



**Kenai Planning & Zoning Commission -
Regular Meeting**

December 28, 2022 – 7:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

****Telephonic/Virtual Info Page 2****

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. *Regular Meeting of December 14, 2022

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

F. PUBLIC HEARINGS

1. **Resolution PZ2022-27** – A request by Michael Campanella for an Encroachment Permit for a Side Yard Setback Reduction on the property described as Lot 7, Block 2, Kenai Peninsula Estates Subd. Part 2, located at 910 Salmon Run Drive in the Rural Residential (RR) Zone.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

- 1. Action/Approval** - Time Extension for Compliance with the Conditional Use Permit Conditions in Resolution PZ2021-44.

I. PENDING ITEMS

J. REPORTS

- 1.** City Council
2. Kenai Peninsula Borough Planning
- 3.** City Administration

K. ADDITIONAL PUBLIC COMMENT

(Public comment limited to five (5) minutes per speaker)

L. INFORMATIONAL ITEMS

M. NEXT MEETING ATTENDANCE NOTIFICATION

1. Next Meeting: January 11, 2023

N. COMMISSION COMMENTS AND QUESTIONS

O. ADJOURNMENT

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Join Zoom Meeting:

<https://us02web.zoom.us/j/81130774899>

Meeting ID: 811 3077 4899 **Passcode:** 971062

OR Call: (253) 215-8782 or (301) 715-8592

Meeting ID: 811 3077 4899 **Passcode:** 971062

**KENAI PLANNING & ZONING COMMISSION –
REGULAR MEETING
DECEMBER 14, 2022 – 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
CHAIR JEFF TWAIT, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai Planning & Zoning Commission was held on December 14, 2022, in City Hall Council Chambers, Kenai, AK. Chair Twait called the meeting to order at approximately 7:00 p.m.

1. Pledge of Allegiance

Chair Twait led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

Commissioners present:	J. Twait, G. Woodard, J. Halstead, G. Greenberg, J. Glendening, J. Coston
Commissioners absent:	D. Fikes
Staff/Council Liaison present:	Planning Director L. Mitchell, Vice Mayor J. Baisden, Deputy Clerk M. Thibodeau

A quorum was present.

3. Agenda Approval

Chair Twait noted the following revisions to the agenda and packet:

ACTION

ITEM

Add to item F.1

Resolution PZ2022-26

- Amendment Memo
- Public Comment

Add to item J.3

City Administration Report

- Updated November Code Enforcement Report

MOTION:

Commissioner Halstead **MOVED** to approve the agenda with requested revisions. Commissioner Woodard **SECONDED** the motion. There being no objection; **SO ORDERED.**

4. Election of Chair and Vice Chair

MOTION:

Commissioner Greenberg **MOVED** to appoint Jeff Twait as Planning & Zoning Commission Chair for 2023. Commissioner Halstead **SECONDED** the motion. There being no objection; **SO ORDERED.**

MOTION:

Commissioner Woodard **MOVED** to appoint Joe Halstead as Planning & Zoning Commission Vice Chair for the remainder of 2022 and 2023. Commissioner Glendening **SECONDED** the motion. There being no objection; **SO ORDERED**.

5. Consent Agenda

MOTION:

Vice Chair Halstead **MOVED** to approve the consent agenda. Commissioner Woodard **SECONDED** the motion. There being no objection; **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.

6. *Excused Absences – D. Fikes

B. APPROVAL OF MINUTES

1. *Regular Meeting of October 12, 2022

Approved by the consent agenda.

C. SCHEDULED PUBLIC COMMENTS – None.

D. UNSCHEDULED PUBLIC COMMENTS – None.

E. CONSIDERATION OF PLATS – None.

F. PUBLIC HEARINGS

1. **Resolution PZ2022-26** – A request by Jeff Bettis for a Conditional Use Permit for a towing storage yard on the property described as Lot 4, Block 5, Cook Inlet Industrial Air Park, located at 310 Airport Way in the Central Mixed Use (CMU) Zone.

MOTION:

Vice Chair Halstead **MOVED** to adopt Resolution PZ2022-26. Commissioner Glendening **SECONDED** the motion.

Planning Director Mitchell presented her staff report with information provided in the packet explaining that the applicant wishes to obtain a conditional use permit (CUP) for a towing storage yard. Clarification was provided that the lot is currently vacant and had previously been used as a towing storage yard, and that the applicant would also be obtaining a Special Use Permit in order to operate the business on City-owned property. The criteria for conditional use permits was reviewed; it was noted the application met the criteria and City staff recommends approval subject to the following conditions:

1. Any development or use of the property shall comply with all applicable Federal, State of Alaska, and City regulations regardless of whether or not the requirements are listed as conditions for the approval of the Conditional Use Permit.
2. Upon request, the applicant or applicant's representative shall meet with City staff for an on-site inspection.
3. No open storage shall be located closer than twenty-five feet (25') to the adjoining right-of-way of any collector street or main thoroughfare. Any open storage in front or side yard visible from a collector street shall be enclosed with an eight-foot (8') high commercial grade fence.
4. No auto repair/service or dismantling shall occur on-site.

5. The applicant shall maintain the tow yard in an orderly manner at all times and clear of debris and junk.
6. The on-street curb parking shall not be used for vehicle storage, queuing of cars for storage, tow truck parking, or customer parking.
7. At least one sign shall be located at the main entrance to the site and contain the name of business and phone number. All signs shall conform to the City's sign regulations for the designated zone.

Applicant Jeff Bettis discussed the high demand for towing services in the area.

In response to questions from the Commission, Bettis discussed and provided clarification on how the perimeter fence blocks the view of vehicles from the road, potential safety hazards, the restriction on allowable space for electric vehicles as proposed in the recommended condition, organization of vehicles, and relocation of vehicles.

Chair Twait opened for public hearing. There being no one wishing to be heard, the public hearing was closed.

Commissioner Halstead disclosed that he had prior interactions with Mr. Bettis, but that he had no financial stake in this matter and could remain impartial. Chair Twait ruled there was no conflict.

