



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: March 29, 2017

SUBJECT: Standard Marijuana Cultivation Facility License Application. **Applicant:** FAT TOPS, LLC; **Landowner:** IBWT Investments LLC; **Parcel #:** 06310406; **Property Description:** Lot 2A, Block 1, Longmere Estates Zimco Replat, according to Plat 98-38, Kenai Recording District.; **Location:** 36380 Murray Lane, Soldotna, Sterling Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled March 27, 2017 meeting.

A motion to recommend approval of the FAT TOPS, LLC, a Standard Marijuana Cultivation Facility license application passed by unanimous consent according to staff recommendations, findings and to recommend that the following conditions be placed on the state license.

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 HEARINGS

3. State application for a marijuana establishment license; Sterling Area

Staff Report given by Bruce Wall

PC Meeting: 3/27/17

Applicant: FAT TOPS, LLC

Landowner: IBWT Investments LLC

Parcel ID#: 063-104-06

Legal Description: Lot 2A, Block 1, Longmere Estates Zimco Replat, according to Plat 98-38, Kenai Recording District.

Location: 36380 Murray Lane, Soldotna

BACKGROUND INFORMATION: On Thursday, October 6, 2016 the applicant notified the borough that he/she had submitted an application to the state for a Standard Marijuana Cultivation Facility license. On Monday, October 17, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan on Monday, October 17, 2016 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 Wednesday, March 1, 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 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 ~~not~~ 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. 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 Monday, March 6, 2017 to the 13 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the Thursday, March 16, 2017 & Thursday, March 23, 2017 issues of the Peninsula Clarion.

Six letters were received in opposition of this marijuana facility license.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on Monday, March 06, 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 Venuti moved, seconded by Commissioner Isham to recommend approval of Big Tops, LLC, a Standard Marijuana Cultivation Facility License according to staff recommendations, findings and to recommend that the following four 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 Whitney asked if there was a school bus stop near this location. Mr. Wall replied that he did not know the location of the school bus stops. He sent a copy of this application to the person in charge of school bus routes but did not receive any comments from them.

Commissioner Glendening noticed that the proposed facility was not located where there was sufficient ingress and egress for traffic to the parcel. He asked if there would be construction to facilitate the movement of traffic. Mr. Wall replied that was a typographical error. The proposed facility was located where there was sufficient ingress and egress for traffic to the parcel. He conducted a site visit and the traffic flow for this facility will be sufficient and meets the code requirements.

Commissioner Glendening asked how far this facility would be from a church or education facility. He asked how the distance was measured. Mr. Wall replied that the measurement from churches was 500 feet, measured from the shortest pedestrian path from the facility to the main entrance of the religious facility. He searched for anything within a 1,000 foot radius of the parcel which showed that the church was further than 500 feet.

VOTE: The motion passed by unanimous consent.

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|---------------------|-------------------|-------------------|---------------|-------------------|--------------|-------------------|
| CARLUCCIO ABSENT | ECKLUND ABSENT | ERNST YES | FOSTER YES | GLENDENING YES | ISHAM YES | LOCKWOOD YES |
| MARTIN YES | MORGAN YES | RUFFNER ABSENT | VENUTI YES | WHITNEY YES | | 9 YES 3 ABSENT |

AGENDA ITEM F. PUBLIC HEARINGS

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

Staff Report given by Bruce Wall

PC Meeting: 3/27/17

Applicant: Croy's Enterprises LLC

Landowner: James Michael Harris

Parcel ID#: 058-290-15

Legal Description: Lot 2A1, Block 6, Robinette Commercial Subdivision #3, according to Plat 2011-39, Kenai Recording District.

Location: 36130 Pine Street Soldotna, AK

BACKGROUND INFORMATION: On Monday, November 07, 2016 the applicant notified the borough that he/she had submitted an application to the state for a Retail Marijuana Store license. On Wednesday, November 09, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan on Wednesday, November 09, 2016 of the proposed Retail Marijuana Store on the above described parcel. The Alcohol and Marijuana Control Office notified the borough that the application was complete on Friday, February 17, 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.