



Kenai Planning & Zoning Commission - Regular Meeting

September 25, 2019 – 7:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

<https://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

1. *September 11, 2019

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 PZ2019-37** – Application for a Conditional Use Permit to operate Gunsmithing Business, located at 310 Princess Street, Kenai, Alaska 99611, and further described as Lot 2, Cinderella Subdivision. The application was submitted by Ronald Carlson, 310 Princess Street, Kenai, Alaska 99611
2. **Resolution PZ2019-33** - Recommending the Kenai City Council Amend Kenai Municipal Code 14.20.175 – Adult Businesses, To Increase The Buffer Distances Between Adult Businesses And Sensitive Uses From 500 Feet To 1,000 Feet and

Define Sensitive Uses and Amend Kenai Municipal Code 14.22.010 - Land Use Table, to Add Adult Businesses.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

- 1. Resolution PZ 2019-39** – Application for a Home Occupation Permit for a Home Day Care of No More Than Eight (8) Children Under the Age of Twelve (12) years, located at 604 Laurel Drive, Kenai, Alaska 99611, and further described as Lot 1, Block J, Woodland Subdivision Part One (1). The application was submitted by Mindy Dalebout, 604 Laurel Drive, Kenai, AK 99611

I. PENDING ITEMS

J. REPORTS

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

K. ADDITIONAL PUBLIC COMMENT

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

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

L. INFORMATIONAL ITEMS

M. NEXT MEETING ATTENDANCE NOTIFICATION

- 1.** October 9, 2019 – 7 p.m. - Regular Meeting

N. COMMISSION COMMENTS AND QUESTIONS

O. ADJOURNMENT

**KENAI PLANNING & ZONING COMMISSION
REGULAR MEETING
SEPTEMBER 11, 2019 – 7:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVENUE, KENAI, ALASKA
VICE CHAIR DIANE FIKES, PRESIDING**

MINUTES

A. CALL TO ORDER

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

1. Pledge of Allegiance

Commission Vice Chair Fikes led those assembled in the Pledge of the Allegiance.

2. Roll Call

Commissioners present: Vice-Chair D. Fikes, J. Halstead, V. Askin, G. Greenberg

Commissioners absent: Chair J. Twait, R. Springer, T. McIntyre

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

A quorum was present.

3. Agenda Approval

MOTION:

Commissioner Halstead **MOVED** to approve the agenda and Commissioner Greenberg **SECONDED** the motion.

There were no objections on the amendment; **SO ORDERED**.

4. Consent Agenda

MOTION:

Commissioner Askin **MOVED** to approve the consent agenda and Commissioner Greenberg **SECONDED** the motion. There were no objections; **SO ORDERED**.

All items listed with an asterisk () are considered to be routine and non-controversial by the Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commission Member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda as part of the General Orders.

5. *Excused absences – Chair J. Twait, Commissioner R. Springer, Commissioner T. McIntyre

B. APPROVAL OF MINUTES

1. *August 28, 2019

The minutes were approved by the Consent Agenda.

C. SCHEDULED PUBLIC COMMENT – None.

D. UNSCHEDULED PUBLIC COMMENT – None.

E. CONSIDERATION OF PLATS – None.

1. **Resolution PZ2019-36** - Original Preliminary Plat of Bridge Road Subdivision 2019 Replat, submitted by McLane Consulting, Inc., P.O. Box 468, Soldotna, AK 99669, on behalf of Peninsula Mini Storage LLC, 47 Spur View Dr., Kenai, AK 99611.

MOTION:

Commissioner Askin **MOVED** to approve Resolution No. PZ2019-36 and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the plat would vacate a property line between four lots creating two lots, one to be developed as mini-storage and the other to be leased to a third party. She also noted special arrangements through Ordinance No. 2009-2017 for water and sewer that would remain in place. It was recommended the preliminary plat be approved with the following conditions:

- Further development of the property shall conform to all federal, State of Alaska, and local regulations;
- A City of Kenai Water and Sewer Waiver Agreement be signed for the new parcel with the new owner.

Vice Chair Fikes opened the floor for public testimony; there being no one wishing to be heard, public comment was closed.

Clarification was provided there were no utilities in the easement and there were no objections to vacation.

VOTE:

YEA: Greenberg, Fikes, Askin, Halstead

NAY:

MOTION PASSED UNANIMOUSLY.

F. PUBLIC HEARINGS – None.

G. UNFINISHED BUSINESS – None.

H. NEW BUSINESS

1. **Resolution PZ2019-38** - Application for Transfer of Conditional Use Permit PZ15-28, for Professional Office in a Rural Residential Zone, from Clifford and Kristin Smith, to VIP Monitoring Services, LLC, located at 2785 Beaver Loop Road, and described as a portion of the NW ¼, Section 11, Township 5 North, Range 11 West, Seward Meridian.

MOTION:

Commissioner Askin **MOVED** to approve Resolution No. PZ2019-38 and Commissioner Halstead **SECONDED** the motion.

City Planner Appleby reviewed the staff report provided in the packet noting the Conditional Use Permit was for a professional office and would be transferred for the same use to VIP Monitoring Services, LLC, and recommended approval with the following condition:

- Further development of the property shall conform to all federal, State of Alaska, and local regulations;
- Property owner must obtain a sign permit prior to placing a sign on the premises to advertise the business;
- Property owner must provide five (5) parking spaces and one of the spaces must be an ADA parking space pursuant to the guidelines as set forth in the 2009 International Building Code;
- Property owner shall submit an annual report for the Conditional Use Permit as set forth in KMC 14.20.150(f).

Vice Chair Fikes opened the floor for public testimony.

Clifford Smith noted Stacy Smith, the new owner, was also present and requested approval noting the new owners would be operating the same business.

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

Clarification was provided the most recent annual report was conducted in November with no issues.

VOTE:

YEA: Greenberg, Fikes, Askin, Halstead

NAY:

MOTION PASSED UNANIMOUSLY.

I. PENDING ITEMS – None.

J. REPORTS

1. **City Council** – Council Member Molloy reported the Council participated in a Work

Session regarding Ordinance No. 3072-2019, an ordinance amending the land sale and leasing policies and procedures, noting amendments were suggested and, at the September 4th regular meeting an amendment was made to substitute the ordinance and it was ultimately postponed to their first meeting in October. He also reviewed the action agenda from the September 4 meeting.

2. **Borough Planning** – Vice-Chair Fikes reported action from the September 9 Borough Planning Commission and Platting Committee meetings.
3. **Administration** – City Planner Appleby reported on the following:
 - A public meeting in Nikiski regarding the Draft Environmental Impact Study for the AK LNG Project which was open for comment;
 - Staff inspected a gravel pit, a report of which would become a part of her annual report to the Commission on gravel pits;
 - Reviewed upcoming matters for the Commission;
 - The consultant assisting with the Hazard Mitigation Plan would be coming to a future meeting to discuss the plan.

K. **ADDITIONAL PUBLIC COMMENT** – None.

L. **INFORMATIONAL ITEMS** – None.

M. **NEXT MEETING ATTENDANCE NOTIFICATION** – September 25, 2019

N. **COMMISSION COMMENTS & QUESTIONS**

Commissioner Askin commended Vice Chair Fikes for chairing the meeting.

O. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 7:33 p.m.

Minutes prepared and submitted by:

Jamie Heinz, CMC
City Clerk



"Village with a Past, City with a Future"

210 Fidalgo Ave, Kenai, Alaska 99611-7794
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STAFF REPORT

To: Planning & Zoning Commission

From: Elizabeth Appleby, City Planner

Date: September 19, 2019

Subject: Resolution PZ2019-37 – Conditional Use Permit – Gunsmithing

Applicant: Ronald E. Carlson
310 Princess Street
Kenai, AK 99611

Requested Action: Conditional Use Permit – Gunsmithing

Legal Description: Lot 2, Cinderella Subdivision

Property Address: 310 Princess Street

KPB Parcel Number: 04505002

Lot Size: 12,197 square feet (0.28 acres)

Existing Zoning: Rural Residential 1 (RR-1)

Current Land Use: Single Family Dwelling

Land Use Plan: Suburban Residential (SR)

GENERAL INFORMATION

The City has received an application for a conditional use permit for a gunsmithing at 310 Princess Street. The subject parcel is located in the Rural Residential 1 (RR-1) Zone of the City of Kenai. KMC 14.22.010-Land Use Table denotes the land use of Gunsmithing as a conditional use within the RR-1 Zone. KMC 14.20.320-Definitions gives the following definition of a gunsmith:

"Gunsmith" means a person who repairs, modified, designs, or builds firearms.

The applicant intends to use approximately 294 square-foot detached garage for his gunsmithing business. The applicant will reside in the approximate 1,100 square foot house on the property. A fence encloses the area between the house and detached garage (shop).

Application

KMC 14.20.150(b) details application requirements for conditional use permits. City staff deemed the application to be complete and the City is in receipt of the application fee. The City Planner conducted a site visit of the premises on September 12, 2019.

Public Notice, Public Comment

KMC 14.20.150(b) details application requirements for conditional use permits. City staff deemed the application to be complete and the City is in receipt of the application fee. Pursuant to KMC 14.20.280-Public hearing and notifications, City staff published notice of the public hearing twice in the *Peninsula Clarion*, sent notification to real property owners within three-hundred-feet (300') of the affected parcel, and notification was posted on the property. No public comments have been submitted to the City about the application as of September 19, 2019.

ANALYSIS

Kenai Municipal Code 14.20.150(d) – 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(d)-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:

- *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;*

Condition Exists: The subject parcel is within the RR-1 Zone. Pursuant to KMC 14.20.080, the intent of the Rural Residential Zones (RR, RR-1 Zones) is for low density residential development in an attractive residential environment, to prohibit uses which would violate the residential character of the environment or generate heavy traffic in a predominantly residential area, and to separate residential structures in order to prevent health hazards and preserve the rural, open quality of the environment.

The business use for gunsmithing will be secondary or incidental to the residential use of the main building. While the use requires a Conditional Use Permit because of its location in the RR-1 Zone, it will be similar in character to a home occupation in that business will be conducted such that the average neighbor would not be aware of the use. Customers will be on the premises infrequently and in very few numbers and would not impact traffic. Adequate parking is available in the driveway for the use. Business will be conducted in an existing garage and will not require the building of new structures on the premises.

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

Condition Exists: The proposed use will not impact the character of the street. Residents may turn right on Magic Avenue from Princess Street and Princess Street is a dead-end. The Kenai New Life Assembly of God Church, approximately 800-900 feet away from the applicant's property, is at the corner of Princess Street and the Kenai Spur Highway. Existing non-residential traffic for mass and church assemblies currently occurs. The applicant anticipates have few and infrequent customers on-site. His business use of the property would not be readily apparent to the average person and would thus be unlikely to significantly impair the value of the adjoining property and neighborhood.

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

Condition Exists: The proposed use is in line with goals and objectives identified in the Comprehensive Plan, including Goal 2-Economic Development which states Kenai will encourage businesses to start up while providing growth that promotes affordable residential and commercial development and Goal 3-Land Use which states Kenai implement a forward-looking approach to community growth and development. That applicant will be able to start his small business in Kenai with a low up-front cost while maintaining the residential character and quality of life in his neighborhood.

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

Condition Exists: Access to the property is from Princess Street, which connects to the Kenai Spur Highway. Princess Street is maintained by the City of Kenai and the Kenai Spur Highway is maintained by the State of Alaska. The property is connected to City water and sewer.

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

Condition Exists: According to KMC 13.15.010-Discharge of firearms, it is unlawful for a firearm to be discharged in more populated areas of the City of Kenai, including the neighborhood for the proposed gunsmith business. A proposed condition of issuance of the Conditional Use Permit is that the applicant obtain and submit a copy of his license from the federal Bureau of Alcohol, Tobacco, and Firearms to the City of Kenai prior to operation. The applicant mentioned during the site visit that he would be adding increased security to the garage and fence in order to meet federal requirements for his license, including security cameras and heavier-duty locks. The measures are listed as a recommended condition of the issuance of the Conditional Use Permit. In addition, a health and safety inspection by the City of Kenai Fire Marshal is listed as a recommended condition of the issuance of the Conditional Use Permit. The Fire Marshal was contacted during the writing of this staff report and he preferred to have the approval of the use by the Planning and Zoning Commission before we conducted his on-site inspection. If these conditions are met prior to operation as terms of the conditional use permit, the gunsmithing businesses will not be harmful to the public safety, health, or welfare.

- *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.*

Recommended conditions are stated at the end of the report.

RECOMMENDATIONS

City staff find that the applicant meets the criteria for issuance of a Conditional Use Permit as set forth in subsections (d)(1) through (d)(4) of Kenai Municipal Code 14.20.185, and hereby recommends that the Planning and Zoning Commission approve the Conditional Use Permit application, subject to the following conditions:

1. Applicant must comply with all federal, State of Alaska, and local regulations.
2. Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
3. The applicant will meet with City staff for on-site inspections when requested.
4. 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).
5. 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.
6. Prior to operation, the applicant must submit a copy of the federal firearms license issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.
7. Prior to operation, the applicant must schedule an appointment for an inspection by the City of Kenai Fire Marshal and shall comply with instructions from the Fire Marshal to meet municipal Fire Code. The applicant will provide documentation to the City of biannual fire inspections (once every two years) after the initial inspection prior to operation.
8. Prior to operation, the applicant will install security cameras, improved door locks, and update the security of his fencing as required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives and the City of Kenai Fire Marshal. Casual access shall not be available to the garage.
9. If the applicant decides to put up a sign for his business, he will first obtain a sign permit from the City of Kenai.
10. Failure to provide documentation to the City of meeting these conditions prior to operation of the gunsmithing business shall be grounds for the suspension or revocation of the Conditional Use Permit.

ATTACHMENTS

- A. Resolution No. PZ2019-37
- B. Application

- C. Maps
- D. Site Plan
- E. Photos from Site Visit
- F. Kenai Peninsula Borough Sales Tax Information
- G. Business License



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ2019-37**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI
GRANTING A CONDITIONAL USE PERMIT FOR THE USE OF GUNSMITHING AT 310
PRINCESS STREET

APPLICANT: Ronald E. Carlson

PROPERTY ADDRESS: 310 Princess Street

LEGAL DESCRIPTION: Lot 2, Cinderella Subdivision

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04505002

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.150 was submitted to the City on August 27, 2019; 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 September 25, 2019, following requirements outlined in Kenai Municipal Code 14.20.280 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;*

Condition Exists: The subject parcel is within the RR-1 Zone. Pursuant to KMC 14.20.080, the intent of the Rural Residential Zones (RR, RR-1 Zones) is for low density residential development in an attractive residential environment, to prohibit uses which would violate the residential character of the environment or generate heavy traffic in a predominantly residential area, and to separate residential structures in order to prevent health hazards and preserve the rural, open quality of the environment.

The business use for gunsmithing will be secondary or incidental to the residential use of the main building. While the use requires a Conditional Use Permit because of its location in the RR-1 Zone, it will be similar in character to a home occupation in that business will be conducted such that the average neighbor would not be aware of the use. Customers will be on the premises infrequently and in very few numbers and would not impact traffic. Adequate parking is available in the driveway for the use. Business will be conducted in an existing garage and will not require the building of new structures on the premises.

