


# Kenai Peninsula Borough Planning Department

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## MEMORANDUM

TO: Wayne Ogle, Assembly President  
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director 

DATE: May 14, 2019

SUBJECT: Application for a new Retail Marijuana Store License. **Applicant:** Seeds & Stems, LLC; **Landowner:** Zan Inc; **Parcel #:** 01716041; **Property Description:** That portion of Government Lot 106 lying east of Kenai Spur Highway in Section 14, Township 6 North, Range 12 West, Seward Meridian.; **Location:** 43280 Kenai Spur Highway , Nikiski Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled May 13, 2019 meeting.

A motion to recommend approval of the Seeds & Stems, LLC, a Retail Marijuana Store 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).
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

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

Staff Report given by Marcus Mueller

PC MEETING: Monday, May 13, 2019

**Applicant:** Seeds & Stems, LLC  
**Landowner:** Zan Inc.  
**Parcel ID#:** 017-160-41  
**Legal Description:** That portion of Government Lot 106 lying east of Kenai Spur Highway in Section 14, Township 6 North, Range 12 West, Seward Meridian.  
**Location:** 43280 Kenai Spur Highway

BACKGROUND INFORMATION: On March 10, 2018 the applicant' notified the borough that he/she had submitted an application to the state for a Retail Marijuana Store license. On October 16, 2018' the applicant supplied the borough with a signed acknowledgement form and a site plan on October 16, 2018, 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 March 29, 2019. 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 24 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 April 15, 2019, to the 12 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the May 2, 2019 & May 9, 2019 issues of the Peninsula Clarion.

**KPB AGENCY REVIEW:** Application information was provided to pertinent KPB staff and other agencies on April 25, 2019.

#### 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

Vice Chairman Ruffner opened public comment. Seeing and hearing no one wishing to comment, Vice Chairman Ruffner closed public comment and discussion was opened among the Commission.

**MOTION:** Commissioner Bentz moved, seconded by Commissioner Ernst to recommend approval and forward to the Assembly the application review for a retail marijuana store license in the Nikiski area for Seeds & Stems with the staff report findings and conditions 1 through 4.

**MOTION PASSED:** Seeing and hearing no discussion or objection the motion passed by unanimous consent