



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

December 22, 2021 – 7:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

****Telephonic/Virtual Information on Page 2****

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

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 PZ2021-43** - Application for a Conditional Use Permit for a Limited Marijuana Cultivation Facility for the property described as Lot 2, Block 9, Valhalla Heights Subdivision Part 1, located at 5345 Kenai Spur Highway, Kenai, Alaska 99611. The application was submitted by Bryce Hoxeng, 5345 Kenai Spur Highway, Unit B, Kenai, Alaska 99611.
- 2. Resolution PZ 2021-44** - Application for a Conditional Use Permit for a Standard Marijuana Cultivation Facility for the property described as Lot 1, Yragui Subdivision, located at 8847 Kenai Spur Highway, Kenai, Alaska 99611. The application was submitted by Nicholas Mann, 140 Bidarka Street #1342, Kenai, Alaska 99611.

G. UNFINISHED BUSINESS

- 1. Resolution PZ2021-39** - Recommending the Council of the City of Kenai Approve and Adopt the City of Kenai Land Management Plan. [**Clerk's Note:** *At the December 8th Meeting, this Resolution was Postponed to this Meeting; a Motion to Enact is On the Floor.*]

H. NEW BUSINESS

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.** January 12, 2022

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/85212059041>

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

Meeting ID: 852 1205 9041 **Passcode:** 922716



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-43**

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

APPLICANT: Bryce Hoxeng

PROPERTY ADDRESS: 5345 Kenai Spur Highway

LEGAL DESCRIPTION: Lot 2, Block 9, Valhalla Heights Subdivision Part 1

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04925017

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: 5345 Kenai Spur Highway is zoned Limited Commercial (LC). The proposed Limited Marijuana Cultivation Facility meets the intent of the Limited Commercial Zone (LC) to provide transition areas between commercial and residential districts by allowing low to medium volume business, mixed residential and other compatible uses which complement and do not materially detract from the uses allowed with adjacent districts. A Limited Marijuana Cultivation Facility would be a low volume business in a mixed residential and commercial neighborhood.

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

“Marijuana cultivation facility, limited” means an entity registered to cultivate in an area of five hundred (500) square feet or less of 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. The parcel to the North has a residential accessory structure. The parcels to the South and West have residential dwellings. And the Kenai Spur Highway is located to the East. Both the economic and noneconomic value of adjacent properties should not be significantly impacted by this change in use since the Limited Marijuana Cultivation Facility is limited to 500 square feet or less in an existing building, the business is for wholesale only with no consumers accessing the property, and no additional traffic. The applicant has also noted “items owned by the cultivation will not be stored outside. There will be no signs attached to the outside of the building that display the cultivation’s business name or the industry type (marijuana)”.

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 Mixed Use land use for this neighborhood. The Mixed Use Land Use Classification is defined in the Comprehensive Plan:

“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.”

All of the adjacent parcels are zoned Limited Commercial, providing for a mix of residential and commercial uses, connected by a walking/bike path along the Kenai Spur Highway.

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. There are no City sewer or water services in the vicinity (sewer and water services are located 500+ feet to the North, beyond the two hundred (200) feet required for connecting to the public water system per Kenai Municipal Code 17.10.010.), the property has an existing a private septic and water well system. 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 Limited Marijuana Cultivation Facility would not be harmful to the public safety, health, or welfare. The applicant has noted items owned by the cultivation will not be stored outside. There will be no signs attached to the outside of the building that display the cultivation's business name or the industry type (marijuana). 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 Bryce Hoxeng for a Limited Marijuana Cultivation Facility for properties described as Lot 2, Block 9, Valhalla Heights Subdivision Part 1 and located at 5345 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(I)(5).
8. Pursuant to KMC 14.20.150(I)(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 THIBODEAU, DEPUTY CITY CLERK



KENAI

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

STAFF REPORT

TO: Planning and Zoning Commission
FROM: Ryan Foster, Planning Director
DATE: December 14, 2021
SUBJECT: PZ2021-43 – CUP – Limited Marijuana Cultivation Facility

Applicant: Bryce Hoxeng
5345 Kenai Spur Highway, Unit B
Kenai, Alaska 99611

Legal Description: Lot 2, Block 9, Valhalla Heights Subdivision Part 1

Property Address: 5345 Kenai Spur Highway

KPB Parcel No: 04925017

Lot Size: 0.42 Acres (18,295 square feet)

Existing Zoning: Limited Commercial

Current Land Use: Residential Dwelling

Land Use Plan: Mixed Use

GENERAL INFORMATION

The applicant, Bryce Hoxeng, has submitted a conditional use permit application for a Limited Marijuana Cultivation Facility at 5345 Kenai Spur Highway. Per Kenai Municipal Code 14.22.010 Land use table, a Limited Marijuana Cultivation Facility use requires a conditional use permit in the Limited Commercial zoning district. A conditional use permit is requested in order to operate a limited marijuana cultivation facility out of the un-occupied building on this property. The building is mostly setup for a commercial operation since it was last used as a hair salon.

Application, Public Notice, Public Comment

Pursuant to Kenai Municipal Code 14.20.330(c) notices of the public hearing for the conditional use were mailed to property owners within a five hundred-foot (500') periphery of the subject property. City staff published notice of the public hearing in the *Peninsula Clarion*. The applicant

submitted an Affidavit of Posting verifying a sign was placed on the parcel with information on the public hearing for the conditional use request.

ANALYSIS

KMC14.20.330 – Standards for Commercial Marijuana Establishments

The purpose of KMC14.20.330 is to establish general standards for commercial marijuana establishments.

f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:

- (1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (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

There are no primary or secondary schools (institutional land use) within 1,000 feet of the subject property. There are no institutional land uses within 500 feet of the subject property. See attached Power Point presentation with the 500 foot buffer map with list of land use type and 1,000 foot buffer map with list of land use type.

Recommended condition #4 states that “Standards for commercial marijuana establishments per KMC14.20.330 must be maintained.”

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

Pursuant to KMC 14.20.150(a), the intent of a conditional use permit is to allow some uses that may be compatible with the designated principal uses in specific zoning districts provided certain conditions are met. KMC 14.20.150(e)-Conditional Use Permits Review Criteria states six conditions that the Planning and Zoning Commission must deem to exist when establishing findings prior to issuing a conditional use permit:

Criteria # 1: The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district.

Applicant Response: The parcel is zoned as limited commercial. The cultivation facility will not increase traffic due to all sales being wholesale and not retail. Items owned by the cultivation will not be stored outside. There will be no signs attached to the outside of the building that display the cultivation's business name or the industry type (marijuana).

Staff Response: 5345 Kenai Spur Highway is zoned Limited Commercial (LC). The proposed Limited Marijuana Cultivation Facility meets the intent of the Limited Commercial Zone (LC) to provide transition areas between commercial and residential districts by allowing low to medium volume business, mixed residential and other compatible uses which complement and do not materially detract from the uses allowed with adjacent districts. A Limited Marijuana Cultivation Facility would be a low volume business in a mixed residential and commercial neighborhood.

Page 2 of 5



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

“Marijuana cultivation facility, limited” means an entity registered to cultivate in an area of five hundred (500) square feet or less of 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.

Criteria #2: The economic and noneconomic value of the adjoining property and neighborhood will not be significantly impaired.

Applicant Response: No increase in traffic, no signs indicating a marijuana cultivation is operating, a high level of security will be in place and AMCO requires that no odor is detectable from a public place.

Staff Response:

The parcel to the North has a residential accessory structure. The parcels to the South and West have residential dwellings. And the Kenai Spur Highway is located to the East. Both the economic and noneconomic value of adjacent properties should not be significantly impacted by this change in use since the Limited Marijuana Cultivation Facility is limited to 500 square feet or less in an existing building, the business is for wholesale only with no consumers accessing the property, and no additional traffic. The applicant has also noted “items owned by the cultivation will not be stored outside. There will be no signs attached to the outside of the building that display the cultivation’s business name or the industry type (marijuana)”.

Criteria #3: The proposed use is in harmony with the Comprehensive Plan.

Applicant Response: The cultivation facility will benefit the state and local economy through taxes, both excise tax and sales tax from retail stores. The cultivation facility will not alter the current land use due to the building being already in place. Natural resources will stay protected since the cultivation’s waste consists of water used in the bathroom (no liquid waste from growing) and a combination of growing medium (peat moss) and ground up plant material.

Staff Response: The Land Use Plan, from the 2016 Comprehensive Plan, proposes a Mixed Use land use for this neighborhood. The Mixed Use Land Use Classification is defined in the Comprehensive Plan:

“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.”



All of the adjacent parcels are zoned Limited Commercial, providing for a mix of residential and commercial uses, connected by a walking/bike path along the Kenai Spur Highway.

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:

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- 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.

Criteria #4: Public services and facilities are adequate to serve the proposed use.

Applicant Response: Electric, gas, and telephone are connected to the proposed building. A private well and septic service the building as well.

Staff Response: The subject property is accessed via a paved, State of Alaska Department of Transportation maintained highway. There are no City sewer or water services in the vicinity (sewer and water services are located 500+ feet to the North, beyond the two hundred (200) feet required for connecting to the public water system per Kenai Municipal Code 17.10.010.), the property has an existing a private septic and water well system.

There is access to natural gas, electricity, and telephone services.

Criteria #5: The proposed use will not be harmful to the public safety, health or welfare.

Applicant Response: No increased traffic, no detectable odors to the public, no signage indication business nature (marijuana), no hazardous waste generated and a high level of security to prevent unauthorized access.

Staff Response: A Limited Marijuana Cultivation Facility would not be harmful to the public safety, health, or welfare. The applicant has noted items owned by the cultivation will not be stored outside. There will be no signs attached to the outside of the building that display the cultivation's business name or the industry type (marijuana). 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.



Criteria # 6: Specific conditions deemed necessary.

Applicant Response: No impacts are foreseen by the conditional use of the property.

Staff Response: See Conditions of Approval as set forth below.

RECOMMENDATIONS

City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (e)(1) through (e)(6) of Kenai Municipal Code 14.20.150, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, 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.

ATTACHMENTS

- A. Conditional Use Permit Application
- B. Draft Site Plan
- C. Aerial Map
- D. KMC14.20.330 Standards for commercial marijuana establishments





Conditional Use 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:	Maryann Cannon			
Mailing Address:	5345 Kenai Spur Hwy, Unit A			
City:	Kenai	State:	AK	Zip Code: 99611
Phone Number(s):	907-252-0551			
Email:	c4taggs@yahoo.com			

PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)

Name:	Bryce Hoxeng			
Mailing Address:	5345 Kenai Spur Hwy, Unit B			
City:	Kenai	State:	AK	Zip Code: 99611
Phone Number(s):	360-513-6358			
Email:	puffintuff21@gmail.com			

PROPERTY INFORMATION

Kenai Peninsula Borough Parcel # (Property Tax ID):	04925017
Physical Address:	5345 Kenai Spur Hwy, Unit C, Kenai, AK 99611
Legal Description:	T 5N R 10W SEC 6 Seward Meridian KN 0001633 VALHALLA HEIGHTS SUB PART 1 LOT 2 BLK 9
Zoning:	Residential / Limited Commercial
Acres:	0.42

CONDITIONAL USE DESCRIPTION

(include site plan/floor plan with square footages)
(include State Business License and KPB Tax Compliance if applicable)

How is this property currently being used?	Two unit home and a separate un-occupied building
Conditional Use Requested for (attach additional sheets if necessary):	

A conditional use permit is requested in order to operate a limited marijuana cultivation facility out of the un-occupied building on this property. The building is mostly setup for a commercial operation since it was last used as a hair salon.

Explain how the conditional use is consistent with purposes and intent of the zoning district of the property:

The parcel is zoned as limited commercial. The cultivation facility will not increase traffic due to all sales being wholesale and not retail. Items owned by the cultivation will not be stored outside. There will be no signs attached to the outside of the building that display the cultivation's business name or the industry type (marijuana).

Explain how the value of adjoining property and neighborhood will not be significantly impaired by the conditional use:

No increase in traffic, no signs indicating a marijuana cultivation is operating, a high level of security will be in place and AMCO requires that no odor is detectable from a public place.

Use of surrounding property - north:	Vacant land to the Kenai Spur Highway		
Use of surrounding property - south:	Thompson Place - 3 residential buildings		
Use of surrounding property - east:	Kenai Spur Highway		
Use of surrounding property - west:	A 2-unit residential building on the same parcel		
Explain how the conditional use is in harmony with the City's Comprehensive Plan:			
<p>The cultivation facility will benefit the state and local economy through taxes, both excise tax and sales tax from retail stores. The cultivation facility will not alter the current land use due to the building being already in place. Natural resources will stay protected since the cultivation's waste consists of water used in the bathroom (no liquid waste from growing) and a combination of growing medium (peat moss) and ground up plant material.</p>			
Are public services and facilities on the property adequate to serve the proposed conditional use?			
<p>Electric, gas, and telephone are connected to the proposed building. A private well and septic service the building as well.</p>			
Explain how the conditional use will not be harmful to public safety, health, or welfare:			
<p>No increased traffic, no detectable odors to the public, no signage indicating business nature (marijuana), no hazardous waste generated and a high level of security to prevent unauthorized access.</p>			
Are there any measures with access, screening, site development, building design, or business operation that will lessen potential impacts of the conditional use to neighbors?			
<p>No impacts are foreseen by the conditional use of the property.</p>			
AUTHORITY TO APPLY FOR CONDITIONAL USE:			
<p>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.</p>			
Signature:		Date:	
Print Name:	Bryce Hoxeng	Title/Business:	Owner / Puffin Tuff Farms
For City Use Only		Date Application Fee Received:	
		PZ Resolution Number:	



Lot Acreage = 0.42 acres
C01 = 984 sq ft
R01 = 1824 sq ft
Shed = 120 sq ft

Shed

C01

5345

Parking

R01

5301

5327

5327

5295

Kendal Spur Hwy

Thompson Pl



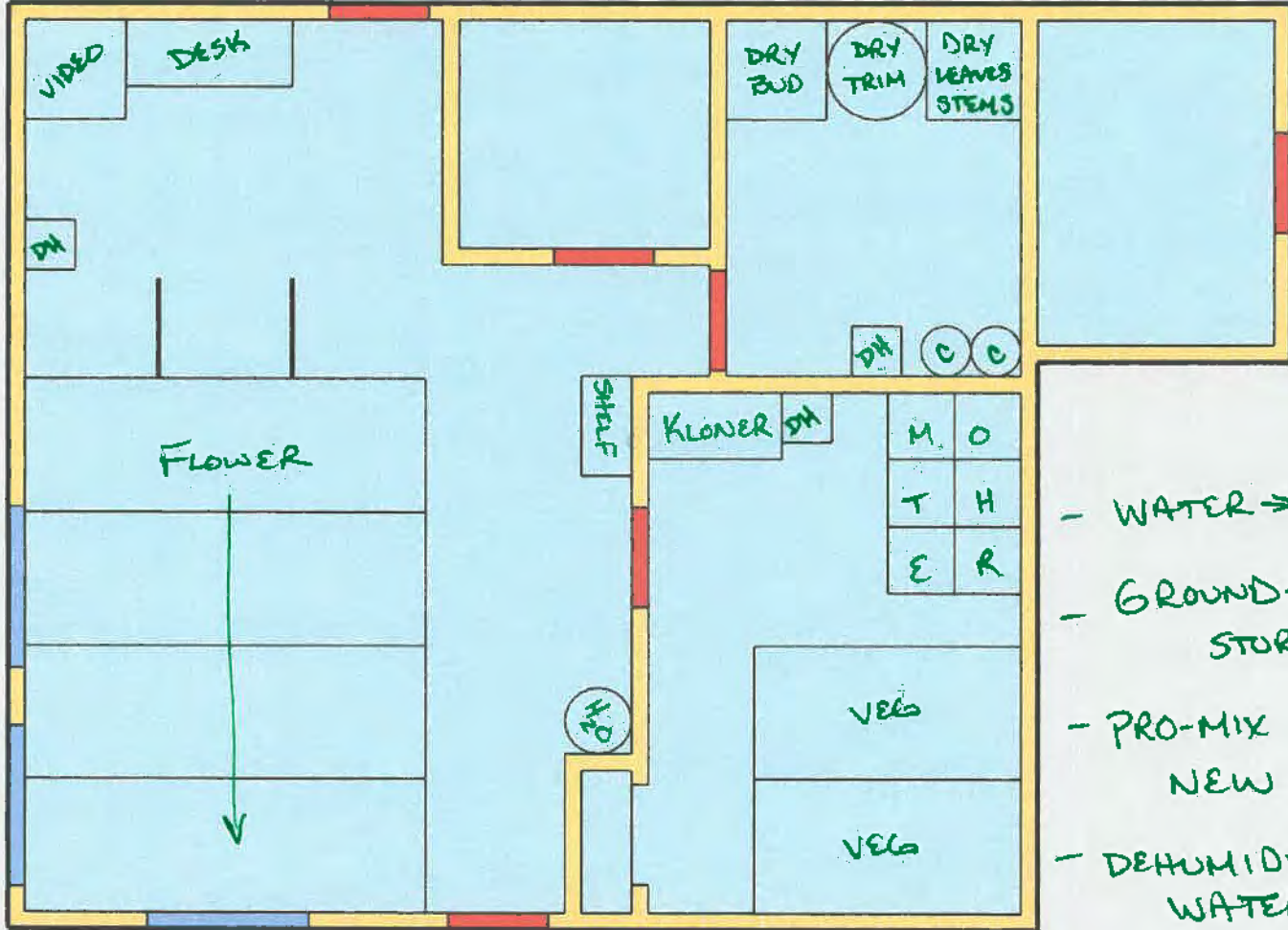
FLOORPLAN



↑
WINDOWS

↑
DOORS

Square footage =
984 ft²

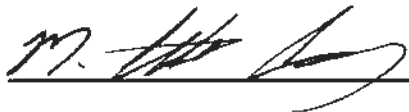


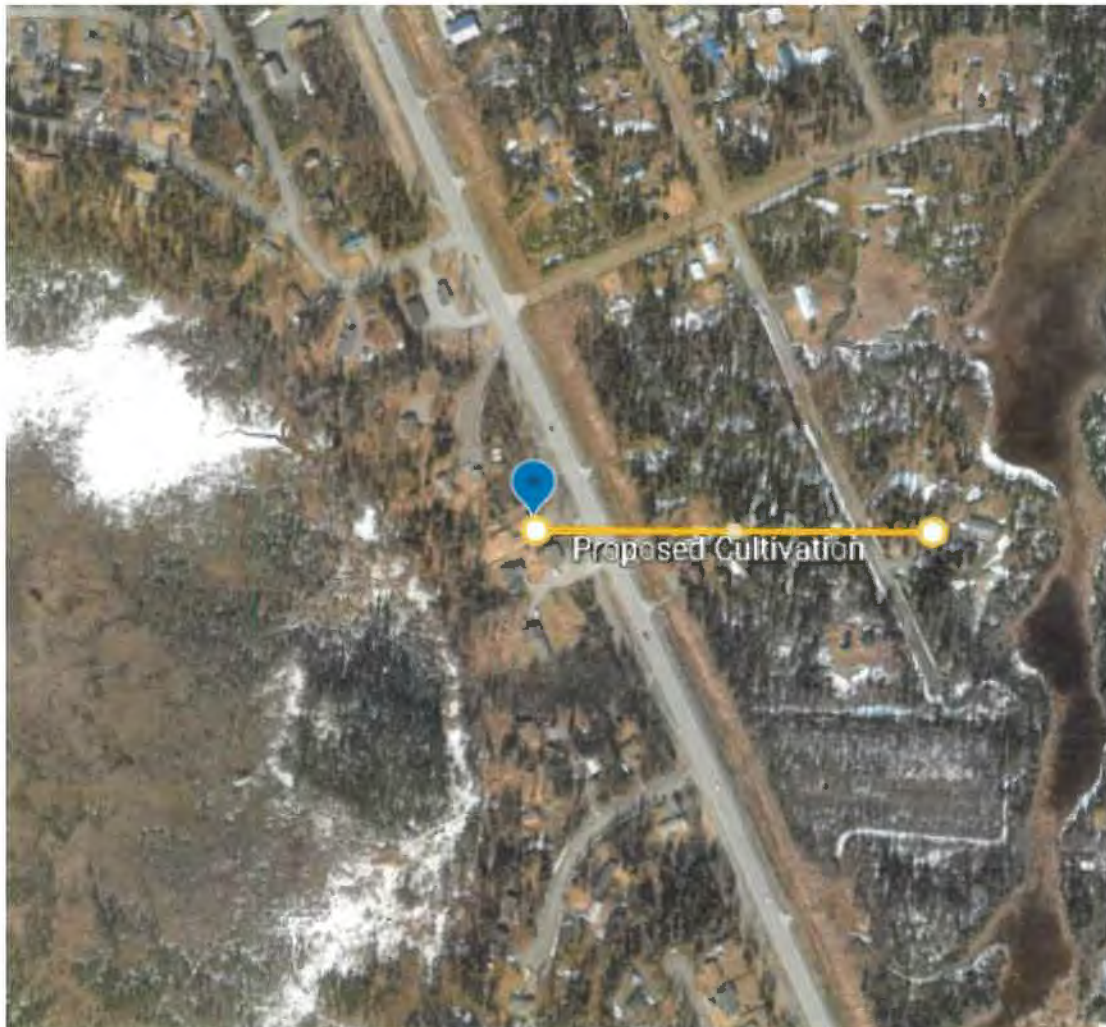
- WATER → BARREL
- GROUND-UP WASTE STORAGE
- PRO-MIX STORAGE NEW & OLD
- DEHUMIDIFIER WATER
- WASHING POTS & TRAYS

