

**KENAI PLANNING & ZONING COMMISSION
REGULAR MEETING
JUNE 26, 2019 – 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, ALASKA
CHAIR JEFF TWAIT, PRESIDING**

MINUTES

1. CALL TO ORDER

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

- a. Pledge of Allegiance

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

- b. Roll Call

Commissioners present: Chair J. Twait, Vice-Chair D. Fikes, R. Springer, V. Askin, T. McIntyre, J. Halstead, G. Greenberg

Commissioners absent: G. Greenberg

Staff/Council Liaison present: City Planner E. Appleby, Planning Assistant W. Anderson, City Clerk J. Heinz, City Manager P. Ostrander, Council Liaison B. Molloy

A quorum was present.

- c. Agenda Approval

MOTION:

Commissioner Askin **MOVED** to approve the agenda as presented with the inclusion of the amendment memo for item 6a and Commissioner Halstead **SECONDED** the motion. There were no objections; **SO ORDERED**.

- d. Consent Agenda

MOTION:

Commissioner Halstead **MOVED** to approve the consent agenda and Commissioner Greenberg **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.

e. *Excused absences – None.

2. ***APPROVAL OF MINUTES**

a. June 12, 2019

The minutes were approved by the Consent Agenda.

3. **SCHEDULED PUBLIC COMMENT** – None.

4. **UNSCHEDULED PUBLIC COMMENT** – None.

5. **CONSIDERATION OF PLATS** – None.

6. **PUBLIC HEARINGS**

a. **Resolution PZ2019-23** – Application for Amendment to Conditional Use Permit PZ2018-16 to remove the hours of operation restriction for the Retail Marijuana Store, submitted by Clint A. Pickarsky d/b/a Kenai River Cannabis, P.O. Box 1016, Soldotna, AK 99669, for the property described as Lot 4, Block 1, Bush Lanes Subdivision, located at 14429 Kenai Spur Highway, Kenai, Alaska 99611

MOTION:

Commissioner Springer **MOVED** to approve Resolution No. PZ2019-23 recommendations and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the amendment to the Conditional Use Permit would remove the hours of operation restriction 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 State and local regulations;
- A building permit will be required for the remodeling of the Commercial Marijuana Establishment as shown on the submitted floor plan;
- Prior to the operation of the Commercial Marijuana Establishment, the property owner shall submit a copy of an approved Business License issued by the State of Alaska, Department of Commerce, Community, and Economic Development;
- Prior to the operation of the Commercial Marijuana Establishment, the property owner shall submit a copy of an approved and fully executed license from the Alaska Alcohol and Marijuana Control Board. The applicant shall comply with all regulations as stipulated by the State of Alaska Marijuana Control Board;
- 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;
- A sign permit will be required for the construction of any proposed signage;
- Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.

City Manager Ostrander noted the hours of operation requirement placed an inequity between retail stores in the City and regardless of the change of hours the applicant requested, a better

avenue to restrict hours of operation would be by ordinance.

Chair Twait opened the floor for public testimony.

Marilyn Wheelless noted she was a proponent of legalizing commercial marijuana; however, she wasn't in favor of the hours of operation being so broad noting the added traffic, headlights, doors slamming, and the like brought by the establishment. She also noted the operator had erratic hours and that she didn't appreciate the giant green "Gumby" across from her house. Ms. Wheelless spoke in favor of an ordinance to limit all marijuana retail stores to specific hours

Clint Pickarsky noted he lived in Sterling and ran his business in Kenai, in compliance with Alcohol and Marijuana Control Office Regulations regarding lights and signage.

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

MOTION TO AMEND:

Commissioner Springer **MOVED** to amend by replacing the fourth whereas clause with the following "removing the condition for specific operating hours would still meet the criteria for the issuance of the of the conditional use permit; and," and Commissioner Halstead **SECONDED** the motion.

It was suggested that because this particular business was the last one, and hours of operation had been discussed in previous Conditional Use Permit proceedings, could have been the reason hours of operation were added to this particular Permit.

