



MEMORANDUM

TO: Marijuana Control Board DATE: July 10, 2019

FROM: Erika McConnell, Director RE: 17692 Mr. Happy Farms LLC;
Limited Cultivation Facility

This limited cultivation facility located at 3900 N Sierra Street in Wasilla, was approved with delegation by the board in December of 2018. The Matanuska-Susitna Borough did not protest this application. The license was issued on March 5, 2019, and inspected on April 1, 2019, at which time the license was provided to the licensee. Mr. Happy Farms LLC is a limited liability company in good standing, owned by Matthew Shelton 75% and Thomas Dicus 25%.

At the end of May 2019, AMCO received a communication from a member of the public, stating that the location of the licensed premises shares a lot line with an elementary school, that the applicant did not provide notice to the North Lakes Community Council, and that the license violates the subdivision covenants. In the application reviewed by staff and the board, the applicant certified that the proposed premises is not within 500 feet of a school ground, and that the North Lakes Community Council had been provided a copy of their application on April 13, 2018.

Correspondence from Ms. Sam Hanson, the licensee's counsel, and the Mat-Su Borough is attached.

Separation from School Grounds

The lot upon which the licensed premises is located does abut the grounds of John D. Shaw Elementary School (see attached map). The premises are 60 feet from the shared lot line. As the board and staff were unaware of this at the time of initial review in December of 2018, I am bringing this back before the board for a determination regarding 3 AAC 306.010(a), which states:

The board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school ground, the outer boundaries of the recreation or youth center, the main public entrance of the building in which religious services are regularly conducted, or the main public entrance of the correctional facility.

Notice to Community Council

After receiving the allegation from the member of the public, I reached out to the licensee and asked how they had notified the North Lakes Community Council and whether they had evidence of

providing that notice. After a second inquiry, Ms. Weltzin, their counsel, responded that the applicant mailed the notice to the community council address in April of 2018, but did not request a return receipt, so they have no proof of delivery.

Subdivision Covenants

The board may decide to evaluate the subdivision covenants provided by Ms. Hanson and make a determination.

Attachments: Letter from Ms. Hanson
Correspondence with Ms. Hanson
Correspondence from Ms. Weltzin
Correspondence from Matanuska-Susitna Borough (with attachment)
Maps
MJ-00 Application Certifications
MJ-08 Local Government Notice Affidavit
MJ-02 Premises Diagram

June 21, 2019

Erika McConnell, Director
Alaska Marijuana Control Office
550 W 7th AVE, STE 1600
Anchorage, AK 99501

RE: Limited Marijuana Cultivation Facility license | Mr. Happy Farms LLC | License #17692
3900 Sierra Street, Wasilla | Shaw's Tri-Lakes Subdivision #4

Dear Ms. McConnell,

Thank you for the opportunity to have my comments provided to the AMCO board for their July meeting in review of this license. The below comments in response to your letter of June 3, 2019.

Proximity to Shaw Elementary School

During the Marijuana Control Board's review of this application, it was not brought to light that the facility was proposed on a parcel that abuts a school grounds. The applicant certified that the proposed premises was not within 500 feet of a school ground. The board received no information indicating otherwise.

John D. Shaw Elementary, named after the developer of Shaw's Tri-Lakes #4, allows it's PE classes to access and use the trails in the woods on it's property throughout the school year. They also use these trails for events catered to students and their families. Residents walk their children to school through the school property on an existing trail down the section line. It was actively used by residents prior to the school being built in 2006 and these trails exist today due to that constant usage. Residents use the trails on the school's property for snow machining, hiking, paintball games and dog walking. Non-area residents of the Mat-Su Borough park their cars at the cul-de-sac and access these trails. John D. Shaw Elementary might initially appear to be only utilizing part of their lot but it's trails are used by both their students and local residents. Most schools do not have the benefit of using their property for daily school activities. At anytime they can take nature walks, science walks and physical education walks into the woods and never need transportation for that group. They have access to their entire lot. Under 3 AAC 306.010. License restrictions (a) *"The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school ground"*. All schools have lot lines which designate the "outer boundaries of that school's property and ground". John D. Shaw Elementary schools' lot, which may be larger lot than most schools, should be treated equal to any other school those boundaries are their lot lines. At anytime in the future, Shaw's Elementary could add a development or choose to utilize any part of their lot. This license is not 500 feet from the outer boundaries of the school property lot line and the applicant did not share this with you. If you allow him his license will you then be requiring John D. Shaw Elementary to not use the 3-400 feet along Mr. Happy Farm's lot to keep him in compliance? Can you ask

for such a request from a lot owner? This elementary school uses it's lot and should have the opportunity to use all of it when they desire to. Your license restrictions identifies schools as a protective organization. Please provide the same protection to John D. Shaw Elementary as you would for any school and consider rescinding this license for non compliance and providing false information.
Copy A School Map.

Notice to the North Lakes Community Council

The licensee states that they sent notice to the North Lakes Community Council on April 13, 2018. I have requested the licensee to provide documentation of this. The AMCO office provided notice of a complete application to the North Lakes Community Council on December 7, 2018—the email is attached.

NLCC did not receive your notice— both email addresses were from old sources. The MSB's notification was received December 9, 2018 (during one of the two months we did not hold a meeting— we meet on January 31, 2019). We failed our community by not getting this out. This will not happen again. The MSB has 25 community councils with 5 currently inactive—resulting in 10,259 residents who will not receive a MSB or AMCO notice. Reaching out to residents to provide notice of an application isn't easy. Shy of a direct mailing to the applicant's surrounding lots, there will be an opportunity that notification isn't made.

The applicant posted on the Shaw's Tri-Lakes Alaska Facebook page on June 1, 2019 (the day after you made contact with him) the question " *What is north lakes community council?*" The two neighbors abutting his property drive past his driveway to reach their property and neither saw a posting— nor did other residents in the subdivision. Shaw's Tri-Lakes #4 was in the dark on this applicant. Copy B Facebook Post.

Subdivision Covenants

There was no information provided to the Marijuana Control Board regarding the subdivision covenants. Historically, the board has considered a wide range of factors when determining of the issuance of a license is in the public interest, including the expressed interest of neighborhoods. In general, the board views land use compatibility as falling with the local government's authority to determine, interpret, and enforce. That said, subdivision codes, covenants, and restrictions are a civil contract between two private parties that are generally enforced by the parties themselves.

"Subdivision codes, covenants, and restrictions are a civil contract between two private parties that are generally enforced by the parties themselves". This is correct when it comes to general covenants. But we are dealing with land covenants. A land covenant is a legally enforceable "contract" imposed in a deed upon the buyer of property. Most covenants "run with the land" and are legally enforceable on future buyers of the property by the local governing body thru zoning or by the HOA.

"Historically, the board has considered a wide range of factors when determining of the issuance of a license is in the public interest, including the expressed interest of neighborhoods". The expressed

interest of a single-family residential subdivision/neighborhood exists and can be found in their legally attached covenant. 189 residents have covenants surrounding and including this license's lot (the other 92 residents might have them as well).

Residential land owners, who purchase land with covenants, do so because they want to retain their subdivision's lifestyle/development outlined in the covenant restrictions. In some cases they pay more for that lot because of these covenants. The majority of single-family residential covenants protect them from commercial development– *the ultimate and purest definition of a single-family residential*. Here, the land owners can be assured that any future lot developments are guided by it's covenants–*which are the expressed interest of that neighborhood*.

Not all residential lots have covenants. Not all communities in our state have zoning. AMCO requires an applicant to identify the land which it is to be used on. The license is only available on that specific lot. If an applicant is using a lot with attached covenants attached– it most likely is a single-family residential lot curtailing commercial use. An applicant's commercial business location should always be in compliance with the local zoning and/or the covenants attached to it. Copy C-F Shaw's Tri-Lakes #4 Covenants.

"In general, the board views land use compatibility as falling with the local government's authority to determine, interpret, and enforce". The MSB has no codes, restrictions, or requirements that apply to a Limited Marijuana Cultivation Facility. Borough residents do not have the luxury of zoning. The MSB did *determine and interpret* covenants for single-family residential subdivisions in its' Borough Code. Under TITLE 17: ZONING: Chapter 17.52: Residential Land Use District: Where "Conditions, covenants, and restrictions" means legally established and recorded terms contained within a contract or deed allowing or restricting the use of land and types of buildings". They define Commercial use" as any activity other than a home occupation where goods or services are offered or provided for sale or trade. The MSB developed this chapter in 1983 to allow for the enforcement of residential subdivisions' covenants. There are only 14 subdivisions listed from an area with over 107,000 residents– these subdivisions were included between 1984– 1988. If those 14 subdivisions have covenants they did not come from the MSB– they came attached to their land (just like ours do). Without zoning in the Mat-Su Borough, we have no governing body to enforce land use compatibility- where covenants drive the development of our neighborhoods. Anchorage and zoned areas have cared for and protected single-family residential subdivisions by enforcing covenants. Copy G MSB Code.

