



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. 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

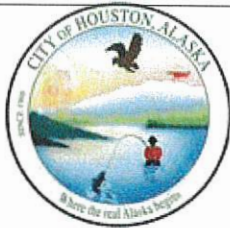
MEMORANDUM

TO: Marijuana Control Board DATE: February 20, 2019

FROM: Erika McConnell, Director RE: Kine Co,
#17409, Standard Cultivation Facility

In December of 2018, the board approved this application with delegation. On January 11, 2019, AMCO received a timely protest by the City of Houston due to lack of compliance with local setback requirements. It appears the applicant is seeking a variance. The protest is provided as the second page in this memo tab.

I recommend that the board rescind its prior approval with delegation, and then uphold the protest and deny the application with a 90 day abeyance, to be in accordance with 3 AAC 306.060.



Approved	Denied
Public Hearing	01.10.19
Date Action Taken	01.10.19
Attest:	<i>S. Aukes, City Clerk</i>

**CITY OF HOUSTON
ACTION MEMORANDUM No. 19-02**

**City Council Statement of protest for a New Marijuana Standard Cultivation License
#17409 held by Kine Co. LLC.**

Originator: Virgie Thompson, Mayor
Date: January 2, 2019

Agenda of: January 10, 2019

Route to:	Department Head	Signature	Date
X	City Clerk	<i>S. Aukes</i>	1.4.19
X	Fire Chief	<i>[Signature]</i>	1/4/2019
	Police Chief		
X	Public Works Director	<i>[Signature]</i>	1-4-19
X	Treasurer	<i>[Signature]</i>	1-4-19

Reviewed by Mayor: *Virgie Thompson*

Attachment(s):

- Application Notice
- Staff referrals under HMC 5.10.050
- Notice of Public Hearing
- Marijuana License 17409 Application

Summary statement:

Kine Co. LLC. has applied for a new for a Marijuana Standard Cultivation Establishment License #17409. State law requires local governing bodies to review requests pertaining to marijuana licenses within their municipalities. The City may waive the right to protest or may file a protest to a request.

Before taking action on a marijuana license application, the Mayor shall provide for a public hearing before the City Council. Within 15 business days after the referrals under HMC [5.10.050](#), the Mayor shall schedule each marijuana license application for consideration by the City Council at its next City Council meeting and send written notice to the applicant.

A review of the referrals relating to marijuana license application has been completed. Based on that review, The Mayor recommends the following action:

	WAIVE THE RIGHT TO PROTEST
X	PROTEST the issuance of the license for the following factor(s). (HMC 5.10.050).
X	➤ Staff referrals.
Public Works	1).HMC 10.03.110 (7)(B) Marijuana Establishment Setback/Buffer. a. Structures containing a marijuana retail store shall be set back a minimum of 100 feet from any adjacent residential lot line, and include a minimum 25-foot vegetative buffer. b. All other marijuana establishments shall provide a minimum 25-foot setback and buffer of natural vegetation from adjacent properties.
	➤ Concentration of other licenses of the same and other types in the area.
	➤ Other factors.
	CONDITIONS recommend the issuance of the license with the following conditions(s). (HMC 5.10.060).
	SUSPENSION OR REVOCATION request a suspension or revocation of the license pursuant to 3 AAC 306.060;

If the City Council protests an application or recommends conditions on which the application shall be granted, the City Council shall state on record the reasons for its decisions, and the Mayor shall notify the Board and the applicant in writing of the decision.

Reasons for protest:

1). The applicant does not meet the City's setback/buffer land ordinance for a marijuana establishment. HMC 10.03.110 (F) (7).

2). The applicant has not been granted a variance for the buffer.

If the City Council finds that the basis for its decision to protest an application, or to recommend conditions on which the application should be granted, no longer exists, the City Council may rescind its decision and direct the Mayor to notify the Board and the applicant of the decision.

Administration recommendation: Approve Action Memorandum 19-02.