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

Condition Exists: The proposed use will not impact the character of the street. Residents may turn right on Magic Avenue from Princess Street and Princess Street is a dead-end. The Kenai New Life Assembly of God Church, approximately 800-900 feet away from the applicant's property, is at the corner of Princess Street and the Kenai Spur Highway. Existing non-residential traffic for mass and church assemblies currently occurs. The applicant anticipates have few and infrequent customers on-site. His business use of the property would not be readily apparent to the average person and would thus be unlikely to significantly impair the value of the adjoining property and neighborhood.

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

Condition Exists: The proposed use is in line with goals and objectives identified in the Comprehensive Plan, including Goal 2-Economic Development which states Kenai will encourage businesses to start up while providing growth that promotes affordable residential and commercial development and Goal 3-Land Use which states Kenai implement a forward-looking approach to community growth and development. That applicant will be able to start his small business in Kenai with a low up-front cost while maintaining the residential character and quality of life in his neighborhood.

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

Condition Exists: Access to the property is from Princess Street, which connects to the Kenai Spur Highway. Princess Street is maintained by the City of Kenai and the Kenai Spur Highway is maintained by the State of Alaska. The property is connected to City water and sewer.

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

Condition Exists: According to KMC 13.15.010-Discharge of firearms, it is unlawful for a firearm to be discharged in more populated areas of the City of Kenai, including the neighborhood for the proposed gunsmith business. A proposed condition of issuance of the Conditional Use Permit is that the applicant obtain and submit a copy of his license from the federal Bureau of Alcohol, Tobacco, and Firearms to the City of Kenai prior to operation. The applicant mentioned during the site visit that he would be adding increased security to the garage and fence in order to meet federal requirements for his license, including security cameras and heavier-duty locks. The measures are listed as a recommended condition of the issuance of the Conditional Use Permit. In addition, a health and safety inspection by the City of Kenai Fire Marshal is listed as a recommended condition of the issuance of the Conditional Use Permit. The Fire Marshal was contacted during the writing of this staff report and he preferred to have the approval of the use by the Planning and Zoning Commission before we conducted his on-site inspection. If these conditions are met prior to operation as terms of the conditional use permit, the gunsmithing businesses will not be harmful to the public safety, health, or welfare.

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.*

Conditions of the conditional use permit are stated in Section 2 of the resolution.

WHEREAS, the applicant has agreed to conditions of the conditional use permit that will protect public safety health, and welfare, follow the intent of the Rural Residential 1 (RR-1) Zone, and follow City requirements of the conditional use permits and gunsmithing is an allowed use within the RR-1 Zone with a Conditional Use Permit.

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 Ronald E. Carlson for the use of gunsmithing at 310 Princess Street.

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

1. Applicant must comply with all federal, State of Alaska, and local regulations.
2. Applicant shall file an annual report for the Conditional Use Permit as set forth in Kenai Municipal Code 14.20.155.
3. The applicant will meet with City staff for on-site inspections when requested.
4. 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).
5. 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.
6. Prior to operation, the applicant must submit a copy of the federal firearms license issued by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.
7. Prior to operation, the applicant must schedule an appointment for an inspection by the City of Kenai Fire Marshal and shall comply with instructions from the Fire Marshal to meet municipal Fire Code. The applicant will provide documentation to the City of biannual fire inspections (once every two years) after the initial inspection prior to operation.
8. Prior to operation, the applicant will install security cameras, improved door locks, and update the security of his fencing as required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives and the City of Kenai Fire Marshal. Casual access shall not be available to the garage.
9. If the applicant decides to put up a sign for his business, he will first obtain a sign permit from the City of Kenai.

10. Failure to provide documentation to the City of meeting these conditions prior to operation of the gunsmithing business 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 25th day of September, 2019.

JEFF TWAIT, CHAIRPERSON

ATTEST:

JAMIE HEINZ, CMC, CITY CLERK

DRAFT



APPLICATION FOR CONDITIONAL USE PERMIT
KMC 14.20.150

RECEIVED
CITY OF KENAI
DATE 8/27/19
PLANNING DEPARTMENT

PROPERTY OWNER	PETITIONER REPRESENTATIVE
Name: RONALD E CARLSON	Name:
Mailing Address: 310 PRINCESS ST	Mailing Address:
City, State Zip: KENAI AK. 99611	City, State Zip:
Phone Number: 907 335 0801	Phone Number:
Fax Number:	Fax Number:
Email: RC19643006@gmail.com	Email:

PROPERTY INFORMATION

Property Tax ID #: 04505002

Site Street Address: 310 PRINCESS ST KENAI

Current Legal Description: Lot 2 CINDERELLA subdivision

Conditional Use Requested For: (Describe the project, and use additional sheets if necessary) CARLSON'S Custom Guns, will be a small, in home business, operated from my home workshop

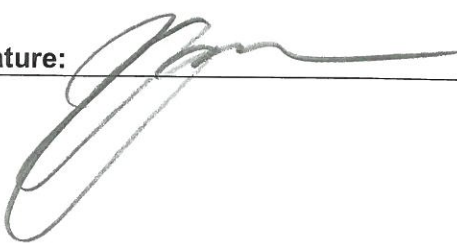
Zoning: AR1

Acreage: .28

- DOCUMENTATION**
- Required Attachments:
- Completed Application Form
 - Site Plan/Floor Plan with Square Footage
 - \$250 Fee (plus applicable sales tax)
 - KPB Tax Compliance (if applicable)
 - State Business License (if applicable)

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.

Date: 5, 28, 19 Signature: 

CONDITIONAL USE STANDARD (KMC 14.20.150)

The Planning and Zoning Commission may only approve the conditional use if the Commission finds that the following six (6) standards are satisfied. Each standard must have a response in as much detail as it takes to explain how your project satisfies the standard. The burden of proof rests with you. Feel free to use additional paper if needed.

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

THE USE will not significantly impact the character of the neighborhood, no changes to existing structures, one small sign on shop building, with minimal traffic, pick up and drop off a few times a week.

The value of the adjoining property and neighborhood will not be significantly impaired:

No, the proposed use will not impact adjoining property's or the neighborhood, the look and character of the property will stay the same and won't generate any more traffic than the average family home.

The proposed use is in harmony with the Comprehensive Plan:

In alignment w/ Goal 3 land use and Goal 2 - Economic Development and would not impair implementation of other goals

Public services and facilities are adequate to serve the proposed use:

THE PROPERTY IS on city sewer and water and is on a city maintained road.

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

THE SHOP and HOME will be secured - security system cameras ect. to comply with conditions of FEDERAL LICENSE - F.F.L. -

No out of the ordinary chemicals ARE used, kept only in small quantities, stored and used safely.

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.

LAND USE	
Describe current use of property covered by this application:	
Surrounding property: (Describe how land adjacent to the property is currently being used)	
North:	RESIDENCE
South:	RESIDENCE
East:	RESIDENCE
West:	UN-DEVELOPED

PROCEDURES FOR PERMITS REQUIRING PUBLIC HEARINGS AND NOTIFICATIONS

The permit you have applied for may require Public Hearing and Notification under KMC 14.20.280. The Planning and Zoning Commission meets the 2nd and 4th Wednesday of each month. To meet notice requirements, the Planning Department must receive your completed application **21 days prior** to the meeting when the Public Hearing is scheduled.

- Applications requiring Public Hearings must be filed no later than noon on the date of the deadline.
- Home Occupations and Landscape/Site Plans do not require a Public Hearing.
- Allow up to 4 weeks for the permitting process.
- If required:
 - The Fire Inspection Report must be received prior to processing the application.
 - The Affidavit of Posting must be received 2 weeks prior to the hearing date in order to schedule a public hearing.
 - Resolutions cannot be issued until expiration of the 15-day appeal period.
 - Resolutions cannot be issued until documentation is received that the certificate of compliance is met.

WHEN YOU HAVE A COMPLETED APPLICATION, CALL 283-8237 TO SCHEDULE AN APPOINTMENT WITH THE PLANNING DEPARTMENT TO REVIEW THE APPLICATION.

IF THE APPLICATION IS DETERMINED COMPLETE AND ACCEPTED, THE PUBLIC HEARING FEE OF \$125 PLUS TAX WILL BE COLLECTED. YOU WILL BE GIVEN A SIGN TO POST AND AN AFFIDAVIT OF POSTING TO SIGN AND RETURN TO THE PLANNING DEPARTMENT TO BEGIN PROCESSING THE APPLICATION.



"Village with a Past, City with a Future"

210 Fidalgo Avenue, Kenai, Alaska 99611-7794
Telephone: 907-283-7535 / Fax: 907-283-3014
www.ci.kenai.ak.us



Reset Button

AFFIDAVIT OF POSTING PUBLIC HEARING NOTICE

I, Ronald E. CARLSON, hereby certify that I have posted a Notice of


Public Hearing as prescribed by Kenai Municipal Code 14.20.280 (d) on the property that

Ronald E. Carlson (Name of Applicant) has petitioned for a
Conditional Use Permit -
Gunsmithing

The notice was posted on Sept. 12, which is 14

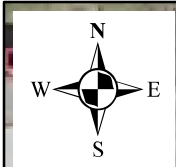
days prior to the public hearing on this petition. I acknowledge this Notice must be posted so as to be visible from each improved street adjacent to the property and must be maintained and displayed until all public hearings have been completed. I acknowledge that the Notice must be removed within five (5) days after the hearing.

Affirmed and signed this 12 day of September, 2019



Signature

Legal Description:
Tract or Lot: 2
Block:
Subdivision: Cinderella Subd.
KPB Parcel No.: 04505002

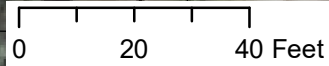


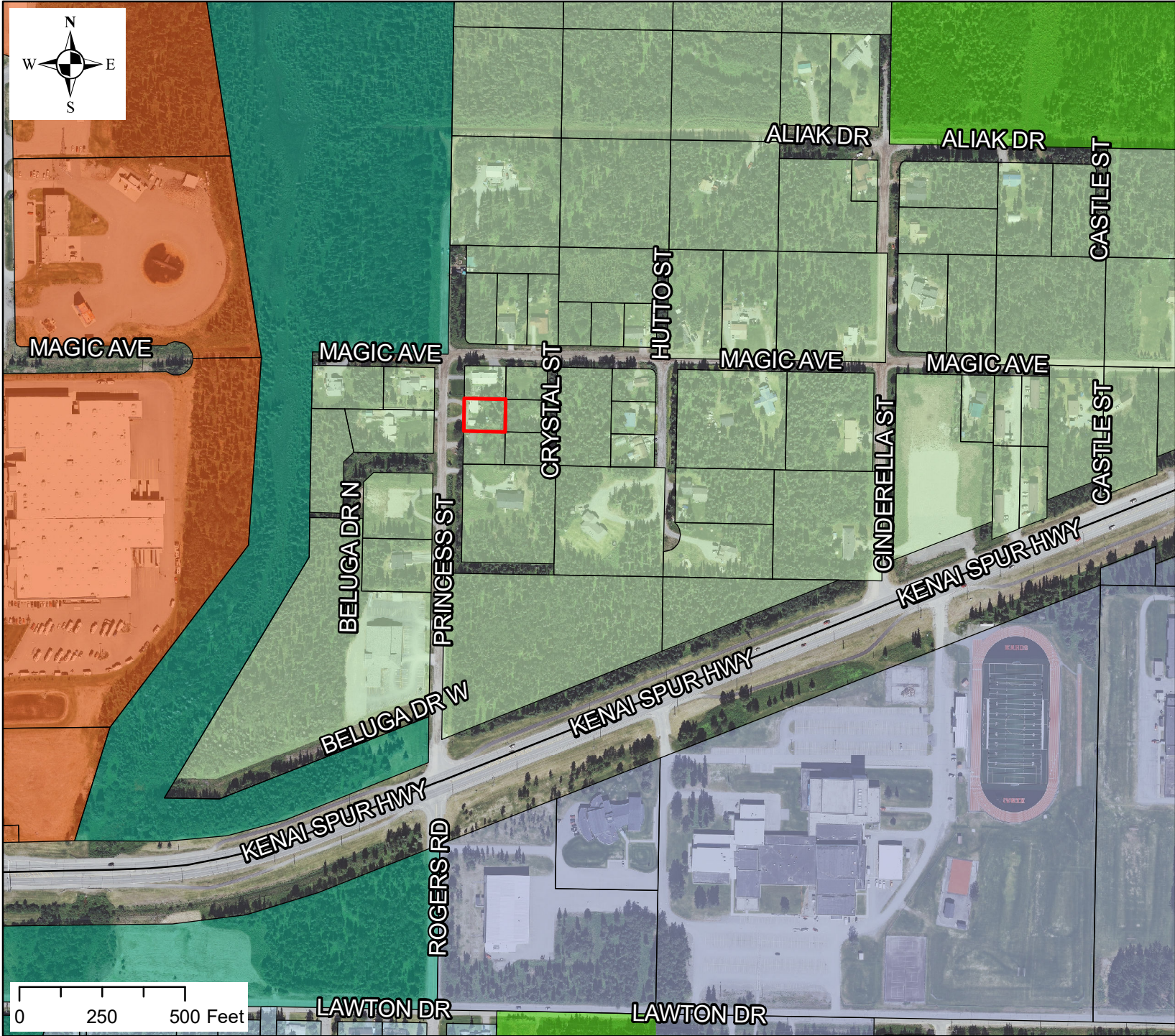
**Map for PZ2019-37
(1:400 Scale)**

**043505002
Lot 2,
Cinderella Subd.**



The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.





**Map for PZ2019-37
(1:5,000 Scale)**

**043505002
Lot 2,
Cinderella Subd.**

LEGEND

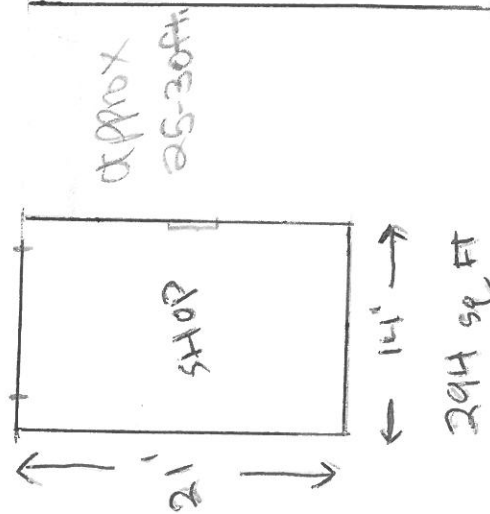
- Zoning**
- Rural Residential 1 (RR-1)
 - Rural Residential (RR)
 - Light Industrial (IL)
 - Conservation (C)
 - Education (ED)



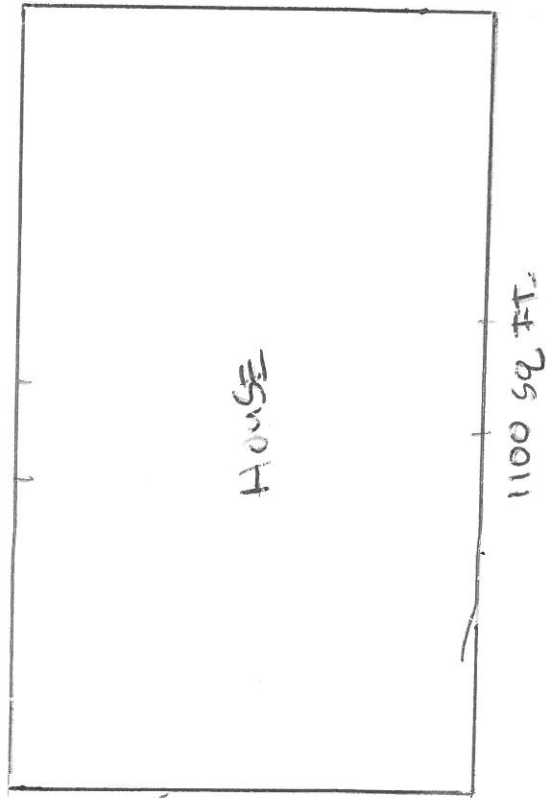
The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

PRINCESS ST.

