



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: July 18, 2017

SUBJECT: Application for a new Standard Marijuana Cultivation Facility License. **Applicant:** Greenstar, Inc.; **Landowner:** Jason M Bott; **Parcel #:** 01314405; **Property Description:** Lot 4, Bruner Subdivision, according to Plat 2003-55, Kenai Recording District.; **Location:** 54843 Kenai Spur Hwy, Nikiski, Nikiski Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled July 17, 2017 meeting.

A motion to recommend approval of the Greenstar, Inc., a Standard Marijuana Cultivation Facility 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

5e. State application for a marijuana establishment license; Nikiski Area

Staff Report given by Bruce Wall

PC MEETING: July 17, 2017

Applicant: Greenstar, Inc.

Landowner: Jason M. Bott

Parcel ID#: 013-144-05

Legal Description: Lot 4, Bruner Subdivision, according to Plat 2003-55, Kenai Recording District.

Location: 54843 Kenai Spur Hwy, Nikiski

BACKGROUND INFORMATION: On May 16, 2017 the applicant notified the borough that he/she had submitted an application to the state for a Standard Marijuana Cultivation Facility license. On May 26, 2017 the applicant supplied the borough with a signed acknowledgement form, and a site plan on May 26, 2017 of the proposed Standard Marijuana Cultivation Facility on the above described parcel. The Alcohol and Marijuana Control Office notified the borough that the application was complete on June 14, 2017.

Seven comment letters have been received.

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.
 - On-site parking and loading areas are designated at a location that would preclude vehicles from backing out 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.

PUBLIC NOTICE: Public notice of the application was mailed on June 27, 2017 to the 7 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the July 6, 2017 & July 13, 2017 issues of the Peninsula Clarion.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on Tuesday, July 3, 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.

1. Charlene Johnson, 52877 Bruner Circle, Nikiski
Ms. Johnson stated that she was one of the property owners that were within the 300 feet radius of the subject facility. On behalf of her family, she respectfully requested that the Planning Commission not recommend approval of this application to the State. It would be on the basis that youth congregate regularly at their property and that it provides for criminal attraction in the neighborhood, unfortunately, Nikiski has way too much of already. Also, for the fact, as other property owners have previous listed, the devaluation of their property as it stands being next to something of this nature.

Ms. Johnson stated that when they bought this location, it was specifically to be near the local middle / high school which was not within 1,000 feet but it was 3.5 miles away from sixth grade through twelfth grade. There is a church less than a mile away, an established bus stop right next to it. They have had long term involvement with the school. Her husband has been a volunteer coach there for 23 years and she has been a parent volunteer and tutor for 20 years. She stated they have teens over all the time through the school year. They have regular BBQ's, activities and have wanted to make their house a destination house in the area so that youth had a safe, well chaperoned place that they

could go that would not involve things that parents would worry about or would be illegal in nature. Through the years, they have managed to do that. In fact, people have told them repeatedly that they were no worried if their child says they are coming to their house because they know because they will be there, they know that it was going to be ok for whatever was going on there. There are copious amounts of activities. Ms. Johnson stated they have put in a basketball court, a volleyball court, a mini-football field, a throwing area, a zip line, etc. She also stated that they have allowed people to come pick from their garden, raspberries so they have people coming in and out with all this kind of stuff.

Ms. Johnson commented that this was just one of those things that they would hate to see something that has such a negative effect on especially youth. They have seen it through the schools with their volunteering. Kids are more and more likely to become addicted and users of this particular substance which is still a controlled, illegal substance on a federal level. There are more health issues are coming out all the time with kids and adults with this particular substance which greatly concerns them having more and more of these applications being approved for their neighborhood and community.

As, most people know, they have do not have a local police service out in Nikiski. They are serviced by the Troopers in Soldotna which takes about an hour to get there if they can. They have had a neighbor that has called the Troopers when there were people breaking into her home through a dog door. At this particular time, she was by herself with her young toddler and was told that they could not have a Trooper out there until the morning despite the fact that there were people breaking in at that moment. Her husband went with his gun and scared them off. Fortunately, that situation turned out ok. They have no means of having prompt police service should anything go down.

Ms. Johnson's husband wrote to Mr. Bott and asked about security measures. They were told that there would be a gate on the road and people would be ID'd to make sure that they were proper age but that was not going to stop someone who was a criminal that has phoniest intent. She expressed concern about those same types being on their property to get to his property. There was no fencing around the property and the gate was simply across the road. They have given up trying to re-weld their gate on the far side of their property because it gets broken so many times by people that trespass. There are numerous trespassers, unfortunately for any number of reasons. Ms. Johnson stated they have had people cut wood on their property, have had people put up trail camps and people come and try to trap because they are on lakes. She stated that there was nothing to stop people from trespassing through their place to get to his place.

Ms. Johnson felt that all of this leads to such a negative impact. She had hoped this location would be kind of their dream location to retire at. They have a son that hopes to someday get married when he graduates and to build there but this was not something that she wants her kids and grandkids to be having to live next to a facility that was producing this type of product.

Ms. Johnson stated that these things are high theft attractions as well as several health issues with it. She wasn't sure how much would be addressed with what they have already heard whether it was with noxious smells, water contamination, or what kind of pesticides were being used. They weren't told whether this would be an indoor or outdoor facility.

Ms. Johnson stated that all of this leads them to ask that this recommendation to this particular applicant be denied. She hoped that they would think about the rest of the area because so many of these are coming into being and they really do have a negative effect on the youth in their area and elsewhere.

There being no further comments or questions, the public hearing continued.

