



Kenai Peninsula Borough

144 North Binkley Street
Soldotna, AK 99669

Meeting Agenda Planning Commission

Blair Martin, Chair – Kalifornsky Beach
Robert Ruffner, Vice Chair – Kasilof/Clam Gulch
Syverine Abrahamson-Bentz, Parliamentarian – Anchor Point/Ninilchik
Jeremy Brantley – Sterling
Cindy Ecklund – City of Seward
Pamela Gillham – Ridgeway
Davin Chesser – Northwest Borough
Diane Fikes – City of Kenai
Virginia Morgan – East Peninsula
Franco Venuti – City of Homer

Monday, November 8, 2021

7:30 PM

ZOOM ONLY

Zoom Meeting ID 208 425 9541

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

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

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

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**2. Planning Commission Resolutions****3. Plats Granted Administrative Approval**

- a. [KPB-3704](#) Alder Slopes 2021 Replat; KPB File 2021-017

Attachments: [Alder Slopes 2021 Replat 2021-017](#)

- b. [KPB-3705](#) Anchor River S J Chapman Jeppesen 2021 Replat; KPB File 2021-040

Attachments: [Anchor River S J Chapman Jeppesen 2021 Replat 2021-040](#)

- c. [KPB-3706](#) Bay View Subdivision 2021; KPB File 2021-087

Attachments: [Bay View Subdivision 2021 2021-087](#)

- d. [KPB-3707](#) Fair Wind Subdivision 2020; KPB File 2020-045

Attachments: [Fair Wind Subdivision 2020 2020-045](#)

- e. [KPB-3708](#) Lillian Walli Estate 2020 Replat; KPB File 2020-119

Attachments: [Lillian Walli Estate 2020 Replat 2020-119](#)

- f. [KPB-3684](#) Riverwind II 2020 Addition; KPB File 2020-127

Attachments: [Riverwind II 2020 Addition 2020-127](#)

- g. [KPB-3692](#) Spruce Woods TR-1 Replat; KPB File 2021-091

Attachments: [Spruce Woods TR-1 Replat 2021-091](#)

- h. [KPB-3709](#) Stanleys Meadow 2021; KPB File 2021-086

Attachments: [Stanleys Meadow 2021 2021-086](#)

- i. [KPB-3698](#) Vineyard Estates 2021 Addition; KPB File 2021-014

Attachments: [Vineyard Estates 2021 Addition 2021-014](#)

4. Plats Granted Final Approval (KPB 20.10.040)

- a. [KPB-3693](#) Home Wood Subdivision Mrudock Addition; KPB File 2021-124

Attachments: [Homewood Subdivision Murdock Addition 2021-124](#)

- b. [KPB-3694](#) Little Subdivision 2020 Replate; KPB File 2020-046

Attachments: [Little Subdivision 2020 Replat 2020-046](#)

5. Plat Amendment Request

6. Commissioner Excused Absences

7. Minutes

- a. [KPB-3695](#) October 18, 2021 PC Special Hearings Minutes

Attachments: [PC Minutes 101821_Draft](#)

- b. [KPB-3696](#) October 25, 2021 Plat Committee Meeting Minutes

Attachments: [Plat Minutes 102521_Draft](#)

- c. [KPB-3697](#) October 25, 2021 Planning Commission Meeting Minutes

Attachments: [PC Minutes 102521_Draft](#)

D. OLD BUSINESS

E. NEW BUSINESS

1. [KPB-3683](#) Retail Marijuana Store License
Back Alley Vapes

Attachments: [SR BackAlleyvapes_R](#)

F. PLAT COMMITTEE REPORT

G. OTHER

H. PUBLIC COMMENT/PRESENTATION

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

I. DIRECTOR'S COMMENTS**J. COMMISSIONER COMMENTS****K. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS****NO ACTION REQUIRED****NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING**

The next regularly scheduled Planning Commission meeting will be held Monday, November 29, 2021 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

CONTACT INFORMATION**KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

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

Fax: 907-714-2378

e-mail address: planning@kpb.us

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

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

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

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



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Alder Slopes 2021 Replat
KPB File 2021-017
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on March 15, 2021. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on November 2, 2021.

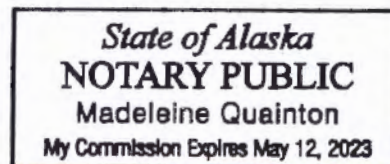
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 2 day of November 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

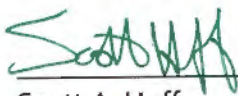
Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Anchor River S J Chapman Jeppesen 2021 Replat
KPB File 2021-040
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on April 26, 2021. Approval for the plat is valid for two years from the date of approval.

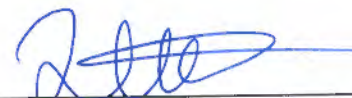
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on October 28, 2021.



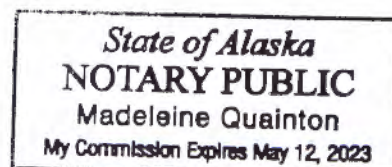
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 29 day of October 2021
by Scott A. Huff.


Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

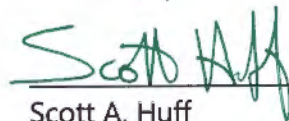
Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Bay View Subdivision 2021
KPB File 2021-087
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on July 12, 2021. Approval for the plat is valid for two years from the date of approval.


The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on October 28, 2021.



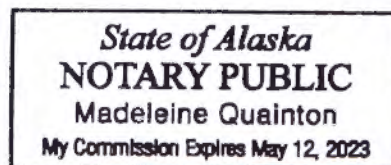
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 29 day of October 2021
by Scott A. Huff.


Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

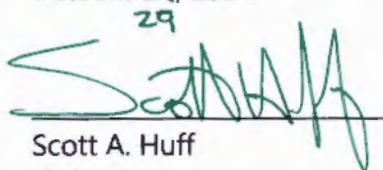
Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Fair Wind Subdivision 2020
KPB File 2020-045
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on June 22, 2020. Approval for the plat is valid for two years from the date of approval.


The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on October 28, 2021.

²⁹


Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 29 day of October 2021
by Scott A. Huff.


Notary Public for the State of Alaska



My commission expires: 5/12/23

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Lillian Walli Estate 2020 Replat
KPB File 2020-119
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 9, 2020. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on November ³ 2, 2021.

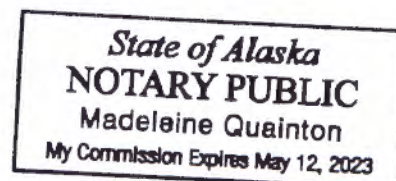
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 3 day of November 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Riverwind II 2020 Addition
KPB File 2020-127
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on November 9, 2020. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on October 25, 2021.

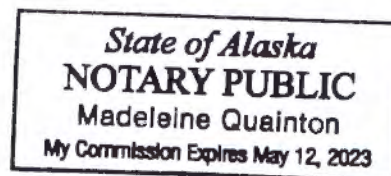
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 26 day of October 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Spruce Woods TR-1 Replat
KPB File 2021-091
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on July 12, 2021. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on October 25, 2021.

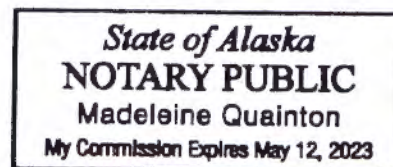
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 25 day of October 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Stanley's Meadow 2021
KPB File 2021-086
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 9, 2021. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on November 3, 2021.

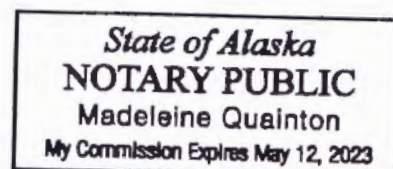
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 3 day of November 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Charlie Pierce
Borough Mayor

ADMINISTRATIVE APPROVAL

Subdivision: Vineyard Estates 2021 Addition
KPB File 2021-014
Homer Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on March 15, 2021. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on October 21, 2021.

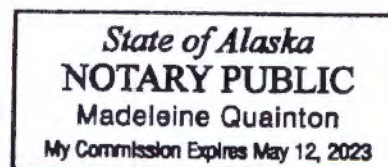
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 21 day of October 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Charlie Pierce
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Homewood Subdivision Murdock Addition
KPB File 2021-124
Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on October 27, 2021.

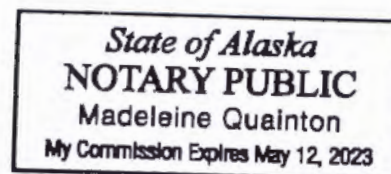
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 27 day of October 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



Planning Department

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

Charlie Pierce
Borough Mayor

FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040

Subdivision: Little Subdivision 2020 Replat
KPB File 2020-046
Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on October ~~21~~²², 2021.

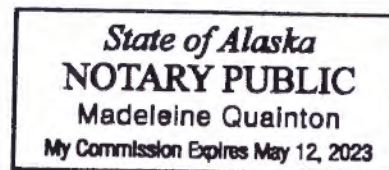
Scott A. Huff
Platting Manager

State of Alaska
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 22 day of October 2021
by Scott A. Huff.

Notary Public for the State of Alaska

My commission expires: 5/12/23



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

Kenai Peninsula Borough Planning Commission

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

October 18, 2021

6:30 P.M.

UNAPPROVED MINUTES

CALL TO ORDER

Chair Martin called the meeting to order at 6:30 p.m.

ROLL CALL

Commissioners Present

Syverine Bentz, Anchor Point/ Ninilchik
Jeremy Brantley, Sterling
Pamela Gillham, Ridgeway
Blair Martin, Kalifornsky Beach
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

With 7 members of an 8-member commission in attendance, a quorum was present.

Staff Present

Melanie Aeschliman, Planning Director
Sean Kelly, Legal Representative
Samantha Lopes, River Center Manager
Ann Shirnberg, Planning Administrative Assistant
Avery Harrison, Land Management Administrative Assistant

AGENDA ITEM B. ROLL CALL

Absent: Diane Fikes, City of Kenai
Vacant: City of Soldotna
Vacant: City of Seward
Vacant: Northwest Borough

AGENDA ITEM C. APPROVAL OF AGENDA

Chair Martin asked if any of the commissioners present wanted to speak to any of the items on the agenda. Hearing no one else wishing to comment, Chair Martin returned the discussion to the Commission.

MOTION: Commissioner Ruffner moved, seconded by Commissioner Brantley to approve the agenda.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti						
No							
Absent	Fikes						

AGENDA ITEM D. OLD BUSINESS

1. Remand Hearing
Conditional Land Use Permit Modification Application
Applicant: River Resources, LLC
PC Resolution 2021-10

Sean Kelley gave a brief review of the matter before the commission.

On August 25, 2021, Z. Kent Sullivan, Administrative Law Judge / Hearing Officer in the matter of the appeal filed by River Resources LLC, issued an *Order Denying Motion to Stay and Granting Motion to Remand to the Kenai Peninsula Borough Planning Commission*.

The remand order provides, in part, that the matter is remanded to the Planning Commission to:

- “1. Make factual findings supporting its decision based on substantial evidence in the record regarding the:
 - a. bonding requirements;
 - b. well monitoring timeline;
 - c. qualifications and independence of McLane Consulting, Inc.; and
 - d. specific criterion contained in KPB Code §§ 21.29.040 and 21.29.050.
2. To the extent that factual information does not presently exist in the record the Commission shall augment the record by conducting an additional hearing.

At the September 27, 2021, the Planning Commission decided to conduct the remand hearing on October 18, 2021 and elected not to reopen public testimony.

END OF STAFF REVIEW

MOTION: Commissioner Ruffner moved, seconded by Commission Brantley to move into an adjudicative session and to invite legal counsel Sean Kelley and Administrative Assistant Ann Shirnberg to join them.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti						
No							
Absent	Fikes						

The Planning Commission went into adjudicative session at 6:35 PM

The Planning Commission came back in open session at 7:40 PM.

(*Note: due to technical difficulties, parts of the meeting were not captured on the recording.)

MOTION: Commissioner Gillham moved, seconded by Commission Ruffner to approve the following decision:

1. A remand hearing was held on October 18, 2021. Public testimony and evidence was not reopened for the October 18, 2021 remand hearing. Pursuant to the certified record and in accordance with the orders entered by the Hearing Officer, the Planning Commission determined during deliberations that it needed more information from the parties involved and therefore will reopen public testimony and evidence in this matter.
2. The public hearing on remand shall be set for December 7, 2021 and shall only be continued in the event the Applicant provides a good cause basis for not being able to timely comply with the below requested information.
3. By December 3, 2021, the Applicant, River Resources LLC, and the Applicant's engineer, Gina DeBardelaben/McLane Consulting, Inc., should provide responses pertaining to the following questions raised by the Hearing Officer's orders:

- a. A best effort to identify known wells within 300', 500' and 1000' of the proposed dewatering;
 - b. Anticipated impacts, if any, to nearby wells;
 - c. Potential impacts to nearby wells in a worst-case scenario and the possible remedial costs of those impacts on a per-well basis;
 - d. The dates of measurements for the monitor wells done pursuant to KPB 21.29.050(A)(5);
 - e. The amount of the bond proposed by River Resources, LLC; and
 - f. Any other information or documentation that River Resources, LLC would like to provide for consideration in support of its applications and requests.
4. By December 3, 2021, interested parties/nearby landowners may provide information regarding:
 - a. Well tests performed to-date;
 - b. Professional opinions, if any, regarding potential impacts that may occur as a result of the Applicant's (i) request to allow for excavation in the water table; and (ii) localized dewatering exemption request during excavation below groundwater elevation; and
 - c. Any other expert opinions or information that nearby landowners or interested parties would like to provide for consideration in this matter.
 5. By December 3, 2021, the Planning Department should provide an updated staff report that, to the best of staff's ability, answers the questions under paragraph 3 and 4 above, with recommendations that includes a proposed resolution, findings of fact, conclusions of law, and conditions, if applicable.
 6. The Applicant, including its agents, counsel, and/or engineer, shall have 15 minutes to provide public testimony at the public hearing scheduled for December 13, 2021.

Ms. Shirnberg informed the commission that she was having technical difficulties with Zoom meeting. She was unable to start the camera and sound for the assembly chambers so those attending online could not hear or see what was happening in chambers. Chair Martin then stopped the meeting until the technical difficulties were resolved.

The meeting resumed at approximately 8:30 PM.

Commissioner Ruffner noted for the commissioners attending via Zoom that Commissioner Gillham had made a motion to approve the decision that was sent to them via email, and that she had read the decision into the record. He then asked Legal if it was acceptable in order to save time would it be okay if they did not have Commissioner Gillham reread the decision. Mr. Kelley replied that he believed it would be acceptable and noted that he would ensure that written decision is sent out to all the parties. Commissioner Ruffner then asked the commissioners attending online if they were okay with not having Commissioner Gillham reread the decision.

Commissioner Ruffner then noted that the decision as read into the record by Commissioner Gillham had the incorrect hearing date the correct hearing date is December 13, 2021. He then restated for the record point #2 of the decision, with the correct meeting date of December 13, 2021.

AMENDMENT MOTION: Commissioner Ruffner moved, seconded by Commission Brantley to correct the remand hearing date to December 13, 2021

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti						
No							
Absent	Fikes						

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti						
No							
Absent	Fikes						

AGNEDA ITEM E. NEW BUSINESS

1. Appeal of the Director's Decision
Approving a Nonconforming Use in C& H Estates LOZD
Location: Lot 35A, C&H Estates, Plat 80-23, Homer Recording District

KPB Planning Director Aeschliman: Ms. Aeschliman gave a summary of the two appeals before the commission. The first appeal application received was from the applicant requesting approval of several non-conforming uses. Based on staff findings and code she approved 4 of the 5 non-conforming uses requested by Aaron Lang. Mr. Lang is appealing her denial of the right to rent out the guesthouse on his property. The second appeal is from neighboring landowners Craig & Joanne Cutler where they cite several perceived inadequacies of the director's decision. Ms. Aeschliman then presented the following PowerPoint presentation:

DIRECTOR'S PRESENTATION OF ISSUES & DIRECTOR'S DECISION

Melanie Aeschliman
Planning Director

1

SUMMARY & OUTLINE

- Summary
- Application Review – what is evidence?
- Application Process
- Director's Decision
- Lang's Appeal
- Cutler's Appeal

2

EVIDENCE

KPB 21.44.110(B) Decision. The planning director shall issue a decision regarding the nonconforming status based on the written application, written comments, or evidence regarding the existence of the use prior to the adoption of an LOZD.

3

APPLICATION & DIRECTOR'S DECISION

Director's determinations in yellow

- Requested non-conforming uses:
 1. Two or more non-resident employees (established w/ conditions)
 2. Household pets (established)
 3. Poultry, fowl, small animals (established)
 4. Hoofed animals (established w/ conditions)
 5. Accessory structure as rental (not established)

4

LANG'S APPEAL

KPB 21.44.110(F):Standards: In order to qualify as an allowed nonconforming use, the use must meet the following standards on the date the assembly approves formation of the district:

1. A use must have been legally established under prior law.
2. A use must be operational in accordance with the type of use.

KPB 21.44.110(C) Discontinuance: Any nonconforming use of land or building which has ceased by discontinuance for an uninterrupted period of 365 days shall thereafter conform to the provisions of this chapter. Lack of intent to cease use or abandon the use does not suspend the 365-day time period. If a nonconforming use of a temporary structure is discontinued, it shall not be recommenced.

5

CUTLER'S APPEAL

- “Insufficient evidence provided to parcel owners to verify and/or challenge purported facts”
 - **KPB 21.44.110(A) requires that KPB sends notice to LOZD property owners when a non-conforming use application is requested.**
 - **There is nothing in code requiring that evidence also be sent to property owners**
- “The Determination Record is incomplete, per the opening statement ‘...The following is an excerpt from the decision:’ ”
 - **There is nothing in code that requires a Notice of Decision to be in any particular format, an excerpt of the director’s decision is sufficient.**
- Burden of proof/insufficient evidence
 - **KPB 21.44.110(B) Decision. The planning director shall issue a decision regarding the nonconforming status based on the written application, written comments, or evidence regarding the existence of the use prior to the adoption of an LOZD.**

6

Appellant Lang Opening Statement: Mr. Lang noted the nonconforming use he is seeking approval for is the ability to rent out the guesthouse on his property. In 2013, he began the process of converting an old shed on the property into a 12' x 14' guesthouse. They converted the mouse-ridden shed into a structure with oil heat, running water, electricity and a composting toilet. This greatly improved the value of his property. Borough records verified the construction of the guesthouse occurring in 2013 with a corresponding increase in the assessed value of the property. Since the completion of the guesthouse, visiting family and friends have routinely used it. They have offered its' use to neighbors when they have had visiting family. A couple of times each year this guesthouse has been used as lodging for staff associated with their business. On two occasions, they have allowed friends who have fallen on hard times to live in the guesthouse for extended periods. The guesthouse has been frequently occupied since its' construction, the difference is now they are charging rent. They built the guesthouse to add flexibility to their property and as an investment for future needs by using it as a rental. While they may not have always charged rent in the past, it has always been their intent, that should they need extra income, they could rent the guesthouse. That has been their plan for the guesthouse since day one. In March of 2020, just weeks after the adoption of R1 zoning, the pandemic decimated their tourism business. They lost an entire year of income and found themselves needing to rent out the guesthouse to makes ends meet. In May of 2020, they began renting the guesthouse on a monthly basis and have had tenants in there since that time. They began paying borough sales tax on the rental starting May of 2020, even though borough records show the first sales tax payment occurring in August of 2020. He has not ever claimed to have had a renter in the cabin before the creation of the R1 Zoning District, however he is claiming that it has always been his intent to use this property as a rental should they ever need to. He does not have records showing this intent to rent this property prior to the creation of the R1 zoning, at that time there was no need to keep records. He is sure the commission can appreciate that even with the most carefully crafted code not everything can be separated into black and white and there will always be grey areas. If this were not true, there would be no need for an appeal process. In September 2019, he spoke in this very room to this very commission and expressed his concerns about the adoption of R1 zoning in his neighborhood. He expressed concerns regarding future and unforeseen uses of his property that could possibly be in violation of R1 zoning. He noted he could not predict his family's future needs or opportunities. He expressed to the commission that his intent was always to rent out his guesthouse for income, should his family ever need it. Intent is not written verbatim in code as an allowable proof of a prior use – it is a grey area where the Planning Director and Commission can use discretion. He then noted he is not the only one in the neighborhood who is renting out a guest cabin or room, he is just the one who did the right thing and applied for the non-

conforming use. What they are asking for commonly occurs in rural neighborhoods all around the Peninsula. He is not asking for anything that anyone has raised a prior objection to, he is just asking for a reasonable interpretation of the code.

Appellant Cutler Opening Statement: Mr. Cutler noted his appeal of this decision had to do with incomplete and insufficient evidence. He now understands from the testimony given that the evidence is not mailed out with the decision. He is now satisfied that has seen the whole record. He will base his statement on evidence contained in the meeting packet and the LOZD ordinance. For the most part, he concurred with the Director's decision contained in the July 9, 2021 notice with the exception of KPB 21.44.160, which addressed the number of hoofed animals, kept on the property. He noted this section of code explicitly states that hoofed animals are prohibited except for a single miniature horse used as a service animal. He would submit that the burden of proof of this prior existing use has not been met and does not meet the requirement of code. On the nonconforming use application submitted to Borough Planner Bryan Taylor, he requested for each of the nonconforming use on the application, that the applicant indicate where the nonconforming use was concurrent with the date of the LOZD adoption, and supply the supporting evidence. According to the staff findings in the staff report the applicant did not provide evidence that their non-miniature horse was kept on the property prior to Jan 7, 2020, they did however provide photographs showing two sheep were kept on the property in 2015. The applicant has stated that his horse is small and measures at 13.2 hands. Mr. Lang has stated himself that it would be a stretch to call his horse a miniature horse. Mr. Cutler then stated that Mr. Lang could not come up with any practical uses for the horse that might grant the animal legal status in the neighborhood. He then referred to point 36 of the staff report where it explicitly states that KPB 21.44.160(C)(7) contains provision for livestock and pets within the single-family residential district and provides that hoofed animals are prohibited except as a single miniature horse used as a service animal. He then noted that before the approval of the LOZD, there was a site inspection done by then Planner Bruce Wall and he found no evidence of hoofed animals in the neighborhood. The applicant has submitted no vet record or sales receipts showing they had the horse prior to the adoption of the LOZD. KPB 21.44.110(F)(2) requires that nonconforming uses must have been operational on the date that the assembly approved the formation of the LOZD. The applicant has provided no evidence to prove they had a miniature horse as a service animal on the parcel the day the LOZD was enacted. This lack of evidence should have been sufficient for the director to deny this nonconforming use. While sheep may be hoofed animals, they are not horses. The sheep in the photos are not service animals because they are taking liquid from a baby bottle. It is like saying apples and oranges are the same because they are fruit, or that travel trailers and passenger cars are the same because they are vehicles. He believes the director misinterpreted or overlooked KPB 21.44.160 and made an erroneous determination based on insufficient evidence. This is justification for the commission to reverse the director's decision and deny this nonconforming use.

Appellant Lang Closing Statement: Mr. Lang stated he was very surprised that any of the nonconforming uses that he has requested would be considered controversial, as they are typical uses in rural area. He noted that his wife recently had spoken to Mr. Cutler and asked him specifically what his issues were with their nonconforming use requests. Mr. Cutler did not provide a clear answer nor did he admit to being opposed to any specific use when asked directly. He stated we should read his appeal; we did numerous times and were still not sure what specific nonconforming use he was appealing. Mr. Cutler in his appeal, stated, "because the burden of proof that the nonconforming use existed before the adoption of the LOZD is on the applicant, all such proof should be verified for truth and accuracy, and validated with appropriate legal documentation, including dated photographs as well as other documents of claim." We did submit evidence included dated photographs, to the extent that such evidence exists, and Planning Department staff has deemed it sufficient. We are not seeking permission to run a gravel pit or cock-fighting ring; we are asking about pet parakeets and a 10-year-old's 4-H pursuits. Mr. Cutler states due to insufficient evidences provided to the other parcel owners of legally established uses prior to January 7, 2020, he requests relief by way of remanding the case until full disclosure of the evidence in the decision is provided to parcel owners who have not witnessed claims made by the applicant. Mr. Lang stated that itemized evidence has been provided by the way of the written notice of decision sent out to all parcel owners on July 9, 2020. Had any property owner wanted more details they could have followed the request for information procedure that is clearly described on the borough's website. He believes that would have been the proper procedure to use to see the evidence submitted. Not by abusing the appeals process, which he believes to be a retaliation to outspoken voices who are not in favor of local option zoning. He noted other applications for nonconforming uses have been approved. Mr. Cutler has chosen to appeal only two applications; both were applications from individuals who were outspoken in their opposition to

local option zoning. Mr. Cutler did not ask for any evidence for additional onsite employees at Bay Safety, another small business operating in the neighborhood, when the only evidence that was supplied was a written statement from the owner. Mr. Cutler states that he has not witnessed claims made by the applicant. Mr. Lang would state that his right to privacy supersedes Mr. Cutler's right to know his business. To his knowledge Mr. Cutler has not stepped foot on his property and a large portion of his property is not viewable from main road. If Mr. Cutler has not noticed his prior existing uses then that alone is evidence that these activities were not a problem in the neighborhood. Neighborhood knowledge of a prior existing use is not a prerequisite for approval. Mr. Lang states they have had animals on their property since 2010 when they got their first chickens. The 10-year old who is involved with the horse is the 4-year old in the exhibit photos with the sheep, which are hooved animals. He said they have a long history of their family raising a variety of animals. His daughter started riding lessons in 2019, long before any talk of local option zoning in the neighborhood. She was hooked on riding from the start and immediately they starting the preparations for securing a horse for her. They spoke to their neighbors who had raised horses on their property in C&H Estates for years and he is aware of one other owner in the neighborhood who has done so as well. Later in 2019, R1 discussions began and it was clear to him and his wife that this zoning stood squarely at odds with their plans for their property and their family. In the fall of 2019 he shared his concerns with Planner Bruce Wall and Mr. Wall suggest that anyone considering anything that was not allowable under R1 should begin doing it and have it in place before January 2020 so that it could be grandfathered in. Their plans to get a horse were already in motion and he would have loved to have one by January 7, 2020 but they were not able to find a suitable one by then.