DRIVEWAY



approx 25-30ft



SITE PLAN
310 PRINCESS ST.
CARHUNS CUSTOM GUNS





Sales Tax

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2175 • (907) 714-2376 Fax

A Division of the Finance Department
Sales Tax Account # 00206134

Charlie Pierce
Borough Mayor

Sales Tax Introduction Letter and Certificate of Registration



July 23, 2019

CARLSONS CUSTOM GUNS
310 PRINCESS ST
KENAI AK 99611-7822

Dear Business Owner:

Attached is your new certificate of Authority to Collect Sales Tax.

Net proceeds of the borough-wide sales tax of 3% is dedicated to our Borough schools. In addition, sales tax is collected for, and turned over to the cities. The schools and cities must have this sales tax money to operate; therefore, enforcement of the sales tax ordinance is strictly maintained.

Businesses are encouraged to promptly file sales tax returns and remit the taxes collected each reporting period by the due date prescribed. By reporting promptly, accounts may receive a 5% credit of the sales tax up to \$1,000 per quarter. Filing is required on a **QUARTERLY** basis. Please note that a return **MUST** be filed for **EVERY** reporting period, even if there were no sales (check the box, "RETURN HAS NO SALES"). The Sales Tax Division will mail returns at the end of each reporting period. The due date on the return is the day that the return **MUST BE POSTMARKED BY or TURNED IN TO OUR OFFICE BY.**

Accounts will be subject to a missing filing fee of \$25 for each return not filed; if two (2) consecutive returns are missed a reinstatement fee of \$100 will be assessed, in addition to any penalty or interest for late filing and remittance.

In an effort to reduce costs we are no longer mailing a hard copy of the sales tax code of ordinances; the sales tax code of ordinances are available online at <http://www.kpb.us/finance-dept/sales-tax/sales-tax-information>. A paper copy can be requested by phone (907)714-2175 or email salestax@kpb.us. The Sales Tax staff in the Finance Department will be glad to answer questions or assist in any way they can regarding your sales tax account.

Certificate

Jul 23 2019 1:00AM 10

KENAI PENINSULA BOROUGH CERTIFICATE OF AUTHORITY TO COLLECT BOROUGH SALES TAX

THIS IS TO CERTIFY THAT CARLSONS CUSTOM GUNS

is authorized and empowered by the Mayor of the Kenai Peninsula Borough to collect for the Borough Sales Tax on retail Sales, Rents and Services imposed pursuant to Ordinance No 5.18 of the Kenai Peninsula Borough.

This certificate is non-assignable and non-transferable and must be surrendered to the Mayor by the seller to whom it was issued upon his ceasing to do business at the location named herein, or any change in ownership, form of ownership, or any other change.

CARLSONS CUSTOM GUNS
310 PRINCESS ST
KENAI AK 99611-7822

ACCOUNT
NUMBER 00206134

DATE OF
REGISTRATION July 1, 2019

MAYOR

THIS CERTIFICATE MUST BE DISPLAYED PROMINENTLY AT THE PLACE OF BUSINESS.

Alaska Business License #

1084992

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business and Professional Licensing
P.O. Box 110806, Juneau, Alaska 99811-0806

This is to certify that

CARLSONS CUSTOM GUNS

310 PRINCESS ST KENAI AK 99611

owned by

RONALD E CARLSON

is licensed by the department to conduct business for the period

October 12, 2018 through December 31, 2020
for the following line of business:

54 - Professional, Scientific and Technical Services

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location. It is not transferable or assignable.

Mike Navarre





"Village with a Past, City with a Future"

210 Fidalgo Ave, Kenai, Alaska 99611-7794
Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

STAFF REPORT

To: Planning & Zoning Commission

From: Elizabeth Appleby, City Planner

Date: September 19, 2019

Subject: Resolution PZ2019-33 - Recommending the Council of the City of Kenai Enact Ordinance No. 3083-2019 (Substitute) Amending Kenai Municipal Code 14.20.175-Adult Businesses to Increase the Buffer Distances Between Adult Businesses and Sensitive Uses from 500 Feet to 1,000 Feet and Define Sensitive Uses, and Amending Kenai Municipal Code 14.22.010-Land Use Table to Add Adult Businesses to the Land Use Table

GENERAL INFORMATION

The City of Kenai Planning and Zoning Commission acts in an advisory capacity to the Kenai City Council on the City of Kenai Zoning Code as specified in Kenai Municipal Code 14.05.010 Duties and powers under Title 14 Planning and Zoning Commission. City Council has requested a recommendation from the Planning and Zoning Commission for Ordinance 3083-2019 (Substitute) that would amend City Code to address adult businesses and sensitive uses. The Kenai City Council referred Ordinance 3083-2019 (Substitute) to the City of Kenai Planning and Zoning Commission at their meeting on September 4, 2019, and requested the Commission provide a recommendation by October 2, 2019.

Currently adult businesses may be located in the Central Commercial (CC), General Commercial (CG), Light Industrial (IL), or Heavy Industrial (IH) zones of the City if the adult business is 500 or more feet from a church or school. The Ordinance would add a definition of a sensitive use to include a church, school, or other area where youth are likely to be present and distance requirement from a sensitive use to 1,000 feet. The allowed zones for adult businesses in the City would not change. In addition, the Ordinance would add adult businesses as a category in the Land Use Table under Kenai Municipal Code 14.22.010. Adult businesses are currently not part of the Land Use Table.

Public Notice, Public Comment

Pursuant to Kenai Municipal Code 14.20.280, Public hearing and notifications, City staff published notice of the Planning and Zoning Commission public hearing in the *Peninsula Clarion* newspaper and posted notice in three public places. No public comments have been submitted to the City of Kenai as of September 19, 2019.

ANALYSIS

Several attachments are included for consideration along with this memorandum:

- City Attorney memorandum to City Council of the proposed Code changes and pertinent legal precedents
- Council Member Pettey Memorandum to City Council describing how the Ordinance meets goals of the Comprehensive Plan
- Council Member Pettey and Knackstedt memorandum to City Council describing the proposed addition of adult businesses to the Land Use Table in the Substitute Ordinance
- Map showing zones allowing adult businesses and approximate buffers from sensitive uses and proposed changes to those buffers
- Packet of court cases and studies initially distributed to the Planning and Zoning Commission during the Discussion held on August 28, 2019

The City Council conducted an evidence-based analysis of restrictions on adult businesses and City Attorney provided studies that support a compelling government interest for the City of Kenai to regulate adult businesses. There is documentation from other communities that the negative secondary effects of adult businesses often extend to 1,000 to 1,500 feet beyond the business. These studies are also available to the Planning and Zoning Commission as supporting documents for Resolution PZ2019-33 and are discussed in the memorandum from the City Attorney.

The proposed changes to Kenai Municipal Code also align with objectives identified in the 2016 Imagine Kenai 2030 Comprehensive Plan, including:

- Objective Q-4 under Goal 1-Quality of Life to “promote the siting and design of land uses that are in harmony and scale with surrounding uses.”
- Objective LU-6 under Goal 3-Land Use to “review Zoning Code to consider use of buffers and buffer zones to separate incompatible land uses.”

In addition, Objective ED-9 under Goal 2-Economic Development states the City will, “capitalize on the tourism industry by marketing Kenai as a destination for recreational activities, conventions, festivals, arts, cultural and other events.” Increasing the buffer distances for adult businesses will also support this objective as studies have shown a secondary negative impact of adult businesses to include declining tourism.

The changes to buffers for adult businesses would still leave over five percent of land in Kenai open to adult businesses within the CC, CG, IL, and IH zones, which follows federal case law.

The addition of adult businesses to Kenai Municipal Code 14.22.010-Land Use Table will provide clarity on areas of the City where adult businesses are and are not allowed. The Land Use Table would be updated to show zones adult businesses are allowed a Principal Permitted Use (permitted if development and operation standards are met, including buffer distances from sensitive uses). This follows guidance in the studies and articles made available to the Planning and Zoning Commission, including the American Planning Association’s Report entitled Everything You Always Wanted to Know about Regulating Sex Businesses, xxx Report No.

Recommending Kenai Municipal Code Amendment – Adult Businesses and Sensitive Uses

495/496, by Eric Damian Kelly and Connie Cooper.

RECOMMENDATIONS

City staff advises the Planning and Zoning Commission to adopt Resolution PZ2019-33 recommending the Kenai City Council amend Kenai Municipal Code for adult businesses and sensitive uses by enacting Ordinance No. 3083-2019.

ATTACHMENTS

- A. Resolution No. PZ2019-33
- B. Ordinance No. 2083-2019 (Substitute)
- C. Memorandum to City Council from Council Member Glenese Pettey
- D. Memorandum to City Council from Council Members Glenese Pettey and Henry Knackstedt
- E. Memorandum to City Council from the City Attorney regarding Ordinance No. 3083-2019
- F. Map



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ2019 – 33**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **RECOMMENDING** THE COUNCIL OF THE CITY OF KENAI ENACT ORDINANCE 3083-2019 (SUBSTITUTE) AMENDING KENAI MUNICIPAL CODE 14.20.175 - ADULT BUSINESSES, TO INCREASE THE BUFFER DISTANCES BETWEEN ADULT BUSINESSES AND SENSITIVE USES FROM 500 FEET TO 1,000 FEET AND DEFINE SENSITIVE USES AND AMEND KENAI MUNICIPAL CODE 14.22.010-LAND USE TABLE TO ADD ADULT BUSINESSES.

WHEREAS, Kenai Municipal Code 14.05.010 states the City of Kenai Planning and Zoning Commission will act in an advisory capacity to the Kenai City Council regarding the Kenai Zoning Code; and,

WHEREAS, the Kenai City Council referred Ordinance 3083-2019 (Substitute) to the City of Kenai Planning and Zoning Commission at their meeting on September 4, 2019, and requested the Commission provide a recommendation by October 2, 2019; and,

WHEREAS, the Code changes support the goals identified in the 2016 Imagine Kenai 2030 Comprehensive Plan, including Goal 1-Quality of Life, Goal 2-Economic Development, and Goal 3-Land Use; and,

WHEREAS, the Code changes will promote the siting and design of land uses that are in harmony and scale with surrounding uses, a stated objective in the 2016 Imagine Kenai 2030 Comprehensive Plan under Quality of Life-4; and,

WHEREAS, the Code changes will support the marketing of Kenai as a destination for tourism and a desirable location for events, a stated objective in the 2016 Imagine Kenai 2030 Comprehensive Plan under Economic Development-9; and,

WHEREAS, the Code changes will use buffers and buffer zones to separate incompatible land uses, a stated objective in the 2016 Imagine Kenai 2030 Comprehensive Plan under Land Use-6; and,

WHEREAS, adult businesses are an incompatible land use with sensitive uses, which include churches, schools, or areas where youth are likely to be present (limited to public parks, youth recreational centers, public playgrounds, public libraries); and,

WHEREAS, there is evidence the negative secondary effects of adult businesses often extend to 1,000 feet beyond the adult businesses and the currently permitted 500 feet buffer is insufficient to separate adult businesses from incompatible sensitive uses; and,

WHEREAS, the addition of adult businesses to Kenai Municipal Code 14.22.010-Land Use Table will provide clarity on areas of the City where adult businesses are and are not allowed; and,

WHEREAS, Ordinance 3083-2019 (Substitute) is narrowly-tailored to address the substantial government interest in regulating secondary effects of adult businesses while providing available parcels part of the real estate market within the City of Kenai where adult businesses may locate.

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

Section 1. That the Kenai City Council enact Ordinance 3083-2019 (Substitute).

Section 2. That a copy of Resolution PZ2019-33 be forwarded to the Kenai City Council.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA, this 25th day of September, 2019.

JEFF TWAIT, CHAIRPERSON

ATTEST:

JAMIE HEINZ, CMC, CITY CLERK



Sponsored by: Councilmembers Pettey
and Knackstedt

COUNCIL REFERRED TO: R42

Date: 9/4/19

Return By: 10/2/19

CITY OF KENAI

ORDINANCE NO. 3083-2019 (Substitute)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING KENAI MUNICIPAL CODE 14.20.175 - ADULT BUSINESSES, TO INCREASE THE BUFFER DISTANCES BETWEEN ADULT BUSINESSES AND SENSITIVE USES FROM 500 FEET TO 1,000 FEET AND DEFINE SENSITIVE USES AND AMEND KENAI MUNICIPAL CODE 14.22.010-LAND USE TABLE, TO ADD ADULT BUSINESSES.

WHEREAS, the City currently permits adult businesses in the Central Commercial, General Commercial, Light Industrial and Heavy Industrial Zones as long as they are located more than 500 feet from other adult businesses, churches or public or private schools; and,

WHEREAS, a review of the zoning restrictions on adult businesses in the City show that they are currently inadequate to sufficiently protect the City's residents, youth, business community and visitors from the convincingly demonstrated secondary effects of adult businesses, which is a compelling government interest; and,

WHEREAS, the Alaska Supreme Court recently concluded in *Club Sinrock, LLC v. Municipality of Anchorage, Office of the Municipal Clerk*, Supreme Court No. S-17068 (Alaska, 2019) that while Alaska's free speech clause is more protective of individual rights than the federal constitution, the government need not wait for harm to arise before enacting legislation aimed at combating harmful secondary effects of adult businesses, but must approach the issue with an evidence based analysis demonstrating how restrictions are narrowly tailored to meet a compelling government interest; and,

WHEREAS, in *Club Sinrock*, the Court held that restrictions on adult businesses may satisfy the constitutional protections of free speech by relying on solid evidence of other communities experiences or specific studies presented to the legislative body, and,

WHEREAS, the U.S. Supreme Court in *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976) and *Renton v. Playtime Theatres*, 475 U.S. 41 (1986) identified harmful secondary effects of increased crime, decreased property values and urban blight; and,

WHEREAS, in *Sex, But Not the City: Adult-Entertainment Zoning, the First Amendment, and Residential and Rural Municipalities*, Mathew L. McGinnis, 46 B.C.L. Rev. 625 (2005), the Law Review Article cited that rural and predominately residential municipalities are especially susceptible to the negative secondary effects of adult businesses and that adult businesses arguably pose a greater risk to the quality of life in these communities than in larger cities; and,

WHEREAS, a 2005 committee report, *Adult Entertainment Zoning and Licensing Committee Report* to the City of Mount Vernon, identified schools, businesses where or areas where youth

are likely to be present and churches, among other uses, as sensitive to the secondary effects of adult businesses; and,

WHEREAS, this same report identified secondary negative impacts to include increased crime, creation of an atmosphere for crime, declining property values, deterioration of areas, incompatibility with other uses, negative land use impacts, negative impacts on quality of life, declining tourism, human trafficking associations, and harm to the public's health safety and welfare; and,

WHEREAS, within the American Planning Association's Report *Everything You Always Wanted to Know about Regulating Sex Businesses*, xxx Report No. 495/496, by Eric Damian Kelly and Connie Cooper, a survey from Rochester/ Monroe County New York showed the impact from adult entrapment businesses on neighboring properties stopped between 1000 feet and 1500 feet away; and,

