Jana D. Weltzin
Licensed in Alaska & Arizona
901 Photo Ave, Second Floor
Anchorage, Alaska 99503
Phone 907-231-3750
JDW, LLC
jana@jdwcounsel.com

August 28, 2024

RE: Three Sisters, LLC DBA Wildflower onsite consumption change to small structure "Kiosk"

Dear Honorable members of the Marijuana Control Board,

This letter is in response to the in-depth conversation that was had during the June MCB meeting and the concerns that were voiced by board members.

A brief background on this application – On September 14, 2021 my office, on behalf of Wildflower, initiated an onsite consumption endorsement for their existing retail marijuana store with the unique idea of using an airstream as the onsite consumption area. On December 7, 2021 the onsite consumption endorsement application was submitted to the AMCO office and placed in the queue to be reviewed by an examiner. After five follow ups over the next 8 months, Director Wilson sent an email on August 17, 2022 that she was helping with the AMCO queue and handling the on-site consumption applications and that she had a couple of questions that were resolved internally and it was her aim to have this application on the September MCB agenda. The Director email was followed by confirmation that the application should be on the September MCB agenda, and that the Director was working on it from the regulations specialist/acting program director Jane Sawyer two days later. On August 20, Director Wilson sent an email with 4 questions: 1st question was regarding smoking and ventilation/HVAC plans that were not submitted, 2nd question was a request for clarification on diagrams 1 & 2 to show the walkway/pathway from the store to the trailer and to clarify the building on the diagrams, 3rd question was regarding the lease in regard to sole right of possession to the outside where the "airstream" was placed and 4th question was a request for details how the airstream was a "freestanding building", how is the airstream trailer considered a building and if it qualified as a building under local government operating code. On December 2, 2022 my office submitted the responses to Director Wilson's August 20th email with a response letter (attached), HVAC plans, updated diagrams and a lease amendment. On December 6th, we received confirmation that the onsite consumption endorsement application would be on the upcoming MCB agenda and on December 27th, 2022 we received the complete application letter (attached) with the December 13-14, 2022 MCB approval with delegation to the director to issue once they received all approvals.

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After MCB approval of the original onsite consumption airstream plans, Janiese Stevens diligently began working with the City of Kodiak to get local government approval and a building permit. Unbeknown to us at the time of application, the City of Kodiak considers the airstream and does not allow for "temporary buildings" per code 17.60.070(D)(6) b. Mobile homes, recreational vehicles, campers, and travel trailers are not permitted to be used as an ADU (Accessory Dwelling Units). We began working on options to meet code with the airstream to no avail. Janiese, one of the licensees, found a "Kiosk" hereinafter "small structure", that meets city enforced codes (City of Kodiak & Kodiak Island Borough Building Codes – Building & Structural as outlined under Chapter 3 – Occupancy Classification and Use in the Commercial 2021 IBC – 303.1.1 Small buildings and tenant spaces), and contacted my office to update the onsite consumption endorsement from the previously approved airstream to the City of Kodiak approved small structure.

This brings us to today. During the June MCB meeting board members voiced concerns regarding the change from a camping trailer (airstream) to a small structure. Some of the concerns and clarifications on the concerns are:

- MCB Concern: The site plan layout showing the fence surrounding the onsite consumption area will cut off traffic flow in and out of the parking lot. **JDW:** The site plan was confusing, and we understand the concern. After the last meeting my office and licensee Janiese Stevens worked closely with Determine Design to work on an accurate and detailed site plan for the proposed use (attached). Photos below of driveways, ditches and fence for clarity.

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MCB Concern: The swap from an airstream to a smaller structure was concerning, the intent of the onsite consumption area had more room for customers in the airstream and that the small structure is completely different. **JDW:** The swap from the airstream to the small structure was not what the licensee wanted, licensees have to abide by city code and city code does not allow for an airstream, there were multiple code concerns such as; ceiling height, floor weight limits, doorway, etc., city code and the Commercial IBC 2021, does allow for a small structure and is in compliance with public health and

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safety. We would give the board the difference in capacity limits however, the IBC recommends a certain number of inches of doorway per occupant for business uses, the airstream doesn't meet city code specifically for this reason so occupancy cannot be calculated, we can say as a camping trailer, the airstream specifications for personal use allowed for 8 people to sleep. The small structure has capacity for 8 individuals and complies with city and IBC 2021 code.