Appellant Cutler Closing Statement: Mr. Cutler thanked Mr. Lang for the additional information. He noted that he had not seen any of the evidence that Mr. Lang and the director had testified to tonight. If there exists evidence, as required in code, of the existence of a miniature horse before the formation of the LOZD, he would be satisfied. That would allow the commission the opportunity to review the evidence and deliberate code. He just wants to see the code satisfied. He then noted that in the minutes from one of the public meetings held regarding the formation of the LOZD Mr. Lang had testified that most of the questions raised by his neighbors had to do with current uses that would be in violation of R1 zoning. Mr. Lang stated then that he understood there was a mechanism that would allow these uses to be grandfathered in. Mr. Cutler then noted that Mr. Lang had the better part of a year after that meeting to get together the evidence of his preexisting nonconforming uses. If there were evidence to support the prior existence of the horse then he would rest his case. If there is no evidence then he believes that approving this nonconforming use would be a gross omission of the public health and safety standards of the R1 that deals with groundwater contamination related to manure issues per KPB 21.44.170(c). This section of code prohibits hooved animals. The director might have overlooked this section of code when approving the nonconforming use of allowing hooved animals in her decision. If the commission has evidence of this prior use that he is not aware of, he would honor their appropriate decision. He believes that Mr. Lang knowingly violated code by bringing in the horse after the enactment of the LOZD ordinance. He believes that disciplinary action for violating the code should not be overlooked by the commission, but he would exercise compassion. He understands Mr. Lang's intention but he also understands the intentions of the rest of the parcel owners in the subdivision, which is to, be under R1 zoning.

KPB Planning Director Closing Statement: Mr. Cutler appealed this decision under the following points:

1. That the determination record is incomplete and insufficient by his standards. Mr. Cutler has stated that he is withdrawing this complaint.
2. That all proof should be verified for truth, accuracy and validated with appropriate legal documentation, including dated photos as well as other documents of claim. She believes that this is where the hooved animals and the horse come into play. She and her staff accepted photos and written verbal statements that Mr. Lang had the horse prior to the date in question. KPB 21.44.110(b) states that the final decision can be based on written application, written comments or evidence. That leaves the discretion to the staff to determine the basis used for their decision.

Regarding the Lang's appeal code requires the denial of the nonconforming use request regarding the rental of accessory structure on the parcel. KPB 21.44.110(f) states that a use must have been legally established under prior law. Mr. Lang submitted no evidence that this use was established prior to January 2020 timeframe. Codes states that the use must be operational prior to the LOZD ordinance and again no evidence was submitted supporting the claim that it was. She understand that prior to the January 2020 date it was Mr. Lang's intention to use his cabin as a rental, however KPB 21.44.110(c) states that intent to continue the nonconforming use does not qualify as a means to keep the use. The use must be active

at the time. With the Planning Department being the governing force for LOZDs, there is an established process in code that staff and the commission must adhere to. This ensure that each property owner in each LOZD is treated in an equitable and transparent manner every time. She would respectfully ask the commission to uphold staff findings and decision as we have clearly followed code.

MOTION: Commissioner Ruffner moved, seconded by Commission Morgan to move into an adjudicative session with all the commissioners, legal counsel and administrative staff.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti						
No							
Absent	Fikes						

The Planning Commission went into adjudicative session at 9:06 PM.

The Planning Commission came back into open session at 9:54 PM.

*(*Note: The recording was started late and the first 10 minutes of the session was not recorded)*

Lang Appeal:

MOTION: Commissioner Gillham moved, seconded by Commission Brantley to approve the following decision:

- I. The Planning Commission hereby reverses the Planning Director's denial that the commercial guesthouse use was not operational prior to January 7, 2020 and hereby grants the use as applied for by the Applicant based on the following findings of fact:
 1. KPB 21.44.160(C)(6) contains provisions for accessory structures within the single-family residential district (R-1) and provides that only a single, nonconforming guesthouse is allowed on each parcel as an accessory to the main dwelling.
 2. Uses establish in the C & H Estates R-1 Local Option Zoning District (LOZD) are considered lawful prior uses subject to the requirements of KPB 21.44.110.
 3. The Applicant/Appellant Lang provided a statement, on page 6 of 28 of the appeal packet, stating that a 12' x 14' guesthouse was constructed in 2013 and used as a place for friends, family, neighbors and used in a commercial sense to house employees at the 40208 Alpenglowl Circle (PIN #174-410-45) property (the "property") since 2013.
 4. Construction of the guesthouse for the use of housing, including as a rental and/or employee housing purposes, was established prior to January 7, 2020, the date of formation of the LOZD. The Applicant established the use of the guesthouse for commercial purposes through the use of the guesthouse for employee housing was established prior to January 7, 2020 which meets the standard found in KPB 21.44.110(F)(2).

Commissioner Ruffner stated he would not be voting in favor of this motion and supports upholding the Planning Director's decision. He believes the appellant is being truthful regarding construction of this guesthouse starting in 2013. He also believes that is was the intent of Mr. Lang to rent out the guesthouse. However, code does not support the "intent of use" as a grandfathered non-conforming use. Sales tax receipt were shown to start in May of 2020, which was after the formation of the LOZD. He supports the intent of the LOZD to keep the residential nature of their neighborhood.

Commissioner Gillham stated that she would be voting in favor of this motion. She believes Mr. Lang's testimony stating that he has used this property, as housing for employees for his business prior to the formation of the LOZD should qualify this as preexisting commercial use. Housing of his employees would be considered a cost of doing business and would be factored into the rates he charged his customers, which will be reflected in the amount of sales tax he collected and paid.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY MAJORITY VOTE:

Yes	5	No	2	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan						
No	Ruffner, Venuti						
Absent	Fikes						

Cutler Appeal

MOTION: Commissioner Ruffner moved, seconded by Commissioner Morgan to approve the following decision:

- II. The Planning Commission hereby upholds the Planning Director's Decision to uphold the four uses granted by the Planning Director's Decision dated July 9, 2021 based on the following findings of fact:
1. The Planning Director's Decision approving four uses found to be legally established prior to January 7, 2020 was supported by findings 1-15 and findings 25-44 of the staff report dated July 6, 2021 and attached to and incorporated into the Planning Director's Decision.
 2. Appellant Cutler did not submit any evidence to rebut the staff findings made by planning staff as adopted by the Planning Director.
 3. At the hearing, Appellant Cutler failed to rebut the staff findings made by planning staff as adopted by the Planning Director.

Commissioner Morgan noted that Commissioner Ruffner motion did not include the fourth finding of fact.

AMENDMENT MOTION: Commissioner Morgan moved, seconded by Commissioner Ruffner to amend the motion by adding finding number four:

4. Substantial evidence in this matter supports findings 1-15 and 25-44 of the staff report dated July 6, 2021, incorporated herein by reference.

Commissioner Ruffner stated that he would be supporting this motion. He believed there was good evidence to support that hoofed animals had been on this property prior to the date of the LOZD formation. Having photographic evidence showing two hoofed animals on the property lead him to believe those types of uses should be allowed.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti						
No							
Absent	Fikes						

Commissioner Ruffner stated that he would be supporting this motion. He noted that there was good evidence to support that hoofed animals had been on this property prior to the date of the LOZD formation. Having photographic evidence showing two hoofed animals on the property lead him to believe that those types of uses should be allowed.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Martin, Morgan, Ruffner, Venuti						
No							
Absent	Fikes						

AGENDA ITEM F. ADJOURNMENT

Chair Martin adjourned the meeting at 10:12 PM.

Ann E. Shirnberg
Administrative Assistant

Kenai Peninsula Borough

Plat Committee

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

October 25, 2021
6:30 p.m.
APPROVED MINUTES

A. CALL TO ORDER

Commissioner Ruffner called the meeting to order at 6:30 p.m.

B. ROLL CALL

Plat Committee Members/Alternates

Jeremy Brantley, Sterling
Pamela Gillham, Ridgeway
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

Staff Present

Melanie Aeschliman, Planning Director
Scott Huff, Platting Manager
Julie Hindman, Platting Specialist
Ann Shirnberg, Planning Administrative Assistant

C. APPROVAL OF AGENDA, EXCUSED ABSENCES, AND MINUTES

*3. Minutes

a. October 11, 2021 Plat Committee Meeting Minutes

Chair Ruffner asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no comment he brought it back to the committee for a motion.

MOTION: Commissioner Brantley moved, seconded by Commission Gillham to approve the minutes from the October 11, 2021 Plat Committee meeting and regular agenda.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	5	No	0
Yes	Brantley, Gillham, Morgan, Ruffner, Venuti		

D. OLD BUSINESS - None

E. NEW BUSINESS

ITEM 1 - CAUSEWAY SUBDIVISION 2021 REPLAT

KPB File No.	2021-138
Plat Committee Meeting:	October 25, 2021
Applicant / Owner:	Christopherson Family Trust of Anchorage, Alaska
Surveyor:	James Hall / McLane Consulting, Inc.
General Location:	Hope / Hope-Sunrise APC

Parent Parcel No.:	035-070-19, 035-070-20, 035-070-21, 035-070-22, 035-070-23, 035-070-27, 035-070-28, 035-070-29, 035-070-30, and 035-070-31
Legal Description:	Lots 19-23 and Lots 27-31 Causeway Subdivision Plat No SW-33

Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will remove property boundaries to combine 6 lots into a 2.8 acre parcel and combine 4 lots into a 1.9 acre parcel.

Location and Legal Access (existing and proposed): The subdivision is located in the Townsite of Hope. The access is located near mile 16.5 of the Hope Highway, a state maintained right of way. Second Street, a borough maintained right of way, intersects the Hope Highway. Shortly after the intersection is Fifth Street, a 30 foot wide dedicated right of way and Fourth Street, a 30 foot wide dedicated right of way. Fifth Street and Fourth Street border each side of the subdivision and will provide two access routes for the new lots. Both right of ways are maintained by the borough and end in cul-de-sacs.

An exception for right of way width has been requested for Fourth Street and Fifth Street.

The block does not close but the distances are compliant. An unnamed right of way did exist that connected Fourth Street and Fifth Street. Plat SW 83-10 vacated that right of way and dedicated cul-de-sacs at the end of Fourth Street and Fifth Street. To the north is Turnagain Arm and floodplains. Other roads in the area are dedicated into the floodplain but not constructed or the roads end in cul-de-sacs south of the wetlands. **Staff recommends the plat committee concur that an exception or dedication is not required as a vacation of right of way occurred in 1983 to remove a right of way that connected Fifth Street and Fourth Street.**

KPB Roads Dept. comments	No comments
SOA DOT comments	

Site Investigation: There is no contour information available for the area but this area is not affected by steep terrain. There are no low wet areas within the subdivision. The subdivision is within Floodplain C, a non-regulatory minimal flood risk zone.

Per KPB GIS data, an unnamed anadromous stream runs through former lots 19-21. **Staff recommends an approximate location of the stream be added to the plat in addition to required plat notes.**

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: IS totally or partially within HPD Comments: KPB\maldrige</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
-------------------------	---

Staff Analysis The preliminary plat will be reconfiguring ten lots into two lots. The current lots were created with Causeway Subdivision, SW 33, which was recorded in 1962. The parent plat dedicated 30 foot wide right of ways on either side of the block containing the lots within this proposed subdivision. The proposal will combine former Lots 19, 20, 30, and 31 into one 1.91 acre lot and Lots 21-23 and 27-29 into one 2.866 acre lot.

Locations of structures are not shown on the proposed plat. Per KPB GIS imagery from 2020 there are several structures built on the lots. While it is unknown if any of the structures are encroaching or crossing

current lot lines several appear to be close. If there are any encroachment issues, the reconfiguration should resolve those matters.

As this platting action will be increasing lot size, a soils report will not be required and an engineer will not need to sign the plat.

Per the preliminary Certificate to Plat, beneficial interest holders do not affect the proposed plat. Notification per KPB 20.25.090 will not be required unless the final Certificate to Plat states the property is affected by beneficial interest holders.

Hope/Sunrise Advisory Planning Commission minutes were not available when the staff report was prepared (KPB 21.02.020). These will be provided with the desk packet if available.

Utility Easements The parent plat did not grant any utility easements. As required by KPB Code, 10 foot utility easements will be granted along dedicated right of ways. A 10 foot utility easement will also be granted by this plat within proposed Lot 21A.

A right of way easement was granted to Chugach Electric Association by document located at Book 45R Page 142 in the Seward Recording District. The document, recorded in 1968, granted a 20 foot utility easement centered on the shared lot lines running north and south within the block as well as additional lots within Causeway Subdivision. Chugach Electric Association recorded a release of right of way in 2021, serial number 2021-001092-0, Seward Recording District. The release specifically released the easement affecting the east 10 feet along lots 19, 20, 21, and 22 and the west 10 feet along lots 28, 29, 30, and 31.

A submittal was received to go through the utility easement alteration procedures. It was determined the easements listed within the release no longer exist as of the recording date. A 20 foot utility easement will remain within the southern portion of Lot 21A along the former lot lines of Lots 23 and 27. **Staff recommends remove the hatching, the leader, and label stating the easement is vacated by this plat, and update the legend.**

The existing easement was issued to specifically to Chugach Electric Association by document. **Staff recommends the remaining easement be updated to read "20' utility easement per B45R, PG142 SRD".**

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

Utility provider review:

HEA	
ENSTAR	No comments or recommendations
ACS	
GCI	
SEWARD ELECTRIC	
CHUGACH ELECTRIC	
TELALASKA	

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 64850 FOURTH ST 64835 FIFTH ST 64811 FIFTH ST</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: SECOND ST</p>
------------	--

Addressing	<p>FOURTH ST FIFTH ST</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: 64850 FOURTH ST and 64835 FIFTH ST will remain with Lot 19A. 64811 FIFTH ST will remain with Lot 21A.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	<p>Reviewer: Taylor, Bryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.</p>
Advisory Planning Commission	Comments not available when staff report was prepared.

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.30 – Subdivision Design Requirements

Staff recommendation: *final plat submittals must comply with 20.30. Additional information, revisions, and/or corrections are required as noted below.*

20.30.120. Streets-Width requirements.

- A. The minimum right-of-way width of streets shall be 60 feet.
 - 1. Half streets shall generally not be allowed except to provide the logical extension of a right-of-way where the remaining half street can reasonably be expected to be dedicated in the future.
 - 2. When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoining to the new half right-of-way will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way and per KPB 2.40.080 can request a review of the plat committee decision by the full Planning Commission.

- B. Additional right-of-way or easement width may be required to provide for the construction of side slopes or to otherwise accommodate right-of-way construction standards set forth in KPB Title 14.

Staff recommendation: *An exception for right of way width has been requested.*

20.30.290. Anadromous Waters Habitat Protection District. If any portion of a subdivision or replat is located within an anadromous waters habitat protection district, the plat shall contain the following note:

ANADROMOUS WATERS HABITAT PROTECTION DISTRICT NOTE:

Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Waters Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision. Width of the habitat protection district shall be in accordance with KPB 21.18.040.

Staff recommendation: *Depict and label the anadromous stream and add the required note. Comply with 20.30.290.*

KPB 20.40 – Wastewater Disposal

Staff recommendation: *final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.*

20.40.010 Wastewater disposal.

Platting Staff Comments: As the lots are increasing in size a soils analysis report is not required. The correct plat note is located on the plat.

Staff recommendation: *comply with 20.40.*

KPB 20.60 – Final Plat

Staff recommendation: *final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.*

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: *Update the Certificate of Ownership and Dedication to plural pronouns. Documentation is required that shows the trustees have authority to sign the plat on behalf of the Christopherson Family Trust. Comply with 20.60.190.*

20.60.200. Survey and monumentation.

Staff recommendation: *This will be a paper plat prepared from data. If any information is computed, provide appropriate labeling to indicate as such. Comply with 20.60.200*

EXCEPTIONS REQUESTED:

A. KPB 20.30.120 – Streets-Width Requirements

Staff Discussion: Fourth Street and Fifth Street are 30 feet wide. Per KPB Code 20.30.120, the minimum width shall be 60 feet.

Denial of the exception request will require right of way dedications for Fourth Street and Fifth Street.

If the exception is denied it should be determined by the Plat Committee the width they wish to require for each right of way. The current right of way width is 30 feet with a bulb at the end. A 15 foot right of way dedication will allow future subdivisions on the opposite side of the right of way to provide a matching 15 feet, for a full 60 foot width. A 30 foot right of way dedication will provide a full dedication width for this section and will require all future dedications to come from lots within the subdivision block so that the right of way is not offset.

Surveyor's Findings:

1. Fourth and Fifth Streets are improved 30' wide dedicated rights-of-way (per Plat SW 33-1962) with current maintenance.
2. Lots to North, South, East, & West of this replat are undersized and unlikely to accommodate future matching R/W dedications.
3. R/W dedications per this replat would create multiple encroachment issues. Improvements were constructed to current R/W width of 30'.

Staff Findings:

4. The Kenai Peninsula Borough maintains the right of ways.
5. No comments were made by the Kenai Peninsula Borough Roads Department.
6. Right of ways in the area that were created by the Hope Townsite Survey No. 1485 (done in 1923), were widths of 30, 40, or 50 feet.
7. Fourth Street and Fifth Street are cul-de-sacs.
8. The right of ways currently provide access to thirty-three lots.
9. Seven of the lots that have Fourth Street for access have additional access.
10. If the subdivision is approved the number of lots using Fourth Street and Fifth Street for access will

be reduced to twenty-five lots.

11. The ability to obtain matching right of way from adjacent lots will be difficult due to their lots sizes and improvements.
12. Other lots have been combined on Fourth Street and additional dedications were not required. (It was not discussed in the minutes from 1994).
13. The road widths fit with the design and feel of the community.
14. Allowing the road widths to remain will comply with the Kenai Peninsula Borough Comprehensive Plan as part of Historic Preservation to maintain the character of the historic town.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 1-5, 9-14 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 1-5, 9-14 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 1-5, 9-14 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- **GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND**
- **COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND**
- **COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.**

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

Chair Ruffner opened the meeting for public comment. Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Brantley to grant preliminary approval to Causeway Subdivision 2021 Replat based on staff recommendations and compliance with borough code.

Commissioner Ruffner asked staff that in his understanding all the applicants are wanting to do with this plat is to remove some lot lines to make the lots bigger. Mr. Huff replied that is correct, that applicants are taking six lots and combining them into two lots. One lot will be 2.8 acres and the other will be 1.9 acres. Commissioner Ruffner noted that these lots have acreage within the Habitat Protection District and that by combining lots together will result in there being more usable areas on each lot.

AMENDMENT MOTION: Commissioner Morgan moved, seconded by Commissioner Brantley to grant exception request to KPB 20.30.120 – Street Width Requirements, citing findings 1-5 & 9-14 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE

Yes	5	No	0
Yes	Brantley, Gillham, Morgan, Ruffner, Venuti		

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	5	No	0
Yes	Brantley, Gillham, Morgan, Ruffner, Venuti		

ITEM 2 - RIGHT OF WAY ACQUISITION SEWARD AIRPORT IMPROVEMENTS

KPB File No.	2021-047
Plat Committee Meeting:	October 25, 2021
Applicant / Owner:	State of Alaska DOT & PF
Surveyor:	State of Alaska DOT & PF
General Location:	Seward Airport

Parent Parcel No.:	145-02-401 ROW take parcels 145-022-21 Civil Air Patrol 145-024-04 Leirer Enterprises, LLC Resurrection Bay – Alaska Tidal Survey 174
Legal Description:	T 1N & 1S R 1W SEC 34 35 2 & 3 SEWARD MERIDIAN SW THAT PTN KNOWN AS THE SEWARD AIRPORT
Assessing Use:	Leased commercial
Zoning:	Industrial
Water / Wastewater	Municipal water and sewer service

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed right of way acquisition plat is for a new ROW for Runway 16/34, which will be shifted, lengthened, and raised above the 100-year flood level. The approval of the Right of Way acquisition plat will allow DOT to work with the land owners to obtain additional Airport Right of Way property.

Location and Legal Access (existing and proposed): The location is at the Seward Airport. Legal access is from Airport Road which is not a dedicated right of way but is constructed and maintained by the State of

Alaska (SOA). Airport Road is within the State property as well as within Tract 9. The Alaska Railroad Corporation owns Tract 9 which is affected by the airport and Airport Road.

KPB Roads Dept. comments	No comments.
SOA DOT comments	No additional comments.

Site Investigation: The area is located along the alluvial fan of Resurrection River. The airport property is affected by riverine and tidal ecosystems.

Per KPB 21.18.025, all portion of waterways found within the Seward – Bear Creek Mapped Flood Service Area (SMFDA) are exempt from KPB 21.18.

No steep terrain affects the airport.

Staff Analysis

Notice of the right of way acquisition plat was provided to 2 landowners from whom right of way or easements are being acquired. The plat was also sent to utility providers, City of Seward, Seward EMS, KPB Seward office, and various State offices.

The Seward Planning and Zoning Commission heard the plat at their September 7, 2021 meeting. It was originally scheduled to be heard on July 6, 2021 but was hold a joint work session with the Commerce Advisory Board and the Seward Bear Creek Flood Board. The Seward Planning and Zoning Commission approved Substitute Resolution 2021-014 with the following conditions:

1. Public access to the beach to the south of the Airport property is provided.
2. A fire hydrant is installed on the Airport property.
3. Water and sewer are brought to the Airport facilities.

Per the Seward Planning and Zoning Commission minutes, several people spoke in opposition to the project. Prior to the voting of their approval of the resolution it was clarified they were voting only on the acquisition plat and not the other aspects of the project.

One of those that spoke is the owner of the proposed acquisition of 1.986 acres. The owner is not willing to only sell that portion and it would need to be the entire parcel. This is an aspect that will need to be worked on through the DOT acquisition process. **Staff recommends** provide an updated depiction for lands acquired if they differ from what is presented.

The plat is reviewed and approved under KPB 20.10.070, Right of way Acquisition Plat. Preliminary approval of the plat shall be for a period of 24 months. Additional time extensions may be granted by the Planning Director for specified time periods upon finding that it is in the public interest to do so.

The SOA has prepared three alternatives which were evaluated during the scoping and environment process. Alternative 2.2 was chosen at the design to move forward with.

From the State of Alaska DOT & PF Seward Airport Improvements summary.

Project Need

The Main Runway (13/31) at Seward Airport is frequently overtopped by the Resurrection River, often several times a year, forcing repeated closure and repair of the Main Runway. Recurrent flooding has resulted in a weakened runway embankment, prompting the department to reduce the loading on the runway to service only light aircraft.

The frequency and severity of flooding has been steadily increasing. The river is directly adjacent to the Main Runway for over half the runway length. Floodwaters flow over the runway and threaten to cut through the runway embankment during high water.

Pavement on aprons and taxiways is old with evident ponding and cracking. The airfield lighting system is beyond its useful life and needs to be replaced.

Project Description

The purpose of this project is make improvement that protect the airport form further flood damage while upgrading the airport to current FAA standards.

Improvements include:

- *shift and lengthen Runway 16/34 to 75' x 3,300';*
- *Raise Runway 16/34 above the design flood elevation and provide armor protection;*
- *Close Runway 13/31;*
- *Reconstruct taxiways to meet the new runway elevation, and eliminate taxiways within the center 1/3 of the runway, per FAA guidance;*
- *Install new airfield edge lighting and electrical enclosure building;*
- *Install new airport beacon, segmented circle, and wind cones;*
- *Repave the existing aprons and taxi lane;*
- *Improve airport drainage;*
- *Purpose property for airspace.*

DOT is currently in the process of obtaining approval of the Right of Way acquisition plat and appraisals on the land that may need to be obtained. After this, DOT can contact the land owners with a request to purchase and proceed with negotiations as needed. The size and location of the parcels may be adjusted during the negation process. The final right of way plat will show the updated boundary.

Utility Easements The City of Seward provides road, water, sewer, electric, and other utilities.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

Utility provider review:

ENSTAR	No objection or comment.
ACS	
GCI	
SEWARD ELECTRIC	
CHUGACH ELECTRIC	
TELALASKA	

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek</p> <p>Affected Addresses: 2310 AIRPORT RD, 2300 AIRPORT RD, 2210 AIRPORT RD, 2208 AIRPORT RD, 2202 AIRPORT RD, 2110 AIRPORT RD, 2106 AIRPORT RD, 2104 AIRPORT RD, 2102 AIRPORT RD, 2101 AIRPORT RD</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: SEWARD HWY</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: City of Seward will advise on affected addresses.</p>
------------	--

Code Compliance	Reviewer: Ogren, Eric Comments: No comments
Planner	Reviewer: Taylor, Bryan There are not any Local Option Zoning District issues with this proposed plat. Material Site Comments: There are not any material site issues with this proposed plat. Review Not Required
Assessing	Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept.
KPB Roads Department	Out of Jurisdiction: Yes Roads Director: Uhlin, Dil Comments: No comments
State Dept. of Fish & Game	Not available when the staff report was prepared.
River Center	A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Within City of Seward Comments: No comments B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments C. State Parks Reviewer: Russell, Pam Comments: No Comments

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

REVISE OR ADD TO THE PRELIMINARY PLAT IN ACCORDANCE WITH THE PROVISIONS CONTAINED IN KPB 20.10.070 AS FOLLOW:

This is an acquisition plat. The depictions of aviation, hazard or clearing easements should be removed as they do not pertain to the acquisition of property. Lease and interagency transfer designations should also be removed. Depictions of neighboring lots with labels should be shown. **Staff recommends these depictions be removed from all sheets and provide accurate depiction of neighboring lots.**

On the last sheet is a table that refers to property status. The designations used are "Tract" or "parcel". A parcel designation is acceptable but not Tract. Tract is a legal designation for some of the parcels in the area. A different project designation should be used and the only "Tract" labels should refer to legal tract designations given by the recording of a plat. **Staff recommends the labels be updated/removed on all sheets.**

1. Correct the following status labels:

SHEET 1

- Remove the Lot 4 USS 9000 label. This has now been dedicated or acquired as right of way.
- The parcel labeled "Tract IX" should be shown as "Tract 9" as that was the designation given on the parent plat.

SHEET 2

- Remove the Lot 4 USS 9000 label. This has now been dedicate or acquired as right of way. Provide a reference to the highway project map and the sheet that contains this portion of the project.
- Provide right of way names for the right of way that goes through what is shown as Tract II.
- The depiction of Crawford Subdivision is small but provide a few of the major right of way names within the subdivision or those that about the project.