WHEREAS, the sponsor and City staff have reviewed studies and articles on adult businesses, and made these available to the Council and public, including *Sex, But Not the City: Adult-Entertainment Zoning, the First Amendment, and Residential and Rural Municipalities*, Mathew L. McGinnis, 46 B.C.L. Rev. 625 (2005), a 2005 committee report, *Adult Entertainment Zoning and Licensing Committee Report* to the City of Mount Vernon; the American Planning Association's Report *Everything You Always Wanted to Know about Regulating Sex Businesses*, xxx Report No. 495/496, by Eric Damian Kelly and Connie Cooper, all of which contain and discuss numerous other studies and reports; and,

WHEREAS, the zoning restrictions proposed reduces the available property for adult businesses in the City by less than one percent and leaves sufficient property available within the City, for locating adult businesses, at least five percent, especially given the rural and residential nature of the small community and amount of lands within the City that are unavailable for commercial development; and,

WHEREAS, it is in the best interest of the City, and a compelling government interest, to restrict the location of adult businesses due to their demonstrated negative secondary effects to the proposed zones and outside 1000 feet of sensitive uses to protect residents, youth, businesses and visitors from the negative secondary effects of adult businesses; and,

WHEREAS, this buffer distance is consistent with other buffer distances from other property uses contained in the City's code; and,

WHEREAS, further limitations may be recommended in the future, but it is difficult to provide reasonable alternative avenues of communication, locations within the City, given the unique rural makeup of the City's lands, with very limited available commercial space; and,

WHEREAS, the restriction imposed are narrowly tailored to meet the City's compelling government interest as even an increase in law enforcement presence and action at potential adult business sites would not be sufficient to combat many of the negative secondary effects such as declining property values, deterioration of areas, incompatibility with other uses, negative land use impacts, negative impacts on quality of life, protecting youth and declining tourism; and,

WHEREAS, many other municipalities in Alaska and across the nation have successfully utilized a 1000 foot buffer from sensitive uses; and,

WHEREAS, it is not the intent of this ordinance to suppress any free speech activities protected by the state and federal constitution, but only to enact regulations addressing the secondary effects of adult businesses; and,

WHEREAS, at the (date) _____ Planning and Zoning Commission Meeting, the Commission recommended _____.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. Amendment of Section 14.20.175 of the Kenai Municipal Code: That Kenai Municipal Code, Section 14.20.175 – Adult Businesses, is hereby amended as follows:

14.20.175 Adult businesses.

(a) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) “Adult bookstore” means a commercial establishment where at least fifty-one percent (51%) of its interior floor area or retail merchandise is devoted to the sale, rent, lease, inspection, or viewing of books, films, video cassettes, DVDs, magazines, other periodicals or digital presentations whose dominant theme is the actual or simulated specified sexual activities, display or exhibition of specified anatomical areas, removal of articles of clothing, or total nudity.

(2) “Adult cabaret” means a restaurant, coffee house, bar or cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers who provide live adult entertainment for commercial purposes.

(3) “Adult entertainment” means any motion picture, live performance, display, or dance of any type whose dominant theme is actual or simulated specified sexual activities, display or exhibition of specified anatomical areas, removal of articles of clothing, or total nudity, offered for commercial purposes.

(4) “Adult mini-theater” means an enclosed building with a capacity of less than fifty (50) persons used for displaying adult entertainment through films, video, or other motion pictures for commercial purposes.

(5) “Adult motion picture theatre” means an enclosed building with a capacity of fifty (50) or more persons used for displaying adult entertainment through films, video, or other motion pictures for commercial purposes.

(6) “Adult business” means any adult bookstore, adult cabaret, adult mini-theater, or adult motion picture theater.

(7) “Commission” means the City of Kenai Planning and Zoning Commission.

(8) “Operator or manager” means any natural person responsible for the actual operation and management of an adult business.

- (9) "Sexual conduct" means acts of:
- (i) Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
 - (ii) Any penetration of the vagina or anus, however slight, by an object; or
 - (iii) Any contact between persons involving the sex organs of one person and the mouth or anus of another; or
 - (iv) Masturbation, manual or instrumental, of oneself or of one person by another; or
 - (v) Touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one person by another.

- (10) "Specified anatomical areas" means:

- (i) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola; and
- (ii) Human male genitals in a discernible erect state, even if opaquely covered.

- (11) "Specified sexual activities" means simulated or actual:

- (i) Display of human genitals in a state of sexual stimulation or arousal;
- (ii) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, or cunnilingus; and
- (iii) Fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.

(12) "Sensitive Use" means a church or other place of worship, a public or private school (licensed pre-K through 12th grade) or businesses where or areas where youth are likely to be present (limited to public parks, youth recreational centers, public playgrounds, public libraries).

- (b) *Location Requirements.*

(1) Adult businesses may be located only in the CC, CG, IL and HI zones. Additionally, no adult business may be located within one thousand [FIVE HUNDRED FEET] ([5]1000') of another adult business, [A CHURCH OR OTHER PLACE OF WORSHIP OR PUBLIC OR PRIVATE SCHOOL] or sensitive use.

(2) The distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the premises in which the proposed adult business is to be established to the nearest property line of a use listed above.

(c) *Development and Operation Standards.* The following development and operation standards shall apply to adult businesses:

- (1) No adult business shall be located in any temporary or portable structure.
- (2) Trash dumpsters shall be enclosed by a screening enclosure so as not to be accessible to the public.
- (3) No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- (4) Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance or exit to the business.
- (5) The entire exterior grounds, including the parking lot, shall be lighted in such a manner that all areas are clearly visible at all times.
- (6) Signage shall be governed by KMC 14.20.220 (Signs).
- (7) All entrances to an adult business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) are prohibited from entering the premises.
- (8) No adult business shall be operated in any manner that permits the observation of any persons or material depicting, describing or related to specified sexual activities or specified anatomical areas, inside the premises, from any public way or from any location outside the building or area of such establishment. This provision shall apply to any merchandise, display, decoration, sign, show window or other opening.
- (9) Each adult business shall conform to all applicable laws and regulations.
- (10) The adult business shall not operate or be open between the hours of 2:00 a.m. and 9:00 a.m.
- (11) Amplified sound may not be broadcast outside the building and structures used for the adult business.
- (12) No tip or gratuity offered or accepted by an adult entertainer may be offered or accepted prior to any live performance, dance or exhibition provided by the adult entertainer. No adult entertainer performing live upon any stage shall be permitted to accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any adult entertainer performing live upon any stage must be placed into a receptacle provided for receipt of gratuities by the business or through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer conducting any live performance, dance or exhibition in or about the nonstage area of the adult business shall be placed into the hand of the adult entertainer or into a receptacle provided by the adult entertainer, and not upon the person or into the clothing of the adult entertainer.

(13) No live entertainer shall engage in acts of sexual conduct.

(14) An adult cabaret shall provide separate dressing room facilities for performers, which are exclusively dedicated to the performers' use.

(15) An adult cabaret shall provide an entrance/exit for performers, which is separate from the entrance/exit used by patrons.

(16) An adult cabaret shall provide access for performers between the stage and the dressing rooms, which are completely separated from the patrons. If such separate access is not physically feasible, the cabaret shall provide a minimum three (3) foot wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers that is capable of preventing any physical contact between patrons and performers.

(17) All indoor areas of the adult cabaret where patrons or members of the public are permitted, excluding restrooms, shall be open to view by management at all times.

(d) If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of this chapter as a whole, or any portion thereof, and its application to other persons or circumstances, shall not be affected.

(e) *Nonconforming Use.* Any adult business operating at the time of the effective date of the ordinance codified in this section shall be considered a nonconforming use under KMC [14.20.050](#). However, a business that only periodically engages in adult business activity may continue to operate as a nonconforming use at the same level of activity it operated for the one (1) year period prior to the adoption of this ordinance. For example, a bar or restaurant that operated as an adult cabaret five (5) times in the previous one (1) year period would be allowed to operate as a nonconforming use five (5) times per year.

Section 2. Amendment of Section 14.22.010 of the Kenai Municipal Code: That Kenai Municipal Code, Section 14.22.010 – Land Use Table, is hereby amended as follows:

14.22.010 Land use table.

LAND USE TABLE

KEY:

P = Principal
Permitted Use
C =
Conditional
Use
S = Secondary
Use
N = Not
Permitted

NOTE: Reference footnotes on
following pages for additional
restrictions

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
RESIDENTIAL																	
One-Family Dwelling	N	C ¹⁸	P	P	P	P	P	P	P ²¹	S ¹	S ²	S ²	C ²²	P	P	P	S ¹ /C ²¹
Two-, Three-Family Dwelling	N	C ¹⁸	P	P	P	P	P	P	P ²¹	S ¹	C	C	C ²²	P	P	P	S ¹ /C ²¹
Four-Family Dwelling	N	C ¹⁸	P	C ^{3, 29}	P	N	N	P	P ²¹	S ¹	C	C	C ²²	N	P	C	S ¹ /C ²¹
Five-, Six-Family Dwelling	N	C ¹⁸	C ³	N	P	N	N	P	P ²¹	S ¹	C	C	N	N	P	C	S ¹ /C ²¹
Seven- or More Family Dwelling	N	C ¹⁸	C ³	N	C ³	N	N	P	P ²¹	S ¹	C	C	N	N	P	C	S ¹ /C ²¹
Mobile Home Parks ⁶	N	N	C	N	C	C	C	C	C	C	C	C	N	C	N	N	C
Planned Unit Residential Development ⁷	N	C ¹⁸	C	C ²⁹	C	C	C	C	C	C	C	C	N	C	C	C	C
Townhouses ⁴	N	C ¹⁸	C ³	C ^{3, 29}	C ³	C ³	C ³	C ³	C	C	C	C	C ²²	C	C	C	C
Accessory Building on Parcel Without Main Building or Use (See KMC 14.20.200)	N	N	C	C	C	C	C	C	N	N	N	N	N	N	C	N	N
COMMERCIAL																	
Airport Compatible Uses	P	N	N	N	N	N	N	N	C	C	C	C	N	N	N	C	C
<u>Adult Businesses</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P³¹</u>	<u>P³¹</u>	<u>P³¹</u>	<u>P³¹</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Automotive Sales	C	N	C	N	N	N	N	C	P	P	P	P	N	N	N	N	P
Automotive Service Stations	C	N	C	N	N	N	N	C	P	P	P	P	N	C	N	N	P
Banks	C	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Business/Consumer Services	C	N	C	C	C	N	N	C	P	P	P	C	N	C	C	C	P
Commercial Recreation	N	N	C	N	C	N	N	C	P	P	C	C	N	P	C	C	P
Guide Service	C	N	C	N	C	N	N	C	P	P	P	P	N	P	P	C	P
Hotels/Motels	C	N	C	N	C	N	N	C	P	P	P	C	N	C	P	C	P
Lodge	C	N	C	N	C	N	N	C	P	P	P	C	N	P	P	C	P
Marijuana Cultivation Facility, Standard ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	N

ZONING DISTRICTS																	
LAND USES	AL I	C	R R	RR -1	RS	RS -1	RS -2	RU	C C	C G	IL	IH	ED	R	TS H	L C	CM U
Marijuana Cultivation Facility, Standard ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	N
Marijuana Product Manufacturing Facility ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	N	N
Marijuana Testing Facility ³⁰	N	N	N	N	N	N	N	N	C	C	P	P	N	N	N	C	C
Professional Offices	C	N	C	C	C	N	N	P	P	P	P	P	N	C	P	P	P
Restaurants	C	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Retail Business	C	N ² ₆	C	N	C	N	N	C	P	P	P	P	S ² ₄	S ² ₄	C	C	P
Retail Marijuana Store ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	C
Theaters	N	N	C	N	C	N	N	C	P	P	C	C	N	P	C	C	P
Wholesale Business	C	N	C	N	C	N	N	C	C	P	P	P	N	S ² ₄	C	C	N
INDUSTRIAL																	
Airports	C	P ²⁰	C	N	C	N	N	C	C	C	C	C	N	C	N	N	C
Necessary Aviation Facilities	P	P	C	C	C	C	C	C	P	P	P	P	C	P	C	P	P
Automotive Repair	P	N	C	N	C	N	N	C	P	P	P	P	N	N	N	N	P
Gas Manufacturer/Storage	C ⁹	N	N	N	C	N	N	N	N	N	C ⁹	C ⁹	N	N	N	N	N
Manufacturing/Fabricating/Assembly	P	N	C	N	C	N	N	C	C	P	P	P	N	C	C	N	C
Mini-Storage Facility	C	N	C	N	C	N	N	C	C	P	P	P	N	N	N	C	C
Storage Yard	C	N	C	N	C	N	N	C	C	P	P	P	N	N	N	N	C
Warehouses	C	N	C	N	C	N	N	C	N	P	P	P	N	C	N	N	N
PUBLIC/INSTITUTIONAL																	
Assisted Living	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Churches*	N	C	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	C	C	P	P ¹⁰	P	P	P
Clinics	N	C	C	N	C	C	C	C	P	P	P	C	C	C	C	P	P
Colleges*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Elementary Schools*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Governmental Buildings	P	C	C	C ²⁹	C	C	C	C	P	P	P	C	P	C	C	P	P
High Schools*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P

ZONING DISTRICTS																	
LAND USES	AL I	C	R R	RR -1	RS	RS -1	RS -2	RU	C C	C G	IL	IH	ED	R	TS H	L C	CM U
Hospitals*	N	C	C	N	C	C	C	C	P	P	P	C	C	C	C	C	P
Libraries*	N	C	C	C ²⁹	C	C	C	C ¹ ₂	P	P	P	C	P	C	P	C	P
Museums	C	C	C	C ²⁹	C	C	C	C	P	P	P	C	P	C	P	C	P
Parks and Recreation	N	P	C	C ²⁹	C	C	C	C	P	P	P	P	P	P	P	C	P
MISCELLANEOUS																	
Animal Boarding/Commercial Kennel ¹³	C	C	C	N	C	C	N	N	C	C	C	C	N	C	N	C	C
Assemblies ¹⁵ (Large: Circuses, Fairs, etc.)	P	C	C	N	C	C	C	C	P ¹⁵	P ¹⁵	P ¹ ₅	P ¹ ₅	P ¹ ₅	C	P	N	P ¹⁵
Bed and Breakfasts	N	C	C	C	C	C	C	C	C	C	C	C	N	P	C	C	P
Cabin Rentals	N	C	C	N	C	N	N	N	P	P	P	C	N	P	P	C	P
Cemeteries	P	C	C	N	C	N	N	N	N	C	C	C	N	C	C	N	N
Communications Towers and Antenna(s), Radio/TV Transmitters/Cell Sites** ²⁸	C	P	C	N	C	C	C	C	P	P	P	P	P	C	C	C	C
Crematories/Funeral Homes	N	N	C	N	C	N	N	C	C	C	C	C	N	C	C	C	C
Day Care Centers ¹²	N	C	C	C ²⁹	C	C	C	C	P	P	P	C	C	C	C	P	P
Dormitories/Boarding Houses	N	C	C	N	C	C	C	P	P ²¹	S	C	P	P ² ₃	C	C	C	P
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Farming/General Agriculture***	N	P	P	N	N	N	N	N	N	N	N	P	N	P	N	N	N
Fraternal Organizations/ Private Clubs/Social Halls and Union Halls	N	N	C	N	C	C	C	C	P	P	P	C	N	C	P	C	P
Greenhouses/Tree Nurseries ¹³	N	C	C	N	C	C	C	C	P	P	P	C	N	C	C	C	P
Gunsmithing, Taxidermy	N	N	C	C	C	C	C	C	P	P	P	P	N	C	P	P	P
Nursing, Convalescent or Rest Homes	N	N	C	N	C	C	C	C	P	P	C	C	C	C	C	C	P
Parking, Public Lots ¹²	C	C	C	N	C	C	C	C	C	C	C	C	C	C	C	C	C

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
Personal Services ²⁵	N	C	C	N	C	C	C	C	P	P	P	P	C	C	P	P/C ²⁷	P
Recreational Vehicle Parks	N	C	C	N	C	N	N	C	C	C	C	C	N	C	C	N	C
Subsurface Extraction of Natural Resources ¹⁶	C	C	C	C	C	C	C	C	C	C	C	C	N	C	N	N	N
Surface Extraction of Natural Resources ¹⁷	C	C	C	N	C	N	N	C	N	C	C	C	N	C	N	N	N

* See 42 USCA Sec. 2000cc (Religious Land Use and Institutionalized Persons Act of 2000)

** See 42 Telecommunications Act of 1996, Sec. 704(a)

*** See, however, the limitations imposed under KMC 3.10.070

Footnotes:

1 Allowed as a secondary use except on the ground floor of the part of the building fronting on collector streets and major highways. Commercial or industrial which falls under the landscaping/site plans requirements of KMC Chapter 14.25 shall include any secondary uses in the landscaping and site plans.

