



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 

DATE: March 29, 2017

SUBJECT: Retail Marijuana Store License Application. **Applicant:** Croy's Enterprises LLC; **Landowner:** James Michael Harris; **Parcel #:** 05829015 ; **Property Description:** Lot 2A1, Block 6, Robinette Commercial Subdivision #3, according to Plat 2011-39, Kenai Recording District.; **Location:** 36130 Pine Street Soldotna, AK, Soldotna Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled March 27, 2017 meeting.

A motion to recommend approval of the Croy's Enterprises LLC, a Retail Marijuana Store license application passed by unanimous consent according to staff recommendations, findings and to recommend that the following conditions be placed on the state license.

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).
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 HEARINGS

4. State application for a marijuana establishment license; Soldotna area.

Staff Report given by Bruce Wall

PC Meeting: 3/27/17

Applicant: Croy's Enterprises LLC

Landowner: James Michael Harris

Parcel ID#: 058-290-15

Legal Description: Lot 2A1, Block 6, Robinette Commercial Subdivision #3, according to Plat 2011-39, Kenai Recording District.

Location: 36130 Pine Street Soldotna, AK

BACKGROUND INFORMATION: On Monday, November 7, 2016 the applicant notified the borough that he/she had submitted an application to the state for a Retail Marijuana Store license. On Wednesday, November 9, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan on Wednesday, November 9, 2016 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, February 17, 2017.

Several months ago, the Planning Commission recommended a cultivation facility license for this location.

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 Monday, March 6, 2017 to the 5 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the Thursday, March 16, 2017 & Thursday, March 23, 2017 issues of the Peninsula Clarion.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on Monday, March 6, 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 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

Chairman Martin opened the meeting for public comment.

1. Mike Harris, 36142 Pine St, Soldotna
Mr. Harris was the initiator of this business and has a cultivation facility. He was available to answer questions.

Chairman Martin asked if there were questions for Mr. Harris.

Chairman Martin asked how far he was in the cultivation effort. Mr. Harris replied that they have harvested a couple of times and have sold the product to Anchorage on a wholesale level. They will be able to facilitate and open with some of their own product when they open the store. He knows that a lot of the facilities are lagging a little bit but they are trying to do the best they can and to be upright about what they are doing so that they can best facilitate the public.

Chairman Martin asked how difficult or easy it has been to interpret and comply with the rules. He asked how it has been working with the State. Mr. Harris replied that it was not for the average person and has not been an easy process. As far as the task at hand, it has taken everything he has to initiate something as an owner of a building. He believes in the process that they have to go through because it sets out guidelines that will protect the public as well as helping the communities. Mr. Harris stated there is a vote coming up this year regarding marijuana and hoped that the cannabis businesses can remain open. It is a great tax base for the State and creates jobs. He stated he was going back into the electrical business and will be more like a silent partner. Mr. Harris really supports the industry. He stated that the people that are really mad at him regarding this business are those that are in the black market. It is getting harder and harder for the black market to sell their product. Those people need to become more legit. The legal businesses are trying to get the black market to stop.

Commissioner Glendening asked if there was a certain THC level that lends itself to medical uses. Mr. Harris replied that in Washington DC, the pharmaceuticals have lobbied against this whole thing because it can replace a lot of things and help people. This can help with pain and inflammation if someone gets a high CBD level. Marijuana was voted in for recreational use only. He stated they would like to keep this as a Schedule 1 drug because it could open up the doors for more exploration of the drug so they can see what it can do. He has learned a ton of stuff on this. If it was changed then it would actually devastate some of the tax bases here and get rid of a lot of mom and pop shops. He felt they need to keep it the way it is, keep a watch on it and be responsible people.

Commissioner Venuti asked if he has been in the cultivation business. Mr. Harris replied yes. Commissioner Venuti asked how much taxes he has generated. Mr. Harris replied that they it cost about \$800 a pound so they own the State about \$8,000. The borough will receive tax money after he opens his retail business.

There being no further comments or questions, 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 Isham moved, seconded by Commissioner Lockwood to recommend approval of Croy's Enterprises, LLC, a Retail Marijuana Store License according to staff recommendations, findings and to recommend that the following four 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).
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.

VOTE: The motion passed by unanimous consent.

CARLUCCIO ABSENT	ECKLUND ABSENT	ERNST YES	FOSTER YES	GLENDENING YES	ISHAM YES	LOCKWOOD YES
MARTIN YES	MORGAN YES	RUFFNER ABSENT	VENUTI YES	WHITNEY YES		9 YES 3 ABSENT