SHEET 3

- The parcel labeled "Tract IX" should be shown as "Tract 9" as that was the designation given on the parent plat.
- Provide some of the street names within Crawford Subdivision.

SHEET 4

- Remove the Lot 4 USS 9000 label. This has now been dedicate or acquired as right of way. Provide a reference to the highway project map and the sheet that contains this portion of the project.
- Depict the right of way that goes through what is currently labeled Tract II and provide a street name label.

STAFF RECOMMENDATIONS: Grant a two-year approval of the preliminary plat subject to any above recommendations, and KPB code:

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

Chair Ruffner opened the meeting for public comment. Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Brantley moved, seconded by Commissioner Gillham to grant a two year preliminary approval to Right-of-Way Acquisition Seward Airport Improvements based on staff recommendations and compliance with borough code.

Seeing and hearing no objection of discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE

Yes	5	No	0
Yes	Brantley, Gillham, Morgan, Ruffner, Venuti		

ITEM E3 - S & S SUBDIVISION YOUNG REPLAT

KPB File No.	2021-112
Plat Committee Meeting:	October 25, 2021
Applicant / Owner:	Cole B. and Jessica A. Young of Soldotna, Alaska
Surveyor:	John Segesser / Segesser Surveys, Inc.
General Location:	Shane Rae Circle and Riggs Avenue, Ridgeway area

Parent Parcel No.:	058-033-01,058-033-02
Legal Description:	Lots 2 and 3, S & S Subdivision Plat KN 86-112
Assessing Use:	Residential
Zoning:	Rural Unrestricted
Water / Wastewater	On Site

Staff report given by Scott Huff.

Specific Request / Scope of Subdivision: The proposed plat will combine two lots and finalize a right of way vacation to create one 2.89 acre lot.

Location and Legal Access (existing and proposed): The proposed subdivision is located on Riggs Avenue, a 66 foot wide right of way that coincides with 83 foot wide section line easement. Riggs Avenue is on the City of Soldotna boundary and is maintained by the borough. Riggs Avenue intersect state maintained Mackey Lake Road about a third of a mile from the Sterling Highway.

A petition to vacate Shane Rae Circle was heard and approved by the Planning Commission on September 13, 2021. It was heard and approved by the Kenai Peninsula Borough Assembly on October 12, 2021. This plat will vacate Shane Rae Circle and the new lot will have access via Riggs Avenue. Other lots that had optional access from Shane Rae Circle will continue to have access via Riggs Avenue or Heath Circle.

The block is not compliant and an exception has been requested.

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Uhlin, Dil Comments: No comments
SOA DOT comments	No comments.

Site Investigation: The land within the proposed subdivision is relatively flat with no low wet areas.

KPB River Center review	<p>A. Floodplain Reviewer: Carver, Nancy Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: Russell, Pam Comments: No Comments</p>
-------------------------	---

Staff Analysis The proposed preliminary plat is composed of lots and right of way created by S&S Subdivision, Plat KN 86-112. That plat created four lots and dedicated a 645 foot long right of way. The right of way was given a Circle suffix. That suffix indicates the intent to extend the right of way in the future but for the right of way not to be a through dedication.

On September 13, 2021, the Planning Commission heard a petition to vacate Shane Rae Circle. The vacated right of way was proposed to be combined with Lots 2 and 3 into one parcel. Lot 1 would have access from Riggs Avenue. Lot 4 and the northern unsubdivided lot would have access via Heath Circle. The four lots bordering Shane Rae Circle are currently owned by the same owner. To the north is a 4.8 acre unsubdivided parcel that is also owned by the same owner of the proposed subdivision.

The owners stated in their vacation petition, that they run a company and have expensive equipment on their property. They wish to have a gate in place in the location of Shane Rae Circle to protect their property. It does appear that there may be driveways off the current Shane Rae Circle that provide access to Lots 1 and 4. Access will not be an issue as long as one owner but staff suggests if ownership changes to any of the lots it be disclosed if new access will need to be developed or that a driveway easement or agreement be recorded to protect all parties.

A soils report will be not required and an engineer will not sign the final plat.

Notice of the proposed plat was mailed to the beneficial interest holder on October 5, 2021. The beneficial interest holder will be given 30 days from the date of the mailing of the notification to respond. They are

given the opportunity to notify staff if their beneficial interest prohibits or restricts subdivision or requires their signature on the final plat. If no response is received within 30 days, staff will assume they have no requirements regarding the subdivision and it may be finalized.

The property is not within an advisory planning commission.

Utility Easements The parent plat, S&S Subdivision KN 86-112, granted a 10 foot utility easement along Riggs Avenue as well as a 10 foot along the western side of Shane Rae Circle and a 10 foot by 10 foot easement centered on the shared lot line of Lots 2 and 3. The petition to vacate the right of way did not include any utility easements to vacate. While the 10 foot utility easement will remain along the eastern boundary of Lots 1 and 4, the vacation of the right of way does not provide access to the 10 x 10 easement that will now be in the middle of proposed Lot 2A. Staff notes there are several options to provide access to the remaining 10' x 10' easement. A 10 foot easement may go across the vacated portion of Shane Rae Circle to connect to the north-south easement along Lots 1 and 2. Another option is to provide a 10 foot wide utility easement along the vacated portion of Shane Rae Circle to connect the 10 x 10 easement to the easement along Riggs Avenue. **Staff recommends** a 10 foot wide utility easement be granted to connect to the 10 x 10 easement either by crossing the vacated right of way to connect to the utility easement of record, or a 10 foot utility easement on the east side of the vacated right of way.

ENSTAR has responded that they have an existing main line within the east side of Shane Rae Circle right of way. They have provided two scenarios in which to grant an easement for the line. **Staff recommends** the depiction and requested note be provided on the plat or record the document and provide the recording information within a plat note.

Per plat note 6, there will be 10 foot utility easements along the right of way and 20 feet within 5 feet of the side lot lines. The plat currently depicts the utility easements granted by the parent plat. The utility easement depiction must show the continuation along the vacated portion of Shane Rae Circle and depict the 20 foot within 5 feet of the side lot lines. **Staff recommends** update the depiction of the utility easements to show the easement extending across the vacated right of way where adjoining Riggs Avenue.

The affected utility providers were emailed the subdivision plat public hearing notice as part of the routine notification process. **Staff recommends** to grant utility easements requested by the utility providers or work with the utility providers to obtain approval.

Utility provider review:

HEA	Reviewed, no comments.
ENSTAR	There are existing natural gas main line which appears to be located within the proposed Shane Rae Circle 60' ROW Vacation. Attached is an approximate ENSTAR as-built for your reference. ENSTAR objects to this plat unless one of the following scenarios is met: 1. Add a note which says, "There is a ten foot (10 FT) wide natural gas easement centered on the existing main line." And draw in the approximate location of the main line on the map and add, "Approximate location of natural gas main and centerline of ten foot (10 FT) wide natural gas easement." 2. Owner signs an ENSTAR Natural Gas Easement document for a ten foot (10 FT) wide natural gas easement, centered on the main line at this location.
ACS	
GCI	

KPB department / agency review:

Addressing	<p>Reviewer: Haws, Derek Affected Addresses: 42924 RIGGS AVE</p> <p>Existing Street Names are Correct: Yes List of Correct Street Names: Heath Cir Riggs Ave</p> <p>Existing Street Name Corrections Needed: All New Street Names are Approved: No List of Approved Street Names: List of Street Names Denied:</p> <p>Comments: 42924 RIGGS AVE will remain with Lot 2A.</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: No comments</p>
Planner	<p>Reviewer: Taylor, Bryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Bruns, Matthew Comments: No concerns from Assessing Dept. Vacation of Shane Rae Circle ROW will result in Parcel # 058-033-04 having legal access from Heath Circle only. Parcel # 058-033-05 will have legal access only from Riggs Avenue.</p>

The subdivision plat has been reviewed and generally complies with the 2019 Kenai Peninsula Borough Comprehensive plan.

STAFF RECOMMENDATIONS

CORRECTIONS / EDITS

KPB 20.25.070 – Form and contents required

Staff recommendation: final plat submittals must comply with 20.25.070. Additional information, revisions, and/or corrections are required as noted below.

A. Within the Title Block

1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion. The parent plat's name shall be the primary name of the preliminary plat.
2. Legal description, location, date, and total area in acres of the proposed subdivision;
3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor.

Staff recommendation: Parent plat number needs corrected to 86-112.

C. The location, width, and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;

Staff recommendation: Soldotna City Limits is located south of the subdivision, within Riggs Avenue. Depict the boundary and provide a label.

G. The status of adjacent lands within 100 feet of the proposed subdivision boundary or the land status across from any dedicated rights-of-way that adjoin the proposed subdivision boundary, including

names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

Staff recommendation: *Correct the label for Tract C located to the northeast by removing the duplicate C.*

KPB 20.30 – Subdivision Design Requirements

Staff recommendation: *final plat submittals must comply with 20.30. Additional information, revisions, and/or corrections are required as noted below.*

20.30.190. Lots-Dimensions.

A. The size and shape of lots shall provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located. Generally, lots shall be square or rectangular. Lots shall be at least 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the average depth shall be no greater than three times the average width.

B. The access portion of a flag lot shall not be less than 20 feet wide. A flag lot with the access portion less than 60 feet wide may be subject to a plat note indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography. If the access portion is less than 60 feet wide, it may not exceed 150 feet in length. The access portion may not be used for permanent structures or wastewater disposal area, must meet the design standards of KPB 20.30.030(A) and 20.30.090 for access, and, if at least 60 feet wide, will be subject to the building setback restrictions of KPB 20.30.240.

Staff recommendation: *The new lot does not meet 3:1 requirements. An exception has been requested.*

KPB 20.40 – Wastewater Disposal

Staff recommendation: *final plat submittals must comply with 20.40. Additional information, revisions, and/or corrections are required as noted below.*

20.40.010 Wastewater disposal.

Platting Staff Comments: A soils analysis report will not be required. Wastewater note is required.

Staff recommendation: *comply with 20.40.*

KPB 20.60 – Final Plat

Staff recommendation: *final plat submittals must comply with 20.60. Additional information, revisions, and/or corrections are required as noted below.*

20.60.180. Plat notes.

A. Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

B. Revision of, or not carrying forward, an existing plat note from the parent plat will adhere to KPB 20.50.010. Separate advertising of the plat note removal is not required. Notification of the requested change will be sent by regular mail to all owners within the subdivision (parent plat and subsequent replats) as shown on the borough tax rolls. Upon approval by the planning commission, the revision or removal of the record plat note shall be finalized by recording a planning commission resolution or subdivision plat.

Staff recommendation: *Place the following notes on the plat.*

- *Add a note for any exceptions granted.*
- *WASTEWATER DISPOSAL: The parent subdivision for lots resulting from this platting action was approved by the Alaska Department of Environmental Conservation on DATE ILLEGIBLE. Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.*

Update the following plat notes.

- *Note 3, correct “Tha” to “The”.*

- Note 3, add "...September 13, 2021. Consent by the Kenai Peninsula Borough Assembly was given at the meeting of October 12, 2021."
- Notes 4 and 5, add "Misc" prior to the Book and Page listed.

20.60.190. Certificates, statements, and signatures required.

Staff recommendation: A statement must be added and signed by the owners that acknowledge the vacation is only being added to Lots 2 and 3. "We hereby certify that we are the owners of Lot 1 and Lot 4 S & S Subdivision and that we hereby forego the opportunity to receive ½ of the vacation of Shane Rae Circle. We are allowing the entire sixty (60) feet of right-of-way to be attached to Lot 2A S & S Subdivision Young Replat." Comply with 20.60.190.

KPB 20.70 – Vacation Requirements

Staff recommendation. Must be finalized within one year of Kenai Peninsula Borough Assembly consent, October 12, 2021.

EXCEPTIONS REQUESTED:

A. KPB 20.30.170 – Blocks – Length requirements

Staff Discussion: The subdivision is within a closed block defined by Riggs Avenue, Section Line Easements, Brenda Way, Delcie Drive, and Mackey Lake Road. Not all portions are constructed due to wetlands and terrain. The block lengths are not compliant. There are four other dedications within the block that all end in cul-de-sacs. While Shane Rae Circle could have possibly continued through to improve the block several factors limit that ability. The road was dedicated as a circle, which implies the intent to be a permanently closed right of way that would be no more than 1,000 feet long. There are wetlands that would limit the feasibility of it connecting to other right of ways and there are no other right of ways for it to connect to, as they are cul-de-sacs. If a new dedication would be requested would fall under similar issues and due to the design of some of the lots and the current right of way patterns, a dedication through this subdivision will not improve the block length.

If the exception is denied, a dedication will be required to improve the block length.

Surveyor's Findings:

1. An extension could come off of Heath Circle to connect with Frazier Road.

Staff's Findings:

2. The block is closed.
3. The block exceeds allowable limits.
4. The vacation does not impact or change the block due to intent to be a closed right of way.
5. There are no existing right of ways to connect or be in line with.
6. There are wetlands located to the north and west.
7. The Planning Commission at the September 13, 2021 meeting approved the vacation of Shane Rae Circle.
8. The KPB Assembly at the October 12, 2021 meeting approved the vacation of Shane Rae Circle.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;

Findings 4-8 appear to support this standard.

2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 4-8 appear to support this standard.
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 4-8 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

EXCEPTIONS REQUESTED:**B. KPB 20.30.190(A) – Lots-Dimensions** 3:1 depth to width ratio

Staff Discussion: Per KPB Code, the average depth shall be no greater than three time the average width. The proposed lot configuration of Lot 2A results in a depth to width ration of 3.3:1. Due to the vacation of the right of way the depth to width designations now change as the only frontage is along Riggs Avenue.

If the exception is denied, the current lot configuration will not be allowed and a redesign would be required. The only way to provide lots that meet the depth to width ratio would be to provide a right of way dedication.

Surveyor's Findings:

1. The width of Lot 2A is 90% of what would be required to meet the code.

Staff's Findings:

2. Code allows for 3:1 depth to width ratio.
3. The depth to width ratio for Lot 2A is 3.3:1.
4. Per the vacation petition, the intent is to combine the lots, vacate the right of way so that a gate may be placed to protect property and equipment.
5. Adding the full right of way width to the new lot improves the ratio.
6. The Planning Commission at the September 13, 2021 meeting approved the vacation of Shane Rae Circle.
7. The KPB Assembly at the October 12, 2021 meeting approved the vacation of Shane Rae Circle.

Staff reviewed the exception request and recommends granting approval.

Staff recommends the Committee select the findings they determine are applicable, make additional findings if needed, tie the findings to the following standards, and vote on the exception in a separate motion.

Unless prohibited under this title, the commission (committee) may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission (committee) with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

The commission (committee) shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
Findings 4-7 appear to support this standard.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
Findings 4-7 appear to support this standard.

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
Findings 4-7 appear to support this standard.

Staff recommendation: place notes on the final plat indicating any exceptions granted by the Plat Committee with the meeting date.

RECOMMENDATION:

SUBJECT TO EXCEPTION(S) GRANTED, STAFF RECOMMENDS:

- GRANT APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO STAFF RECOMMENDATIONS, AND
- COMPLIANCE WITH KPB 20.25.070 (FORM AND CONTENTS), KPB 20.25.080 (PETITION REQUIRED), KPB 20.30 (DESIGN REQUIREMENTS); AND KPB 20.40 (WASTEWATER DISPOSAL), AND
- COMPLIANCE WITH KPB 20.60 TO ENSURE ADMINISTRATIVE APPROVAL OF THE FINAL PLAT.

NOTE: 20.25.120. - REVIEW AND APPEAL.

A PARTY OF RECORD MAY REQUEST THAT A DECISION OF THE PLAT COMMITTEE BE REVIEWED BY THE PLANNING COMMISSION BY FILING A WRITTEN REQUEST WITHIN 15 DAYS OF NOTIFICATION OF THE DECISION IN ACCORDANCE WITH KPB 2.40.080.

A DECISION OF THE PLANNING COMMISSION MAY BE APPEALED TO THE HEARING OFFICER BY A PARTY OF RECORD WITHIN 15 DAYS OF THE DATE OF NOTICE OF DECISION IN ACCORDANCE WITH KPB 21.20.250.

END OF STAFF REPORT

Chair Ruffner opened the meeting for public comment. Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MAIN MOTION: Commissioner Gillham moved, seconded by Commissioner Brantley to grant preliminary approval to S & S Subdivision Young Replat based on staff recommendations and compliance with borough code.

AMENDMENT A MOTION: Commissioner Gillham moved, seconded by Commission Brantley to grant exception request to KPB 20.30.170 – Block Length Requirements, citing findings 4-8 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT A MOTION PASSED BY UNANIMOUS VOTE

Yes	5	No	0
Yes	Brantley, Gillham, Morgan, Ruffner, Venuti		

AMENDMENT B MOTION: Commissioner Gillham moved, seconded by Commissioner Brantley to grant exception request to KPB 20.30.190(A) – Lot Dimensions, 3:1 depth to width ratio, citing findings 4-7 in support of standards one, two and three.

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

AMENDMENT B MOTION PASSED BY UNANIMOUS VOTE

Yes	5	No	0
Yes	Brantley, Gillham, Morgan, Ruffner, Venuti		

Seeing and hearing no objection or discussion, the motion was carried by the following vote:

MAIN MOTION PASSED BY UNANIMOUS VOTE

Yes	5	No	0
Yes	Brantley, Gillham, Morgan, Ruffner, Venuti		

F. PUBLIC COMMENT - None**G. ADJOURNMENT**

Commissioner Brantley moved to adjourn the meeting 6:48 P.M.

Ann E. Shirnberg
Administrative Assistant

UNAPPROVED

Kenai Peninsula Borough Planning Commission

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

October 25, 2021

7:30 P.M.

UNAPPROVED MINUTES

CALL TO ORDER

Chair Ruffner called the meeting to order at 7:30 p.m.

ROLL CALL

Commissioners Present

Syverine Bentz, Anchor Point/ Ninilchik
Jeremy Brantley, Sterling
Diane Fikes, City of Kenai
Pamela Gillham, Ridgeway
Virginia Morgan, East Peninsula
Robert Ruffner, Kasilof/Clam Gulch
Franco Venuti, City of Homer

With 7 members of an 11-member commission in attendance, a quorum was present.

Staff Present

Melanie Aeschliman, Planning Director
Sean Kelly, Borough Attorney
Samantha Lopez, Manager Kenai River Center
Derek Haws, Addressing Officer
Ann Shirnberg, Planning Administrative Assistant
Julie Hindman, Platting Specialist

AGENDA ITEM B. ROLL CALL

- *3. Plat Granted Administrative Approval
 - a. Carl F Ahlstrom Subdivision RPM's Replat Number 2; KPB File 2021-054
 - b. Doser Subdivision Eicher 2020 Replat; KPB File 2020-137
 - c. FBO Subdivision No. 10; KPB File 2021-037
 - d. Holland Spur Highway Subdivision 2020 Addition; KPB File 2020-064
 - e. Veil O Mist No. 18; KPB File 2020-017
- *4. Plats Granted Final Approval
 - a. Ar-Ness Subdivision 2021 Replat; KPB File 2021-125
 - b. Hall Subdivision No. 8 Addition No. 2 2021 Replat; KPB 2020-066
 - c. Nikiski Village Subdivision Strong Replat; KPB 2021-132
- *6. Commissioner Excused Absences
 - a. Blair Martin, Kalifornsky Beach
 - b. Vacant, Northwest Borough
 - c. Vacant, City Seat
 - d. Vacant, City Seat
- *7. Minutes
 - a. September 24, 2021 Planning Commission Meeting
 - b. October 11, 2021 Planning Commission Meeting

Chair Ruffner asked if anyone present wanted to speak to any of the items on the consent or regular agendas. He then asked Ms. Shirnberg to read the items under the consent agenda into the record.

Hearing no one else wishing to comment, Chair Ruffner returned the discussion to the Commission.

MOTION: Commissioner Brantley moved, seconded by Commissioner Gillham to approve the consent agenda and the regular agenda.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti						
No							
Absent	Martin						

Chair Ruffner asked Ms. Shirnberg to read the procedures for public testimony.

AGENDA ITEM E. NEW BUSINESS

**E1 – CONDITIONAL USE PERMIT
PC RESOLUTION 2021-33**

KPB File No. 2021-33
Planning Commission Meeting: 10/25/2021
Applicant Alaska Department of Transportation
Mailing Address PO Box 196900
 Anchorage, AK 99519-6900
Legal T 5N R 5W SEC 1 SEWARD MERIDIAN KN ALL OF SEC 24
 25 & 37 & PORTION OF SEC 1 12 13 23 26 & 35
Physical Address Fuller Creek, MP 57.5 Sterling Highway near Cooper
 Landing, AK
KPB Parcel Number 02518003

Staff report given by Samantha Lopez.

Project Description

The Alaska Department of Transportation is seeking to amend PC Resolution 2020-23 for highway improvements within the 50' Habitat Protection District of Fuller Creek near Cooper Landing. During construction activities in August 2021, one of the sections for Fuller Creek was discovered to be a small overflow/side channel of Fuller Creek rather than a main stem of the creek. The confluence of the overflow and main stem flows have been redesigned with reinforced roadside slopes to address the perpendicular angle coverage point. The existing angle of approach increases the chances of slope erosion and/or failure of the proposed channel, which may put the new roadway embankment at risk in the future if not reinforced. Riprap revetment is now proposed at two locations to add protection. The proposed embankments are made up of layers of geotextile, ditch lining rock, and class II riprap and stay within the previously identified impacted area and right-of-way. Applicant will also backfill the upper 8-12 inches of riprap with topsoil, place live willow stakes, and hydroseed.

Previously Permitted Project Details within the 50-foot Habitat Protection District

This project was approved by the Kenai Peninsula Borough Planning Commission on August 24, 2020 through PC Resolution 2020-23, and included the following activities within the 50-foot Habitat Protection District:

1. Widening the roadbed to add shoulders and improve drainage, and straightening the alignment to meet current design standards.

2. Replacing or improving drainage, signage, striping, and guardrail/guardrail end treatments.
3. Vegetation clearing and grubbing.
4. Revegetation of Fuller Creek using vegetative mat, willow stakes and planting of two seedlings for every tree removed within 3 acres of the habitat protection district of Fuller Creek.
5. Installation of a large mammal wildlife crossing (120 feet long, 22 feet wide by 10 feet high structural plate pipe) that encompasses a stream crossing at Fuller Creek at MP 57.3.
6. Construction of 1,500 feet of new stream channel along Fuller Creek.
7. Approximately 700 feet of channel will route Fuller Creek through the new highway crossing, and 800 feet of new channel will shift a downstream segment outside of the new roadway embankment.

New Project Details within the 50-foot Habitat Protection District

1. Revetments will be constructed in two locations using geotextile and a total of 1,920 cubic yards of ditch-lining rock and class II riprap.
2. Impacted footprint will increase by approximately 2,500 square feet. This includes the additional connection of stream channels and revetments placed below the roadway embankment.
3. Revegetation of Fuller Creek using vegetative mat, willow stakes and planting of two seedlings for every tree removed within 3 acres of the habitat protection district of Fuller Creek.
4. Backfill the upper 8-12 inches of riprap with topsoil, place live willow stakes, and hydroseed.

Findings of Fact Pursuant to KPB 21.18.081 Conditional Use Permit

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), transportation infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. The culvert crossing at Fuller Creek is being designed for hydraulic and fish passage, which will lead to an improvement of fish passage and fish habitat at the site. One of the purposes of Chapter 21.18 is to provide a means for a continuation of the abundance and prosperity provided by anadromous fish to the citizens of the Kenai Peninsula Borough (KPB 21.18.020(E)).
4. Staff finds the proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code including the Kenai Peninsula Borough Coastal Management Plan.
5. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
6. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
7. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
8. The Planning Commission has approved the use of riprap in other projects where critical public infrastructure was at risk of erosion.
9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
11. Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway existing roadway and will not affect neighboring parcels.
12. The River Center found the application complete and scheduled a public hearing for October 25, 2021.
13. Agency review was distributed on October 7, 2021. No comments or objections have been received from resource agencies to date.
14. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on October 7, 2021. A total of 1 mailing was sent.

15. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on October 13, 2021 and October 20, 2021.
16. Permit application was forwarded to the Cooper Landing Advisory Planning Commission for review at their October 20, 2021 special meeting.
17. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

1. A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
2. A Storm Water Pollution Prevention Plan (SWPPP) will be developed and Best Management Practices will be implemented to minimize erosion and sedimentation of adjacent water bodies during construction.
3. Temporary stream diversions will be constructed using the method most practicable, subject to approval by ADOT&PF and resource agencies.
4. Temporary erosion and sediment control measures such as fiber rolls and temporary seeding would be used as necessary to stabilize disturbed soils until final stabilization is achieved.
5. Any temporary fill placed to facilitate installation of culverts, including stream diversions, would be removed upon project completion and revegetated.
6. All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
7. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation.
8. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the habitat protection district.
9. Storage or use of fuel is prohibited within 50-feet of any open water.
10. The River Center shall be notified at least 3 days prior to the start of the project.
11. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
12. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
13. Applicant requests that the permit be valid through December 31, 2022. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
14. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
15. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
16. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

General Standards

Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1 - 9 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1 – 4, 6, 12 – 17 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 11 appears to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 2, 3, 8, 10 appear to support this standard.**

5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 17 appears to support this standard.**

Recommendation

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2021-33.

Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

Ms. Lopez then informed the commission that the Cooper Landing APC (CLAPC) had met to review this item and forwarded the following recommendations:

- Permittee adheres to general standard permit condition #7 by ensuring disturbed area are only revegetated with native vegetation. They may require confirming seed mixes used are appropriate for the corridor.
- Continue consideration by project managers to include design features that do not preclude late inclusion of active transportation facilities such as bike or pedestrian paths. Example would be installing culverts longer than the minimum required for the roadway to prevent expensive rework from prohibiting these facilities.

END OF STAFF REPORT

Chair Ruffner opened the meeting for public comment. Hearing no one wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Gillham moved, seconded by Commission Fikes to adopt PC Resolution 2021-33 granting an amendment to PC Resolution 2020-23 granting a conditional use permit to the State of Alaska Department of Transportation.

