

# 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: January 8, 2019

SUBJECT: Application for a new Standard Marijuana Cultivation Facility License. **Applicant:** Smoking Joe's Terps Co.; **Landowner:** Jacob Thom; **Parcel #:** 13328002; **Property Description:** Lot B-6, Resubdivision of Tuttle Tracts B and C, according to Plat 74-97, Kenai Recording District; **Location:** 24276 Moraine Vista St. Kasilof, Kasilof Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled January 7, 2019 meeting.

A motion to recommend approval of the Smoking Joe's Terps Co., a Standard 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 HEARING

2. State application for a marijuana establishment license; Kasilof Area

Staff Report given by Bruce Wall

PC MEETING: January 7, 2019

**Applicant:** Smoking Joe's Terps Co.  
**Landowner:** Jacob Thom  
**Parcel ID#:** 133-280-02  
**Legal Description:** Lot B-6, Resubdivision of Tuttle Tracts B and C, according to Plat 74-97, Kenai Recording District  
**Location:** 24276 Moraine Vista St. Kasilof

BACKGROUND INFORMATION: On January 12, 2018, the applicant notified the borough that he/she had submitted an application to the state for a Standard Marijuana Cultivation Facility license. On January 18, 2018, the applicant supplied the borough with a signed acknowledgement form and a site plan on January 18, 2018 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 November 16, 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 December 11, 2018 to the 11 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the December 27, 2018 & January 3, 2019 issues of the Peninsula Clarion.

**KPB AGENCY REVIEW:** Application information was provided to pertinent KPB staff and other agencies on December 27, 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

Mr. Wall added that at this location there is already a Limited Cultivation license that has been issued by the state. Once the state approves the Standard Cultivation Facility license it will supersede the Limited Cultivation license. The applicant has also notified the borough that they intend to apply for a Manufacturing Facility license at this location. Once the state has determined that application complete it will be presented to the Planning Commission.

The Assembly will consider this application at the January 8, 2019 meeting.

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak the public hearing was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Morgan to forward the application to the assembly with the findings and recommendations by staff.

Commissioner Ecklund wanted to know if this was the first application the Commission has reviewed that will go from Limited to Standard. Mr. Wall answered that it is the first one that will supersede another. There was a previous application where an additional facility was built by the same owner on the same property. The next item on tonight's agenda is similar.

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