2 One (1) single-family residence per parcel, which is part of the main building.

3 Allowed as a conditional use, subject to satisfying the following conditions:

a The usable area per dwelling unit shall be the same as that required for dwelling units in the RS Zone;

b The site square footage in area must be approved by the Commission;

c Yards around the site, off-street parking, and other development requirements shall be the same as for principal uses in the RR Zone;

d Water and sewer facilities shall meet the requirements of all applicable health regulations;

e The proposed dwelling group will constitute a residential area of sustained desirability and stability, will be in harmony with the character of the surrounding neighborhood, and will not adversely affect surrounding property values;

f The buildings shall be used only for residential purposes and customary accessory uses, such as garages, storage spaces, and recreational and community activities;

g There shall be provided, as part of the proposed development, adequate recreation areas to serve the needs of the anticipated population;

h The development shall not produce a volume of traffic in excess of the capacity for which the access streets are designed;

i The property adjacent to the proposed dwelling group will not be adversely affected.

4 See "Townhouses" section.

5 See “Mobile Homes” section.

6 Allowed as a conditional use, subject to “Mobile Homes” section; and provided, that any mobile home park meets the minimum Federal Housing Authority requirements.

7 See “Planned Unit Residential Development” section.

8 Allowed as a conditional use; provided, that the proposed location and the characteristics of the site will not destroy the residential character of the neighborhood.

9 Allowed as a conditional use; provided, that all applicable safety and fire regulations are met.

10 Provided that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line.

11 Allowed as a conditional use; provided, that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line; and provided further, that the proposed location and characteristics of the use will not adversely affect the commercial development of the zone.

12 Allowed as a conditional use; provided, that the following conditions are met:

- a** The proposed location of the use and the size and characteristics of the site will maximize its benefit to the public;
- b** Exits and entrances and off-street parking for the use are located to prevent traffic hazards on public streets.

13 Allowed as a conditional use; provided, that setbacks, buffer strips, and other provisions are adequate to assure that the use will not be a nuisance to surrounding properties. The Commission shall specify the conditions necessary to fulfill this requirement. Animal boarding and commercial kennels require a kennel license (see KMC Chapter 3.15).

14 Allowed as a conditional use; provided, that no indication of said use is evident from the exterior of the mortuary.

15 Allowed; provided, that the following conditions are met:

- a** An uncleared buffer strip of at least thirty (30) feet shall be provided between said use and any adjoining property in a residential zone.
- b** Exits and entrances and off-street parking for the use shall be located to prevent traffic hazards on the public streets.

16 See “Conditional Uses” section.

17 See “Conditional Use Permit for Surface Extraction of Natural Resources” section.

18 **Conditional use allowed only on privately held property.** Not allowed on government lands.

19 Reserved.

20 The airport related uses allowed under this entry are aircraft approach and departure zones pursuant to KMC 14.20.070(a), except that for properties contained inside the airport perimeter fence or having access to aircraft movement areas, taxiways or parking aprons, FAA authorized uses are allowed.

21 Developments for use shall be the same as those listed in the Development Requirements Table for the RU/TSH Zones.

22 Allowed as a conditional use in conjunction with a permitted use in the ED Zone. For example, housing for teachers or students for a school in the zone.

23 Allowed as an accessory use in conjunction with a permitted use in the ED Zone. For example, a dormitory used to house students for a school or educational facility.

24 Retail businesses allowed as a secondary use in conjunction with the primary use (e.g., a gift shop or coffee shop within another business).

25 Art studios, barbers, beauticians, tattoo parlors, dressmakers, dry cleaners and self-service laundries, fitness centers, photographic studios, tailors, tanning salons and massage therapists.

26 Food services are allowed on a temporary or seasonal basis of not more than four (4) months per year.

27 Personal services not set forth in the below matrix are conditional uses.

Limited Commercial Zone		
Personal Services	Permitted (P)	Conditional Use (C)
Art Studios	X	
Barbers	X	
Beauticians	X	
Dressmakers	X	
Dry Cleaners		X
Fitness Centers	X	
Massage Therapist		X
Photographic Studios	X	
Self-Service Laundries		X
Tailors	X	
Tanning Salons	X	
Tattoo Parlors		X

28 Communications tower/antenna(s) allowed as a principal permitted (P) use if the applicable conditions set forth in KMC 14.20.255 are met or a conditional use (C) if the applicable conditions set forth in KMC 14.20.150 and 14.20.255 are met.

29 Use allowed only for those parcels that abut the Kenai Spur Highway. The access to any such parcel must be either from: (a) driveway access on the Kenai Spur Highway; or (b) driveway access from a dedicated right-of-way and that driveway access is not more than two hundred seventy-five (275) feet as measured from the constructed centerline of

the Kenai Spur Highway to the center of the driveway access as shown on an as-built drawing/survey of the parcel.

30 See marijuana regulations, KMC 14.20.230—Home Occupations, 14.20.320—Definitions, 14.20.330—Standards for commercial marijuana establishments.

31 See 14.20.175-Adult Businesses, no adult business may be located within one thousand feet (1,000') of another adult business, or sensitive use. "Sensitive Use" means a church or other place of worship, a public or private school (licensed pre-K through 12th grade) or businesses where or areas where youth are likely to be present (limited to public parks, youth recreational centers, public playgrounds, public libraries).

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 2nd day of October, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Introduced: August 21, 2019
Public Hearing: September 4, 2019
Enacted: October 2, 2019
Effective: November 1, 2019



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Scott Bloom, City Attorney
DATE: August 12, 2019
SUBJECT: **Ordinance No. 3083 - 2019**

The Alaska Supreme Court recently issued a decision in *Club SinRock*, providing that Article I, Section 5 of the Alaska Constitution, protecting free speech, includes the protection of nude dancing, and affords more protection in this regard than the federal constitution. The Court held that it will apply strict scrutiny to regulations restricting nude dancing, and that any such regulations must be narrowly tailored to achieve the desired goals. However, the Court recognized that municipalities have a compelling interest in "combating" the secondary effects of adult businesses. The Court requires an evidence based analysis that shows how restrictions are "narrowly tailored to meet specific, compelling government interests." The Court held that this can be satisfied by relying on "solid" evidence from other communities or studies presented to the Council. Further, in regulating adult businesses, the Council must show evidence of potential harm and how "non-infringing" law enforcement techniques are unavailable or unlikely to be effective. Federal case law also provides guidance, suggesting that under federal law, allowing adult businesses on at least 5% of property within a municipality meets aspects of federal zoning requirements in this regard. The two cases expressing these holdings are presented in your material for your review. Also presented in your material is a Boston College law review article suggesting that the 5% rule is difficult to apply in small rural communities such as Kenai, and should not be applied.

A Map created by the Planning Department is attached, showing the zones in which adult businesses are permitted and the current 500 foot buffer and proposed 1000 foot buffer. The increased buffer distance, and proposed new sensitive uses which must be buffered from, reduce the available land for adult businesses by less than 1% in the City, and maintains available land opportunities greater than 5%, in compliance with federal case law. This is true even though large portions of the City are undevelopable, non-commercial or government owned.

Many studies and surveys have shown secondary negative impacts of adult businesses including increased crime, creation of an atmosphere for crime, declining property values, deterioration of areas, incompatibility with other uses, negative land use impacts, negative impacts on quality of life, declining tourism, human trafficking associations, and harm to the public's health safety and welfare. The Boston Law Review Article in the material provided suggests that rural communities are more susceptible to these negative impacts than larger communities. The case law presented in your material acknowledges many of these secondary effects discussed in the studies and surveys in your material. The intent of this Ordinance is to regulate these effects.

In your material for review is a study from other communities showing that the negative secondary effects of adult business often extend from 1000 feet to 1500 feet beyond the business. Buffering adult businesses from 1000 feet of sensitive uses appears reasonable given the rural nature of our community, the walkability and bike friendly nature of our commercial core and surrounding areas, the desire of our community to encourage tourism and effort put into our youth facilities in Kenai.

The Ordinance is intended to be narrowly tailored, that is only protecting the City from the negative secondary effects of adult businesses. These negative secondary effects, such as declining property values, deterioration of areas, incompatibility with other uses, negative land use impacts, negative impacts on quality of life, declining tourism and protecting youth cannot reasonably otherwise be prevented by acceptable law enforcement techniques. For example the police can not influence tourist impressions of our community, convince a potential property buyer that their business or property value will not be impacted by negative secondary effects of an adult business. Likewise, the police can not prevent youth in our area, utilizing, schools, libraries, parks and recreational facilities, and walking and riding their bikes back and forth, from many of the secondary effects.

I have provided the Council numerous articles and studies discussing adult oriented businesses, other communities experiences with this issue, secondary effects from these businesses, and approaches to zoning for adult oriented businesses. I request Council review this material prior to making a decision on this Ordinance or providing input.

Your consideration is appreciated.



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Glenese Pettey, Council Member
DATE: August 26, 2019
SUBJECT: **Ordinance No. 3083-2019 – Adult Businesses**

I decided to sponsor Ordinance No. 3083-2019 after it became evident that our City Code, as currently written, does not adequately protect our residents from the secondary effects of adult businesses. I have attached an exhibit that provides an example of one area within our City that, as our Code is currently crafted, would allow adult business establishments. While municipalities are mandated to provide sufficient area inside their boundaries where adult business could be located, allowing those businesses close to sensitive uses where the secondary effects would harm other property uses does not support the vision we have for our City.

Our Comprehensive Plan – Imagine Kenai 2030 – contains eight primary goals. To successfully implement three of these goals, the Code must be changed as proposed by this Ordinance.

Goal 1 – Quality of Life: Promote and encourage quality of life in Kenai, Objective Q-4 states that the City should promote the siting and design of land uses that are in harmony and scale with surrounding uses. Based on the attached exhibit, it is clear that the siting of adult businesses allowed under our current Code is not in harmony with many of our existing land uses.

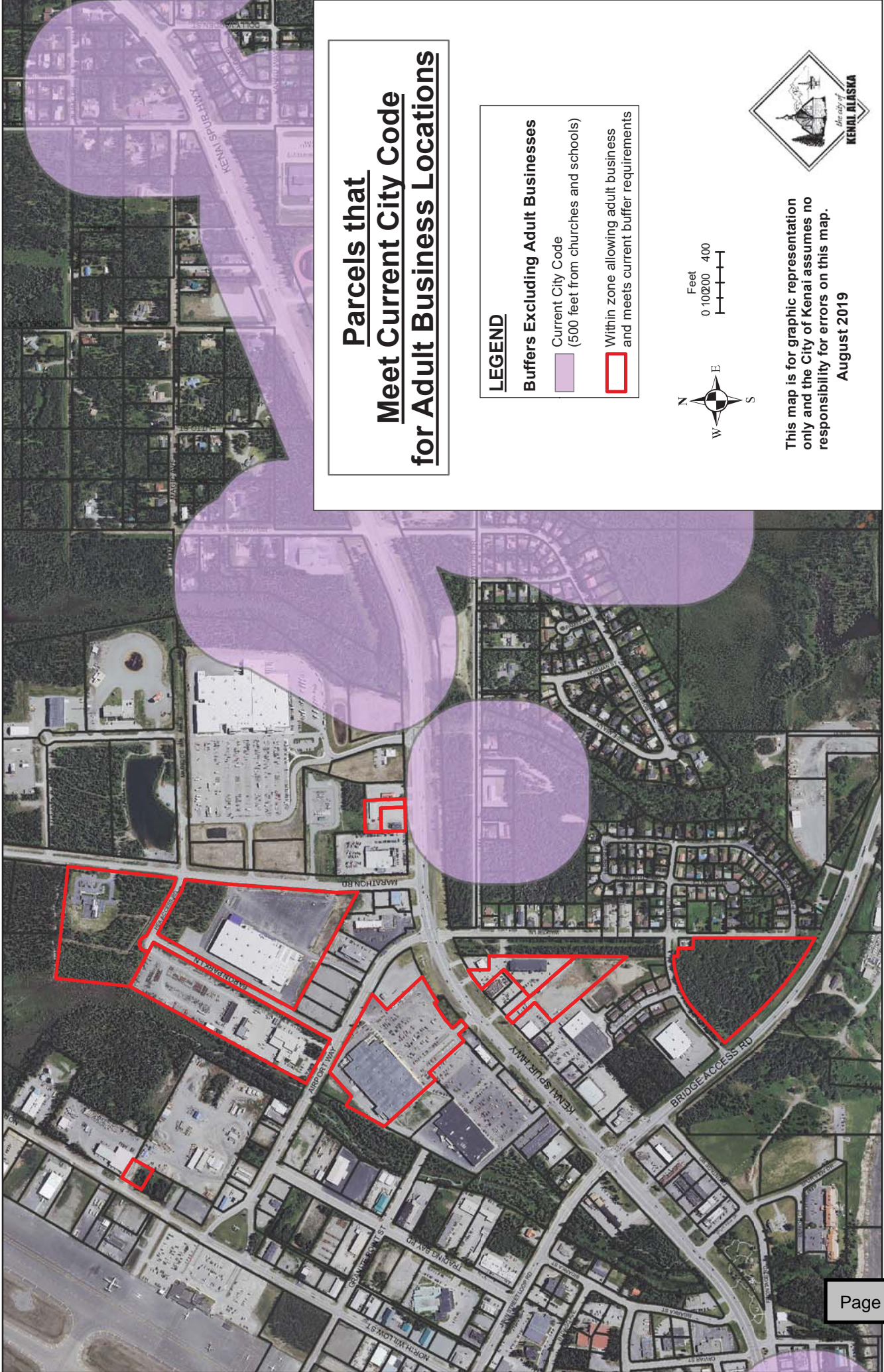
Goal 2 – Economic Development: Provide economic development to support the fiscal health of Kenai, Objective ED-3 states that the City should use regional economic and workforce statistics to match the most suitable type of industry for particular areas and then market those areas. The retail sector of the City of Kenai is the primary driver of sales in the City and is a strong indicator of the economic health of our community. The City should continue to market and incentivize that sector in our core commercial area. Adult entertainment businesses located in this area would limit its attractiveness for many businesses and make incentives and marketing much less effective.