Commissioner Morgan noted that the CLAPC held a special meeting to review this permit and had several recommendations. She then asked staff if the CLAPC recommendation could be placed on the permit as conditions.

Ms. Lopez stated that she did not know if they could put the CLAPC recommendations as conditions on the permit. Particularly the recommendation to put in a larger culvert. That particular recommendation would increase the cost of the project and she knows that DOT is already running into funding issues. She believes that requiring DOT to install a longer culvert than necessary, to potentially accommodate a future project, which is not designed, funded or in active development, could be considered unreasonable.

Commissioner Morgan stated that the Cooper Landing APC has had issues with these types of project in the past. The community begins planning improvement projects and because projects like this do not take into account future development, they run into cost prohibitive issues. Cooper Landing APC has a history of working with DOT to prepare for the possibility of future projects down the road. She believes the APCs recommendation to put in the longer culvert could be seen as a preventative measure. She noted that in the past there have been projects in the area that could not be accommodated because DOT did not put in the right kind of culvert. The Cooper Landing APC just wants to make sure this project design does not prohibit creating future active transportation facilities like pedestrian & bike paths in the area. The CLAPC is not demanding that their two conditions be met but would like to see in writing somewhere that their requests were taken into consideration.

Chair Ruffner stated that agrees with staff that it would be difficult making these recommendations a condition on the permit. He then noted there are several different actions the commission could take. The

commission could require that the APC recommendations be attached to the permit for consideration. Commissioner Morgan replied she understands and that she just wanted to make sure that these recommendations are submitted to DOT in writing.

Mr. Kelley stated he agreed with staff and Chair Ruffner and does not believe APC recommendations can be put on the permit as conditions. He would recommend amending the motion to attach the APC recommendations and note that the commission would like DOT to consider them.

AMENDMENT MOTION: Commissioner Morgan moved, seconded by Commissioner Gillham to attach to the permit decision the following recommendations from the Cooper Landing APC:

- Permittee adheres to general standard permit condition #7 by ensuring disturbed area are only revegetated with native vegetation. The may require confirming seed mixes used are appropriate for the corridor.
- Continue consideration by project managers to include design features that do not preclude late inclusion of active transportation facilities such as bike or pedestrian paths. Example would be installing culverts longer than the minimum required for the roadway to prevent expensive rework from prohibiting these facilities.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

AMENDMENT MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti						
No							
Absent	Martin						

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti						
No							
Absent	Martin						

**E2 – CONDITIONAL USE PERMIT
PC RESOLUTION 2021-32**

KPB File No. 2021-32

Planning Commission Meeting: October 25, 2021

Applicant Homer Electric Association

Mailing Address 280 Airport Way
Kenai, AK 99611

Legal Description T 8N R 11W SEC 33 SEWARD MERIDIAN KN PTN GLS 11 & 13

Physical Address 56172 Kenai Spur Hwy

KPB Parcel Number 01326019, 01326017

Staff report given by Samantha Lopez.

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 to install a wooden utility pole with an overhead transformer and underground electrical service within the 50-foot Habitat Protection District of Daniels Lake, as established in KPB 21.18.040. Per the utility company, there is no alternate location to provide electrical service to the location requested by the applicant.

Project Details within the 50-foot Habitat Protection District

1. A wheeled boom truck will use an auger attachment to drill and set the utility pole, which will be treated with Pentachlorophenol (PCP), a wood preservative agent.
2. Installation of the underground electrical cable will be performed with a rubber tracked bobcat excavator by digging a 36-inch-deep by 15-foot-long trench. Excavated material will be temporarily set adjacent to the trench. All excavated materials will be used to backfill the trench.
3. Applicant will hydroseed any disturbed areas within the habitat protection district.
4. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the habitat protection district.

Findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

18. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
19. Pursuant to KPB 21.18.081(B)(5), construction of utility infrastructure may be approved as a conditional structure/use within the habitat protection district.
20. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
21. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
22. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
23. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
24. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
25. While utility services are not a water-dependent use as described in Resolution 2015-35, they are listed as a permissible Conditional Use under KPB 21.18.081(B)(5).
26. The River Center found the application complete and scheduled a public hearing for October 25, 2021.
27. Agency review was distributed on October 4, 2021. No comments or objections have been received from resource agencies to date.
28. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on October 5, 2021. A total of 10 mailings were sent.
29. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on October 13, 2021 and October 20, 2021.
30. The applicant is currently in compliance with Borough permits and ordinances.

Permit Conditions

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to Daniels Lake.
2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
3. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
4. Storage or use of fuel is prohibited within 50-feet of any open water.
5. The River Center shall be notified at least 3 days prior to the start of the project.
6. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.

8. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
9. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The Borough Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
10. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081 (G)).

General Standards

Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

6. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Conditions 1 – 4 appear to support this standard.**
7. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 1 – 4, 9 – 13 appear to support this standard.**
8. The development of the use or structure shall not physically damage the adjoining property; **Finding 6 appears to support this standard.**
9. The proposed use or structure is water-dependent; **Findings 7 – 8 appear to support this standard.**
10. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 13 appears to support this standard.**

Recommendation

Based on the findings, staff finds that the proposed project meets the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2021-32.

Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

END OF STAFF REPORT

Chair Ruffner opened the meeting for public comment.

Kelly Dietsch; 56175 Kenai Spur Hwy., Kenai AK, 99661: Ms. Dietsch is the owner of the property that this HEA project will bring power to. She would ask that the commission approve this permit.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Venuti moved, seconded by Commission Fikes to adopt PC Resolution 2021-32 granting a conditional use permit to the Homer Electric Association.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti						
No							
Absent	Martin						

**E3 – STREET NAME CHANGE
SN RESOLUTION 2021-05**

Street Name Change: Del Urban Court, a public right of way originally dedicated by plat HM 83-23Kings Creek Urban Addition; Section 27, T5S, R12W Seward Meridian, Kenai Peninsula Borough, AK; in the community of Fritz Creek; ESN 202

Staff Report given by Derek Haws.

Applicant: Ralph Crane of Homer, AK

Existing right-of-way names: Del Urban Ct

Name proposed by petitioner: Kavik Ct

Reason for Change: Petition from property owners

Background:

Name	Del Urban Ct
ESN	202
Community	FRITZ CREEK
YR Named	1983
Constructed	Yes
Total Lots	4
Residential	4
Commercial	0
E911 Address	4
Mailing	0

Review and Comments:

Notice was sent by mail to the owners of the four parcels fronting Del Urban Ct, as listed on the KPB tax roll.

No comments from property owners were received by the writing of this staff report.

The road name request has been emailed to the Kenai Peninsula Borough Road Maintenance for review. The KPB Roads Department supplied a statement that the Road Service Area has no objections at this time.

Staff Discussion:

A petition was received from one of the property owners currently living on Del Urban Ct.

Per KPG GIS data, Del Urban Ct is a borough maintained road approximately 410 feet in length and provides access to four residential homes.

The petitioner has stated that the property owners would like a more Alaskan street name and that the word Kavik is a native Alaskan word for wolverine.

The petition included signatures from all owners fronting Del Urban Ct.

Staff reviewed the suggested name and found no conflict. There are currently no other streets within the borough using the word Kavik.

STAFF RECOMMENDATION

Rename Del Urban Ct to Kavik Ct by the adoption of Resolution SN 2021-04.

END OF STAFF REPORT

Chair Ruffner opened the meeting for public comment.

Ralph Crane; 54377 Del Urban Ct., Homer, AK 99603: Mr. Crane is the petitioner requesting the street name change and he made himself available for any questions the commission might have.

Hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Fikes moved, seconded by Commission Brantley to adopt SN Resolution 2021-05 renaming a public right-of-way within SEC 27, T05N, R12W, S.M.; within ESN 202 to Kavik Ct.

Seeing and hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes	7	No	0	Absent	1	Vacant	3
Yes	Bentz, Brantley, Fikes, Gillham, Morgan, Ruffner, Venuti						
No							
Absent	Martin						

AGENDA ITEM F. **PLAT COMMITTEE REPORT** – Plat committee approved 3 preliminary plats.

AGENDA ITEM I. **DIRECTOR'S COMMENTS**

AGENDA ITEM J. **COMMISSIONER COMMENTS**

Commissioner Morgan asked that the commission make an exception for APCs regarding the new deadline for submitting written comments. She noted that the Cooper Landing APC special meeting minutes from 10-20-21 did not make the deadline to be included in the packet. The APC submitted them on Saturday 10-23-21, the day after the cutoff. She also noted that Cooper Landing was without phone and internet service for most of last Friday. She also believes that most of the APC may not be aware of the new deadline policy. She believes that it is important that the PC hear from the APCs and it is good to have the minutes before them to review. Sometimes the turnaround time between the APC meeting and the PC is short and they could have a difficult time meeting the deadline for submission. The commission agreed with Commissioner Morgan.

AGENDA ITEM M. **ADJOURNMENT** – Commissioner Brantley moved to adjourn the meeting at 8:15 p.m.

Ann E. Shirnberg
Administrative Assistant

State application for a Retail Marijuana Store license; Nikiski area.

STAFF REPORT

PC MEETING: Monday, November 8, 2021

Applicant: Back Alley Vapes

Landowner(s): Jesse Spurgeon and Rebecca Spurgeon

Parcel ID#: 012-090-04

Legal Description: T 7N R 12W SEC 1 SEWARD MERIDIAN KN 0001400 NIKISHKA SUB NO 2 LOT 4 BLK 2

Location: 51698 KENAI SPUR HWY, Nikiski, AK

BACKGROUND INFORMATION: On March 4, 2021, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Retail Marijuana Store license. On March 15, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed marijuana retail store on the above-described parcel. The AMCO notified the borough that the application was complete on October 1, 2021. Staff has reviewed the completed license application that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.
2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.
3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.
5. The proposed facility is located where there is sufficient ingress and egress for traffic to the parcel.
 - KPB 7.30.020(C)(1)(a) requires that, except for limited cultivation facilities, marijuana establishments shall be located where an approach meeting a borough right-of-way had a minimum width of 24 feet.
 - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
 - The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely.
 - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway.
6. The signed acknowledgement form indicates that the proposed facility will not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

KPB 7.30.020(E) allows the recommendation of additional conditions on a license to meet the following standards:

- protection against damage to adjacent properties,
- protection against offsite odors,
- protection against noise,
- protection against visual impacts,
- protection against road damage,
- protection against criminal activity, and

- protection of public safety.

The Alaska Marijuana Control Board will impose a condition that a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable (3 ACC 306.060b). If the Planning Commission recommends additional conditions, additional findings must be adopted to support the conditions.

PUBLIC NOTICE: Public notice of the application was mailed on October 22, 2021, to the 12 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the October 28, 2021, & November 4, 2021, issues of the Peninsula Clarion.

ATTACHMENTS

- State marijuana establishment application with associated submitted documents
- Acknowledgement form
- Site Plan
- Aerial map
- Area land use map with 500' & 1,000' parcel radius

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward this application to the assembly with the findings contained in this staff report and with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

END OF STAFF REPORT



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce,
Community,
and Economic Development

Alcohol and Marijuana Control Office

550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

October 1, 2021

Kenai Peninsula Borough

Attn: Borough Clerk

Via Email: tshassetz@kpb.us; micheleturner@kpb.us; jblankenship@kpb.us; sness@kpb.us; mjenkins@kpb.us; btaylor@kpb.us; maldridge@kpb.us; slopez@kpb.us; ncarver@kpb.us; mberg@kpb.us

License Number:	28917
License Type:	Retail Marijuana Store
Licensee:	Jesse Lee Spurgeon; Kaden Chace Spurgeon; Rebecca Sue Spurgeon
Doing Business As:	Back Alley Vapes
Physical Address:	51698 Kenai Spur Hwy Suite D kenai, AK 99611
Designated Licensee:	Jesse Lee Spurgeon
Phone Number:	907-398-8806
Email Address:	jesselspurgeon@gmail.com

☒ **New Application** ☐ **New Onsite Consumption Endorsement Application (Retail Only)**

AMCO has received a complete application for a marijuana establishment within your jurisdiction. This notice is required under 3 AAC 306.025(d)(2). Application documents will be sent to you separately via ZendTo.

To protest the approval of this application pursuant to 3 AAC 306.060, you must furnish the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant. If the protest is a "conditional protest" as defined in 3 AAC 306.060(d)(2) and the application otherwise meets all the criteria set forth by the regulations, the Marijuana Control Board may approve the license, but require the applicant to show to the board's satisfaction that the requirements of the local government have been met before the director issues the license.

3 AAC 306.010, 3 AAC 306.080, and 3 AAC 306.250 provide that the board will deny an application for a new license if the board finds that the license is prohibited under AS 17.38 as a result of an ordinance or election conducted under AS 17.38 and 3 AAC 306.200, or when a local government protests an application on the grounds that the proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

This application will be in front of the Marijuana Control Board at our October 26-28, 2021 meeting.

Sincerely,

Glen Klinkhart, Director

amco.localgovernmentonly@alaska.gov

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA

} SS:

Jeff Hayden being first duly sworn, on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Sound Publishing / Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the advertisement, a printed copy of which is hereto annexed was published in said paper on the dates listed below:

Marijuana License

03/05/21

03/12/21

03/19/21

New Marijuana License Application	
Kaden Chase Spurgeon, Rebecca Sue Spurgeon, Jesse Lee Spurgeon are applying under 3 AAC 306.300 for a new Retail Marijuana Store License, License #28917, doing business as Back Alley Vapes, located at 51698 Kenai Spur Hwy, Suite D, Kenai, Ak 99611, UNITED STATES.	
Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at https://www.commerce.alaska.gov/web/amco . Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 330 W. 7th Ave, suite 1600 Anchorage, AK 995801.	
Pub: March 5, 12 & 19, 2021	921250

SUBSCRIBED AND SWORN before me on this

30th day of March, 2021.

NOTARY PUBLIC in favor for the State of Alaska.

My commission expires 3-6-24

Elizabeth A. McDonald
Notary Public, State of Alaska
Commission #200306009
My Commission Expires March 6, 2024



28917



THE STATE
of **ALASKA**

GOVERNOR MICHAEL I. DUNLEAVY

**Department of Environmental
Conservation**

**DIVISION OF ENVIRONMENTAL HEALTH
FOOD SAFETY & SANITATION PROGRAM**

43335 Kalifornsky Beach Rd
Soldotna, Alaska, 99669

Main: 907.262.3408

fax: 907.262.2294

www.dec.alaska.gov/eh/fss

heidi.isernhagen@alaska.gov

March 15, 2021

Kaden Spurgeon
Back Alley Vapes
51698 Kenai Spur Hwy, Suite D
Nikiski, AK 99635

Subject: DEC Food Establishment Permit Not Required

Dear Kaden ,

Thank you for your recent application for a permit from the Department of Environmental Conservation's Food Safety and Sanitation program. This letter is to inform you that the marijuana establishment you have described in your application does not require a permit under the Alaska Food Code (18 AAC 31) since your plan is to sell only prepackaged, non-potentially hazardous food (18 AAC 31.012(c)(1)).

Non-potentially hazardous foods are foods that do not support the growth of dangerous bacteria because of their water activity, pH, or a combination of the two. A good method to determine whether a food is non-potentially hazardous is whether it requires refrigeration to keep it safe or preserve it. If it does not require refrigeration, it is most likely non-potentially hazardous. If you are unsure about the safety of a product and whether it requires temperature control be sure to contact the Food Safety and Sanitation program for more information.

Please be aware that if you change the type of food that you sell at your establishment to include foods that are potentially hazardous, you will be required to submit a plan of your operations and apply for a food establishment permit.

Sincerely,

Heidi Isernhagen
Environmental Health Officer





Alaska Marijuana Control Board

Form MJ-00: Application Certifications

What is this form?

This application certifications form is required for all marijuana establishment license applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306.

This form must be completed and submitted to AMCO's main office by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Kaden Chace Spurgeon	License Number:	28917		
License Type:	Retail Marijuana Store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	AK	ZIP:	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Kaden Chace Spurgeon
Title:	Partner

Section 3 – Other Licenses

Ownership and financial interest in other licenses:

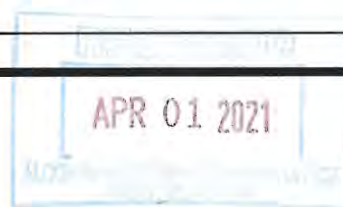
Yes No

Do you currently have or plan to have an ownership interest in, or a direct or indirect financial interest in another marijuana establishment license?

☐☒

If "Yes", which license numbers (for existing licenses) and license types do you own or plan to own?

--





Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Section 4 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that I have not been convicted of a felony in any state or the United States, including a suspended imposition of sentence, for which less than five years have elapsed from the time of the conviction to the date of this application.

KCS

I certify that I am not currently on felony probation or felony parole.

KCS

I certify that I have not been found guilty of selling alcohol without a license in violation of AS 04.11.010.

KCS

I certify that I have not been found guilty of selling alcohol to an individual under 21 years of age in violation of 04.16.051 or AS 04.16.052.

KCS

I certify that I have not been convicted of a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the five years preceding this application.

KCS

I certify that I have not been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed within the two years preceding this application.

KCS

I certify that my proposed premises is not within 500 feet of a school ground, recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility, as set forth in 3 AAC 306.010(a).

KCS

I certify that my proposed premises is not located in a liquor licensed premises.

KCS

I certify that I meet the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which I am initiating this application.

KCS

I certify that all proposed licensees (as defined in 3 AAC 306.020(b)(2)) have been listed on my online marijuana establishment license application. Additionally, if applicable, all proposed licensees have been listed on my application with the Division of Corporations.

KCS

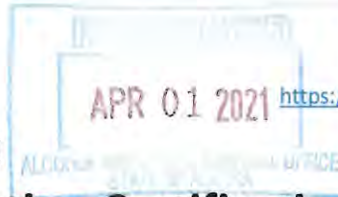
I certify that I understand that providing a false statement on this form, the online application, or any other form provided by AMCO is grounds for denial of my application.

KCS



Alaska Marijuana Control Board

Form MJ-00: Application Certifications



Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify and understand that I must operate in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.



I certify and understand that I must operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of this state and the local government in which my premises is located.

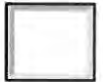


Read each line below, and then sign your initials in the box to the right of only the applicable statement:

Initials

Only initial next to the following statement if this form is accompanying an application for a marijuana testing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility.



Only initial next to the following statement if this form is accompanying an application for a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a marijuana testing facility license.



All marijuana establishment license applicants:

As an applicant for a marijuana establishment license, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that the online application and this form, including all accompanying schedules and statements, is true, correct, and complete.

Signature of licensee

Printed name of licensee

Notary Public in and for the State of Alaska

My commission expires: 6-26-2021



Subscribed and sworn to before me this 15th day of March, 2021.



Alaska Marijuana Control Board

Form MJ-00: Application Certifications

What is this form?

This application certifications form is required for all marijuana establishment license applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306.

This form must be completed and submitted to AMCO's main office by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Jesse Lee Spurgeon	License Number:	28917		
License Type:	Retail Marijuana Store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	AK	ZIP:	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Jesse Lee Spurgeon
Title:	Partner

Section 3 – Other Licenses

Ownership and financial interest in other licenses:

Yes No

Do you currently have or plan to have an ownership interest in, or a direct or indirect financial interest in another marijuana establishment license?

☐☒

If "Yes", which license numbers (for existing licenses) and license types do you own or plan to own?

--





Alaska Marijuana Control Board

Form MJ-00: Application Certifications**Section 4 – Certifications**

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that I have not been convicted of a felony in any state or the United States, including a suspended imposition of sentence, for which less than five years have elapsed from the time of the conviction to the date of this application.

JES

I certify that I am not currently on felony probation or felony parole.

JES

I certify that I have not been found guilty of selling alcohol without a license in violation of AS 04.11.010.

JES

I certify that I have not been found guilty of selling alcohol to an individual under 21 years of age in violation of 04.16.051 or AS 04.16.052.

JES

I certify that I have not been convicted of a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the five years preceding this application.

JES

I certify that I have not been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed within the two years preceding this application.

JES

I certify that my proposed premises is not within 500 feet of a school ground, recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility, as set forth in 3 AAC 306.010(a).

JES

I certify that my proposed premises is not located in a liquor licensed premises.

JES

I certify that I meet the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which I am initiating this application.

JES

I certify that all proposed licensees (as defined in 3 AAC 306.020(b)(2)) have been listed on my online marijuana establishment license application. Additionally, if applicable, all proposed licensees have been listed on my application with the Division of Corporations.

JES

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by AMCO is grounds for denial of my application.

JES



Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify and understand that I must operate in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

JS

I certify and understand that I must operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of this state and the local government in which my premises is located.

JS

Read each line below, and then sign your initials in the box to the right of only the applicable statement:

Initials

Only initial next to the following statement if this form is accompanying an application for a marijuana testing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility.

Only initial next to the following statement if this form is accompanying an application for a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a marijuana testing facility license.

JS

All marijuana establishment license applicants:

As an applicant for a marijuana establishment license, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that the online application and this form, including all accompanying schedules and statements, is true, correct, and complete.

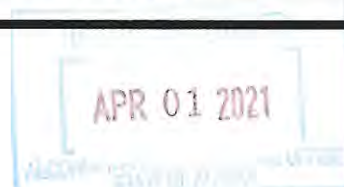
Jesse I. Spurgeon
Signature of licensee

Jesse I. Spurgeon
Printed name of licensee

Dwight Weidig
Notary Public in and for the State of Alaska

My commission expires: 6-26-2021

Subscribed and sworn to before me this 15th day of March, 2021.





Alaska Marijuana Control Board

Form MJ-00: Application Certifications

What is this form?

This application certifications form is required for all marijuana establishment license applications. Each person signing an application for a marijuana establishment license must declare that he/she has read and is familiar with AS 17.38 and 3 AAC 306.

This form must be completed and submitted to AMCO's main office by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Rebecca Sue Spurgeon	License Number:	28917		
License Type:	Retail Marijuana Store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	AK	ZIP:	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Rebecca Sue Spurgeon
Title:	Partner

Section 3 – Other Licenses

Ownership and financial interest in other licenses:

Yes No

Do you currently have or plan to have an ownership interest in, or a direct or indirect financial interest in another marijuana establishment license?

☐☒

If "Yes", which license numbers (for existing licenses) and license types do you own or plan to own?

APR 01 2021



Alaska Marijuana Control Board

Form MJ-00: Application Certifications

Section 4 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that I have not been convicted of a felony in any state or the United States, including a suspended imposition of sentence, for which less than five years have elapsed from the time of the conviction to the date of this application.

RSS

I certify that I am not currently on felony probation or felony parole.

RSS

I certify that I have not been found guilty of selling alcohol without a license in violation of AS 04.11.010.

RSS

I certify that I have not been found guilty of selling alcohol to an individual under 21 years of age in violation of 04.16.051 or AS 04.16.052.

RSS

I certify that I have not been convicted of a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the five years preceding this application.

RSS

I certify that I have not been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed within the two years preceding this application.

RSS

I certify that my proposed premises is not within 500 feet of a school ground, recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility, as set forth in 3 AAC 306.010(a).

RSS

I certify that my proposed premises is not located in a liquor licensed premises.

RSS

I certify that I meet the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which I am initiating this application.

RSS

I certify that all proposed licensees (as defined in 3 AAC 306.020(b)(2)) have been listed on my online marijuana establishment license application. Additionally, if applicable, all proposed licensees have been listed on my application with the Division of Corporations.

RSS

I certify that I understand that providing a false statement on this form, the online application, or any other form provided by AMCO is grounds for denial of my application.

RSS



Alaska Marijuana Control Board

APR 01 2021

Form MJ-00: Application Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify and understand that I must operate in compliance with the Alaska Department of Labor and Workforce Development's laws and requirements pertaining to employees.

RSS

I certify and understand that I must operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of this state and the local government in which my premises is located.

RSS

Read each line below, and then sign your initials in the box to the right of only the applicable statement:

Initials

Only initial next to the following statement if this form is accompanying an application for a marijuana testing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a retail-marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility.

Only initial next to the following statement if this form is accompanying an application for a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility license:

I certify that I do not have an ownership in, or a direct or indirect financial interest in a marijuana testing facility license.

RSS

All marijuana establishment license applicants:

As an applicant for a marijuana establishment license, I declare under penalty of unsworn falsification that I have read and am familiar with AS 17.38 and 3 AAC 306, and that the online application and this form, including all accompanying schedules and statements, is true, correct, and complete.

Rebecca Sue Spurgeon

Signature of licensee

[Signature]
Notary Public in and for the State of Alaska

Rebecca Sue Spurgeon

Printed name of licensee

My commission expires: 4/17/2021

Subscribed and sworn to before me this 17th day of March, 2021.





Alaska Marijuana Control Board

Form MJ-01: Marijuana Establishment Operating Plan

What is this form?

An operating plan is required for all marijuana establishment license applications. Applicants should review **Title 17.38 of Alaska Statutes** and **Chapter 306 of the Alaska Administrative Code**. This form will be used to document how an applicant intends to meet the requirements of those statutes and regulations. If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020(c).

What must be covered in an operating plan?

Applicants must identify how the proposed premises will comply with applicable statutes and regulations regarding the following:

- Control plan for persons under the age of 21
- Security
- Business records
- Inventory tracking of all marijuana and marijuana product on the premises
- Employee qualification and training
- Health and safety standards
- Transportation and delivery of marijuana and marijuana products
- Signage and advertising

Applicants must also complete the corresponding operating plan supplemental forms (**Form MJ-03, Form MJ-04, Form MJ-05, or Form MJ-06**) to meet the additional operating plan requirements for each license type.

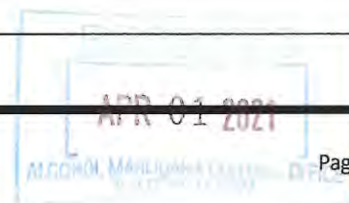
Section 1 – Establishment & Contact Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Jesse Lee Spurgeon	MJ License #:	28917		
License Type:	Retail marijuana store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	Alaska	ZIP:	99611

Mailing Address:	50415 wrangell Dr				
City:	Kenai	State:	Alaska	ZIP:	99611

Designated Licensee:	Jesse Lee Spurgeon				
Main Phone:	907-398-8806	Cell Phone:			
Email:	jesselsurgeon@gmail.com				





Form MJ-01: Marijuana Establishment Operating Plan

Section 2 – Control Plan for Persons Under the Age of 21

2.1. Describe how the marijuana establishment will prevent persons under the age of 21 from gaining access to any portion of the licensed premises and marijuana items:

Federal or state ID will be requested upon entry into premises, no entry without identification. A 12 x 12 sign will also be posted on the front of the premises stating no one under the age of 21 allowed on premises.