Regarding this license: the lot was developed in 1984, purchased by the licensee in 2017 and within 13 months he applied with you. His lot is located a captive area between two main roads, where 281 single-family residents reside. Shaw's Tri-Lakes, #3, #4, #5, and #6, Kings Lake, and an unnamed subdivision all have covenants (198 residents including Mr. Happy Farms)– the other five subdivisions might have them as well. Since 1984, Shaw's Tri-Lakes #4 has never had to take a resident to court because of a commercial development issue. One might say– "show us where the subdivision

has used the legal system to uphold their covenants". The opposite applies as well– "we don't need enforce them because residents honor and acknowledge this as a single-family residential area which they have chosen to live in a single-family homes". Our community has a Shaw's Tri-Lakes Alaska Facebook page where residents share lost dogs, crime watch, and information our community needs to know. Copy H & I Shaw Tri-Lakes Map Area.

Purchasing a home is one of the largest and expensive investment most of us make and we take our time choosing where we want to reside, where to raise our family and where to retire. Residents who want to retain their quality of life, protect the value, character, and integrity of their residential neighborhoods rely on covenants to maintain that. Mr. Dicus purchased a lot with covenants prohibiting a commercial facility.

I am not asking the AMCO to enforce our covenants by taking a violator to court. But simply asking you to uphold their restrictions when providing a business license to a single-family residential lot that does not allow for commercial development.

If you allow this license to continue operating, you are forcing his 58 subdivision #4 neighbors to dig into their savings account and take legal actions for this covenant violation. A subdivision with covenant restrictions will always win this very-expensive and time-consuming lawsuit.

It is to the best interest of our public, to the express interest of single-family residential property owners covenants, and to the protection of John D. Shaw Elementary that you reconsider this license.

The issue of compatibility with single-family residents with covenants and no zoning is state-wide can easily be resolved.

I implore the AMCO board to consider adding land covenants to your license requirements. An applicant need only provide you with a copy of their covenants, if the lot they are applying for has one. Appreciate that an applicant knows if they are in compliance with their covenants before they even apply for a license. This request of your applicants does not put any additional work or effort on your part. It will assist our local governing bodies, our community councils, and will protect Alaskan residents' property investments and quality of life where zoning does not exist to enforce them.

The AMCO has the power and the ability to address this issue.

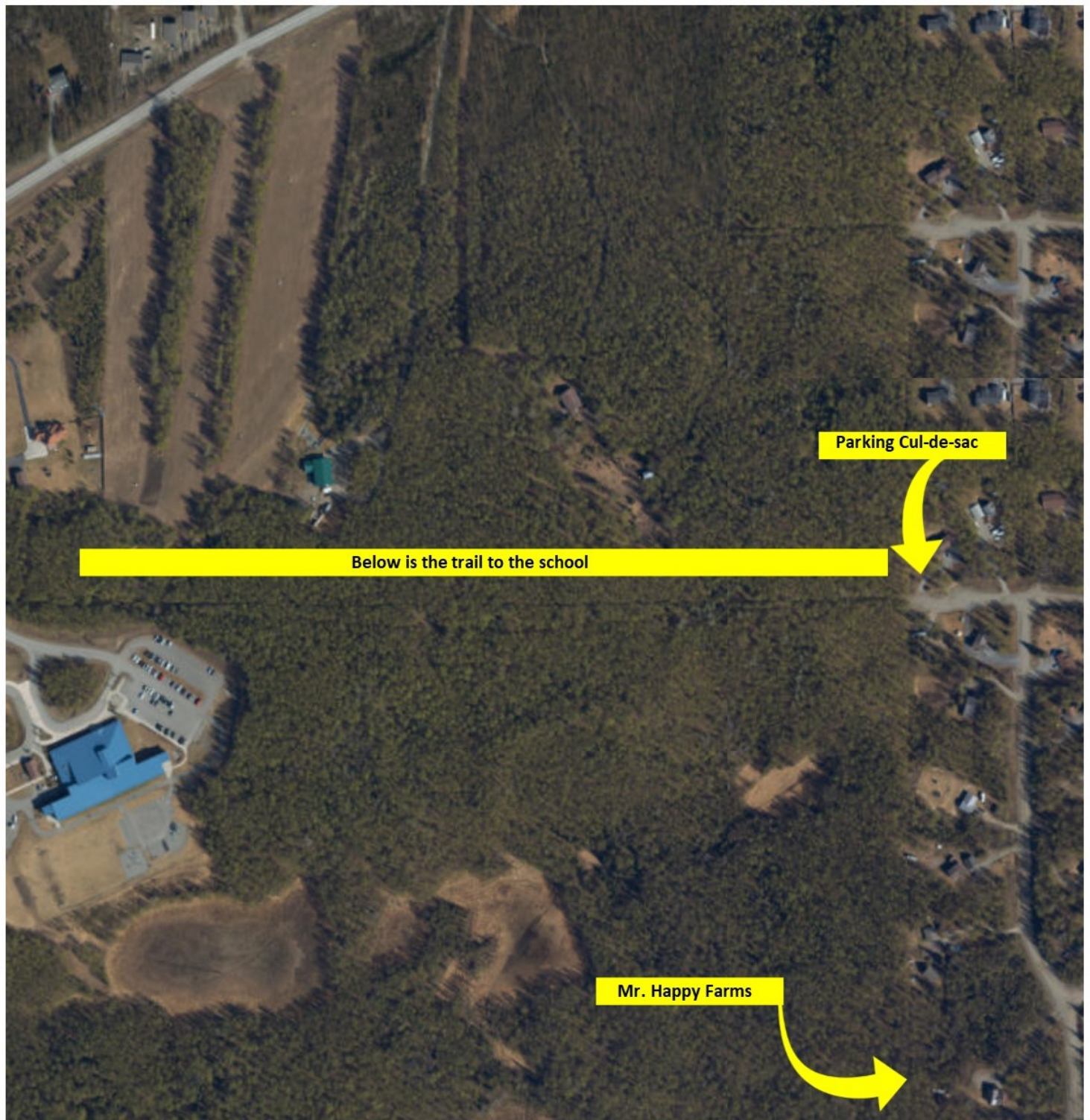
I thank you again for the opportunity to provide my comments to your board for their review.

Sincerely,

Sam A. Hanson

Alaskan resident since 1959 | Shaw's Tri-Lakes area resident since 1968

COPY A. John D. Shaw Elementary




AT&T

8:17 AM


facebook.com

←


Shaw's Tri Lakes Alaska





Thomas James Dicus ▶ Shaw's Tri Lakes Alaska

June 1 at 10:22 AM · 

What is north lakes community council?

 Like


 Comment




Kelly Price

"The North Lakes Community Council serves as a nonprofit, voluntary, self-governing association of residents of the North Lakes area. It is recognized by assembly resolution, but is not an arm of the Borough.
Meetings held monthly on the last Thursday of each month at the Mat-Su Boys & Girls Club 3700 E. Bogard Rd Wasilla"

<https://www.matsugov.us/boards/north-lakes-community-council>

 2



Matanuska-Susitna Borough - North Lakes...


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on Sat


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Thomas James Dicus

 . Thanks

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BOOK 0373 PAGE 640

SHAW'S TRI-LAKES SUBDIVISION
ADDITION #4--RESTRICTIONS AND COVENANTS

PART A. PREAMBLE

1. Purpose. The purpose of these covenants is to assure that property owners will be fully protected from poor quality surroundings and that they will be assured a pleasant, sanitary and safe site to erect their homes. These covenants will be in effect from the date recorded in the Palmer Recording District, Third Judicial District, State of Alaska, concerning the following real property:

SHAW'S TRI-LAKES SUBDIVISION, ADDITION #4,
recorded in the Palmer Recording District,
Plat No. 83-214

2. Previously Recorded Restrictions. By express declaration of the subdivider, pursuant to paragraph 3 of the "Shaw's Tri-Lakes Subdivision Supplemental Restrictions and Covenants," all lots within this Addition #4 are subject to the prime restrictions known as "Shaw's Tri-Lakes Subdivision Restrictions" recorded in Book 88, Pages 865 through 867, and the supplement thereto "Shaw's Tri-Lakes Subdivision Supplemental Restrictions and Covenants" recorded at Book 90, Pages 224 and 225, both of the property records in the recorder's office for Palmer Recording District; and the aforesaid restrictions and covenants are hereby made a part hereof by reference as though fully set forth therein. All purchasers of lots within this Addition #4 are referred to the above referenced restrictions and covenants for information regarding land use and other pertinent restrictions and covenants.

However, Shaw's Tri-Lakes Subdivision Addition #2 - Restrictions and Covenants recorded at Book 269, Pages 995 through 996 do not apply to this Addition #4, and owners of lots within Addition #4 do not have covenanted access to the airfield or its operations within Addition #2.

In the event of a conflict between these restrictions and covenants for Addition #4 and the aforesaid prime restrictions and supplement thereto, these restrictions and covenants shall apply and control.

In addition to the above referenced restrictions and covenants, the subdivider further restricts and covenants as follows:

PART B. PROTECTIVE COVENANTS

1. Land Use and Building Type. All lots shall be used for single family residences. Neither will there be permitted any conduct, enterprise or usage that may create a nuisance, be unlawful or act detrimentally to the peace, dignity or value of the property described herein. It is further understood that the keeping of partially dismantled vehicles, junked cars, or unused equipment on the premises is prohibited unless such vehicles are being used for transportation.

2. Dwelling Quality and Size. It is the intention and purpose of this covenant to assure that all dwellings are of good quality, workmanship and materials. All buildings constructed or placed on these lots shall not be less than 720 square feet of total living area, shall not utilize tar paper, roofing paper, celotex, nuwood, or similar non-permanent material

as exterior siding, and no structure shall be more than three stories high. All outbuildings, garages and storage buildings, shall be of the same quality and workmanship as the dwelling.