Goal 3 – Land Use: Develop land use strategies to implement a forward-looking approach to community growth and development, Objective LU-1 states the City should establish siting and

design standards so that development is in harmony and scale with surrounding uses. In addition to quality of life, it is clear the City must consider future growth and development when siting businesses which may share future access by frontage roads or trails with existing uses such as schools, neighborhoods, and other land uses which serve sensitive populations and which may require separation from adult businesses.

The proposed Ordinance provides a solution in accordance with the goals of the City's Comprehensive Plan – Imagine Kenai 2030, while providing sufficient area inside City boundaries where adult business could be located.

Your consideration is appreciated.



Parcels that Meet Current City Code for Adult Business Locations

LEGEND

Buffers Excluding Adult Businesses

- Current City Code
(500 feet from churches and schools)
- Within zone allowing adult business
and meets current buffer requirements



This map is for graphic representation only and the City of Kenai assumes no responsibility for errors on this map.
August 2019



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MEMORANDUM

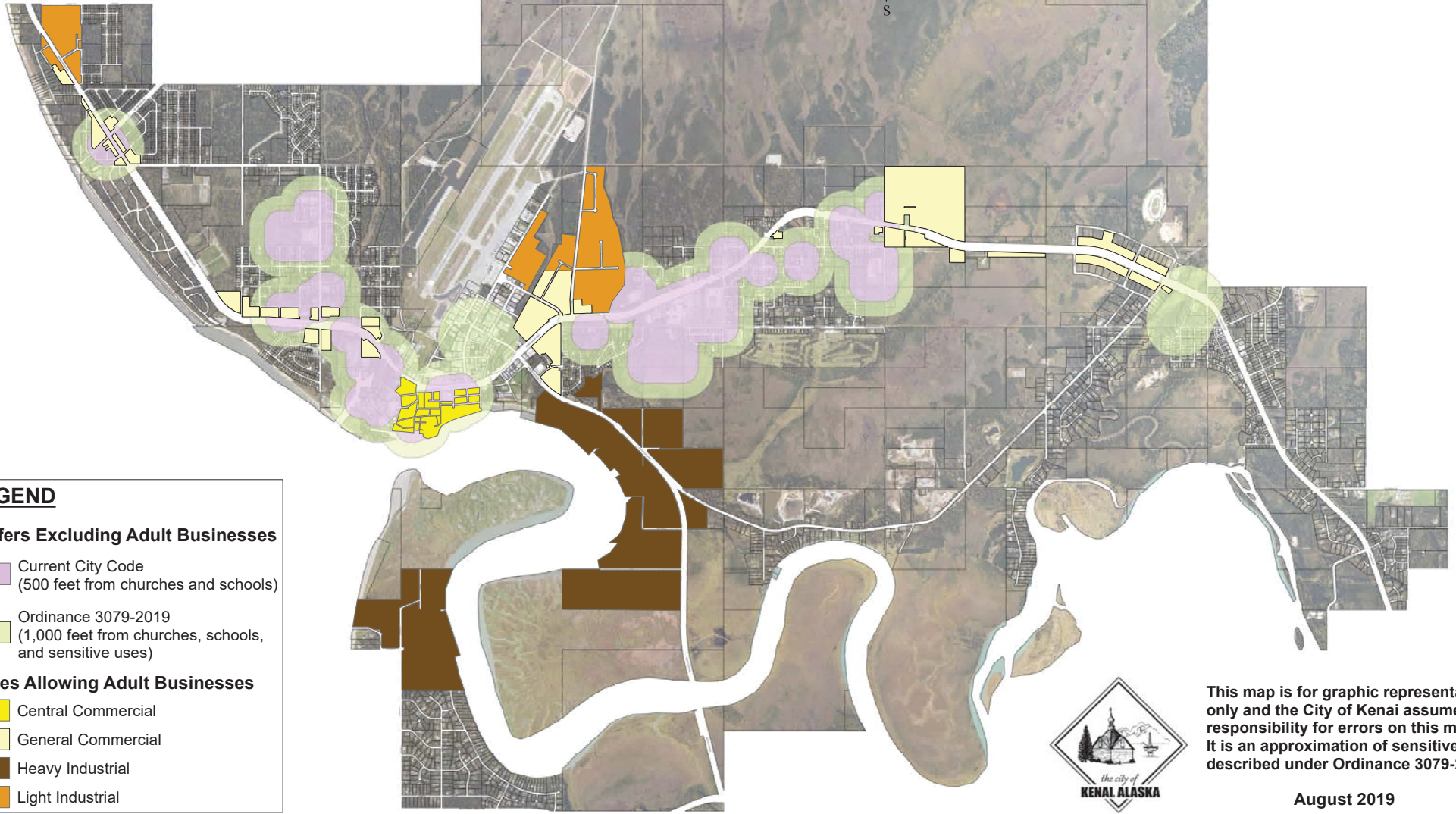
TO: Mayor Brian Gabriel and Kenai City Council
FROM: Council Members Pettey and Knackstedt
DATE: August 29, 2019
SUBJECT: **Ordinance No. 3083 – 2019 (Substitute)**

This Substitute Ordinance adds adult businesses to the Land Use Table. For unknown reasons, adult businesses have never been placed in the Land Use Table similar to other land uses. This amendment will add clarity to the code and make it easier for the public to understand where adult businesses may be located.

Your consideration is appreciated.



Required Zone Locations for Adult Businesses

0 2,000 4,000 8,000
Feet



LEGEND

Buffers Excluding Adult Businesses

-  Current City Code
(500 feet from churches and schools)
-  Ordinance 3079-2019
(1,000 feet from churches, schools,
and sensitive uses)

Zones Allowing Adult Businesses

-  Central Commercial
-  General Commercial
-  Heavy Industrial
-  Light Industrial



This map is for graphic representation only and the City of Kenai assumes no responsibility for errors on this map. It is an approximation of sensitive uses described under Ordinance 3079-2019.

August 2019



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STAFF REPORT

To: Planning & Zoning Commission

From: Elizabeth Appleby, City Planner

Date: September 19, 2019

Subject: Resolution PZ2019-39 – Home Occupation Permit – Day Care

Applicant: Mindy Dalebout
604 Laurel Drive
Kenai, AK 99611

Property Owner: Carl Dalebout
604 Laurel Drive
Kenai, AK 99611

Requested Action: Home Occupation Permit – Day Care of no more than eight (8) children under the age of twelve (12), including children related to the caregiver

Legal Description: Lot 11, Block J, Woodland Subdivision Part 1

Property Address: 604 Laurel Drive

KPB Parcel Number: 04325038

Lot Size: 16,988 square feet (0.39 acres) lot size
552 square feet of the 2,288 square foot home to be used for the daycare (approx. 24% of the home)

Existing Zoning: Suburban Residential (RS)

Current Land Use: Residential – Single Family Dwelling

Land Use Plan: Suburban Residential (SR)

GENERAL INFORMATION

The City has received an application for a Home Occupation Permit to operate a day care within her residence of no more than eight (8) children under the age of twelve (12), including children related to the caregiver. The applicant's business name is Little Ducklings Daycare. The subject parcel is located in the Suburban Residential (RS) Zone of the City of Kenai. Kenai Municipal Code (KMC) 14.20.320-Definitions gives the following definition of a home occupation:

“Home occupation” means an accessory use carried out for remuneration by a resident in the resident's dwelling unit.

A day care of no more than eight (8) children under the age twelve (12), including children related to the caregiver, is a permitted use for a home occupation under KMC 14.20.230(b)-Home Occupations-Uses Permitted.

Application

KMC 14.20.230(e)-Home Occupations-Permit Application details application requirements for home occupation permits. City staff deemed the application to be complete.

Public Notice, Public Comment

KMC 14.20.230(e)(4) states notice of the consideration by the Planning and Zoning Commission of a home occupation permit application shall be published once at least two (2) days prior to the meeting in a paper of general circulation in the City of Kenai. City staff published in the *Peninsula Clarion* more than two (2) days prior to the Planning and Zoning Commission meeting considering the home occupation permit. No public comments have been submitted to the City about the application as of September 19, 2019.

ANALYSIS

Kenai Municipal Code 14.20.230(a)(b)-Home Occupations-Intent, Uses Permitted

KMC 14.20.230(a)-Home Occupations-Intent states that the intent of this chapter is to permit home occupations that are compatible with other permitted uses and with the residential character of a neighborhood, and that are clearly secondary or incidental to the residential use of the main building. In general, a home occupation use would be conducted such that the average neighbor under normal circumstances would not be aware of the use other than a permitted sign. Home occupations are permitted accessory uses so long as all the development requirements listed in this section are observed. The proposed day care meets the intent of City Code for home occupations because it would be an accessory use of the applicant's residence and the average neighbor would not be aware of the use. Parking is available in applicant's driveway for parents to drop-off and pick-up children.

KMC 12.20.230(b)(2) limits the number of children care for in home occupations for day care to no more than eight (8) children under age twelve (12), including children related to the caregiver. The applicant meets this limitation for her proposed home occupation.

Kenai Municipal Code 14.20.230(d)-Home Occupations-Development Requirements

Kenai Municipal Code 14.20.230(d) sets forth the development requirements of a Home Occupation, as follow:

- *KMC 14.20.230(d)(1) Not more than one (1) person outside the family shall be employed in the Home Occupation.*

Requirement Met: The applicant states that she will be the sole employee and she has no plans to employ other individuals at this time. The applicant meets this development requirement.

- *KMC 14.20.230(d)(2) No more than thirty percent (30%) of the gross floor area of all buildings on the lot shall be used for the Home Occupation.*

Requirement Met: The applicants indicates that she plans to use a portion of the lower level of the residence for the day care, including a room, hallway, and bathroom as shown on the site plan. According to the Kenai Peninsula Borough assessing records, the applicant's residence contains 2,288 square feet of gross floor space. Thirty percent (30%) would be 686 square feet. The rooms proposed to be used for the day care on the lower level of the residence total approximately 552 square feet of the 2,288 square-foot home, which is approximately twenty-four percent (24%) of the gross floor area. The applicant meets this development requirement.

- *KMC 14.20.230(d)(3) The Home Occupation shall be carried on wholly within the principal building, or other buildings, which are accessory thereto. Any building used for a Home Occupation shall be wholly enclosed.*

Requirement Met: The applicant's house will be the only building used for the day care. The applicant meets this development requirement.

Kenai Municipal Code 14.20.230(h)-Home Occupations-Fire Code Inspections

Day care facilities shall be inspected by the Fire Marshal prior to approval of the permit and every other year thereafter. The Planning and Zoning Commission's approval of the Home Occupation Permit will permit the use; however, the applicant may not operate her business until she has full approval from the Fire Marshal. Conditions for meeting Fire Code and inspections given as conditions for the approval of the Home Occupation Permit.

The proposed Day Care facility was inspected by Fire Marshal Jeremy Hamilton on August 22, 2019, pursuant to KMC 14.20.230(h)(1) and the applicant has submitted a copy of the notes from this inspection with her Home Occupation Permit application. The Fire Marshal found that the windows in the area where the daycare will be located do not open wide enough to be considered egress windows. The applicant has been advised that egress windows will need to be installed and a second inspection must be performed by the Fire Marshal before she may operate her day care business.

The Building Official, Michael Wesson, has indicated that a building permit may be necessary for the installation of the new egress windows; however, he will not be able to determine if a Building Permit is necessary until the applicant presents him with a plan for the installation of the egress windows.

RECOMMENDATIONS

City staff finds that the applicant meets the intent, uses permitted, and development requirements for a Home Occupation Permit as outlined under KMC 14.20.230-Home Occupations. City staff recommend that the Planning and Zoning Commission approve the Home Occupation Permit application, subject to the following conditions:

1. Applicant must comply with all federal, State of Alaska, and local regulations.
2. The City of Kenai Fire Marshal must perform an inspection to verify that the applicant has complied with his requirements set forth on the inspection dated August 22, 2019; including, but not limited to, the installation of egress windows. The applicant may not operate her business until this has been done.
3. The applicant will discuss plans for the egress windows with the City Building Official, and if necessary will obtain a Building Permit from the City to install the egress windows.
4. Pursuant to KMC 14.20.230(h)(1), the premises shall be inspected every other year by the Fire Marshal for the City of Kenai.
5. A copy of the license issued by the State of Alaska for day care facilities must be submitted to the City of Kenai prior to operating the day care.
6. Pursuant to KMC 14.20.230(f), this Home Occupation Permit is not transferable to another person or location.
7. If the applicant decides to put up a sign for her business, she will first obtain a sign permit from the City.
8. Failure to provide documentation to the City of meeting these conditions prior to operation of the day care business shall be grounds for the suspension or revocation of the Home Occupation Permit.

ATTACHMENTS

- A. Resolution No. PZ2019-39
- B. Application
- C. Maps
- D. Site Plan
- E. Business License
- F. Fire Inspection



**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ2019-39**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI **GRANTING** A HOME OCCUPATION PERMIT FOR A DAY CARE OF NO MORE THAN EIGHT (8) CHILDREN UNDER THE AGE OF TWELVE (12), INCLUDING CHILDREN RELATED TO THE CAREGIVER GUNSMITHING AT 604 LAUREL DRIVE

APPLICANT: Mindy Dalebout

PROPERTY OWNER: Carl Dalebout

PROPERTY ADDRESS: 604 Laurel Drive, Kenai, Alaska 99611

LEGAL DESCRIPTION: Lot 11, Block J, Woodland Subdivision Part 1

KENAI PENINSULA BOROUGH PARCEL NUMBER: 04325038

WHEREAS, a complete application meeting the requirements of Kenai Municipal Code 14.20.230(e)-Home Occupations-Permit Application was submitted to the City on September 5, 2019; and,

WHEREAS, the applicant meets the intent of the Home Occupations chapter specified under Kenai Municipal Code 14.20.230(a)-Home Occupations-Intent, as her proposed day care will be an accessory use so located and conducted that the average neighbor would not be aware of its existence under normal circumstances; and,

WHEREAS, a day care of no more than eight (8) children under the age of twelve (12), including children related to the caregiver, is a permitted use with a Home Occupation Permit under 14.20.230(b)-Home Occupations-Uses Permitted; and,

WHEREAS, the applicant has demonstrated with plans and other documents that she meets the development requirement 14.20.230(d)(1) for a Home Occupational Permit to have not more than one (1) person outside the family be employed in the home occupation; and,

WHEREAS, the applicant has demonstrated with plans and other documents that she meets the development requirement 14.20.230(d)(2) for a Home Occupational Permit to use no more than thirty percent (30%) of the gross floor area of all buildings on the lot for the home occupation; and,

WHEREAS, the applicant has demonstrated with plans and other documents that she meets the development requirement 14.20.230(d)(3) for a Home Occupational Permit to carry on the home occupation wholly within an enclosed principal building; and,

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

Section 1. That a Home Occupation Permit is granted to Mindy Dalebout for a day care of no more than eight (8) children under the age of twelve (12), including children related to the caregiver, at 604 Laurel Drive.