There was discussion of the space restrictions for electric vehicles as proposed in the recommended condition presented in the laydown, and whether that could be in issue in the future if electric vehicles become more common.

MOTION TO AMEND:

Commissioner Woodard **MOVED** to amend Resolution PZ2022-26 by adding condition 8: Electrical vehicles (EVs) shall be stored at least 50 feet from property lines. Commissioner Coston **SECONDED** the motion. There being no objection; **SO ORDERED.**

VOTE ON AMENDMENT:

YEA: Twait, Halstead, Woodard, Greenberg, Coston, Glendening

NAY: None.

MOTION PASSED UNANIMOUSLY.

It was noted that this would be an appropriate use for the lot as there is demand for towing service and the lot had been used for this before.

VOTE ON MAIN MOTION AS AMENDED:

YEA: Woodard, Greenberg, Coston, Glendening, Twait, Halstead

NAY: None.

MOTION PASSED UNANIMOUSLY.

Chair Twait noted the fifteen-day appeal period.

G. **UNFINISHED BUSINESS** – None.

H. **NEW BUSINESS** – None.

I. **PENDING ITEMS** – None.

J. **REPORTS**

1. City Council – Vice Mayor Baisden introduced himself to the Commission and reported on the Council's progress hiring a new City Manager, noting that the contract will be finalized soon.
2. Kenai Peninsula Borough Planning – None.
3. City Administration – Planning Director Mitchell reported on the following:
 - Code Enforcement Report as provided in the packet and laydown will be provided to the Commission regularly.
 - Encouraged commissioners to review the Comprehensive Plan, as there will be a work session in the new year to prepare for the annual review.
 - Advised the commissioners to consider P&Z Department goals for the upcoming budget.
 - Notices were sent to Conditional Use Permit owners to submit their annual report, with a deadline of December 31st. CUPs which are not in compliance will be reported to the Commission.
 - Public hearing notification postcard has been updated to include map.

K. ADDITIONAL PUBLIC COMMENTS – None.

L. INFORMATION ITEMS – None.

M. NEXT MEETING ATTENDANCE NOTIFICATION

1. Next Meeting Date: December 28, 2022

N. COMMISSION COMMENTS & QUESTIONS

Commissioner Glendening noted it is a pleasure to be on the Commission, and that a review of the Comprehensive Plan is needed.

Commissioner Coston noted that he is still learning the rules of order, and that he comes from a regulatory background and can be a resource for other commissioners.

Commissioner Woodard wished everyone a Merry Christmas.

Vice Chair Halstead noted that it is good to see new faces and is looking forward to continuing to work with the Commission.

Commissioner Greenberg thanked Commissioner Woodard for cookies and wished everyone Happy Holidays, and noted he is looking forward to reviewing the Comprehensive Plan.

O. ADJOURNMENT

There being no further business before the Commission, the meeting was adjourned at 7:52 p.m.

Minutes prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ2022-27**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING THE APPLICATION FOR AN ENCROACHMENT PERMIT.

APPLICANT: Michael Campanella

PROPERTY ADDRESS: 910 Salmon Run Drive

LEGAL DESCRIPTION: Lot 7, Block 2 Kenai Peninsula Estates Subdivision Part 2

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04942038

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.185(c) was submitted to the City on December 12, 2022; and,

WHEREAS, the applicant has demonstrated that the prerequisites of an Encroachment Permit have been met pursuant to Kenai Municipal Code 14.20.185(b); and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on December 21, 2022, following requirements outlined in Kenai Municipal Code 14.20.280 for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds the criteria are met as set forth in KMC 14.20.185(d):

1. *An encroachment as defined in subsection (a) exists.*

KMC 14.20.185(a) *“Encroachment” means any object or structure above or below ground and constructed or located in a manner other than set forth in the Development Requirements Table.*

Findings: The addition meets the definition of an encroachment as it would be constructed or located approximately 12 feet from the property line, where a 15-foot side yard setback is required for the Residential Rural (RR) zone.

2. *The encroachment does not encroach upon a Federal, State or City right-of-way or utility easement.*

Findings: The plat and site plan do not show any utility easements on the property. Salmon Run Drive is the only abutting right-of-way. Therefore, the addition does not encroach upon a Federal, State or City right-of-way or upon a utility easement.

3. *The issuance of the encroachment permit will not authorize a use which is a not a principal permitted use in the zoning district in which the property is located.*

Findings: The addition is an improvement to the existing single-family dwelling. A single-family dwelling is a principally permitted use in the Rural Residential (RR) zone. The encroachment is for a structure with a use that is permitted in the zoning district.

4. *The encroachment is not located across a platted lot line.*

Findings: The addition is within the property lines. The encroachment will not cross a platted lot line.

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

Section 1. That the request for an encroachment permit for the addition to encroach into the 15-foot side yard setback by three feet (3').

Section 2. That the encroachment permit is subject to the following conditions:

1. Applicant must comply with all federal, State of Alaska, and local regulations.
2. Applicant must obtain for a building permit issued by the Building Official.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 28th day of December, 2022.

JEFF TWAIT, CHAIRPERSON

ATTEST:

Meghan Thibodeau, Deputy City Clerk



STAFF REPORT

PLANNING & ZONING DEPARTMENT

TO: Planning and Zoning Commission
THROUGH: Linda Mitchell, Planning Director
FROM: Karrie Barone, Assistant Planner
DATE: December 22, 2022
SUBJECT: Resolution PZ2022-27 - Encroachment Permit for an Addition to Encroach into the Side Yard Setback

Request The applicant requests a three-foot (3') encroachment into the 15-foot side yard setback for a two-story addition to an existing single-family dwelling.

Staff Recommendation Adopt Resolution PZ2022-27 approving an Encroachment Permit to allow an addition to encroach into the 15-foot side yard setback by three feet (3').