3. Building Locations. No dwelling shall be located on any lot nearer than thirty (30) feet to the front lot line, nor nearer than twenty (20) feet to the rear lot line, and no building shall be located nearer than twenty (20) feet to any interior lot line, or nearer than twenty-five (25) feet to any side street line.

No fence or wall shall be erected or placed on any lot which will impede the natural view of any mountains by the adjacent land owners.

4. Lot Usage. All lots shall be used for residential purposes only. No lot may be resubdivided.

5. Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plat.

6. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

7. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot for commercial purposes. However, a maximum of two (2) adult dogs, cats, or other household pets may be kept on any lot. A maximum of one (1) horse may be kept on any lot, except that any lot over 60,000 square feet shall be allowed a maximum of two (2) horses. No horse may be stabled closer than twenty-five (25) feet to any lot line. No vicious dog, as defined in the ordinance of the Matanuska-Susitna Borough shall be permitted, and all dogs shall be confined to the owner's property or on a leash while off said property or in the control of the owner at all times.

8. Temporary Structures. No structure of a temporary character, including but not limited to a quonset hut, mobile home, trailer, basement, tent, shack, garage, barn or other structure shall be used as a permanent or temporary residence.

9. Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than four (4) square feet advertising the property for sale or rent, or a sign of equal size to show property ownership.

10. Water Supply. No individual water supply system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements of the Alaska Department of Environmental Conservation.

11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers.

12. Sewage Disposal. No individual sewage disposal system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements, standards, and recommendations of the Alaska Department of Environmental Conservation. Approval for such system as installed shall be obtained from such authority.

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13. Standing Timber Waste. To maintain the setting and aesthetic value of Shaw's Tri-Lakes Subdivision #4, no standing timber shall be cut except that which is necessary and reasonable for clearing for dwellings or other buildings, landscaping, garden area, to remove hazardous and dangerous trees, or for the clearing of access roadways on any lot.

14. Utilities. Electrical and telephone utilities shall be installed in accordance with the requirements of the utility companies.

PART C GENERAL PROVISIONS.

1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive period of ten (10) years unless an instrument signed by the majority of the then record owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

2. Amendment. This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by not less than Fifty-one percent (51%) of the owners in Shaw's Tri-Lakes Subdivision. Any amendment must be recorded.

3. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain or to recover damages, and such actions may be brought by the owner or owners of record of any lot in the subdivision.

4. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full effect.

5. Subordination. It is further provided that a breach of any of the conditions contained herein or any re-entry by reason of such breach, shall not defeat or render invalid the lien or any mortgage or deed of trust made in good faith and for value as to said premises or any part thereof; but said conditions shall be binding upon and effective against the owner of said premises whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

6. Homeowner's Association. Owners of lots within Addition #4 shall not be required to become members of any homeowner's association.

7. Architectural Control. No building, structure or improvement, except dog houses, greenhouses, garden-tool sheds, and signs, shall be erected, placed, constructed, altered, or made on a lot until construction plans and specifications and a plan showing the location of the building, structure, or improvement have been approved by the Architectural Control Committee as to the following: quality of materials; harmony of external design with landscape and existing buildings, structures, and improvements; structural strength; location with respect to topography and finish grade elevation and with respect to the location on any lot of existing water systems and sewer systems; and location with respect to the likely location on any lot of future water systems and sewer systems. Such approval may include a relaxation of set-back requirements pertaining to the location of a garage or a carport, but only in cases where such relief is indicated by the severity of the grade between a street and the

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location of such building. The Architectural Control Committee shall have the power to waive the building line requirements set forth in paragraph 3 hereinabove in cases where the topography is such that the restrictions in paragraph 3 are not practicable.

8. Architectural Control Committee. The Architectural Control Committee is composed of John D Shaw, Robert Hanson, and Terry Ellis. A majority of the committee may designate a representative to act for it, in which event the representative shall have all of the authority of the committee. In the event of the death or resignation of any member of the committee, the remaining members shall designate a successor. Neither the members nor said representative shall incur any liability whatsoever in connection with the performance or nonperformance of such services. At any time the ten record owners, including the subdivider, of a majority of the lots of the subdivision shall have the power, through a recorded instrument executed by all of said record owners, to change the membership of the committee, or to deprive the committee of, or restore to it, any of its authority.

The committee's approval or disapproval, as above required, shall be in writing. In the event that the committee fails to so approve or disapprove within ten days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin construction has been commenced prior to the completion thereof, approval will not be required.

John D Shaw
JOHN D SHAW

Eva M. Shaw
EVA M. SHAW

STATE OF ALASKA

) ss.

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY, that on the 11th day of August, 1984, before the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared JOHN D SHAW and EVA M. SHAW, known to me to be the persons named in and who executed the above and foregoing instrument and they acknowledged to me that they signed and sealed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

Notary Public
NOTARY PUBLIC in and for Alaska
My commission expires: 11-12-86

AUG 10 12 11 PM '84

ADDRESS

John Shaw
P.O. Box 4
Palmer AK
99687

CHAPTER 17.52: RESIDENTIAL LAND USE DISTRICT**17.52.010 FINDINGS.**

The assembly finds that certain areas in the borough by design or location are predominantly residential in character, and that persons buying lots in such areas or living in them reasonably expect that the predominantly residential character of such areas will be maintained. This chapter is intended to restrict uses in such areas to those uses which are compatible with the predominantly residential character of such areas.

17.52.020 APPLICABILITY.

Residential areas under the conditions of this chapter are restricted to residential land uses except as otherwise provided in this chapter. Uses which are not permitted are prohibited. This chapter is not applicable, nor can it be made applicable where other land use regulations codified in MSB Title 17 are in effect.

17.52.060 USES PERMITTED BY CONDITIONS, COVENANTS AND RESTRICTIONS.

Any residential, commercial or industrial use or structure explicitly permitted by conditions, covenants and restrictions for the residential area in effect and recorded as of the date of application are permitted so long as the conditions, covenants and restrictions are in effect and permit such use or structure. Nothing in this chapter shall be deemed to repeal or modify any condition, covenant or restriction.

17.52.030 PERMITTED PRINCIPAL USES AND STRUCTURES.

(A) The following principal uses are permitted in the R district:

- (1) one-family dwelling;
- (2) two-family dwelling;
- (3) multi-family dwelling (three or more dwelling units).

ARTICLE II. CONDITIONAL USES; STANDARDS AND CRITERIA**17.52.050 CONDITIONAL USE PERMIT.**

(A) The following uses and structures are permitted upon the issuance of a conditional use permit:

- (1) churches and church-related activities;
- (2) hospitals, sanitariums, convalescent centers, nursing homes, rest homes;
- (3) natural resource extraction;
- (4) plant nurseries and greenhouses;
- (5) public lands institutional;
- (6) substation electric utilities;
- (7) neighborhood commercial use.

(B) The provisions of this chapter apply to any area designated as a residential land use district under this chapter whether or not such area or district is set out in this section.

(Ord. 83-80, § 2 (part), 1983)

17.52.060 USES PERMITTED BY CONDITIONS, COVENANTS AND RESTRICTIONS.

Any residential, commercial or industrial use or structure explicitly permitted by conditions, covenants and restrictions for the residential area in effect and recorded as of the date of application are permitted so long as the conditions, covenants and restrictions are in effect and permit such use or structure. Nothing in this chapter shall be deemed to repeal or modify any condition, covenant or restriction.