Office of the City Clerk Use Only

- ☐ Applicant noticed of Public Hearing:
- ☐ Applicant noticed of decision: AMCO noticed of decision:
- ☐ MSB Noticed (Relocation only):
- ☐ Houston Planning Commission noticed of decision:

City of Houston, Alaska
Mayor's Office



Friday, December 21, 2018

TO: City Clerk, Treasurer
Public Works Director
Fire Chief
Police Chief/Mayor

Application Type: New

License Type: Marijuana Standard Cultivation Establishment License

License Number: ☐ (17409)

Licensee/Applicant Name: ☐ (Kine Co. LLC.)

Business Name: ☐ (Kine Co.)

Physical Location of Business: ☐ (12749 W Westen Dr. Houston, AK. 99694)

The above referenced license was received by the City Clerk on: 11/28/2018

Staff must determine whether the applicant complies with the provisions of ☐ HMC 5.10.050 Marijuana Licensing and Regulations).

The application was reviewed in accordance with ☐ HMC 5.10.050 Marijuana Licensing and Regulations); and the following findings are reported:

Department Name	Recommend Non- Protest	Recommend Protest (Please provide written statement under separate cover)	Authorized Signature
Clerk's Office HMC 5.10.050(B)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Public Works HMC 5.10.050(A)	<input type="checkbox"/>	<input checked="" type="checkbox"/> VARIANCE 11/1 PROCESS	
Fire Chief HMC 5.10.050(D)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Police Chief/Mayor HMC 5.10.050(C)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Revised 6/18



MEMORANDUM

DATE: January 4, 2018
TO: Mayor Thompson *RM*
FROM: Ray Russell, Public Works Director
SUBJECT: Marijuana Application (pending) Kine Co. LLC

Re: Kine Co LLC Marijuana Cultivation license.

12749 Weston Drive, (Parcel ID 5723 or Denlow Business Park Block 3 Lot 2)

Under **HMC 10.03.110 PH district – Parks Highway district.**

7. Marijuana Establishment Setback/Buffer.

- a. Structures containing a marijuana retail store shall be set back a minimum of 100 feet from any adjacent residential lot line, and include a minimum 25-foot vegetative buffer.*
- b. All other marijuana establishments shall provide a minimum 25-foot setback and buffer of natural vegetation from adjacent properties.*

The building is approximately 24 feet from LOT 3 to the East. Corrective action would require a Variance.

Public Works Recommendations

I recommend protest of the **Kine Co LLC** marijuana application, based on Houston Municipal Code.

CITY OF HOUSTON

A handwritten signature in blue ink, appearing to read "Ray Russell", is written over the printed name.

Raymond Russell
Deputy Public Works Director

City of Houston, Alaska
Public Works Department



December 10, 2018

Kine Co LLC
SOA License Number 17409
189 E Nelson Ave #214
Wasilla AK 99654

Re: Marijuana License Review

Dear Business Owner:

Your marijuana license application has come up for review by the City of Houston. Per HMC 5.10.050 (A) the Public Works Department has reviewed your application for compliance.

At this time your application does not meet the provisions of HMC 5.08.020(B) for the following reason(s):

- ☐ Structure at license location does not conform to HMC Title 10.
- ☐ Use of land or structures at license location does not conform to HMC Title 10.
- ☐ Platting regulations, including recorded subdivision reservations, restrictions and covenants or the terms and conditions of any rezone does not conform to HMC Title 10.
- ☒ Other: Per HMC 10.03.110 F7b. Minimum set-back and buffer is not met to the South-East property line.

The Public Works Department will recommend that your marijuana license be protested if the above non-conformities are not corrected. Please contact the Public Works Department to correct any non-conformities.

If you have any questions, you can reach the Public Works Department at 907-892-6869.

Sincerely,

Ray Russell
Public Works
rrussell@houston-ak.gov

CC: Mayor's Office
City Clerk's Office
Enclosures: Houston Municipal Code 5.10.050



City of Houston

PO Box 940027 (907) 355-6869 Direct
13878 W Armstrong (907) 892-7677 Fax
Houston AK 99694 (907) 892-6457 Fire

Variance Permit

Houston Municipal Code 10.08.080

(\$800.00 Fee)

Applicant or Owner: Denlow Land Trust 12749, Tun Bay, Inc., Trustee, B. H. Tilton Sec./Trea. Phone: 907-376-2697

