


Kenai Peninsula Borough

Planning Department

MEMORANDUM

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

FROM: Max Best, Planning Director 

DATE: August 15, 2018

SUBJECT: Application for a new Limited Marijuana Cultivation Facility License. **Applicant:** Bigfoot Bud Company LLC; **Landowner:** Jerry Lopez; **Parcel #:** 05505019; **Property Description:** Lot 3, Block 3, Ravenwood Subdivision Addition No. 1, according to Plat 72-10, Kenai Recording District.; **Location:** 46813 Pintail Ave, Kenai AK, Kalifornsky Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled August 13, 2018 meeting.

A motion to recommend approval of the Bigfoot Bud Company LLC, a Limited Marijuana Cultivation Facility 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).

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

AGENDA ITEM F. PUBLIC HEARINGS

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

Staff Report given by Bruce Wall

PC MEETING: August 13, 2018

Applicant: Bigfoot Bud Company LLC

Landowner: Jerry Lopez

Parcel ID#: 055-050-19

Legal Description: Lot 3, Block 3, Ravenwood Subdivision Addition No. 1, according to Plat 72-10, Kenai Recording District.

Location: 46813 Pintail Ave, Kenai AK

BACKGROUND INFORMATION: On August 16, 2017 the applicant notified the borough that he/she had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On July 9, 2018 the applicant supplied the borough with a signed acknowledgement form and a site plan on July 9, 2018 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 July 6, 2018. 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. 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 July 25, 2018 to the 15 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the August 02, 2018 & August 09, 2018 issues of the Peninsula Clarion.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on August 1, 2018.

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.

1. JoAnne Merchant, 36360 Wren Ave, Kenai
Ms. Merchant stated that she was a neighbor to the people who had applied for this marijuana license. She spoke against the license. They have lived in the Ravenwood Subdivision for 30 plus years. This is a residential area with kids, dogs, cats, etc.

Ms. Merchant felt that this license will bring increased traffic, strangers to the area and will disrupt everything that they have. This is a small subdivision that is hidden and is theirs. She stated this license will turn the area into a semi-commercial area.

Ms. Merchant submitted a petition where she canvassed her neighborhood and received 18 signatures of landowners who are against issuing this license. These are landowners who have been in the area forever and have expressed concerns of property values and crime. She understood that pot was legal which is not the point; they just don't want it in their neighborhood whether it is legal or illegal.

Ms. Merchant stated she would appreciate it if the Planning Commission would say no to the issuance of this marijuana license. The people in this neighborhood are good, hard working people.

Chairman Martin asked if there were questions for Ms. Merchant. Hearing none the public hearing continued.

Seeing and hearing no one else wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Bentz moved, seconded by Commissioner Foster to recommend approval of Bigfoot Bud Company, LLC Limited Marijuana Cultivation Facility 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 KP.B.7.30.020(A).

Commissioner Carluccio understood the testifiers comments and believed that ultimately these marijuana facilities will be a detriment to the neighborhoods. She stated she would like to vote no but also realized that the applicant has met all the requirements for their facility and because of the oath she just renewed, she has to vote yes.

Commissioner Ruffner stated that they have heard similar comments from other neighborhoods. The limited cultivation sites are very small being no larger than 500 square feet. The way this operation works is that they grow the marijuana in something like a "sanctioned secret" way because it can't be visible and can't be smelled from outside the property lines, etc. They then take it and deliver it to where it goes. They haven't seen an increase in traffic associated this type of business. He agreed with Commissioner Carluccio's comments.

Commissioner Ecklund stated that the law that was approved by the vote and all the committees gave them the standards they are to go by. There are things that can be done if any of the rules and regulations are made are broken. Someone can report any concerns or violations to the Borough office like smelling it from outside the footprint or if anything outside the ordinary is happening. She stated they would then have something on the record when this came up for renewal.

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES ABSENT	FOSTER YES	MARTIN YES
MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES			10 YES 1 ABSENT

AGENDA ITEM F. PUBLIC HEARING

5. Conditional Land Use Permit for a Material Site; Anchor Point Area

Staff Report given by Bruce Wall

PC MEETING: August 13, 2018

Applicant: Nathan Sargeant

Landowner: Nathan Sargeant

Parcel Number: 165-740-21

Legal Description: Lot 2, Wilma's Subdivision 2002 Addition, according to Plat 2003-18, Homer Recording District.