17.52.080 SUBDIVISION REGULATIONS.

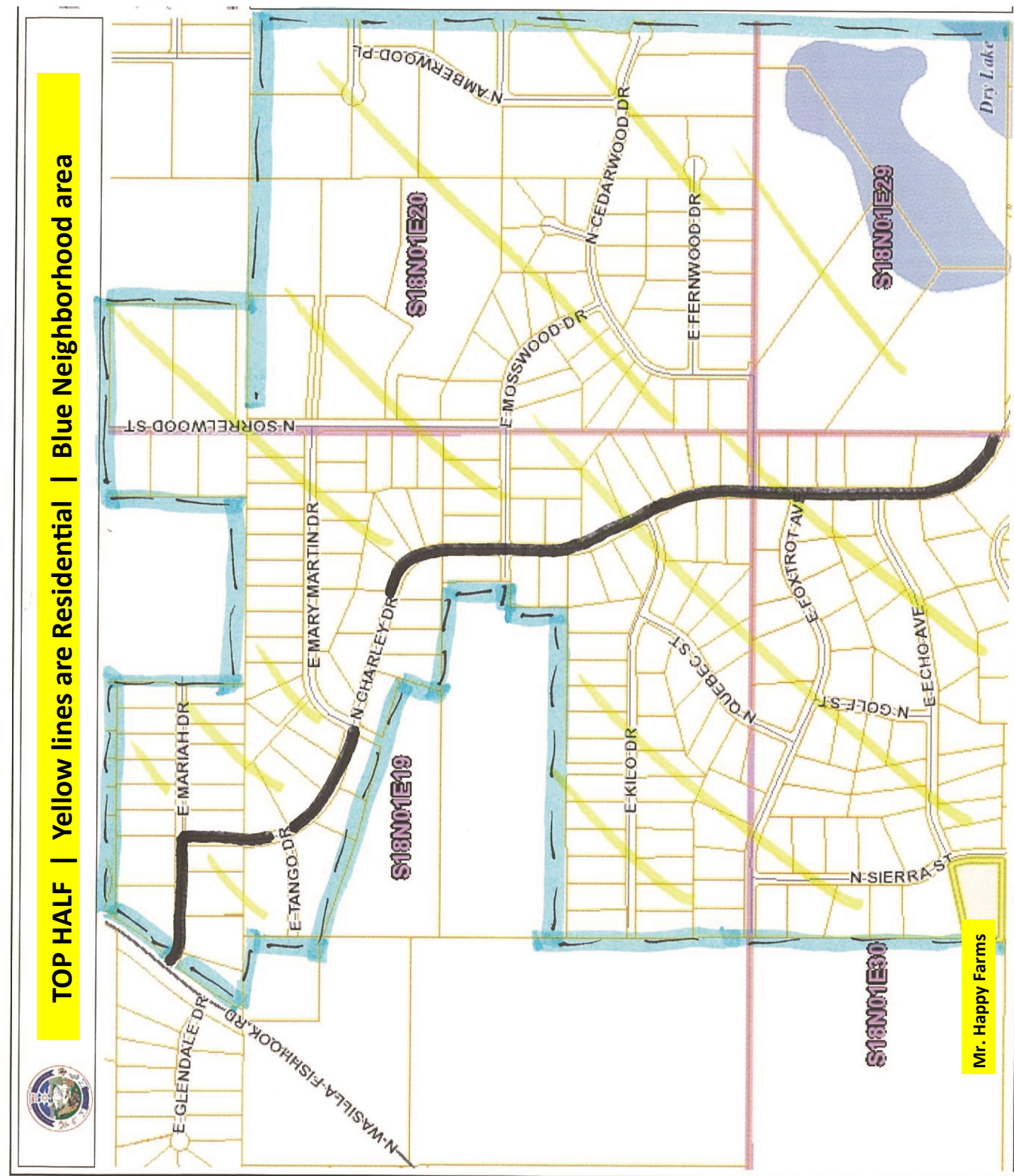
Land uses shall be subject to the requirements of the subdivision conditions, covenants and restrictions recorded prior to inclusion of the residential area within the residential land use district, and shall conform to notes on the subdivision plat.

17.52.250 DISTRICTS DESIGNATED.

(A) The following districts are residential land use districts subject to the provisions of this chapter:

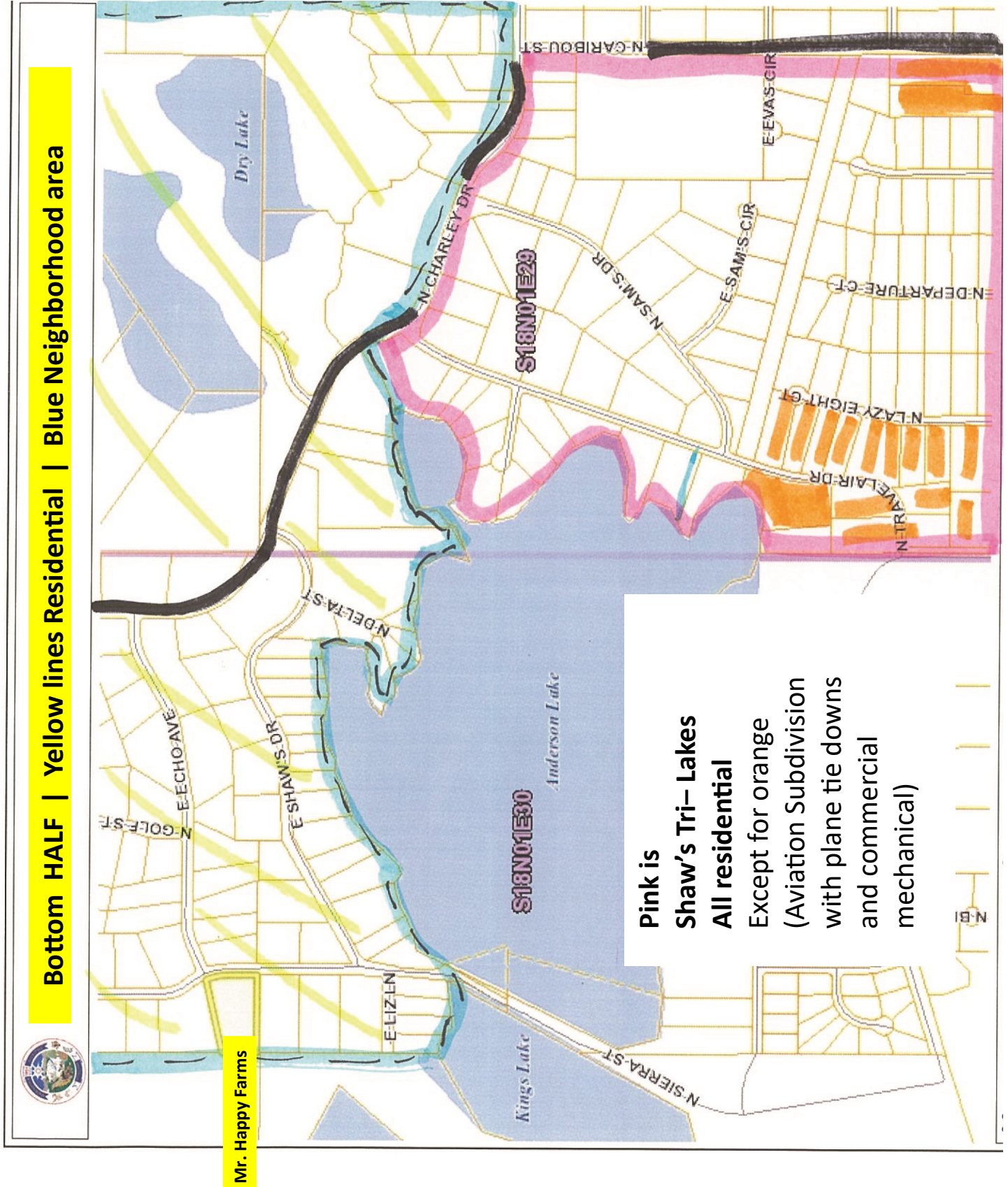
- (1) the Dawn Lake Estates No. 1 Sub-division Residential Land Use District
- (2) the Shenandoah Subdivision Residential Land Use District as described in MSB Ordinance No. 84-40;
- (3) the Kelly Lake Area Residential Land Use District
- (4) the Woodside Estates Subdivision Residential Land Use District as described in MSB Ordinance No. 84-64;
- (5) the Lynne Lake Area Residential Land Use District as described in MSB Ordinance No. 84-75;
- (6) the Ancient Tree Estates Addition No. 1 Subdivision Residential Land Use District,
- (7) the Pinnacle Mountain Subdivision Residential Land Use District as described in MSB Ordinance No. 85-16;
- (8) the Sherwood Estates Subdivision Addition No. 2 Residential Land Use District
- (9) the Nancy Lake Northwest Shore Residential Land Use District as more particularly described in
- (10) the Nancy Lake Northeast Shore Residential Land Use District
- (11) Jack Fish Landing Subdivision as described in Ordinance No. 88-201(AM);
- (12) the Talkeetna River Subdivision, Plat No. 73-11T and Plat No. 77-12;
- (13) Fairview Estates Addition #1, Block 2, Lot 1-22;
- (14) Downwind Landing Subdivision and Matanuska-Susitna Borough tax parcels.

COPY H. Shaw's Tri-Lakes & Surrounding Residential Area– TOP



COPY I.

Shaw's Tri-Lakes & Surrounding Residential Area– Bottom



June 18, 2019

Alcohol & Marijuana Control
Office State of Alaska
550 W 7th AVE, STE 1600
Anchorage, AK 99501

RE: Single Family Resident's Covenants

Board of Directors,

We, _____, are single-family residents that have covenant that are a legally enforceable "contract" imposed in a deed upon the buyer of property. Our covenants do not allow for commercial developments/businesses, they "run with the land" and are legally enforceable on future buyers of the property.

You are providing licenses to land owners that can not legally operate a business.

The expressed interest of a single-family residential subdivision/neighborhood exists and is found in their covenants.

We want to retain our quality of life that we have invested in and chosen to be part of, and to protect the value, character, and integrity of our residential neighborhood.

"Commercial use" is any activity other than a home occupation" - where goods or services are offered or provided for sale or trade.

When you provide a license to a lot with covenants, that has commercial development restrictions found in their covenants, you are forcing us to take legal actions. We will always win that very expensive and time-consuming lawsuit. Do not put this upon us.

The Alaska Marijuana Control Office should not be providing licenses to an applicant that does not have the legal right to operate a business on his/her lot where there are covenants, attached to that lot.

Please address this issue.

Sincerely,

Shaw's Tri-Lakes #4 Residents

Signature

Name (print)

Shaw's Tri-Lakes #4 Location

W. S. Bates W. S. Bates Lot 3 Block 2

Kathryn T. Bates Kathryn T. Bates Lot 3, Block 2, Shaws #4

Gayle Keller Gayle Keller Lot 2 Block 6, Shaws #4

Wesley C. Keller Wesley C. Keller Lot 2, Block 6, Shaws #4

Jack Bush Jack Bush 4455 E Shaws dr

Irene Bush Irene Bush 4455 E Shaws dr.

