



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378


Toll-free within the Borough: 1-800-478-4441, Ext. 2215

www.kpb.us

MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

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

FROM: Max Best, Planning Director 

DATE: November 29, 2016

SUBJECT: Limited Marijuana Cultivation Facility License Application. **Applicant:** Bob's Morning Bear Cultivation; **Landowner:** Michael D. Hutton; **Parcel #:** 13723056 ; **Property Description:** Lot 30, Benchmark Subdivision Renault 1986 Subdivision of Tract D, according to Plat 86-122, Kenai Recording District; **Location:** 21725 Evelyn May St. Kasilof, AK, Cohoe Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled November 28, 2016 meeting.

A motion to recommend approval of the Bob's Morning Bear Cultivation, 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 KP.B 7.30.020(A).

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

AGENDA ITEM F.

PUBLIC HEARING

4. State application for a marijuana establishment license; Cohoe Area

Staff Report given by Bruce Wall

PC Meeting: Monday, November 28, 2016

Applicant: Bob's Morning Bear Cultivation

Landowner: Michael D. Hutton

Parcel ID#: 137-230-56

Legal Description: Lot 30, Benchmark Subdivision Renault 1986 Subdivision of Tract D, according to Plat 86-122, Kenai Recording District

Location: 21725 Evelyn May St. Kasilof, AK

BACKGROUND INFORMATION: On 10/24/2016 the applicant notified the borough that he/she had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On October 26, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan 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 October 26, 2016. 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 cultivation 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 cultivation 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 main approach is or will be constructed to a width of 24 feet where it accesses the right-of-way. An additional approach is or will be constructed to a width of 16 feet for a total that exceeds the required 28-foot width.
 - 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 November 7, 2016 to the 9 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the November 17, 2016 & November 24, 2016 issues of the Peninsula Clarion.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on November 7, 2016.

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 Ruffner moved, seconded by Commissioner Lockwood to recommend approval of Bob's Morning Bear Cultivation, a limited Marijuana Cultivation Facility License according to staff recommendations and findings with a recommendation that the following 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).

VOTE: The motion passed by unanimous consent.

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

AGENDA ITEM F. PUBLIC HEARING

5. Ordinance 2016-42; Adopting Imagine Kenai 2030 as the Official Comprehensive Plan for that portion of the Borough within the Boundaries of the City of Kenai.

Staff Report given by Bruce Wall

PC Meeting: November 28, 2016

The City of Kenai and borough staff have been working on some minor technical revision to the plan documents that will provide additional clarity. Staff recommends that the Planning Commission make the following changes prior to forwarding the document to the Assembly.

Page	Recommended Changes to the Proposed	Reason for Change
1	While the Borough retains authority for ultimate planning powers, it has delegated authority to the City to adopt land use plans, amendments and to enact and enforce zoning and land use regulations.	This change clarifies that KPB Ordinance 90-31 delegates authority to adopt land use plan amendments. The Borough retains authority to adopt.
3	Appendix A, includes the link to the City of Kenai Website which contains the draft 2013 2013 City of	Typographical error correction.
6	With this delegation, the City of Kenai assumed the authority to enact and enforce zoning and land use regulations and to adopt a comprehensive plan.	This change clarifies that KPB Ordinance 84-40 delegates authority to adopt land use regulations. The Borough retains authority to adopt comprehensive
6	The Commission advises the Kenai Peninsula Borough Planning Commission on: City of Kenai Comprehensive Plan amendments; Rezoning of land ; Proposed subdivision plat; and Petitions for right-of-way and easement vacations.	The City of Kenai P&Z Commission does not advise the Borough on rezones.
6	April 2011 Public Meeting on Comprehensive Plan	Remove the caption without a photo.
8	"The Kenai Peninsula Borough Coastal Management Plan is no longer enforceable because the Alaska Coastal Management plan terminated on July 1, 2011."	The KPB Coastal Zone Management Plan is still enforceable.
16	In March-April 2016, the City of Kenai administration made revisions to the plan and submitted the updated version for review to the Planning & Zoning Commission and was approved the plan by Resolution PZ16-06 on April 13, 2016.	Typographical error correction.
19	To further combat erosion the City of Kenai and the Kenai Peninsula Borough required the identification of a setback of 50 feet from the top of the slop slope for septic systems.	Typographical error correction.
20	The City of Kenai Fire Department and State Forestry responded to cooperatively responded to these fires.	Typographical error correction.
23	In addition, the citizens of Kenai have access to college courses at the Alaska Vocational Technical Center (AVTEC) which is located In Seward as well as Kenai Peninsula College (KPC) which Is located within the unincorporated area of Soldotna.	KPC is located within the City limits of Soldotna.
23	Student can take courses through the University of Alaska, Anchorage, Fairbanks or South-east while attending KPC ...	Typographical error correction.
80	Update the subdivision code to include site design standards, requirements for the retention of reservation of open space and parks in new subdivisions.	Typographical error correction.
86	Criteria for siting parks and recreational facilities — accessible, safe, parking.	Remove unintended text.

END OF STAFF REPORT

Chairman Martin opened the meeting for public comment.