



# **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 *mb*

**DATE:** April 11, 2017

**SUBJECT:** State application for a marijuana establishment license; Sterling Area. **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.

The Kenai Peninsula Borough Planning Commission reviewed the subject marijuana establishment license during their regularly scheduled April 10, 2017 meeting.

A motion passed by unanimous consent to postpone action until the next meeting of April 24, 2017 to allow additional public comments and to allow the applicant time to work with the State on access.

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

AGENDA ITEM F.

PUBLIC HEARINGS

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

Staff Report given by Bruce Wall

PC Meeting: 4/10/17

**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 Retail Marijuana Store license. On Monday, October 17, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan on Tuesday, March 21, 2017 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, March 10, 2017.

Staff received several letters of opposition to this application including a request to postpone action.

Also, in preparing the staff report, staff failed to recognize that Murray Ln was a State maintained road so they would like a little more time to revise this staff report and work with the applicant on the access onto the state maintained road.

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, March 21, 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 30, 2017 & Thursday, April 6, 2017 issues of the Peninsula Clarion.

**KPB AGENCY REVIEW:** Application information was provided to pertinent KPB staff and other agencies on Tuesday, March 21, 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 open the public hearing, take testimony and continue the public hearing until the next meeting of April 24, 2017 to allow additional public comments and to allow the applicant time to work with the State on access.

**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 Ruffner to postpone until the next Planning Commission meeting of April 24, 2017.

**VOTE:** The motion passed by unanimous consent.

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