- MCB Concern: Who is in the small structure? What are they doing? How many people are in there? What is the mode of operation? Is there a service counter? We need answers to these questions. **JDW:** As mentioned infra, there is a maximum capacity of 8 people in the small structure, not taking into account the customers sitting on the outdoor deck. Any person in the small structure or on the outdoor deck will be there to utilize the onsite consumption area while enjoying the Kodiak summer as this onsite consumption area will only be open during the summer months, potentially spring and fall as well if the weather allows. Customers who want to gain access to the onsite consumption area will purchase onsite consumption stickered product from the retail store before being allowed access to the onsite consumption area. Customers have their ID verified at the retail point of sale dedicated to onsite consumption, only products intended for onsite consumption will be allowed in the consumption area, products will have particular stickers or color-coded packaging that will allow for an employee to easily recognize marijuana or marijuana products that were purchased for the consumption area and marijuana and marijuana products that were not. All marijuana or marijuana products that are left by customers in the consumption area will be quickly cleaned up and disposed of in a manner compliant with regulations. No smoking is allowed on the outdoor patio. The mode of operations for this change is detailed in the MJ-15 operating plan change and corresponding MJ-28b onsite consumption endorsement operating plan that was submitted to AMCO.

- MCB Concern: We need clear information on how the small structure would function as an on-site consumption area, it's not clear, there is no furniture, no counter, there's no nothing, it's just a box with a door. **JDW:** We have worked with the licensee and their architect, the new plans and photos provided should give the board a clear understanding of the intent and layout of this proposed onsite consumption endorsement.

This is a new venture for this licensee and for the city of Kodiak, the licensee chose a small structure (originally the airstream) to test the waters of an onsite consumption facility and whether

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making an expensive investment into a larger building is economical. If this proposed onsite consumption is a success and the people of Kodiak utilize this service as we hope they will, rest assure we will be back in the AMCO queue with an updated operating plan and premises diagram change for a bigger building.

We hope that this information clarifies the intent, and you can confidently approve this operating plan change application.

Truly and Sincerely Yours,

Jana D. Weltzin, *Esq.*

Gmail

Brenda Butler <brenda@jdwcounsel.com>

Three Sisters, LLC DBA Wildflower License #21069

Wilson, Joan M (CED) <joan.wilson@alaska.gov> Wed, Aug 17, 2022 at 9:25 AM
To: Brenda Mills <brenda@jdwcounsel.com>
Cc: Jana Weltzin <jana@jdwcounsel.com>, "Hall, Nathan D (CED)" <nathan.hall2@alaska.gov>, "Sawyer, Jane Preston (CED)" <jane.sawyer@alaska.gov>, "Craig, Carrie D (CED)" <carrie.craig@alaska.gov>

Hello, Brenda.

To help with the queue I am handling the on-site consumption applications. I have reviewed your client's application and had a couple of questions that were resolved internally. It is my aim to have this on the agenda for the September meeting. That said, I promise to follow regular protocols and send you an official complete notice. If I see anything that impacts that course, I will let you know immediately.

Joan M. Wilson

Director

Alaska Alcohol & Marijuana Control Office

550 W. Seventh Avenue, Suite 1600

Anchorage, Alaska 99501

(907) 269-0350

From: Brenda Butler <brenda@jdwcounsel.com>
Sent: Tuesday, August 16, 2022 4:50 PM
To: Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Cc: Janiese Stevens <jstevens@ak.net>; Jana Weltzin <jana@jdwcounsel.com>; Nathan Williams <nathan@jdwcounsel.com>; Randi Baker <randi@jdwcounsel.com>

