted use within the General Commercial Zone.

As proposed, the Commercial Marijuana Establishment would consist of an approximately 3,000-square-foot Marijuana Cultivation Facility and a 2,500-square-foot Marijuana Product Manufacturing Facility. According to the submitted application, the proposed CME would not be open to the public, and would only be used as a Marijuana Cultivation Facility and Product Manufacturing Facility.

The Kenai Spur Highway is classified by the State of Alaska Department of Transportation and Public Facilities as a Major Collector. A collector is defined as “A road classification applicable to roads serving a mixture of local access and through traffic, for which the volume, average speed, and trip length of vehicles using the road are usually lower than for principal or minor arterials, but higher than for local roads.” Furthermore, KMC 14.20.320 defines a Collector as “...a street located and designed for the primary purpose of carrying through traffic and of connecting major areas of the City”.

Pursuant to the submitted site plan, primary access to the subject Commercial Marijuana Establishment (CME) would be from the Kenai Spur Highway. Therefore, impacts to the surrounding neighborhood would be minimal, concerning vehicular access.

Therefore, given the above discussion within the context of the proposed land-use project, it seems reasonable the proposed Commercial Marijuana Establishment would be consistent with the purpose of KMC 14.20.150 and the intent of the General Commercial Zoning District given the compliance with staff recommended specific conditions of approval.

- (2) The value of the adjoining property and neighborhood will not be significantly impaired.

The proposed development must comply with the requirements of KMC 14.20.330 – Standards for Commercial Marijuana Establishments. In addition, the proposed development must also comply with Alaska Statue 17.38, an Act to Tax and Regulate the Production, Sale, and Use of marijuana as well as Alaska Administrative Code – Title 3 – Marijuana Control Board – Omnibus licensure requirements and procedures for marijuana establishments.

Pursuant to KMC 14.20.010 – Land Use Table, a Marijuana Cultivation Facility, Standard and a Marijuana Product Manufacturing Facility may be established in the General Commercial Zone with a Conditional Use Permit. In addition, pursuant to KMC 14.20.330 – Standards for Commercial Marijuana Establishments, provisions have been put in place to help mitigate impacts to the value of adjoining property and the surrounding neighborhood.

Pursuant to the submitted application materials and a site visit by staff, the proposed CME would comply with the requirements contained within KMC 14.20.330. As reviewed by staff, the proposed CME would be contained within a fully enclosed secure indoor facility as required by KMC 14.20.330(d), thereby, helping to mitigate the potential impact to surrounding property owners. In addition, pursuant to KMC 14.20.330(e) all CME's shall not emit an odor that is detectable by the public from outside the CME. Pursuant to the submitted supplemental application materials, the applicant has indicated that they will implement an Odor Control Plan. The Odor Control Plan will consist of carbon filters and use of negative air pressure. Furthermore, the applicant has indicated that Marijuana Product Manufacturing portion of the proposed CME would not generate any odors, which would be detectable by the public.

Concerning visual impacts and auditory impacts of the proposed CME, pursuant to the KMC 14.20.330 the proposed CME would be locate within a fully enclosed secure commercial building. Chapter 14.25 details the requirements of the submission and approval of a Landscape Site Plan. KMC 14.25.020 gives the requirements and in part states that a Landscape Site Plan is required for all commercial development, which requires a change of use under KMC 14.20.250(a). The proposed project requires a change of use under KMC 14.20.250(a) – Off-street parking and loading requirements requires the submission of a Landscape Site Plan because the proposed use of the building is a change of use. A Landscape Site Plan will be required to be approved by the Planning Department prior to issuance of the Building Permit.

The Landscape Site Plan will need to demonstrate compliance with the off-street parking requirements in KMC 14.20.250(8) for a “Manufacturing/Industrial, research and laboratories”, which requires One (1) space for every 500 square feet of gross floor area plus three (3) for patron parking and “Nurseries and greenhouses” which requires One (1) space per 500 square feet of gross floor area. Therefore, 8-spaces will be required for the Marijuana Product Manufacturing Facility and 6-spaces will be required for the Marijuana Cultivation Facility, Standard for 16 off-street parking spaces.

Pursuant to Alaska Statue 17.38, an Act to Tax and Regulate the Production, Sale, and Use of marijuana as well as Alaska Administrative Code – Title 3 – Marijuana Control Board – Omnibus licensure requirements and procedures for marijuana establishments an appropriate license for a Marijuana Establishment will have to be issued by the State of Alaska Marijuana Control Board. Staff therefore recommends that a condition be added to require that prior to operation of the CME, a copy of the approved appropriate license be furnished to the City of Kenai.

Therefore, provided that all conditions recommended by staff and the Planning and Zoning Commission are followed, staff believes that the value of the adjoining property and neighborhood will not be significantly impaired.



(3) The proposed use is in harmony with the Comprehensive Plan.

The subject parcel is defined in the 2030 Imagine Kenai Comprehensive Plan as Mixed Use (MU). The plan defines MU as *“Mixed Use is intended for a compatible mix of residential, retail, service, office, public, institutional and recreational uses. Use are co-located in an integrated way that supports sustainable forms of transport such as public transport, walking and biking, and increases neighborhood amenities. Compatibility issues are addressed through careful site layout and building design.”*

Goal 3 – Land Use of the 2030 Imagine Kenai Comprehensive Plan seeks to discuss land use strategies to implement a forward-looking approach to community growth and development. Objective LU-1 states “Establish siting and design standards so that development is in harmony and scale with surrounding uses.” The applicants have inducted that they do not plan to enlarge the existing commercial building nor change its overall design. The proposed use would not be open to the public, and there would be use of minimal signage. Therefore, there will be minimal evidence of the proposed change of use for the proposed project and would largely go unnoticed by the public. Therefore, as proposed, the developed would be in harmony with the 2030 Imagine Kenai Comprehensive Plan.

