AMCO received 3/17/2022

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March 17, 2022

Re: MJ14 request for Nome Grown Retail License

Dear: Honorable Marijuana Control Board,

As a background refresher on this MJ14 request, this Board denied a previous submission of a MJ14 for Nome Grown Retail License at the October 2021 MCB meeting in Anchorage, Alaska. The Board provided feedback to the applicant to review in detail Enforcement's Memo authored by Chief Hoelscher that outlined regulatory concerns and considerations as the applicant also recognized that there were some regulatory issues identified by Chief Hoelscher that needed further clarification. The Board then directed the applicant to re-apply with a plan that addressed all items identified by Chief Hoelscher. Please see below for a detailed outline of Nome Grown's plan to address each regulatory concern raised by Chief Hoelscher and the Enforcement Team:

1. "Approval of this diagram would not be in accordance with 3AAC 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." Nome Grown response to this concern is that the term "conex" was a simplified way to denote a structure and to convey its approximate size and added security to the facility. The building that houses the drive up window is a traditional wood structure that was originally part of the cultivation building. Access to the restricted access area of the drive-up window work area is through the cultivation building. We are unsure why this item was listed as a concern for enforcement. This building structure has been approved by the local government and a connecting sight obscuring fencing enclosure shown on the diagram set increases security for the entire facility and ensures no marijuana is seen by the public outside the licensed premises.
2. "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." Nome Grown addressed this regulatory concern by including a slight additional expansion of the licensed premises area directly outside the pick-up window as part of the licensed premises. As you can see on the attached MJ14 diagram set, an area measuring in size of 6 feet by 8 feet has been added to the walk-up/drive area as licensed premises area. Per 3AAC 306.990(23), a licensed premises may include outdoor areas. Additionally, part of

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the drive-up/walk-up plan is to clearly mark the outside licensed premises area with barriers. These 6' x 8' barriers will be in place when the walk-up/drive-up is not open to the public.

3. Enforcement also noted concerns that it would be difficult to assess if a person was under the age of 21 in this walk-up/drive-up model. However, we disagree – to our knowledge, during the emergency declaration period when the 3 AAC 306.995 were in place, there were no incidents of underage sales made to walkup/drive-up consumers. Additionally, unlike the emergency declaration regulations, Nome Grown will require all persons in the vehicle be 21. This will be required as the space right outside of the window will be licensed premises. Therefore, Greg shall have additional signage on the exterior of the building clearing stating, "No persons under the age of 21 years old past this point" and "Area under surveillance" to defer attempts by persons under 21 years of age from entering the outside licensed area. There will also be cameras monitoring the area of the walk-up/drive-up area and the drive way before the window to ensure the staff knows how many persons are in the vehicle so they know if any under age person is hiding when the vehicle drives up to the window.
4. Moreover, Nome is a small community, the folks that work at Nome Grown have been there on average for over 2 years. The staff at Nome Grown have lived in Nome for at least 5 years, but most where born and raised in Nome. Hence, Nome Grown staff knows its customers, its community, and they are uniquely situated to quickly identify any persons attempting to make a purchase who are not under the age of 21. Additionally, the idea that its more difficult to assess a person's identity and age just because it's a drive up model is inconsistent with the use of drive-ups in other *highly* regulated industries such as banking and pharmacies.
5. Another point raised by Enforcement is the concern that it's difficult to assess whether a person is under the influence of an intoxicating substance if that person is in a vehicle vs. coming into the store. To address this concern, Greg has added extra training and protocols for his staff to make a purposeful effort to engage in conversation with each person in the vehicle and exchange in dialogue to watch for signs of inebriation. Greg is a highly trained drug and alcohol addiction health provider and whom as an adjunct faculty of UAF to this endeavor has the knowledge, the training, and the skill set to create protocols and procedures for staff who do work the window to purposefully engage with customers and watch for telltale signs of inebriation. Additionally, during the emergency declaration period, there were no incidents of increased marijuana sales to inebriated persons or an increased rate of retail stores having to refuse to sell to consumers because they tried to go through drive-ups inebriated. Presumably, if a person is intoxicated and driving a vehicle

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through a narrow driveway, its going to be easier to tell if they are drunk then it would be if they were just having to walk into the store.

6. Another concern raised by enforcement is that because there may be minors in the vehicle that all occupants would need to show valid ID proving that they are all over the age of 21. We agree and have modified the plan to ensure all occupants of any vehicle that goes through the driveway show valid identification proving they are 21 years of age or older.
7. Enforcement, recognizing the rural nature of Nome, voiced concerns about how staff would ensure that the identification a customer provides to them is actually their own identification in the event that customer traveled to the store on a four-wheeler or snow machine and was wearing facemasks, hats, helmets, etc. This is a good point, but this is already addressed in the Nome Grown procedures for the store as it currently is operated and would extend to the window walk-up/drive-up outside licensed premises as well. Currently, folks drive their snow machines and 4-wheelers to Nome Grown all the time. Customers know that they still have to remove their facemasks and helmets and show their face when they have their ID checked by the retail staff in order to purchase marijuana from the retail facility. This is currently the practice and will remain the practice.
8. Lastly, Enforcement's memo rightfully pointed out that the plan for the drive-up/walk-up did not address the requirement for posting the required consumer notices within the licensed premises area. The revised MJ15 and MJ14 attached clearly address this regulatory component and all consumer notices will be posted on the exterior of the building. The postings will be of such size to ensure clear visibility at all times to all consumers who utilize the walk-up/drive-up area.

Additionally, please see the list of elders who have indicated that they would very much like to have a drive through option when coming to Nome Grown. Given that the Nome Grown plan has addressed all regulatory and safety concerns raised by Enforcement, we respectfully request the Marijuana Control Board consider this unique proposal, the rural nature of the community, and the intent to provide ease of access to person over the age of 21 who chose to consume tested and regulated marijuana products.

Truly and Sincerely Yours,

Jana D. Weltzin, *Esq.*