Section 3 – Security

Restricted Access Areas (3 AAC 305.710):

3.1. Describe how you will prevent unescorted members of the public from entering restricted access areas:

Restricted access areas will only be accessible through a separate entrance for employees, clearly labeled with "restricted access area, visitors must be escorted". This door will remain locked at all times.


3.2. Describe your recordkeeping and processes for admitting visitors into and escorting them through restricted access areas:

A written ledger will be kept for escorted visitors in restricted access areas. Ledger will be completed logging visitor name and time and date of entry, upon arrival of visitor along with ID verification. Visitor badge will be provided once ledger and ID requirements are fulfilled. No more than 5 visitors will be allowed per 1 employee, licensee or agent of Back Alley Vapes.



Form MJ-01: Marijuana Establishment Operating Plan

3.3. Provide samples of licensee-produced identification badges that will be displayed by each licensee, employee, or agent while on the premises, and of visitor identification badges that will be worn by all visitors while in restricted access areas:

<div><p>Back Alley Vapes</p><p>AK MJ # 28917</p><p>Jesse Spurgeon</p><p>Handlers permit # Expiration</p></div>	<div><p>Back Alley Vapes AK MJ # 28917</p><p>VISITOR</p></div>
---	---

Security Alarm Systems and Lock Standards (3 AAC 306.715):

3.4. Exterior lighting is required to facilitate surveillance. Describe how the exterior lighting will meet this requirement:

Photocell lighting will be installed on all sides of retail location and over all egress locations, providing adequate lighting to visually identify a person twenty feet from any point of entry.



**Form MJ-01: Marijuana Establishment Operating Plan**

3.5. An alarm system is required for all license types that must be activated on all exterior doors and windows when the licensed premises is closed for business. Describe the security alarm system for the proposed premises, explain how it will meet all regulatory requirements, and outline your policies and procedures regarding the actions to be taken by a licensee, employee, or agent when the alarm system alerts of an unauthorized breach:

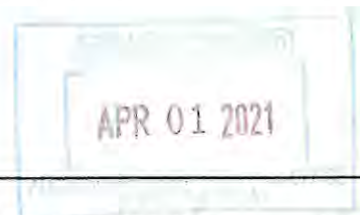
Vivint (or equivalent) security will be installed in premises with sensors on all egress locations. Alarm system has a immediate "panic" activation button available. Alarm system will automatically notify appropriate authority, police or fire, of unauthorized breach or emergent situation. If licensee is notified of such a breach, they will wait for appropriate response prior to entry into facility. Licensee will notify appropriate departments as soon as possible and no later than 24 hours regarding instance. report will include any and all information regarding retail product or money contained within premises at the time of the breach or emergent situation.

3.6. Describe your policies and procedures for preventing diversion of marijuana or marijuana product, including by employees:

24 hour video surveillance with video log of any and all areas of proposed premises. If review of surveillance identifies such diversion, appropriate disciplinary, discharge, and reporting of instance will occur. Inventory and sales will also be completed at the end of each business day.

3.7. Describe your policies and procedures for preventing loitering:

Establishment is private property and will be posted as such. Outside of employee, licensee, escorted visitor or customer, no extended periods of "hanging out" inside or outside of premises will be tolerated.



You must be able to certify the statement below. Read the following and then sign your initials in the box to the right:

Initials

3.8. I certify that if any additional security devices are used, such as a motion detector, pressure switch, and duress, panic, or hold-up alarm, to enhance security of the licensed premises, I will have written policies and procedures describing their use.

**Form MJ-01: Marijuana Establishment Operating Plan****Video Surveillance (3 AAC 306.720):**

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

3.9. The video surveillance and camera recording system for the licensed premises covers each restricted access area, and both the interior and exterior of each entrance to the facility.

Jes

3.10. Each video surveillance recording: is preserved for a minimum of 40 days, in a format that can be easily accessed for viewing (consistent with the Alcohol & Marijuana Control Office's approved format list); clearly and accurately displays the time and date; and is archived in a format that does not permit alteration of the recorded image.

Jes

3.11. The surveillance room or area is clearly defined on the Form MJ-02: Premises Diagram that is submitted with this application.

Jes

3.12. Surveillance recording equipment and video surveillance records are housed in a designated, locked, and secure area or in a lock box, cabinet, closet or other secure area where access is limited to the licensee(s), an authorized employee, and law enforcement personnel (including an agent of the Marijuana Control Board).

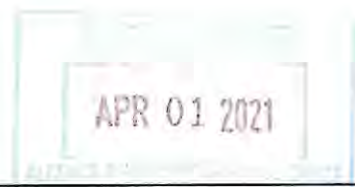
Jes

3.13. Describe how the video cameras will be placed to produce a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises:

The video cameras will be placed outside above each entrance, all sides of structure, inside restricted and unrestricted areas so as to not allow an unsurveyed area. Adequate lighting posted externally will also assist in facilitating identification on camera.

3.14. Describe the locked and secure area where video surveillance recording equipment and original copies of surveillance records will be housed and stored, and how you will ensure the area is accessible only to authorized personnel, law enforcement, or an agent of the Marijuana Control Board. If you will be using an offsite monitoring service and offsite storage of video surveillance records, your response must include how the offsite facility will meet these security requirements:

Records will be kept and locked in secured room in back of establishment, only to be accessible by key code known by employee or licensee. Also available by request to any necessary state representative. Long term storage records, previous three years, will be stored in a fire safe on premises, additional copies will be stored in a fire safe at residence of licensee. Short term records of current six month available at all times immediately on premises.



**Form MJ-01: Marijuana Establishment Operating Plan****Section 4 – Business Records**

Review the requirements under 3 AAC 306.755. All licensed marijuana establishments must maintain, in a format that is readily understood by a reasonably prudent business person, certain business records.

4.1. I certify that the following business records will be maintained and kept on the licensed premises:

Initials

- a. all books and records necessary to fully account for each business transaction conducted under my license for the current year and three preceding calendar years (*records for the last six months must be maintained on the licensed premises; older records may be archived on or off-premises*); ☐ *Jes*
- b. a current employee list setting out the full name and marijuana handler permit number of each licensee, employee, and agent who works at the marijuana establishment; ☐ *Jes*
- c. the business contact information for vendors that maintain video surveillance systems and security alarm systems for the licensed premises; ☐ *Jes*
- d. records related to advertising and marketing; ☐ *Jes*
- e. a current diagram of the licensed premises, including each restricted access area; ☐ *Jes*
- f. a log recording the name, and date and time of entry of each visitor permitted into a restricted access area; ☐ *Jes*
- g. all records normally retained for tax purposes; ☐ *Jes*
- h. accurate and comprehensive inventory tracking records that account for all marijuana inventory activity from seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a consumer, to another marijuana establishment, or destroyed; ☐ *Jes*
- i. transportation records for marijuana and marijuana product, as required by 3 AAC 306.750(f); and ☐ *Jes*
- j. registration and inspection reports of scales registered under the Weights and Measures Act, as required by 3 AAC 306.745. ☐ *Jes*

4.2. A marijuana establishment is required to exercise due diligence in preserving and maintaining all required records. Describe how you will prevent records and data, including electronically maintained records, from being lost or destroyed:

Records will be stored on location in a fire safe, duplicate records will be stored at licensee residence, also in a fire safe.



**Form MJ-01: Marijuana Establishment Operating Plan****Section 5 – Inventory Tracking of All Marijuana and Marijuana Product**

Review the requirements under 3 AAC 306.730. All licensed marijuana establishments must use a marijuana inventory tracking system capable of sharing information with Metrc to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a marijuana product, to a completed sale of marijuana or marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

5.1. My marijuana establishment will be using Metrc, and if any other tracking software is used, it will be capable of sharing information with Metrc.

5.2. All marijuana delivered to a marijuana establishment will be weighed on a scale registered in compliance with 3 AAC 306.745.

5.3. My marijuana establishment will use registered scales in compliance with AS 45.75.080 (Weights and Measures Act), as required by 3 AAC 306.745.

Section 6 – Employee Qualification and Training

Review the requirements under 3 AAC 306.700. All licensees, and every employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

6.1. All licensees, and each employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or marijuana product, or who checks the identification of a consumer or visitor, shall obtain a marijuana handler permit from the board before being licensed or beginning employment at the marijuana establishment.

6.2. Each licensee, employee, or agent who is required to have a marijuana handler permit shall keep that person's marijuana handler permit card in that person's immediate possession (or a valid copy on file on the licensed premises) when on the licensed premises.

6.3. Each licensee, employee, or agent who is required to have a marijuana handler permit shall ensure that that person's marijuana handler permit card is valid and has not expired.

6.4. Describe any in-house training that will be provided to employees and agents (apart from a marijuana handler course):

Internal instruction on specific logging, labeling, sales, receiving, sanitary handling and distribution policies as outlined by Back Alley Vapes.

**Form MJ-01: Marijuana Establishment Operating Plan****Section 7 – Health and Safety Standards**

Review the requirements under 3 AAC 306.735.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

- 7.1. I understand that a marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that health or safety concerns are not present. ☐
- 7.2. I have policies regarding health and safety standards (including: ensuring a person with an illness or infection does not come into contact with marijuana or marijuana product; good hygienic practices; cleaning and maintenance of equipment and the premises; pest deterrence; chemical storage; sanitation principles; and proper handling of marijuana and marijuana product) and will take all reasonable measures and precautions to ensure that they are met or exceeded. ☐
- 7.3. I have policies to ensure that any marijuana or marijuana product that has been stored beyond its usable life, or was stored improperly, is not salvaged and returned to the marketplace. ☐
- 7.4. I have policies to ensure that in the event information about the age or storage conditions of marijuana or marijuana product is unreliable, the marijuana or marijuana product will be handled in accordance with 3 AAC 306.735(d). ☐

Answer "Yes" or "No" to each of the following questions:

Yes No

- 7.5. Adequate and readily accessible toilet facilities that are maintained and in good repair and sanitary condition are clearly indicated on my Form MJ-02: Premises Diagram. ☒ ☐
- 7.6. Convenient handwashing facilities with running water at a suitable temperature are clearly indicated on my Form MJ-02: Premises Diagram. ☒ ☐

7.7. If you answered "No" to either 7.5 or 7.6 above, describe how toilet and/or handwashing facilities are made accessible, as required by 3 AAC 306.735(b)(2):

Section 8 – Transportation and Delivery of Marijuana and Marijuana Products

Review the requirements under 3 AAC 306.750.

8.1. Describe how marijuana or marijuana product will be prepared, packaged, and secured for shipment. Include a description of the type of locked, safe, and secure storage compartments to be used in vehicles transporting marijuana or marijuana product:

Transportation or delivery will not be made from this establishment.



**Form MJ-01: Marijuana Establishment Operating Plan**

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

8.2. The marijuana establishment from which a shipment of marijuana or marijuana product originates will ensure that any individual transporting marijuana shall have a marijuana handler permit required under 3 AAC 306.700.

8.3. The marijuana establishment that originates the transport of any marijuana or marijuana product will use the marijuana inventory tracking system to record the type, amount, and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model, and license plate number of the transporting vehicle.

8.4. The marijuana establishment that originates the transport of any marijuana or marijuana product will ensure that a complete printed transport manifest on a form prescribed by the board must be kept with the marijuana or marijuana product at all times during transport.

8.5. During transport, any marijuana or marijuana product will be in a sealed package or container in a locked, safe, and secure storage compartment in the vehicle transporting the marijuana or marijuana product, and the sealed package will not be opened during transport.

8.6. Any vehicle transporting marijuana or marijuana product will travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and will not make any unnecessary stops in between except to deliver or pick up marijuana or marijuana product at any other licensed marijuana establishment.

8.7. When the marijuana establishment receives marijuana or marijuana product from another licensed marijuana establishment, the recipient of the shipment will use the marijuana inventory tracking system to report the type, amount, and weight of marijuana or marijuana product received.

8.8. The marijuana establishment will refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

Section 9 – Signage and Advertising

Review the requirements under 3 AAC 306.770.

9.1. Describe any signs that you intend to post on your establishment, including quantity, dimensions, graphics, and location on your establishment (photos or drawings may be attached):

Business name will be posted on exterior of building, once on the retail entrance and again on the location sandwich board or pylon sign. Dimensions of signage will be a total of 4800 square inches or smaller. For a total of no more than three signs.



**Form MJ-01: Marijuana Establishment Operating Plan**

9.2. Describe any advertising you intend to distribute for your establishment. Include medium types and business logos (photos or drawings may be attached):

Common radio spots, social media outlets or print advertisement to notify of opening and location of premises. Business logo attached.



I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jesse I. Spurgeon
Signature of licensee

Jesse I. Spurgeon
Printed name of licensee

Dwight Weidig
Notary Public in and for the State of Alaska

My commission expires: 6-26-21

Subscribed and sworn to before me this 15th day of March, 2021.





Form MJ-01: Marijuana Establishment Operating Plan

(Additional Space as Needed):





Alaska Marijuana Control Board Form MJ-02: Premises Diagram



What is this form?

A detailed diagram of the proposed licensed premises is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(8). **All areas designated as the licensed premises of a single license must be contiguous. All diagrams must have the licensed premises area labeled, and outlined or shaded as appropriate.**

What must be submitted with this form?

Applicants must attach multiple diagrams to this form, including (as applicable):

- **Diagram 1:**
a diagram showing only the licensed premises areas that will be ready to be **operational at the time of your preliminary inspection** and license issuance;
- **Diagram 2:**
if different than Diagram 1, a diagram outlining **all areas for which the licensee has legal right of possession** (a valid lease or deed), and clearly showing those areas' relationship to the current proposed licensed premises (*details of any planned expansion areas do not need to be included; a complete copy of Form MJ-14: Licensed Premises Diagram Change must be submitted and approved before any planned expansion area may be added to the licensed premises*);
- **Diagram 3:**
a **site plan or as-built of the entire lot**, showing all structures on the property and clearly indicating which area(s) will be part of the licensed premises;
- **Diagram 4:**
an **aerial photo of the entire lot and surrounding lots**, showing a view of the entire property and surrounding properties, and clearly indicating which area(s) will be part of the licensed premises (*this can be obtained from sources like Google Earth*); and
- **Diagram 5:**
a diagram of the **entire building in which the licensed premises is located**, clearly distinguishing the licensed premises from unlicensed areas and/or premises of other licenses within the building. If your proposed licensed premises is located within a building or building complex that contains multiple business and/or tenants, please provide the addresses and/or suite numbers of the other businesses and/or tenants (*a separate diagram is not required for an establishment that is designating the entire building as a single licensed premises*).

This form, and all necessary diagrams that meet the requirements on Page 2 of this form, must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Jesse Lee Spurgeon	MJ License #:	28917		
License Type:	Retail marijuana store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	Alaska	ZIP:	99611

**Form MJ-02: Premises Diagram****Section 2 – Required Information**

For your security, do not include locations of security cameras, motion detectors, panic buttons, and other security devices. Items marked with a double asterisks (**) are only required for those retail marijuana establishments that are also applying for an onsite consumption endorsement.

The following details must be included in all diagrams:

- ☒ License number and DBA
- ☒ Legend or key
- ☒ Color coding
- ☒ Licensed Premises Area Labeled and Shaded, or Outlined as appropriate
- ☒ Dimensions
- ☒ Labels
- ☒ True north arrow

The following additional details must be included in Diagram 1:

- ☒ Surveillance room
- ☒ Restricted access areas
- ☒ Storage areas
- ☒ Entrances, exits, and windows
- ☒ Walls, partitions, and counters
- ☐ Any other areas that must be labeled for specific license or endorsement types
- ☐ ** Serving area(s)
- ☐ **Employee monitoring area(s)
- ☐ **Ventilation exhaust points, if applicable

The following additional details must be included in Diagram 2:

- ☒ Areas of ingress and egress
- ☒ Entrances and exits
- ☒ Walls and partitions

The following additional details must be included in Diagrams 3 and 4:

- ☒ Areas of ingress and egress
- ☒ Cross streets and points of reference

The following additional details must be included in Diagram 5:

- ☒ Areas of ingress and egress
- ☒ Entrances and exits
- ☒ Walls and partitions
- ☒ Cross streets and points of reference

I declare under penalty of unsworn falsification that I have attached all necessary diagrams that meet the above requirements, and that this form, including all accompanying schedules, statements, and depictions is true, correct, and complete.

Signature of licensee

Printed name of licensee

Notary Public in and for the State of Alaska

My commission expires: 6-26-2021

Subscribed and sworn to before me this 15th day of March, 2021.

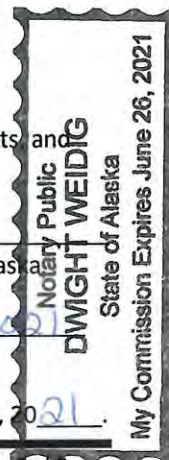





Diagram 1

AK MJ #28917
BACK Alley Vapes

↑ Kenai Spur Hwy

LEGEND

-  - TOILET
-  - SINK
-  - DOOR

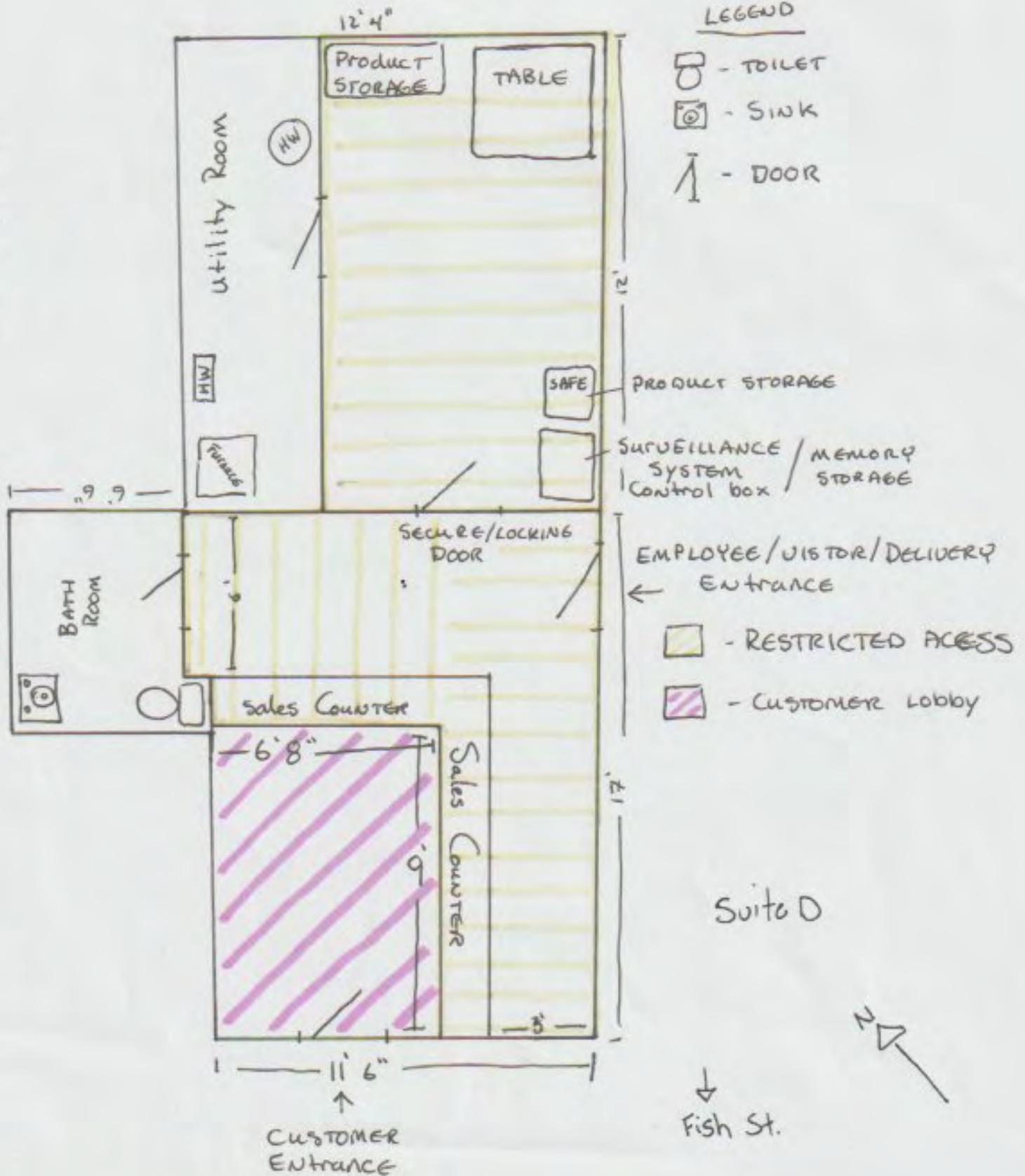
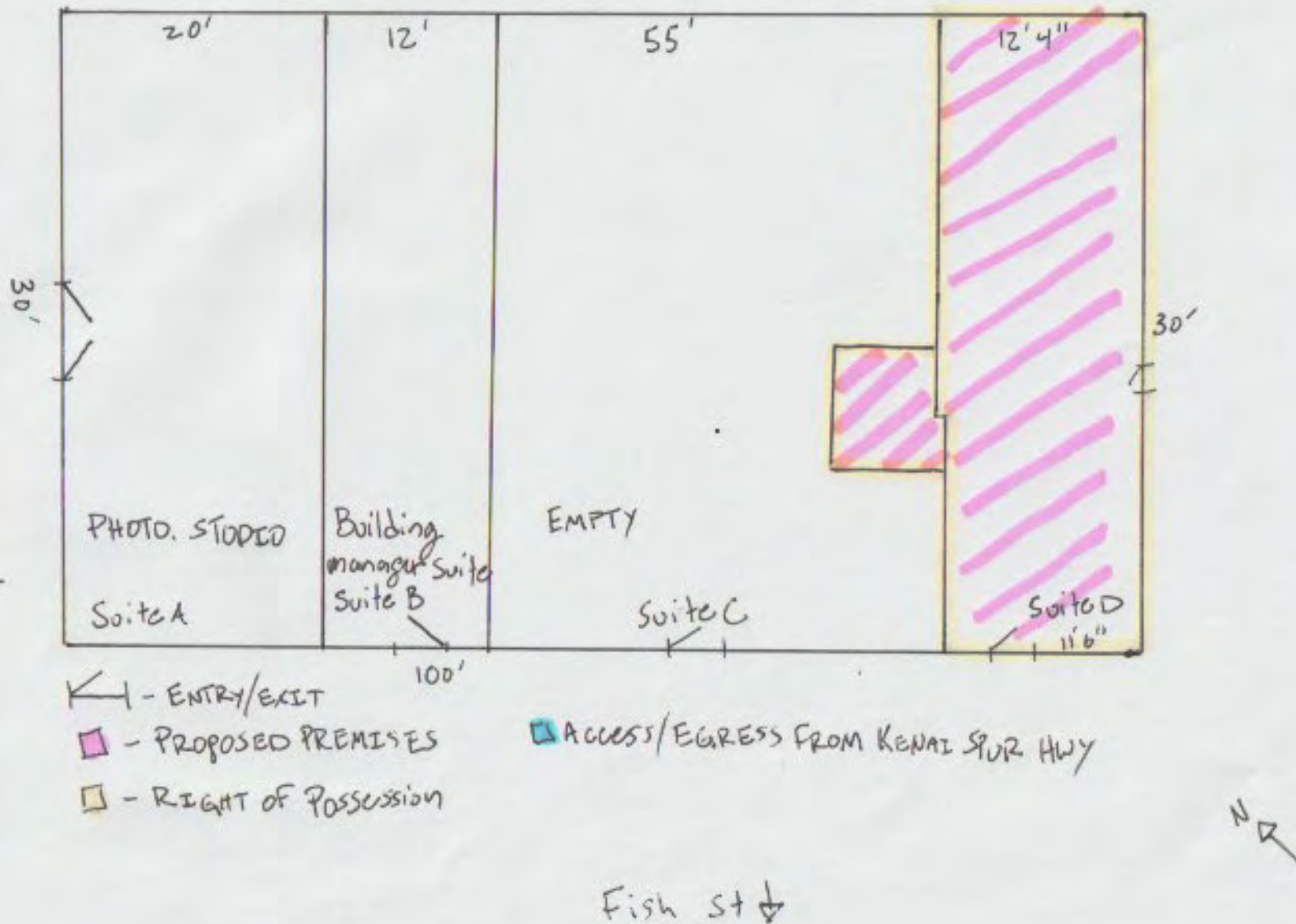


DIAGRAM 2

AK MJ # 28917
BACK ALLEY YARDS

Kenai Spur Hwy



KENAI SPUR HWY

FISH ST

- - ACCESS FROM KENAI SPUR HWY
- NO ADDITIONAL BUILDINGS ON LOCATION
- - STRUCTURE
- - LOT LINE
- - Proposed Premises

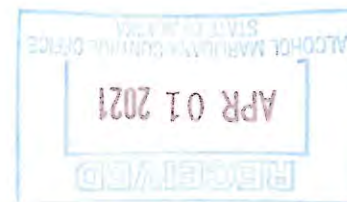
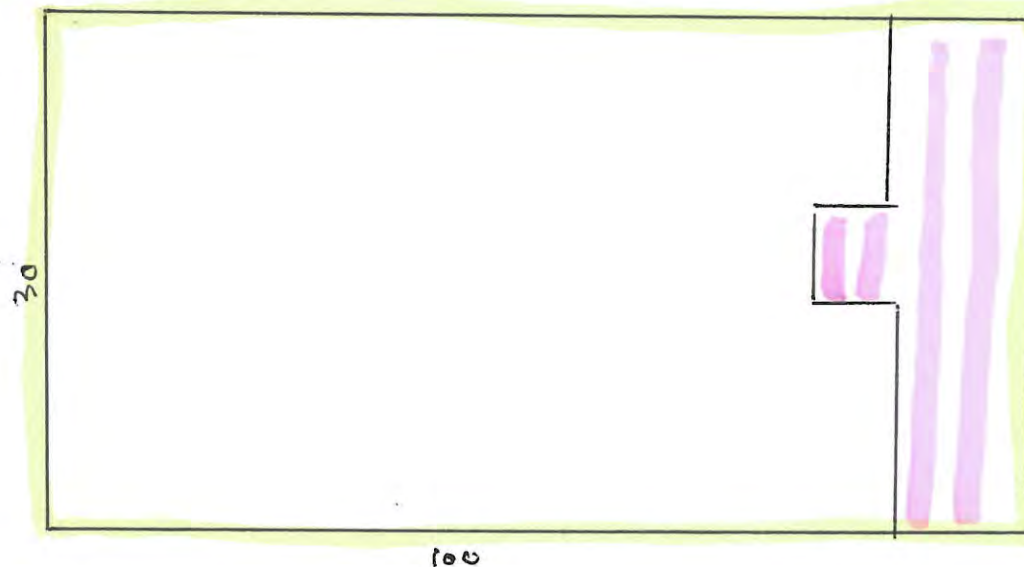


