

**SEPTEMBER 14, 2022  
 PLANNING & ZONING COMMISSION  
 ADDITIONAL MATERIAL/REVISIONS**

<b>REQUESTED ADDITIONS TO THE PACKET</b>			
<b>ACTION</b>	<b>ITEM</b>	<b>REQUESTED BY</b>	<b>PAGE</b>
Add to Item H2	Improvement Description	Applicant	2
	Improvement Sketch	Applicant	3
	Substitute Ordinance 3312-2022	Administration	4
	Ordinance 3312-2022 Planning Memo to Council	Administration	6
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#### Lot 4 Gustly Sub improvements description

As a general description of the development for Lot 4 Gustly Sub:

If approved my intention is to develop a restaurant space capable of providing drive thru and carry out service. Additionally the site development would have outdoor eating space and parking. This would consist of:

A U shaped drive thru around the building structure.

A restaurant type building structure of approximately 450 square feet which will be developed in a manor to allow for expansion.

Estimated development cost of tis project for site improvements and construction but excluding land cost and restaurant equipment is \$200,000 which becomes significantly higher with the excluded items.

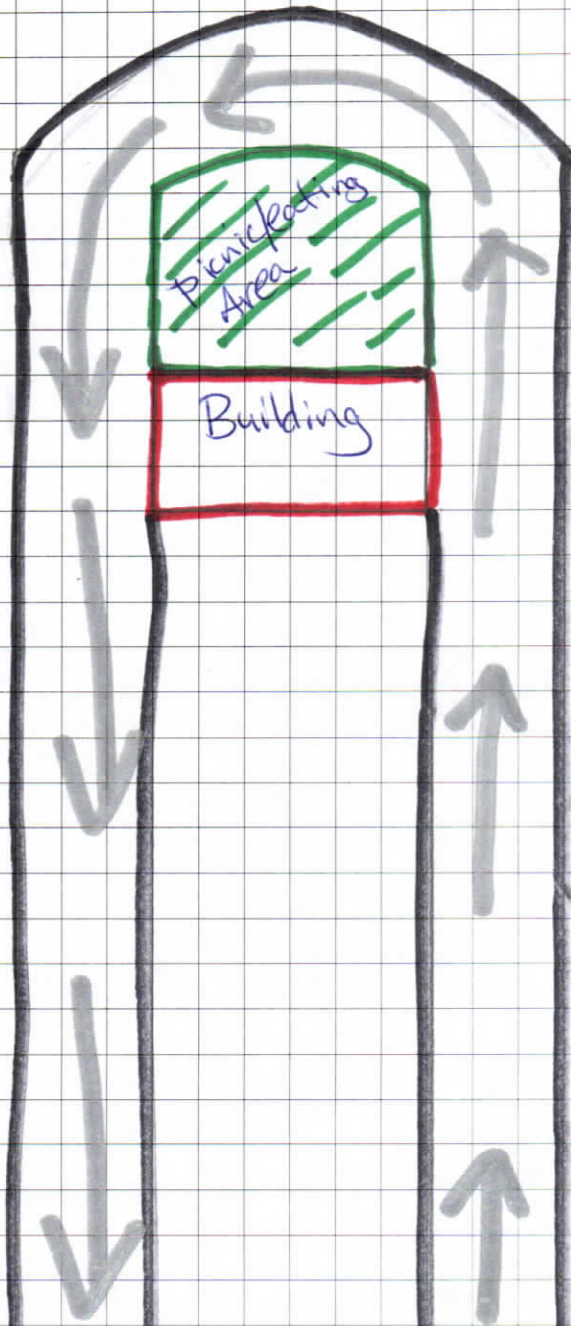
# Lot 4 Gusty Sub

105' Cohoe Ave

□ = 5A

Shower @ 200  
actual @ 226

221'



Kenai Spur Hwy 119'



**CITY OF KENAI  
ORDINANCE NO. 3312-2022 SUBSTITUTE**

AN ORDINANCE DETERMINING LOT 4, BLOCK 1, GUSTY SUBDIVISION ADDITION NO. 1 AMENDED IS NOT NEEDED FOR A PUBLIC PURPOSE AND APPROVING THE EXECUTION OF A LEASE WITH AN OPTION TO PURCHASE BETWEEN THE CITY OF KENAI AND AARON SWANSON DBA FOREVER BUSINESS PLAZA LLC. FOR THE PROPERTY.

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WHEREAS, Kenai Municipal Code 22.05.095(b)(2)(iv) provides for a land lease in which the lease is subject to competition through the lease application review process and which contains an option to purchase once the minimum development requirements have been met for the fair market value of the land excluding permanent improvements made by the lessee; and,

WHEREAS, on June 28, 2022, Aaron Swanson submitted an application for a lease of City owned properties with the option to purchase, described as Lot 4, Block 1, Gusty Subdivision Addition No. 1 Amended; and,

WHEREAS, the Applicants application states the intention is to construct a Pita Pit restaurant, with initial construction being site preparation and a temporary building; and,

WHEREAS, the proposed development would be mutually beneficial and would conform with the Kenai Municipal Code for zoning and Kenai's Comprehensive Plan; and,

WHEREAS, the City of Kenai did not receive a competing lease application within thirty (30) days of publishing a public notice of the lease application from Aaron Swanson; and,