Mailing Address: PO Box 871468, Wasilla, Alaska 99687

Physical Address: 12749 Westen Drive, Houston, Alaska 99694

Legal Description of the Property: Lot 2, Block 3 Denlow Business Park

Project Description: Requesting Approval of set-back within 4.8 inches at one corner to 15.6 inches at second corner on East Boundary of existing Building

An application for a variance from a requirement of Title 10 shall contain:

- A legal description of the property involved; and
- A site plan as –built of the particular parcel or parcels affected, submitted under the seal of a registered professional land surveyor, which shows all the existing and proposed buildings or alterations and other information relevant to the variance request; and
- Evidence of the ability and intention of the applicant to proceed in accordance within 12 months after the effective date if the variance; and
- **A Statement and adequate evidence showing the following conditions**, all four of which must be met before a variance may be granted HMC 10.08.080.

1. There are special circumstances that apply to the particular property or the intended use, such as shape or parcel, topography or location characteristics, that do not apply to the other property or class of use in the same district;

Please see attached.

2. The strict application of the provisions of this title would deprive the application of rights commonly enjoyed by other properties in the same district under the terms of this title;

Please see attached.

3. The special conditions and circumstances do not result from the applicant and do not merely constitute pecuniary hardship or inconvenience;

Please see attached.

4. The granting of the variance will be in harmony with the objectives of the Comprehensive Plan and Title 10, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

Please see attached.

- ❖ If a property qualifies for a variance, the variance granted **must** meet the following conditions.
 - The deviation from the requirement of Title 10 that is permitted by the variance may be no more than is necessary to permit a reasonable use of the lot.
 - The variance will not permit a land use that is prohibited by Title 10.
 - The variance will keep with the spirit and intent of Title 10 and the requirements of which relief is sought.
 - The variance will not adversely affect other property.
- ❖ A variance shall not be granted which will permit a land use in a district in which that use is not otherwise permitted, or in which that use is strictly prohibited.

Signature of Applicant or Owner: BOAillen Sec/Treas Date: 12-21-18
Tux Bay, Inc., Treasurer

For office Use Only

Date Received: _____ Fee Paid \$800.00 _____ Zoning: _____

Tentative HPC review: _____ Application complete: _____

Signature: _____ Date of Issue: _____ Approved: As Is With Conditions

Comments:

* All activity regulated or permitted under this title must comply with applicable borough, state & federal laws & regulations. (HMC 10.01.015)

Attachment to
VARIANCE PERMIT
HOUSTON MUNICIPAL CODE 10.08.080

This request for variance is specifically focused on the Houston Municipal Code 10.03.110.PH District. F.7.b. (Parks Highway District), which requires a minimum set back of 25 feet from adjacent properties for marijuana facilities.

The property is owned by Denlow Land Trust 12749, Tun Bay, Inc., Trustee, B. H. Tilton, Sec./Trea. The property is located at 12749 Westen Drive, Houston, Alaska 99694. The legal description is Lot 2, Block 3 Denlow Business Park, according to Plat #77-21, Palmer Recording District, Third Judicial District, State of Alaska.

The property is in the Parks Highway District, which zoning allows for marijuana establishments. The Tenant, Kine Co., LLC, has applied to the State of Alaska for a marijuana cultivation license, know as License #17409.

The Houston Municipal Code provides a Variance Code Permit application with four (4) specific areas to cover. They are as follows:

1. There are special circumstances that apply to the particular property or the intended use, such as shape or parcel, topography or location characteristics, that do not apply to the other property or class of use in the same district;

Please refer to the attached As-Built Survey and you see that the existing building is a structure that meets all of the set back requirements except on the East boundary. The southern corner is 4.8 inches short of 25 feet, the minimum set back from adjoining properties, and 15.6 inches short of the setback on the northern corner. This comprises a total triangular area of 15.145 square feet along the length of structure. To better visualize the size of this area, it is one-half ($\frac{1}{2}$) the square area of a 4 foot by 8 foot sheet of plywood. The structure was in the location depicted in the as-built survey when it was acquired by the current Owner. This special circumstance is not easily corrected by moving the building as it sets partially on a poured slab and partially on a crawl space foundation. The adjoining property owners are not disposed to sell or replat the adjoining property line. Of the number of existing, licensed marijuana businesses in this development, our structure is unique in that it was existing and theirs are new construction, allowing placement to fit the requirements of the code.