DIAGRAM 4

AK MJ # 28917
BACK ALLEY VAPES

- - LICENSED PREMISES
- ⊠ - ENTRANCE/EXIT
- - ACCESS/EGRESS FROM KENAI SPUR HWY

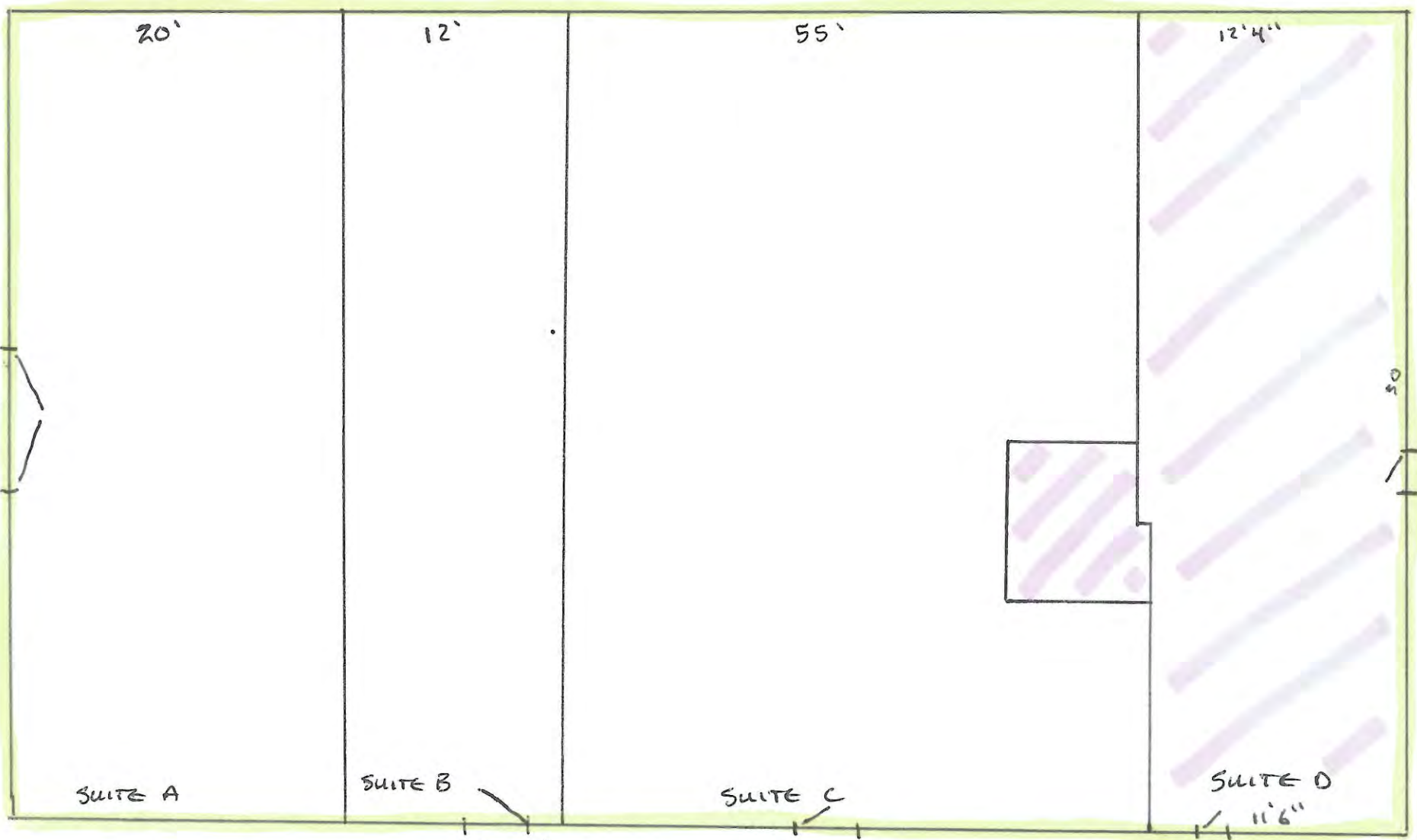


RECEIVED
APR 01 2021
ALCOHOL MAINTENANCE CONTROL OFFICE

BACK ALLEY VAPES
AKMJ#28917

↑ KENAI SPUR HWY
08'

Diagram 5



- ┌┐ - ENTRY / EXIT
- ▨ - PROPOSED PREMISES
- ▭ - ENTIRE BUILDING

▨ - ACCESS / EGRESS FROM KENAI SPUR HWY

SUITE A
SUITE B
SUITE C } NO BUSINESS OR LICENSE

FISH ST
↓





Alaska Marijuana Control Board Operating Plan Supplemental Form MJ-03: Retail Marijuana Store

What is this form?

This operating plan supplemental form is required for all applicants seeking a retail marijuana store license and must accompany **Form MJ-01: Marijuana Establishment Operating Plan**, per 3 AAC 306.020(b)(11). Applicants should review **Chapter 306: Article 3** of the **Alaska Administrative Code**. This form will be used to document how an applicant intends to meet the requirements of the statutes and regulations.

If your business has a formal operating plan, you may include a copy of that operating plan with your application, but all fields of this form must still be completed per 3 AAC 306.020 and 3 AAC 306.315(2).

What additional information is required for retail stores?

Applicants must identify how the proposed establishment will comply with applicable regulations regarding the following:

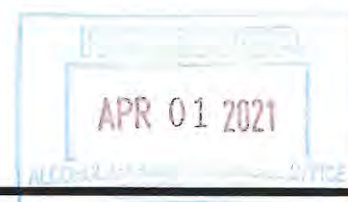
- Prohibitions
- Signage and advertising
- Displays and sales
- Exit packaging and labeling
- Security
- Waste disposal

This form must be completed and submitted to AMCO's main office before any new or transfer application for a retail marijuana store license will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Jesse Lee Spurgeon	MJ License #:	28917		
License Type:	Retail Marijuana Store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	Alaska	ZIP:	99611



**Form MJ-03: Retail Marijuana Store Operating Plan Supplemental****Section 2 – Overview of Operations**

2.1. Provide an overview of your proposed facility's operations. Include information regarding the intake and flow of marijuana and marijuana product at your premises, and a description of what a standard customer visit to your establishment would entail:

Intake or receiving would occur through employee entrance into restricted access area with proper logging of visitor upon entry, product would be immediately entered into METRC inventory system. Customers would enter through business entrance into unrestricted area, presenting state or federal ID to verify age is 21 years of age or older immediately upon entry. Purchases made by singular customer will not exceed 1oz of flower, 7g of concentrate or a combined total, in all purchased products, of 5600mg THC daily. Purchase would be logged in METRC using approved interactive point of sale system, ie Green bits or Weave. Customers, without any further business would exit the premises, without prolonged delay outside of transaction or browsing other products available.

Section 3 – Prohibitions






Review the requirements under 3 AAC 306.310.

3.1. Describe how you will ensure that the retail marijuana store will not sell, give, distribute, or deliver marijuana or marijuana product to a person who is under the influence of an alcoholic beverage, inhalant, or controlled substance:

If a customer admits to, or is found to be or known to be under the influence, showing symptoms as such, they will be asked to exit the premises immediately. Glossy eye, slow reflex, blurred, quiet, or slow speech, mood swings and dilated pupils are some examples of what can be identifying factors.

3.2. I certify that the retail marijuana store will not:

Initials

- | | |
|---|---|
| a. sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or marijuana product in a quantity exceeding the limit set out in 3 AAC 306.355; |  |
| b. sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or marijuana product over the internet; |  |
| c. offer or deliver to a consumer, as a marketing promotion or for any other reason, free marijuana or marijuana product, including a sample; |  |
| d. offer or deliver to a consumer, as a marketing promotion or for any other reason, alcoholic beverages, free or for compensation; or |  |
| e. allow a person to consume marijuana or a marijuana product on the licensed premises. |  |

Answer "Yes" or "No" to the following question:

Yes No

3.3. Do you plan to request future approval of the Marijuana Control Board to permit consumption of marijuana or marijuana product in a designated area on the proposed premises?

☐ Yes ☒ No

**Form MJ-03: Retail Marijuana Store Operating Plan Supplemental****Section 4 – Signage and Advertising**

Review the requirements under 3 AAC 306.360 and 3 AAC 306.365. All licensed retail marijuana stores must meet minimum standards for signage and advertising.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box: Initials

4.1. I understand and agree to follow the limitations regarding the number, placement, and size of signs on my proposed establishment, set forth in 3 AAC 306.360(a).

Jes

4.2. The retail marijuana store will not use giveaway coupons as promotional materials, or conduct promotional activities such as games or competitions to encourage the sale of marijuana or marijuana products.

Jes

4.3. All advertising for marijuana or marijuana product will contain the warnings required under 3 AAC 306.360(e).

Jes

4.4. I understand and agree to post, in a conspicuous location visible to customers, the notification signs required under 3 AAC 306.365.

Jes

4.5. I certify that no advertisement for marijuana or marijuana product will contain any statement or illustration that:

a. is false or misleading;

Jes

b. promotes excessive consumption;

Jes

c. represents that the use of marijuana has curative or therapeutic effects;

Jes

d. depicts a person under the age of 21 consuming marijuana; or

Jes

e. includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

Jes

4.6. I certify that no advertisement for marijuana or marijuana product will be placed:

a. within 1,000 feet of the perimeter of any child-centered facility, including a school, childcare facility, or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under the age of 21;

Jes

b. on or in a public transit vehicle or public transit shelter;

Jes

c. on or in a publicly owned or operated property;

Jes

d. within 1,000 feet of a substance abuse or treatment facility; or

Jes

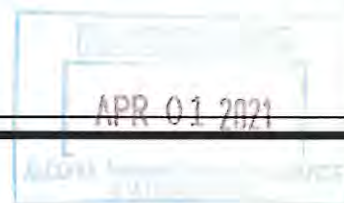
e. on a campus for postsecondary education.

Jes

Section 5 – Displays and Sales

5.1. Describe how marijuana and marijuana products at the retail marijuana store will be displayed and sold:

A specific section of the counter will be designated for retail sales of marijuana, product will be displayed under glass cabinet accesible only from restricted area and in sealed containers in shelving behind the counter.



**Form MJ-03: Retail Marijuana Store Operating Plan Supplemental****Section 6 – Exit Packaging and Labeling**

Review the requirements under 3 AAC 306.345.

6.1. Describe how the retail marijuana store will ensure that marijuana and marijuana products sold on its licensed premises will meet the packaging and labeling requirements set forth in 3 AAC 306.345(a):

Packaging shall be of approved resealable, child resistant packaging, Opaque with appropriate label.

Package labels shall contain Name of licensed location, AK MJ license number, THC percentage of product inside, weight of product and required warning statements.

6.2. Provide a sample label that the retail marijuana store will use to meet the labeling requirements set forth in 3 AAC 306.345(b):

Back Alley Vapes **AK MJ License # 28917**
THC % _____ Weight _____ Gram

Marijuana has intoxicating effects and may be habit forming and addictive. Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence. There are health risks associated with consumption of marijuana. For use only by adults twenty-one and older. Keep out of the reach of children. Marijuana should not be used by women who are pregnant or breastfeeding.



**Form MJ-03: Retail Marijuana Store Operating Plan Supplemental****Section 7 – Security**

Review the requirements under 3 AAC 306.350 and 3 AAC 306.720.

7.1. Describe the retail marijuana store's procedures for ensuring a form of valid photographic identification has been produced before selling marijuana or marijuana product to a person, as required by 3 AAC 306.350(a):

All customers upon entry will be asked to produce a valid federal or state ID to visually validate appropriate age of 21 years of age or older.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right:

Initials

7.2. The video surveillance and camera recording system for the licensed premises covers each point-of-sale area.

JS

Section 8 – Waste Disposal

Review the requirements under 3 AAC 306.740.

8.1. Describe how you will store, manage, and dispose of any marijuana waste, including expired marijuana or marijuana products, in compliance with any applicable laws. Include details about the material(s) you will mix with ground marijuana waste and the processes that you will use to make the marijuana waste unusable for any purpose for which it was grown or produced:

If product is found to be unusable, expired, or unfit it will be stored in secured room on premises location until AMCO board is notified of disposal. The marijuana product will be made unusable by grinding the processed marijuana with equal part compostable waste and disposed of at permitted solid-waste facility.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right:

Initials

8.2. The retail marijuana store shall give the board at least three days written notice required under 3 AAC 306.740(c) before making marijuana waste unusable and disposing of it.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Jesse L. Spurgeon
Signature of licensee

Jesse L. Spurgeon
Printed name of licensee



Dwight Weidig
Notary Public in and for the State of Alaska

My commission expires: 6-26-2021



Subscribed and sworn to before me this 15th day of March, 2021



Alaska Marijuana Control Board

Form MJ-07: Public Notice Posting Affidavit

What is this form?

A public notice posting affidavit is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(10). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by posting a true copy of the application for ten (10) days at the location of the proposed licensed premises and one other conspicuous location in the area of the proposed premises, per 3 AAC 306.025(b)(1).

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Jesse Lee Spurgeon	License Number:	28917		
License Type:	Retail marijuana store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	Alaska	ZIP:	99611

Section 2 – Certification

I certify that I have met the public notice requirement set forth under 3 AAC 306.025(b)(1) by posting a copy of my application for the following 10-day period at the location of the proposed licensed premises and at the following conspicuous location in the area of the proposed premises:

03/05/2021

03/19/2021

Start Date: _____

End Date: _____

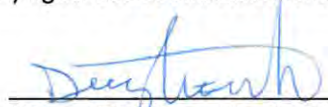
Premises location, local PO message board

Other conspicuous location: _____

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

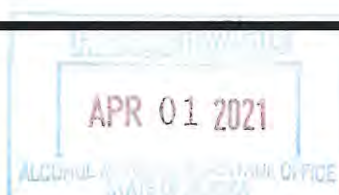
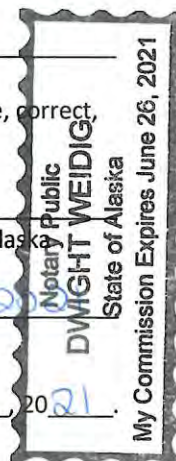

Signature of licensee

Jesse L. Spurgeon
Printed name of licensee


Notary Public in and for the State of Alaska

My commission expires: 6-26-2021

Subscribed and sworn to before me this 15th day of March, 2021.





Public Notice

Application for Marijuana Establishment License

License Number: 28917

License Status: Initiated

License Type: Retail Marijuana Store

Doing Business As: Back Alley Vapes

Business License Number: 2125636

Email Address: backalleyvapesak@gmail.com

Latitude, Longitude: 60.728324, -151.304965

Physical Address: 51698 Kenai Spur Hwy
Suite D
Kenai, AK 99611
UNITED STATES

Licensee #1

Type: Individual

Name: Kaden Chace Spurgeon

Phone Number: 907-420-4070

Email Address: kadenspurgeon@hotmail.com

Mailing Address: PO Box 8386
Nikiski, AK 99635
UNITED STATES

Licensee #2

Type: Individual

Name: Rebecca Sue Spurgeon

Phone Number: 907-398-3386

Email Address: spurgeon89635@gmail.com

Mailing Address: 50415 Wrangell Dr
Kenai, AK 99611
UNITED STATES

Licensee #3

Type: Individual

Name: Jesse Lee Spurgeon

Phone Number: 907-398-8806

Email Address: jesselspurgeon@gmail.com

Mailing Address: 50415 Wrangell Dr
Kenai, AK 99611
UNITED STATES

Note: No entity officials entered for this license.

Note: No affiliates entered for this license.

Interested persons may object to the application by submitting a written statement of reasons for the objection to their local government, the applicant, and the Alcohol & Marijuana Control Office (AMCO) not later than 30 days after the director has determined the application to be complete and has given written notice to the local government. Once an application is determined to be complete, the objection deadline and a copy of the application will be posted on AMCO's website at

<https://www.commerce.alaska.gov/web/amco>. Objections should be sent to AMCO at marijuana.licensing@alaska.gov or to 550 W 7th Ave, Suite 1600, Anchorage, AK 99501.

POSTING DATE 3-1-2021



28917



Alaska Marijuana Control Board

Form MJ-08: Local Government Notice Affidavit

What is this form?

A local government notice affidavit is required for all marijuana establishment license applications with a proposed premises that is located within a local government, per 3 AAC 306.025(b)(3). As soon as practical after initiating a marijuana establishment license application, an applicant must give notice of the application to the public by submitting a copy of the application to each local government and any community council in the area of the proposed licensed premises. For an establishment located inside the boundaries of city that is within a borough, both the city and the borough must be notified.

This form must be completed and submitted to AMCO's main office before any new or transfer license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Jesse Lee Spurgeon	License Number:	28917		
License Type:	Retail marijuana store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	Alaska	ZIP:	99611

Section 2 – Certification

I certify that I have met the local government notice requirement set forth under 3 AAC 306.025(b)(3) by submitting a copy of my application to the following local government (LG) official(s) and community council (if applicable):

Kenai Peninsula Borough

03/04/2021

Local Government(s): _____ Date Submitted: _____

Tatyanah Shassetz

Name/Title of LG Official 1: _____ Name/Title of LG Official 2: _____

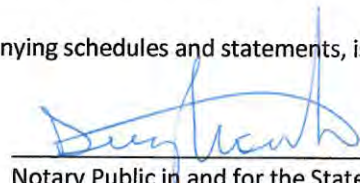
Community Council: _____ Date Submitted: _____

(Municipality of Anchorage and Matanuska-Susitna Borough only)

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

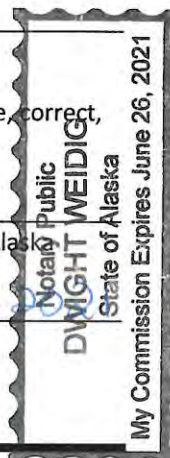

Signature of licensee

Jesse L. Spurgeon
Printed name of licensee


Notary Public in and for the State of Alaska

My commission expires: 6-26-2021

Subscribed and sworn to before me this 15th day of March, 2021.





Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS

3/10/2021

Back Alley Vapes
backalleyvapesak@gmail.com

RE: *Back Alley Vapes – Application for Retail Marijuana Store (License Number: 28917)*

We received your public notice for application for Marijuana Establishment License on 3/4/2021. Once your complete application is received by the Borough Clerk's office from the Alcohol & Marijuana Control Office (AMCO), it will be forwarded to the Kenai Peninsula Borough (Borough) Planning and Finance Departments for review. The borough has 60 days from receipt of your complete application from AMCO to make recommendations to the Marijuana Control Board (MCB). A staff report will be prepared based upon standards set out in KPB 7.30. The Planning Commission will hold a public hearing on the application and forward its recommendation to the Borough Assembly. The Assembly is the borough's commenting authority to the MCB. The Assembly will also hold a public hearing regarding the license application prior to making its recommendation to the MCB.

In order for the Borough to determine compliance with standards set out in KPB 7.30.020(C)(1), you will need to provide a site development plan with adequate detail to accurately depict the following:

If your parcel is accessed from a borough road:

- The width and location of the entrance and exit;
- a clear route for delivery vehicles which shall allow vehicles to turn safely;
- the location of on-site parking and loading areas designed to preclude vehicles from backing out into the roadway;

If your parcel is accessed from a state road:

- a clear route for delivery vehicles which shall allow vehicles to turn safely;
- the location of on-site parking and loading areas designed to preclude vehicles from backing out into the roadway; and



28917

Page -2-

3/10/2021


Back Alley Vapes – Application for Retail Marijuana Store (License Number: 28917)

The Kenai Peninsula Borough's standards and process are more completely set forth in the enclosed copy of KPB Chapter 7.30 "Marijuana License Protections." If you have any questions regarding the boroughs role in the state's processing of marijuana license applications please contact the Borough Clerk's office at 714-2160. Please return your completed acknowledge form and site development plan within the next two (2) weeks in order to facilitate the process.

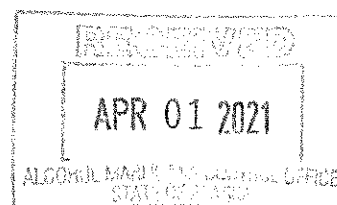
Included with this packet please find the following documents:

- KPB 7.30
- Acknowledgement Form

Thank you,



Johni Blankenship, MMC
Borough Clerk



28917



Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

What is this form?

A statement of financial interest completed by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(4). A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each proposed licensee before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Rebecca Sue Spurgeon	License Number:	28917		
License Type:	Retail Marijuana Store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	AK	ZIP:	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Rebecca Sue Spurgeon
Title:	Partner





Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

Section 3 – Certifications

I certify that no person other than a proposed licensee listed on my marijuana establishment license application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which a marijuana establishment license is being applied for.

I further certify that any ownership change shall be reported to the board as required under 3 AAC 306.040.

I understand that my fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI), and that I have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record.

The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

Rebecca Sue Spurgeon
Signature of licensee

[Signature]
Notary Public in and for the State of Alaska

Rebecca Sue Spurgeon
Printed name of licensee

My commission expires: 4/17/2021

Subscribed and sworn to before me this 17th day of March, 2021.





Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

What is this form?

A statement of financial interest completed by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(4). A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each proposed licensee before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Jesse Lee Spurgeon	License Number:	28917		
License Type:	Retail Marijuana Store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	AK	ZIP:	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Jesse Lee Spurgeon
Title:	Partner





Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

Section 3 – Certifications

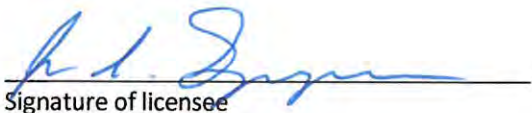
I certify that no person other than a proposed licensee listed on my marijuana establishment license application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which a marijuana establishment license is being applied for.

I further certify that any ownership change shall be reported to the board as required under 3 AAC 306.040.

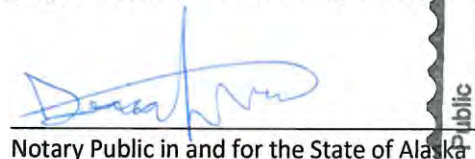
I understand that my fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI), and that I have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record.

The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.

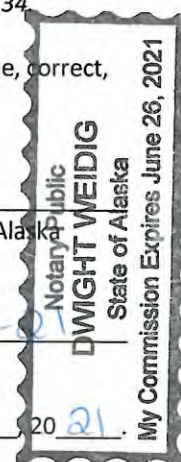

Signature of licensee

Jesse I. Spurgeon
Printed name of licensee


Notary Public in and for the State of Alaska

My commission expires: 6-26-21

Subscribed and sworn to before me this 15th day of March, 2021.





Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

What is this form?

A statement of financial interest completed by each proposed licensee (as defined in 3 AAC 306.020(b)(2)) is required for all marijuana establishment license applications, per 3 AAC 306.020(b)(4). A person other than a licensee may not have direct or indirect financial interest (as defined in 3 AAC 306.015(e)(1)) in the business for which a marijuana establishment license is issued, per 3 AAC 306.015(a).

This form must be completed and submitted to AMCO's main office by each proposed licensee before any license application will be considered complete.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Kaden Chace Spurgeon	License Number:	28917		
License Type:	Retail Marijuana Store				
Doing Business As:	Back Alley Vapes				
Premises Address:	51698 Kenai Spur Hwy Suite D				
City:	Kenai	State:	AK	ZIP:	99611

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Kaden Chace Spurgeon
Title:	Partner





Alaska Marijuana Control Board

Form MJ-09: Statement of Financial Interest

Section 3 – Certifications

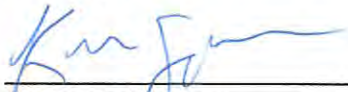
I certify that no person other than a proposed licensee listed on my marijuana establishment license application has a direct or indirect financial interest, as defined in 3 AAC 306.015(e)(1), in the business for which a marijuana establishment license is being applied for.

I further certify that any ownership change shall be reported to the board as required under 3 AAC 306.040.

I understand that my fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation (FBI), and that I have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record.

The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

I declare under penalty of unsworn falsification that this form, including all accompanying schedules and statements, is true, correct, and complete.



Signature of licensee



Printed name of licensee



Notary Public in and for the State of Alaska

My commission expires: 6-26-2021

Subscribed and sworn to before me this 15th day of march, 2021



Alcohol & Marijuana Control Office

Initiating License Application

2/25/2021 8:19:27 PM

License Number: 28917**License Status:** New**License Type:** Retail Marijuana Store**Doing Business As:** Back Alley Vape**Business License Number:** 2125636**Designated Licensee:** Jesse Lee Spurgeon**Email Address:** backalleyvapesak@gmail.com**Local Government:** Kenai Peninsula Borough**Local Government 2:****Community Council:****Latitude, Longitude:** 60.728324, -151.304965**Physical Address:** 51698 Kenai Spur Hwy
Suite D
Kenai, AK 99611
UNITED STATES**Licensee #1****Type:** Individual**Name:** Kaden Chace Spurgeon**Phone Number:** 907 420 4070**Email Address:** kadenspurgeon@hotmail.com**Mailing Address:** PO Box 8386
Nikiski, AK 99635
UNITED STATES**Licensee #2****Type:** Individual**Name:** Rebecca Sue Spurgeon**Phone Number:** 907 398 3386**Email Address:** spurgeon99635@gmail.com**Mailing Address:** 50415 Wrangell Dr
Kenai, AK 99611
UNITED STATES**Licensee #3****Type:** Individual**Name:** Jesse Lee Spurgeon**Phone Number:** 907-398-8806**Email Address:** jesselspurgeon@gmail.com**Mailing Address:** 50415 Wrangell Dr
Kenai, AK 99611
UNITED STATES**Note:** No entity officials entered for this license.**Note:** No affiliates entered for this license.