(4) Public services and facilities are adequate to serve the proposed use.

City water and sewer serve the subject property. City of Kenai police and fire department resources are sufficient to serve the proposed use.

(5) The proposed use will not be harmful to the public safety, health or welfare.

The proposed use is to establish and operate a Commercial Marijuana Establishment consisting of an approximately 3,000-square-foot Marijuana Cultivation Facility, Standard and an approximately 5,500-square-foot Marijuana Product Manufacturing Facility.

The proposed CME would be located within an existing approximately 5,500-square-foot commercial building, located on an approximately 42,253-square-foot lot. Pursuant to the submitted application, and KMC 14.20.330(e) the CME would not emit an odor that is detectable by the public. The CME would also require the approval and issuance of a Standard Marijuana Cultivation Facility license and a Marijuana Product Manufacturing license from the State of Alaska Marijuana Control Board. Both licenses are subject to the provisions found in Alaska Statue 17.38, an Act to Tax and Regulate the Production, Sale, and Use of marijuana as well as Alaska Administrative Code – Title 3 – Marijuana Control Board – Omnibus licensure requirements and procedures for marijuana establishments.

KMC 14.20.330(f) provides that no portion of a CME can be located within the following buffer distances:

*(1) 1,000 feet of any primary and secondary schools (K-12) and 500 feet of any vocational programs, post-secondary schools including but not limited to trade, technical, or vocational schools, colleges and universities, recreation or youth centers, correctional facilities, churches, and state licensed substance abuse treatment facilities providing substance abuse treatment; and,*

*(2) Buffer distances shall be measured as the closest distance from the perimeter of a stand-alone commercial marijuana establishment structure to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church, correctional facility, or a substance abuse treatment facility providing substance abuse treatment. If the commercial marijuana establishment occupies only a portion of a structure, buffer distances are measured as the closest distance from the perimeter of the closest interior wall segregating the commercial marijuana establishment from other uses, or available uses in the structure, or an exterior wall if closer, to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church or correctional facility, a substance abuse treatment facility providing substance abuse treatment.*

Located east of the proposed CME is Kenai Christian Church, which was constructed in 1971 with a Sanctuary and public entrance off McKinley Street. In 1982, Kenai Christian Church added an addition and constructed a new Sanctuary and a new public entrance located north of the then existing public entrance leading from a newly constructed and expanded parking area. Then in 2004, a new covered entry with artic entry was constructed to provide covered access to the church from the parking area located to the north.

KMC 14.20.330(f) requires that buffer distances for churches be measured from the closest distance from the perimeter of the CME to the main public entrance of a church. In speaking with Kenai Christian Church, and in conducting a site visit both during the week and on multiple Sunday's, staff observed that the public primarily uses the covered entrance, which is located off the main parking area to access, the church.

In reviewing the City's Geographic Information System, staff measured the distance from the closest exterior wall of the proposed CME to the covered entrance and determined that it is approximately 504 feet in length. Staff also measured the distance from the entrance located off McKinley Street and determined that it is approximately 420 feet in length. The applicant has submitted a survey, which shows the distance from the entry of the proposed CME to the covered entry of the church and shows that its distance is 516 feet in length.

Thus, staff feels that the buffer distance from the closest exterior wall of the proposed CME to the main covered artic entrance of Kenai Christian Church is over 500 feet in length and that the proposed project meets the buffer requirements of KMC 14.20.330(f).

Therefore, giving the above discussion and proposed conditions of approval, staff believes that they proposed Commercial Marijuana Establishment, would not have a harmful impact to the public safety, health or welfare.

**WHEREAS**, any and all specific conditions deemed necessary by the Planning and Zoning Commission to fulfill the conditions as set forth below shall be met by the applicant. These may include, but are not limited to measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use, as follows:

1. Further development of the property shall conform to all Federal, State, and local regulations.
2. A building permit will be required for the construction of the Commercial Marijuana Establishment as shown on the submitted floor plan.

3. Prior to issuance of the Building Permit, the applicant shall submit a Landscape Site Plan for review and approval by Planning Administration. The Landscape Site Plan shall demonstrate compliance with Kenai Municipal Code Chapter 14.25 – Landscaping/Site Plan Regulations.
4. All Marijuana Product Manufacturing methods shall conform to the requirements within the International Fire Code.
5. Prior to operation of the Marijuana Cultivation Facility, Standard and/or the Marijuana Product Manufacturing Facility, the applicant shall submit a copy of the approved and fully executed license from the Alaska Alcohol & Marijuana Control Board. The property owner shall comply with all regulations as stipulated by the State of Alaska Marijuana Control Board.
6. A Sign Permit will be required for the construction of any proposed signage.
7. Pursuant to Kenai Municipal Code Section, 14.20.150(f) the property owner shall submit an Annual Report to the City of Kenai.