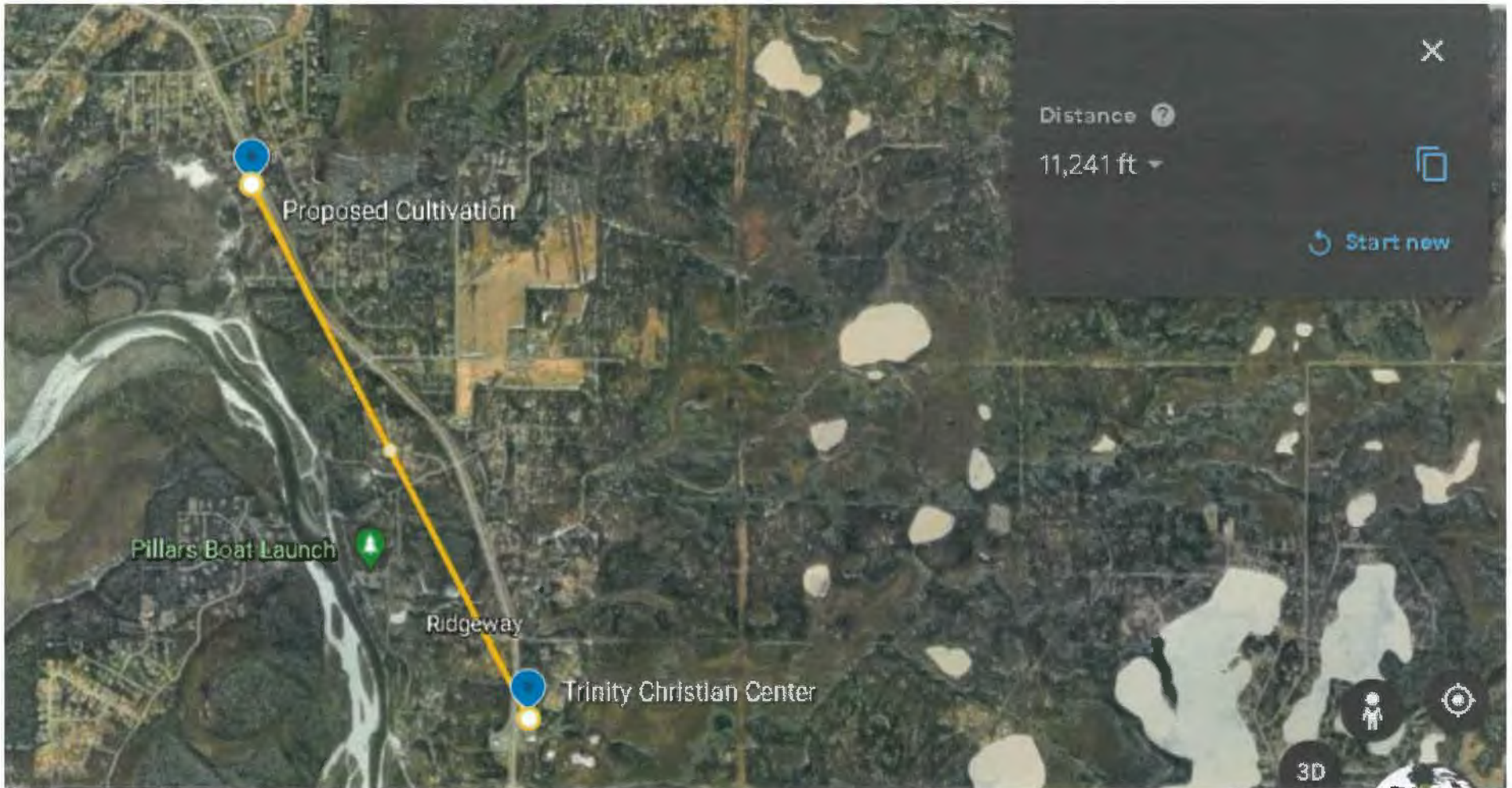
Puffin Tuff Farms LLC's Approval of building/land use for a cultivation.

I Maryann Cannon agree to rent 5345 Kenai Spur Hwy Unit C, Kenai Alaska 99611 to Bryce Hoxeng & Michael Welch for the Cultivation of Puffin Tuff Farms LLC.

Building Owner's Signature

 Date: 11/10/2021.







PZ2021-43 CUP Limited Marijuana Cultivation Facility
5345 Kenai Spur Highway



14.20.330 Standards for commercial marijuana establishments.

The purpose of this section is to establish general standards for commercial marijuana establishments.

- (a) Commercial marijuana establishments may be permitted or allowed with a conditional use permit under KMC [14.20.150](#), as provided in the City of Kenai's Land Use Table, KMC [14.22.010](#), and the provisions of this section. On-site consumption endorsements may not be approved by conditional use permit or otherwise and are not permitted within the City.
- (b) Applicants applying for a conditional use permit must include an area map drawn to scale indicating all land uses on other properties within a five hundred (500) foot proximity of the lot upon which the applicant is seeking a conditional use permit. This shall be in addition to the conditional use permit submission requirements in KMC [14.20.150](#).
- (c) A public hearing shall be scheduled before the Planning and Zoning Commission to review the conditional use permit application once it has been deemed complete. The public hearing shall be scheduled in accordance with the requirements in KMC [14.20.280](#), except that notification shall be mailed to all real property owners on record on the Borough Assessor's records within a five hundred (500) foot periphery of the parcel affected by the proposed action.
- (d) The preparation, packaging, manufacturing, processing, and storing of all marijuana, marijuana concentrate or marijuana products must be conducted within a fully enclosed, secure indoor facility. The growing and cultivating of marijuana must be conducted within a fully enclosed, secure indoor facility or greenhouse with view-obscuring rigid walls, a roof and doors, unless a nonrigid greenhouse, or other structure, is specifically approved, in which case the cultivation must be enclosed by a sight-obscuring wall or fence at least six (6) feet high.
- (e) All commercial marijuana establishments shall not emit an odor that is detectable by the public from outside the commercial marijuana establishment.
- (f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:
 - (1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (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, or a substance abuse treatment facility providing substance abuse treatment.

- (g) As provided in the Land Use Table, a person or licensee may apply for a conditional use permit to allow for a marijuana cultivation facility, standard, on lots of forty thousand (40,000) square feet or greater in size, and a marijuana cultivation facility, limited, on any size lot.
- (h) A marijuana cultivation facility, standard, or a marijuana cultivation facility, limited, shall only be allowed on a lot which has an existing structure consistent with a principal permitted use.
- (i) A marijuana cultivation facility located in an accessory building shall be subject to the setback provisions in KMC [14.24.020](#), development requirements table. A person or licensee seeking relief from the provisions in the development requirements table may apply for a variance subject to the provisions of KMC [14.20.180](#).
- (j) No retail marijuana store may conduct business on, or allow any customer or consumer to access, the licensed premises between the hours of 5:00 a.m. and 8:00 a.m. daily.

(Ords. 2870-2016, 2997-2018, 3025-2018, 3068-2019, 3088-2019)

The Kenai Municipal Code is current through Ordinance 3243-2021, passed September 15, 2021.

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

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PLANNING & ZONING COMMISSION

Resolution PZ2021-43 – Conditional Use Permit – Limited Marijuana Cultivation
Facility

5345 Kenai Spur Highway

SUMMARY

Applicant: Bryce Hoxeng
5345 Kenai Spur Highway, Unit B
Kenai, Alaska 99611

Legal Description: Lot 2, Block 9, Valhalla Heights
Subdivision Part 1

Property Address: 5345 Kenai Spur Highway

KPB Parcel No: 04925017

Lot Size: 0.42 Acres (18,295 square feet)

Existing Zoning: Limited Commercial

Current Land Use: Residential Dwelling

Land Use Plan: Mixed Use



PZ2021-43 CUP Limited Marijuana Cultivation Facility
5345 Kenai Spur Highway



SUMMARY

- The applicant, Bryce Hoxeng, has submitted a conditional use permit application for a Limited Marijuana Cultivation Facility at 5345 Kenai Spur Highway.
- Per Kenai Municipal Code 14.22.010 Land use table, a Limited Marijuana Cultivation Facility use requires a conditional use permit in the Limited Commercial zoning district.
- A conditional use permit is requested in order to operate a limited marijuana cultivation facility out of the un-occupied building on this property. The building is mostly setup for a commercial operation since it was last used as a hair salon.

SITE PLAN

- Site plan of 5345 Kenai Spur Highway with the vacant hair salon building



STAFF ANALYSIS

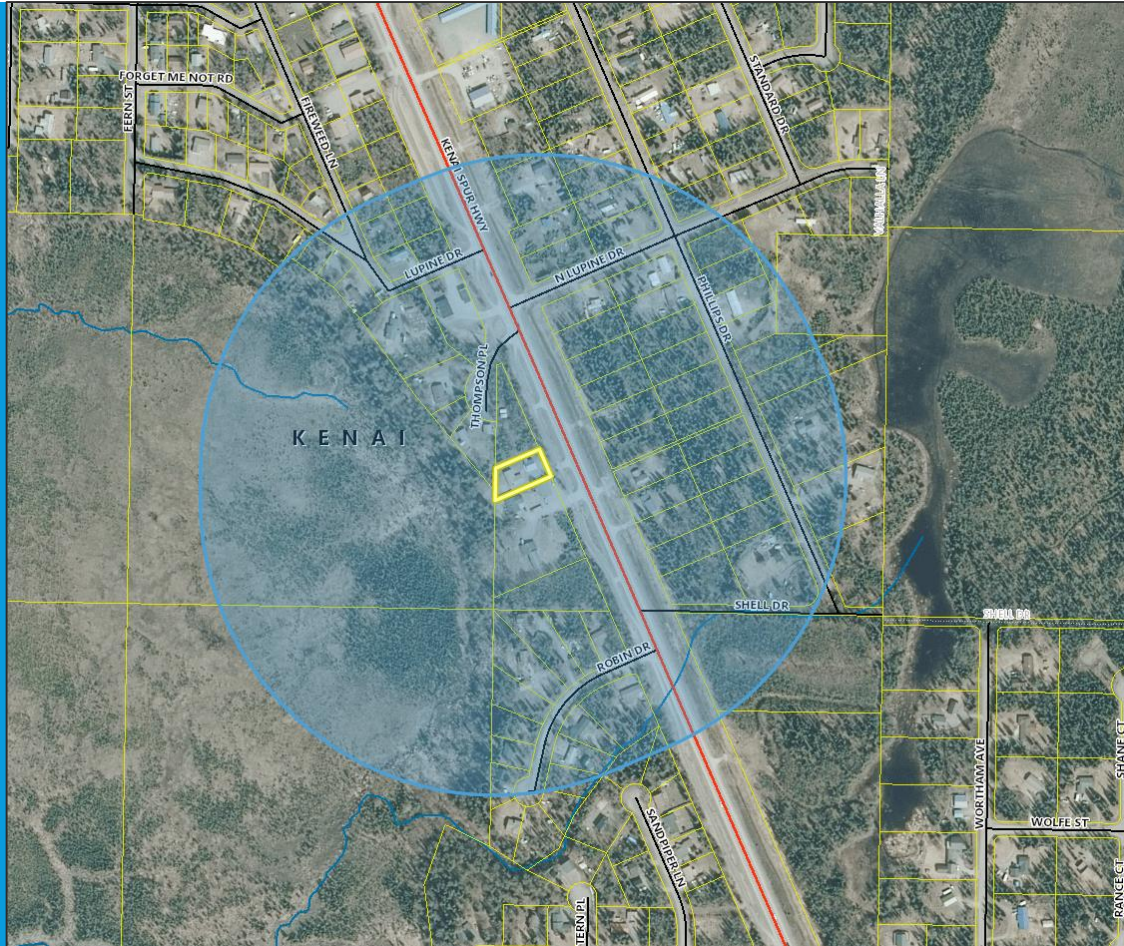
- KMC14.20.330 – Standards for Commercial Marijuana Establishments
- The purpose of KMC14.20.330 is to establish general standards for commercial marijuana establishments.
- There are no primary or secondary schools (institutional land use) within 1,000 feet of the subject property. There are no institutional land uses within 500 feet of the subject property. See attached Power Point presentation with the 500 foot buffer map with list of land use type and 1000 foot buffer map with list of land use type.
- Recommended condition #4 states that “Standards for commercial marijuana establishments per KMC14.20.330 must be maintained.”

500 FOOT BUFFER MAP



Parcel ID	Own Type	Use Type	Physical Addresses
04906006	Private	Vacant	
04906088	State	Commercial	4306 EAGLE ROCK DR
04907017	Private	Residential	4092 LUPINE DR
04907021	Private	Residential	310 THOMPSON PL
04907022	Private	Vacant	320 THOMPSON PL
04907032	Private	Commercial	5455 KENAI SPUR HWY
04907033	Private	Residential	340 THOMPSON PL
04924003	Private	Vacant	330 PHILLIPS DR
04924004	Private	Residential	340 PHILLIPS DR
04924005	Private	Vacant	5360 KENAI SPUR HWY
04924006	Private	Vacant	5370 KENAI SPUR HWY
04924007	Private	Vacant	5392 KENAI SPUR HWY
04924008	Private	Residential	4110 N LUPINE DR
04925001	Private	Vacant	350 PHILLIPS DR
04925002	Private	Vacant	360 PHILLIPS DR
04925003	Private	Vacant	410 PHILLIPS DR
04925004	Private	Vacant	420 PHILLIPS DR
04925010	Private	Vacant	5232 KENAI SPUR HWY
04925011	Private	Vacant	5242 KENAI SPUR HWY
04925012	Private	Residential	5264 KENAI SPUR HWY
04925013	Private	Residential	5296 KENAI SPUR HWY
04925014	Private	Vacant	5326 KENAI SPUR HWY
04925015	Private	Commercial	5328 KENAI SPUR HWY
04925016	Private	Accessory Building	5391 KENAI SPUR HWY
04925017	Private	Residential	5345 KENAI SPUR HWY
04925021	Private	Vacant	5263 KENAI SPUR HWY
04925023	Private	Residential	5327 KENAI SPUR HWY
04929013	Private	Residential	530 ROBIN DR
04929014	Private	Residential	520 ROBIN DR
04929015	Private	Accessory Building	510 ROBIN DR
04929016	Private	Residential	500 ROBIN DR

1,000 FOOT BUFFER MAP



Parcel ID	Own Type	Use Type	Physical Addresses	Parcel ID	Own Type	Use Type	Physical Addresses
04906006	Private	Vacant		04925011	Private	Vacant	5242 KENAI SPUR HWY
04906012	Private	Vacant	5168 KENAI SPUR HWY	04925012	Private	Residential	5264 KENAI SPUR HWY
04906077	Private	Vacant	5040 KENAI SPUR HWY	04925013	Private	Residential	5296 KENAI SPUR HWY
04906088	State	Commercial	4306 EAGLE ROCK DR	04925014	Private	Vacant	5326 KENAI SPUR HWY
04907008	Private	Vacant	4080 LUPINE DR	04925015	Private	Commercial	5328 KENAI SPUR HWY
04907009	Private	Residential	4084 LUPINE DR	04925016	Private	Accessory Building	5391 KENAI SPUR HWY
04907010	Private	Residential	4088 LUPINE DR	04925017	Private	Residential	5345 KENAI SPUR HWY
04907017	Private	Residential	4092 LUPINE DR	04925021	Private	Vacant	5263 KENAI SPUR HWY
04907020	Private	Vacant	4076 LUPINE DR	04925022	Private	Residential	450 PHILLIPS DR
04907021	Private	Residential	310 THOMPSON PL	04925023	Private	Residential	5327 KENAI SPUR HWY
04907022	Private	Vacant	320 THOMPSON PL	04929003	Private	Residential	525 ROBIN DR
04907032	Private	Commercial	5455 KENAI SPUR HWY	04929004	Private	Residential	535 ROBIN DR
04907033	Private	Residential	340 THOMPSON PL	04929005	Private	Vacant	545 ROBIN DR
04908403	Private	Residential	4085 LUPINE DR	04929006	Private	Vacant	555 ROBIN DR
04909209	Private	Vacant	5551 KENAI SPUR HWY	04929009	Private	Residential	570 ROBIN DR
04909210	Private	Vacant	5519 KENAI SPUR HWY	04929010	Private	Residential	560 ROBIN DR
04909211	Private	Vacant	5501 KENAI SPUR HWY	04929011	Private	Accessory Building	550 ROBIN DR
04909212	Private	Residential	4093 LUPINE DR	04929012	Private	Vacant	540 ROBIN DR
04909213	Private	Residential	275 FIREWEED LN	04929013	Private	Residential	530 ROBIN DR
04909214	Private	Residential	265 FIREWEED LN	04929014	Private	Residential	520 ROBIN DR
04922012	Private	Vacant	4205 N LUPINE DR	04929015	Private	Accessory Building	510 ROBIN DR
04922013	Private	Residential	265 PHILLIPS DR	04929016	Private	Residential	500 ROBIN DR
04922026	Private	Residential	250 PHILLIPS DR	04929017	Private	Residential	505 ROBIN DR
04922027	Private	Vacant	260 PHILLIPS DR	04930013	Private	Vacant	605 SANDPIPER LN
04922029	Private	Residential	5504 KENAI SPUR HWY	04930014	Private	Vacant	615 SANDPIPER LN
04922030	Private	Residential	5536 KENAI SPUR HWY	04934003	Private	Vacant	4220 N LUPINE DR
04924001	Private	Residential	310 PHILLIPS DR	04934004	Private	Vacant	4210 N LUPINE DR
04924002	Private	Residential	320 PHILLIPS DR	04934005	Private	Vacant	315 PHILLIPS DR
04924003	Private	Vacant	330 PHILLIPS DR	04934006	Private	Residential	325 PHILLIPS DR
04924004	Private	Residential	340 PHILLIPS DR	04934007	Private	Vacant	335 PHILLIPS DR
04924005	Private	Vacant	5360 KENAI SPUR HWY	04934008	Private	Vacant	345 PHILLIPS DR
04924006	Private	Vacant	5370 KENAI SPUR HWY	04934009	Private	Vacant	355 PHILLIPS DR
04924007	Private	Vacant	5392 KENAI SPUR HWY	04934017	Private	Vacant	320 VALHALLA LN
04924008	Private	Residential	4110 N LUPINE DR	04934018	Private	Residential	435 PHILLIPS DR
04924009	Private	Vacant	4105 N LUPINE DR	04934020	Private	Residential	465 PHILLIPS DR
04924010	Private	Accessory Building	5456 KENAI SPUR HWY	04934021	Private	Residential	415 PHILLIPS DR
04924011	Private	Residential	270 PHILLIPS DR				
04924012	Private	Residential	4115 N LUPINE DR				
04925001	Private	Vacant	350 PHILLIPS DR				
04925002	Private	Vacant	360 PHILLIPS DR				
04925003	Private	Vacant	410 PHILLIPS DR				
04925004	Private	Vacant	420 PHILLIPS DR				
04925005	Private	Vacant	430 PHILLIPS DR				
04925006	Private	Vacant	440 PHILLIPS DR				
04925007	Private	Vacant	4105 SHELL DR				
04925008	Private	Vacant	5232 KENAI SPUR HWY				

STAFF ANALYSIS

- Kenai Municipal Code 14.20.150(e) – Review Criteria for Conditional Use Permits
- Pursuant to KMC 14.20.150(a), the intent of a conditional use permit is to allow some uses that may be compatible with the designated principal uses in specific zoning districts provided certain conditions are met. KMC 14.20.150(e)- Conditional Use Permits Review Criteria states six conditions that the Planning and Zoning Commission must deem to exist when establishing findings prior to issuing a conditional use permit:

REVIEW CRITERIA

- *Criteria #1: The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district.*
- *Criteria #2: The economic and noneconomic value of the adjoining property and neighborhood will not be significantly impaired.*
- *Criteria #3: The proposed use is in harmony with the Comprehensive Plan.*
- *Criteria #4: Public services and facilities are adequate to serve the proposed use.*
- *Criteria #5: The proposed use will not be harmful to the public safety, health or welfare.*
- *Criteria #6: Specific conditions deemed necessary.*

RECOMMENDATIONS

- City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (e)(1) through (e)(6) of Kenai Municipal Code 14.20.150, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, 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.


RECOMMENDATIONS CONTINUED

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.

