THE STATE of ALASKA
GOVERNOR MICHAEL J. DUNLEAVY

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE

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MEMORANDUM

TO: Marijuana Control Board DATE: Friday, October 08, 2021

FROM: James Hoelscher, Enforcement Supervisor RE:Enforcement Report, Alcohol

On September 21, 2021, I received two MJ-14's for review for Nome Grown, LLC #'s 17594 & 18545. The MJ-14 for Nome Grown LLC, Cultivation #17594 was approved.

The MJ-14 for Nome Grown LLC, Retail Marijuana Store #18545 – Recommend Denial, see below

MJ-14 18545 Nome Grown LLC, Retail Marijuana Store

1. *Requesting to increase square footage of the existing facility to 24'x50' and add a 6'x12' "conex" for a permanent drive through retail window on the same lot adjoined to the licensed retail store by a fence.*
2. Add-2nd restroom
3. Add – additional MJ product display(restricted)
4. Add – 2nd MJ sales counter
5. The previous residence will be part of the licensed premises.

I am recommending the denial of "1." The reasons for denial are:

- Approval of this diagram would not be in accordance with 3 AAC 306.705, the "conex" is separate and may be considered adjacent if the fence is taken into consideration. Even with that consideration, the "conex" would be a restricted access area.
- This would be an act prohibited as a retail marijuana store may only sell marijuana or a marijuana product to a consumer who is physically present on the licensed premises.
- The concept of a drive through would not be supported by our regulations and this is also reinforced with the temporary authorization of 3 AAC 306.995. A retail store is authorized to make a sale to an individual on the licensed premises, someone outside of the retail store in a vehicle would not be on the premises.
    - Sale to an individual would also create difficulty of employees to assess if a person is under 21 years of age.
    - Sale to a person that is under the influence of an alcoholic beverage, inhalant, or controlled substance is difficult to assess with a seated occupant of a vehicle.
    - Minors could possibly be present in vehicle. All occupants would need to be ID'd
    - Would people on 4-wheeler or snowmachines use drive-through? If so, how would employee ID with people in winter gear(hats, helmets, facemasks, etc.)

- A consumer would not be able to observe the required consumer notices posted within the premises.

Reference;

3 AAC 306.705. Licensed premises; alteration

(a) A marijuana establishment license will be issued for specific licensed premises. Unlicensed areas may not separate portions of licensed premises, except that the board may approve adjacent portions of the licensed premises **that are not restricted access area as permitted** under 3 AAC 306.710.

- 3 AAC 306.710. Restricted access areas
  (a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked.

3 AAC 306.305. Retail marijuana store privileges

(a) A licensed retail marijuana store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual **on the licensed premises** or as permitted under 3 AAC 306.995 for consumption off the licensed premises;

3 AAC 306.310. Acts prohibited at retail marijuana store

(a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or a marijuana product

(1) to a person under 21 years of age;

(2) to a person that is under the influence of an alcoholic beverage, inhalant, or controlled substance

(5) unless permitted under 3 AAC 306.995, over the Internet; a licensed retail marijuana store **may only sell marijuana or a marijuana product to a consumer who is physically present on the licensed premises** *or who is physically present at the location designated for exterior window or curbside pickup as described and permitted under 3 AAC 306.995;*

3 AAC 306.365. Required consumer notices for retail marijuana stores.