Applicant	Michael Campanella
Legal Description	Lot 7, Block 2 Kenai Peninsula Estates Subdivision Part 2
Property Address	910 Salmon Run Drive
KPB Parcel No.	04942038
Lot Size	1 Acre (43,560 square feet)
Zoning	Rural Residential (RR)
Current Land Use	Single Family Dwelling
Land Use Plan	Low Density Residential

SUMMARY

A single-family dwelling with a detached garage was constructed in 2006 on the subject property. The applicant submitted a building permit for a 960 square foot two-story addition for a master bedroom and full basement and it was rejected by the Building Official because of the encroachment. Pursuant to Table 14.24.020 *Development Requirement Table* in the Kenai Municipal Code (KMC), the Rural Residential (RR) zone requires a fifteen-foot (15') side yard

setback. The site plan shows the addition would be located approximately 12 feet from the adjacent property line. Therefore, the addition encroaches approximately three feet (3') into the side yard setback along the north property line. The applicant was provided the following options to address the addition encroaching into the 15-foot side yard setback.

1. Relocate the addition out of the required setback.
2. Reduce the addition to not encroach into the required setback.
3. Obtain approval of an encroachment permit for a setback reduction.

The applicant has decided to apply for an encroachment permit to request for a three-foot (3') encroachment into the 15-foot side yard setback for the addition.

ANALYSIS

Pursuant to KMC 14.20.185(b), the intent of an encroachment permit is to provide relief to the Development Requirements Table to remedy encroachments which do not fall under KMC 14.20.050 *Nonconforming Lots, Structures, and Uses* and which satisfy the requirements of financial institutions.

Prior to granting an encroachment permit, the Commission shall find that all of the conditions have been met as set forth in KMC 14.20.185(d) [Encroachment Permit] *Review Criteria*.

Criteria 1: An encroachment as defined in subsection (a) exists.

KMC 14.20.185(a) “Encroachment” means any object or structure constructed or located in a manner other than set forth in the Development Requirements Table.

Findings: The addition meets the definition of an encroachment as it would be constructed or located approximately 12 feet from the property line, where a 15-foot side yard setback is required for the Residential Rural (RR) zone.

Criteria 2: The encroachment does not encroach upon a Federal, State or City right-of-way or utility-easement.

Findings: The plat and site plan do not show any utility easements on the property. Salmon Run Drive is the only abutting right-of-way. Therefore, the addition does not encroach upon a Federal, State or City right-of-way or upon a utility easement.

Criteria 3: The issuance of the encroachment permit will not authorize a use which is a not a principal permitted use in the zoning district in which the property is located.

Findings: The addition is an improvement to the existing single-family dwelling. A single-family dwelling is a principally permitted use in the Rural Residential (RR) zone. The encroachment is for a structure with a use that is permitted in the zoning district.

Criteria 4: An encroachment is not located across a platted lot line.

Findings: The addition is within the property lines. The encroachment will not cross a platted lot line.

PUBLIC NOTICE

Pursuant to Kenai Municipal Code 14.20.280 notices of the public hearing for the encroachment were mailed to property owners within a three hundred-foot (300') periphery of the subject property. City staff published notice of the public hearing in the *Peninsula Clarion* on December 21, 2022. The property owner submitted an Affidavit of Posting verifying a sign was placed on the parcel with information on the public hearing for the encroachment permit request.

No public comments have been received.

STAFF RECOMMENDATION

Staff finds that the applicant meets the criteria for issuance of an Encroachment Permit as set forth in KMC 14.20.185(d), and hereby recommends that the Planning and Zoning Commission approve the encroachment permit, subject to the following conditions:

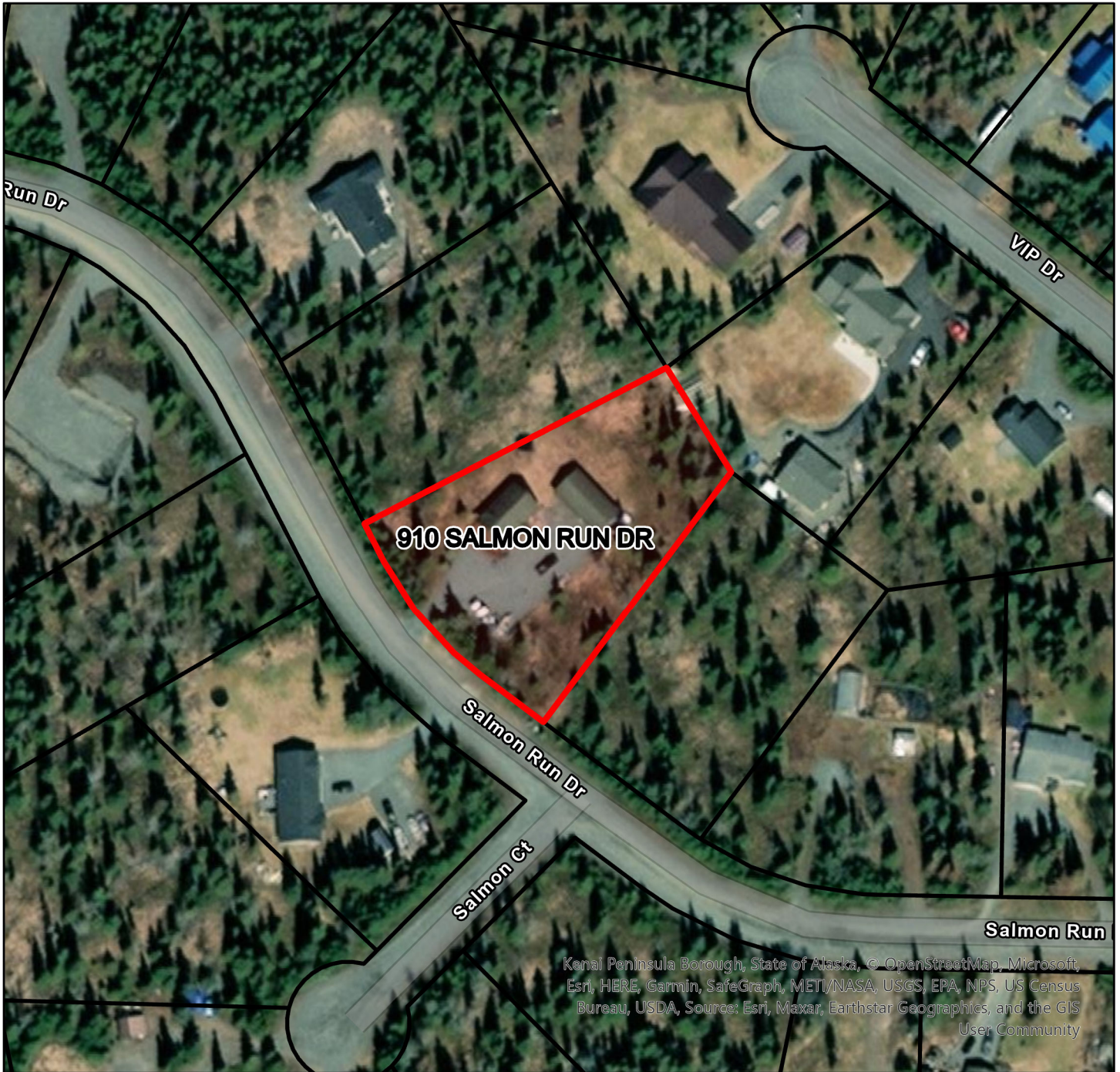
1. Applicant must comply with all federal, State of Alaska, and local regulations.
2. Applicant must obtain a building permit issued by the Building Official.