PARTNERSHIP AGREEMENT

THIS PARTNERSHIP AGREEMENT (the "Agreement") made and entered into this 19th day of March, 2021 (the "Execution Date"),

AMONGST:

Jesse Lee Spurgeon of 50415 Wrangell Dr, Kenai, AK 99611,
Kaden Chace Spurgeon of PO box 8386, Nikiski, AK 99635, and
Rebecca Sue Spurgeon of 50415 Wrangell Dr, Kenai, AK 99611
(individually the "Partner" and collectively the "Partners").

BACKGROUND:

- A. The Partners wish to associate themselves as partners in business.
- B. This Agreement sets out the terms and conditions that govern the Partners within the Partnership.

IN CONSIDERATION OF and as a condition of the Partners entering into this Agreement and other valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the parties to this Agreement agree as follows:

Formation

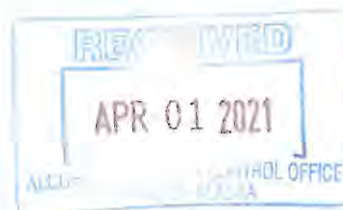
- 1. By this Agreement the Partners enter into a general partnership (the "Partnership") in accordance with the laws of The State of Alaska. The rights and obligations of the Partners will be as stated in the applicable legislation of The State of Alaska (the 'Act') except as otherwise provided in this Agreement.

Name

- 2. The firm name of the Partnership will be: Back Alley Vapes.

Purpose

- 3. The purpose of the Partnership will be: Retail sale.



Term

4. The Partnership will begin on February 25th, 2021 and will continue until terminated as provided in this Agreement.

Place of Business

5. The principal office of the business of the Partnership will be located at 50415 Wrangell Dr, Kenai, AK 99611 or such other place as the Partners may from time to time designate.

Capital Contributions

6. Each of the Partners has contributed to the capital of the Partnership, in cash or property in agreed upon value, as follows (the "Capital Contribution"):

Partner	Contribution Description	Agreed Value
Jesse Lee Spurgeon	Investment capital	\$10000 USD
Kaden Chace Spurgeon	Investment capital	\$10000 USD
Rebecca Sue Spurgeon	Investment capital	\$10000 USD

7. All Partners will contribute their respective Capital Contributions fully and on time.

Withdrawal of Capital

8. No Partner will withdraw any portion of their Capital Contribution without the express written consent of the remaining Partners.

Additional Capital

9. Capital Contributions may be amended from time to time, according to the requirements of the Partnership provided that the interests of the Partners are not affected, except with the unanimous consent of the Partners. No Partner will be required to make Additional Capital Contributions. Whenever additional capital is determined to be required and an individual Partner is unwilling or unable to meet the additional contribution requirement within a reasonable period, as required by Partnership business obligations, remaining Partners may



contribute in proportion to their existing Capital Contributions to resolve the amount in default. In such case the allocation of profits or losses among all the Partners will be adjusted to reflect the aggregate change in Capital Contributions by the Partners.

10. Any advance of money to the Partnership by any Partner in excess of the amounts provided for in this Agreement or subsequently agreed to as Additional Capital Contribution will be deemed a debt owed by the Partnership and not an increase in Capital Contribution of the Partner. This liability will be repaid with interest at rates and times to be determined by a majority of the Partners within the limits of what is required or permitted in the Act. This liability will not entitle the lending Partner to any increased share of the Partnership's profits nor to a greater voting power. Such debts may have preference or priority over any other payments to Partners as may be determined by a majority of the Partners.

Capital Accounts

11. An individual capital account (the "Capital Accounts") will be maintained for each Partner and their Initial Capital Contribution will be credited to this account. Any Additional Capital Contributions made by any Partner will be credited to that Partner's individual Capital Account.

Interest on Capital

12. No borrowing charge or loan interest will be due or payable to any Partner on their agreed Capital Contribution inclusive of any agreed Additional Capital Contributions.

Financial Decisions

13. Decisions regarding the distribution of profits, allocation of losses, and the requirement for Additional Capital Contributions as well as all other financial matters will be decided by a majority vote of the Partners.

Profit and Loss

14. Subject to any other provisions of this Agreement, the net profits and losses of the Partnership, for both accounting and tax purposes, will accrue to and be borne by the Partners in equal proportions (the "Profit and Loss Distribution").



Books of Account

15. Accurate and complete books of account of the transactions of the Partnership will be kept in accordance with generally accepted accounting principles (GAAP) and at all reasonable times will be available and open to inspection and examination by any Partner. The books and records of the Partnership will reflect all the Partnership's transactions and will be appropriate and adequate for the business conducted by the Partnership.

Annual Report

16. As soon as practicable after the close of each fiscal year, the Partnership will furnish to each Partner an annual report showing a full and complete account of the condition of the Partnership. This report will consist of at least the following documents:
- a. a statement of all information as will be necessary for the preparation of each Partner's income or other tax returns;
 - b. a copy of the Partnership's federal income tax returns for that fiscal year;
 - c. a breakdown of the profit and loss attributable to each Partner; and
 - d. any additional information that the Partners may require.

Banking and Partnership Funds

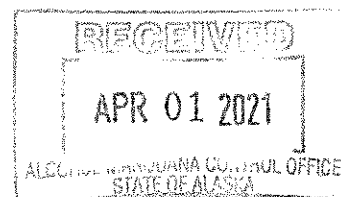
17. The funds of the Partnership will be placed in such investments and banking accounts as will be designated by the Partners. Partnership funds will be held in the name of the Partnership and will not be commingled with those of any other person or entity.

Fiscal Year

18. The fiscal year will end on the 1st day of January of each year.

Audit

19. Any of the Partners will have the right to request an audit of the Partnership books. The cost of the audit will be borne by the Partnership. The audit will be performed by an accounting firm acceptable to all the Partners. Not more than one (1) audit will be required by any or all of the Partners for any fiscal year.



Management

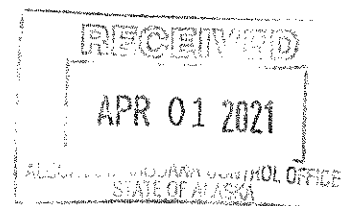
20. Except as all of the Partners may otherwise agree in writing, all actions and decisions respecting the management, operation and control of the Partnership and its business will be decided by a majority vote of the Partners.

Contract Binding Authority

21. All actions and decisions with respect to binding the Partnership in contract requires the unanimous consent of the Partners.

Partnership Representative

22. Jesse Lee Spurgeon will be the partnership representative ("the Partnership Representative") with the sole authority to act on behalf of the Partnership in relation to IRS tax audits pursuant to Chapter 63 Subchapter C of the Internal Revenue Code of 1986.
23. The Partnership Representative is appointed for the current tax year and subsequent tax years until otherwise designated by the Partners.
24. The Partnership Representative will promptly advise the Partners of any audit of the Partnership initiated by the IRS and provide regular updates to the Partners on the progress of such audits and any resulting settlement negotiations. The Partnership Representative will be generally accountable to the Partners and will obtain the majority approval of the Partners for (i) any decisions affecting the tax liability of the Partnership or the Partners; and (ii) any decision finalizing tax settlement with the IRS.
25. The Partnership Representative may resign from the position by serving notice in writing on both the Partnership and the IRS. The Partnership, acting by majority vote, may revoke the designation of the Partnership Representative by serving notice on the Partnership Representative and the IRS and simultaneously appointing a new Partnership Representative for that taxable year.
26. Whether serving in an active capacity or not, any person who has served as Partnership Representative in respect of any given taxable year or portion thereof will remain accountable to the Partnership, throughout the period of limitation relating to that taxable year, in respect of any notification received from the IRS and will promptly advise the Partnership of any and all such correspondence.



27. In the event that a tax settlement reached between the IRS and the Partnership Representative is not satisfactory to one or more of the Partners and the matter cannot be resolved through negotiation in good faith at a meeting of the Partners, then, two weeks, or such longer period as the partners may agree, following such meeting the Partners agree to submit the dispute to mediation.

Meetings

28. Regular meetings of the Partners will be held only as required.
29. Any Partner can call a special meeting to resolve issues that require a vote, as indicated by this Agreement, by providing all Partners with reasonable notice. In the case of a special vote, the meeting will be restricted to the specific purpose for which the meeting was held.
30. All meetings will be held at a time and in a location that is reasonable, convenient and practical considering the situation of all Partners.

Admitting a New Partner

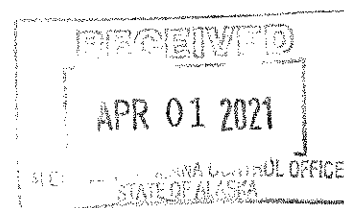
31. No new Partners may be admitted into the Partnership.

Transfer of Partnership Interest

32. A Partner may assign their distribution interest in the Partnership and its assets provided that, where the acquisition of the interest by the prospective partner will render the Partnership ineligible to elect out of the application of the Tax Rules, the assigning Partner must first obtain the unanimous consent of the remaining Partners. This transfer will only include that Partner's economic rights and interests and will not include any other rights of that Partner nor will it include an automatic admission as a Partner of the Partnership or the right to exercise any management or voting interests. A Partner who assigns any or all of their partnership interest to any third party will relinquish their status as Partner including all management and voting rights. Assignment of Partner status, under this clause, including any management and voting interests, will require the consent of all the remaining Partners.

Voluntary Withdrawal of a Partner

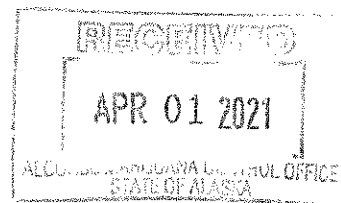
33. Any Partner will have the right to voluntarily withdraw from the Partnership at any time. Written notice of intention to withdraw must be served upon the remaining Partners at least one (1) year prior to the withdrawal date.



34. Except as otherwise provided elsewhere in this Agreement, the voluntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
35. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election upon the Dissociated Partner within thirty (30) days after receipt of the Dissociated Partner's notice of intention to withdraw, including the purchase price and method and schedule of payment for the Dissociated Partner's interest. The purchase amount of any buyout of the Dissociated Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.
36. A Dissociated Partner will only exercise the right to withdraw in good faith and will act to minimize any present or future harm done to the remaining Partners as a result of the withdrawal.

Involuntary Withdrawal of a Partner

37. Events resulting in the involuntary withdrawal of a Partner from the Partnership will include but not be limited to: death of a Partner; Partner mental incapacity; Partner disability preventing reasonable participation in the Partnership; Partner incompetence; breach of fiduciary duties by a Partner; criminal conviction of a Partner; Expulsion of a Partner; Operation of Law against a Partner; or any act or omission of a Partner that can reasonably be expected to bring the business or societal reputation of the Partnership into disrepute.
38. Except as otherwise provided elsewhere in this Agreement, the involuntary withdrawal of a Partner will have no effect upon the continuance of the Partnership business.
39. In the event that a Partner's interest in the Partnership is to be sold, the remaining Partners have a right of first purchase on that interest. If any of the remaining Partners elect to purchase the interest of the Dissociated Partner, those Partners will serve written notice of such election, including the purchase price and method and schedule of payment upon the Dissociated Partner, their executor, administrator, trustee, committee or analogous fiduciary within a reasonable period after acquiring knowledge of the change in circumstance to the Dissociated Partner. The purchase amount of any buyout of a Partner's interest will be determined as outlined in the Valuation of Interest section of this Agreement.



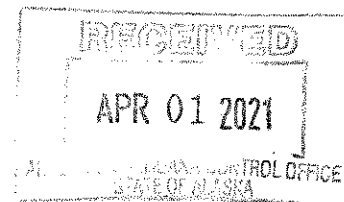
40. A trustee in bankruptcy or similar third party who may acquire that Dissociated Partner's interest in the Partnership will only acquire that Partner's economic rights and interests and will not acquire any other rights of that Partner or be admitted as a Partner of the Partnership or have the right to exercise any management or voting interests.

Dissociation of a Partner

41. Where the remaining Partners have purchased the interest of a Dissociated Partner, the purchase amount will be paid in full, but without interest, within 90 days of the date of withdrawal.
42. The Partnership will retain exclusive rights to use of the trade name and firm name and all related brand and model names of the Partnership.
43. Where the voluntary or involuntary withdrawal of a Partner results in only one Partner remaining or where no buyer is found to purchase the interest of the Dissociated Partner then the Partnership will proceed in a reasonable and timely manner to dissolve the Partnership, with all debts being paid first, prior to any distribution of the remaining funds. Valuation and distribution will be determined as described in the Valuation of Interest section of this Agreement.
44. The remaining Partners retain the right to seek damages from a Dissociated Partner where the dissociation resulted from a malicious or criminal act by the Dissociated Partner or where the Dissociated Partner had breached their fiduciary duty to the Partnership or was in breach of this Agreement or had acted in a way that could reasonably be foreseen to bring harm or damage to the Partnership or to the reputation of the Partnership.
45. On any purchase and sale of a Partnership interest, a Dissociated Partner will only have liability for Partnership obligations that were incurred during their time as a Partner. Immediately upon the sale of a withdrawing Partner's interest, the Partnership will prepare, file, serve, and publish all notices required by law to protect the withdrawing Partner from liability for future Partnership obligations.

Dissolution

46. Except as otherwise provided in this Agreement, the Partnership may be dissolved only with the unanimous consent of all Partners.

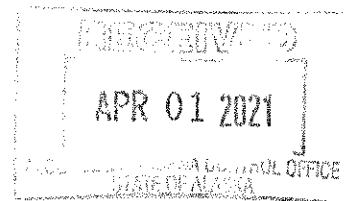


Distribution of Property on Dissolution of Partnership

47. In the event of the dissolution of the Partnership, each Partner will share equally (the "Dissolution Distribution") in any remaining assets or liabilities of the Partnership.
48. Upon Dissolution of the Partnership and liquidation of Partnership Property, and after payment of all selling costs and expenses, the liquidator will distribute the Partnership assets to the following groups according to the following order of priority:
- a. in satisfaction of liabilities to creditors except Partnership obligations to current Partners;
 - b. in satisfaction of Partnership debt obligations to current Partners; and then
 - c. to the Partners according to the Dissolution Distribution described above.
49. The claims of each priority group will be satisfied in full before satisfying any claims of a lower priority group. Any excess of Partnership assets after liabilities or any insufficiency in Partnership assets in resolving liabilities under this section will be shared by the Partners according to the Dissolution Distribution described above.

Valuation of Interest

50. In the absence of a written agreement setting a value, the value of the Partnership will be based on the fair market value appraisal of all Partnership assets (less liabilities) determined in accordance with generally accepted accounting principles (GAAP). This appraisal will be conducted by an independent accounting firm agreed to by all Partners. An appraiser will be appointed within a reasonable period of the date of withdrawal or dissolution. The results of the appraisal will be binding on all Partners. A withdrawing Partner's interest will be based on that Partner's proportion of the Dissolution Distribution described above, less any outstanding liabilities the withdrawing Partner may have to the Partnership. The intent of this section is to ensure the survival of the Partnership despite the withdrawal of any individual Partner.
51. No allowance will be made for goodwill, trade name, patents or other intangible assets, except where those assets have been reflected on the Partnership books immediately prior to valuation.



Goodwill

52. The goodwill of the Partnership business will be assessed at an amount to be determined by appraisal using generally accepted accounting principles (GAAP).

Title to Partnership Property

53. Title to all Partnership Property will remain in the name of the Partnership. No Partner or group of Partners will have any ownership interest in such Partnership Property in whole or in part.

Voting

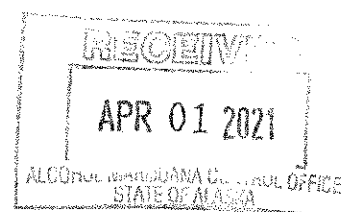
54. Any vote required by the Partnership will be assessed where each Partner receives one vote carrying equal weight.

Force Majeure

55. A Partner will be free of liability to the Partnership where the Partner is prevented from executing their obligations under this Agreement in whole or in part due to force majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Partner has communicated the circumstance of said event to any and all other Partners and taken any and all appropriate action to mitigate said event.

Duty of Loyalty

56. No Partner will engage in any business, venture or transaction, whether directly or indirectly, that might be competitive with the business of the Partnership or that would be in direct conflict of interest to the Partnership without the unanimous written consent of the remaining Partners. Any and all businesses, ventures or transactions with any appearance of conflict of interest must be fully disclosed to all other Partners. Failure to comply with any of the terms of this clause will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.
57. A withdrawing Partner will not carry on a similar business to the business of the Partnership within any established or contemplated market regions of the Partnership for a period of at least two (2) years after the date of withdrawal.



Duty of Accountability for Private Profits

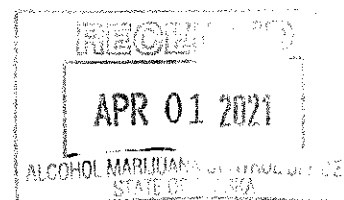
58. Each Partner must account to the Partnership for any benefit derived by that Partner without the consent of the other Partners from any transaction concerning the Partnership or any use by that Partner of the Partnership property, name or business connection. This duty continues to apply to any transactions undertaken after the Partnership has been dissolved but before the affairs of the Partnership have been completely wound up by the surviving Partner or Partners or their agent or agents.

Duty to Devote Time

59. Each Partner will devote such time and attention to the business of the Partnership as the majority of the Partners will from time to time reasonably determine for the conduct of the Partnership business.

Actions Requiring Unanimous Consent of the Partners

60. The following list of actions will require the unanimous consent of all Partners:
- a. committing the Partnership to new liabilities or obligations totaling over \$100,000.00 USD;
 - b. incurring single expenditures that exceed \$100,000.00 USD;
 - c. selling or encumbering of any Partnership asset whose fair market value exceeds \$10,000.00 USD;
 - d. hiring any employee whose total compensation package exceeds \$40,000.00 USD per annum;
 - e. firing of any employee except in the case of gross misconduct that exposes the Partnership to possible liability;
 - f. waiving or releasing any Partnership claim except for full consideration; and
 - g. endangering the ownership or possession of Partnership property.



61. Any losses incurred as a result of a violation of this section will be charged to and collected from the individual Partner that acted without unanimous consent and caused the loss.

Forbidden Acts

62. No Partner may do any act in contravention of this Agreement.
63. No Partner may permit, intentionally or unintentionally, the assignment of express, implied or apparent authority to a third party that is not a Partner in the Partnership.
64. No Partner may do any act that would make it impossible to carry on the ordinary business of the Partnership.
65. No Partner may confess a judgment against the Partnership.
66. No Partner will have the right or authority to bind or obligate the Partnership to any extent with regard to any matter outside the intended purpose of the Partnership.
67. Any violation of the above Forbidden Acts will be deemed an Involuntary Withdrawal of the offending Partner and may be treated accordingly by the remaining Partners.

Indemnification

68. All Partners will be indemnified and held harmless by the Partnership from and against any and all claims of any nature, whatsoever, arising out of a Partner's participation in Partnership affairs. A Partner will not be entitled to indemnification under this section for liability arising out of gross negligence or willful misconduct of the Partner or the breach by the Partner of any provisions of this Agreement.

Liability

69. A Partner will not be liable to the Partnership, or to any other Partner, for any mistake or error in judgment or for any act or omission done in good faith and believed to be within the scope of authority conferred or implied by this Agreement or the Partnership.



Liability Insurance

70. The Partnership may acquire insurance on behalf of any Partner, employee, agent or other person engaged in the business interest of the Partnership against any liability asserted against them or incurred by them while acting in good faith on behalf of the Partnership.

Life Insurance

71. The Partnership will have the right to acquire life insurance on the lives of any or all of the Partners, whenever it is deemed necessary by the Partnership. Each Partner will cooperate fully with the Partnership in obtaining any such policies of life insurance.

Amendments

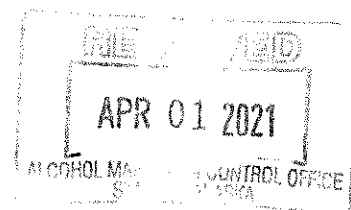
72. This Agreement may not be amended in whole or in part without the unanimous written consent of all Partners.

Governing Law and Jurisdiction

73. This Agreement will be construed in accordance with and exclusively governed by the laws of The State of Alaska.
74. The Partners submit to the jurisdiction of the courts of The State of Alaska for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement.

Definitions

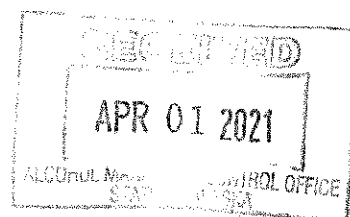
75. For the purpose of this Agreement, the following terms are defined as follows:
- a. "Additional Capital Contributions" means Capital Contributions, other than Initial Capital Contributions, made by Partners to the Partnership.
 - b. "Capital Contribution" means the total amount of cash or Property contributed to the Partnership by any one Partner.
 - c. "Dissociated Partner" means any Partner who is removed from the Partnership through a voluntary or involuntary withdrawal as provided in this Agreement.
 - d. "Expulsion of a Partner" can occur on application by the Partnership or another Partner, where it has been determined that the Partner:



- i. has engaged in wrongful conduct that adversely and materially affected the Partnership's business;
 - ii. has willfully or persistently committed a material breach of this Agreement or of a duty owed to the Partnership or to the other Partners; or
 - iii. has engaged in conduct relating to the Partnership's business that makes it not reasonably practicable to carry on the business with the Partner.
- e. "Initial Capital Contribution" means Capital Contributions made by any Partner to acquire an interest in the Partnership.
- f. "Operation of Law" means rights or duties that are cast upon a party by the law, without any act or agreement on the part of the individual including, but not limited to, an assignment for the benefit of creditors, a divorce, or a bankruptcy.


Miscellaneous

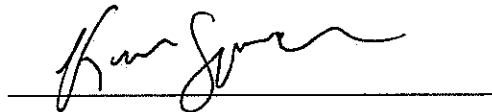
- 76. Time is of the essence in this Agreement.
- 77. This Agreement may be executed in counterpart.
- 78. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
- 79. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.

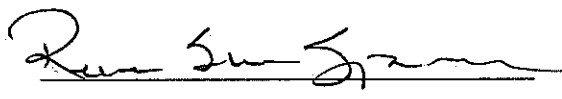


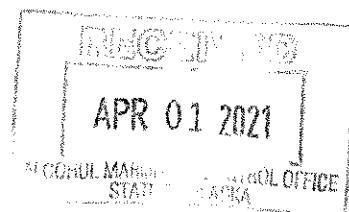
80. This Agreement contains the entire agreement between the parties. All negotiations and understandings have been included in this Agreement. Statements or representations which may have been made by any party to this Agreement in the negotiation stages of this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
81. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Partner's successors, assigns, executors, administrators, beneficiaries, and representatives.
82. Any notices or delivery required here will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.
83. All of the rights, remedies and benefits provided by this Agreement will be cumulative and will not be exclusive of any other such rights, remedies and benefits allowed by law.

IN WITNESS WHEREOF the Partners have duly affixed their signatures under hand and seal on this 19th day of March, 2021.


Jesse Lee Spurgeon


Kaden Chace Spurgeon


Rebecca Sue Spurgeon



Back Alley Vapes

Partnership

Partner List and ownership percentages

Jesse Lee Spurgeon

Partner/Managing director

Ownership 33.33%

Rebecca Sue Spurgeon

Partner

Ownership 33.33%

Kaden Chace Spurgeon

Partner

Ownership 33.33%



ALASKA COMMERCIAL LEASE AGREEMENT

I. The Parties. This Commercial Lease Agreement ("Agreement") made this October 1st, 2021 by and between:

Landlord: Jesse Spurgeon, Rebecca Spurgeon [Landlord's Name], of 50415 WRANGELL DR. [Landlord's Street Address], State of Alaska, ("Landlord")

AND

Tenant: Jesse Spurgeon, Rebecca Spurgeon, Kaden Spurgeon [Tenant's Name], of 50415 WRANGELL DR., 47118 MUSKRAT ST [Tenant's Street Address], State of Alaska, ("Tenant"). Collectively, the Landlord and Tenant shall be referred to herein as the "Parties".

The Parties agree as follows:

II. DESCRIPTION OF LEASED PREMISES. The Landlord agrees to lease to the Tenant the following described 2420 square feet (SF) of Retail [Type of Space] located at 51698 Suite D, Kenai Spw Hwy [Property Street Address], State of Alaska.

Additional Description: _____

Hereinafter known as the "Premises".

III. USE OF LEASED PREMISES. The Landlord is leasing the Premises to the Tenant and the Tenant is hereby agreeing to lease the Premises for the following use and purpose: Marijuana Retail

Any change in use or purpose the Premises other than as described above shall be upon prior written consent of Landlord only.

IV. TERM OF LEASE. The term of this Lease shall be for a period of 1 year(s) _____ month(s) commencing on the 1st day of October, 2021 and expiring at Midnight on the 30 day of September, 2022. ("Initial Term")

V. BASE RENT. The net monthly payment shall be Five Hundred dollars (\$ 500), payable monthly with the first payment due upon the commencement of the Lease and each monthly installment payable thereafter on the 1st day of each month ("Base Rent"). Rent payment for any period during the term hereon, which is for less than 1 month shall be a pro-rata portion of the monthly rent.

VI. OPTION TO RENEW: (check one)

☐ - Tenant may not renew the Lease.

☒ - Tenant may have the right to renew the Lease with a total of 1 renewal period(s) with each term being 1 year(s) 0 month(s) which may be exercised by giving

written notice to Landlord no less than 60 days prior to the expiration of the Lease or renewal period.

Rent for each option period shall: (check one)

☒ - Not increase.

☐ - Increase as calculated by multiplying the Base Rent by the annual change in the Consumer Price Index (CPI) published by the Bureau of Labor Statistics by the most recent publication to the option period start date.