Gmail

Brenda Butler <brenda@jdwcounsel.com>

Three Sisters, LLC DBA Wildflower License #21069

Wilson, Joan M (CED) <joan.wilson@alaska.gov> Sat, Aug 20, 2022 at 2:24 PM
To: Brenda Butler <brenda@jdwcounsel.com>, Jana Weltzin <jana@jdwcounsel.com>, Janiese Stevens <jstevens@ak.net>
Cc: Jana Weltzin <jana@jdwcounsel.com>, Nathan Williams <nathan@jdwcounsel.com>, Randi Baker <randi@jdwcounsel.com>, "Marijuana Licensing (CED sponsored)" <marijuana.licensing@alaska.gov>

Good afternoon, Brenda and team,

I would very much like to declare this application complete for board consideration, but can you help me with a few questions:

1. Since consumption is permitted by smoking, I did net see your ventilations plans prepared by a licensed mechanical engineer. Please re-send if I missed them.
2. I understand this is a separate airstream trailer. Please describe and demonstrate by your drawings how this area is “separated by walls and a secure door” and “must only have access from the retail marijuana store.” 3 AAC 306.370(e)(1). Unless I am mistaken, this will be question of first impression for the board regarding whether the customer can walk outside (granted within the licensed premises) to access the onsite consumption area. Diagram 1 & 2 do not appear to show the walkway/pathway from the store to the trailer or show the outside exterior wall of the retail store. There is a large black, long rectangular block in the drawing. I am uncertain if this is the building. Any clarification would be appreciated.
3. I will review the lease, but in the meanwhile, can you ensure me the licensee has a sole right of possession to the outside area in which the airstream is placed.
4. Please also detail how the airstream is a “freestanding building,” particularly how is the airstream trailer considered a building and does it qualify as a building under local government operating code.

AS 18.35.301(i)(1)

“freestanding” means a building that is not supported by another structure and does not share ventilation or internal air space with an adjoining structure and smoke from the building cannot travel into the adjoining structure;

3 AAC 306.990. Definitions

(a) In AS 17.38 and this chapter,

(42) “freestanding” (A) has the meaning given in AS 18.35.301(i)(1); (B) does not include a building that contains a tenant other than one or more licensed marijuana establishments owned by the same business, individual, or group of individuals that seeks an onsite consumption endorsement;

I understand I have the ability to declare this an incomplete application until these questions are answered, but it remains my hope that all of these questions can be answered as soon as possible so this application can be before

Gmail

Brenda Butler <brenda@jdwcounsel.com>

21069 Wildflower OCE - Complete Application

1 message

Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov> Tue, Dec 27, 2022 at 11:26 AM
To: Brenda Butler <brenda@jdwcounsel.com>, Jana Weltzin <jana@jdwcounsel.com>, Randi Baker <randi@jdwcounsel.com>, Janiese Stevens <jstevens@ak.net>
Cc: "Marijuana Licensing (CED sponsored)" <marijuana.licensing@alaska.gov>

December 27, 2022

Three Sisters, LLC

DBA: Wildflower

Via email: jstevens@ak.net

Re: Application Status for License #21069

Dear Applicant:

AMCO has received your application for an Onsite Consumption Endorsement. Our staff has reviewed your application after receiving your application and required fees. Your application documents appear to be in order, and it has been determined that your application is complete for purposes of 3 AAC 306.025(d).

Your application will now be sent electronically, in its entirety, to your local government, your community council if your proposed premises is in Anchorage or certain locations in the Mat-Su Borough, and to any non-profit agencies who have requested notification of applications. The local government has 60 days to protest the issuance of your license or waive protest.

If you have not yet received all necessary approvals, such as a local license, conditional use permit, site plan review, Fire Marshal approval, or Department of Environmental Conservation approval, you should continue to work with those local or state agencies to get the requirements completed. We must also wait for the criminal history check for each individual licensee based on your fingerprint card(s). Your application status in the application database will be changed to “Complete” today.

Your application may be considered by the board while some approvals are still pending. However, your license will not be finally issued and ready to operate until all necessary approvals are received and a preliminary inspection of your premises by AMCO enforcement staff is completed.

