

**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.

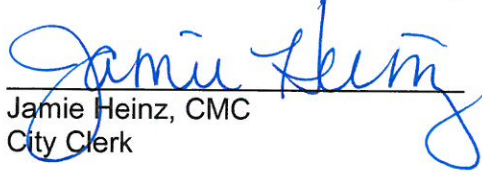
M. NEXT MEETING ATTENDANCE NOTIFICATION – August 28, 2019

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