ATTACHMENTS

Aerial Map
Application

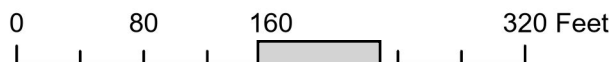


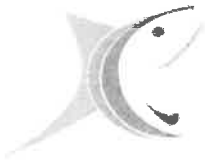
Resolution PZ2022-27
Encroachment Permit
910 Salmon Run Drive
KPB Parcel ID: 04942038



Date Printed: 12/21/2022

Map for Reference Only
NOT A LEGAL DOCUMENT





Encroachment Permit Application

City of Kenai
Planning and Zoning Department
210 Fidalgo Avenue
Kenai, AK 99611
(907) 283-8200
planning@kenai.city
www.kenai.city/planning

PROPERTY OWNER

Name:	Michael campanella			
Mailing Address:	910 Salmon run Drive			
City:	Kenai	State:	AK	Zip Code: 99611
Phone Number(s):	(907)953-9697			
Email:	campanella.m.t@gmail.com			

PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)

Name:				
Mailing Address:				
City:		State:		Zip Code:
Phone Number(s):				
Email:				

PROPERTY INFORMATION

Kenai Peninsula Borough Parcel # (Property Tax ID):	04942038
Physical Address:	910 Salmon run Drive Kenai, AK. 99611
Legal Description:	T 5N R 11W Sec 17 Seward Meridian KN 0780137 Kenai Peninsula Estates Sub Part 2 Lot & BLK 2
Zoning:	Residential
Acres:	1

ENCROACHMENT DESCRIPTION

(include site plan/floor plan with square footages, rights-of-way, easements, setbacks)
(include State Business License and KPB Tax Compliance if applicable)

How is this property currently being used?	single family residential
Use of surrounding property - north:	single family residential
Use of surrounding property - south:	single family residential
Use of surrounding property - east:	vacant residential
Use of surrounding property - west:	vacant residential

Encroachment Requested for (attach additional sheets if necessary):

A two story 20'x24' 21' tall, full basement/ upper Master bedroom addition on west end of the property encroaching 3' into the 15' setback on the west end of the property.

Explain how the encroachment falls into the following definition in City Code - "Encroachment" means any object or structure above or below ground and constructed or located in a manner other than set forth in the Development Requirements Table.":

The proposed building /addition will be encroaching into the 15' setback because it's the only practical location for the the addition as mentioned in the Variance application. This meets the encroachment criteria set forth by the development requirements table. It is a permanent building both above and below the ground and by definition is encroaching on the 15' setback to the west property line by exactly 3 feet.

ENCROACHMENT REQUIREMENTS
(must be met for a permit to be issued)

The encroachment does not encroach upon a Federal, State, or City right-of-way or utility easement. YES

The issuance of the encroachment permit will not authorize a use which is not a principal permitted use in the zoning district in which the property is located. YES

The encroachment is not located across a platted lot line. YES

AUTHORITY TO APPLY FOR AN ENCROACHMENT:

I hereby certify that (I am) (I have been authorized to act for) owner of the property described above and that I petition for an encroachment 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 encroachment. 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.

Signature:		Date:	12/14/2022
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Print Name:	Michael Campanella	Title/Business:	home owner
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For City Use Only	Date Application Fee Received: <i>12.1.2022</i>
	PZ Resolution Number: <i>PZ2022-27</i>