ATTACHMENTS

- A. Application
- B. Draft Site Plan
- C. Aerial Map
- D. KMC14.20.330 Standards for commercial marijuana establishments

A. APPLICATION

	Conditional Use 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:	Maryann Cannon			
Mailing Address:	5345 Kenai Spur Hwy, Unit A			
City:	Kenai	State:	AK	Zip Code: 99611
Phone Number(s):	907-252-0551			
Email:	c4taggs@yahoo.com			
PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)				
Name:	Bryce Hoxeng			
Mailing Address:	5345 Kenai Spur Hwy, Unit B			
City:	Kenai	State:	AK	Zip Code: 99611
Phone Number(s):	360-513-6358			
Email:	puffintuff21@gmail.com			
PROPERTY INFORMATION				
Kenai Peninsula Borough Parcel # (Property Tax ID):	04925017			
Physical Address:	5345 Kenai Spur Hwy, Unit C, Kenai, AK 99611			
Legal Description:	T 5N R 10W SEC 6 Seward Meridian KN 0001633 VALHALLA HEIGHTS SUB PART 1 LOT 2 BK 9			
Zoning:	Residential / Limited Commercial			
Acres:	0.42			
CONDITIONAL USE DESCRIPTION (include site plan/floor plan with square footages) (include State Business License and KPB Tax Compliance if applicable)				
How is this property currently being used?	Two unit home and a separate un-occupied building			
Conditional Use Requested for (attach additional sheets if necessary):	A conditional use permit is requested in order to operate a limited marijuana cultivation facility out of the un-occupied building on this property. The building is mostly setup for a commercial operation since it was last used as a hair salon.			
Explain how the conditional use is consistent with purposes and intent of the zoning district of the property:	The parcel is zoned as limited commercial. The cultivation facility will not increase traffic due to all sales being wholesale and not retail. Items owned by the cultivation will not be stored outside. There will be no signs attached to the outside of the building that display the cultivation's business name or the industry type (marijuana).			
Explain how the value of adjoining property and neighborhood will not be significantly impaired by the conditional use:	No increase in traffic, no signs indicating a marijuana cultivation is operating, a high level of security will be in place and AMCO requires that no odor is detectable from a public place.			

Use of surrounding property - north:	Vacant land to the Kenai Spur Highway
Use of surrounding property - south:	Thompson Place - 3 residential buildings
Use of surrounding property - east:	Kenai Spur Highway
Use of surrounding property - west:	A 2-unit residential building on the same parcel
Explain how the conditional use is in harmony with the City's Comprehensive Plan:	
The cultivation facility will benefit the state and local economy through taxes, both excise tax and sales tax from retail stores. The cultivation facility will not alter the current land use due to the building being already in place. Natural resources will stay protected since the cultivation's waste consists of water used in the bathroom (no liquid waste from growing) and a combination of growing medium (peat moss) and ground up plant material.	
Are public services and facilities on the property adequate to serve the proposed conditional use?	
Electric, gas, and telephone are connected to the proposed building. A private well and septic service the building as well.	
Explain how the conditional use will not be harmful to public safety, health, or welfare:	
No increased traffic, no detectable odors to the public, no signage indicating business nature (marijuana), no hazardous waste generated and a high level of security to prevent unauthorized access.	
Are there any measures with access, screening, site development, building design, or business operation that will lessen potential impacts of the conditional use to neighbors?	
No impacts are foreseen by the conditional use of the property.	
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.	
Signature:	Date:
Print Name:	Bryce Hoxeng
Title/Business:	Owner / Puffin Tuff Farms
For City Use Only	
Date Application Fee Received: PZ Resolution Number:	

B. SITE PLAN



C. AERIAL MAP



PZ2021-43 CUP Limited Marijuana Cultivation Facility
5345 Kenal Spur Highway



D. KMC14.20.330 STANDARDS FOR COMMERCIAL MARIJUANA ESTABLISHMENTS

14.20.330 Standards for commercial marijuana establishments.

The purpose of this section is to establish general standards for commercial marijuana establishments.

- (a) Commercial marijuana establishments may be permitted or allowed with a conditional use permit under KMC [14.20.150](#), as provided in the City of Kenai's Land Use Table, KMC [14.22.010](#), and the provisions of this section. On-site consumption endorsements may not be approved by conditional use permit or otherwise and are not permitted within the City.
- (b) Applicants applying for a conditional use permit must include an area map drawn to scale indicating all land uses on other properties within a five hundred (500) foot proximity of the lot upon which the applicant is seeking a conditional use permit. This shall be in addition to the conditional use permit submission requirements in KMC [14.20.150](#).
- (c) A public hearing shall be scheduled before the Planning and Zoning Commission to review the conditional use permit application once it has been deemed complete. The public hearing shall be scheduled in accordance with the requirements in KMC [14.20.280](#), except that notification shall be mailed to all real property owners on record on the Borough Assessor's records within a five hundred (500) foot periphery of the parcel affected by the proposed action.
- (d) The preparation, packaging, manufacturing, processing, and storing of all marijuana, marijuana concentrate or marijuana products must be conducted within a fully enclosed, secure indoor facility. The growing and cultivating of marijuana must be conducted within a fully enclosed, secure indoor facility or greenhouse with view-obscuring rigid walls, a roof and doors, unless a nonrigid greenhouse, or other structure, is specifically approved, in which case the cultivation must be enclosed by a sight-obscuring wall or fence at least six (6) feet high.
- (e) All commercial marijuana establishments shall not emit an odor that is detectable by the public from outside the commercial marijuana establishment.
- (f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:
 - (1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (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, or a substance abuse treatment facility providing substance abuse treatment.

- (g) As provided in the Land Use Table, a person or licensee may apply for a conditional use permit to allow for a marijuana cultivation facility, standard, on lots of forty thousand (40,000) square feet or greater in size, and a marijuana cultivation facility, limited, on any size lot.
 - (h) A marijuana cultivation facility, standard, or a marijuana cultivation facility, limited, shall only be allowed on a lot which has an existing structure consistent with a principal permitted use.
 - (i) A marijuana cultivation facility located in an accessory building shall be subject to the setback provisions in KMC [14.24.020](#), development requirements table. A person or licensee seeking relief from the provisions in the development requirements table may apply for a variance subject to the provisions of KMC [14.20.180](#).
 - (j) No retail marijuana store may conduct business on, or allow any customer or consumer to access, the licensed premises between the hours of 5:00 a.m. and 8:00 a.m. daily.
- (Ords. 2870-2016, 2997-2018, 3025-2018, 3068-2019, 3088-2019)

The Kenai Municipal Code is current through Ordinance 3243-2021, passed September 15, 2021.

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**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(I)(5).
8. Pursuant to KMC 14.20.150(I)(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 of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

STAFF REPORT

TO: Planning and Zoning Commission
FROM: Ryan Foster, Planning Director
DATE: December 14, 2021
SUBJECT: PZ2021-44 – CUP – Standard Marijuana Cultivation Facility

Applicant: Nicholas Mann
140 Bidarka Street #1342
Kenai, Alaska 99611

Legal Description: Lot 1, Yragui Subdivision

Property Address: 8847 Kenai Spur Highway

KPB Parcel No: 04510012

Lot Size: 1.58 Acres (68,824 square feet)

Existing Zoning: General Commercial

Current Land Use: General Commercial

Land Use Plan: Central Commercial

GENERAL INFORMATION

The applicant, Nicholas Mann, has submitted a conditional use permit application for a Standard Marijuana Cultivation Facility at 8847 Kenai Spur Highway. Per Kenai Municipal Code 14.22.010 Land use table, a Standard Marijuana Cultivation Facility use requires a conditional use permit in the General Commercial zoning district.

Application, Public Notice, Public Comment

Pursuant to Kenai Municipal Code 14.20.330(c) notices of the public hearing for the conditional use were mailed to property owners within a five hundred-foot (500') periphery of the subject property. City staff published notice of the public hearing in the *Peninsula Clarion*. The applicant submitted an Affidavit of Posting verifying a sign was placed on the parcel with information on the public hearing for the conditional use request.

ANALYSIS

KMC14.20.330 – Standards for Commercial Marijuana Establishments

The purpose of KMC14.20.330 is to establish general standards for commercial marijuana establishments.

f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:

- (1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (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

There are no primary or secondary schools (institutional land use) within 1,000 feet of the subject property. There are no institutional land uses within 500 feet of the subject property. See attached Power Point presentation with the 500 foot buffer map with list of land use type and 1,000 foot buffer map with list of land use type.

Recommended condition #4 states that “Standards for commercial marijuana establishments per KMC14.20.330 must be maintained.”

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

Pursuant to KMC 14.20.150(a), the intent of a conditional use permit is to allow some uses that may be compatible with the designated principal uses in specific zoning districts provided certain conditions are met. KMC 14.20.150(e)-Conditional Use Permits Review Criteria states six conditions that the Planning and Zoning Commission must deem to exist when establishing findings prior to issuing a conditional use permit:

Criteria # 1: The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district.

Applicant Response: The property is currently zoned 'General Commercial' and the use for marijuana cultivation is consistent as long as a conditional use permit is acquired (pursuant to KMC 14.20.150, as provided in the City of Kenai's Land Use Table, KMC 14.22.010, and the provisions of KMC 14.20.330).

Staff Response: 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.

Criteria #2: The economic and noneconomic value of the adjoining property and neighborhood will not be significantly impaired.

Applicant Response: I will remain compliant with KMC 14.20.330 (Standards for commercial marijuana establishments.), meaning no smell or visible sign of cultivation. In addition, we are a wholesale only business, so there will be no foot traffic or other signs of activity to adversely affect the neighborhood.

Staff Response:

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”.

Criteria #3: The proposed use is in harmony with the Comprehensive Plan.

Applicant Response: This conditional use will be in harmony by opening new, high paying, permanent job positions to be filled by locals. This satisfies goal 2 - Economic development. We will also be a large source of tax-revenue for the city, allowing them to pursue the other goals they have set for themselves.

Staff Response: 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.

Criteria #4: Public services and facilities are adequate to serve the proposed use.

Applicant Response: We have city water and city sewer, so the public services are more than adequate for the (approximately) two hundred gallons of water a day needed for the plants. We will only have two bathrooms and very little waste down the sewer, so the existing sewer lines will be adequate.

Staff Response: 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.

Criteria #5: The proposed use will not be harmful to the public safety, health or welfare.

Applicant Response: We will produce no waste products other than inert growing medium and mulch in the form of vegetative waste. There will be no coming and going of customers- as we are completely wholesale. Finally, there will be no odor or visual signs of the business we are undertaking inside the building.

Staff Response: 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.

Criteria # 6: Specific conditions deemed necessary.



Applicant Response: We will be installing a number of activated carbon filters to ensure that even on harvest days, the neighbors won't tell a difference from normal operations. No smell, no sound, and no adverse visuals will affect the neighbors.

Staff Response: See Conditions of Approval as set forth below.

RECOMMENDATIONS

City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (e)(1) through (e)(6) of Kenai Municipal Code 14.20.150, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, 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.

ATTACHMENTS

- A. Conditional Use Permit Application
- B. Draft Site Plan
- C. Aerial Map
- D. KMC14.20.330 Standards for commercial marijuana establishments





Conditional Use 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:	UEI JEREMY F			
Mailing Address:	130 S WILLOW ST STE 6			
City:	Kenai	State:	AK	Zip Code: 99611
Phone Number(s):	9073989081			
Email:	Jeremyuei@hotmail.com			

PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)

Name:	Nicholas F Mann			
Mailing Address:	140 Bidarka Street #1342			
City:	Kenai	State:	AK	Zip Code: 99611
Phone Number(s):	719 221 9919			
Email:	Nicholas Mann			

PROPERTY INFORMATION

Kenai Peninsula Borough Parcel # (Property Tax ID):	04510012
Physical Address:	8847 Kenai Spur Buildings F G H
Legal Description:	T 6N R 11W SEC 34 SEWARD MERIDIAN KN 2003064 YRAGUI SUB LOT 1
Zoning:	General Commercial
Acres:	1.58

CONDITIONAL USE DESCRIPTION

(Include site plan/floor plan with square footages)
(include State Business License and KPB Tax Compliance If applicable)

How is this property currently being used?	Empty Warehouse
--	-----------------

Conditional Use Requested for (attach additional sheets if necessary):

Marijuana Cultivation Facility (standard)

Explain how the conditional use is consistent with purposes and intent of the zoning district of the property:

the property is currently zoned 'General Commercial' and the use for marijuana cultivation is consistent as long as a conditional use permit is acquired (pursuant to KMC 14.20.150, as provided in the City of Kenai's Land Use Table, KMC 14.22.010, and the provisions of KMC 14.20.330).

Explain how the value of adjoining property and neighborhood will not be significantly impaired by the conditional use:

i will remain compliant with KMC 14.20.330 (Standards for commercial marijuana establishments.), meaning no smell or visible sign of cultivation. in addition, we are a wholesale only business, so there will be no foot traffic or other signs of activity to adversely affect the neighborhood.

Use of surrounding property - north:	Undeveloped land/Highway		
Use of surrounding property - south:	Residential		
Use of surrounding property - east:	Undeveloped land		
Use of surrounding property - west:	General Commercial		
Explain how the conditional use is in harmony with the City's Comprehensive Plan:			
This conditional use will be in harmony by opening new, high paying, permanent job positions to be filled by locals. this satisfies goal 2 - Economic development. We will also be a large source of tax revenue for the city, allowing them to pursue the other goals they have set for themselves.			
Are public services and facilities on the property adequate to serve the proposed conditional use?			
We have city water and city sewer, so the public services are more than adequate for the (approximately) two hundred gallons of water a day needed for the plants. We will only have two bathrooms and very little waste down the sewer, so the existing sewer lines will be adequate.			
Explain how the conditional use will not be harmful to public safety, health, or welfare:			
We will produce no waste products other than inert growing medium and mulch in the form of vegetative waste. There will be no coming and going of customers as we are completely wholesale. Finally, there will be no odor or visual signs of the business we are undertaking inside the building.			
Are there any measures with access, screening, site development, building design, or business operation that will lessen potential impacts of the conditional use to neighbors?			
we will be installing a number of activated carbon filters to ensure that even on harvest days, the neighbors wont tell a difference from normal operations. No smell, no sound and no adverse visuals will affect the neighbors.			
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.			
Signature:			Date:
Print Name:	Nicholas Mann	Title/Business:	Shackleford Investments LLC, Owner
For City Use Only		Date Application Fee Received:	
		PZ Resolution Number:	



Conditional Use Permit Application

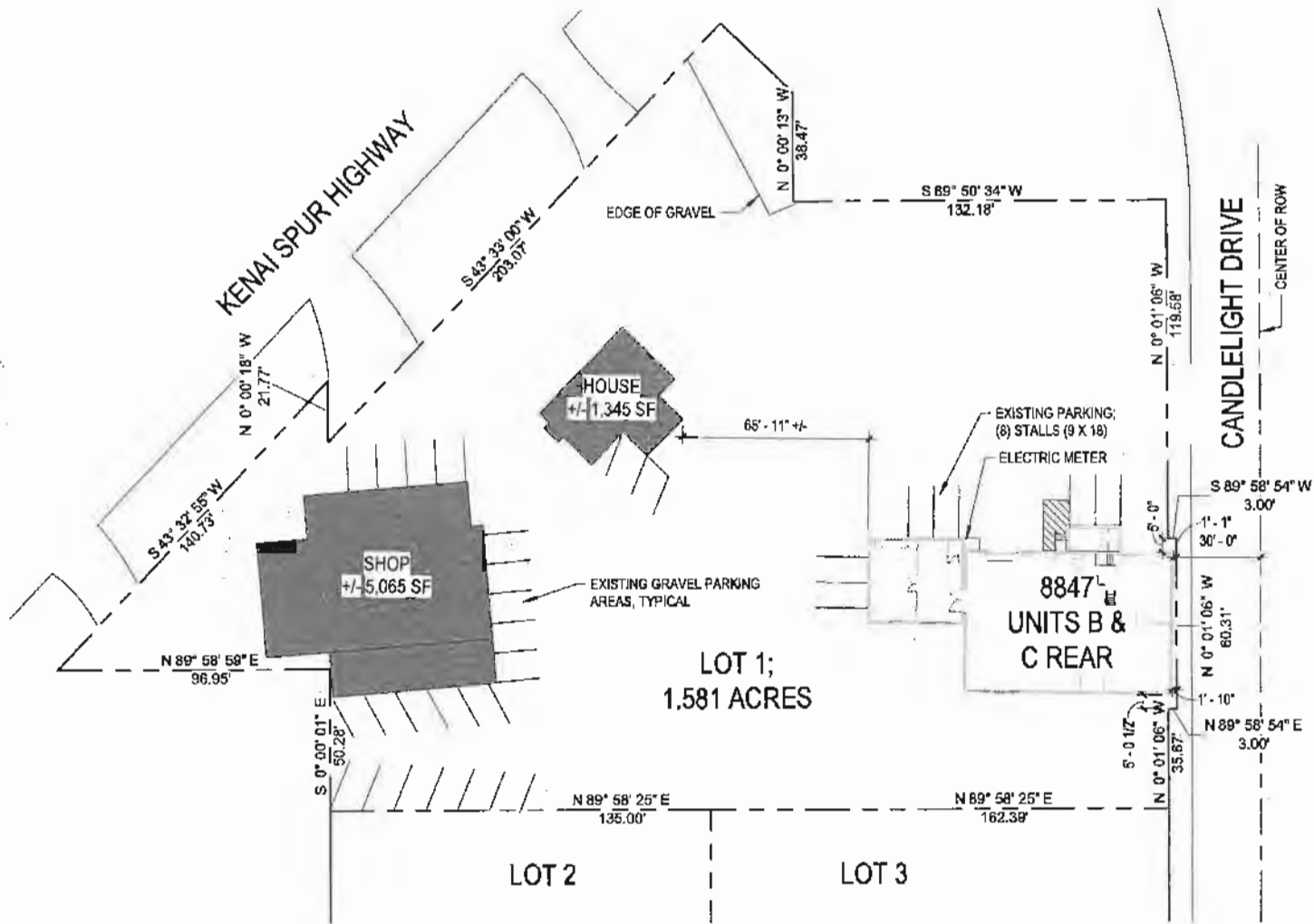
CHECKLIST

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

- Evaluate uses allowed in your zoning district. Information on zoning is available at kenai.city/planning/page/zoning.
- Submit completed application form. The application form must include an attached site plan/floor plan with square footages of all structures on the property and parking areas. If applicable, include a State Business License and a KPB Tax Compliance Form with the application.
Intents of zoning districts are at kenai.municipal.codes/KMC/14.20.
Information about the Comprehensive Plan is at kenai.city/planning/page/comprehensive-plan.
- Pay the \$265 fee as outlined in the Fee Schedule (\$250 + 6% tax).
- City staff will evaluate your application following Kenai Municipal Code 14.20.230 (kenai.municipal.codes/KMC/14.20.150). Please answer questions from City staff about your application.
- Meet with Fire Marshall for inspection of premises (if necessary).
The Fire Marshal will contact you to arrange an inspection.
- Post sign on your property and confirm the posting with the City. Planning staff will contact you and provide a sign stating a conditional use permit application has been submitted. The sign must be posted at least 10 days before the Planning & Zoning Commission meeting.
- Attend Planning & Zoning Commission meeting (not mandatory, but recommended). Attendance is beneficial so you are able to answer questions of the Commission.
- 15-day appeal period of the Planning & Zoning Commission's decision.

Thank you for choosing the City of Kenai!

Please contact the Planning & Zoning Department with application questions.