☐ - Increase by ____%

☐ - Increase by _____ dollars (\$_____)

VII. EXPENSES. [Check and Initial whether this Lease is Gross, Modified Gross, or Triple Net (NNN)]

☒ - **GROSS.** Tenant's Initials _____ Landlord's Initials _____

It is the intention of the Parties that this Lease be considered a "Gross Lease" and as such, the Base Rent is the entirety of the monthly rent. Therefore, the Tenant is not obligated to pay any additional expenses which includes utilities, real estate taxes, insurance (other than on the Tenant's personal property), charges or expenses of any nature whatsoever in connection with the ownership and operation of the Premises. The Landlord shall be obligated to maintain the general exterior structure of the Premises, in addition, shall maintain all major systems such as the heating, plumbing, and electrical. The parking area shall be maintained by the Landlord including the removal of any snow or environmental hazards as well as the grounds and lands surrounding the Premises. The Landlord shall maintain at their expense casualty insurance for the Premises against loss by fire which may or may not include any extended coverage.

☐ - **MODIFIED GROSS.** Tenant's Initials _____ Landlord's Initials _____

It is the intention of the Parties that this Lease shall be considered a "Modified Gross Lease".

In addition to the Base Rent, the Tenant shall be obligated to pay the following monthly expenses: _____

Landlord shall pay the following monthly expenses: _____

☐ - **TRIPLE NET (NNN)**. Tenant's Initials _____ Landlord's Initials _____

It is the intention of the Parties that this Lease shall be considered a "Triple Net Lease".

- I. **Operating Expenses.** The Landlord shall have no obligation to provide any services, perform any acts, or pay expenses, charges, obligations or costs of any kind whatsoever with respect to the Premises. The Tenant hereby agrees to pay one-hundred percent (100%) of any and all Operating Expenses as hereafter defined for the entire term of the Lease and any extensions thereof in accordance with specific provisions hereinafter set forth. The term "Operating Expenses" shall include all costs to the Landlord of operating and maintaining the Premises, and shall include, without limitation, real estate and personal property taxes and assessments, management fee(s), heating, air conditioning, HVAC, electricity, water, waste disposal, sewage, operating materials and supplies, service agreements and charges, lawn care, snow removal, restriping, repairs, repaving, cleaning and custodial, security, insurance, the cost of contesting the validity or applicability of any governmental acts which may affect operating expenses, and all other direct operating costs of operating and maintaining the Premises and related parking areas, unless expressly excluded from operating expenses.
- II. **Taxes.** Tenant shall pay, during the term of this Lease, the real estate taxes including any special taxes or assessments (collectively, the "taxes") attributable to the Premises and accruing during such term. Tenant, at Landlord's option, shall pay to Landlord said taxes on a monthly basis, based on one-twelfth (1/12) of the estimated annual amount for taxes. Taxes for any fractional calendar year during the term hereof shall be prorated. In the event the Tenant does not make any tax payment required hereunder, Tenant shall be in default of this Lease.
- III. **Insurance.** Tenant shall maintain, at all times during the Term of this Lease, comprehensive general liability insurance in an insurance company licensed to do business in the State in which the Premises is located and that is satisfactory to Landlord, properly protecting and indemnifying Landlord with single limit coverage of not less than _____ dollars (\$ _____) for injury to or _____ dollars (\$ _____) death of persons and _____ dollars (\$ _____) for property damage. During the Term of this Lease, Tenant shall furnish the Landlord with certificate(s) of insurance, in a form acceptable to Landlord, covering such insurance so maintained by Tenant and naming Landlord and Landlord's mortgagees, if any, as additional insured.

VIII. SECURITY DEPOSIT. In addition to the above, a deposit in the amount of 500 dollars (\$ Five Hundred), shall be due and payable in advance or at the signing of this Lease, hereinafter referred to as the "Security Deposit", and shall be held in escrow by the Landlord in a separate, interest-bearing savings account as security for the faithful performance of the terms and conditions of the Lease. The Security Deposit may not be used to pay the last month's rent unless written permission is granted by the Landlord.

IX. LEASEHOLD IMPROVEMENTS. The Tenant agrees that no leasehold improvements, alterations or changes of any nature, (except for those listed on any

attached addenda) shall be made to the leasehold premises or the exterior of the building without first obtaining the consent of the Landlord in writing, which consent shall not be unreasonably withheld, and thereafter, any and all leasehold improvements made to the Premises which become affixed or attached to the leasehold Premises shall remain the property of the Landlord at the expiration or termination of this Lease Agreement. Furthermore, any leasehold improvements shall be made only in accordance with applicable federal, state or local codes, ordinances or regulations, having due regard for the type of construction of the building housing the subject leasehold Premises. If the Tenant makes any improvements to the Premises the Tenant shall be responsible payment, except the following _____

Nothing in the Lease shall be construed to authorize the Tenant or any other person acting for the Tenant to encumber the rents of the Premises or the interest of the Tenant in the Premises or any person under and through whom the Tenant has acquired its interest in the Premises with a mechanic's lien or any other type of encumbrance. Under no circumstance shall the Tenant be construed to be the agent, employee or representative of Landlord. In the event a lien is placed against the Premises, through actions of the Tenant, Tenant will promptly pay the same or bond against the same and take steps immediately to have such lien removed. If the Tenant fails to have the Lien removed, the Landlord shall take steps to remove the lien and the Tenant shall pay Landlord for all expenses related to the Lien and removal thereof and shall be in default of this Lease.

X. LICENSES AND PERMITS. A copy of any and all local, state or federal permits acquired by the Tenant which are required for the use of the Premises shall be kept on site at all times and shall be readily accessible and produced to the Landlord and/or their agents or any local, state, or federal officials upon demand.

XI. OBLIGATIONS OF TENANT. The Tenant shall be primarily responsible whenever needed for the maintenance and general pickup of the entranceway leading into the Premises, so that this is kept in a neat, safe and presentable condition. The Tenant shall also be responsible for all minor repairs and maintenance of the leasehold Premises, particularly those items which need immediate attention and which the Tenants, or their employees, can do and perform on their own, including but not limited to, the replacement of light bulbs, as well as the normal repair and cleaning of windows, cleaning and clearing of toilets, etc., and the Tenant shall properly maintain the Premises in a good, safe, and clean condition. The Tenant shall properly and promptly remove all rubbish and hazardous wastes and see that the same are properly disposed of according to all local, state or federal laws, rules regulations or ordinances.

In the event the structure of the Premises is damaged as a result of any neglect or negligence of Tenant, their employees, agents, business invitees, or any independent contractors serving the Tenant or in any way as a result of Tenant's use and occupancy of the Premises, then the Tenant shall be primarily responsible for seeing that the proper claims are placed with the Tenant's insurance company, or the damaging party's insurance company, and shall furthermore be responsible for seeing that the building is safeguarded with respect to said damage and that all proper notices with respect to said damage, are made in a timely fashion, including notice to the Landlord, and the party or parties causing said damage. Any damage that is not covered by an insurance company will be the liability of the Tenant.

The Tenant shall, during the term of this Lease, and in the renewal thereof, at its sole expense, keep the interior of the Premises in as good a condition and repair as it is at the date of this Lease, reasonable wear and use excepted. This obligation would include the obligation to replace any plate glass damaged as a result of the neglect or acts of Tenant or her guests or invitees. Furthermore, the Tenant shall not knowingly commit nor permit to be committed any act or thing contrary to the rules and regulations prescribed from time to time by any federal, state or local authorities and shall expressly not be allowed to keep or maintain any hazardous waste materials or contaminants on the Premises. Tenant shall also be responsible for the cost, if any, which would be incurred to bring her contemplated operation and business activity into compliance with any law or regulation of a federal, state or local authority.

XII. INSURANCE. In the event the Tenant shall fail to obtain insurance required hereunder and fails to maintain the same in force continuously during the term, Landlord may, but shall not be required to, obtain the same and charge the Tenant for same as additional rent. Furthermore, Tenant agrees not to keep upon the Premises any articles or goods which may be prohibited by the standard form of fire insurance policy, and in the event the insurance rates applicable to fire and extended coverage covering the Premises shall be increased by reason of any use of the Premises made by Tenant, then Tenant shall pay to Landlord, upon demand, such increase in insurance premium as shall be caused by said use or Tenant's proportionate share of any such increase.

XIII. SUBLET/ASSIGNMENT. The Tenant may not transfer or assign this Lease, or any right or interest hereunder or sublet said leased Premises or any part thereof without first obtaining the prior written consent and approval of the Landlord.

XIV. DAMAGE TO LEASED PREMISES. In the event the building housing the Premises shall be destroyed or damaged as a result of any fire or other casualty which is not the result of the intentional acts or neglect of Tenant and which precludes or adversely affects the Tenant's occupancy of the Premises, then in every such cause, the rent herein set forth shall be abated or adjusted according to the extent to which the leased Premises have been rendered unfit for use and occupation by the Tenant and until the demised Premises have been put in a condition at the expense of the Landlord, at least to the extent of the value and as nearly as possible to the condition of the Premises existing immediately prior to such damage. It is understood, however, in the event of total or substantial destruction to the Premises that in no event shall the Landlord's obligation to restore, replace or rebuild exceed an amount equal to the sum of the insurance proceeds available for reconstruction with respect to said damage.

XV. DEFAULT AND POSSESSION: In the event that the Tenant shall fail to pay said rent, and expenses as set forth herein, or any part thereof, when the same are due and payable, or shall otherwise be in default of any other terms of said Lease for a period of more than 15 days, after receiving notice of said default, then the parties hereto expressly agree and covenant that the Landlord may declare the Lease terminated.

If the premises contains marijuana or marijuana product, the landlord/lessor cannot take possession, enter the property or remove any contents contained therein until AMCO has been contacted regarding the default and arrangements have been made to remove marijuana product. After such arrangements have been made, landlord/lessor may immediately re enter property and take possession.

Rent which is in default for more than 5 days after due date shall accrue a payment penalty of one of the following:

(check one)

☐ - Interest at a rate of _____ percent (____%) per annum on a daily basis until the amount is paid in full.

☒ - Late fee of twenty five dollars (\$ 25) per day until the amount is paid in full.

In this regard, all delinquent rental payments made shall be applied first toward interest due and the remaining toward delinquent rental payments.

XVI. INDEMNIFICATION. The Tenant hereby covenants and agrees to indemnify, defend and hold the Landlord harmless from any and all claims or liabilities which may arise from any cause whatsoever as a result of Tenant's use and occupancy of the Premises, and further shall indemnify the Landlord for any losses which the Landlord may suffer in connection with the Tenant's use and occupancy or care, custody and control of the Premises. The Tenant also hereby covenants and agrees to indemnify and hold harmless the Landlord from any and all claims or liabilities which may arise from any latent defects in the subject Premises that the Landlord is not aware of at the signing of the lease or at any time during the lease term.

XVII. BANKRUPTCY - INSOLVENCY. The Tenant agrees that in the event all or a substantial portion of the Tenant's assets are placed in the hands of a receiver or a Trustee, and such status continues for a period of 30 days, or should the Tenant make an assignment for the benefit of creditors or be adjudicated bankrupt; or should the Tenant institute any proceedings under the bankruptcy act or any amendment thereto, then such Lease or interest in and to the leased Premises shall not become an asset in any such proceedings and, in such event, and in addition to any and all other remedies of the Landlord hereunder or by law provided, it shall be lawful for the Landlord to declare the term hereof ended and to re-enter the leased land and take possession thereof and all improvements thereon and to remove all persons therefrom and the Tenant shall have no further claim thereon.

XVIII. SUBORDINATION AND ATTORNMENT. Upon request of the Landlord, Tenant will subordinate its rights hereunder to the lien of any mortgage now or hereafter in force against the property or any portion thereof, and to all advances made or hereafter to be made upon the security thereof, and to any ground or underlying lease of the property provided, however, that in such case the holder of such mortgage, or the Landlord under such Lease shall agree that this Lease shall not be divested or in any way affected by foreclosure, or other default proceedings under said mortgage, obligation secured thereby, or Lease, so long as the Tenant shall not be in default under the terms of this Lease. Tenant agrees that this Lease shall remain in full force and effect notwithstanding any such default proceedings under said mortgage or obligation secured thereby.

Tenant shall, in the event of the sale or assignment of Landlord's interest in the building of which the Premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Landlord covering the Premises, attorn to the purchaser and recognize such purchaser as Landlord under this Lease.

XIX. MISCELLANEOUS TERMS.

- I. Usage by Tenant: Tenant shall comply with all rules, regulations and laws of any governmental authority with respect to use and occupancy. Tenant shall not conduct or permit to be conducted upon the Premises any business or permit any act which is contrary to or in violation of any law, rules or regulations and requirements that may be imposed by any authority or any insurance company with which the Premises is insured, nor will the Tenant allow the Premises to be used in any way which will invalidate or be in conflict with any insurance policies applicable to the building. In no event shall explosives or extra hazardous materials be taken onto or retained on the Premises. Furthermore, Tenant shall not install or use any equipment that will cause undue interference with the peaceable and quiet enjoyment of the Premises by other tenants of the building.
- II. Signs: Tenant shall not place on any exterior door, wall or window of the Premises any sign or advertising matter without Landlord's prior written consent and the approval of the Kanai Peninsula Borough [Municipality]. Thereafter, Tenant agrees to maintain such sign or advertising matter as first approved by Landlord in good condition and repair. Furthermore, Tenant shall conform to any uniform reasonable sign plan or policy that the Landlord may introduce with respect to the building. Upon vacating the Premises, Tenant agrees to remove all signs and to repair all damages caused or resulting from such removal.
- III. Pets: Unless otherwise stated in this Lease Agreement, the only pets that shall be allowed on the Premises are those needed legally due to a disability or handicap.
- IV. Condition of Premises/Inspection by Tenant: The Tenant has had the opportunity to inspect the Premises and acknowledges with its signature on this lease that the Premises are in good condition and comply in all respects with the requirements of this Lease. Furthermore, the Landlord makes no representation or warranty with respect to the condition of the Premises or its fitness or availability for any particular use, and the Landlord shall not be liable for any latent or patent defect therein. Furthermore, the Tenant represents that Tenant has inspected the

Premises and is leasing and will take possession of the Premises with all current fixtures present in their "as is" condition as of the date hereof.

- V. **Right of Entry:** It is agreed and understood that the Landlord and its agents shall have the complete and unencumbered right of entry to the Premises at any time or times for purposes of inspecting or showing the Premises and for the purpose of making any necessary repairs to the building or equipment as may be required of the Landlord under the terms of this Lease or as may be deemed necessary with respect to the inspection, maintenance or repair of the building.

XX. ESTOPPEL CERTIFICATE. Tenant at any time and from time to time, upon at least ten (10) days prior notice by Landlord, shall execute, acknowledge and deliver to Landlord, and/or to any other person, firm or corporation specified by Landlord, a statement certifying that the Lease is unmodified and in full force and effect, or if the Lease has been modified, then that the same is in full force and effect except as modified and stating the modifications, stating the dates to which the fixed rent and additional rent have been paid, and stating whether or not there exists any default by Landlord under this Lease and, if so, specifying each such default.

XXI. HOLDOVER. Should Tenant remain in possession of the Premises after the cancellation, expiration or sooner termination of the Lease, or any renewal thereof, without the execution of a new Lease or addendum, such holding over in the absence of a written agreement to the contrary shall be deemed, if Landlord so elects, to have created and be construed to be a tenancy from month to month, terminable upon thirty (30) days' notice by either party.

XXII. WAIVER. Waiver by Landlord of a default under this Lease shall not constitute a waiver of a subsequent default of any nature.

XXIII. GOVERNING LAW. This Lease shall be governed by the laws of the State of Alaska.

XXIV. NOTICES. Payments and notices shall be addressed to the following:

Landlord

Jesse & Rebecca Spurgeon
50415 WRANGELL DR
Kenai, AK. 99611

Tenant

<u>Jesse Spurgeon</u>	<u>Kaden Spurgeon</u>
<u>50415 WRANGELL DR</u>	<u>47118 MUSKIE ST</u>
<u>Kenai, AK. 99611</u>	<u>Nikiski, AK. 99635</u>

XXV. AMENDMENT. No amendment of this Lease shall be effective unless reduced to writing and subscribed by the parties with all the formality of the original.

XXVI. BINDING EFFECT. This Lease and any amendments thereto shall be binding upon the Landlord and the Tenants and/or their respective successors, heirs, assigns, executors and administrators.

IN WITNESS WHEREOF, the parties hereto set their hands and seal this ____ day of _____, 20____.

Landlord's Signature

[Signature]

Printed Name

Jesse L. Spurgeon Rebecca Spurgeon

Tenant's Signature

[Signature]

Printed Name

Jesse L. Spurgeon Rebecca Spurgeon

Tenant's Signature

[Signature]

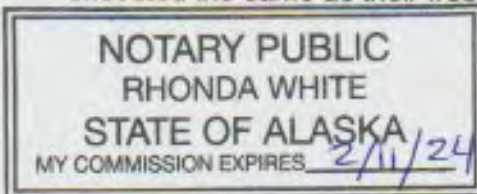
Printed Name

KADEN SPURGEON

ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF ALASKA
COUNTY OF KENAI PENINSULA BOROUGH

On this 30 day of SEPTEMBER, 2021, before me appeared JESSE SPURGEON, as **LANDLORD** of this Commercial Lease Agreement who proved to me through government issued photo identification to be the above-named person, in my presence executed foregoing instrument and acknowledged that they executed the same as their free act and deed.



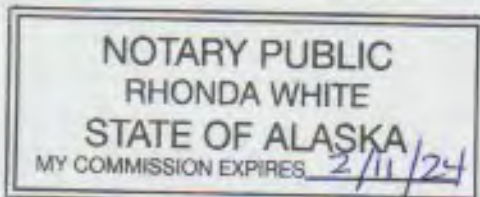
[Signature]
Notary Public

My Commission Expires: 2/11/24

ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF ALASKA
COUNTY OF KENAI PENINSULA BOROUGH

On this 30 day of SEPTEMBER, 2021, before me appeared KADEN SPURGEON as **TENANT(S)** of this Commercial Lease Agreement who proved to me through government issued photo identification to be the above-named person, in my presence executed foregoing instrument and acknowledged that they executed the same as their free act and deed.



[Signature]
Notary Public

My Commission Expires: 2/11/24



Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

MARIJUANA LICENSE LOCAL REVIEW STANDARDS ACKNOWLEDGEMENT FORM

Please review the statements below and acknowledge your understanding of the conditions and intent to comply by your signature below.

There shall be no parking in borough rights-of-way generated by the marijuana establishment.

If I have a retail marijuana license, I will not conduct any business on, or allow any consumer to access, the premises, between the hours of 2:00 a.m. and 8:00 a.m. each day.

I must stay current in obligations owed to the Kenai Peninsula Borough or my license may be subject to a protest by the KPB Assembly.

It is my responsibility to abide by all federal, state, and local laws applicable to my marijuana establishment.

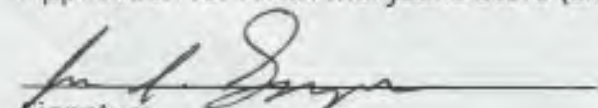
I understand Kenai Peninsula Borough staff will enter my property for purposes of evaluating ongoing compliance with KPB 7.30 and any conditions placed on the license by the State of Alaska Marijuana Control Board.

I have received, read and understand the additional review standards and conditions set out in KPB 7.30.

Back Alley Vapes

51698 Kenai Spur Highway, Nikiski, AK 99635; T 7N R 12W SEC 1 SEWARD MERIDIAN
KN 0001400 NIKISHKA SUB NO 2 LOT 4 BLK 2

Application for Retail Marijuana Store (License Number: 28917)


Signature

3-15-2021
Date

Jesse L. Spurgeon

132



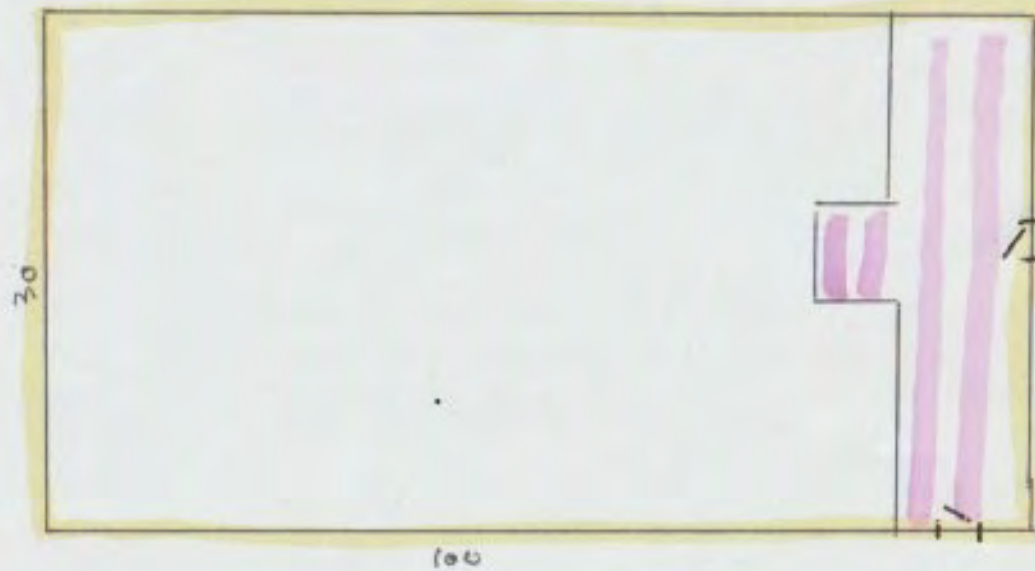
■ - LICENSED PREMISES

■ - PARKING / Delivery / LOADING

■ - ENTRANCE



Jesse I. Spurgeon



- - ACCESS FROM KENAI SPUR HWY
- NO ADDITIONAL BUILDINGS ON LOCATION
- - STRUCTURE
- - LOT LINE
- - Proposed Premises



Applicant: Back Alley Vapes

KPB Parcel ID: 01209004

Aerial Imagery Map



- Parcel Boundary
- All Other Parcels

Vicinity

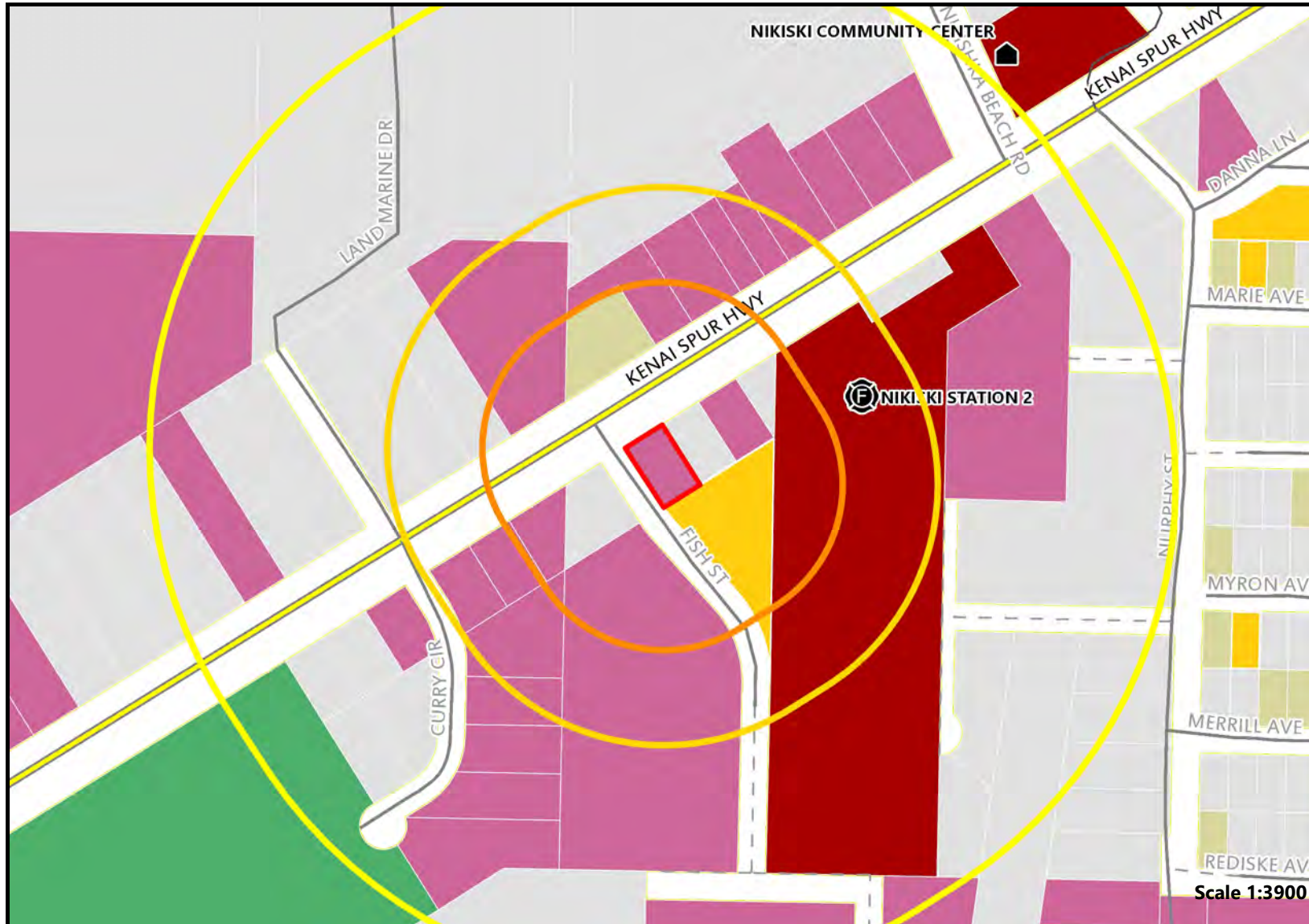




Applicant: Back Alley Vapes

KPB Parcel ID: 01209004

Adjacent Land Use Map



AMCO # 28917

- 1000ft Radius
- 500ft Radius
- 300ft Notification Area
- Parcel Boundary

Land Usage in 1000ft radius

- Accessory Building
1 parcels
- Commercial
26 parcels
- Industrial
1 parcels
- Institutional
2 parcels
- Residential
1 parcels
- Vacant
30 parcels

Vicinity



Radii shown depict the distance from the parcel boundaries. KPB 7.30 states that the distance must be measured by the shortest pedestrian route. If there were relevant facilities within the 500-foot or 1,000-foot radius, the shortest pedestrian path would be measured and depicted here.