LOT 6

LOT 13

LOT 12

LOT 7
BLOCK 2

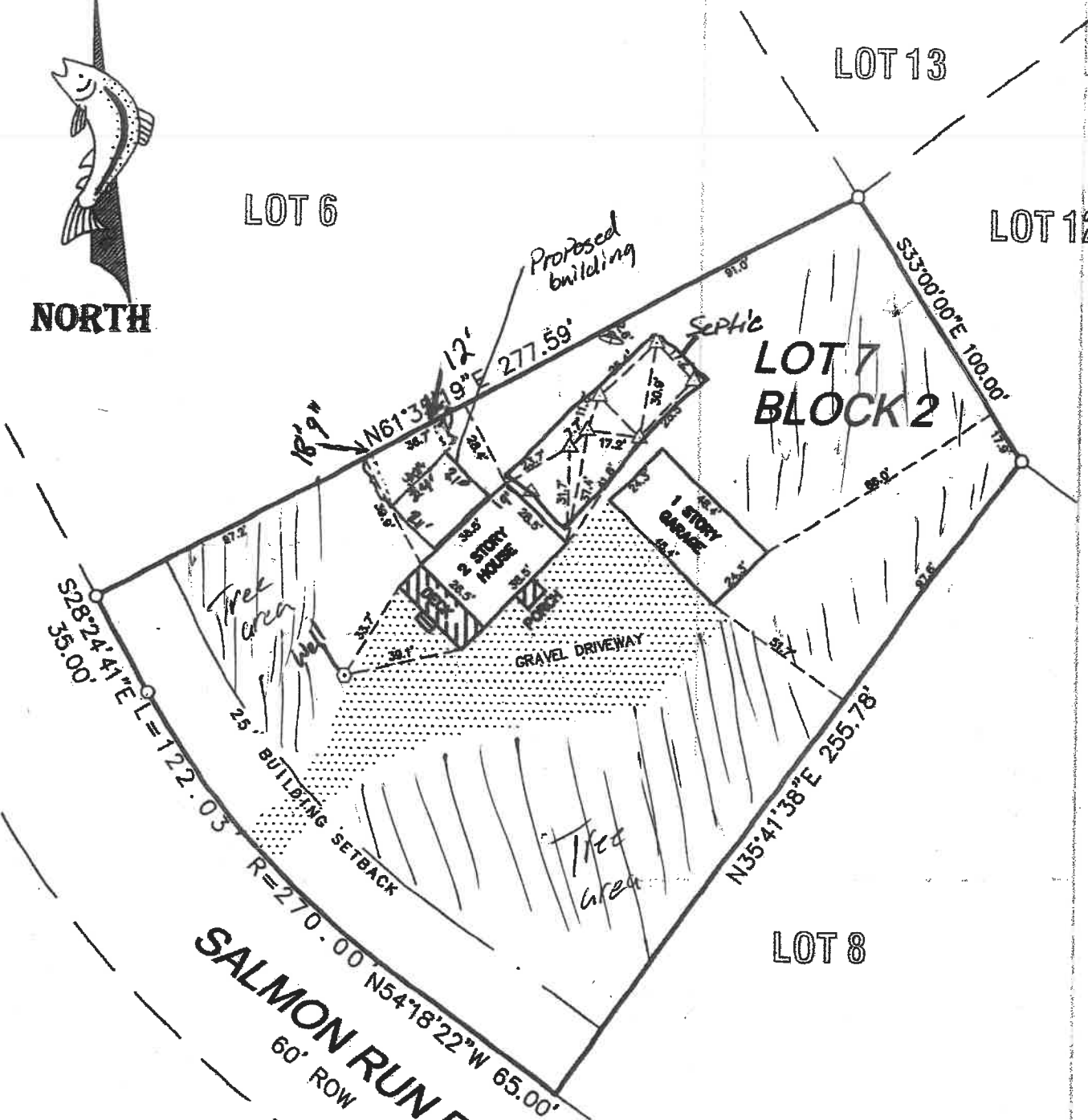
LOT 8

S28°24'41"E
35.00'

L=122.03'
R=270.00'

SALMON RUN RD.
60' ROW

THIS MORTGAGE LOCATION SURVEY WAS PREPARED FOR ERIC W. KELM, AND IT SHOULD ONLY BE USED FOR A SINGLE PROPERTY TRANSACTION. RE-USE OF THIS DRAWING BY THE ORIGINAL CLIENT OR BY OTHERS, FOR ADDITIONAL USES AT A LATER DATE WITHOUT EXPRESS CONSENT OF SURVEYOR IS A VIOLATION OF FEDERAL COPYRIGHT LAW. UNLESS GROSS NEGLIGENCE IS DISCOVERED, THE LIABILITY EXTENT OF THE PREPARER SHALL BE LIMITED TO THE AMOUNT OF FEES COLLECTED FOR SERVICES IN PREPARATION OF THIS PRODUCT.





KENAI

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

MEMORANDUM

TO: Planning and Zoning Commission
FROM: Linda Mitchell, Planning Director
DATE: December 22, 2022
SUBJECT: Resolution PZ2021-44 – Time Extension for a Conditional Use Permit

Resolution PZ2021-44 granted a conditional use permit for a standard marijuana cultivation facility on a property described as Lot 1, Yragui Subdivision located at 8847 Kenai Spur Highway. The conditional use permit was approved on December 22, 2021. Pursuant to KMC 14.20.150(l)(1), the permit will lapse 12 months after approval if a building permit has not issued or the use has not been initiated.

Nicholas Mann has requested a time extension to comply with the conditions for the approved conditional use permit. The outstanding conditions are (1) an approved landscape/site plan and (2) issuance of a building permit.

KMC 14.20.150(l)(3), allows a time extension of up to one (1) year upon findings that circumstances have not changed significantly to warrant reconsideration of the permit approval or that good cause exists to grant the time extension, not to exceed a total of two (2) years from the approval date. There are no proposed changes to the permit and the applicant is requesting for additional time to comply with the required conditions outlined in Resolution PZ2021-44.

If the Planning and Zoning Commission approves the time extension request, the applicant shall comply with all conditions for the Conditional Use Permit on or before December 22, 2023.

Does the Commission approve a one-year time extension for Resolution PZ2021-44?

Attachments
Extension Request
Aerial Map
Resolution PZ2021-44

From: [Rusty Shackleford](#)
To: [Linda Mitchell](#)
Subject: Nicholas Mann CUP extension
Date: Friday, December 16, 2022 4:17:03 PM

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

To whom it may concern,

I, Nicholas Mann, am writing this letter today to request an extension to my conditional use permit, contingently approved in December 2021. The contingent of submitting a landscaping/site plan has not been met, nor have I received a building permit, yet.

I am requesting an extension because I am in the process of submitting my landscape site plan, and will submit my building permit application soon after. I have met with both the planning director and building official at city hall to discuss my course of action.

Thank you for your time,
Nicholas Mann
Shackleford Investments LLC



Resolution PZ2021-44 - Time Extension
8847 Kenai Spur Hwy
KPB Parcel ID: 04510012



Date Printed: 12/19/2022

Map for Reference Only
NOT A LEGAL DOCUMENT





**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-44**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A CONDITIONAL USE PERMIT FOR A STANDARD MARIJUANA CULTIVATION FACILITY.