2. Jason Bott, 35835 Ryan Ln, Soldotna

Mr. Bott stated that he was the owner of the property in question. He stated he received communication from Mr. Johnson however, he did not ask about the security protocols but he did tell

him that if he had any other questions or concerns to contact him. All of the correspondence has been forwarded to Mr. Wall.

Mr. Bott stated that he brought copies of their operations protocol and security measures for anybody who would like a copy. They absolutely specify, not only was there a gate but they do not sell marijuana to the general public. He stated that the product was sold strictly to licensed retailers whose certifications are on file. It was not sold to the public and certainly not youngsters.

Mr. Bott stated they have a 360 degree, around the building, night vision capable cameras. Every single space inside was under surveillance. In addition to that, they have poured a full on concrete bank vault inside the building so there was no way to steal it. If anybody that does not belong there was on the property was asked to leave and if they don't leave then they are trespassed immediately. He also stated that they have redundant carbon filtration as well as secondary ozone generation so noxious odor should not be an issue.

Mr. Bott has already received unanimous approval from the State based on their security measures, the protocols, and the property.

Mr. Bott stated that they don't use any pesticides; it is all done with CO₂, carbon dioxide because they don't believe that hazardous chemicals have a place in something that was to be consumed by people. On top of all that, regarding pollution of the property, it states in the protocols that everything that they do, any materials or solutions that are discharged are run through a reverse osmosis filter prior to that. He stated they have vegetable and ornamental gardens that are actually going in for their own personal use where they will use some of their solutions but prior to doing that they are reduced to less than 50 parts per million in the solution which was far less than most wells. They are putting more onto their lawn if they water it with well water than they would.

Mr. Bott felt that they could have gone further to allay any of concerns or fears expressed by the neighbors if there had been a more open communication. They will certainly not going to be endangering any youth through their activities. He was available to answer questions.

Chairman Martin asked if there were questions for Mr. Bott.

Commissioner Fikes asked what backup systems he had in the event of a power loss. Mr. Bott replied that they will have backup generators that run the alarm system, security cameras as well as the pumps at the facility.

Commissioner Ecklund asked where the monitors were located for the security cameras. Mr. Bott replied that they were inside the facility and cannot be tampered with. The facility will be manned 24 hours a day. Commissioner Ecklund asked if there would be a person onsite. Mr. Bott replied yes, there is someone on site 24 hours a day.

Commissioner Venuti asked how much volume he anticipated producing. Mr. Bott thought that there would be about 1,400 plants in flower at any given time which would be an overall volume of 4-6 pounds every other day.

Commissioner Venuti asked how he would transport that to his retailers. Mr. Bott replied that that was outlined in his security protocol. The transport would be done in a secure steeled box inside the vault. That vault was then transferred to a knock box bolted into a couple of interchangeable vehicles so that they were not using the same vehicle all the time. He stated that box could not be broken into and it has to be opened to be removed from the vehicle. It was actually hard fastened to the vehicle. They are well secured as per the State protocol. Commissioner Venuti asked if it was unlikely that his product would reach the local street. Mr. Bott replied yes, their tracking system was more accurate than breaking a nickel into 50 pieces. He stated everything has to be weighed to the tenth and hundredth of a gram and that was tracked through the metric system. Every time something was entered it was cataloged with the State and has to be accounted for in his inventory control.

Commissioner Ecklund asked if someone could determine if a product came from his facility. Mr. Bott replied that if it was bought from a licensed retailer then they would have labels affixed to the packaging. It was trackable back to the inception of that cutting being removed from the mother plant prior to being rooted and vegetated if something was bought from a concentrator where they sold products to make their concentrates and put it in a cookie or brownie. Commissioner Ecklund asked if they had to have the labeling to determine that. Mr. Bott replied yes.

There being no further comments or questions, the public hearing continued.

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

MOTION: Commissioner Venuti moved, seconded by Commissioner Isham to recommend approval of Greenstar, Inc, a Standard Marijuana 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 KPB 7.30.020(A).

Commissioner Ecklund asked if a facility was grandfathered if a youth center opens up near it after the facility was in operation. Mr. Wall understood that the way the State regulations were written was that it was at the time that the application was approved. If someone wants to move their facility in adjacent to a marijuana facility or within 500 feet then they would be allowed to do that. They weren't prohibiting them from doing that. It doesn't adversely affect the license holder.

Commissioner Ecklund asked if this application wasn't approved until it goes before the Assembly. Mr. Wall replied that the application was approved by the State. The State has already had their hearing on this application. He believed that they approved it pending the positive recommendation from the Assembly. The Marijuana Control Board staff will then issue the license once that has been met and all the other requirements have been met.

Mr. Bott believed that his facility was over 1,500 feet from the neighbor's driveway.

Ms. Johnson stated that their driveway was actually within 300 feet of the proposed facility. They own the property the full length of that road so the driveway was not where the applicant was assuming it was located.

Commissioner Venuti asked if the people who were in opposition of this application would have an opportunity to contest this at the Assembly. Mr. Wall replied that they will have an opportunity appear at the Assembly meeting. This is on the consent agenda so unless it gets taken off from the consent agenda there would not be an opportunity to specifically address it in a specific time. However, anyone can testify about anything on the agenda.

VOTE: The motion passed by unanimous consent.

CARLUCCIO YES	ECKLUND YES	ERNST ABSENT	FIKES YES	FOSTER ABSENT	ISHAM YES	LOCKWOOD YES
MARTIN YES	MORGAN YES	RUFFNER ABSENT	VENUTI YES	WHITNEY ABSENT		8 YES 4 ABSENT

AGENDA ITEM F. PUBLIC HEARING