At the December 13-14, 2022 meeting, the board approved your application with delegation to the Director to issue once we receive all approvals.

Sincerely,

Joan M. Wilson

Joan Wilson, Director, 907-269-0350

Jane P. Sawyer

Regulations Specialist/Acting Program Coordinator

DCCED-Alcohol and Marijuana Control Office

550 W. 7th Avenue, Suite 1600

Anchorage, AK 99501

907-269-0490

21069 Wildflower OCE - Complete Application.pdf
257K

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

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

December 27, 2022

Three Sisters, LLC
DBA: Wildflower
Via email: jstevens@ak.net

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Sincerely,

Joan M. Wilson

Joan Wilson, Director, 907-269-0350

Room Schedule

#	Name	Area	Wall Finish	Ceiling Finish	Base Finish	Floor Finish	Comments
101	ENTRY	63 SF	GYP/P1*	OPEN	RB1*	C/E	WALL HEIGHT: 8'-0"
102	RETAIL SPACE	268 SF	GYP/P1	GYP/P1	RB1	C/E	
103	RETAIL (RESTRICTED)	368 SF	GYP/P1	GYP/P1	RB1	C/E	
104	RESTROOM	50 SF	GYP/P1	GYP/P1	RB1	C/E	
105	ENTRY/ STAIRWAY	61 SF	GYP/P1	GYP/P1	RB1	C/E	
106	OFFICE	85 SF	GYP/P1*	OPEN	RB1*	C/E	WALL HEIGHT: 8'-0"
107	WORK ROOM	185 SF	GYP/P1*	OPEN	RB1*	C/E	WALL HEIGHT: 8'-0"
108	WASTE STORAGE	74 SF	GYP/P1*	GYP/P1	RB1*	C/E	WALL HEIGHT: FULL
109	MEZZANINE	202 SF	GYP/P1	GYP/P1	N/A	PLY	

ROOM SCHEDULE LEGEND

GYP: GYPSUM WALL BOARD, TYPE X
P1: LATEX ACRYLIC, MOLD/MOISTURE RESISTANT PAINT
RB1: 4" (MIN) RUBBER COVE BASE
C/E: SLAB ON GRADE, EPOXY FINISH
PLY: PLYWOOD

NOTE: FINISHES ARE EXISTING TO REMAIN EXCEPT THOSE INDICATED WITH *

Door Schedule

Door #	Width x Height	Type	Room	Door Material	Frame Material	Hardware Group	Comments
101	36"x84"	FLUSH	ENTRY	HM	HM	SL	1, 2
102	36"x84"	FLUSH	OFFICE	WD	WD	C	SECURE
103	60"x84"	DBL FLUSH	WORK ROOM	WD	N/A	C	SECURE
104	60"x84"	DBL FLUSH	WASTE STORAGE	WD	N/A	C	SECURE
FD-01	36"x84"	FLUSH	STAIRWAY	HM	HM	L	EXISTING, 1-HOUR FIRE RATING

