



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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MIKE NAVARRE
BOROUGH MAYOR

M E M O R A N D U M

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director 

DATE: August 29, 2017

SUBJECT: Application for a new Standard Marijuana Cultivation Facility License. **Applicant:** Homer Budz, LLC; **Landowner:** Patrick E. Moore; **Parcel #:** 17355007; **Property Description:** Lot 2, Cundiff Subdivision, according to Plat 76-22, excluding Lot 2-A, Cundiff Subdivision Addition No. 1, according to Plat 77-90, Homer Recording District.; **Location:** 67835 Virginia Ave, Homer, Homer Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled August 28, 2017 meeting.

A motion to recommend approval of the Homer Budz, LLC, 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; Homer Area

Staff Report given by Bruce Wall

PC MEETING: August 28, 2017

Applicant: Homer Budz, LLC

Landowner: Patrick E. Moore

Parcel ID#: 173-550-07

Legal Description: Lot 2, Cundiff Subdivision, according to Plat 76-22, excluding Lot 2-A, Cundiff Subdivision Addition No. 1, according to Plat 77-90, Homer Recording District.

Location: 67835 Virginia Ave, Homer

BACKGROUND INFORMATION: On May 25, 2017 the applicant notified the borough that he had submitted an application to the state for a Standard Marijuana Cultivation Facility license. On June 5, 2017 the applicant supplied the borough with a signed acknowledgement form and a site plan on June 5, 2017 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 August 2, 2017.

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 August 10, 2017 to the 7 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the August 17, 2017 & August 24, 2017 issues of the Homer News.

Staff has received no concerns or complaints regarding this marijuana facility.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on Thursday, August 10, 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).

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 Ecklund moved, seconded by Commissioner Lockwood to recommend approval of Homer Budz LLC, a Standard 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 KPB 7.30.020(A).

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER YES	ISHAM ABSENT
LOCKWOOD YES	MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	12 YES 1 ABSENT

AGENDA ITEM F. PUBLIC HEARING

3. Conditional Land Use Permit for a Material Site; Sterling Area

Staff Report given by Bruce Wall

PC MEETING: August 28, 2017

Applicant: Granite Construction Inc.

Landowner: Casey Eshleman

Parcel Number: 065-322-30

Legal Description: Lot 5, El Rancho Costa Plente Subdivision, according to Plat 99-57, Kenai Recording District.

Location: 28491 Sterling Highway

BACKGROUND INFORMATION: The applicant wishes to obtain a permit for gravel extraction on a portion of the 29.25 acre parcel listed above.

The submitted site plan indicates that the material site haul route is through the approved material site to the west and then to the Sterling Highway. The site plan and application proposes the following buffers:

- North: 50-foot vegetated buffer along the eastern portion and a 6-foot high berm along the western 200 feet, where there is not sufficient vegetation to provide a buffer.
- South: 50-foot vegetated buffer.
- East: 50-foot vegetated buffer.
- West: A buffer waiver has been requested along the boundary with the adjacent approved material site.

The application indicates that the depth to groundwater is 14 feet and that the depth of the proposed excavation is 12 feet. The groundwater depth was determined by test holes and the pond elevation on the property. No processing of materials is being proposed on this property. The site plan indicates that there are not any wells located within 300 feet of the parcel. The site plan indicates that surface water will be protected by adhering to ADEC Best Management Practices for Material Extraction Sites. (A link to this document is located on the Planning Department's website.)

The application states that reclamation of each phased area will be completed annually before the growing season ends (September). Seeding will be applied as necessary each season to areas that achieve final grade in order to minimize erosion and dust. Complete site reclamation is anticipated by June 2020. Reclamation will follow as each extraction area is exhausted or preferred final elevation is reached. Reclaimed slopes will be left at a minimum of 4:1 with a relatively flat floor. Organics and overburden stripped from the site will be stockpiled and spread over the site as part of the reclamation process. The proposed end use for the site is as agriculture/pasture. Granite's proposed extraction will be completed by October 2019 with proposed final site stabilization and reclamation completed by June 2020.

The applicant estimates a life span of 2.5 years for the site and that the annual excavation quantity will be more than 212,000 cubic yards of material.

PUBLIC NOTICE: Public notice of the application was mailed on August 10, 2017 to the 103 landowners or