2. The strict application of the provisions of this title would deprive the application of rights commonly enjoyed by other properties in the same district under the terms of this title;

Kine Co., LLC, received an email from Ms. Sally Schug, Deputy City Clerk on June 14, 2018, which stated that the "Public Works Director has recommended approval of your place of business" Also, on July 24, 2018, Fire Chief, Christian M. Hartley, responded to Kine Co., LLC, that the Houston Fire Department had no objections to the facility's access from the George Parks Highway. Copies of both emails are attached for your review. Based on these assurances, Kine Co., LLC has proceeded with expenditures to meet the requirements of the Fire Marshall and the State licensing Board. The Denlow Business Park has other approved and licensed marijuana facilities in it. A strict application of the provisions of this title would give benefit to the other properties so licensed, but deprive the Applicant and its Tenant of similar rights and benefits.

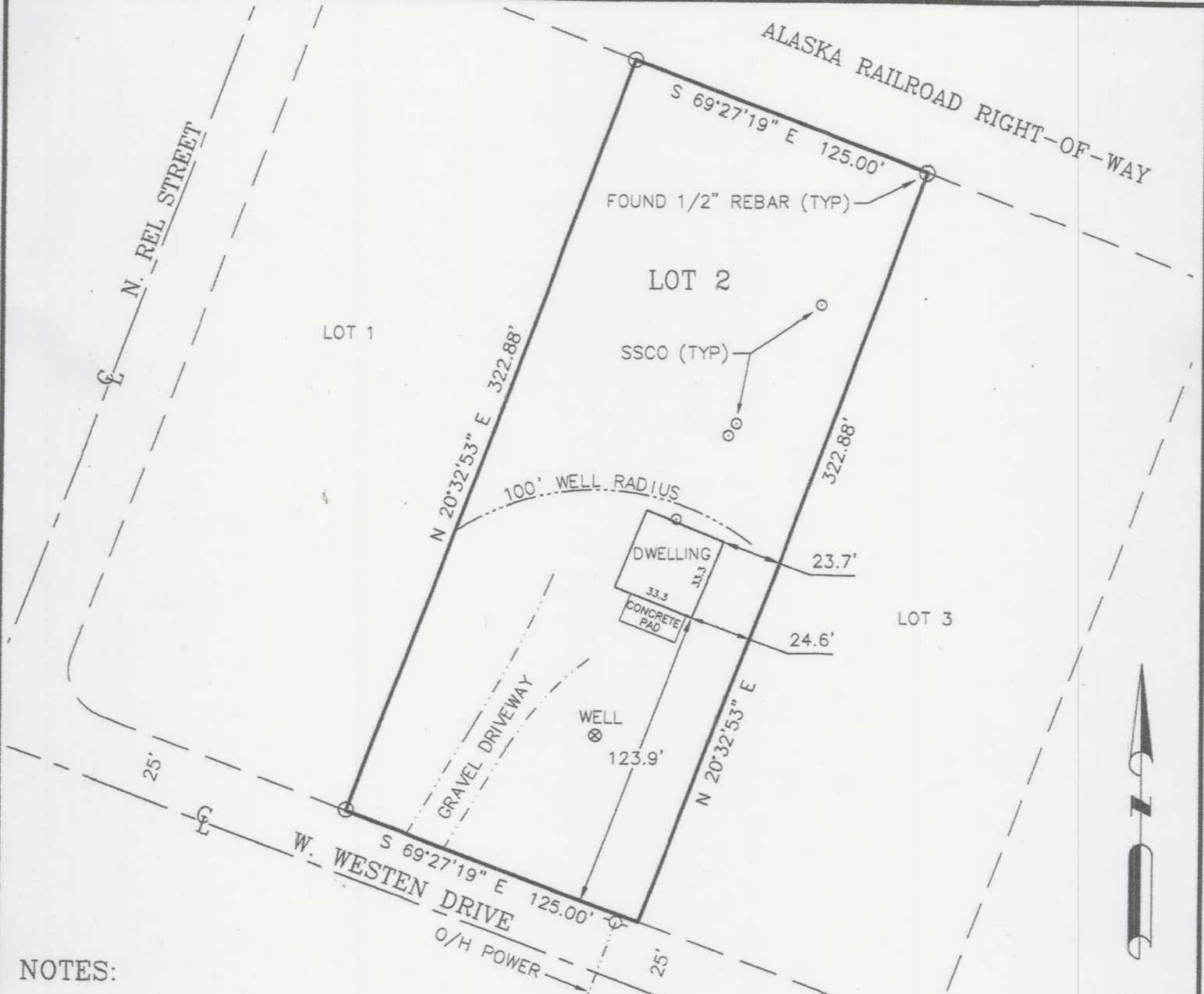
VARIANCE PERMIT
HOUSTON MUNICIPAL CODE 10.08.080
Continued