NOTE: UNLABELED DOORS ARE EXISTING TO REMAIN WITH EXISTING HARDWARE

DOOR SCHEDULE LEGEND

SCW: SOLID CORE WOOD
HM: HOLLOW METAL
1. DOOR CLOSER
2. KICKPLATE

DOOR HARDWARE SCHEDULE LEGEND

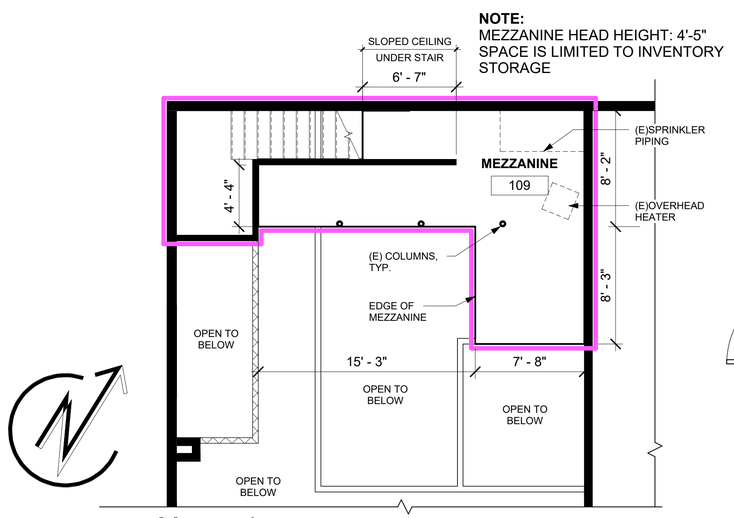
C: PASSAGE LATCH, KEY ONLY OPERATION
L: PASSAGE LATCH, NO LOCK OPTION
SL: SECURITY LATCH, ENTRY REQUIRES KEY OR ACCESS FROM ELECTRONIC SWITCH (ALWAYS OPERABLE FROM EGRESS SIDE)

KEY - SYMBOL - LEGEND

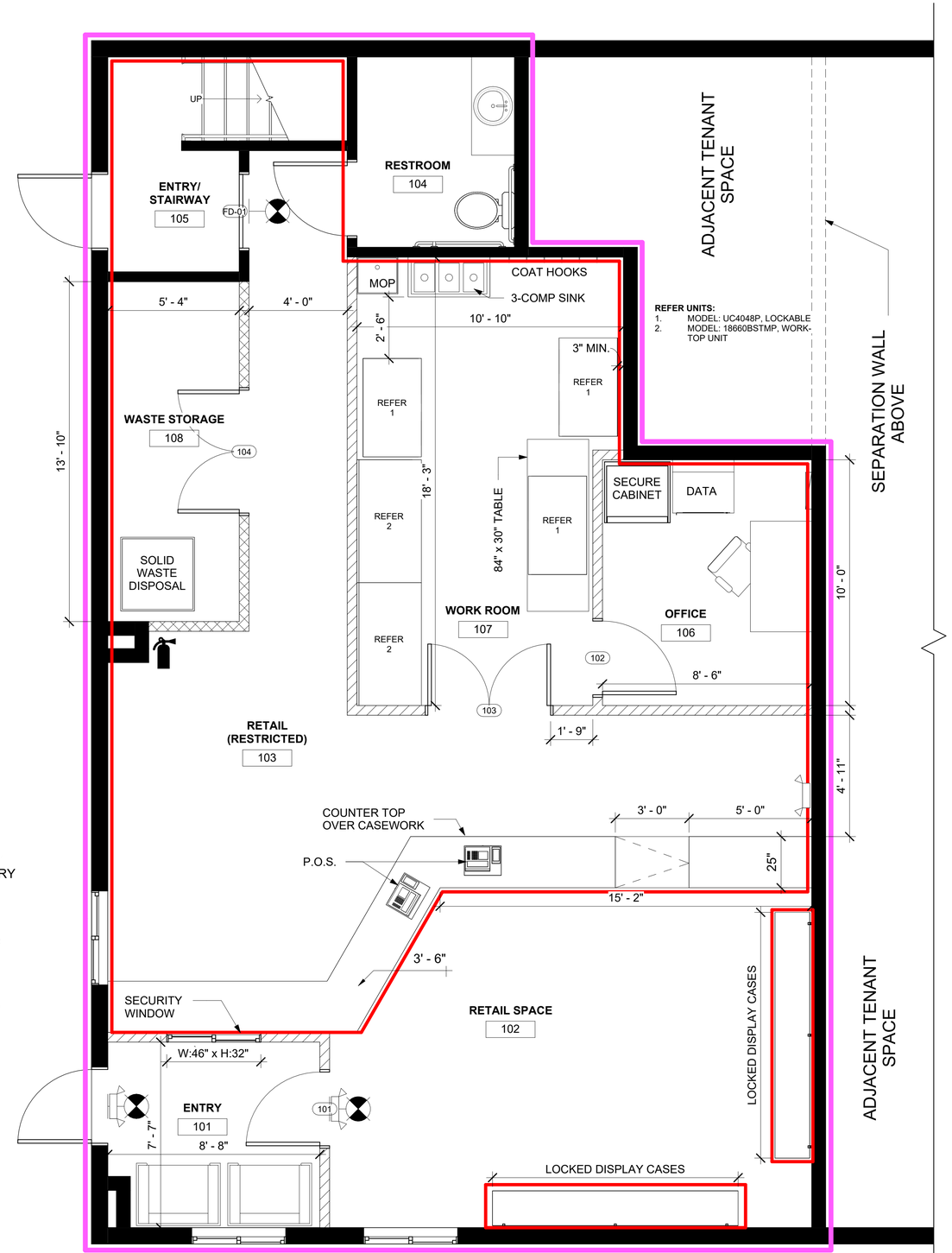
LICENSED PREMISES
RESTRICTED ACCESS AREA