1 SITE PLAN
 1" = 40'-0"



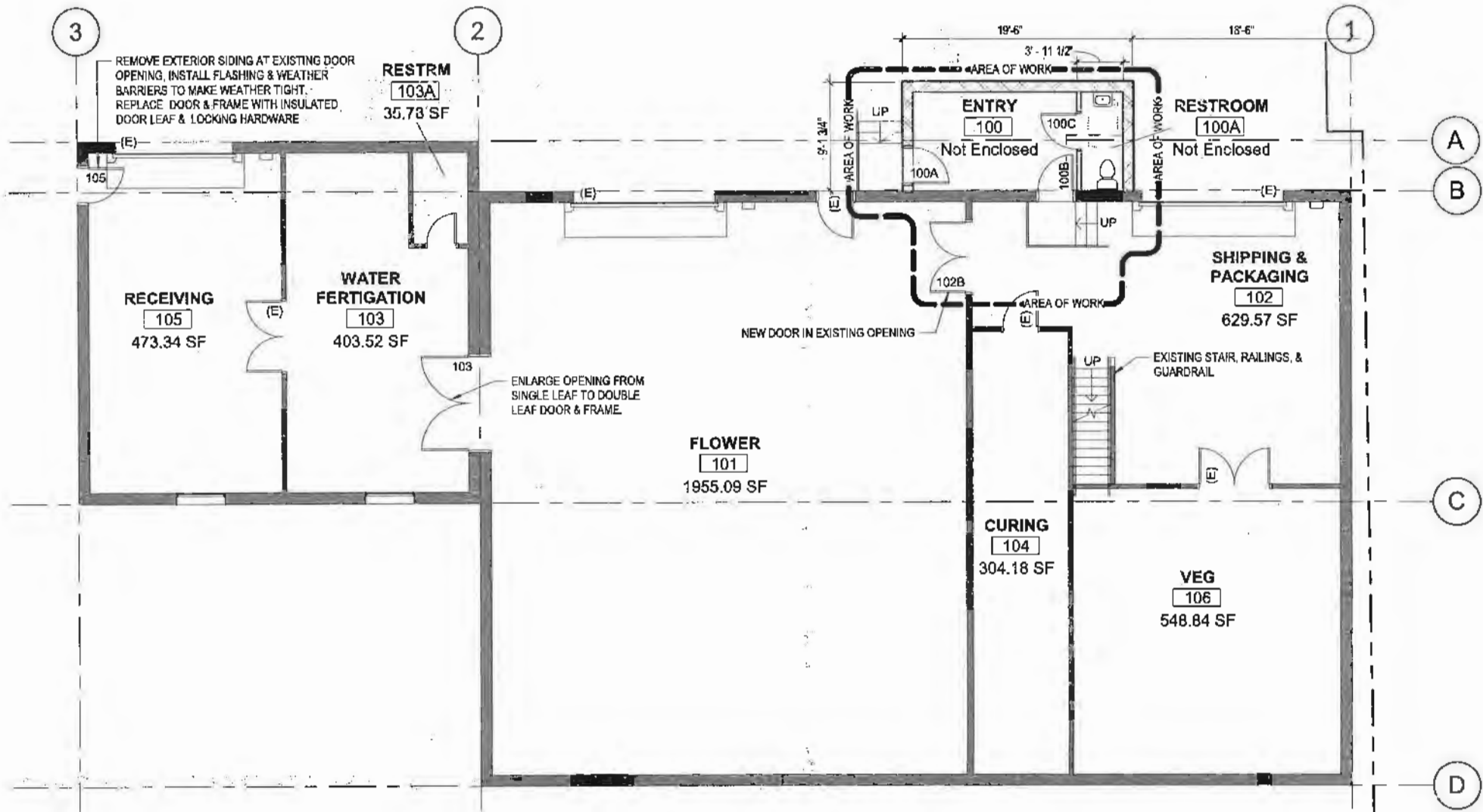
BRIAN COBB
 P.O. Box 664
 Donald, OR 97020

(b) 503.989.2992
 (f) 503.776.9013

SITE PLAN - REDUCED
ALASKA AGRIGROW TI
 8847 KENAI SPUR HWY; UNITS B & C REAR
 KENAI, AL 99611

DATE: 10/14/21
 SCALE: 1" = 40'-0"
 PROJ. NO.: 2021-08 DWN BY: BTC

A052



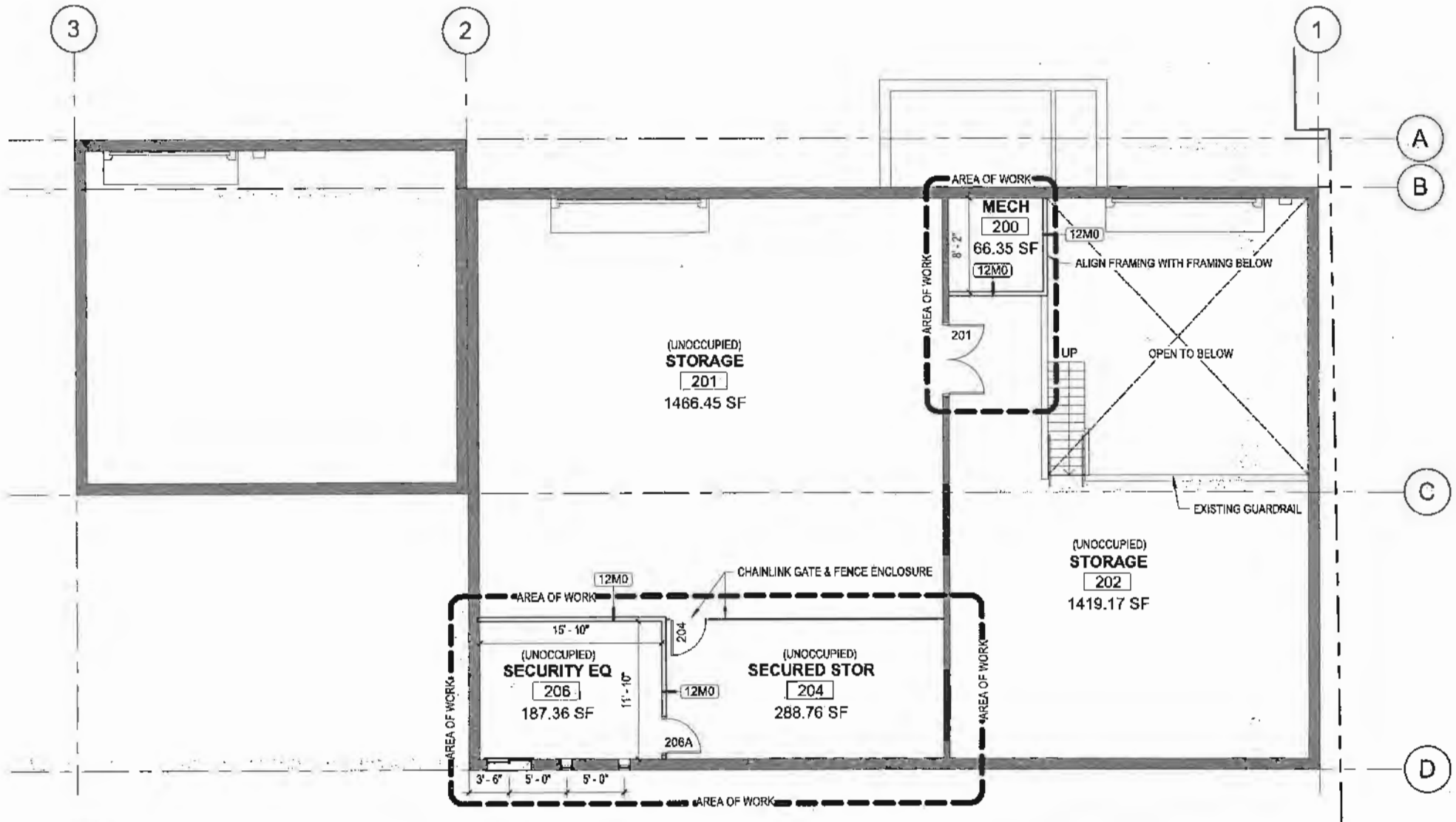
1 FLOOR PLAN - LEVEL 01
 1/8" = 1'-0"

INFINITE DESIGN
 BRIAN COBB
 P.O. Box 664
 Donald, OR 97020
 (b) 503.989.2892
 (f) 503.776.9013

FLOOR PLAN - LEVEL 1
ALASKA AGRIGROW TI
 8847 KENAI SPUR HWY, UNITS B & C REAR
 KENAI, AL 99611

DATE: 10/14/21
 SCALE: 1/8" = 1'-0"
 PROJ. NO: 2021-08 DWN BY: BTC

A101



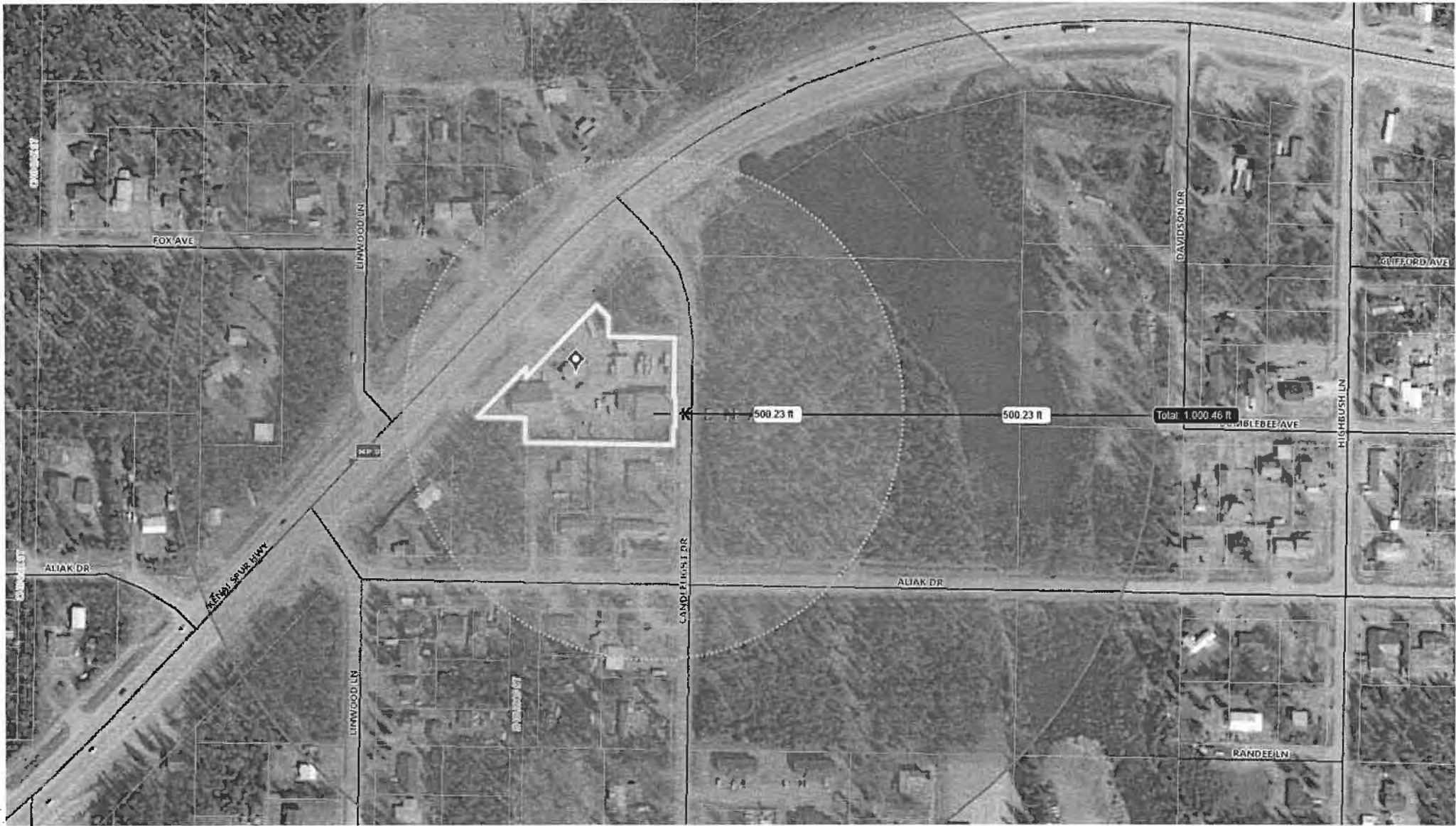
1 FLOOR PLAN - LEVEL 02
 1/8" = 1'-0"

INFINITE DESIGN
 BRIAN COBB
 P.O. Box 664
 Donald, OR 97020
 (b) 503.989.2992
 (f) 503.776.9013

FLOOR PLAN - LEVEL 2
ALASKA AGRIGROW TI
 8847 KENAI SPUR HWY; UNITS B & C REAR
 KENAI, AL 99611

DATE: 10/14/21
 SCALE: 1/8" = 1'-0"
 PROJ. NO.: 2021-08 OWN BY: BTC

A102







PZ2021-44 CUP Standard Marijuana Cultivation Facility
8847 Kenai Spur Highway



LEGEND

 Subject Parcel

0 25 50 Feet

Date: 12/14/2021



14.20.330 Standards for commercial marijuana establishments.

The purpose of this section is to establish general standards for commercial marijuana establishments.

- (a) Commercial marijuana establishments may be permitted or allowed with a conditional use permit under KMC [14.20.150](#), as provided in the City of Kenai's Land Use Table, KMC [14.22.010](#), and the provisions of this section. On-site consumption endorsements may not be approved by conditional use permit or otherwise and are not permitted within the City.
- (b) Applicants applying for a conditional use permit must include an area map drawn to scale indicating all land uses on other properties within a five hundred (500) foot proximity of the lot upon which the applicant is seeking a conditional use permit. This shall be in addition to the conditional use permit submission requirements in KMC [14.20.150](#).
- (c) A public hearing shall be scheduled before the Planning and Zoning Commission to review the conditional use permit application once it has been deemed complete. The public hearing shall be scheduled in accordance with the requirements in KMC [14.20.280](#), except that notification shall be mailed to all real property owners on record on the Borough Assessor's records within a five hundred (500) foot periphery of the parcel affected by the proposed action.
- (d) The preparation, packaging, manufacturing, processing, and storing of all marijuana, marijuana concentrate or marijuana products must be conducted within a fully enclosed, secure indoor facility. The growing and cultivating of marijuana must be conducted within a fully enclosed, secure indoor facility or greenhouse with view-obscuring rigid walls, a roof and doors, unless a nonrigid greenhouse, or other structure, is specifically approved, in which case the cultivation must be enclosed by a sight-obscuring wall or fence at least six (6) feet high.
- (e) All commercial marijuana establishments shall not emit an odor that is detectable by the public from outside the commercial marijuana establishment.
- (f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:
 - (1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (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, or a substance abuse treatment facility providing substance abuse treatment.

- (g) As provided in the Land Use Table, a person or licensee may apply for a conditional use permit to allow for a marijuana cultivation facility, standard, on lots of forty thousand (40,000) square feet or greater in size, and a marijuana cultivation facility, limited, on any size lot.
- (h) A marijuana cultivation facility, standard, or a marijuana cultivation facility, limited, shall only be allowed on a lot which has an existing structure consistent with a principal permitted use.
- (i) A marijuana cultivation facility located in an accessory building shall be subject to the setback provisions in KMC [14.24.020](#), development requirements table. A person or licensee seeking relief from the provisions in the development requirements table may apply for a variance subject to the provisions of KMC [14.20.180](#).
- (j) No retail marijuana store may conduct business on, or allow any customer or consumer to access, the licensed premises between the hours of 5:00 a.m. and 8:00 a.m. daily.

(Ords. 2870-2016, 2997-2018, 3025-2018, 3068-2019, 3088-2019)

The Kenai Municipal Code is current through Ordinance 3243-2021, passed September 15, 2021.

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

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City Telephone: (907) 283-7535

[Code Publishing Company](#)

PLANNING & ZONING COMMISSION

Resolution PZ2021-44 – Conditional Use Permit – Standard Marijuana Cultivation
Facility

8847 Kenai Spur Highway

SUMMARY

Applicant: Nicholas Mann
140 Bidarka Street #1342
Kenai, Alaska 99611

Legal Description: Lot 1, Yragui Subdivision

Property Address: 8847 Kenai Spur Highway

KPB Parcel No: 04510012

Lot Size: 1.58 Acres (68,824 square feet)

Existing Zoning: General Commercial

Current Land Use: General Commercial

Land Use Plan: Central Commercial



PZ2021-44 CUP Standard Marijuana Cultivation Facility
8847 Kenai Spur Highway

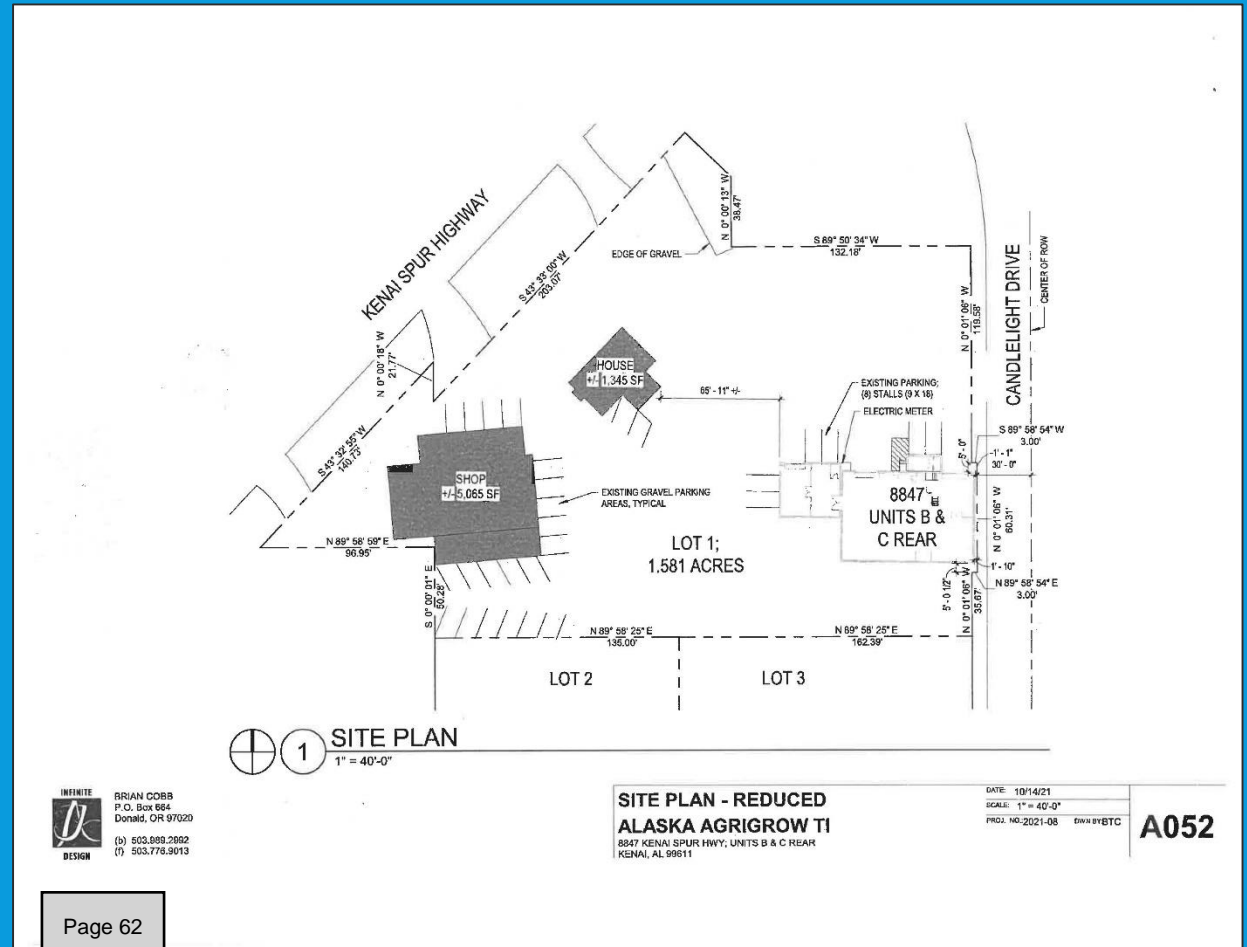


SUMMARY

- The applicant, Nicholas Mann, has submitted a conditional use permit application for a Standard Marijuana Cultivation Facility at 8847 Kenai Spur Highway.
- Per Kenai Municipal Code 14.22.010 Land use table, a Standard Marijuana Cultivation Facility use requires a conditional use permit in the General Commercial zoning district.

SITE PLAN

- Site plan of 8847 Kenai Spur Highway



STAFF ANALYSIS

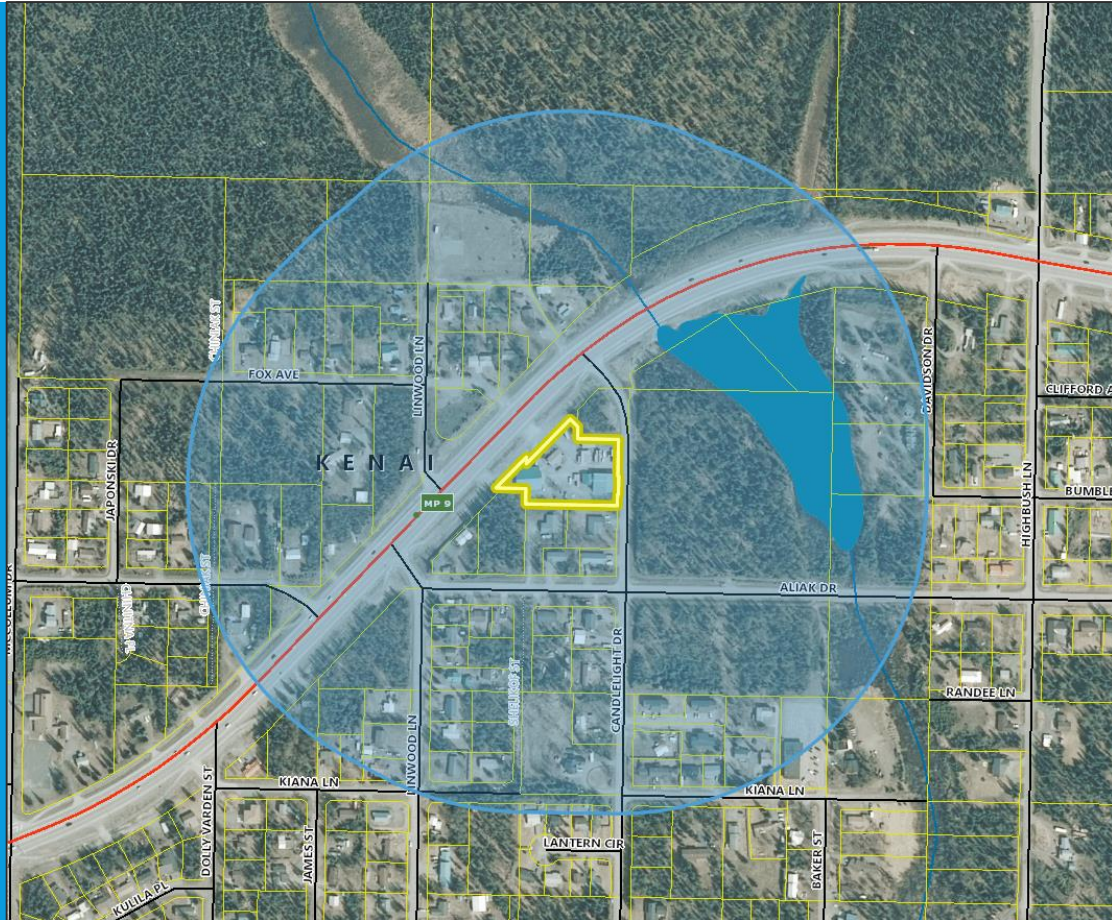
- KMC14.20.330 – Standards for Commercial Marijuana Establishments
- The purpose of KMC14.20.330 is to establish general standards for commercial marijuana establishments.
 - There are no primary or secondary schools (institutional land use) within 1,000 feet of the subject property.
 - There are no institutional land uses within 500 feet of the subject property.
- Recommended condition #4 states that “Standards for commercial marijuana establishments per KMC14.20.330 must be maintained.”