3. The special conditions and circumstances do not result from the applicant and do not merely constitute pecuniary hardship or inconvenience;

The existing building was not constructed by Applicant. It was originally built as a residence and met those setback requirements. With the change in the Municipal Code to accommodate marijuana businesses the building was put 15,145 square feet out of compliance. A normal response might be to move the building, but the combination type foundations (poured slab and crawl space) could leave the building structurally unsound. A replat of the eastern lot line with the neighbor appears unlikely because they seem indisposed to even answer a phone call. An approved variance coupled with a privacy fence along the eastern lot line to a distance north and south of the building, to the approval of the Public Works Director, would solve the challenge and provide required buffering from any future buildings on the adjoining lot.

4. The granting of the variance will be in harmony with the objectives of the Comprehensive Plan and Title 10, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

The intent of the Parks Highway District will be accomplished because another business will be established in Houston increasing Houston's economic base. Because this District allows marijuana establishments, and several are all ready licensed and established in Denlow Business Park. This business will fit the character and harmony of the area. Because the facility is over 530 feet from the Parks Highway corridor there is no impact to the entry to the community



NOTES:

1. UTILITIES OTHER THAN THOSE SHOWN MAY EXIST ON THIS SITE. ONLY THOSE UTILITIES SEEN ON THE DATE OF SURVEY ARE SHOWN HEREON.
2. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT.
3. THIS DRAWING WAS PREPARED IN ACCORDANCE WITH THE A.S.P.L.S. MORTGAGE SURVEY STANDARDS. THIS SURVEY DOES NOT CONSTITUTE A BOUNDARY SURVEY AND IS SUBJECT TO ANY INACCURACIES THAT A SUBSEQUENT BOUNDARY SURVEY MAY DISCLOSE. UNDER NO CIRCUMSTANCES SHOULD ANY DATA SHOWN BE USED TO CONSTRUCT ANY FUTURE STRUCTURE, FENCE, OR ANY OTHER IMPROVEMENTS.
4. ALL BEARINGS AND DISTANCES SHOWN ARE RECORD, UNLESS OTHERWISE NOTED.

ASBUILT SURVEY

LOT 2, BLOCK 3, DENLOW BUSINESS PARK

©BULL MOOSE SURVEYING 2017

PALMER RECORDING DISTRICT, ALASKA

BULL MOOSE SURVEYING

ROBERT S. HOFFMAN
200 HYGRADE LANE, WASILLA, ALASKA 99654
(907) 357-6957 FAX (907) 357-6977
VISIT US AT BULL MOOSE SURVEYING.COM

REVISION BY DATE

MORTGAGE SURVEY CERTIFICATE:
I HEREBY CERTIFY THAT I, OR
SOMEONE UNDER MY DIRECT
SUPERVISION, HAVE PERFORMED A
MORTGAGEE'S INSPECTION ON THE
FOLLOWING DESCRIBED PROPERTY,
AND THAT NO ENCROACHMENTS
EXIST EXCEPT AS INDICATED.



DRAWN BY:
RSH

DATE OF SURVEY:
11/7/2017

PREPARED FOR:
DENLOW LAND TRUST 12749

CHECKED BY:
SES

SECTION TWP. RANGE
35 18N 3W S.M.