APPLICANT: Nicholas Mann

PROPERTY ADDRESS: 8847 Kenai Spur Highway

LEGAL DESCRIPTION: Lot 1, Yragui Subdivision

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04510012

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

WHEREAS, the applicant has demonstrated with plans and other documents that the prerequisites of a Conditional Use Permit have been met pursuant to Kenai Municipal Code 14.20.150; and,

WHEREAS, the City of Kenai Planning and Zoning Commission conducted a duly advertised public hearing on December 22, 2021, following requirements outlined in Kenai Municipal Code 14.20.280 and KMC14.20.330(c) for public hearings and notifications.

WHEREAS, the Planning and Zoning Commission finds:

1. *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: 8847 Kenai Spur Highway is zoned General Commercial (CG). The proposed Standard Marijuana Cultivation Facility meets the intent of the General Commercial Zone (CG) 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- and two (2) 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. A Standard Marijuana Cultivation Facility would be a primary commercial use.

The Land Use Table provides that a Standard Marijuana Cultivation Facility is a conditional use for the General Commercial Zoning District; therefore, a conditional use permit must be granted for the operation of a Standard Marijuana Cultivation Facility. The applicant has provided a site plan that provides the layout of the premises.

“Marijuana cultivation facility, standard” means an entity registered to cultivate in an area greater than five hundred (500) square feet under cultivation, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

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

Criteria Met. To the North of the subject parcel is the Kenai Spur Highway. The parcel to the South is a residential dwelling. To the East is undeveloped. The parcel to the West is vacant commercial. Both the economic and noneconomic value of adjacent properties should not be significantly impacted by this change in use since the business is for wholesale only with no consumers accessing the property, and no additional traffic. The applicant has also noted “we are a wholesale only business, so there will be no foot traffic or other signs of activity to adversely affect the neighborhood”.

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

Criteria Met. The Land Use Plan, from the 2016 Comprehensive Plan, proposes a Central Commercial land use for this neighborhood. The Central Commercial Land Use Classification is defined in the Comprehensive Plan:

“Central Commercial is intended for retail, service, and office businesses at a more compact and denser scale; locations are accessible and convenient to both motorists and pedestrians. Central Commercial-type development is particularly desirable in the Townsite Historic District and adjacent core area. Residences may be appropriate among commercial uses in these central areas. Non-commercial uses such as public offices, institutional uses and residences may be appropriate among commercial uses. Central Commercial may also apply at locations that have evolved into new Kenai commercial “centers” that are developed at a small to medium scale.”

The Comprehensive Plan has goals to support businesses and economic development and to provide a high quality of life within the City. Below are specific goals/objectives from the Comprehensive Plan that support this CUP application:

Goal 1 of the Comprehensive Plan is to promote and encourage quality of life in Kenai.

- Q-4 Promote the siting and design of land uses that are in harmony and scale with surrounding uses

Goal 2 of the Comprehensive Plan is to provide economic development to support the fiscal health of Kenai.

- ED-5 Promote adaptive reuse of vacant commercial buildings in the city center and along the Kenai Spur Highway.

Goal 3 of the Comprehensive Plan is to Develop land use strategies to implement a forward-looking approach to community growth and development.

- LU-5 Support development at emerging community “centers” that lie outside the major employment centers but provide a mix of retail, service, and residential uses.

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

Criteria Met. The subject property is accessed via a paved, State of Alaska Department of Transportation maintained highway. City sewer and water provide service to the property via Candlelight Drive. There is access to natural gas, electricity, and telephone services.

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

Criteria Met: A Standard Marijuana Cultivation Facility would not be harmful to the public safety, health, or welfare. The applicant has noted there will be “no odor or visual signs of the business we are undertaking inside the building”. The applicant has also provided a site plan with the layout of the facility on the property and no additional traffic will be generated since it is a wholesale business, and consumers will not be accessing the property.

6. *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.*

See Conditions of Approval as set forth below.

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

Section 1. That a conditional use permit is granted to Nicholas Mann for a Standard Marijuana Cultivation Facility for property described as Lot 1, Yragui Subdivision and located at 8847 Kenai Spur Highway.

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 starting operations, a landscape/site plan must be reviewed and approved by the Planning Director.
3. Prior to beginning construction of any new structures, a building permit must be issued by the Building Official for the City of Kenai. Any renovations must check in with the Building Official regarding any required building permits.
4. Standards for commercial marijuana establishments per KMC14.20.330 must be maintained.

5. A yearly Conditional Use Permit report must be submitted to the City of Kenai prior to the 31st day of December of each year.
6. The applicant will meet with City staff for on-site inspections when requested.
7. If there is a change of use for the above described property a new Conditional Use Permit must be obtained, pursuant to 14.20.150(l)(5).
8. Pursuant to KMC 14.20.150(l)(2), this permit shall expire automatically upon termination or interruption of the use for a period of at least one year.
9. Failure to provide documentation to the City for meeting these conditions shall be grounds for the suspension or revocation of the conditional use permit.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,
this 22nd day of December, 2021.