500 FOOT BUFFER MAP



Parcel ID	Own Type	Use Type	Physical Addresses
04507015	Private	Residential	1111 FOX AVE
04508001	Private	Residential	716 LINWOOD LN
04508002	Private	Vacant	8752 KENAI SPUR HWY
04508013	Private	Residential	710 LINWOOD LN
04508014	Private	Residential	712 LINWOOD LN
04508015	Private	Residential	714 LINWOOD LN
04508016	Private	Residential	8816 KENAI SPUR HWY
04508017	Private	Residential	8748 KENAI SPUR HWY
04508018	Private	Residential	706 LINWOOD LN
04508019	Private	Residential	8880 KENAI SPUR HWY
04508020	Private	Residential	8848 KENAI SPUR HWY
04508021	Private	Vacant	8912 KENAI SPUR HWY
04508022	Private	Vacant	8719 KENAI SPUR HWY
04509005	Private	Residential	8984 KENAI SPUR HWY
04509006	Private	Vacant	601 LINWOOD LN
04509034	Private	Residential	1106 FOX AVE
04510003	State	Vacant	
04510007	State	Vacant	502 CANDLELIGHT DR
04510012	Private	Commercial	8847 KENAI SPUR HWY
04510014	Private	Residential	503 CANDLELIGHT DR
04510016	Private	Residential	1209 ALIAK DR
04510017	Private	Residential	1211 ALIAK DR
04510018	Private	Residential	1213 ALIAK DR
04510019	Private	Residential	1203 ALIAK DR
04510020	Private	Commercial	1205 ALIAK DR
04511012	Private	Vacant	9007 KENAI SPUR HWY
04512003	State	Vacant	410 CANDLELIGHT DR
04512020	Private	Vacant	408 SHELKOF ST
04512021	Private	Residential	1212 ALIAK DR
04512022	Private	Residential	411 CANDLELIGHT DR
04512023	Private	Residential	407 CANDLELIGHT DR
04512029	Private	Residential	412 LINWOOD LN
04512030	Private	Residential	1204 ALIAK DR
04512031	Private	Residential	1206 ALIAK DR
04512032	Private	Vacant	409 SHELKOF ST
04512033	Private	Residential	408 LINWOOD LN
04512034	Private	Residential	410 LINWOOD LN

1,000 FOOT BUFFER MAP



Parcel ID	Own Type	Use Type	Physical Addresses
04501011	State	Vacant	
04501012	Borough	Vacant	
04507001	Private	Accessory Building	702 MCCOLLUM DR
04507002	Private	Vacant	716 CHINIYAK ST
04507003	Native	Vacant	715 LINWOOD LN
04507008	Private	Residential	1101 FOX AVE
04507009	Private	Vacant	706 CHINIYAK ST
04507010	Private	Residential	1103 FOX AVE
04507011	Private	Residential	1105 FOX AVE
04507012	Private	Residential	711 LINWOOD LN
04507013	Private	Residential	1107 FOX AVE
04507014	Private	Vacant	1109 FOX AVE
04507015	Private	Residential	1111 FOX AVE
04508001	Private	Residential	716 LINWOOD LN
04508002	Private	Vacant	8752 KENAI SPUR HWY
04508007	Borough	Vacant	8688 KENAI SPUR HWY
04508013	Private	Residential	710 LINWOOD LN
04508014	Private	Residential	712 LINWOOD LN
04508015	Private	Residential	714 LINWOOD LN
04508016	Private	Residential	8816 KENAI SPUR HWY
04508017	Private	Residential	8748 KENAI SPUR HWY
04508018	Private	Residential	706 LINWOOD LN
04508019	Private	Residential	8880 KENAI SPUR HWY
04508020	Private	Residential	8848 KENAI SPUR HWY
04508021	Private	Vacant	8912 KENAI SPUR HWY
04508022	Private	Vacant	8719 KENAI SPUR HWY
04508023	Private	Vacant	8715 KENAI SPUR HWY
04509002	Private	Vacant	602 JAPONSKI DR
04509003	Private	Residential	1104 FOX AVE
04509005	Private	Residential	8984 KENAI SPUR HWY
04509006	Private	Vacant	601 LINWOOD LN
04509016	Private	Residential	1009 ALIAK DR
04509024	Private	Residential	1103 ALIAK DR
04509025	Private	Residential	1105 ALIAK DR
04509034	Private	Residential	1106 FOX AVE
04510003	State	Vacant	
04510007	State	Vacant	502 CANDLELIGHT DR
04510012	Private	Commercial	8847 KENAI SPUR HWY
04510014	Private	Residential	503 CANDLELIGHT DR
04510016	Private	Residential	1209 ALIAK DR
04510017	Private	Residential	1211 ALIAK DR
04510018	Private	Residential	1213 ALIAK DR
04510019	Private	Residential	1203 ALIAK DR
04510020	Private	Commercial	1205 ALIAK DR
04511008	Private	Residential	9072 KENAI SPUR HWY
04511010	Private	Vacant	9040 KENAI SPUR HWY

04511011	Private	Residential	9057 KENAI SPUR HWY
04511012	Private	Vacant	9007 KENAI SPUR HWY
04511014	Private	Residential	407 LINWOOD LN
04511015	Private	Residential	403 LINWOOD LN
04511016	Private	Residential	401 LINWOOD LN
04511017	Private	Vacant	9025 KENAI SPUR HWY
04511027	Private	Residential	1111 KIANA LN
04511028	Private	Residential	1109 KIANA LN
04512003	State	Vacant	410 CANDLELIGHT DR
04512005	Private	Residential	405 CANDLELIGHT DR
04512006	Private	Residential	401 CANDLELIGHT DR
04512011	Private	Residential	408 LINWOOD LN, 408 LINWOOD LN
04512011	Private	Residential	408 LINWOOD LN, 408 LINWOOD LN
04512014	Private	Residential	402 LINWOOD LN
04512015	Private	Residential	404 LINWOOD LN
04512016	Private	Residential	406 LINWOOD LN
04512017	Borough	Vacant	405 SHELKOF ST
04512018	Borough	Vacant	403 SHELKOF ST
04512019	Private	Residential	1203 KIANA LN
04512020	Private	Vacant	408 SHELKOF ST
04512021	Private	Residential	1212 ALIAK DR
04512022	Private	Residential	411 CANDLELIGHT DR
04512023	Private	Residential	407 CANDLELIGHT DR
04512025	Private	Institutional	1311 KIANA LN
04512029	Private	Residential	412 LINWOOD LN
04512030	Private	Residential	1204 ALIAK DR
04512031	Private	Residential	1206 ALIAK DR
04512032	Private	Vacant	409 SHELKOF ST
04512033	Private	Residential	408 LINWOOD LN
04512034	Private	Residential	410 LINWOOD LN
04512035	Private	Residential	408 CANDLELIGHT DR
04512036	Private	Residential	406 CANDLELIGHT DR
04512037	Private	Residential	404 CANDLELIGHT DR
04512038	Private	Residential	402 CANDLELIGHT DR
04512039	Private	Residential	1301 KIANA LN
04512040	Private	Residential	1303 KIANA LN
04512041	Private	Residential	1305 KIANA LN
04512042	Private	Residential	1307 KIANA LN
04512043	Private	Residential	1309 KIANA LN
04514003	Private	Vacant	1204 KIANA LN
04514027	Private	Residential	316 LINWOOD LN
04514031	Private	Residential	324 LANTERN CIR
04514032	Private	Residential	322 LANTERN CIR
04514033	Private	Residential	320 LANTERN CIR
04514034	Private	Residential	318 LANTERN CIR
04514041	Private	Vacant	1302 KIANA LN
04514042	Private	Residential	1304 KIANA LN
04519051	Private	Accessory Building	703 DAVIDSON DR
04519052	Private	Accessory Building	701 DAVIDSON DR
04519053	Private	Residential	601 DAVIDSON DR
04521001	Native	Vacant	1506 ALIAK DR
04521009	Private	Residential	1501 KIANA LN

STAFF ANALYSIS

- Kenai Municipal Code 14.20.150(e) – Review Criteria for Conditional Use Permits
- Pursuant to KMC 14.20.150(a), the intent of a conditional use permit is to allow some uses that may be compatible with the designated principal uses in specific zoning districts provided certain conditions are met. KMC 14.20.150(e)- Conditional Use Permits Review Criteria states six conditions that the Planning and Zoning Commission must deem to exist when establishing findings prior to issuing a conditional use permit:

REVIEW CRITERIA

- *Criteria #1: The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district.*
- *Criteria #2: The economic and noneconomic value of the adjoining property and neighborhood will not be significantly impaired.*
- *Criteria #3: The proposed use is in harmony with the Comprehensive Plan.*
- *Criteria #4: Public services and facilities are adequate to serve the proposed use.*
- *Criteria #5: The proposed use will not be harmful to the public safety, health or welfare.*
- *Criteria #6: Specific conditions deemed necessary.*

RECOMMENDATIONS

- City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (e)(1) through (e)(6) of Kenai Municipal Code 14.20.150, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, 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.

RECOMMENDATIONS CONTINUED

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.

ATTACHMENTS

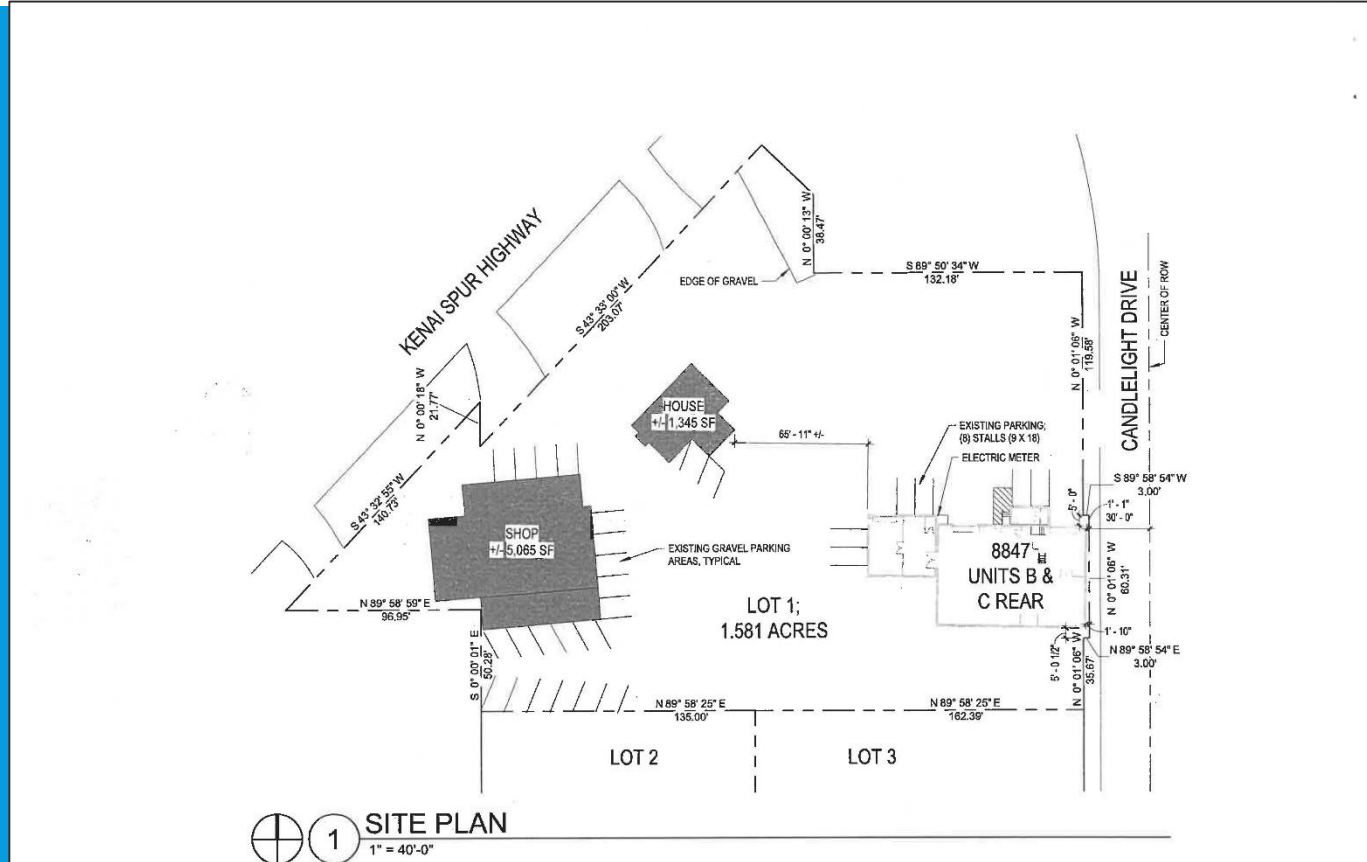
- A. Application
- B. Draft Site Plan
- C. Aerial Map
- D. KMC14.20.330 Standards for commercial marijuana establishments

A. APPLICATION

		Conditional Use Permit Application		City of Kenai Planning and Zoning Department 210 Edalga Avenue Kenai, AK 99511 (907) 283-8200 planning@kenai.city www.kenai.city/planning	
		PROPERTY OWNER			
Name:	UEI JEREMY F				
Mailing Address:	130 S WILLOW ST STE 6				
City:	Kenai	State:	AK	Zip Code:	99611
Phone Number(s):	9073889081				
Email:	Jeremyuei@hotmail.com				
PETITIONER REPRESENTATIVE (LEAVE BLANK IF NONE)					
Name:	Nicholas F Mann				
Mailing Address:	140 Bidarka Street #1342				
City:	Kenai	State:	AK	Zip Code:	99611
Phone Number(s):	719 221 9919				
Email:	Nicholas Mann				
PROPERTY INFORMATION					
Kenai Peninsula Borough Parcel # (Property Tax ID):	04510012				
Physical Address:	8847 Kenai Spur Buildings F G H				
Legal Description:	T 8N R 11W SEC 34 SEWARD MERIDIAN KN 2003064 YRAGUI SUB LOT 1				
Zoning:	General Commercial				
Acres:	1.58				
CONDITIONAL USE DESCRIPTION (include site plan/floor plan with square footages) (include State Business License and KPB Tax Compliance if applicable)					
How is this property currently being used?	Empty Warehouse				
Conditional Use Requested for (attach additional sheets if necessary):	Marijuana Cultivation Facility (standard)				
Explain how the conditional use is consistent with purposes and intent of the zoning district of the property:					
the property is currently zoned 'General Commercial' and the use for marijuana cultivation is consistent as long as a conditional use permit is acquired (pursuant to KMC 14.20.150, as provided in the City of Kenai's Land Use Table, KMC 14.22.010, and the provisions of KMC 14.20.330).					
Explain how the value of adjoining property and neighborhood will not be significantly impaired by the conditional use:					
I will remain compliant with KMC 14.20.330 (Standards for commercial marijuana establishments.), meaning no smell or visible sign of cultivation. in addition, we are a wholesale only business, so there will be no foot traffic or other signs of activity to adversely affect the neighborhood.					

Use of surrounding property - north:	Undeveloped land/Highway		
Use of surrounding property - south:	Residential		
Use of surrounding property - east:	Undeveloped land		
Use of surrounding property - west:	General Commercial		
Explain how the conditional use is in harmony with the City's Comprehensive Plan:			
This conditional use will be in harmony by opening new, high paying, permanent job positions to be filled by locals. this satisfies goal 2 - Economic development. We will also be a large source of tax revenue for the city, allowing them to pursue the other goals they have set for themselves.			
Are public services and facilities on the property adequate to serve the proposed conditional use?			
We have city water and city sewer, so the public services are more than adequate for the (approximately) two hundred gallons of water a day needed for the plants. We will only have two bathrooms and very little waste down the sewer, so the existing sewer lines will be adequate.			
Explain how the conditional use will not be harmful to public safety, health, or welfare:			
We will produce no waste products other than inert growing medium and mulch in the form of vegetative waste. There will be no coming and going of customers as we are completely wholesale. Finally, there will be no odor or visual signs of the business we are undertaking inside the building.			
Are there any measures with access, screening, site development, building design, or business operation that will lessen potential impacts of the conditional use to neighbors?			
we will be installing a number of activated carbon filters to ensure that even on harvest days, the neighbors wont tell a difference from normal operations. No smell, no sound and no adverse visuals will affect the neighbors.			
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.			
Signature:			Date:
Print Name:	Nicholas Mann	Title/Business:	Shackleford Investments LLC, Owner
For City Use Only		Date Application Fee Received: PZ Resolution Number:	

B. SITE PLAN



1 SITE PLAN
1" = 40'-0"

INFINITE DESIGN
BRIAN COBB
P.O. Box 864
Donald, OR 97020
(503) 989-2992
(503) 776-9013

SITE PLAN - REDUCED
ALASKA AGRIGROW TI
UR HWY; UNITS B & C REAR

DATE: 10/14/21
SCALE: 1" = 40'-0"
PROJ. NO.: 2021-08 DWN BY: BTC

A052

C. AERIAL MAP



PZ2021-44 CUP Standard Marijuana Cultivation Facility
8847 Kenal Spur Highway



D. KMC14.20.330 STANDARDS FOR COMMERCIAL MARIJUANA ESTABLISHMENTS

14.20.330 Standards for commercial marijuana establishments.

The purpose of this section is to establish general standards for commercial marijuana establishments.

- (a) Commercial marijuana establishments may be permitted or allowed with a conditional use permit under KMC [14.20.150](#), as provided in the City of Kena's Land Use Table, KMC [14.22.010](#), and the provisions of this section. On-site consumption endorsements may not be approved by conditional use permit or otherwise and are not permitted within the City.
- (b) Applicants applying for a conditional use permit must include an area map drawn to scale indicating all land uses on other properties within a five hundred (500) foot proximity of the lot upon which the applicant is seeking a conditional use permit. This shall be in addition to the conditional use permit submission requirements in KMC [14.20.150](#).
- (c) A public hearing shall be scheduled before the Planning and Zoning Commission to review the conditional use permit application once it has been deemed complete. The public hearing shall be scheduled in accordance with the requirements in KMC [14.20.280](#), except that notification shall be mailed to all real property owners on record on the Borough Assessor's records within a five hundred (500) foot periphery of the parcel affected by the proposed action.
- (d) The preparation, packaging, manufacturing, processing, and storing of all marijuana, marijuana concentrate or marijuana products must be conducted within a fully enclosed, secure indoor facility. The growing and cultivating of marijuana must be conducted within a fully enclosed, secure indoor facility or greenhouse with view-obscuring rigid walls, a roof and doors, unless a nonrigid greenhouse, or other structure, is specifically approved, in which case the cultivation must be enclosed by a sight-obscuring wall or fence at least six (6) feet high.
- (e) All commercial marijuana establishments shall not emit an odor that is detectable by the public from outside the commercial marijuana establishment.
- (f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:
 - (1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (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, or a substance abuse treatment facility providing substance abuse treatment.

- (g) As provided in the Land Use Table, a person or licensee may apply for a conditional use permit to allow for a marijuana cultivation facility, standard, on lots of forty thousand (40,000) square feet or greater in size, and a marijuana cultivation facility, limited, on any size lot.
- (h) A marijuana cultivation facility, standard, or a marijuana cultivation facility, limited, shall only be allowed on a lot which has an existing structure consistent with a principal permitted use.
- (i) A marijuana cultivation facility located in an accessory building shall be subject to the setback provisions in KMC [14.24.020](#), development requirements table. A person or licensee seeking relief from the provisions in the development requirements table may apply for a variance subject to the provisions of KMC [14.20.180](#).
- (j) No retail marijuana store may conduct business on, or allow any customer or consumer to access, the licensed premises between the hours of 5:00 a.m. and 8:00 a.m. daily.

(Ords. 2870-2016, 2997-2018, 3025-2018, 3068-2019, 3088-2019)

The Kenai Municipal Code is current through Ordinance 3243-2021, passed September 15, 2021.