Section 2. That the Home Occupation Permit is subject to the following conditions:

1. Applicant must comply with all federal, State of Alaska, and local regulations.
2. The City of Kenai Fire Marshal must perform an inspection to verify that the applicant has complied with his requirements set forth on the inspection dated August 22, 2019; including, but not limited to, the installation of egress windows. The applicant may not operate her business until this has been done.
3. The applicant will discuss plans for the egress windows with the City Building Official, and if necessary will obtain a Building Permit from the City to install the egress windows.
4. Pursuant to KMC 14.20.230(h)(1), the premises shall be inspected every other year by the Fire Marshal for the City of Kenai.
5. A copy of the license issued by the State of Alaska for day care facilities must be submitted to the City of Kenai prior to operating the day care.
6. Pursuant to KMC 14.20.230(f), this Home Occupation Permit is not transferable to another person or location.
7. If the applicant decides to put up a sign for her business, she will first obtain a sign permit from the City.
8. Failure to provide documentation to the City of meeting these conditions prior to operation of the day care business shall be grounds for the suspension or revocation of the Home Occupation Permit.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,
this 25th day of September, 2019.

ATTEST:

JEFF TWAIT, CHAIRPERSON

JAMIE HEINZ, CMC, CITY CLERK



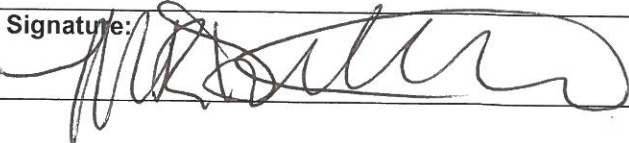
RECEIVED
 APPLICATION FOR CITY OF KENAI
 HOME OCCUPATION PERMIT DATE 9-5-19
 KMC 14.20.230
 PLANNING DEPARTMENT

OWNER	PETITIONER REPRESENTATIVE (IF ANY)
Name: <u>Mindy Dalebout</u>	Name:
Mailing Address: <u>604 Laurel Dr</u>	Mailing Address:
City, State, Zip: <u>Kenai, AK 99611</u>	City, State, Zip:
Phone Number: <u>(315) 955-4439</u>	Phone Number:
Fax Number:	Fax Number:
Email: <u>happy194152@gmail.com</u>	Email:

PROPERTY INFORMATION
Property Tax ID #: <u>04325038</u>
Site Street Address: <u>604 Laurel Dr Kenai, AK 99611</u>
Current Legal Description: <u>Lot 11, Block J, Woodland Subd, Pt. 1</u>
Home Occupation Requested For: (Describe the project, and use additional sheets if necessary) <u>I am requesting to start a in home day care of no more than eight (8) children under the ages five (5) and under.</u> <u>Not more than one (1) person outside the Family shall be employed in the Home occupation.</u> <u>The Children that will be provided day care in the home will be in the ages From 2 weeks up to Five (5) years of age</u>
Zoning: <u>Suburban Residential</u> Acreage: <u>0.39</u>

DOCUMENTATION
Required Attachments: <u>Completed Application Form</u> <u>Site Plan/Floor Plan with Square Footage</u> <u>KPB Tax Compliance (if applicable)</u> <u>State Business License (if applicable)</u>

AUTHORITY TO APPLY FOR HOME OCCUPATION PERMIT:
 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 home occupation permit in conformance with Title 14 of the Kenai Municipal Code. I understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff 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.

Date: <u>9/3/19</u>	Signature: 
---------------------	---

HOME OCCUPATION STANDARD (KMC 14.20.230)

Home Occupations specifies that a permit is required for operating a business out of a home. Home Occupations are considered an accessory use and conducted so that the average neighbor, under normal circumstances would not be aware of its existence other than for a sign as permitted in this chapter.

1. Permitted Use: (describe business)

Permit Use to open a in home day care on no more than eight (8) children.

2. Must Meet Development Requirements:

- a. Not more than one (1) person outside the family shall be employed:

No more than one (1) person outside the Family, Myself and possible sub may work in day care.

- b. No more than thirty percent (30%) of the gross floor area of all building on the lot shall be used for the Home Occupation:

For in home day care we are using less than thirty percent (30%) of the gross floor area.

- c. The Home Occupation shall be carried on wholly within the principal building, or other buildings which are accessory thereto. Any building used for a Home Occupation shall be wholly enclosed.

The Home Occupation will only be inside my single family home.

3. Fire Code Inspection

Day care facilities shall be inspected by the Fire marshal for compliance with the fire code (KMC 8.05) prior to approval of the permit. Thereafter, they shall be inspected every other year by the Fire marshal. Failure to comply with the fire code (KMC 8.05) shall be grounds for the suspension or revocation of the facilities' home occupation permit.

Residences which are the subject of a home occupation permit application (other than day care facilities) may be required to be inspected by the Fire Marshal for compliance with the fire code (KMC 8.05) prior to approval of the permit, if the Fire Marshal determines it is necessary for public safety.

4. The Following Uses Are Prohibited:

- Commercial auto and boat repair.
- Commercial kennels or similar uses.
- Convalescent homes for the care of more than two (2) patients.
- Mortuaries.
- Private schools with organized classes.
- Real estate office.
- Restaurants.

LAND USE

Describe current use of property covered by this application:

Single Family Home

Surrounding property: (Describe how land adjacent to the property is currently being used)

North:

Single Family Home

South:

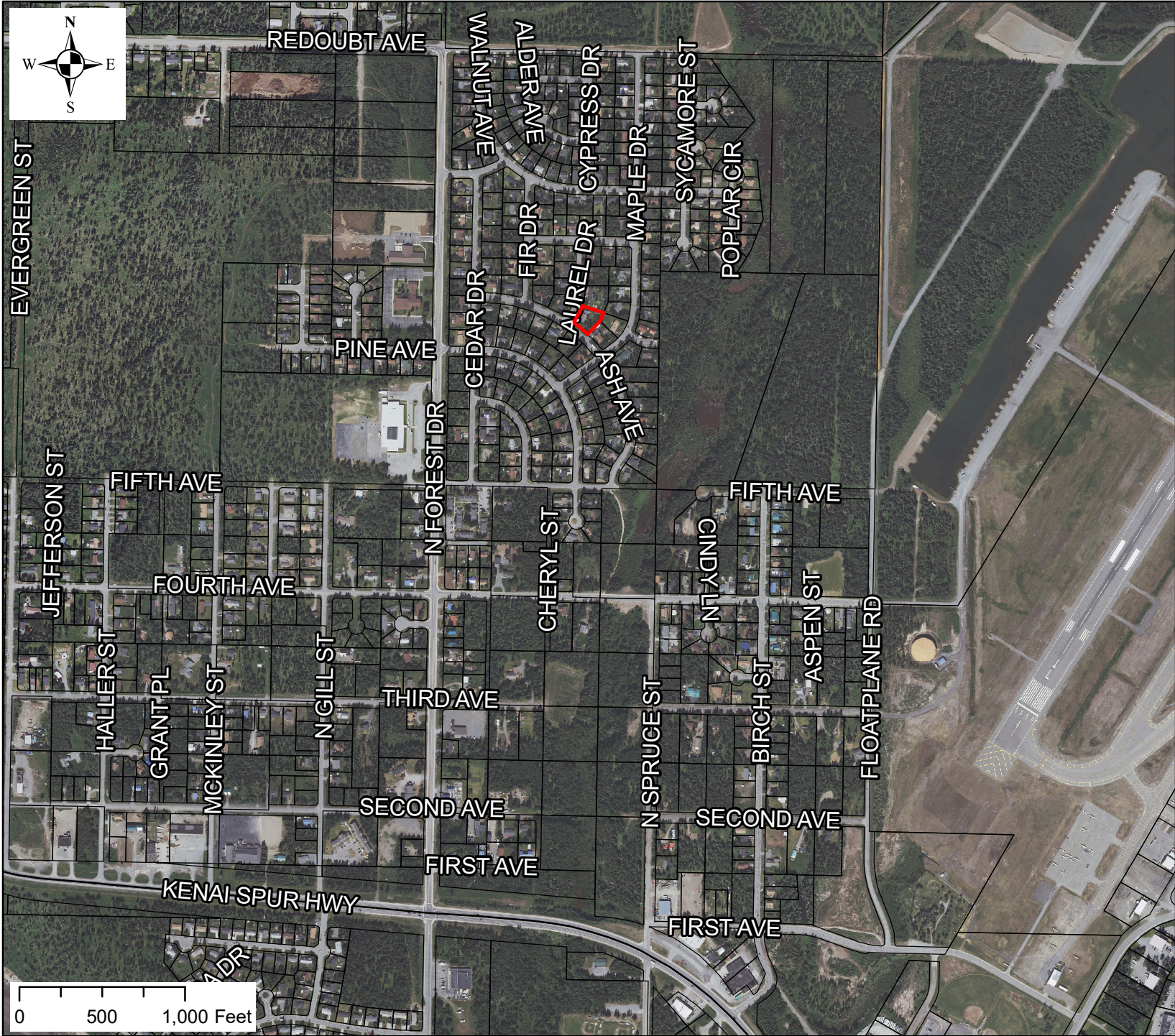
Single Family Home

East:

Single Family Home

West:

Single Family Home

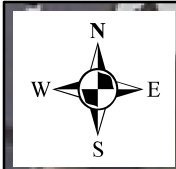


**Map for PZ2019-39
(1:10,00 Scale)**

**604 Laurel Drive
04325038
Lot 11, Block J
Woodland Subdivision
Part 1**



The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

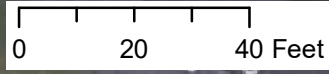


**Map for PZ2019-39
(1:400 Scale)**

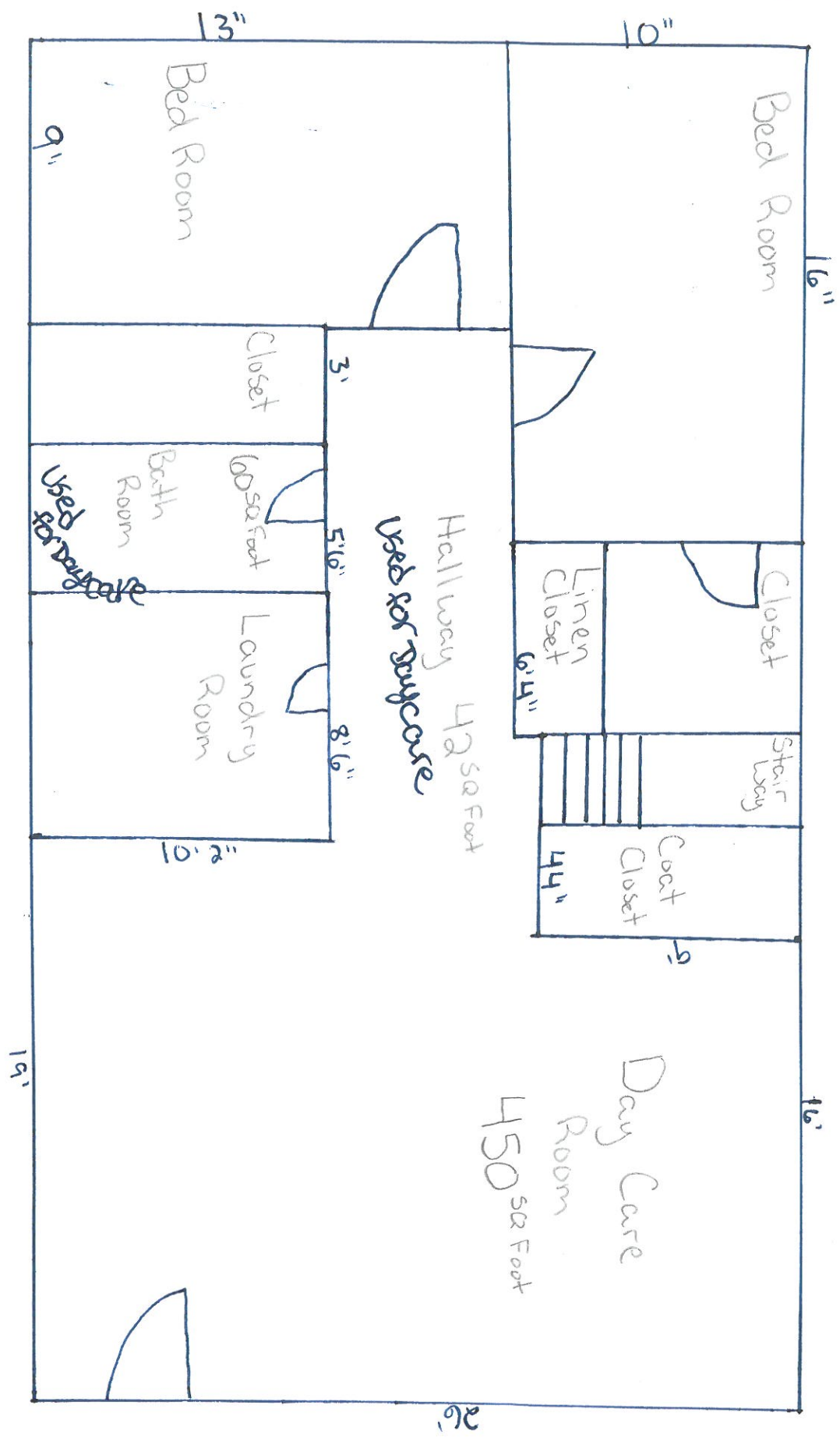
**604 Laurel Drive
04325038
Lot 11, Block J
Woodland Subdivision
Part 1**



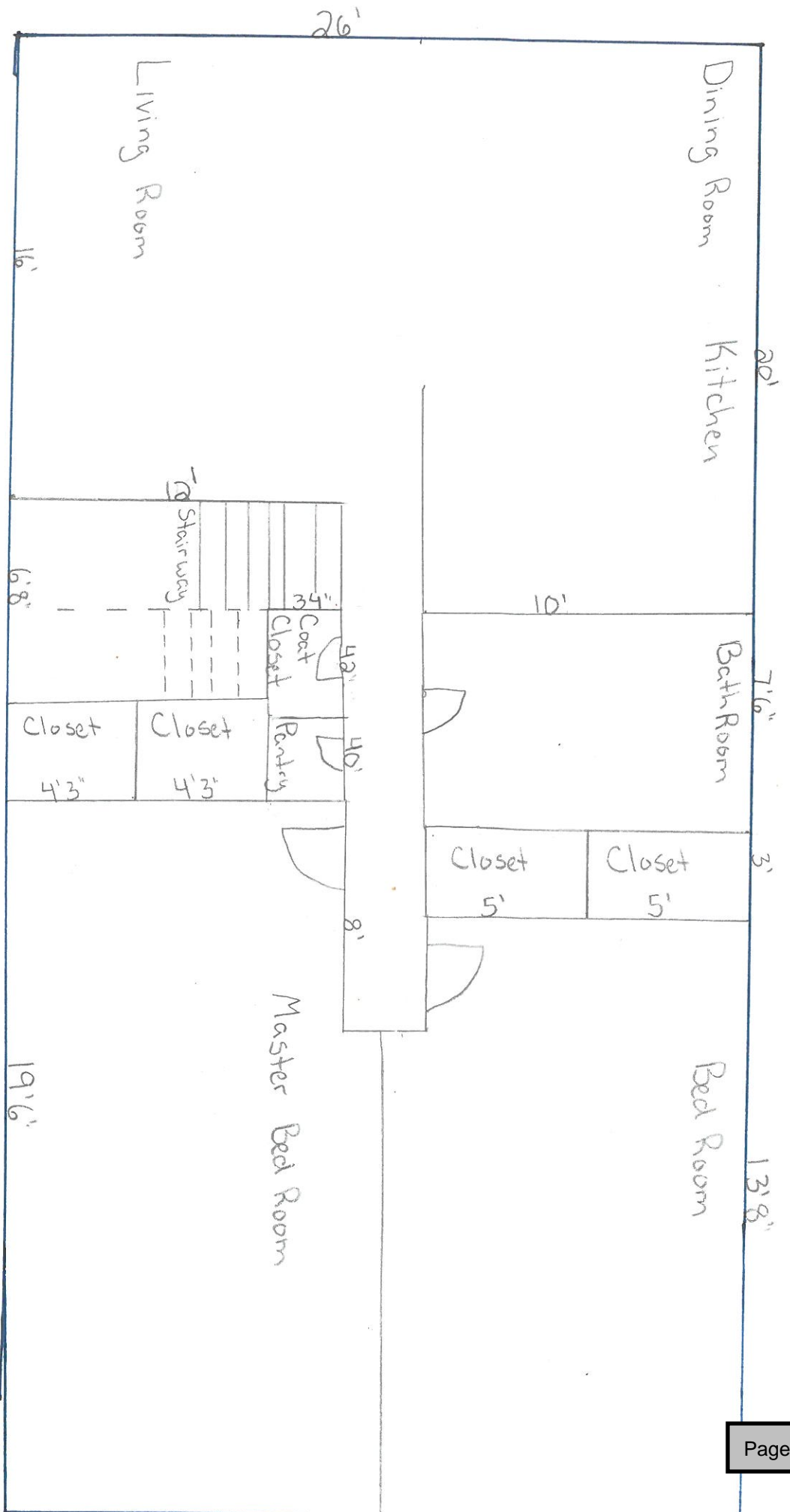
The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.