Beverly Flowers Beverly Flowers 4501 E. Shaw's Dr.

Brandon Joseph Brandon Joseph 4501 E Shaws Dr

Jordan Serafin Jordan Serafin 4525 E Shaws DR

Roe Kuzina Roe Kuzina 4000 N. SIERRA ST. APT. #4

Linda Kuzina Linda Kuzina 4000 N Sierra St
L5 BIK 1 #4

Shaw's Tri-Lakes #4 Location

3901 N. SIERRA ST.

3907 n Sierra St

4701 E. SHAW DR.

4701 E. SHAW'S DR.

4655 E. Shaw's Dr

4655 E. Shaw's Dr

4501 E. Shaws Dr.

4501 E. Echo Ave.

[illegible]

Figure 1. Schematic representation of the experimental design. The figure is divided into three main sections: (a) Pre-test, (b) Main test, and (c) Post-test. The Pre-test section shows a participant (P) interacting with a system (S) to learn a task. The Main test section shows the participant performing the task under different conditions (e.g., with and without a system). The Post-test section shows the participant's performance after the main test. The figure also includes a timeline of the experiment, showing the sequence of events and the duration of each phase.

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June 18, 2019

Alcohol & Marijuana Control
Office State of Alaska
550 W 7th AVE, STE 1600 Anchorage, AK 99501

RE: Single Family Resident's Covenants

Board of Directors,

We, _____, are single-family residents that have covenants that are a legally enforceable "contract" imposed in a deed upon the buyer of property. Our covenants do not allow for commercial developments/businesses, they "run with the land" and are legally enforceable on future buyers of the property.

The expressed interest of a single-family residential subdivision exists and can be found in their legally attached covenant.

Commercial use "is any activity other than a home occupation - where goods or services are offered or provided for sale or trade".

You are providing licenses to landowners that cannot legally operate a business when covenants do not allow for it.

We want to retain our quality of life that we have invested in and chosen to be part of and to protect the value, character, and integrity of our residential neighborhoods.

When you provide a commercial license to a lot with covenants, you are forcing the subdivision to take legal action for that violation. We will always win that very expensive and time-consuming lawsuit. Do not put this upon us.

The Alaska Marijuana Control Office should not be providing licenses to an applicant that does not have the legal right to operate a business on his/her lot where there are covenants, attached to that lot.

Please address this issue.

Sincerely,

MSB Residents who live in Shaw's Tri-Lakes

From: [Sam Hanson](#)
To: [McConnell, Erika B \(CED\)](#); [James.hoelschner@alaska.gov](#); [david.eastman@akleg.gov](#); [David.wilon@akleg.gov](#); [Ron & Linda Kuzina](#); [Senator.Mike.Shower@akleg.gov](#); [Marijuana Licensing \(CED sponsored\)](#)
Cc: [vern.halter@matsugov.us](#)
Subject: Limited Marijuana Cultivation Facility | VIOLATION
Date: Friday, May 31, 2019 10:56:05 AM

Mr. Happy Farms LLC, located at 3900 Sierra Street, Wasilla in Shaw's Tri-Lakes #4 Subdivision, was granted a Limited Marijuana Cultivation Facility license in March 2019.

His lot shares a lot line with John D. Shaw Elementary School- 3750 E. Paradise Lane. The school was established in 2006.

This elementary school has a large lot- they use the trail systems on this lot for PE classes and for gatherings where elementary students can venture in to the woods through these existing trails- using the majority of their lot.

The Mat-Su Borough compliance officers have been on Mr. Happy Farms property twice (as he was developing his structure) and have inspected his building (which is located to the back of his lot). It is not 500 feet from the shared lot line.

Who's responsibility is it to make sure Commercial Marijuana license are not provided to lots located next to schools?

When speaking with the MSB regarding this situation on two separate occasions- I was informed that the MSB only monitor two things 1) that an applicant has paid his MSB Business license fee 2) is not a felon. I was also informed that they watch two of the 5 licenses regarding marijuana licenses. I was directed to the State each time.

Mr. Happy Farms DID NOT send notice to the North Lakes Community Council prior to his application. I am a NLCC Board Member and we did not receive notice of this application for a Limited Marijuana Cultivation Facility license.

Who is responsible for making sure our Community Councils are informed when an applicant is applying for a Commercial Marijuana license?

Why were we not informed about this applicant?

His license is specifically tied to his lot at 3900 Sierra Street- and this lot alone. Shaws Tri-Lakes #4 has 59 subdivision lot owners and has covenants attached. It is and has always been guided as a Residential Subdivision with no ability to have commercial development on it. The covenants date back to the 1980 and are registered with the State of Alaska and accessible to anyone for viewing.

Who is responsible for making sure you are providing licenses to a specific lot that allows for commercial development? The MSB does not have zoning- but assesses all commercial lots to reflect the increased price. They also assess church lots. They assess residential lots at a lower rate because there is no opportunity for commercial business or they would have increased

that assessment- reflected as a lower value. Not all subdivisions have covenants. The MSB and State has access to all subdivisions that retain/register with the State covenants that guide the development of that subdivision. Covenants are legal documents that hold up in court. A lot owner, with covenants, has the ability to change those covenants with a vote of the subdivision if they want to develop a commercial business on it.

WHY WOULD THE STATE or MSB allow a commercial business license- tied to a lot with covenants that do not allow for commercial- then make that subdivision have to take that lot owner to court!!! This license should never been granted in the first place. What about protecting the public health, safety, and welfare of our residents. Single-family residential areas are in the MSB comprehensive plan. Covenants protect the value, character, and integrity of residential neighborhoods. Covenants means the legally established and recorded terms contained within a contract or deed allowing or restricting the use of land and types of buildings.

Who is watching out for MSB residents?

In this case- Mr. Happy Farms LLD, Thomas Dicus, purchased his lot March of 2017- and was provided the covenants to his lot where commercial developments were not allowed.

I am asking for many questions to be answered.

I am also asking, on behalf of Shaw's Tri-Lakes #4, that this license be revoked.

It would also be helpful to know what actions can be taken if this license is revoked- to assist us if Mr. Dicus continues burning his marijuana and continues using his structure as a Cultivating facility after his license is revoked. What recourse do we, the residents of this subdivision, have to enforce the discontinued use of this facility?

I am happy to discuss this with you further and look forward to your assistance and feedback.

Sam A. Hanson
4800 E. Charwood Lane
State Resident since 1959
907 841-6565

From: [Sam Hanson](#)
To: [McConnell, Erika B \(CED\)](#)
Subject: Re: Limited Marijuana Cultivation Facility | VIOLATION
Date: Monday, June 03, 2019 1:20:53 PM

Ericka,

Thank you for a speedy and through reply.

I will take you up on bringing forward more information prior to your meeting and making the June 21st deadline.

I realize that you will be discussing this applicant at that meeting but can you assist me with any additional help that the board might need?

I question if he purchased time with either newsprint or radio as well. See the below image of his most recent Facebook question to his subdivision.

There are issues with this applicant drying his product that has effected his neighbors directly which can be documented.

There are 59 land owners that want their neighborhood to remain single family only and have legal grounds for this.

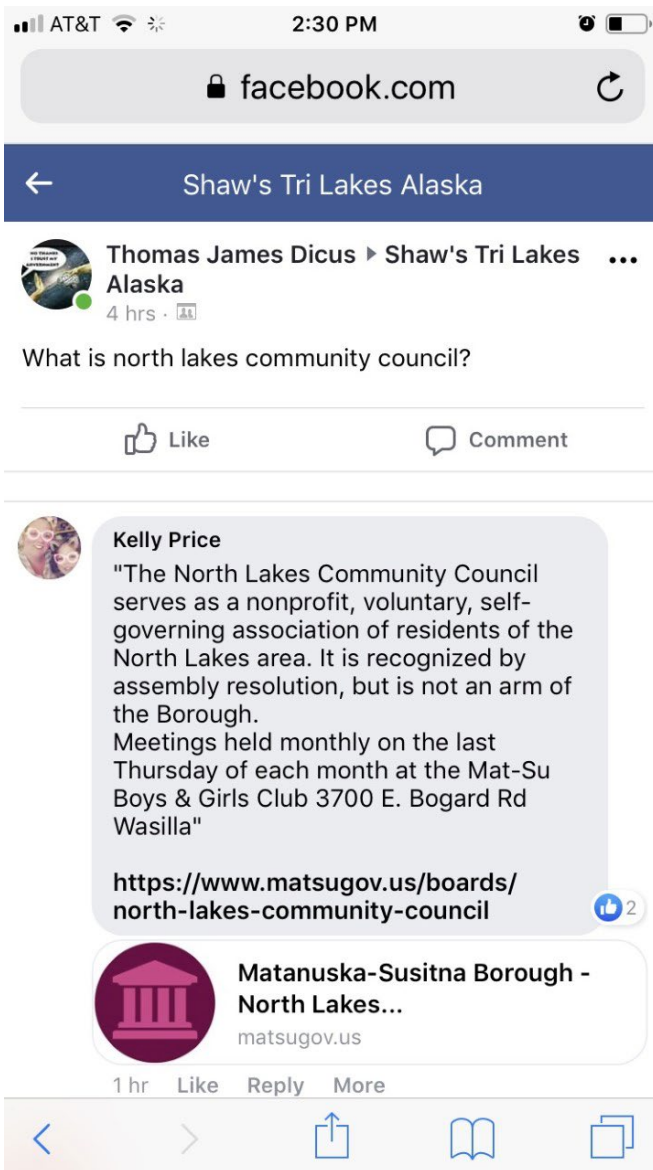
What can I do to gather information that might make a difference to the board?

