



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director 

DATE: May 10, 2017

SUBJECT: Limited Marijuana Cultivation Facility License Application. **Applicant:** North Road Buds; **Landowner:** Vernon L. Smith; **Parcel #:** 01307007; **Property Description:** Lot 11 Wik Lake Subdivision, according to Plat K-1350, Kenai Recording District; **Location:** 50815 Kosta Rd, Nikiski Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled May 8, 2017 meeting.

A motion to recommend approval of the North Road Buds, a Limited Marijuana Cultivation Facility license application passed by unanimous consent subject to the following conditions:

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

Attached are the unapproved minutes of the subject portion of the meeting.

AGENDA ITEM F.

PUBLIC HEARING

2. State application for a marijuana establishment license; Nikiski Area

Staff Report given by Bruce Wall

PC Meeting: May 8, 2017

Applicant: North Road Buds

Landowner: Vernon L. Smith

Parcel ID#: 013-070-07

Legal Description: Lot 11 Wik Lake Subdivision, according to Plat K-1350, Kenai Recording District

Location: 50815 Kosta Rd

BACKGROUND INFORMATION: On Thursday, January 26, 2017 the applicant notified the borough that he/she had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On Friday, February 3, 2017 the applicant supplied the borough with a signed acknowledgement form and a site plan on Friday, February 3, 2017 of the proposed Limited Marijuana Cultivation Facility on the above described parcel. The Alcohol and Marijuana Control Office notified the borough that the application was complete on Friday, April 7, 2017. Staff has reviewed the completed license that has been submitted to the state and the site plan submitted to the borough and has found the following concerning the standards contained in KPB 7.30.020:

1. The Borough finance department has been notified of the complete application and they report that the applicant is in compliance with the borough tax regulations.
2. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 1,000 feet from any school.
3. Borough planning department staff has evaluated the application and has determined that the proposed facility will be located greater than 500 feet from all recreation or youth centers, and all buildings in which religious services are regularly conducted, and all correctional facilities.
4. The proposed facility is not located within a local option zoning district.
5. The proposed facility is located where there is sufficient ingress and egress for traffic to the parcel.
 - The parcel has direct access to a state maintained road and will not be accessing a borough right-of-way.
 - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
 - The site plan indicates a clear route for delivery vehicles which allows vehicles to turn safely. Because the applicant owns the property on both sides of the roadway, there is a sufficient turning radius from the parking and loading area.
 - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out into the roadway. Kosta Road is a 20-foot wide easement. There is sufficient parking adjacent to the roadway without the need to back into the roadway.
6. Because this application is for cultivation the hours of operation for a retail store is not applicable. KPB 7.30.020(E) allows the recommendation of additional conditions on a license to meet the following standards:
 - protection against damage to adjacent properties,
 - protection against offsite odors,
 - protection against noise,
 - protection against visual impacts,
 - protection against road damage,
 - protection against criminal activity, and

- protection of public safety.

The Alaska Marijuana Control Board will impose a condition a local government recommends unless the board finds the recommended condition is arbitrary, capricious, and unreasonable (3 ACC 306.060b). If the Planning Commission recommends additional conditions, additional findings must be adopted to support the conditions.

There are some unique characteristics that need to be explained on this application. Old Lamplight Rd has been renamed to Kosta Rd. Kosta Rd is a 20 foot wide easement that is maintained by the State. The access and parking for this facility will be a parking pad adjacent to the roadway even though there is a driveway going down to the facility. There was about a 20 foot elevation difference between the road and the bottom of the driveway. When the applicant purchased the property, 18 years ago, their driveway was not in place and the pad was the only access to the house. The owner added steps that led down to the deck on the second floor of the house.

The driveway was located almost entirely on the neighboring property. The applicant does not have an access easement on that property. The parking pad adjacent to the roadway is sufficient to provide the needed access for this limited cultivation facility.

PUBLIC NOTICE: Public notice of the application was mailed on Wednesday, April 19, 2017 to the four landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the Thursday, April 27, 2017 & Thursday, May 4, 2017 issues of the Peninsula Clarion.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on Wednesday, May 1, 2017.

ATTACHMENTS

- State marijuana establishment application with associated submitted documents
- Site Plan
- Acknowledgement form
- Aerial map
- Area land use map with 500' & 1,000' parcel radius

STAFF RECOMMENDATION

Staff recommends that the planning commission forward this application to the assembly with the findings contained in this staff report and with the recommendation that the following conditions be placed on the state license pursuant to 3 AAC 306.060(b):

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted to the Kenai Peninsula Borough.
2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KPB 7.30.020(A).

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Ecklund moved, seconded by Commissioner Lockwood to recommend approval of North Road Buds, a Limited Cultivation Facility license according to staff recommendations, findings and to recommend that the following three conditions be placed on the state license.

Conditions

1. The marijuana establishment shall conduct their operation consistent with the site plan submitted

- to the Kenai Peninsula Borough.
- 2. There shall be no parking in borough rights-of-way generated by the marijuana establishment.
- 3. The marijuana establishment shall remain current in all Kenai Peninsula Borough tax obligations consistent with KP.B 7.30.020(A).

Commissioner Ecklund understood this was for a limited Marijuana Cultivation facility. She asked if the applicant could come back asking for a retail store license at a later date. Mr. Wall replied that the applicant has not applied for a Retail Store License. The State regulations allow a retail license to be co-located with either a Limited Cultivation or a Standard Cultivation. He stated that the applicants are just doing this in a room in their house and believed they did not have the intention of having a retail store at this location.

Commissioner Ecklund stated that it appeared that the parking wasn't for customer parking. Mr. Wall replied that was correct. The parking would only be for their personal vehicles. He stated that the Borough Code requires that they have adequate parking which was why that was addressed.

Commissioner Whitney asked if there were children living in the residence. Mr. Wall understood that there were not any children living in the residence. The room where the facility will be located has an outdoor entrance which is how the applicants will enter it.

VOTE: The motion passed by unanimous consent.

CARLUCCIO YES	ECKLUD YES	ERNST YES	FOSTER ABSENT	GLENDENING YES	ISHAM YES	LOCKWOOD YES
MARTIN YES	MORGAN YES	RUFFNER ABSENT	VENUTI YES	WHITNEY YES		10 YES 2 ABSENT

AGENDA ITEM F. PUBLIC HEARINGS

3a. Harbin Ave (portion of) original named by plat KN0750045 Steadman Subdivision; T 5N R 9W SECTION 20; Seward Meridian, AK; between St Theresa Rd and Steadman St in the Sterling Community; ESN 302

Staff Report given by Carrie Henson

PC MEETING 05/08/2017

Applicant: Kenai Peninsula Borough

Existing right-of-way names: Harbin Ave (portion of)

Name proposed by staff: Herbert Way

Reason for Change: Jump Street created by Plat Action

Background:

Name	Harbin Ave
ESN	302
Community	Sterling
YR Dedicated	1975
Constructed	No
Total Lots	3
Residential	2
E911 Address	0
Mailing	0
Decision	Rename