2nd Floor



1ST Floor



Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

Little Ducklings Daycare

604 Laurel Dr., Kenai, AK 99611

owned by

Windy Renee Dalebout

is licensed by the department to conduct business for the period

May 31, 2019 to December 31, 2019
for the following line(s) of business:

62 - Health Care and Social Assistance

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Anderson
Commissioner





Full Inspection Report

Facility Information

Occupant Name: Little Ducklings Daycare
Street Number: 604
Street Name: Laurel
Street Type: Drive

Inspection Date: 8/22/2019
City: Kenai
Postal Code: 99611
State: AK

Inspector: Hamilton, Jeremiah
Inspection Type: Inspection - General F&LS

Contact

First Name: Mindy
Work Phone: 907-395-0336
Email: Happy198152@gmail.com

Last Name: Dalebout

Cell Phone: 315-955-4439

Violations

Violations

No Violations Found On Inspection

Violation Count:

Inspection Information

Notes: This letter is only for direction not my approval for the Daycare. Another inspection will need to be done once all the paperwork for the license to the State is processed and they request an inspection from me. As well, the paperwork with the City has to be taken care of.
Here are my findings from my inspection today.
You gave me an overview of your plans for the daycare. You said you were hoping to have 8 pre-schoolers aged from 2 weeks to 5 years old. You showed me the area downstairs that would be the daycare. It was a common room with a bank of windows on one side, that were not egress windows, a door on the other side of the room that led to the garage. Code specifies that there needs to be an egress directly to the outside. The windows do not open enough to be egress windows. You will also need to measure the height of the window sill. If it's higher then 44" a step will need to be added. The garage door would require moving into another space before you made it to the outside.
The hallway that leads to this room holds the bathroom for the daycare as well as the stairs that lead to the main door at the landing.
You said that the only food that would be provided would be breakfast and a snack and you would not be cooking meals for them in the kitchen.
The smoke detector located outside the bathroom downstairs was from 2003 and needs to be replaced. Suggest moving it away from the bathroom to the end of the hall near the daycare area.
Upstairs the smoke detector outside the sleeping area is old and needs to be replaced, and the one in the bedroom needs the battery replaced.
There were CO detectors located on each floor.
There was a fire extinguisher located in the daycare room.
You need to come up with an emergency evacuation plan.

Has occupancy changed since last inspection: No



Kenai City Council - Regular Meeting

September 18, 2019 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

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. 3084-2019** - Increasing Estimated Revenues and Appropriations in the General Fund for Reimbursement Received for Support of the Swan Lake Fire Suppression Efforts. (Administration)
2. **ADOPTED UNANIMOUSLY. Resolution No. 2019-64** - Approving an Agency Fund Agreement with Kenai Senior Connection, Inc. (Administration)
3. **ADOPTED. Resolution No. 2019-65** - Adopting Joint Resolution No. 2019-001 of the Assembly of the Kenai Peninsula Borough and Councils of the Cities of Homer, Kachemak, Kenai, Seldovia, Seward, and Soldotna, Recognizing the Recommendations of the Kenai Peninsula Borough's Election Stakeholder's Group and Directing Staff to Explore Implementation of the Recommendations. (Council Member Peterkin)

4. **ADOPTED UNANIMOUSLY. Resolution No. 2019-66** - Approving a One year Extension for Facility Management Services at the City of Kenai Multi-Purpose Facility. (Administration)

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of September 4, 2019
2. **APPROVED BY THE CONSENT AGENDA.** *Work Session of September 3, 2019.

F. UNFINISHED BUSINESS

G. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Bills to be Ratified. (Administration)
2. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval – Purchase Orders Exceeding \$15,000. (Administration)
3. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Non-Objection to the Renewal of a Marijuana Product Manufacturing Facility License and a Standard Marijuana Cultivation Facility License for Red Run Cannabis Cultivators, LLC, a Retail Marijuana Store License for Red Run Cannabis Company, LLC, and a Limited Marijuana Cultivation Facility License for Grateful Bud, LLC. (City Clerk)
4. **APPROVED UNANIMOUSLY. Action/Approval** - Approving Election Workers for the October 1, 2019 Regular Election. (City Clerk)
5. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 10/2/19. *Ordinance No. 3085-2019** - Authorizing the Appropriation of \$44,345.00 from the Water and Sewer Fund for the Purchase of Well Radius Property to Protect the City's Public Water System. (Administration)
6. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 10/2/19. *Ordinance No. 3086-2019** - Accepting and Appropriating a Grant from the Rasmuson Foundation and Accepting and Appropriating Private Donations in the Senior Center Capital Improvement Fund for the Purchase of New Flooring for the Dining Room and Administration Offices of the Kenai Senior Center. (Administration)
7. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 10/2/19. *Ordinance No. 3087-2019** - Authorizing a Budget Transfer in the Senior Center Capital Improvement Fund and Increasing Estimated Revenues and Appropriations in the Public Safety Improvement Capital Project Fund to Provide Supplemental Funding for the Fire Department Kitchen Remodel Project. (Administration)

8. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 10/2/19. *Ordinance No. 3088-2019** - Amending Kenai Municipal Code, Section 14.20.330 – Standards for Commercial Marijuana Establishments, to Incorporate Limitations on Hours of Operation for Retail Marijuana Establishments. (Administration)
9. **APPROVED UNANIMOUSLY. Action/Approval** - Assignment of Shore Fishery Lease from Michael Markham to Nancy Hillman-Scow for Tract Two, Shore Fishery Plat No. 71. (Administration)
10. **APPROVED UNANIMOUSLY. Action/Approval** - Assignment of Tidelands Lease from Snug Harbor Seafoods, Inc., to CRS Can Operate, Inc., for Tract B, Kenai Tidelands Survey No. 2, According to Plat No. 89-2. (Administration)
11. **APPROVED UNANIMOUSLY. Action/Approval** - Assignment of Three (3) Kenai Municipal Airport Reserve Leases from SOAR International Ministries, Inc., to Schilling Rentals, LLC, for Lot 3, Block 1 and Lot 2, Block 3, General Aviation Apron Subdivision No. 1 Amended and Lot 1A, Block 2, General Aviation Subdivision No. 3. (Administration)

H. COMMISSION / COMMITTEE REPORTS

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

1. **Ordinance No. 3072-2019** - Renaming, Repealing and Re-Enacting Kenai Municipal Code Title 22-General Fund Lands, Renaming Title 21-City Airport and Airport Lands, and Repealing Kenai Municipal Code Chapter 21.15-Lease and Sale of Airport Lands Outside of the Airport Reserve to Encourage Responsible Growth and Development to Support a Thriving Business, Residential, Recreational and Cultural Community through Responsible Land Policies and Practices. (Administration) *[Clerk's Note: At the September 4 Meeting, this item was Postponed to the October 2 Council Meeting. A Motion to Enact as Amended is On the Floor.]*
2. **Ordinance No. 3083-2019** - Amending Kenai Municipal Code 14.20.175 - Adult Businesses, To Increase The Buffer Distances Between Adult Businesses And Sensitive Uses From 500 Feet To 1000 Feet And Define Sensitive Uses. (Council Member Pettey) *[Clerk's Note: At the September 4 Meeting, this item was Referred to the Planning & Zoning Commission for a Recommendation and to be Scheduled for a Second Public Hearing at the October 2. A Motion to Enact as Amended is On the Floor.]*
3. **Resolution No. 2019-58** - Amending its Comprehensive Schedule of Rates, Charges, and Fees to Incorporate Changes to Application Fees for Lands Outside the Airport Reserve. (Administration) *[Clerk's Note: At the September 4 Meeting, this item was Postponed to the October 2 Council Meeting. A Motion to Enact is On the Floor.]*

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders between \$2,500 and \$15,000.
2. Kenai Historical Society - September 2019 Newsletter

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.



Planning Commission Tentative 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

Max J. Best, Planning Director • Charlie Pierce, Borough Mayor

*Blair Martin, Chairman – Kalifornsky Beach • Robert Ruffner, Vice Chairman – Kasilof/Clam Gulch
Dr. Rick Foster, Parliamentarian – Southwest Borough • Syverine Abrahamson-Bentz – Anchor Point/Ninilchik
Jeremy Brantley – Sterling • Paulette Bokenko-Carluccio – City of Seldovia • Cindy Ecklund – City of Seward
Robert F. Ernst – Northwest Borough • Diane Fikes – City of Kenai • Virginia Morgan – East Peninsula
Franco Venuti – City of Homer • Paul Whitney – City of Soldotna*

September 23, 2019

7:30 p.m.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF CONSENT AND REGULAR AGENDA

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

If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.

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

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

***3. Plats Granted Administrative Approval**

***4. Plats Granted Final Approval (20.10.070) - None**

***5. Plat Amendment Request - None**

***6. Utility Easement Vacations - None**

***7. Commissioner Excused Absences**

a. Vacant, Ridgeway

***8. Minutes**

a. September 9, 2019 Planning Commission Meeting

D. PUBLIC COMMENT/PRESENTATIONS/COMMISSIONERS

(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made.)

E. UNFINISHED BUSINESS

1. Ordinance 2019-__; An Ordinance Amending Kenai Peninsula Borough 2.56.006, Adopting the 2019 Kenai Peninsula Borough Comprehensive Plan.
Postponed from the August 26, 2019 meeting. Motion on the floor.
2. Ordinance 2019-24; Adopting KPB 20.80, Subdivision Private Streets and Gated Subdivisions.
Postponed from the August 26, 2019 meeting. Motion on the floor.

F. PUBLIC HEARINGS

1. Recommendation to the assembly concerning the formation of a Single-Family Residential (R-1) local option zoning district in the Fritz Creek area; to include all lots within the boundaries of C & H Estates, according to Plat 80-23, Homer Recording District.

G. ANADROMOUS WATERS HABITAT PROTECTION DISTRICT (21.18) – None

H. VACATIONS NOT REQUIRING A PUBLIC HEARING – None

I. SPECIAL CONSIDERATIONS

1. Alder Slopes Subdivision Castle Heights Addition Plat Note Removal
KPB File 2019-108; Resolution 2019-31
Location: on Absher Court, off East End Road; Fritz Creek
Kachemak Bay APC
Petitioner: Jay T. Taylor Trust

J. SUBDIVISION PLAT PUBLIC HEARINGS

1. The Plat Committee will review 3 preliminary plat.

K. OTHER/NEW BUSINESS

1. New Plat Committee (October, November, December 2019) – 5 Members / 2 Alternates

L. ASSEMBLY COMMENTS

M. LEGAL REPRESENTATIVE COMMENTS

N. DIRECTOR'S COMMENTS

O. COMMISSIONER COMMENTS

P. PENDING ITEMS FOR FUTURE ACTION

Q. ADJOURNMENT

**MISCELLANEOUS INFORMATIONAL ITEMS
NO ACTION REQUIRED**

NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING

The next regularly scheduled Planning Commission meeting will be held **Monday, October 14, 2019** in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley St, Soldotna, Alaska at **7:30 p.m.**

ADVISORY PLANNING COMMISSION MEETINGS

ADVISORY COMMISSION	MEETING LOCATION	DATE	TIME
Anchor Point	Anchor Point Chamber of Commerce	October 9, 2019	7:00 p.m.
Cooper Landing	Cooper Landing Community Hall	October 9, 2019	6:00 p.m.
Funny River	Donald E. Gilman River Center	September 26, 2019	6:00 p.m.
Moose Pass	Moose Pass Community Hall	TBD	6:30 p.m.
Hope / Sunrise	Hope Social Hall	TBD	6:00 p.m.
The Kachemak Bay Advisory Planning Commission is inactive at this time.			

NOTE: Advisory planning commission meetings are subject to change. Please verify the meeting date, location, and time with the advisory planning commission chairperson. Chairperson contact information is on each advisory planning commission website, which is linked to the Planning Department website.

CONTACT INFORMATION

KENAI PENINSULA BOROUGH PLANNING DEPARTMENT

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Plat Committee Tentative Agenda

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

*Paulette Bokenko-Carluccio – City of Seldovia • Dr. Rick Foster – Southwest Borough
Virginia Morgan – East Peninsula • Paul Whitney – City of Soldotna
Alternates: Jeremy Brantley – Sterling*

**SEPTEMBER 23, 2019
7:00 p.m.**

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA, EXCUSED ABSENCES, AND MINUTES

1. Agenda
2. Member/Alternate Excused Absences
3. Minutes
 - a. September 9, 2019 Plat Committee Meeting

D. PUBLIC COMMENT

(Items other than those appearing on the agenda or not scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made.)

E. SUBDIVISION PLAT PUBLIC HEARINGS

1. Oceanview Subdivision Gateway Replat
KPB File 2019-107 [PND Engineers / Seward Wildlife Cruises LLC, Candopoulos]
Location: on Third Avenue and Van Buren Street, City of Seward
2. Folz Subdivision 2019 Replat
KPB File 2019-104; [McLane Consulting Group / ZPA, LLC]
Location: on Seward Highway near Nash Road and Salmon Creek Road; Bear Creek
3. Marlin Heights Subdivision Addition No. 1
KPB File 2019-106 [Edge Survey & Design, LLC / Baggett]
Location: on Bluff Drive, off Scout Lake Road; Sterling

F. FINAL SUBDIVISION PLAT PUBLIC HEARING - None

G. OTHER / NEW BUSINESS

H. MISCELLANEOUS INFORMATION – NO ACTION REQUIRED

I. ADJOURNMENT

NEXT REGULARLY SCHEDULED MEETING

The next regularly scheduled Plat Committee meeting will be held **Monday, October 14, 2019** in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley, Soldotna, Alaska at **5:30 p.m.**

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