I am willing to make that happen.

Again, thank you for your follow up and help in this matter,

Sam A. Hanson
841-6565

Mr. Dicus posted this on Saturday, June 1, 2019.



From: McConnell, Erika B (CED) <erika.mcconnell@alaska.gov>

Sent: Monday, June 3, 2019 9:55 AM

To: Sam Hanson; Hoelscher, James C (CED); david.eastman@akleg.gov; David.wilon@akleg.gov; Ron & Linda Kuzina; Senator.Mike.Shower@akleg.gov; Marijuana Licensing (CED sponsored)

Cc: vern.halter@matsugov.us; Almeida, Jacob W (LEG)

Subject: RE: Limited Marijuana Cultivation Facility | VIOLATION

Good morning Mr. Hanson,

Thank you for your email. You raise three main issues: proximity to John D. Shaw Elementary School; notice to the North Lakes Community Council; and subdivision covenants.

[Proximity to Shaw Elementary School](#)

During the Marijuana Control Board's review of this application, it was not brought to light that the

facility was proposed on a parcel that abuts a school grounds. The applicant certified that the proposed premises was not within 500 feet of a school ground. The board received no information indicating otherwise.

The requirement in regulation at 3 AAC 306.010 is as follows: “The board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school ground...”

The board has not developed a definition for “shortest pedestrian route.”

I have informed the licensee that I will be bringing this before the board at the next meeting (July 10-12 in Fairbanks) for a determination.

Notice to the North Lakes Community Council

The licensee states that they sent notice to the North Lakes Community Council on April 13, 2018. I have requested the licensee to provide documentation of this.

The AMCO office provided notice of a complete application to the North Lakes Community Council on December 7, 2018—the email is attached.

Subdivision Covenants

There was no information provided to the Marijuana Control Board regarding the subdivision covenants.

Historically, the board has considered a wide range of factors when determining of the issuance of a license is in the public interest, including the expressed interest of neighborhoods. In general, the board views land use compatibility as falling with the local government’s authority to determine, interpret, and enforce. That said, subdivision codes, covenants, and restrictions are a civil contract between two private parties that are generally enforced by the parties themselves.

As noted above, I will be bringing this issue to the board at their next meeting, on July 10-12 in Fairbanks. I will provide your email to the board. If you have any other information you would like to share with the board regarding this license, please provide it to me by June 21 to be included in the board’s packets. The meeting agenda will be posted on our website a week before the meeting. You are welcome to attend the meeting in person or telephonically—the call-in number will be on the agenda.

Thank you,
Erika McConnell

Erika McConnell

Director
Alcohol & Marijuana Control Office

From: Sam Hanson <akhansons@hotmail.com>

Sent: Friday, May 31, 2019 10:56 AM

To: McConnell, Erika B (CED) <erika.mcconnell@alaska.gov>; James.hoelschner@alaska.gov; david.eastman@akleg.gov; David.wilon@akleg.gov; Ron & Linda Kuzina <yenlo@mtaonline.net>; Senator.Mike.Shower@akleg.gov; Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>

Cc: vern.halter@matsugov.us

Subject: Limited Marijuana Cultivation Facility | VIOLATION

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Mr. Happy Farms DID NOT send notice to the North Lakes Community Council prior to his application. I am a NLCC Board Member and we did not receive notice of this application for a Limited Marijuana Cultivation Facility license.

Who is responsible for making sure our Community Councils are informed when an applicant is applying for a Commercial Marijuana license?

Why were we not informed about this applicant?

His license is specifically tied to his lot at 3900 Sierra Street- and this lot alone. Shaws Tri-Lakes #4 has 59 subdivision lot owners and has covenants attached. It is and has always been guided as a Residential Subdivision with no ability to have commercial development on it. The

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I am asking for many questions to be answered.

I am also asking, on behalf of Shaw's Tri-Lakes #4, that this license be revoked.

It would also be helpful to know what actions can be taken if this license is revoked- to assist us if Mr. Dicus continues burning his marijuana and continues using his structure as a Cultivating facility after his license is revoked. What recourse do we, the residents of this subdivision, have to enforce the discontinued use of this facility?

I am happy to discuss this with you further and look forward to your assistance and feedback.

Sam A. Hanson
4800 E. Charwood Lane
State Resident since 1959
907 841-6565



Virus-free. www.avast.com

From: [Sam Hanson](#)
To: [McConnell, Erika B \(CED\)](#)
Subject: Mr. Happy Farms | Many Issues
Date: Wednesday, July 03, 2019 3:04:39 PM

Erika,

My letter to you addressed several issues.

My letter contained both the desire to not infringe on the school's property BUT ALSO to not be in this subdivision because Mr. Happy Farms does NOT HAVE LEGAL ASSESS TO A LOT THAT ALLOWS FOR A COMMERCIAL DEVELOPEMENT.

The NLCC did not share the MSB's notice to their community and acknowledges this in my letter.

The agenda DOES NOT TAKE take Shaw's Tri-Lakes #4 subdivision objections into review regarding this license.

The Board hears comments from all sources of concerns and Shaw's Tri-Lakes is a valid and timely concern.

No- they did not meet your 90 deadline for comment- due to the NLCC- Not on their on volition.

They have concerns and they should be considered when this license is being reevaluated.

This is the next step for them to be heard. This is when they CAN be heard.

Mr. Happy Farms did not post notice on his property. Or at prominent location.

Did they send a letter to the NLCC- please forward that to me.

Did he purchase radio or print media?

This subdivision was in the DARK about this license until I brought this forward to them and speaking with you.

They WANT to be heard and WANT to be on your agenda for their public and local area response.

They have also emailed you letters of support for this issue.

ALL IN MY LETTER AND IN THE EMAILS SENT PRIOR TO YOUR DEADLINE FOR THIS MEETING.

Please let me know why they are not going to be heard and considered at this meeting and

their concerns are not being represented to the board.

Please ADD this subdivision's request to be considered regarding this license to the agenda!

Call or text.

Sam A. Hanson

841-6565

From: [Jana Weltzin](#)
To: [McConnell, Erika B \(CED\)](#)
Cc: [msmatt02@gmail.com](#); [Marijuana Licensing \(CED sponsored\)](#); [Hoelscher, James C \(CED\)](#); [Jana Weltzin](#); [Valerie Mastolier](#)
Subject: RE: 17692 Mr. Happy Farms LLC
Date: Wednesday, June 05, 2019 3:35:25 PM

Hello Erika – I have been retained by Mr. Shelton to assist with some business structure items and so he passed this over to me to handle as well.

Regarding the community council notification – my client mailed the community council notice in April 2018 to the only address he could find for the North Lakes community council (3060 N Lazy Eight Ct #2 PMB 449, Wasilla AK 99654). The notice was **not** returned as undeliverable, and my client never received a response from the community council. Unfortunately, my client used regular mail and not certified mail so we do not have proof of delivery. What/who is alleging that notice was improper? Please provide the allegation (if it was in writing) to us, and if it wasn't in writing please indicate who made this allegation.

Regarding the distance from the school – my client informs me that he did speak, on several occasions, with Mark Whisenhunt at the borough regarding the location of the school to the property, and was assured that the proximity of the school was not an issue due to the fact the area is heavily wooded and not passable on foot. The only way to get from the property to the school is to go out to the front of the property and thru the subdivision, which is much farther than 500 feet.

I will be representing this license at the July MCB meeting – I look forward to your response,

Thanks for all your hard work!

Jana

Jana D. Weltzin, Esq.
JDW, LLC
Principal Owner
901 Photo Avenue
Anchorage, Alaska 99503
jana@jdwcounsel.com
907-231-3750 Office Line
630-913-1113 Cell
*Licensed in Alaska and Arizona

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tax penalties.

Thank you.



Think green, please don't print unnecessarily

From: kerreshelton@gmail.com <kerreshelton@gmail.com>

Sent: Wednesday, June 5, 2019 12:08 PM

To: Jana Weltzin <jana@jdwccounsel.com>

Cc: msmatt02@gmail.com

Subject: RE: 17692 Mr. Happy Farms LLC

This is the address for the North Lakes community council: 3060 N Lazy Eight Ct #2 PMB 449, Wasilla AK 99654. The notice was sent in April 2018 at the same time we provided notice to the City, Borough, Newspaper and posted in the local store.

Kerre

Begin forwarded message:

From: matthew shelton <msmatt02@gmail.com>

Date: June 5, 2019 at 10:00:00 AM AKDT

To: kerreshelton <kerreshelton@gmail.com>

Subject: Fwd: 17692 Mr. Happy Farms LLC

----- Forwarded message -----

From: McConnell, Erika B (CED) <erika.mcconnell@alaska.gov>

Date: Wed, Jun 5, 2019 at 9:59 AM

Subject: RE: 17692 Mr. Happy Farms LLC

To: msmatt02@gmail.com <msmatt02@gmail.com>

CC: Hoelscher, James C (CED) <james.hoelscher@alaska.gov>, Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>

Good morning Mr. Shelton,

I'm following up on my inquiry of last Friday.

