



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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CHARLIE PIERCE
BOROUGH MAYOR

MEMORANDUM

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

FROM: Max Best, Planning Director *mb*

DATE: January 11, 2018

SUBJECT: Application for a new Limited Marijuana Cultivation Facility License. **Applicant:** Pinnacle Projects; **Landowner:** Dan N. Van Zee & Catherine Y. DeLacee; **Parcel #:** 05766001; **Property Description:** Lot 1, Pinnacle Hill Subdivision Part One, according to Plat 1588, Kenai Recording District.; **Location:** 37035 Nicholas View Lane, Soldotna, Ridgeway Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled January 8, 2018 meeting.

A motion to recommend approval of the Pinnacle Projects, 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 KP.B 7.30.020(A).

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

AGENDA ITEM F.

PUBLIC HEARING

6. State application for a marijuana establishment license; Ridgeway Area

Staff Report given by Max Best

PC MEETING: JANUARY 8, 2018

Applicant: Pinnacle Projects

Landowner: Dan N. Van Zee & Catherine Y. DeLacee

Parcel ID#: 057-660-01

Legal Description: Lot 1, Pinnacle Hill Subdivision Part One, according to Plat 1588, Kenai Recording District.

Location: 37035 Nicholas View Lane, Soldotna

BACKGROUND INFORMATION: On May 4, 2017 the applicant notified the borough that he/she had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On May 22, 2017 the applicant supplied the borough with a signed acknowledgement form and a site plan on December 26, 2017 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 December 5, 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 December 18, 2017 to the 8 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the December 28, 2017 & January 4, 2018 issues of the Peninsula Clarion.

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

1. Dan Van Zee, 37035 Nicholas View Lane, Soldotna
Mr. Van Zee is the applicant and was available to answer questions.

Chairman Martin asked if there were questions for Mr. Van Zee. 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 Ecklund moved, seconded by Commissioner Ernst to recommend approval of Pinnacle Projects, a 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 KPB 7.30.020(A).

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER ABSENT	ISHAM ABSENT
LOCKWOOD ABSENT	MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	10 YES 3 ABSENT

~~AGENDA ITEM G. ANADROMOUS WATERS HABITAT PROTECTION DISTRICT (KPB 21.18) - None~~

~~AGENDA ITEM H. VACATIONS NOT REQUIRING A PUBLIC HEARING – None~~

~~AGENDA ITEM I. SPECIAL CONSIDERATIONS~~

1. Plat Note Restriction Removal
Oberts Pillars Subdivision Part One
KPB File 2017-167; KPBPC Resolution 2018-01
Location: Silver Salmon Drive and Chinook Drive in the City of Kenai

Staff Report given by Max Best

PC Meeting 1/8/18

Purpose as stated in petition: City of Kenai setback was 20' when owner obtained a building permit. The borough applied a setback of 25' as provided by the plat. The extra 5' of borough setback should be removed to be consistent with the City of Kenai 20' setback.

Petitioner: Jason Daniels of Kenai, Alaska

Notice of the proposed plat note removal was sent by regular mail to all owners within Oberts Pillars Subdivision Part One.

Notice of the proposed plat note removal was emailed to the City of Kenai.

Staff Discussion:

Oberts Pillars Subdivision Part One was recorded on July 21, 1995 (KN 95-32). Plat Note 2 on KN 95-32 states there is a 25-foot building setback from all dedicated rights-of-way. Per KPB 20.20.235, property within cities was subject to the requirements of the zoning district. Plat Note 2 was placed on the plat in error; however, the mistake was not noticed during plat review.

KPB 20.30.250 of the current subdivision code essentially has the same wording as KPB 20.20.235. None of the lots in KN 95-32 should be subject to a building setback note on the plat.

When the petitioner originally contacted staff, it was staff's understanding that a building setback exception would be required. After further review of the petition and subdivision plat, staff determined a plat note removal was required.

Written comments from the Kenai Planning and Zoning Commission or Kenai City staff were not available when the staff report was prepared.

If the Commission approves removal of the restrictive plat note, it will be accomplished by recording Planning Commission Resolution 2018-01.

Findings:

1. Oberts Pillars Subdivision Part One is within the City of Kenai.
2. Oberts Pillars Subdivision Part One is subject to the requirements of the zoning district.