**NOW, THEREFORE, BE IT RESOLVED, BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA THAT THE APPLICANT **HAS** DEMONSTRATED THAT THE PROPOSED OPERATION OF APPROXIMATELY 3,000-SQUARE-FOOT MARIJUANA CULTIVATION FACILITY, STANDARD, AND AN APPROXIMATELY 2,500-SQUARE-FOOT MARIJUANA PRODUCT MANUFACTURING FACILITY WITHIN AN EXISTING APPROXIMATELY 5,500-SQUARE-FOOT COMMERCIAL BUILDING MEETS THE CONDITIONS REQUIRED FOR SAID OPERATION AND THEREFORE THE COMMISSION **DOES** AUTHORIZE THE ADMINISTRATIVE OFFICIAL TO ISSUE THE APPROPRIATE PERMIT.**

**PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 28<sup>th</sup> day of June, 2017.**

ATTEST:

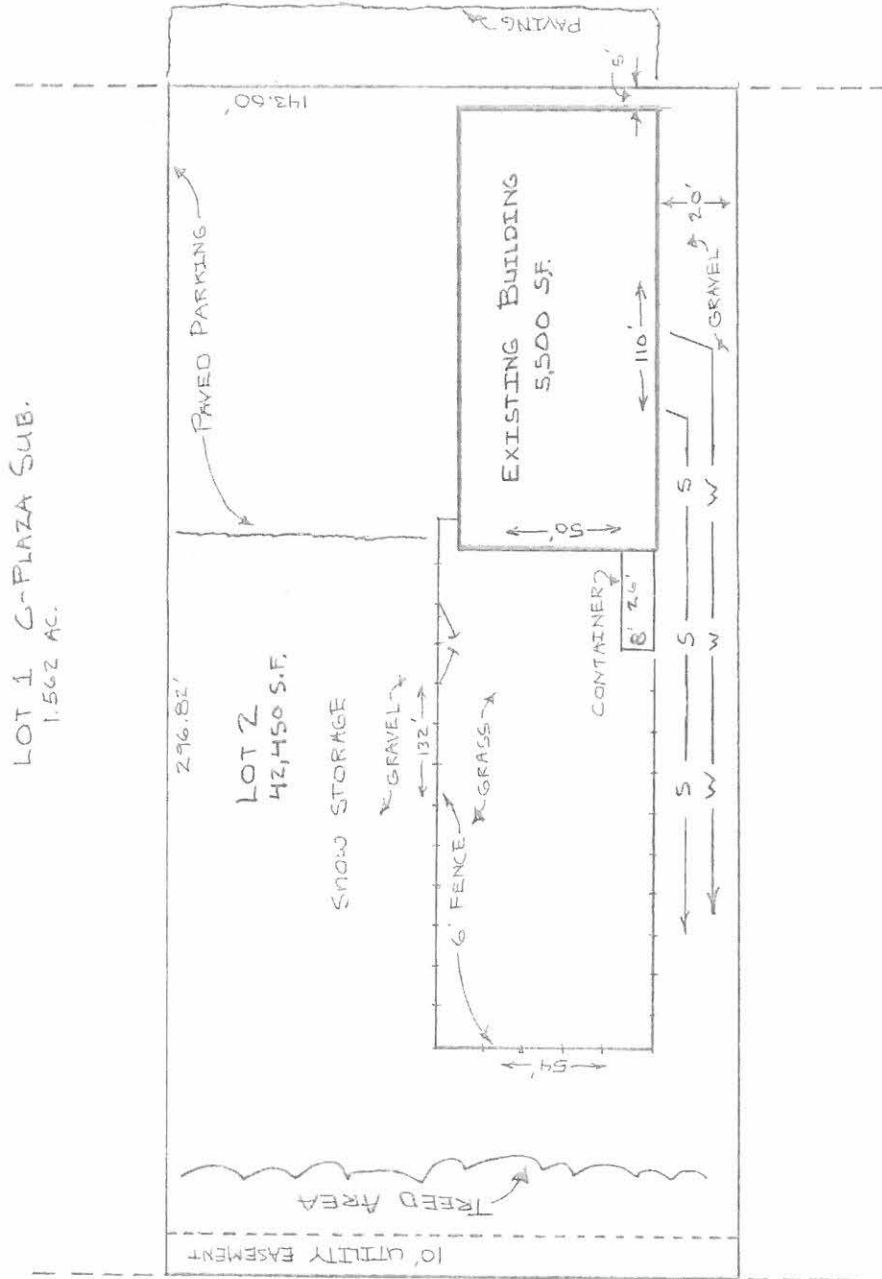
\_\_\_\_\_  
JEFF TWAIT, CHAIRPERSON

\_\_\_\_\_  
Jamie Heinz, Acting City Clerk



ACG LLC

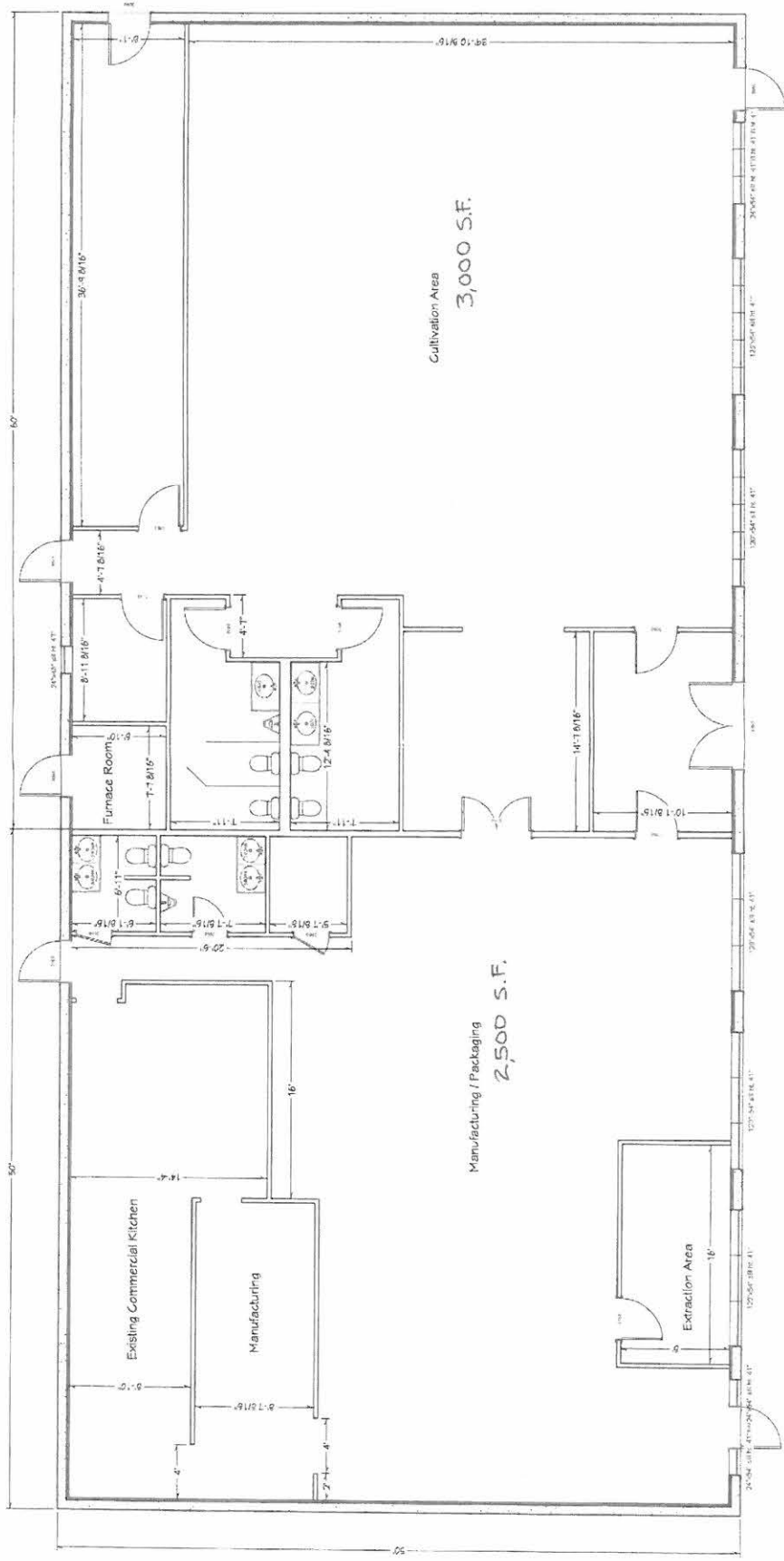
KENAI SPUR HWY



LOT 1 C-PLAZA SUB.  
1.562 AC.

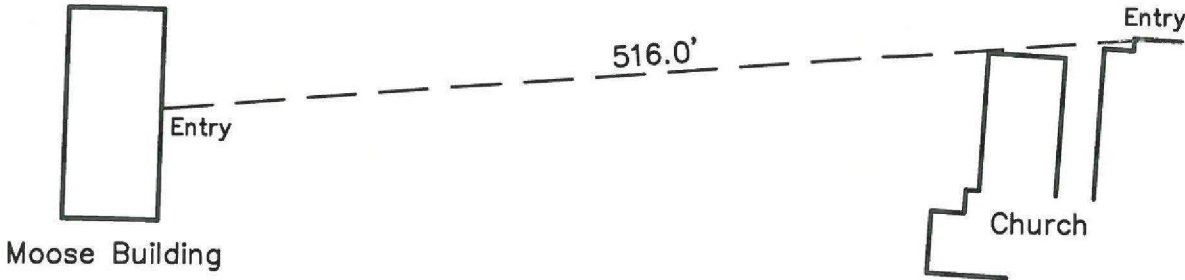
LOT 2  
42,450 S.F.





