

# Kenai Peninsula Borough Planning Department

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## MEMORANDUM

TO: Brent Hibbert, Assembly President  
Kenai Peninsula Borough Assembly Members

THRU: Charlie Pierce, Borough Mayor

FROM: Melanie Aeschliman, Planning Director *MA*

DATE: April 13, 2021

RE: Application for a new Retail Marijuana Store License. Applicant: Greenstar, Inc. dba Greenstar Flower Outlet; Land Owner: Otium Sanctum, LLC; Parcel ID#: 055-040-33; Location: 40593 Kalifornsky Beach Road.

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The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled April 12, 2021 meeting.

A motion to recommend approval of the *Greenstar, Inc. dba Greenstar Flower Outlet* a Retail Marijuana Store application passed by unanimous vote (9-Yes, 0-No, 2-Absent) subject to the following conditions:

1. The marijuana establishment shall conduct their operations 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).
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.

April 12, 2021 Planning Commission Draft Meeting Minutes

**AGENDA ITEM E. PUBLIC HEARING****9. State application for a marijuana establishment license; Kalifornsky area.**

**Applicant:** Greenstar, Inc. dba Gold Star Concentrates  
**Landowner:** Otium Sanctum, LLC  
**Parcel ID#:** 055-040-33  
**Legal Description:** T05N, R11W. S.M., KN 0940082 Carrol Martin Sub. No. 2, Lot 1  
**Location:** 40593 Kalifornsky Beach Road

Staff report given by Bryan Taylor

**BACKGROUND INFORMATION:** On June 30, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Retail Marijuana Store license. The AMCO notified the borough that the application was complete on March 1, 2021. On March 16, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed Retail Marijuana Store on the above-described parcel. 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 that 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 March 19, 2021, to the 8 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the April 1, 2021 & April 8, 2021 issues of the Peninsula Clarion.

#### 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 Chair Ruffner opened the item for public comment.

Asonya Brown; 1152 Norton Ave., Columbus, OH 43212: Ms. Brown owns a parcel directly across K-Beach Rd. from the proposed new marijuana facilities and she has several concerns. She wondered if the ingress/egress for the facility would affect any of the other surrounding properties. She has a small frontage on her property and is concerned this new facility could possibly have a negative effect on her property. She also wondered how many of these types of licenses have been issued in the borough and whether or not there is a sufficient demand for another marijuana license. She also noted that her property is vacant and she has concerns of trespassers squatting on it.

Commissioner Fikes noted Ms. Brown had concerns this new facility could affect the ingress/egress to her property and asked her if she shares a driveway with this property. Ms. Brown replied no, and that her property was across the road from the proposed new facility. Ms. Brown noted that her property has the potential for development, that access to her property is very important, and just wants to make sure that it will not be negatively affected which could affect the value of her property.

Hearing no one else wishing to comment, Vice Chair Ruffner closed public comment and opened discussion among the Commission.

**MOTION:** Commissioner Venuti moved, seconded by Commissioner Gillham to forward to the Assembly the application of the retail Marijuana Store License for Greenstar, Inc. with staff's findings and pursuant to 3 AAC 306.060(b) the four conditions be place on the state license.

Vice Chair Ruffner stated that he would like to address some of Ms. Brown’s concerns. He noted the commission is given a set of laws from the Assembly, which they follow when reviewing these applications. Generally, if the applications fit within those parameters we approve them to move on to the Assembly. The commission has not been asked to take into consideration the number of marijuana licenses issued within the borough or whether or not there is a market demand for these types of products, so this is not something that we would take into consideration.

Commissioner Ecklund informed Ms. Brown if issues do arise regarding this new facility she can report them to the borough and that they will consider them when they review the business licensees for renewal.

**MOTION PASSED:** Hearing no further discussion or objection the motion passed by the following vote:

Yes	9	No	0	Absent	2
Yes	Brantley, Carluccio, Chesser, Ecklund, Fikes, Gillham, Morgan, Ruffner, Venuti				
Absent	Bentz, Martin				

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**BACKGROUND INFORMATION:** On June 30, 2020, the borough received notification from the Alcohol and Marijuana Control Office (AMCO) that the applicant had initiated the application to the state for a Marijuana Concentrate Manufacturing Facility license. The AMCO notified the borough that the application was complete on March 1, 2021. On March 22, 2021, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed manufacturing facility on the above-described parcel. 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.
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