SCALE:
1"=60'

PLAT #77-21

cci1@wwdb.org

From: "Jordan Agen" <kinecoak@gmail.com>
Date: Thursday, June 14, 2018 3:15 PM
To: <forsaleinwasilla@icloud.com>; <cci1@wwdb.org>
Subject: Fwd: Business License Application & MJ Excise Tax License Application

Sent from my iPhone

Begin forwarded message:

From: Sally Schug <sschug@houston-ak.gov>
Date: June 14, 2018 at 9:08:29 AM AKDT
To: "<kinecoak@gmail.com>" <kinecoak@gmail.com>
Subject: Business License Application & MJ Excise Tax License Application

Good Afternoon,

This is just to let you know that Public Works Director has recommended approval of your place of business. Once we hear from the State, we will notify you to make your payment for the Business License Application and MJ Excise Tax License Application. Good Luck with your new business venture.

Thank You,
Sally Schug, Deputy City Clerk
City of Houston
PO Box 940027
Houston, Alaska 99694.
sschug@houston-ak.gov
Office: 907-892-6869
<http://www.houston-ak.gov/>



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City of Houston, Alaska
Mayor's Office



January 4, 2019

Kine Co. LLC
12749 W Westen Dr
Houston, AK 99694

Re: Marijuana Establishment License Review

Dear Business Owner:

Your marijuana establishment license application has come up for review by the City of Houston. Per HMC 5.10.060 the City Council will be holding a public hearing and considering the application at the next City Council meeting, to be held on the 10th day of January at 7:00 pm at Houston City Hall, 13878 W Armstrong Road, Houston AK 99694.

You may appear before the Council at this publicly noticed hearing to defend your application.

Below is a summary of any findings for your application under HMC 5.10.050:

- Minimum set-back and buffer is not met to the south-east property line. HMC 10.03.110

If you have any questions please contact the Clerk's Office at 907-892-6869.

Sincerely,

A handwritten signature in blue ink that reads "Virgie Thompson".

Virgie Thompson

Mayor

vthompson@houston-ak.gov

CC: Clerks Office
Public Works Department

Enclosure: Houston Municipal Code 5.10.050

City of Houston, Alaska
Fire Department



July 24, 2018

Mr. Tilton:

This letter is in response to your request for input from Houston Fire Department in regards to access needs for a business at 12749 W. Westen Drive in Houston, in the Denlow Business Park subdivision.

Houston Fire Department has physically visited the site and is familiar with the property, and is aware that access would come off of an existing driveway on Westen Drive which is accessed from Rel Street from the George Parks Highway. Houston Fire Department has no objection to the either access, and forward the following recommendations:

1. The driveway width be no less than 20 feet [Reference IFC (2009) 503.2.1].
2. If there will be a gate to secure the driveway, a key code be provided to the fire department to open the gate or a key box be provided with a gate key inside. Houston Fire Department recommends the use of Knox® Box. There is a specific key for City of Houston, and instructions can be provided as necessary [Reference IFC (2009) 506.1.1].
3. A key box be provided on any commercial structures in order to provide non-destructive emergency access into the building. Houston Fire Department recommends the use of Knox® Box. There is a specific key for City of Houston, and instructions can be provided as necessary [Reference IFC (2009) 506.1].

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "CHL", followed by a horizontal line.

Christian M Hartley, Fire Chief



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE

550 West 7th Avenue, Suite 1600

Anchorage, AK 99501

Main: 907.269.0350

November 28, 2018

City of Houston

Attn: City Clerk

VIA Email: sdukes@houston-ak.gov

CC: vthompson@houston-ak.gov

sschug@houston-ak.gov

alex.strawn@matsugov.us

adam.bradway@matsugov.us

permitcenter@matsugov.us

License Number:	17409
License Type:	Standard Marijuana Cultivation Facility
Licensee:	Kine Co. LLC
Doing Business As:	KINE CO
Physical Address:	12749 W. Westen Dr. Houston, AK 99694
Designated Licensee:	Jordan Agen
Phone Number:	907-232-6928
Email Address:	kinecoak@gmail.com

☒ **New Application**

AMCO has received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under 3 AAC 306.025(d)(2).

To protest the approval of this application(s) 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.

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 December 20-21, 2018 meeting.

Sincerely,

Erika McConnell

Erika McConnell, Director
amco.localgovernmentonly@alaska.gov