1 Floor Plan 1/8" = 1'

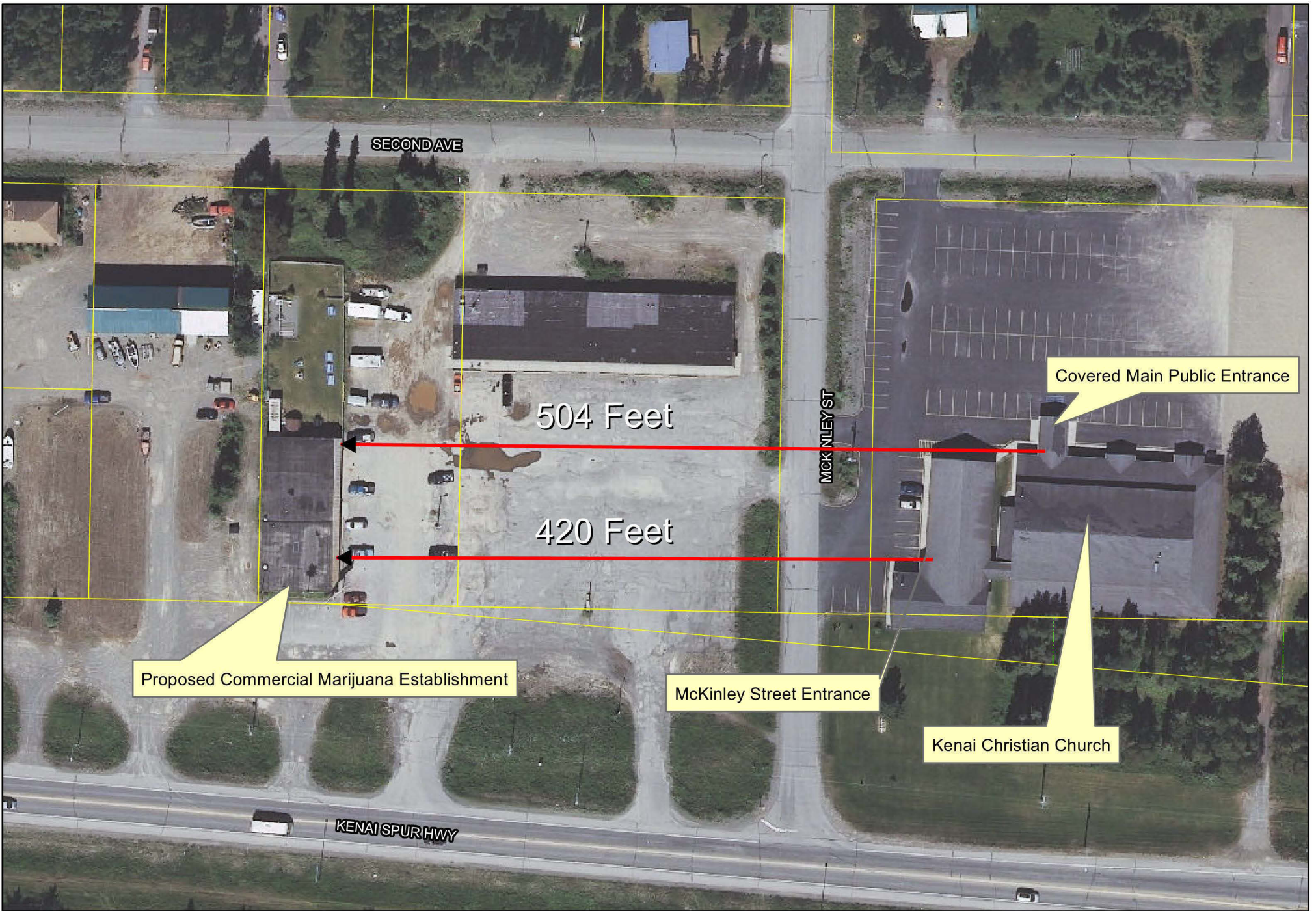
RECEIVED  
 CITY OF KENAI  
 JUN 16 2017  
 PLANNING DEPARTMENT



Date: 6-16-17	Scale: 1"=100'	Drawn: JFS
Job: 17056	Book: 17-1	

**SEGESSER SURVEYS**  
 30485 ROSLAND ST.  
 SOLDOTNA, AK 99689  
 (907) 262-3909





**PZ17 - 20 Proposed Commercial Marijuana Establishment Buffers**





# Kenai Christian Church

RECEIVED  
CITY OF KENAI  
APR 21 2017  
PLANNING DEPARTMENT

City of Kenai  
Attn: Matthew Kelly  
210 Fidalgo Avenue  
Kenai, Alaska 99611

April 20, 2017

Dear Sirs:

My name is Robert DeVold and I am writing on behalf of the leadership of Kenai Christian Church regarding a proposed Marijuana Cultivation Enterprise that is being considered for location at 12516 Spur Highway, Kenai, Alaska, formerly, The Moose Lodge, in Kenai. We would be neighbors, and would desire to be good neighbors, but we do have serious reservations about this enterprise being permitted at this address.

It is our understanding that there is to be a 500'0" buffer (distance) between the proposed facility and the "main entrance" to the religious facility. It is with this matter that we have a major concern and would desire to address it.

#### BRIEF HISTORY

The church's first facility (No. # 1) was completed in 1971. Its main entrance would have been approximately 400'0" from the entrance to the proposed marijuana cultivation site. This entrance (No.# 1) no longer exists today because a second facility (No. # 2) was added in 1983, with a new entrance which negated the need for the first facility's entrance. To this day this entrance (No. # 2) has never ceased to be a major and main entrance to our facilities.

The distance from Entrance # 2 to the proposed marijuana establishment is approximately 430'0."

A third expansion was added to the first and second facility in 1998. This facility (No. # 3) has a main entrance also. The distance between Entrance # 3 and the proposed marijuana cultivation enterprise is approximately 518'0." This entrance is used mainly on Sunday morning, Wednesday night, and Thursday morning by people attending morning worship, prayer hour, and women's bible studies. However, for the most part, this section of our facilities remains locked for a major portion of every week—all day and all night. There are occasional exceptions, but not very many.