JEFF TWAIT, CHAIRPERSON

ATTEST:



MEGHAN THIDODEAU, DEPUTY CITY CLERK





Kenai City Council - Regular Meeting

December 21, 2022 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

****Telephonic/Virtual Information on Page 4****

www.kenai.city

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. Consent Agenda (*Public comments limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council 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. SCHEDULED PUBLIC COMMENTS (*Public comments limited to ten (10) minutes per speaker*)

C. UNSCHEDULED PUBLIC COMMENTS (*Public comments limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)

D. PUBLIC HEARINGS

1. **AMENDED BY SUBSTITUTE. Ordinance No. 3321-2022** - Repealing Kenai Municipal Code Sections 13.30.030- Night Parking Prohibited, 13.30.050- Signs Bearing the Legend, and 13.30.100- Parking Prohibited on Kenai Avenue, and Reenacting and Renaming Kenai Municipal Code 13.30.030- Street Parking Prohibitions, to Allow Greater Flexibility in Regulating Street Parking in the City. (Legal)
 - **ENACTED UNANIMOUSLY AS AMENDED. Substitute Ordinance No. 3321-2022** - Repealing Kenai Municipal Code Sections 13.30.030 - Night Parking Prohibited, 13.30.050 - Signs Bearing the Legend, and 13.30.095 - Parking Prohibited on Kenai Avenue, and Reenacting and Renaming Kenai Municipal Code 13.30.030 - Street Parking Prohibitions, to Allow Greater Flexibility in Regulating Street Parking in the City. (Legal)
2. **ENACTED UNANIMOUSLY. Ordinance No. 3322-2022** - Increasing Estimated Revenues and Appropriations in the General Fund for Costs in Excess of Budgeted Amounts for Public Works Street Lighting Repairs and Maintenance. (Administration)
3. **ENACTED UNANIMOUSLY. Ordinance No. 3323-2022** - Accepting and Appropriating Grants from the U.S. Department of Homeland Security Passed Through the State of Alaska Department of Military and Veterans' Affairs for the Purchases of Public Safety Radios, Police In-Car Video Systems, and a Cyber Security Assessment. (Administration)

4. **ADOPTED UNANIMOUSLY. Resolution No. 2022-78** - Commending the Kenai Central High School Girls as the Alaska Division 3A State Girls Volleyball Champions for the Year 2022. (Baisden)
5. **ADOPTED UNANIMOUSLY. Resolution No. 2022-79** - Approving the Purchase of Motorola Mobile Radios for the Police and Fire Departments Under a Sole Source Purchase from Motorola Solutions Using NASPO Valuepoint Contract Pricing. (Administration)
6. **ADOPTED UNANIMOUSLY. Resolution No. 2022-80** - Authorizing the Purchase of Watchguard Police In-Car Video Systems Under a Sole Source Purchase from Motorola Solutions Using NASPO Valuepoint Contract Pricing. (Administration)
7. **ADOPTED UNANIMOUSLY. Resolution No. 2022-81** - Amending the City of Kenai Schedule of Rates, Charges and Fees by Adding a Fee for City League Basketball. (Administration)
8. **ADOPTED UNANIMOUSLY. Resolution No. 2022-82** - Authorizing a Service Contract and Corresponding Purchase Order for the 2022 Community Wildfire Protection Plan Mitigation Project. (Administration)
9. **ADOPTED UNANIMOUSLY. Resolution No. 2022-83** - Requesting the Governor of the State of Alaska Declare an Economic Disaster for 2021 and 2022 for the Upper Cook Inlet East Side Set Net Fishery and Supporting a Recovery Plan. (Administration)

E. MINUTES

1. *Special Meeting of November 10, 2022. (City Clerk)
2. *Special Meeting of November 16, 2022. (City Clerk)
3. *Work Session of November 16, 2022. (City Clerk)
4. *Regular Meeting of November 16, 2022. (City Clerk)
5. *Special Meeting of November 22, 2022. (City Clerk)
6. *Special Meeting of November 28, 2022. (City Clerk)

F. UNFINISHED BUSINESS

G. NEW BUSINESS

1. ***Action/Approval** - Bills to be Ratified. (Administration)
2. ***Action/Approval** - Special Use Permit to American Red Cross of Alaska for General Office Space at the Alaska Regional Fire Training Center. (Administration)
3. ***Action/Approval** - Special Use Permit to Alaska Sure Seal, Inc. for Snow Storage. (Administration)
4. ***Action/Approval** - Special Use Permit to Schillings Alaska, Inc. for Snow Storage. (Administration)
5. ***Ordinance No. 3324-2022** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and Airport Improvements Capital Project Funds and Authorizing the Purchase of Airport Snow Removal Equipment. (Administration)
6. ***Ordinance No. 3325-2022** - Accepting and Appropriating Donations to the Kenai Community Library for the Purchase of Program Supplies and Equipment. (Administration)
7. ***Ordinance No. 3326-2022** - Increasing Estimated Revenues and Appropriations in the General Fund Parks, Recreation and Beautification Department, and Authorizing an Increase

to the Multi-Purpose Facility Management Services Purchase Order to Red Line Sports for Additional Ice Maintenance Services. (Administration)

8. ***Ordinance No. 3327-2022** - Increasing and Decreasing Estimated Revenues and Appropriations to Reallocate Grant Funds Previously Appropriated for Construction of a Pedestrian Bridge in the Kenai Municipal Park to Playground Equipment Replacement at the Softball Greenstrip. (Administration)
9. ***Ordinance No. 3328-2022** - Increasing Estimated Revenues and Appropriations in the Airport Snow Removal Equipment Capital Project Fund to Provide Supplemental Funding for the Kenai Municipal Airport's Snowblower and Increasing the Existing Purchase Order to Craig Taylor Equipment. (Administration)
10. ***Ordinance No. 3329-2022** - Increasing Estimated Revenues and Appropriations in the General and Visitor Center Improvement Capital Project Funds to Provide Supplemental Funding for the Roof Replacement Project. (Administration)
11. ***Ordinance No. 3330-2022** - Increasing Estimated Revenues and Appropriations in the General and Recreation Center Improvement Capital Project Funds to Provide Supplemental Funding for the Kenai Recreation Center Improvements Project. (Administration)
12. **APPROVED UNANIMOUSLY. Action/Approval** - Approving an Employment Agreement Between the City of Kenai and City Manager Terry Eubank. (City Council)
13. **APPROVED UNANIMOUSLY. Action/Approval** - Commission and Committee Appointments. (Administration)
14. **APPROVED UNANIMOUSLY. Action/Approval** - Authorizing the City Manager to Execute a Memorandum of Understanding between the Kenaitze Indian Tribe and the City of Kenai Fire Department. (Administration)