KEY - SYMBOL - LEGEND

EXISTING WALL
NEW INTERIOR WALL, FULL HEIGHT
NEW INTERIOR WALL, 8'-0" HEIGHT
FIRE EXTINGUISHER, 2A:10BC, MOUNT 48" AFF (MEASURED TO GRIP)
EXIT SIGN
EXIT SIGN W/ EMERGENCY LIGHT, 90 MINUTE BATTERY
EMERGENCY LIGHT, 90 MINUTE BATTERY



2 Mezzanine
3/16" = 1'-0"



1 Floor Plan
3/8" = 1'-0"

NOTE: USE HALF INDICATED SCALE FOR 11X17 DRAWINGS

181102

Determine DESIGN

Determine DESIGN LLC AECL1613
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Office: (907)339-9100
dan@determinedesign.com

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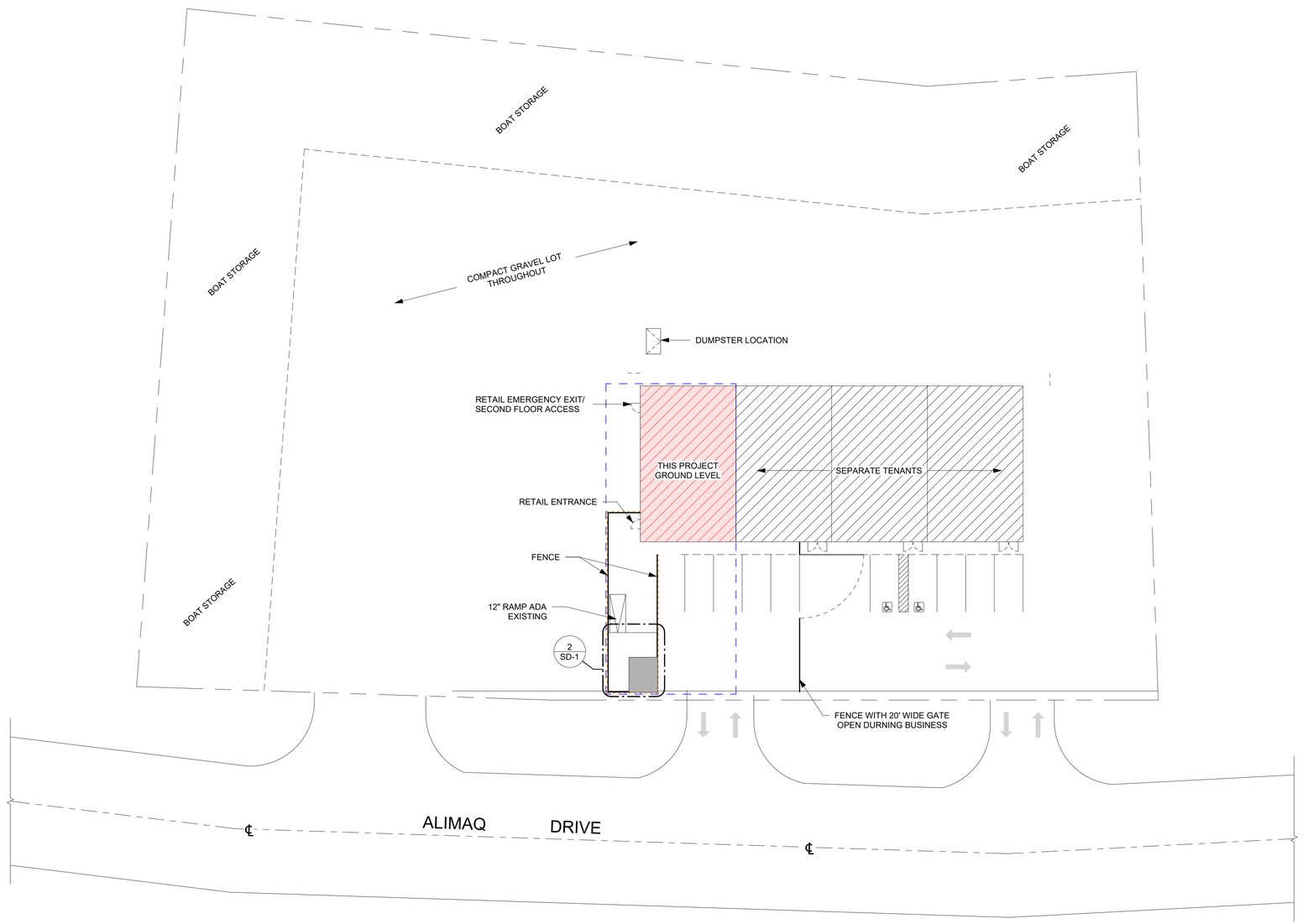
Sheet Issue Date:
8/22/2024 5:32:22 PM
Drawn by: Chris Hayes