Instead, we consider Entrance # 2 to be a major entrance--even a main entrance--into our facilities for the following reasons:

1. It is the first entrance noticed when turning from McKinley Street into our facilities.
2. Our address is located at this entrance per requirement of the local fire marshal.

104 McKinley Street  
Kenai AK 99611

907-283-4559 \* fax: 907-283-4560

web: [kenaichristianchurch.org](http://kenaichristianchurch.org) \* Email: [office@kenaichristianchurch.org](mailto:office@kenaichristianchurch.org)



3. These entry doors are unlocked and friendly accessible 6 out of 7 days weekly.
4. These doors “look” like main entry doors—because they are.
5. All business and commerce are accommodated through these doors.
6. The staff uses these doors daily.
7. People who come for counseling come through these doors.
8. People who attend weddings and funerals come almost exclusively through these doors because the services are held in the chapel which is closely akin to these doors.
9. Special recitals and occasional community programs are held in the chapel which are closely akin to these doors, thus the attendees use these doors.
10. A significant number of our members who attend all our services--Sunday morning, Sunday night, Wednesday night and Thursday mornings use these doors.
11. Sunday evening worship is held in the chapel which is clearly on the side closest to the Entrance # 2 doors and these doors are used by a majority who attend. The same is true for our men’s bible studies classes.
12. We have an exterior camera monitoring these doors because of their constant use.
13. The parking lot and the side walk are designed for easy access to Entrance # 2.
14. Entrance # 2 is a, if not the, most-used entrance in our facility and is a main entry indeed.
15. Entrance # 2 is not a “side-door entry,” a “secondary entry,” or a “limited-use entry.” It is fully a main entrance with commercially attractive main entrance doors.

We want to convey that Entrance # 2 is a main entry into our facilities as noted above, and that this matter be given serious consideration as future decisions are made. It seems inappropriate to classify a door as the sole main entrance door, Entrance # 3, when it is basically used twice a week (though there are some other times), whereas Entrance # 2 doors are used six days a week. We do not limit the work of the congregation to Sunday morning, nor do we conclude that Entrance # 3 should be labeled the only main entrance door. How many main entry doors are there at Safeway? Just one? We wonder why the church should be classified as having only one designated main entry door when, in fact, there are two.

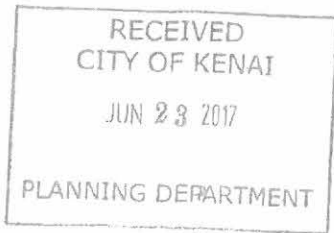
With best wishes, I am,

Your friends,

*The Elders; Robert DeVolle*

The Elders  
Kenai Christian Church





29 East 75<sup>th</sup> Avenue  
Anchorage, AK 99518  
June 22, 2017

City of Kenai  
Planning and Zoning  
210 Fidalgo  
Kenai, AK 99611

Dear Kenai City Planning,

I was shocked to receive a notice of a proposal for a Marijuana Product Manufacturing Facility and Cultivation Facility that is within 500 feet of my property (Parcel 04310031). I do not wish to have a business that promotes an unhealthy life style. Ours is a family community. This would bring I people of values that not match those of our neighborhood.

This property has been in our family for over 60 years. We want to retain the values of old time Alaskans that built Alaska to what it is today.

I do not want the above facility around my property.

Sincerely,

A handwritten signature in cursive script that reads "Linda K. Sandland Tandy".

Linda K.(Sandland) Tandy



APPLICATION FOR CONDITIONAL USE PERMIT  
KMC 14.20.150

Paid  
5/19/17

P217-20

PROPERTY OWNER	PETITIONER REPRESENTATIVE
Name: <u>ACG LLC.</u>	Name: <u>Roger Boyd, Partner</u>
Mailing Address: <u>386 Heath Place</u>	Mailing Address: <u>3709 S K-Beach Rd</u>
City, State Zip: <u>Soldotna, AK 99669</u>	City, State Zip: <u>Kenai AK 99611</u>
Phone Number: <u>907-953-9453</u>	Phone Number: <u>907 398-7848</u>
Fax Number: <u>Same</u>	Fax Number: <u>N/A</u>
Email:	Email: <u>rogerboyd@hotmail.com</u>

**PROPERTY INFORMATION**

Property Tax ID #: 04314013

Site Street Address: 12516 Kenai Spur Hwy.

Current Legal Description: Lot 2 C-Plaza Sub. Kenai

Conditional Use Requested For: (Describe the project, and use additional sheets if necessary)

Locate a cannabis manufacturing and cultivation facility within an existing building.

Zoning: General Commercial

Acreage: 42,450 S.F.

**DOCUMENTATION**

Required Attachments:

- Completed Application Form
- Site Plan/Floor Plan with Square Footage
- \$125 Fee (plus applicable sales tax)
- KPB Tax Compliance (if applicable)
- State Business License (if applicable)

**AUTHORITY TO APPLY FOR CONDITIONAL USE:**

I hereby certify that (I am) (I have been authorized to act for) owner of the property described above and that I petition for a conditional use permit in conformance with Title 14 of the Kenai Municipal Code. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff of the Planning and Zoning Commission for administrative reasons. I understand that a site visit may be required to process this application. City of Kenai personnel are authorized to access the above-referenced property for the purpose of processing this application.