WHEREAS, the property has been released by the Federal Aviation from its Deed Restriction and is available for sale or lease; and,

WHEREAS, the property is no longer needed for a public purpose for airport uses and is suitable for private development; and

WHEREAS, at their regular meeting on September 14, 2022, the Planning and Zoning Commission reviewed the lease application and recommended \_\_\_\_\_ by the City Council; and,

WHEREAS, at their regular meeting on September 8, 2022, the Airport Commission reviewed the lease application and recommended \_\_\_\_\_ by the City Council; and,

WHEREAS, funds from the lease and sale will benefit the Airport Fund.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, AS FOLLOWS:

**Section 1.** Form: This is a non-code ordinance.

**Section 2.** That a Lease with an option to purchase City owned lands described as Lot 4, Block 1 Gusty Subdivision Addition No. 1 Amended is approved as attached hereto and the City Manager is authorized to execute a lease with an option to purchase between the City of Kenai, Lessor, and Aaron Swanson DBA Forever Business Plaza, Lessee, as follows:

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New Text Underlined; [DELETED TEXT BRACKETED]

The lease or sale shall be subject to the reservations and covenants as contained in Federal Aviation Administration Deed of Release, Book 227, Page 416, Kenai Recording District;

**Section 3.** That the Council determines that the property is no longer needed for a public purpose by the airport and is available for lease or sale.

**Section 4.** Any sale will be made at fair market value of the land only, as determined by a professional appraiser from an appraisal made not more than one year prior to the date of sale. Any sale will be conveyed through a quitclaim deed. Further Council authorization is not required for a sale; however, completion of all required improvements is required prior to sale. All proceeds from the sale will be deposited in the Airport Land Sale Permanent Fund.

**Section 5.** The following improvements are required to be completed within two years of execution of the lease, and the option to purchase cannot be made until the improvements are completed:

Develop a restaurant space capable of providing drive thru and carry out service with outdoor eating space and parking, including a U-shaped drive thru around the building structure, and a restaurant type building structure of approximately 450 square feet which will be developed in a manner to allow for expansion.

Estimated development cost of this project for site improvements and construction but excluding land cost and restaurant equipment is \$200,000.

**Section 6.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 7.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2022.

\_\_\_\_\_  
Brian Gabriel Sr., Mayor

ATTEST:

\_\_\_\_\_  
Michelle M. Saner, MMC, City Clerk

Introduced: September 7, 2022  
Enacted: September 21, 2022  
Effective: October 21, 2022



# KENAI

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

## MEMORANDUM

**TO:** Mayor Gabriel and City Council Members  
**FROM:** Max Best, Interim Planning Director  
**DATE:** July 17, 2022  
**SUBJECT:** **Ordinance No. 3312-2022 – Approving the Lease with a Sale option of 11536 Kenai Spur Highway to Aaron Swanson**

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On June 28, 2022, staff received a competitive Lease with Sale Purchase Option application pursuant to KMC 22.05.095(i) for 11536 Kenai Spur Highway, Lot 4, Block 1, Gusty Subdivision Addition No. 1 Amended, from Aaron Swanson. The proposed use of the parcel, which is currently vacant, is to construct a Pita Pit restaurant.

11536 Kenai Spur Highway is a 24,829 square foot (.57 ac.) cleared lot south of the baseball fields with 120' of Kenai Spur Highway frontage. The Lot has additional access from Coho Avenue. City water and sewer is available. This parcel is located outside the Airport Reserve.

The parcel is within the Central Mixed-Use District (CMU). Per KMC 14.20.125, the purpose of the CMU Zone is intended to provide for a centrally located area in the City for general retail shopping, personal and professional services, entertainment establishments, restaurants and related businesses.

Pursuant to Kenai Municipal Code 22.05.040 application review, notice of the application was posted in the Peninsula Clarion and stated competing applications may be submitted for the parcel within 30 -days to the City. The 30-day window from publication ended on August 29, 2022, and no competing applications were submitted to the City.

The recently adopted City of Kenai Land Management Inventory and Recommendations lists the property as not needed for a public purpose and recommends disposal for lease or sale. Funds from the sale will benefit the Airport fund. The property is deed restricted with covenants and conditions that protect the ongoing operation of the airport.

The current fair market value of the property as determined by MacSwain Associates, LLC on May 18, 2021 is \$110,000. The lease rate will be 8% of the fair market value.

The applicant will be responsible for completing development of the property within two years of the execution of the lease and the option to purchase cannot be made until the improvements are completed. The Ordinance will be updated to provide the required improvements for the public

hearing on September 21, 2022. Pursuant to Kenai Municipal Code 22.05.070, site preparation work on the leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, crushed aggregate base course, and utility extensions may be applied toward rent for a maximum of five years.

Your consideration is appreciated.



## MEMORANDUM

**TO:** Mayor Gabriel and Council Members

**FROM:** Paul Ostrander, City Manager

**DATE:** September 14, 2022

**SUBJECT:** **Ordinance No. 33125-2022 Substitute – Lease With an Option to Purchase of Lot 4 Block 1, Gusty Subdivision**

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This substitute ordinance changes the original title by adding “DBA Forever Business Plaza LLC” to the title to clarify that Aaron Swanson does business as Forever Business Plaza LLC. It also adds the specific improvement requirements that must be completed within two years of execution of the lease in Section 5.

Thank you for your consideration.