Regarding community council notice as attested to on your MJ-08 form , how did you notice the North Lakes Community Council? Can you provide evidence of that notice?

Thank you,
Erika McConnell

Erika McConnell

Director
Alcohol & Marijuana Control Office
State of Alaska

From: McConnell, Erika B (CED)
Sent: Friday, May 31, 2019 1:28 PM
To: msmatt02@gmail.com
Cc: Hoelscher, James C (CED) <james.hoelscher@alaska.gov>; Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: 17692 Mr. Happy Farms LLC

Dear Mr. Shelton,

I have recently received information alleging that you did not properly notify the North Lakes Community Council, and that your licensed premises is 60 feet from a lot line shared with an elementary school.

Regarding community council notice, how did you notice the North Lakes Community Council? Can you provide evidence of that notice?

Regarding the proximity to the elementary school, the Marijuana Control Board has not defined how the "shortest pedestrian route" (3 AAC 306.010(a)) should be measured. It is clear that walking by road from your facility to the elementary school is much longer than 500 feet. However, the board was not informed of the proximity to the elementary school in order for them to make a determination. I will be bringing this issue to the board at their next meeting (July 10-12 in Fairbanks). Please plan to attend (in person or telephonically). The agenda will be posted on our website a week before the meeting.

Sincerely,
Erika McConnell

Erika McConnell

Director
Alcohol & Marijuana Control Office
[550 West 7th Avenue, Suite 1600](#)
[Anchorage, Alaska 99501](#)
Phone: (907) 269-0351
<https://www.commerce.alaska.gov/web/amco/>

From: Mark Whisenhunt
To: [Jana Weltzin](#)
Cc: [Valerie Mastolier](#); [McConnell, Erika B \(CED\)](#)
Subject: RE: 17692 Mr. Happy Farms LLC
Date: Wednesday, June 12, 2019 3:31:17 PM

This facility is exempt from the Borough's Conditional Use Permit requirements. The Borough waived its right to protest License 17682 – Mr. Happy Farms, LLC in December 2018.

Respectfully,

Mark Whisenhunt
Planning Services Manager (Acting)
Matanuska-Susitna Borough
Office: (907) 861-8527
mark.whisenhunt@matsugov.us

From: Jana Weltzin <jana@jdwcounsel.com>
Sent: Wednesday, June 12, 2019 3:13 PM
To: Mark Whisenhunt <Mark.Whisenhunt@matsugov.us>
Cc: Valerie Mastolier <valerie@jdwcounsel.com>; erika.mcconnell@alaska.gov
Subject: RE: 17692 Mr. Happy Farms LLC

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Hi – thank you for this – so in sum, is the location of the limited cultivation license not an “issue” from the point of the applicable (or in this case not applicable) borough code? Basically what I am asking is – is this limited cultivation location compliant with Borough code?

From: Mark Whisenhunt <Mark.Whisenhunt@matsugov.us>
Sent: Wednesday, June 12, 2019 12:13 PM
To: Jana Weltzin <jana@jdwcounsel.com>
Cc: Valerie Mastolier <valerie@jdwcounsel.com>; erika.mcconnell@alaska.gov
Subject: RE: 17692 Mr. Happy Farms LLC

Good Morning,

I remember this location and speaking to a gentleman about it, though I do not remember his name. While I do not remember all of the specifics of our conversation, I do remember telling him this location would not be suitable for a Standard Marijuana Cultivation Facility (greater than 500sf under cultivation), because it would not meet the Borough's 1,000' setback from “School Grounds” requirement. If I recall, it may not have met the 100' lot line setback requirement as well. However, since he was proposing one Limited Marijuana Cultivation Facility (less than 500sf under cultivation), it was exempt from the Borough permitting standards.

Here is our definition:

“School grounds” means a lot or parcel with facilities primarily used for the academic education of children or young people, usually under 18 years of age. For the purpose of setback requirements under this chapter, universities, vocational trade schools, and residential structures where children receive homeschooling are not considered schools.

The Borough considers the whole parcel (in this case, about 80 acres) to be “School Grounds.”

We inform all of our customers that we do not know what exactly the State considers “School Grounds” (i.e. just the developed area vs. the whole parcel) or exactly how the state measures their setback requirements (i.e. pedestrian route).

Lastly, I’d like to note that I would not have told this gentleman “I don’t see an issue” with this location. We do not make opinions on State of Alaska standards. Our office always refer customers to AMCO when there is a question regarding State standards.

While wrapping up this email, I received a call from Mr. Dicus. I informed him of this email and its contents. Please let me know if I can be of further assistance.

Respectfully,

Mark Whisenhunt
Planning Services Manager (Acting)
Matanuska-Susitna Borough
Office: (907) 861-8527
mark.whisenhunt@matsugov.us

From: Jana Weltzin <jana@jdwcounsel.com>
Sent: Tuesday, June 11, 2019 4:59 PM
To: Mark Whisenhunt <Mark.Whisenhunt@matsugov.us>
Cc: Valerie Mastolier <valerie@jdwcounsel.com>
Subject: FW: 17692 Mr. Happy Farms LLC

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Hi Mark – a neighbor (sam hanson) has raised some concerns to the control board re the location of the Mr. Happy Farms limited cultivation license – my client Matthew informed me that you and him (or his partner) had conversations re the school but that you didn’t see it as an issue due to the distance from the actual school and the thickness of the forest. Erika wants something in writing proving that my client consulted with the borough on this issue. Can you confirm that you did look at this particular license and the school distance and please confirm what my client told me (which is what I relayed to Director McConnell in my email below) is accurate? The school seems to be really far away so I am unsure why this is an issue this late in the game.. the license is already up and operating.. I attached an exhibit showing the school and licensed premises to jog your memory I also attached Mr. Hanson’s object too so you have the whole picture and context of this issue.

Thanks Mark! Jana

From: McConnell, Erika B (CED) <erika.mcconnell@alaska.gov>
Sent: Thursday, June 6, 2019 3:19 PM
To: Jana Weltzin <jana@jdwcounsel.com>
Cc: msmatt02@gmail.com; Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>;
Hoelscher, James C (CED) <james.hoelscher@alaska.gov>; Valerie Mastolier
<valerie@jdwcounsel.com>
Subject: RE: 17692 Mr. Happy Farms LLC

Hi Jana,

I've attached the email from Mr. Sam Hanson with my response.

Is it possible to get anything in writing from Mark Whisenhunt?

Thank you,
Erika

Erika McConnell

Director
Alcohol & Marijuana Control Office
State of Alaska

From: Jana Weltzin <jana@jdwcounsel.com>
Sent: Wednesday, June 05, 2019 3:35 PM
To: McConnell, Erika B (CED) <erika.mcconnell@alaska.gov>
Cc: msmatt02@gmail.com; Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>;
Hoelscher, James C (CED) <james.hoelscher@alaska.gov>; Jana Weltzin <jana@jdwcounsel.com>;
Valerie Mastolier <valerie@jdwcounsel.com>
Subject: RE: 17692 Mr. Happy Farms LLC

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I will be representing this license at the July MCB meeting – I look forward to your response,

Thanks for all your hard work!

Jana

Jana D. Weltzin, Esq.
JDW, LLC
Principal Owner
901 Photo Avenue
Anchorage, Alaska 99503
jana@jdwcounsel.com
907-231-3750 Office Line
630-913-1113 Cell
*Licensed in Alaska and Arizona

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IRS Circular 230 Disclaimer: To ensure compliance with IRS Circular 230, we are required to inform you that unless we have specifically stated to the contrary in writing, any advice we provide in this email or any attachment concerning federal tax issues or submissions is not intended or written to be used, and cannot be used, to avoid federal tax penalties.

Thank you.



Think green, please don't print unnecessarily

From: kerreshelton@gmail.com <kerreshelton@gmail.com>

Sent: Wednesday, June 5, 2019 12:08 PM

To: Jana Weltzin <jana@jdwcounsel.com>

Cc: msmatt02@gmail.com

Subject: RE: 17692 Mr. Happy Farms LLC

This is the address for the North Lakes community council: 3060 N Lazy Eight Ct #2 PMB 449, Wasilla AK 99654. The notice was sent in April 2018 at the same time we provided notice to the City, Borough, Newspaper and posted in the local store.

Kerre

Begin forwarded message:

From: matthew shelton <msmatt02@gmail.com>
Date: June 5, 2019 at 10:00:00 AM AKDT
To: kerreshelton <kerreshelton@gmail.com>
Subject: Fwd: 17692 Mr. Happy Farms LLC

----- Forwarded message -----

From: McConnell, Erika B (CED) <erika.mcconnell@alaska.gov>
Date: Wed, Jun 5, 2019 at 9:59 AM
Subject: RE: 17692 Mr. Happy Farms LLC
To: msmatt02@gmail.com <msmatt02@gmail.com>
CC: Hoelscher, James C (CED) <james.hoelscher@alaska.gov>, Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>

Good morning Mr. Shelton,

I'm following up on my inquiry of last Friday.

Regarding community council notice as attested to on your MJ-08 form , how did you notice the North Lakes Community Council? Can you provide evidence of that notice?