Date: 5/18/2017 Signature: [Signature]

**CONDITIONAL USE STANDARD (KMC 14.20.150)**

The Planning and Zoning Commission may only approve the conditional use if the Commission finds that the following six (6) standards are satisfied. Each standard must have a response in as much detail as it takes to explain how your project satisfies the standard. The burden of proof rests with you. Feel free to use additional paper if needed.

The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district:

The value of the adjoining property and neighborhood will not be significantly impaired:

The proposed use is in harmony with the Comprehensive Plan:

Public services and facilities are adequate to serve the proposed use:

The proposed use will not be harmful to the public safety, health or welfare:

*See Attached Addendum*

Addendum to Conditional Use Permit for Lot 2, C Plaza Subdivision

Conditional Use Standards (KMC 14.20.150):

1. The proposed use is consistent with the purpose of this chapter and the purpose and intent of the zoning district:
  - The proposed use is allowed in the General Commercial Zone with a Conditional Use Permit. It will consist of a manufacturing facility and an indoor cultivation facility which are both similar to and compatible with other established commercial uses in the area. The proposed use is a low-volume business, providing an appropriate transition area between existing commercial and residential districts. It will not be open to the public.
2. The value of the adjoining property and neighborhood will not be significantly impaired by the proposed use:
  - The proposed use will generate significantly less traffic and overall impact than the previous use which was a private social club serving food and alcohol with several hundred members. The new use will not be open to the general public, only employees and vendors of the business. The exterior of the existing building will remain largely unchanged with minimal signage. The change of use will likely be unnoticed by most observers. Currently the building is empty; the successful development of the proposed new business will enhance the surrounding property values, create jobs, and bring new vitality and tax revenue to the City of Kenai.
3. The proposed use is in harmony with the Comprehensive plan:
  - The light manufacturing and indoor cultivation facility is typical use for the General Commercial Zone and will provide new jobs and enhance commercial development in the city of Kenai. It will help rejuvenate the surrounding neighborhood by occupying a vacant building and providing 12 to 20 new jobs.
4. Public services and facilities are adequate to serve the proposed use:
  - The site is served by city of Kenai water and sewer as well as natural gas, telephone and three-phase electric power. It has a main entrance off the Kenai Spur Highway (an arterial roadway), and a back entrance off 2<sup>nd</sup> Avenue with a paved parking lot oversized for the intended use. It is within the central area of Kenai and well served by City Police and Fire services.
5. The proposed use will not be harmful to the public safety, health or welfare:
  - The proposed use will consist of a light manufacturing facility producing edible products from cannabis, and an indoor cultivation facility, both of which will be closed to the public. Odors will be treated and contained on site. The facility's use will be regulated by and conform to stringent state regulations and licensing requirements designed specifically to protect the public safety, health and welfare.

Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

#### LAND USE

Describe current use of property covered by this application: Building currently vacant. Formerly used as a private social club, Restaurant, bar and meeting hall. Moose Club.

Surrounding property: (Describe how land adjacent to the property is currently being used)  
North: 2nd Ave. Surban Residential zone with residence.

South: Kenai Spur Hwy. SR zone, undeveloped.

East: S - Plaza shopping center, large parking lot GC zone

West: Todds Garage, Auto Repair GC zone

#### PROCEDURES FOR PERMITS REQUIRING PUBLIC HEARINGS AND NOTIFICATIONS

The permit you have applied for may require Public Hearing and Notification under KMC 14.20.280. The Planning and Zoning Commission meets the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of each month. To meet notice requirements, the Planning Department must receive your completed application 21 days prior to the meeting when the Public Hearing is scheduled.

- Applications requiring Public Hearings must be filed no later than noon on the date of the deadline.
- Home Occupations and Landscape/Site Plans do not require a Public Hearing.
- Allow up to 4 weeks for the permitting process.
- If required:
  - The Fire Inspection Report must be received prior to processing the application.
  - The Affidavit of Posting must be received 2 weeks prior to the hearing date in order to schedule a public hearing.
  - Resolutions cannot be issued until expiration of the 15-day appeal period.
  - Resolutions cannot be issued until documentation is received that the certificate of compliance is met.

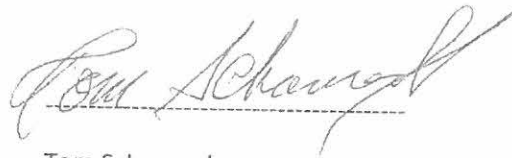
**WHEN YOU HAVE A COMPLETED APPLICATION, CALL 283-8237 TO SCHEDULE AN APPOINTMENT WITH THE PLANNING DEPARTMENT TO REVIEW THE APPLICATION.**

**IF THE APPLICATION IS DETERMINED COMPLETE AND ACCEPTED, THE PUBLIC HEARING FEE OF \$125 PLUS TAX WILL BE COLLECTED. YOU WILL BE GIVEN A SIGN TO POST AND AN AFFIDAVIT OF POSTING TO SIGN AND RETURN TO THE PLANNING DEPARTMENT TO BEGIN PROCESSING THE APPLICATION.**

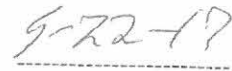
To Whom it may concern

MAY 22 2017

I Tom Schanrock hereby give ACG LLC permission to use the property at 12516 kenai spur hwy  
For a conditional use permit per our purchase and sale agreement .