STATE OF ALASKA 49th DANIEL H. CLIFT 14104 REGISTERED PROFESSIONAL ARCHITECT

Project Title: Three Sisters
Prepared for: Q Engineers Inc.
Sheet Title: Floor Plan
Address: 158 Alimaq Dr. Kodiak, AK 99615

A-1



1 Site Diagram
1" = 20'-0"

NOTES:

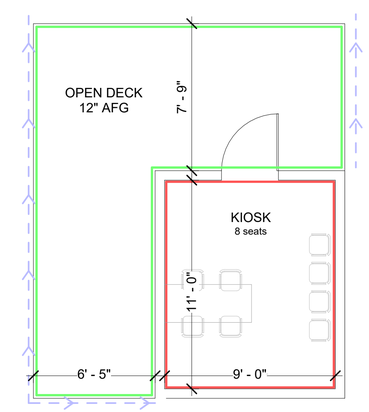
LOT DIMENSIONS BASED ON KODIAK ISLAND BOROUGH SATELLITE IMAGERY AND GROUND LEVEL OBSERVATIONS

Site Data:

LEGAL: **KODIAK BUSINESS PARK LT 4A NEAR ISL**
ADDRESS: 158 ALIMAQ DR.
CITY, STATE: KODIAK, AK
ZONING: INDUSTRIAL
LOT SIZE: 1.44 ACRE
PARCEL: 16509

KEY - SYMBOL - LEGEND

- WILDFLOWER LICENSED PREMISES
- RIGHT TO POSSESSION
- RESTRICTED ACCESS FENCE FOR ONSITE CONSUMPTION AREA
- ONSITE CONSUMPTION PROPOSED LICENSED PREMISES
- OUTDOOR PATIO ONSITE CONSUMPTION PROPOSED LICENSED PREMISES
- CONTIGUOUS FENCE ADJOINING RETAIL STORE TO ONSITE CONSUMPTION PROPOSED LICENSED PREMISES PROPOSED FENCE HEIGHT = 3'



2 KIOSK PLAN
1/4" = 1'-0"

NOTE: USE HALF INDICATED SCALE FOR 11X17 DRAWINGS

181102

Determine DESIGN

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Drawn by: Chris Hayes

STATE OF ALASKA
49th
DANIEL H. CLIFT
14104
REGISTERED PROFESSIONAL ENGINEER

Project Title: Three Sisters
Prepared for: Q Engineers Inc.
Sheet Title: Site Diagram
Address: 158 Alimaq Dr. Kodiak, AK 99615

SD-1