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

Note: This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

City Website: www.kenai.city
City Telephone: (907) 283-7535
Code Publishing Company



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 2021-39**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THE COUNCIL OF THE CITY OF KENAI APPROVE AND ADOPT THE CITY OF KENAI LAND MANAGEMENT PLAN

WHEREAS, in 2018, City Council approved a City-wide approach to land management through the development of the City's first Land Management Plan; and

WHEREAS, the City of Kenai Imagine Kenai 2030 Comprehensive Plan includes economic development and land use goals and objectives to develop a land inventory and land use strategies to implement a forward-looking approach to community growth and development; and,

WHEREAS, the City owns 369 subdivided parcels, including wetlands, tidelands, lands surrounding the Kenai Airport, and lands suitable for a variety of business, commercial, industrial, residential, recreational, and cultural purposes; and

WHEREAS, the Planning and Zoning Commission of the City of Kenai and Planning Staff has received numerous comments and input regarding the draft City of Kenai Land Management Plan; and,

WHEREAS, the Planning and Zoning Commission of the City of Kenai considered public comments and made changes to the draft City of Kenai Land Management Plan based on those comments; and,

WHEREAS, City Staff held a public meeting on October 11, 2021, and scheduled public meetings for Commissions on November 4, 2021 November 8, 2021, and November 9, 2021 to receive public comments and discuss the City of Kenai Land Management Plan; and,

WHEREAS, City Staff created an electronic comment form available on the City website to receive public comments on the City of Kenai Land Management Plan; and,

WHEREAS, the Planning and Zoning Commission held a Public Hearing on October 27, 2021 and recommended that the Council of the City of Kenai approve the City of Kenai Land Management Plan.

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

Section 1. The Draft of the City of Kenai Land Management Plan is hereby approved and adopted as the City of Kenai Land Management Plan.

Section 2. That a copy of Resolution PZ2021-39 be forwarded to the Kenai City Council.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,
this 27th day of October, 2021.

JEFF TWAIT, CHAIRPERSON

ATTEST:

JAMIE HEINZ, CITY CLERK

DRAFT



KENAI

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

MEMORANDUM

TO: Planning and Zoning Commission
FROM: Ryan Foster, Planning Director
DATE: October 22, 2021
SUBJECT: **Resolution PZ2021-39 – Recommending the Kenai City Council approve and adopt the City of Kenai Land Management Plan**

In 2018, City Council approved a City-wide approach to land management through the development of the City's first Land Management Plan. Since that time, Administration has worked diligently to draft a Land Management Plan to inventory, evaluate, and develop recommendations related to City-owned lands.

The City of Kenai Imagine Kenai 2030 Comprehensive Plan includes economic development and land use goals and objectives to develop a land inventory and land use strategies to implement a forward-looking approach to community growth and development. The goals of the Land Management Plan incorporate many of these objectives and include the following:

- Provide an inventory of City-owned lands with detailed information on each parcel.
- Identify properties required for a public purpose or to meet a future public need.
- Establish recommendations for individual parcels that are surplus to the needs of the City to assist in responsible development.
- Create a comprehensive reference document that establishes a format for developing land management policies and procedures.

One of the City's greatest assets is its land inventory. The City owns 369 subdivided parcels, including wetlands, tidelands, lands surrounding the Kenai Airport, and lands suitable for a variety of business, commercial, industrial, residential, recreational, and cultural purposes. The Land Management Plan is an important tool to spur economic growth and improve the quality of life for Kenai residents and is key to the long-term viability of the City.

On October 11, 2021 there was a joint work session with City Council and City Commission Members to kick-off the review, discussion, and comment on the draft City of Kenai Land Management Plan. In addition to additional meeting(s) with the Planning and Zoning Commission, staff have scheduled presentations with the Airport Commission, Parks and Recreation Commission, Beautification Committee, and Harbor Commission to solicit discussion and comments on the draft Land Management Plan.

Please review the attached materials.

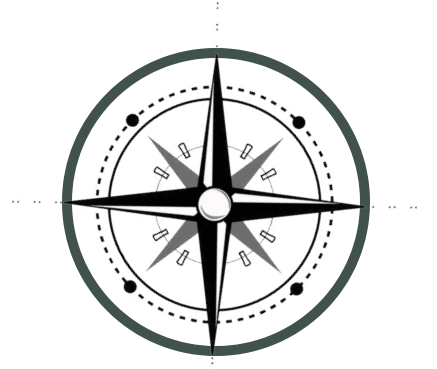
Does the Commission recommend Council approve and adopt the City of Kenai Land Management Plan?

Attachments

October 11, 2021 Joint Work Session Presentation

Draft City of Kenai Land Management Plan





CITY OF KENAI LAND MANAGEMENT PLAN



WHAT IS OUR "WHY"

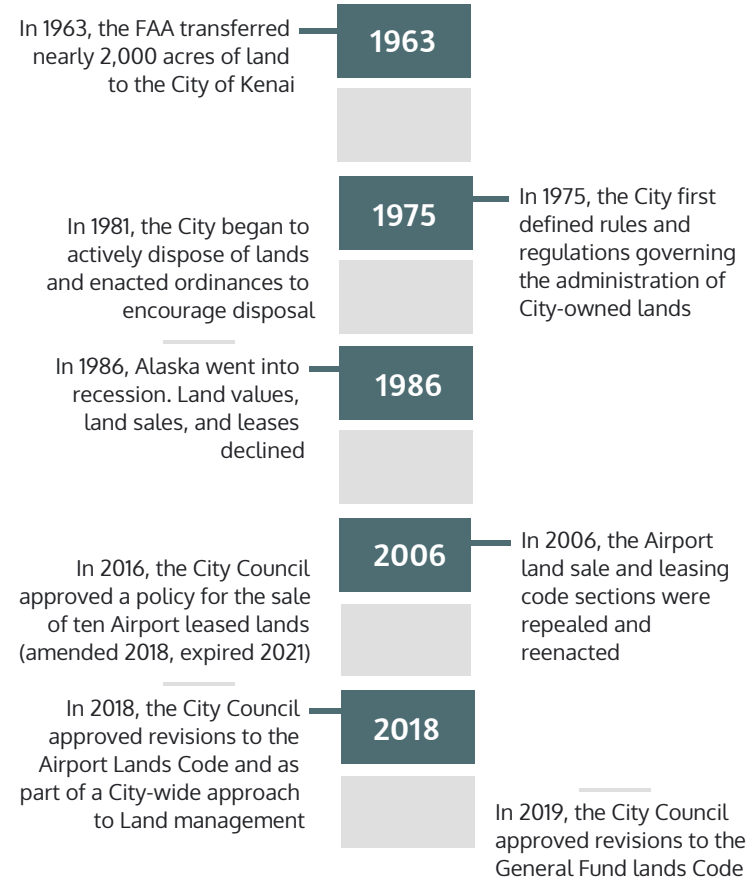
The purpose of the **Land Management Plan** is to evaluate and develop recommendations related to City-owned lands that **encourage responsible growth and development** to support a thriving business, residential, recreational and cultural community.



Background



In 2018, the Kenai City Council approved land code revisions as part of a **City-wide approach** to land management through development of the City's first Land Management Plan.



The City is unique in its ownership of a large and diverse amount of public land



5,440 Acres of Land

369 Subdivided parcels

The equivalent of 4,114 Football Fields
(with endzones)

Approximately 8.5 square
miles, roughly the size of
Soldotna.

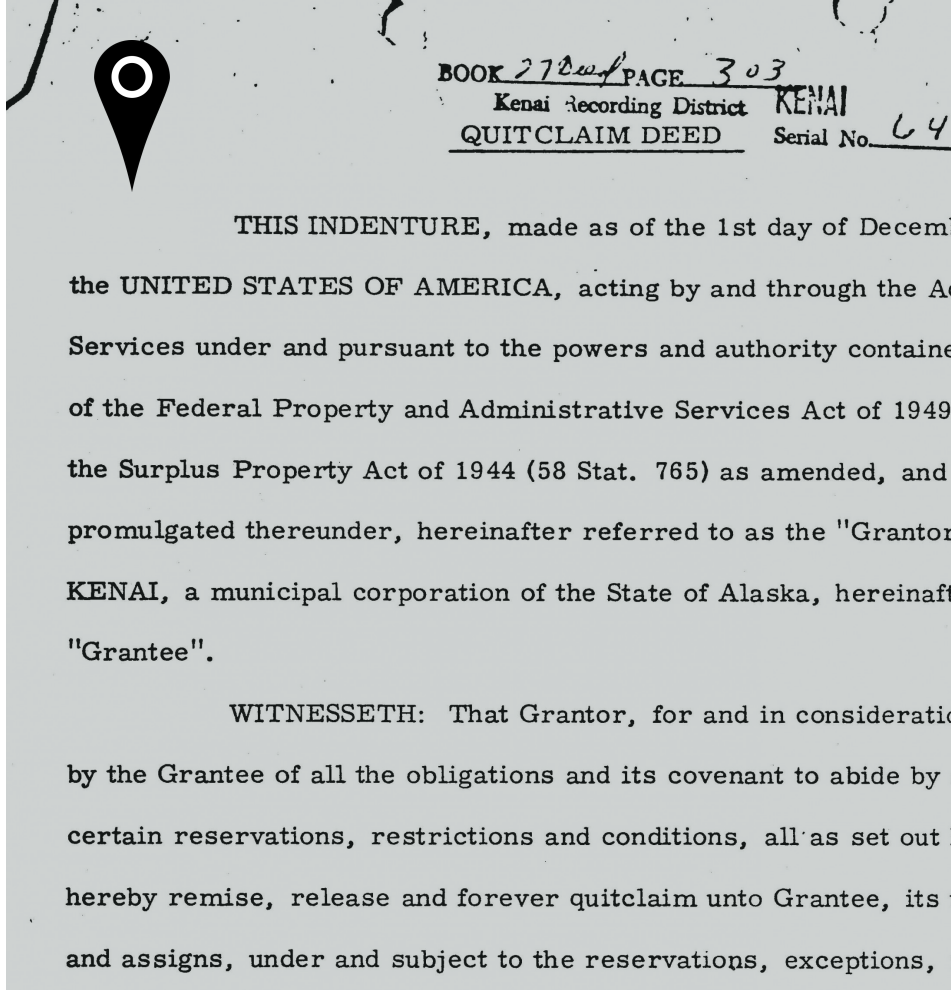


A SIGNIFIGANT UNDERTAKING

A Land Management Plan provides an active approach to management that requires an inventory of land holdings and a comprehensive evaluation and analysis of each parcel.

In 2018, the City hired a **Temporary Lands Technician** to research each parcel of City-owned land and enter the information into a new Lands Database.

Over 567 recorded documents were reviewed and scanned into the database as part of this project



New City Lands Inventory and Database



An examination of public records and mapping was performed for **each City-owned parcel** to review and record detailed information in the database, including:

- Property Description (e.g. physical characteristics, zoning, land use)
- Facilities (e.g. parks, trails, structures, utilities)
- Status (e.g. public use, under active lease, availability for lease or sale)
- Fund (e.g. Airport Fund or General Fund)
- How the land was obtained (e.g. State, FAA, Municipal Entitlement, tax foreclosure)
- Encumbrances (e.g. easements, restrictions)



Land Management Plan Objectives



- Provide an **inventory** of City-owned lands with detailed information on each parcel
- Identify properties required for a **public purpose** or to meet a future public need
- Establish **recommendations** for individual parcels that are surplus to the needs of the City to assist in responsible development.
- Create a **comprehensive reference document** that establishes a format for developing land management policies and procedures.



IMPROVED RESPONSE TO PUBLIC

The Land Management Plan can be used to actively manage City-owned lands in a wholistic way as well as provide better information to the public.

In the future, we hope to make the Plan available on the City's **interactive online mapping** tool, allowing the public to research City-owned lands from anywhere.



BEFORE

No Public Inventory of City-owned Lands

A member of the public must identify a parcel of interest

No Individual Parcel Information on File

City staff must research to determine if a parcel has conveyance or legislative restrictions

No Guidance or Planning Documents

Administration provides recommendation on case-by-case basis

VS.

AFTER

Public Listing of City-owned Lands

Available listing on City website and at City Hall

Individual Parcel Information Available

A member of the public can immediately know if a parcel has been designated for lease or sale

Land Management Plan

Provides guidance and direction to Administration on the management of City-owned lands



Land Statistics

Approximately 1,613 acres or 129 parcels of City-owned lands are designated as **Airport Fund**



Parcels of City-owned Land are designated as "Airport Fund"

35%

AIRPORT FUND
PARCELS CURRENTLY
UNDER LEASE

The City will generate **\$512,255** from 46 leases of land designated as Airport Fund in **FY22**, not including apron, airline, or terminal leases

Recommendations for **Airport Fund** Parcels Based on the Final Draft Land Management Plan:

- 19** PARCELS RECOMMENDED FOR RETENTION
- 47** PARCELS RECOMMENDED FOR LEASE OR SALE
- 49** PARCELS RECOMMENDED FOR LEASE-ONLY
- 14** PARCELS RECOMMENDED FOR MIXED: RETAIN/DISPOSE



Land Statistics

Approximately 3,826 acres or 239 parcels of City-owned lands are designated as **General Fund**.



Parcels of City-owned Land designated as "General Fund"

8.75%

GENERAL FUND PARCELS CURRENTLY **UNDER LEASE**

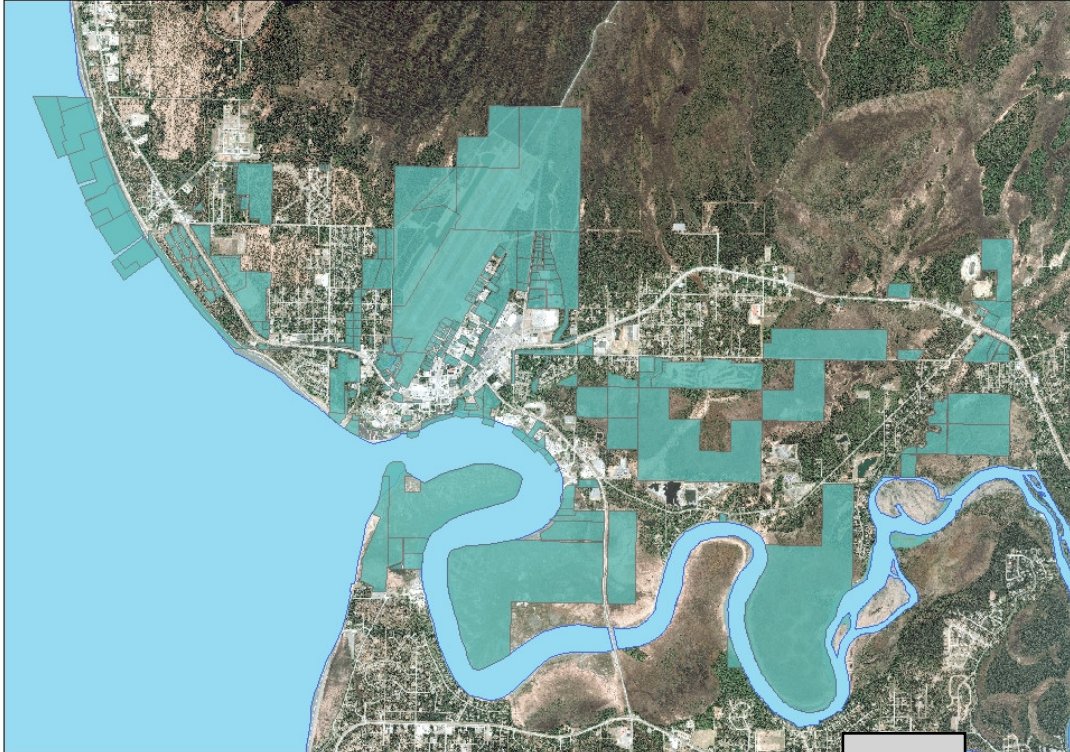
The City will generate **\$218,031** from 19 leases of land designated as General Fund in **FY22**, including tidelands, shorefishery, and no-cost leases

Recommendations for **General Fund** Parcels Based on the Final Draft Land Management Plan:

- 113** PARCELS RECOMMENDED FOR RETENTION
- 86** PARCELS RECOMMENDED FOR LEASE OR SALE
- 19** PARCELS RECOMMENDED FOR LEASE-ONLY
- 21** PARCELS RECOMMENDED FOR MIXED: RETAIN/DISPOSE



Land Management Plan Retention Recommendations



Page 89

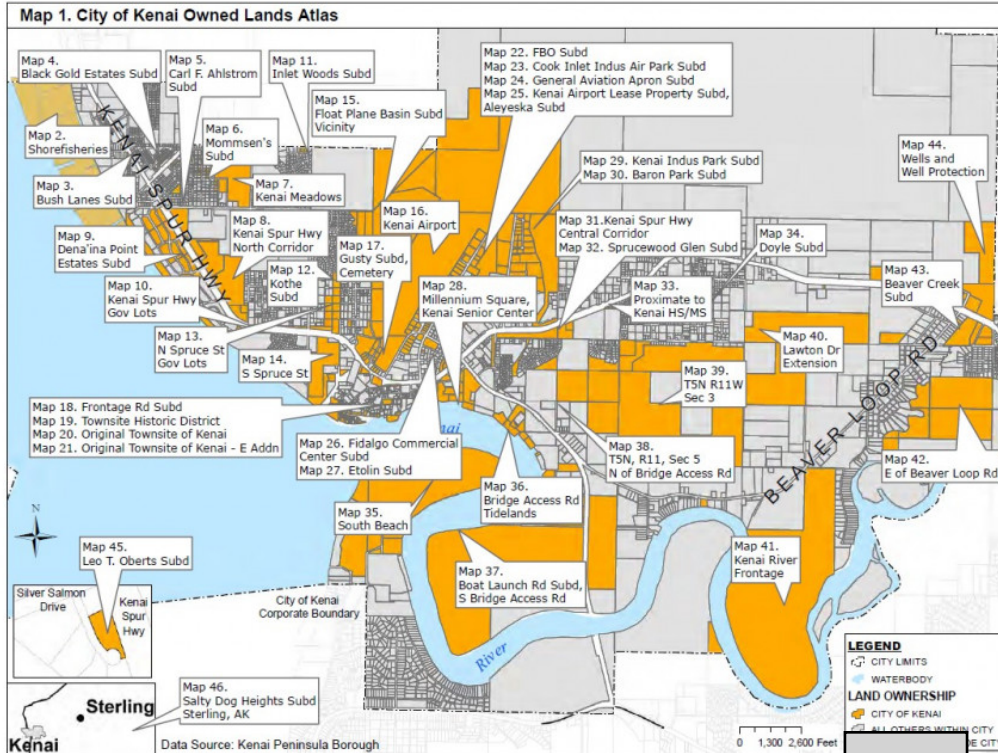
Many City-owned lands should be retained for a public purpose and many are suitable for a variety of business, commercial, industrial, residential, recreational and cultural purposes.