VOTE ON THE AMENDMENT:

YEA: Springer, Halstead, Fikes, Askin, Twait, McIntyre, Greenberg

NAY:

MOTION PASSED UNANIMOUSLY.

There was discussion in favor of restricting hours of operation but doing it by ordinance instead of by Conditional Use.

Hours of operation for other retail stores in the City were provided.

VOTE ON THE MAIN MOTION:

YEA: Springer, Halstead, Fikes, Askin, Twait, McIntyre, Greenberg

NAY:

MOTION PASSED UNANIMOUSLY.

Commission Chair Twait noted the fifteen-day appeal period.

7. **UNFINISHED BUSINESS** – None.

8. **NEW BUSINESS**

- a. **Resolution PZ2019-22** – Application for a Home Occupation Permit to operate a daycare of no more than eight (8) children under the age of twelve (12), including children related to the caregiver, submitted by Glenn and Charlotte Yamada, 1806 4th Avenue, Kenai, Alaska 99611, for property described as lot 1-C, Block 1, Spruce Grove Subdivision, Murphy's Replat.

MOTION:

Commissioner Askin **MOVED** to approve Resolution No. PZ2019-22 with staff recommendations and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the applicant had operated the business in a former location and wanted to move her business and, based on the review of criteria, found that the Home Occupation Permit could be approved with the following conditions:

- Further development of the property must comply with all federal, State of Alaska, and local regulations;
- Pursuant to KMC 14.20.230(h)(1), the premises shall be inspected every other year by the Fire Marshal for the City of Kenai. Failure to comply with the Fire Code (KMC 8.05) shall be grounds for the suspension or revocation of the facilities' home occupation permit.

VOTE:

YEA: Springer, Halstead, Fikes, Askin, Twait, McIntyre, Greenberg
NAY:

MOTION PASSED UNANIMOUSLY.

9. **PENDING ITEMS** – None.

10. **REPORTS**

- a. **City Council** – Council Member Molloy reviewed the action agenda from the June 19 City Council Meeting and provided an overview of the July 3 draft agenda.
- b. **Borough Planning** – Vice-Chair Fikes reported the Commission met on June 24 and provided an update on the actions at that meeting.
- c. **Administration** – City Planner Appleby reported on the following:
 - Upcoming meetings;
 - An upcoming presentation on the land code changes;
 - Upcoming Dipnet Operations;
 - Environmental Impact Statement for the Alaska LNG project had been delayed;
 - Fiscal Year 2020 began July 1.

11. **ADDITIONAL PUBLIC COMMENT** – None.

12. **INFORMATIONAL ITEMS** – None.

13. NEXT MEETING ATTENDANCE NOTIFICATION – July 24, 2019

It was noted the July 10 meeting would be cancelled for lack of a quorum.

14. COMMISSION COMMENTS & QUESTIONS

Commissioner Halstead requested a resolution recommending an ordinance setting hours of operations for the retail marijuana stores be brought forth at a future meeting; also expressed appreciation for the various reports.

Commissioner Greenberg agreed with the request for a resolution recommending an ordinance to set hours of operations and that the businesses be contacted when developing hours of operation.

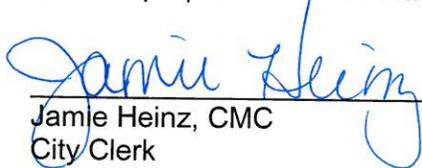
Commissioner Springer also agreed with the request for a resolution recommending an ordinance to set hours of operations, clarified alcohol and marijuana licensees all had the same hours of operation requirements in state regulations, and suggested consulting with the attorney on singling out the marijuana industry on hours of operations.

Commissioner Fikes also agreed with the request for a resolution recommending an ordinance to set hours of operations and suggested businesses across the industry be consulted to make a fair playing field and to get input from law enforcement as well.

15. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 7:56 p.m.

Minutes prepared and submitted by:



Jamie Heinz, CMC
City Clerk