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging
2. Airport Commission
3. Harbor Commission
4. Parks and Recreation Commission
5. Planning and Zoning Commission
6. Beautification Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

1. City Manager
2. City Attorney
3. City Clerk

K. ADDITIONAL PUBLIC COMMENTS

1. Citizens Comments (*Public comments limited to five (5) minutes per speaker*)
2. Council Comments

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

1. CIRCAC Directors Report

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Join Zoom Meeting

<https://us02web.zoom.us/j/84848663804>

Meeting ID: 848 4866 3804 **Passcode:** 378729

OR

Dial In: (253) 215-8782 or (301) 715-8592

Meeting ID: 848 4866 3804 **Passcode:** 378729



KENAI

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

MEMORANDUM

TO: Planning and Zoning Commission

THROUGH: Linda Mitchell, Planning Director

FROM: Karrie Barone, Assistant Planner

DATE: December 22, 2022

SUBJECT: **Conditional Use Permit Annual Reports**

Pursuant to Kenai Zoning Code, a conditional use permit holder must submit an annual report between October 1st and December 31st. Planning & Zoning received 49 conditional use permit (CUP) annual reports. There are approximately 111 annual reports that have not been received. Staff will review the submitted annual reports for compliance over the next few weeks and report back to the Commission of staff's findings. Below is a list of annual reports received to date.

	Permit Holder	Use	Property Address
1	The Leeshore Center	Women's Shelter	325 Spruce St
2	Ken & Elizabeth Smith	B&B/Guide Service	909 S. Ames Rd
3	James & Phyllis Bookey	RV Park	11535 Kenai Spur Hwy
4	Chris & Delora Garcia	Bed & Breakfast	2528 Beaver Loop Rd
5	Daniel Krogseng	Extraction of Natural Resources	1857 Beaver Loop Rd
6	Jackie L. Johnson	Cabin Rentals	1125 Angler Dr
7	Harris Nick Miller	Welding & Metal Framing	911 Ames Rd
8	Michael J. Pelch, Jr.	Extraction of Natural Resources	3713 Beaver Loop Rd
9	The LeeShore Center	Transitional Housing	403 N Gill St
10	Keith Holtan & Jane Matthies-Holtan	Cabin Rentals & Guide Service	1215 Angler Dr
11	B&B/Lodge/Guide Service	B&B/Lodge/Guide Service	1535 Angler Dr
12	Kenai Landing, Inc.	Hotel/Motel/Restaurant/Bar/Vendors/ Bakery/RV Park	2015 Bowpicker Ln
13	Sonia Rose	Day Care	1511 Fathom Dr
14	Port of Kenai, LLC	Recreational Vehicle Park	810 Childs Ave
15	Kenai Peninsula Community Care Center	Adolescent Care Facility	320 S. Spruce St.
16	J. Laasch & R. Favretto	Townhouses to Condo	1700 Lawton Dr
17	William Bancroft & Richard Ames	Private Family RV Park	1115 Angler Dr
18	Kenai Peninsula Racing Lions	Motor-Cross Race Track	490 Shotgun Dr

19	Kenaitze Indian Tribe	Medical Clinic	508 Upland St
20	A & K Enterprises	Storage Yard	200 Trading Bay Rd.
21	AIX Energy, LLC	Natural Gas Production	700 Marathon Rd
22	Kenaitze Indian Tribe	Employee Parking Lot	507 Upland St.
23	Kenaitze Indian Tribe	Green House	1000 Mission Ave
24	Kathryn Staskon	Limited Marijuana Cultivation	1030 Angler Dr
25	PRL Logistics, Inc.	Airport	2270 Royal St
26	PRL Logistics, Inc.	Lodge	2270 Royal St
27	PRL Logistics, Inc	Assemblies	2270 Royal St
28	PRL Logistics, Inc	Professional Offices	2270 Royal St
29	PRL Logistics, Inc	Restaurant/Mobile Concessions	2270 Royal St
30	Kenai Peninsula Housing Initiative	Six- Family dwelling Unit	2390 Redoubt Ave
31	State of Alaska	Boat Launch	4306 Eagle Rock Dr
32	Ryan Tunseth	Retail Marijuana Store	10767 Kenai Spur Hwy
33	Buddy Crowder	Marijuana Product Manufacturing	14927 Kenai Spur Hwy
34	Jennifer Huffman Grateful Bud, LLC	Limited Marijuana Cultivation Facility	1817 Sunset Blvd
35	John C. Schweiger Loving Trust	Offsite parking for Kenai Cinemas and Extreme Fun Center	260 S. Willow St
36	Kenai Peninsula Housing Initiative	6 Plex	2392 Redoubt Ave
37	Peninsula Commercial Ventures LLC	Surface Extraction of Natural Resources	751 Gravel St 805 Gravel St
38	Evan and Kathy Harding	Bed & Breakfast and Guide Service	1555 Angler Dr
39	Colaska Inc. dba QAP	Material Extraction	835 Gravel St 1605 Cone Ave 2817 Beaver Loop Rd 2881 Beaver Loop Rd 3073 Beaver Loop Rd
40	Peninsula Commercial Ventures	Surface Extraction of Natural Resources	695 Gravel St
41	Alaska Slammin Salmon Charters	Guide Business	1325 Angler Dr
42	BMGC LLC	Gravel Pit for Extraction of Natural Resources	601 Childs Ave
43	VIP Monitoring Services LLC	Professional Office	2785 Beaver Loop Rd
44	Kenai Peninsula Housing Initiative	Six Family dwelling unit for seniors age 55	2392 Redoubt Ave
45	Kenai Landing, Inc.	Planned Unit Development	2101 Bowpicker Ln
46	Kenai Landing, Inc.	Planned Unit Development	2101 Bowpicker Ln
47	Wild Kenai Adventures	Hotel/Guide/Boat Parking	1105 Angler Dr
48	Wild Kenai Adventures	Hotel - Short Term Rentals	1230 Angler Dr
49	Nicholas Mann	Standard Marijuana Cultivation Facility	8847 Kenai Spur Hwy

