



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 17, 2017

SUBJECT: Application for a new Retail Marijuana Store License. **Applicant:** Alaska Native Cannabis Company, LLC; **Landowner:** Carmen Perzechino; **Parcel #:** 06545001; **Property Description:** Lot 1, Block 2, East Sterling Park Subdivision, according to Plat 76-51, Kenai Recording District.; **Location:** 37650 Ridgeway Street, Sterling, AK, Sterling 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 Alaska Native Cannabis Company, LLC, a Retail Marijuana Store application passed by majority 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 KP.B 7.30.020(A).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

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

AGENDA ITEM F.

PUBLIC HEARING

5b. State application for a marijuana establishment license; Sterling Area

Staff Report given by Bruce Wall

PC Meeting: July 17, 2017

Applicant: Alaska Native Cannabis Company, LLC

Landowner: Carmen Perzechino

Parcel ID#: 065-450-01

Legal Description: Lot 1, Block 2, East Sterling Park Subdivision, according to Plat 76-51, Kenai Recording District.

Location: 37650 Ridgeway St., Sterling

BACKGROUND INFORMATION: On January 5, 2017 the applicant notified the borough that he/she had submitted an application to the state for a Retail Marijuana Store license. On July 3, 2017 the applicant supplied the borough with a signed acknowledgement form. On June 26, 2017 the applicant supplied the borough with a site plan 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 16, 2017.

When staff received the complete application from the state we became aware that the applicant is in violation of the building setback on this property. The site plan on page 186 of your packet shows the current location of the facility with a starred outline. The applicant worked with the borough code compliance officer and signed a stipulated agreement. In the agreement he acknowledges that he is in violation of borough code and has agreed to move the facility out of the building setback by the end of October.

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 site plan indicates that the approach is or will be constructed to a minimum width of 28 feet where it accesses the 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. The signed acknowledgement form indicates that the proposed facility will not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

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 Tuesday, June 27, 2017 to the 4 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the Thursday, July 6, 2017 & Thursday, 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).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

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 Isham to recommend approval of Alaska Native Cannabis Company, LLC, a Retail Marijuana Cultivation Facility Store 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).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

Commissioner Ecklund understood that the building was within a setback and that the building will be moved by October. She asked if the building will be moved before they open for business. Mr. Wall replied that they plan on opening as soon as they get their license. The building is on skids so it can be moved however they have recently put skirting along the base of the building and electricity has been wired to it. They will also have to move some plumbing. He stated that there was a decent amount of work that would be involved in that. The owners' preference would be to have some time to work on that and get it taken care of in the Fall.

Commissioner Ecklund stated that it seemed like they are waiving one of the Kenai Peninsula Borough codes for them. She asked if they could make a stipulation that it be moved prior to opening and that they are in compliance with Borough Code. Mr. Wall replied that he didn't see a problem with that however, they have taken enforcement action. As part of that, they typically work with the owners and help them with a timeline to comply. The Code Compliance Officer and applicant came up with a timeframe that they felt would be feasible. He stated he didn't see a problem with the Commission specifying something different.

Commissioner Ecklund asked if their reasoning was financial that they can't make the changes now. She didn't understand why they would go forward now if they were not in compliance. Mr. Wall replied that they couldn't see any problems with it operating in its current location even though it was within the building setback. It is located on the property and the highway right-of-way was 300 feet wide. The site plan shows it was over 100 feet away from the highway. Commissioner Ecklund stated that it appeared that staff has considered that and has recommended that the owners wait until October and that there wasn't an issue with the comings and goings. Mr. Wall replied that they did consider it to be a safe distance from the highway. The entrance to the facility was quite some distance from the intersection.

Commissioner Carluccio asked what happened if the building was not moved. Mr. Wall replied that the owners have signed an agreement stating that it will be moved. If they are in violation with that agreement then they would schedule it with a hearing officer. Once it was filed with a hearing officer then there would be a \$300 per day fine up until the day of the hearing which could be anywhere from \$6,000 - \$9,000 fine. Commissioner Carluccio asked if the hearing officer had the authority to negate the fine. Mr. Wall replied yes.

Commissioner Ecklund asked if they could ask for a variance. Mr. Wall replied yes, a building setback exception could be requested.

There being no further comments or questions, Chairman Martin called for a roll call vote.

VOTE: The motion passed by majority consent.

CARLUCCIO NO	ECKLUND YES	ERNST ABSENT	FIKES YES	FOSTER ABSENT	ISHAM YES	LOCKWOOD YES
MARTIN YES	MORGAN YES	RUFFNER ABSENT	VENUTI YES	WHITNEY ABSENT		7 YES 1 NO 4 ABSENT