Thank you,
Erika McConnell

Erika McConnell

Director
Alcohol & Marijuana Control Office
State of Alaska

From: McConnell, Erika B (CED)
Sent: Friday, May 31, 2019 1:28 PM
To: msmatt02@gmail.com
Cc: Hoelscher, James C (CED) <james.hoelscher@alaska.gov>; Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: 17692 Mr. Happy Farms LLC

Dear Mr. Shelton,

I have recently received information alleging that you did not properly notify the North Lakes Community Council, and that your licensed premises is 60 feet from a lot line shared with an elementary school.

Regarding community council notice, how did you notice the North Lakes Community Council? Can you provide evidence of that notice?

Regarding the proximity to the elementary school, the Marijuana Control Board has not defined how the "shortest pedestrian route" (3 AAC 306.010(a)) should be measured. It is clear that walking by road from your facility to the elementary school is much longer than 500 feet. However, the board was not informed of the proximity to the elementary school in order for them to make a determination. I will be bringing this issue to the board at their next meeting (July 10-12 in Fairbanks). Please plan to attend (in person or telephonically). The agenda will be posted on our website a week before the meeting.

Sincerely,
Erika McConnell

Erika McConnell

Director
Alcohol & Marijuana Control Office
[550 West 7th Avenue, Suite 1600](#)
[Anchorage, Alaska 99501](#)
Phone: (907) 269-0351
<https://www.commerce.alaska.gov/web/amco/>



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE

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

December 7, 2018

North Lakes Community Council
Attn: President or Chair
VIA email: michelleniland@yahoo.com
koivunen@ak.net

License Number:	17692
License Type:	Limited Marijuana Cultivation Facility
Licensee:	Mr. Happy Farms LLC.
Doing Business As:	MR. HAPPY FARMS LLC.
Physical Address:	3900 N. Sierra St. Wasilla, AK 99654
Designated Licensee:	Matthew Shelton
Phone Number:	907-854-2247
Email Address:	msmatt02@gmail.com

☒ **New Application**

3 AAC 306.025(d)(3) and (4) requires that the Director shall provide written notice to a community council or any nonprofit organization that has requested notification about pending applications for marijuana licenses.

This letter serves to provide written notice to the above referenced entities regarding the above application.

To object to the approval of this application pursuant to 3 AAC 306.065, you must furnish the **director and the applicant** with a clear and concise written statement of reasons for the objection **within 30 days** of the date of this notice. We recommend that you contact the local government with jurisdiction over the proposed premises to share objections you may have about the application.

If you have any questions, please send them to marijuana.licensing@alaska.gov.

Sincerely,

Erika McConnell, Director



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:	Mr. Happy Farms LLC.	License Number:	17692		
License Type:	Limited Marijuana Cultivation Facility				
Doing Business As:	Mr Happy Farms LLC.				
Premises Address:	3900 N. Sierra St.				
City:	Wasilla	State:	AK	ZIP:	99654

Section 2 – Individual Information

Enter information for the individual licensee or affiliate.

Name:	Matthew Shelton
Title:	Manager

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?

16876 Limited Cultivation
16890 Limited Cultivation



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.

MS

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

MS

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

MS

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.

MS

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.

MS

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.

MS

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).

MS

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

MS

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.

MS

I certify that all proposed licensees (as defined in 3 AAC 306.020(b)(2)) and affiliates (as defined in 3 AAC 306.990(a)(1)) 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.

MS

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.

MS



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.

MS

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.

MS

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.

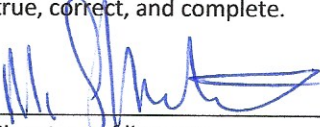
Only initial next to the following statement if this form is accompanying an application for a retail marijuana store, a marijuana cultivation facility, or a marijuana products manufacturing facility license:

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

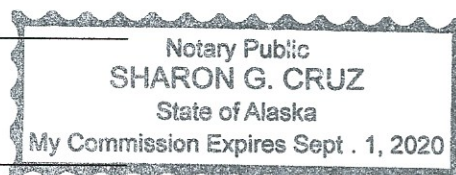
MS

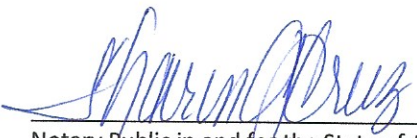
All marijuana establishment license applicants:

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

Matthew Shelton
Printed name of licensee




Notary Public in and for the State of Alaska

My commission expires: 09/01/2020

Subscribed and sworn to before me this 3RD day of MAY, 2018.



Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600

Anchorage, AK 99501

marijuana.licensing@alaska.gov

<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

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:	Mr. Happy Farms LLC.	License Number:	17692		
License Type:	Limited Marijuana Cultivation Facility				
Doing Business As:	Mr. Happy Farms LLC.				
Premises Address:	3900 N. Sierra St.				
City:	Wasilla	State:	Ak	ZIP:	99654

Section 2 – Individual Information

Enter information for the individual licensee.

Name:	Thomas Dicus
Title:	Member

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?

#16890 LIMITED CULTIVATION



Alcohol and Marijuana Control Office

550 W 7th Avenue, Suite 1600

Anchorage, AK 99501

marijuana.licensing@alaska.gov

<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

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.

TJD

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

TJD

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

TJD

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.

TJD

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.

TJD

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.

TJD

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).

TJD

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

TJD

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.

TJD

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.

TJD

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.

TJD



Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

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

Thomas J. Dicus

Printed name of licensee

Notary Public in and for the State of Alaska

My commission expires: 7/24/21

Subscribed and sworn to before me this 29 day of October, 2018.





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:	Mr. Happy Farms LLC.	License Number:	17692		
License Type:	Limited Marijuana Cultivation Facility				
Doing Business As:	Mr. Happy Farms LLC.				
Premises Address:	3900 N. Sierra St.				
City:	Wasilla	State:	AK.	ZIP:	99654

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):

Local Government(s): Matanuska-Susitna Borough Date Submitted: 04/13/18

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

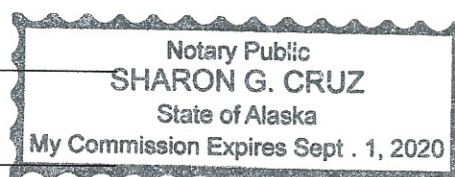
Community Council: North Lakes Date Submitted: 04/13/18
(Municipality of Anchorage and Matanuska-Susitna Borough only)


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


Signature of licensee

Matthew Shelton

Printed name of licensee




Notary Public in and for the State of Alaska

My commission expires: 09/01/2020

Subscribed and sworn to before me this 3rd day of MAY, 2018.



COPY

Public Notice

Application for Marijuana Establishment License

License Number: 17692

License Status: Incomplete

License Type: Limited Marijuana Cultivation Facility

Doing Business As: MR. HAPPY FARMS LLC.

Business License Number: 1066543

Email Address: msmatt02@gmail.com

Latitude, Longitude: 61.625411, -149.344117

Physical Address: 3900 N. Sierra St.
Wasilla, AK 99654
UNITED STATES

Licensee #1

Type: Entity

Alaska Entity Number: 10077535

Alaska Entity Name: Mr. Happy Farms LLC.

Phone Number: 907-854-2247

Email Address: msmatt02@gmail.com

Mailing Address: 17851 Yellowstone Dr.
Eagle River, AK 99577
UNITED STATES

Entity Official #1

Type: Individual

Name: Matthew Shelton

Phone Number: 907-854-2247

Email Address: msmatt02@gmail.com

Mailing Address: 17851 Yellowstone dr.
Eagle River, AK 99577
UNITED STATES

Entity Official #2

Type: Individual

Name: Thomas Dicus

Phone Number: 907-717-4037

Email Address: HomerJ1080@yahoo.com

Mailing Address: 3900 N. Sierra St.
Wasilla, AK 99654
UNITED STATES

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 October 23, 2018

Date Posted at City Hall: 10/23/18
Staff Initials: Sarah Smith



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.**

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:	Mr. Happy Farms LLC.	MJ License #:	17692
License Type:	Limited Marijuana Cultivation Facility		
Doing Business As:	Mr. Happy Farms LLC.		
Premises Address:	3900 N. Sierra St.		
City:	Wasilla	State:	Alaska
		ZIP:	99654



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.

The following details must be included in all diagrams:

- ☒ License number and DBA
- ☒ Legend or key
- ☒ Color coding
- ☒ 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 types

The following additional details must be included in Diagram 2:

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

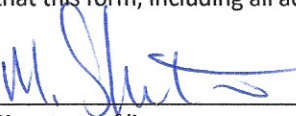
The following additional details must be included in Diagrams 3 and 4:

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

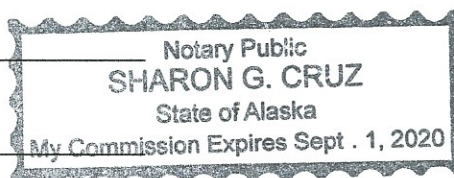
The following additional details must be included in Diagram 5:

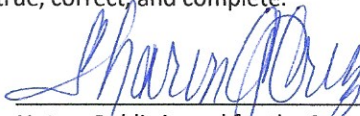
- ☐ Areas of ingress and egress
- ☐ Entrances and exits
- ☐ Walls and partitions
- ☐ Cross streets and points of reference

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

Matthew Shelton
Printed name of licensee




Notary Public in and for the State of Alaska

My commission expires: 09/01/2020

Subscribed and sworn to before me this 3RD day of MAY, 2018.

Diagram 1