The Plan has **four recommendation categories:**

- Retain
- Dispose
- Dispose - Lease Only
- Mixed - Retain/Dispose



How the Land Management Plan is Structured



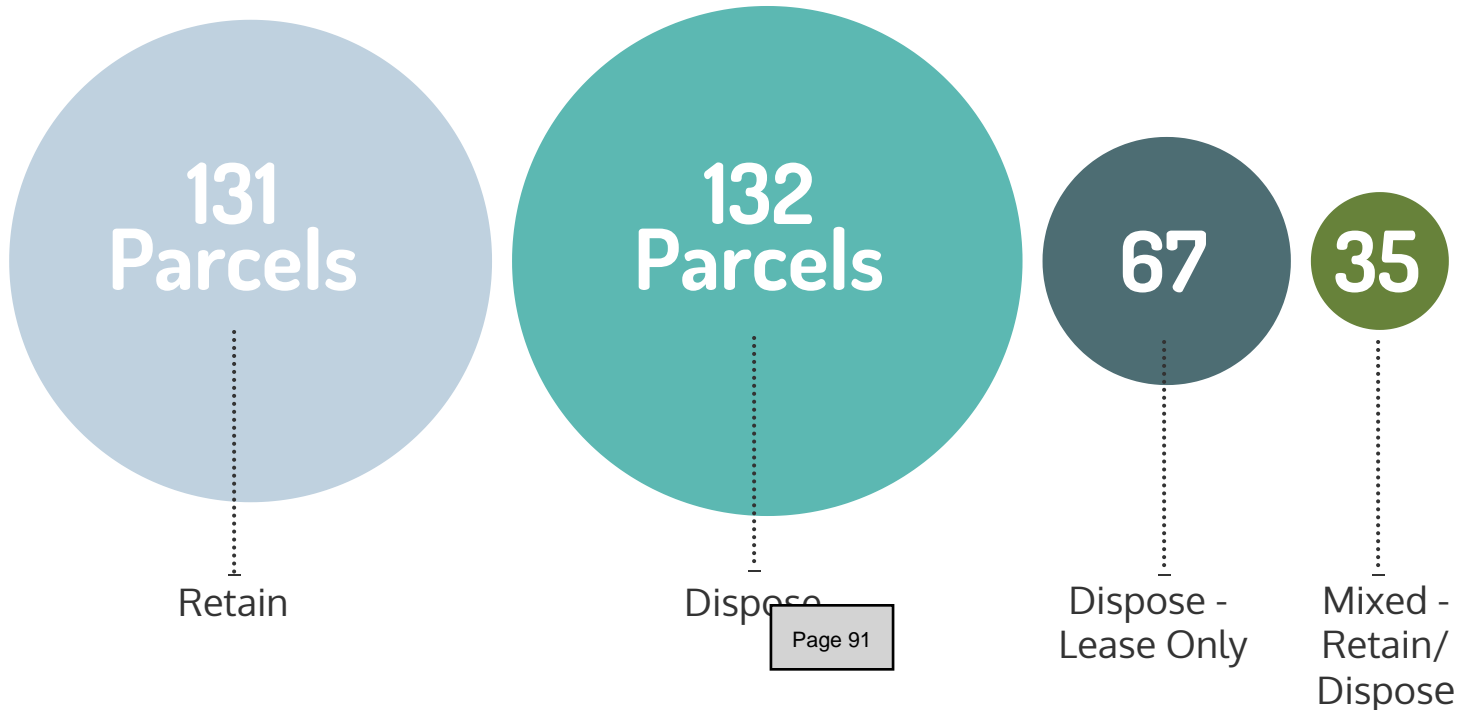
The plan breaks city-owned lands into **46 areas** with a map for each area

Each area includes an overview and tables with detailed information on recommendations for each parcel



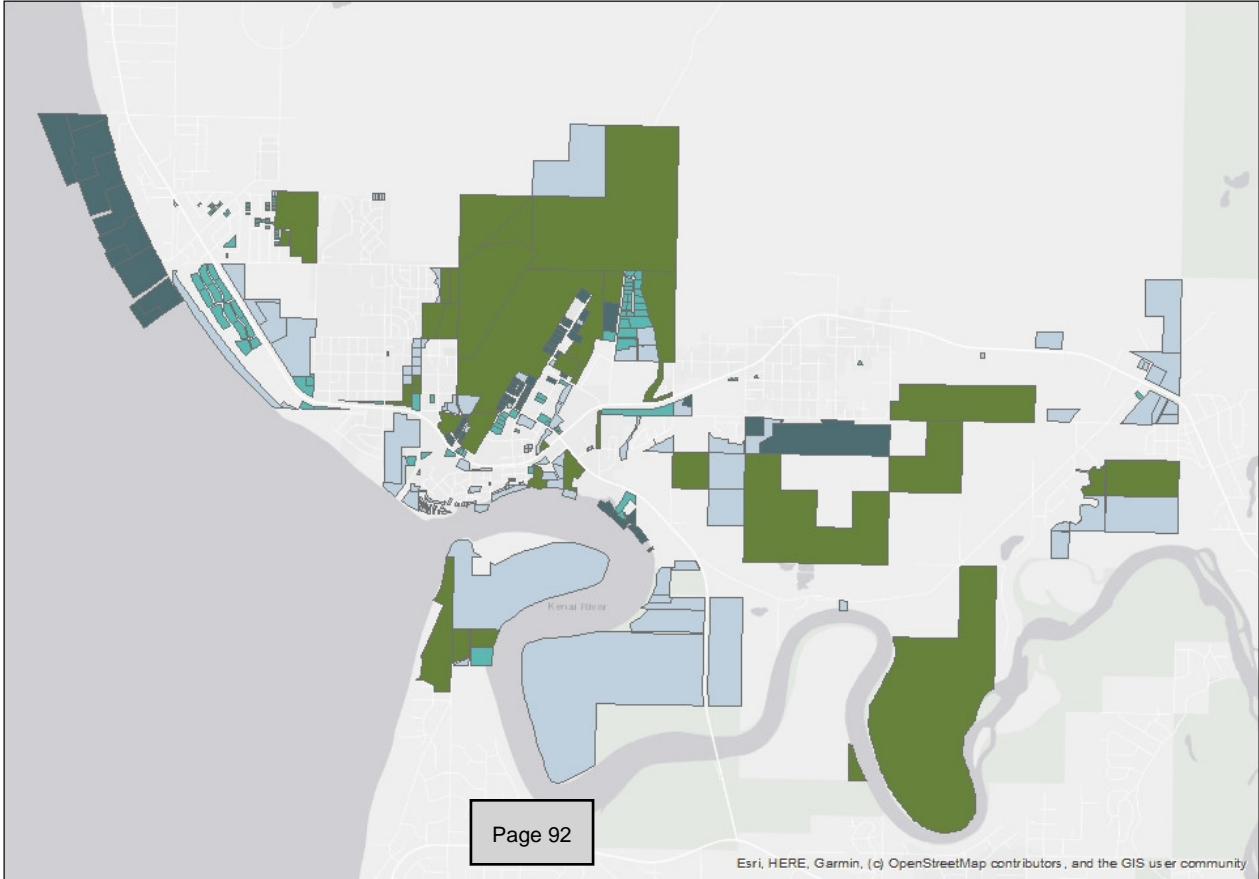
Land Management Plan Recommendation Categories

The Land Management Plan contains a recommendation for each parcel using the following categories:







Land Management Plan Recommendation Categories

- Retain
- Dispose
- Dispose - Lease Only
- Mixed - Retain/ Dispose






Land Management Plan Recommendation Categories

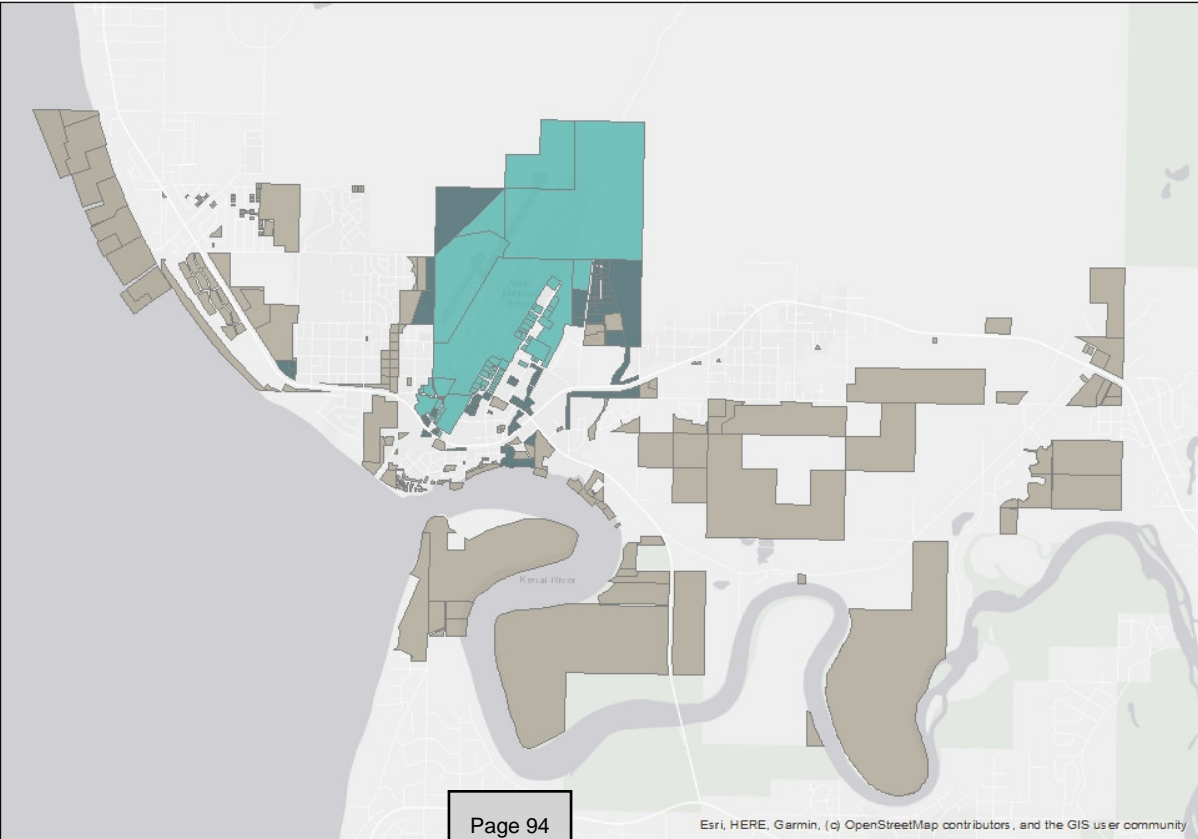


-  Retain
-  Dispose
-  Dispose - Lease Only
-  Mixed - Retain/Dispose






Land Management Plan Land Fund Categories

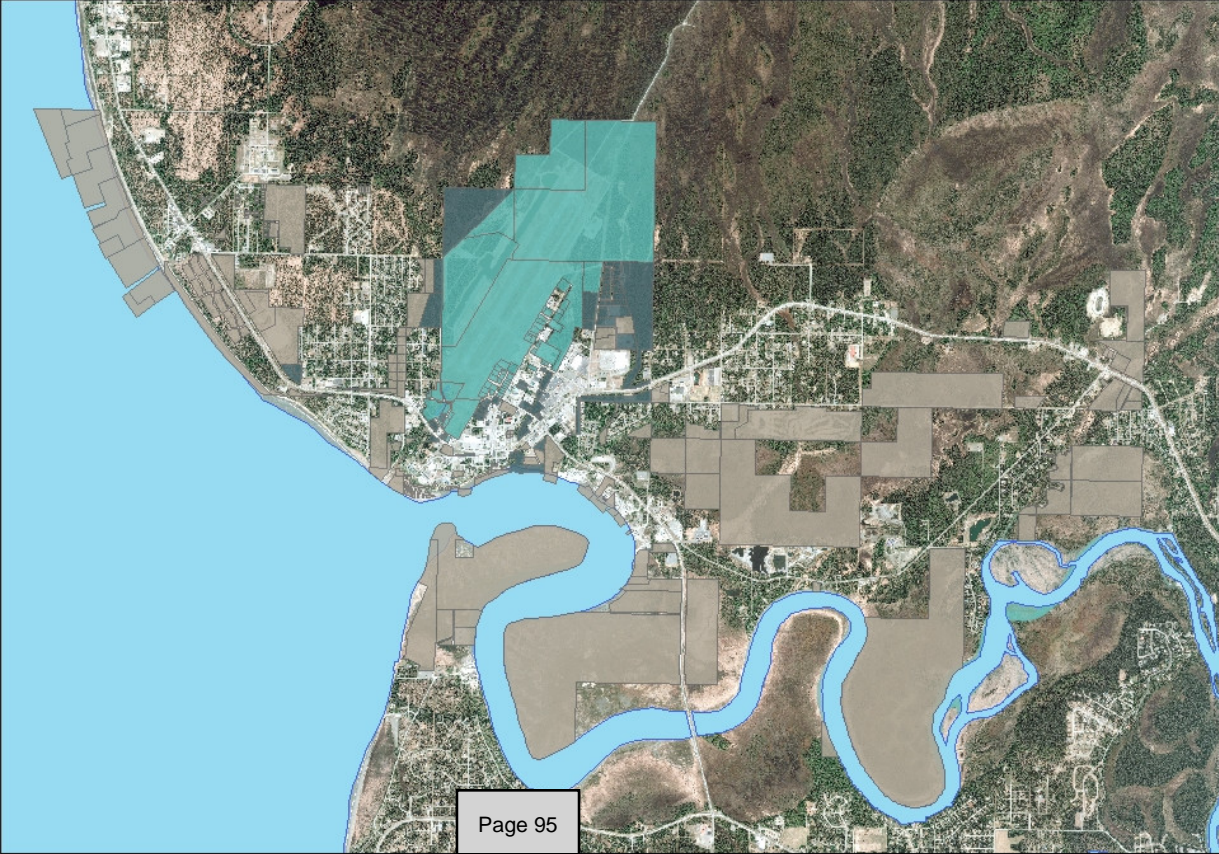
-  Airport Reserve Land
-  Airport Land Outside the Airport Reserve
-  General Fund Land



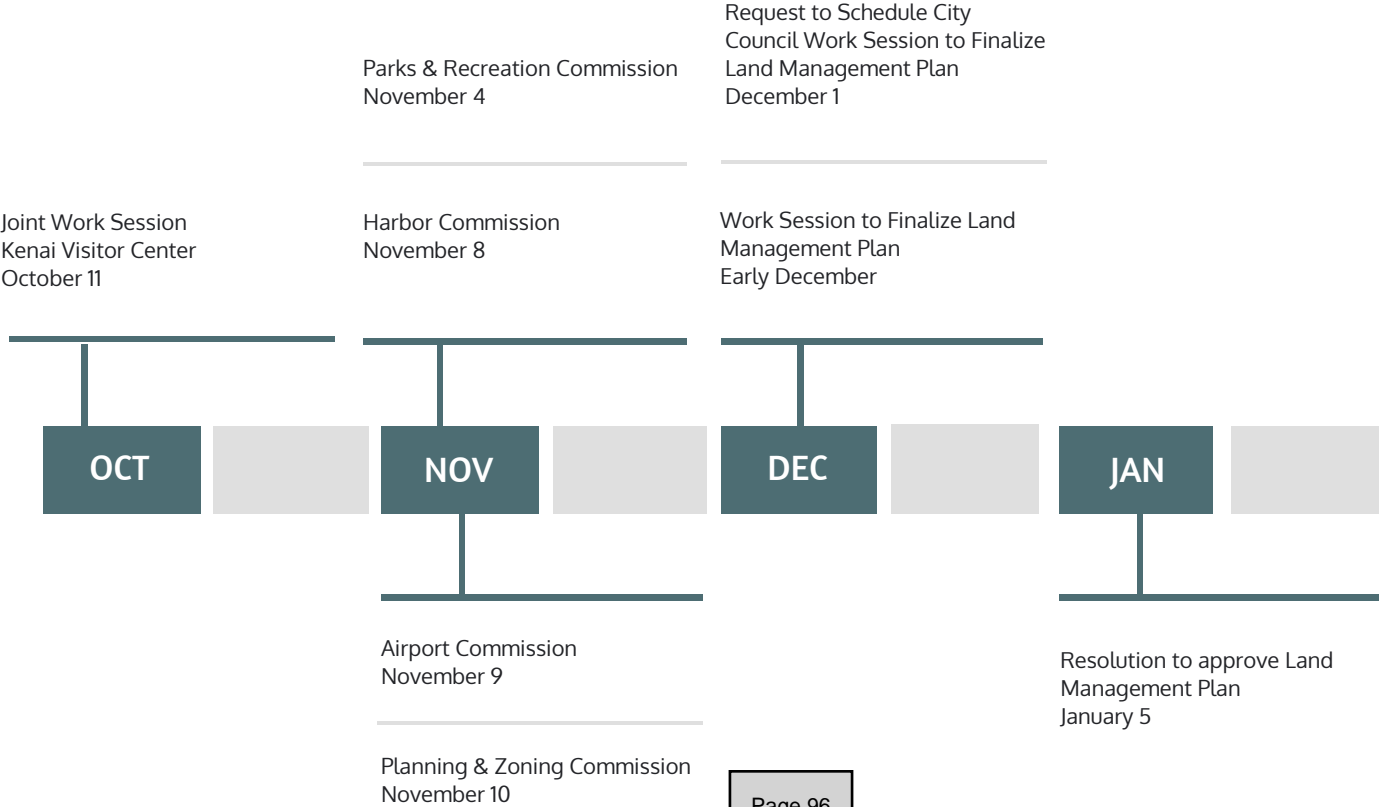
Land Management Plan Land Fund Categories



-  Airport Reserve Land
-  Airport Land Outside the Airport Reserve
-  General Fund Land

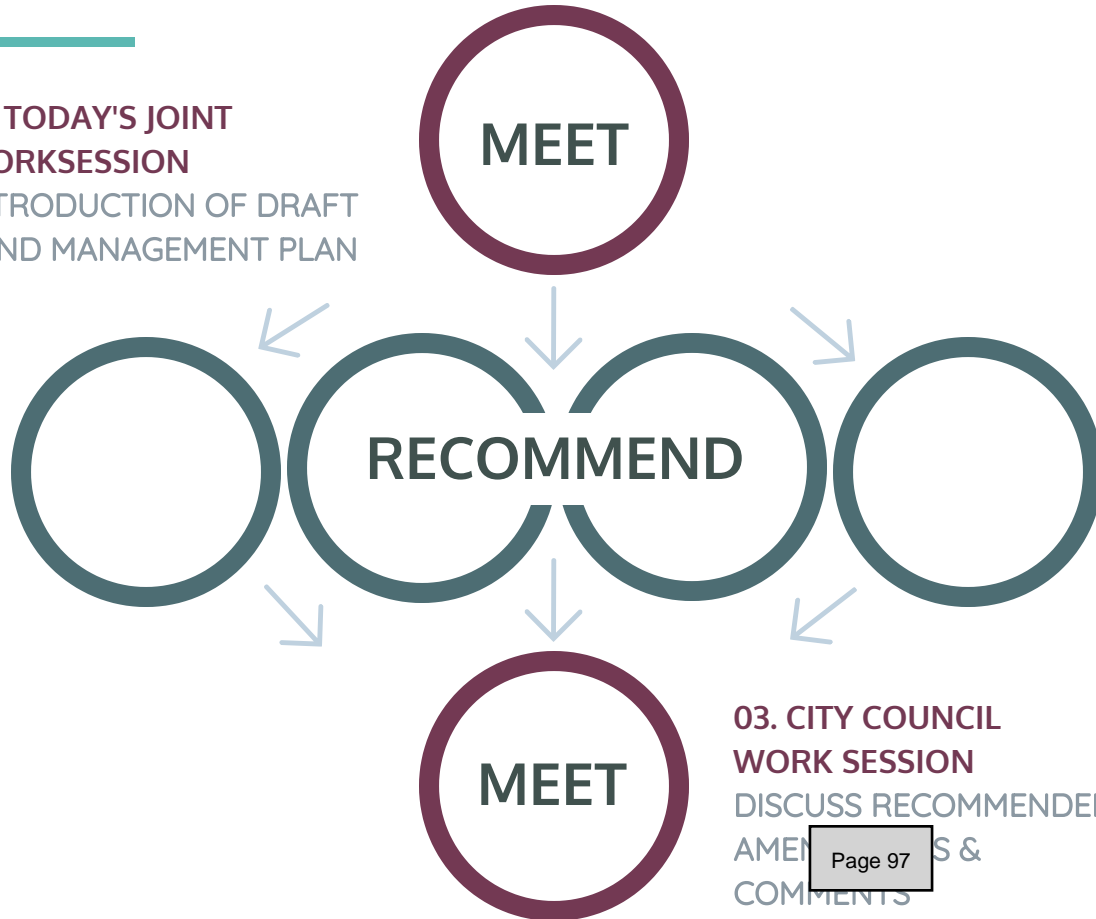


Land Management Plan Draft Timeline



Land Management Plan Process

**01. TODAY'S JOINT
WORKSESSION**
INTRODUCTION OF DRAFT
LAND MANAGEMENT PLAN



**02. COMMISSION
WORK SESSIONS /
PUBLIC COMMENTS**
RECOMMEND AMENDMENTS
e.g. additional information such as
personal knowledge of a parcel
appropriate to include, factual
inaccuracies, reasons to change a
recommendation

**03. CITY COUNCIL
WORK SESSION**
DISCUSS RECOMMENDED
AMENDMENTS &
COMMENTS



Land Management Plan Process Continued



AFTER COUNCIL WORK SESSION:

- Administration revises plan for approval
- Council determines if more work sessions are necessary
- Resolution approving plan scheduled by Council
- Hold public hearing on resolution

AFTER APPROVAL:

- Update lands database to reflect approved plan
- GIS needs assessment
- Implementation plan



Online Mapping Presentation



Questions and Comments





QR Code to City of Kenai Land Management Plan Webpage

<https://www.kenai.city/lands/page/land-management-plan>





KENAI

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

MEMORANDUM

TO: Mayor Gabriel, Council Members and City Commissions
FROM: Paul Ostrander, City Manager
DATE: December 6, 2021
SUBJECT: **Disposition of City Lands – Summary of KMC 22.05**

Kenai Municipal Code Chapter 22.05, The Disposition of City Lands, was repealed and reenacted by Ordinance 3072-2019 on October 2, 2019. This memorandum will provide an overview of this provision of code. Excerpts from code are identified in *italics*.

KMC Chapter 22.05 applies to City owned real property other than lands within the airport reserve – described in KMC Chapter 21.10, and the leasing of tidelands for shore fisheries.

Authority

KMC Chapter 22.05 establishes the authority for the City's land disposals:

The City may sell, convey, exchange, transfer, donate, dedicate, direct, assign to use, or otherwise dispose of City-owned real property, including property acquired, held for, or previously devoted to a public purpose, only in accordance with this chapter, and, with respect to properties acquired through foreclosure for taxes, in compliance with those terms and provisions of AS 29 which apply to home-rule municipalities. Disposal or sale of lands shall be made only when, in the judgment of the City Council, such lands are not or are no longer required for a public purpose.