Tom Schanrock



date







# Public Notice

## Application for Marijuana Establishment License

License Number: 12598

License Status: Initiated

License Type: Standard Marijuana Cultivation Facility

Doing Business As: RED RUN CANNABIS CULTIVATORS, LLC

Business License Number: 1032376

Email Address: marc@redruncannabiscompany.com

Latitude, Longitude: 60.561105, -151.287650

Physical Address: 12516 Kenai Spur Hwy  
Kenai, AK 99611  
UNITED STATES

### Licensee #1

Type: Entity

Alaska Entity Number: 10035361

Alaska Entity Name: Red Run Cannabis Cultivators, L  
LC

Phone Number: 907-953-9453

Email Address: marc@redruncannabiscompany.  
com

Mailing Address: 5455 Kenai Spur Hwy  
Kenai, AK 99611  
UNITED STATES

### Entity Official #1

Type: Individual

Name: Roger Boyd

Date of Birth: 07/21/1949

Phone Number: 907-398-7848

Email Address: rogerboyd@hotmail.com

Mailing Address: 37095 K Beach Rd  
Kenai, AK 99611  
UNITED STATES

### Entity Official #2

Type: Individual

Name: Marc Theiler

Date of Birth: 06/11/1976

Phone Number: 907-953-9453

Email Address: marc@redruncannabiscompany.  
com

Mailing Address: 105 Trading Bay Rd  
Ste 103  
Kenai, AK 99611  
UNITED STATES

### Entity Official #3

Type: Individual

Name: Eric Derleth

Date of Birth: 01/05/1970

Phone Number: 907-398-6690

Email Address: eric@trialguy.com

Mailing Address: 386 Heath Pl  
Soldotna, AK 99669  
UNITED STATES

*Note: No affiliates entered for this license.*

Interested persons should submit written comment or objection to their local government, the applicant, and to the Alcohol & Marijuana Control Office at 550 W 7th Ave, Suite 1600, Anchorage, AK 99501 or to marijuana.licensing@alaska.gov not later than 30 days after this notice of application.

POSTING DATE

4-13-2017



# Public Notice

## Application for Marijuana Establishment License

License Number: 12764

License Status: Initiated

License Type: Marijuana Product Manufacturing Facility

Doing Business As: RED RUN CANNABIS CULTIVATORS, LLC

Business License Number: 1032376

Email Address: marc@redruncannabiscompany.com

Latitude, Longitude: 60.561105, -151.287650

Physical Address: 12516 Kenai Spur Hwy  
Kenai, AK 99611  
UNITED STATES

### Licensee #1

Type: Entity

Alaska Entity Number: 10035361

Alaska Entity Name: Red Run Cannabis Cultivators, L  
LC

Phone Number: 907-953-9453

Email Address: marc@redruncannabiscompany.  
com

Mailing Address: 5455 Kenai Spur Hwy  
Kenai, AK 99611  
UNITED STATES

### Entity Official #2

Type: Individual

Name: Eric Derleth

Date of Birth: 01/05/1970

Phone Number: 907-398-6690

Email Address: eric@trialguy.com

Mailing Address: 386 Heath Pl  
Soldotna, AK 99669  
UNITED STATES

### Entity Official #1

Type: Individual

Name: Marc Theiler

Date of Birth: 06/11/1976

Phone Number: 907-953-9453

Email Address: marc@redruncannabiscompany.  
com

Mailing Address: 1250 Chinook Dr.  
Kenai, AK 99611  
UNITED STATES

### Entity Official #3

Type: Individual

Name: Roger Boyd

Date of Birth: 07/21/1949

Phone Number: 907-398-7848

Email Address: roger@redruncannabiscompany.  
com

Mailing Address: 37095 K Beach Rd  
Kenai, AK 99611  
UNITED STATES

*Note: No affiliates entered for this license.*

Interested persons should submit written comment or objection to their local government, the applicant, and to the Alcohol & Marijuana Control Office at 550 W 7th Ave, Suite 1600, Anchorage, AK 99501 or to marijuana.licensing@alaska.gov not later than 30 days after this notice of application.

POSTING DATE 4-13-2017



*"Village with a Past, City with a Future"*

210 Fidalgo Ave, Kenai, Alaska 99611-7794  
Telephone: (907) 283-7535 | Fax: (907) 283-3014  
www.kenai.city

## MEMORANDUM

**TO:** Board Chair and Board of Adjustment Members  
**FROM:** Jamie Heinz, City Clerk  
**DATE:** September 26, 2019  
**SUBJECT:** Board of Adjustment Hearing – Appeals of Planning & Zoning Commission action to approve a Conditional Use Permit for ACG, LLC, to operate a Retail Marijuana Store within an existing commercial building located at 12516 Kenai Spur Highway.

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### Witness List:

Adam Meyers of Kenai Christian Church has provided notification that he may call on Robert DeVold, founding and retired minister of Kenai Christian Church to testify.



**From:** [steve.tandy](#)  
**To:** [Jamie Heinz](#)  
**Subject:** Retail Marijuana Store location hearing  
**Date:** Wednesday, September 25, 2019 11:32:05 AM

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

We own the property at 203 McKinley Street which is behind the commercial building at 12516 Kenai Spur Highway. We are opposed to the establishment of a Retail Marijuana Store in this building. The increase of traffic by people that are drug users will be a danger to the residents on McKinley Street. The increase of property break-ins that always comes with individuals seeking more drugs would also be very undesirable for the residents of this area and the city police.

[Sent from Yahoo Mail for iPhone](#)