Intent

KMC Chapter 22.05 establishes the intent of the chapter and goes further to establish that it is not the intent of the chapter to allow for speculation on City-owned lands:

It is the intent of this chapter to provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.

It is not the intent of this chapter to allow for speculation on City-owned lands. All leases, sales, and other disposals of City-owned land must meet the intent of this chapter.

Lease and / or Sale of City Lands

KMC Chapter 22.05 has provisions for the lease and sale of City owned real property. An individual or entity that wishes to acquire real property from the City can pursue a lease, a sale, or a lease with an option to purchase from the City.

Lease

To lease City owned lands an applicant must first submit a lease application:

All applications for lease of lands must be submitted to the City Manager or designee on an application form provided by the City. Applications will be dated on receipt and must include payment of the nonrefundable application fee as set forth in the City's schedule of fees approved by the City Council.

If a subdivision is required to lease the land, the costs of that subdivision are generally at the expense of the applicant:

Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to any new appraisal, engineering services, surveying and consulting costs unless, in the sole discretion of the City Council, it is determined that the subdivision serves other City purposes.

To determine the annual lease rate of the property an appraisal must have been completed in the last 12 months:

Applications for lands which have not been appraised within one (1) year of the requested starting date of the lease require the applicant to be responsible for all costs associated with appraisal. The cost of the appraisal shall be credited or refunded to the lessee once development is completed as required by the lease, extension or renewal.

The length of the lease term is based on the amount of investment the applicant proposes to make with a minimum investment of \$7,500 equaling a maximum term of 5 years, and an investment value of \$307,500 or more equaling a maximum term of 45 years:

The length of term for an initial lease shall be based on the amount of investment the applicant proposes to make in the construction of new permanent improvements on the premises as provided in the application. The City Council may offer a shorter lease term, if the City Council makes specific findings that a shorter lease term is in the best interest of the City.

The maximum term of a lease shall be determined according to the following term table and cannot exceed forty-five (45) years:

The public is notified of all lease applications received by the City to provide an opportunity for competing applications:

Notice of complete applications for new leases, renewals or extensions shall be published in a newspaper of general circulation within the City and posted on the property. The notice must contain the name of the applicant, a brief description of the land, whether the applicant requests a lease with an option to purchase, and the date upon which any competing applications must be submitted (thirty (30) days from the date of publication).



If a competing application is submitted, the City Manager will recommend the application anticipated to best serve the interest of the City to the applicable commissions and the City Council:

If another application for a new lease, extension or a renewal is received for the same property within thirty (30) days from the notice of application publication date by a different applicant, City staff shall process the application and forward the application, the City Manager's recommendation and applicable commission recommendations to the City Council for approval of the application anticipated to best serve the interest of the City. The City Council may approve one (1) of the applications, reject all the applications or direct the City Manager to award a lease of the property by sealed bid.

If there are no competing applications, the City Council will determine if the lease is in the best interests of the City after considering the recommendations of the Planning and Zoning Commission, any other applicable commissions, and the City Manager:

The recommendations of the City Manager, Planning and Zoning Commission, and any other applicable commissions shall be provided to the City Council. The City Council shall determine whether the lease is consistent with the intent of this chapter and in the best interest of the City. The decision whether or not to lease land rests in the sole discretion of the City Council.

Development Incentives

The City Council may approve lease incentives to encourage commercial development:

A credit may be applied toward rent for a maximum of five (5) years. The credit may only include the value of 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.

For the credit to be applied, the approved scope of work must be completed.

Sale of Land

KMC Chapter 22.05 authorizes the sale of City owned lands through both a non-competitive and competitive process:

There are four methods to sell City owned lands through a non-competitive process:

- (i) Conveyance to encourage new enterprises where it is found that encouragement of a new commercial or industrial enterprise would be in the best interest of the City; one (1) or more parcels of City land may be sold upon such terms as to price, conditions of conveyance, and with such contingencies as may be set forth in the ordinance.*
- (ii) Property sale to adjacent owners for the conveyance of a parcel of City property at fair market value to the owner of adjacent land whenever, in the judgment of the City Council, the parcel of land is of such small size, shape, or location that it could not be put to practical use by any other party.*
- (iii) Grant or devotion of real property to the United States, the State of Alaska, a local political subdivision of the State of Alaska, or any agency of any of these governments or a nonprofit corporation, for a consideration agreed upon between the City and*



grantee without a public sale if the grant, devotion or lease is in the best interest of the City.

- (iv) Conveyance of land to resolve a land use conflict.*

There are four methods to sell City owned lands through a competitive process:

- (i) Public outcry auction to the highest responsible bidder.*
- (ii) Sealed bid to the highest responsible bidder.*
- (iii) Over-the-counter sale after a public outcry auction or sealed bid process on a first-come basis, provided minimum development requirements are met within two (2) years of sale and the land is sold for fair market value. An appraisal to determine fair market value must be completed within a one (1) year period prior to the date of sale.*
- (iv) Leased land in which the lease was 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. An appraisal to determine fair market value must be completed within a one (1) year period prior to the sale.*

The application process, subdivision process (if necessary) and appraisal process for the sale of land is similar to the process for the lease of land:

All requests to purchase City land must be submitted to the City Manager or designee on approved forms provided by the City. Applications will be dated on receipt and payment of the nonrefundable application fee and must include applicable deposit as set forth in the City's schedule of fees adopted by the City Council. The City Council may decide to sell lands consistent with the intent of this chapter after a recommendation from the City Manager and any appropriate City commission. The City Council may always recommend a lease as opposed to a sale when in the best interest of the City and consistent with the intent of this chapter.

Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to engineering services, surveying and consulting costs, unless in the sole discretion of the City Council it is determined the subdivision serves other City purposes. Sales of parcels must be of appropriate size to meet the needs of the proposed development or use to meet the intent of this chapter. The sale of excess acreage not needed for the intended development or use does not meet the intent of this chapter.

The City will retain the services of an independent real estate appraiser certified under Alaska State statutes to determine the fair market value for a determination of the minimum price on the land to be paid for from the deposit made by the applicant unless such an appraisal has been obtained within one (1) year prior to the date of sale. The cost of the appraisal will be credited toward the purchaser at closing.



Lease with an option to purchase

KMC Chapter 22.05 will allow an applicant to request to acquire City land using a combination of lease and sale. A lease with an option to purchase would allow an applicant to lease the real property for a period of time, during which the development of the property could be completed and the applicant would benefit from lease development incentives, followed by the sale of the property when the incentives have been exhausted.

Kenai Municipal Code Chapter 21.10

KMC Chapter 21.10, Leasing and Acquisition of Airport Reserve Lands, with few exceptions, mirrors KMC Chapter 21.05, although KMC Chapter 21.10 does not allow the sale of land. Airport Reserve Lands are available for lease only.





KENAI

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

MEMORANDUM

TO: Mayor Gabriel, Council Members and City Commissions
FROM: Ryan Foster, Planning Director
DATE: December 6, 2021
SUBJECT: **Zoning and Definition of “Retain” and “Dispose” in the Draft Land Management Plan**

Zoning in the City of Kenai

The City of Kenai is a home rule city with its own City Charter and Municipal Code. Kenai Municipal Code Title 14 Planning and Zoning codifies the planning and development processes within the City by implementing the Comprehensive Plan (long range policy document), establishing zoning districts, and specifying development standards for zoning districts regarding land use, form, layout, and density.

To determine the land uses and development standards of a parcel, the City’s Zoning Map and Land Use Table must be referenced. Each parcel in the City has a zoning designation (there are 17 total zoning districts) across categories such as residential, commercial, industrial, etc. The City of Kenai Interactive Zoning Map App can be found here:

<https://kenai.maps.arcgis.com/home/index.html>

After determining the zoning district of a property, reference the KMC 14.22.010 Land Use Table, which contains a list of land uses and all of the corresponding zoning districts in the City. A land use is either designated as P= Principal Permitted Use, C= Conditional Use, S= Secondary Use, N= Not Permitted for each zoning district. This provides the necessary information to determine the development options for a property based on the zoning and the desired land use. The Land Use Table can be found here:

<https://kenai.municipal.codes/KMC/14.22>

Definitions of “Retain” and “Dispose” in the Draft Land Management Plan

The Draft Land Management Plan contains recommendations for each City owned property. For clarification, below are the definitions of “retain” and “dispose” and where they can currently be found in Kenai Municipal Code in the same context:

- “Retain” means a parcel is needed for a public purpose, such as for:
 - Existing public buildings and facilities.
 - Future public buildings and facilities.
 - Public purposes such as wetlands, beach protection, and stormwater retention.

- For Airport Fund lands, “retain” means the parcel is needed for a public purpose where the use is aviation-related or consistent with the FAA self-sustaining requirement and does not adversely affect the airport’s capacity, security, safety, or operations.
- In this context, the term retained is currently found in Kenai Municipal Code:
 - 22.05.110 Determination as to need for public purpose
- “Dispose” means the parcel has not been retained for a public purpose and will be considered available for lease, sale, or lease with the option to purchase. All disposals are at the discretion of the Kenai City Council and must meet the intent of Kenai Municipal Code:
 - 22.05.010 Authority and intent
 - (c) It is the intent of this chapter to provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.
 - (d) It is not the intent of this chapter to allow for speculation on City-owned lands. All leases, sales, and other disposals of City-owned land must meet the intent of this chapter.
- In order for a property to be sold, it must first be determined that it is not needed for a public purpose. Most disposals will require development on the parcel. In this context, the term disposal is currently found in Kenai Municipal Code:
 - KMC 22.05.015 Lands available for lease, sale, or disposal
 - KMC 22.05.095 Methods of sale or disposal





Kenai City Council - Regular Meeting

December 15, 2021 – 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 comment 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 comment limited to ten (10) minutes per speaker)

C. UNSCHEDULED PUBLIC COMMENTS

(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)

D. PUBLIC HEARINGS

1. **ENACTED UNANIMOUSLY. Ordinance No. 3256-2021** - Increasing Estimated Revenues and Appropriations in the Airport Improvements Capital Project Funds, Authorizing the Acceptance of a Grant from the Federal Aviation Administration for the Kenai Municipal Airport Sand Storage Facility Construction Phase II, and Authorizing a Budget Transfer in the Airport Improvements Capital Project Fund – Kenai Municipal Airport Sand Storage Facility Project to Facilitate the Return of Funds Advanced from the Airport Special Revenue Fund. (Administration)
2. **ENACTED UNANIMOUSLY. Ordinance No. 3257-2021** - Accepting and Appropriating a Collection Equity Award from the Network of the National Library of Medicine Region 5 for the Purchase of Health and Wellness Titles for the Kenai Community Library Collection. (Council Members Knackstedt and Pettey)
3. **ENACTED UNANIMOUSLY. Ordinance No. 3258-2021** - Accepting and Appropriating Funding from the State of Alaska Department of Health and Social Services, Division of Public Health, for the Healthy and Equitable Communities Program, and Authorizing the City Manager to Execute a Memorandum of Agreement for this Funding. (Administration)

4. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3259-2021** - Increasing Estimated Revenues and Appropriations in the General and Municipal Roadway Improvement Capital Project Funds, and Increasing a Purchase Order to Foster's Construction for the 2021 Bryson Ave Bluff Erosion Repair Project. (Administration)
5. **ENACTED UNANIMOUSLY. Ordinance No. 3260-2021** - Amending Kenai Municipal Code 13.40.010-Definitions, to Maintain Current Regulations on Off-Road Vehicle Use in Kenai After January 1, 2022. (Council Member Knackstedt)
6. **ADOPTED UNANIMOUSLY. Resolution No. 2021-71** - Amending the Employee Classification Plan to Change the Range of the Parks and Recreation Director. (Administration)

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of December 1, 2021. (City Clerk)

F. UNFINISHED BUSINESS

1. **ADOPTED. Resolution No. 2021-64** - Awarding an Agreement for the Kenai Waterfront Redevelopment Assessment and Feasibility Study. (Administration) *[Clerk's Note: At the November 3, 2021 Meeting, this item was Postponed to this meeting; a motion to enact is on the floor.]*

G. NEW BUSINESS

1. **ADOPTED UNANIMOUSLY. *Action/Approval** - Bills to be Ratified. (Administration)
2. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/5/2022.** ***Ordinance No. 3261-2021** - Accepting and Appropriating a Grant from the Institute of Museum and Library Services through the Department of Education and Early Development, Division of Library, Archives & Museums for the Purchase of a Hold Locker. (Administration)
3. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/5/2022.** ***Ordinance No. 3262-2021** - Accepting and Appropriating a Grant from the Institute of Museum and Library Services Passed Through the Department of Education and Early Development, Division of Library, Archives & Museums for the Purchase of Steam Kit Shelving, Library Materials, and Other Items. (Administration)
4. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/5/2022.** ***Ordinance No. 3263-2021** - Increasing Estimated Revenues and Appropriations in the General Fund – Police Department and Accepting Grants from the United States Department of Justice and Alaska Municipal League Joint Insurance Association (AMLJIA) for the Purchase of Ballistic Vests. (Administration)
5. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/5/2022.** ***Ordinance No. 3264-2021** - Accepting and Appropriating Asset Forfeiture Funds Provided to the City of Kenai through the State of Alaska Department of Public Safety. (Administration)

6. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/5/2022.**
***Ordinance No. 3265-2021** - Increasing Estimated Revenue and Appropriations in the General Fund and the Parks Improvement Capital Project Fund for Additional Kenai Dog Park Funding. (Vice Mayor Glendening and Council Members Winger and Baisden)
7. **APPROVED UNANIMOUSLY. Action/Approval** - Special Use Permit to American Red Cross of Alaska for General Office Space. (Administration)
8. **APPOINTMENTS OF DAN PITTS, JACOB CALDWELL, JOSHUA DAILY, LISA GABRIEL, JANET PHILLIPS, CHRISTINA WARNER, CHUCK THORNTON, FRANCES KILFOYLE, NATE BERGA, VICTORIA ASKIN, CHARLIE STEPHENS, AND JENNIFER JOANIS CONFIRMED. Action/Approval** - Council Confirmation of Mayoral Nominations to the City's Commissions and Committee. (Mayor Gabriel)
9. **POSTPONED TO 1/5/2022. Action/Approval** - Confirmation of Mayoral Nominations for Appointment to the Planning and Zoning Commission. (Mayor Gabriel)
10. **APPROVED UNANIMOUSLY. Action/Approval** - City Participation in UCIDA Lawsuit. (Mayor Gabriel)

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
7. Mini-Grant Steering Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

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

K. ADDITIONAL PUBLIC COMMENT

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

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000
2. Letter from the Alaska Association of Municipal Clerks
3. CIRCAC Director's Report
4. Thank you letter to GLM
5. Thank you letter to Pioneers of Alaska

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/88570636586>

Meeting ID: 885 7063 6586 **Passcode:** 773916

OR

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

Meeting ID: 885 7063 6586 **Passcode:** 773916



Planning Commission Action Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2215 • (907) 714-2378 Fax
Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

Melanie Aeschliman, Planning Director • Charlie Pierce, Borough Mayor

Blair Martin, Chair – Kalifornsky Beach ~ Robert Ruffner, Vice Chair – Kaslof/Clam Gulch

Syverine Abrahamson-Bentz, Parliamentarian – Anchor Point/Ninilchik ~ Jeremy Brantley – Sterling

Vacant – City of Seward ~ Vacant – City of Soldotna ~ Pamela Gillham – Ridge Way ~ Vacant – Northwest Borough

Diane Fikes – City of Kenai ~ Virginia Morgan – East Peninsula ~ Franco Venuti – City of Homer

December 13, 2021

7:30 p.m.

Zoom Meeting Link: <https://zoom.us/j/2084259541>

Zoom Toll Free Phone Numbers: 888 788 0099 or 877 853 5247

Zoom Meeting ID: 208 425 9541

The hearing procedure for the Planning Commission public hearings are as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person must begin by stating his or her name and mailing address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect. If participating via Zoom the testifier will need to use the Zoom "raise hand" feature or press *9 by phone to speak.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDAS

All items marked with an asterisk (*) are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and may be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner removes the item from the consent agenda. The removed item will then be considered in its normal sequence on the regular agenda.

If you wish to comment on a consent agenda item, please advise the recording secretary before the meeting begins, and she will inform the Chair of your wish to comment.

***1. Time Extension Request - None**

***2. Planning Commission Resolutions - None**

***3. Plats Granted Administrative Approval**

- a. AK State Land Survey No. 2020-10 Captain Cook North Subdivision.; KPB File 2021-052
- b. Baleen Cove Subdivision; KPB File 2021-045
- c. Bodnar Subdivision 2021 Replat; KPB File 2021-114
- d. Cliff House Acres Subdivision; KPB File 2021-041

- e. Emery Subdivision; KPB File 2021-100
 - f. Kings Creek 2021 Replat; KPB File 2021-081
 - g. McReed Subdivision 2021 Replat; KPB File 2021-093
 - h. Moose Range Ridge Estates Oehler Replat; KPB File 2020-155
 - i. Poage Subdivision Chaloux Replat; KPB File 2021-059
 - j. Self Subdivision Bilben Replat; KPB File 2021-092
- *4. Plats Granted Final Approval (20.10.040)**
 - a. Jeffery Park Subdivision No. 4; KPB File 2021-139
 - *5. Plat Amendment Request - None**
 - *6. Commissioner Excused Absences**
 - a. Blair Martin, Kalifornsky Beach
 - b. City of Soldotna, Vacant
 - c. City of Seward, Vacant
 - d. Northwest Borough, Vacant
 - *7. Minutes**
 - a. November 29, 2021 Plat Committee Meeting Minutes
 - b. November 29, 2021 Planning Commission Meeting Minutes

Motion to approve the consent agenda & the regular agenda as amended passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant).

D. OLD BUSINESS

- 1. Remand Hearing
 PC Resolution: 2021-37 – CLUP Modification
 Applicant: River Resources LLC
 PINs: 135-243-13 & 135-243-29
 Funny River Area

Motion to adopt Planning Commission Resolution 2021-37 granting a modification to an existing conditional use permit passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

E. NEW BUSINESS

- 1. Porcupine Lake Subdivision No. 6; KPB 2021-152
 Johnson Surveys / Gerald L., Judy A. & Brent G. Johnson
 Location: Cohoe Loop Road
 Cohoe Area

Motion to grant preliminary approval to Porcupine Lake Subdivision No. 6 passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

Motion to grant exception request to KPB 20.30.030-Proposed Street Layout Requirements & KPB 20.30.170-Block Length Requirements passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

2. Towle Subdivision 2021 Replat; KPB 2021-153
Johnson Surveys / Robert S. Rima Jr.
Location: MP 48.2 Sterling Highway
Cooper Landing Area
Cooper Landing APC

Motion to grant preliminary approval to Towle Subdivision 2021 Replat passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

3. Right-of-Way Vacation; KPB 2021-150V
Request: Vacate a 60' cul-de-sac, Fauerbach Court running east to west approximately 303.94' & the associated 20' utility easement & anchor easement
Surveyor: Johnson Surveys
Petitioners: James E. Glendening & Daniel John Sims of Kenai
Clam Gulch Area

Motion to approve the vacation as petitioned passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

4. Clam Gulch Heights 2021 Addition; KPB File 2021-150
Johnson Surveys / Glendening & Sims
Location: Keener Drive, Bartolwitz Street & Fauerbach Court
Clam Gulch Area

Motion to grant preliminary approval to Clam gulch Heights 2021 Addition passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

5. Right-of-Way Vacation; KPB 2021-151V
Request: Vacate a 1963 square foot portion of Endicott Drive cul-de-sac within Lot 1, Block 1, Slikok Creek Alaska Subdivision (Plat K-1361)
Surveyor: McLane Consulting
Petitioner: James Markley & Pandora Ban Willingham of Soldotna, AK
City of Soldotna

Motion to approve the vacation as petitioned passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

6. Right-of-Way Vacation; KPB 2021-154V
Request: Vacate Koto Court cul-de-sac and associated utility easements within Lots B1 & B2, Murray Subdivision Buck Addition (Plat KN 2017-59)
Surveyor: Segesser Surveys
Petitioner: Marshall W. Martin of Soldotna, AK
Sterling Area

Motion to approve the vacation as petitioned passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

7. Plat Waiver; KPB 2021-149
PC Resolution 2021-36
Location: Land with Lot 14, Shady Acres (Plat KN 2003-100)
Petitioner: Rebecca A. Turner ETAL
Funny River Area
Funny River APC

Motion to adopt PC Resolution 2021-36 granting a plating waiver passed by unanimous vote (5-Yes, 3-Absent, 3-Vacant)

- F. PLAT COMMITTEE REPORT** – The Plat Committee did not meet.
- G. OTHER**
 - 1. Plat Committee for January/February/March 2022
- H. PUBLIC COMMENT/PRESENTATION** (Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)
- I. DIRECTOR'S COMMENTS**
- J. COMMISSIONER COMMENTS**
- K. ADJOURNMENT**

MISCELLANEOUS INFORMATIONAL ITEMS

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held **Monday, January 10, 2021 at 7:30 pm., which will be a Zoom only meeting.**

CONTACT INFORMATION

KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: planning@kpb.us

website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees.

Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly. Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.