


Kenai Peninsula Borough
Planning Department

MEMORANDUM

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

FROM: Max Best, Planning Director 

DATE: April 10, 2018

SUBJECT: Application for a new Limited Marijuana Cultivation Facility License.
Applicant: Green Escape; **Landowner:** John Heritscko; **Parcel #:** 159-200-91; **Property Description:** Lot 17, Stariski Meadows, according to Plat 97-62, Homer Recording District; **Location:** 26189 Pepper Road, Anchor Point Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled April 9, 2018 meeting.

A motion to recommend approval of the Green Escape, 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 KPB 7.30.020(A).

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

AGENDA ITEM F. PUBLIC HEARING

1. State application for a marijuana establishment license; Anchor Point Area

Staff Report given by Bruce Wall

PC MEETING: April 9, 2018

Applicant: Green Escape

Landowner: John Heritscko

Parcel ID#: 159-200-91

Legal Description: Lot 17, Stariski Meadows, according to Plat 97-62, Homer Recording District

Location: 26189 Pepper Rd

BACKGROUND INFORMATION: On February 8, 2018 the applicant notified the borough that he had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On February 12, 2018 the applicant supplied the borough with a signed acknowledgement form and a site plan 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 March 7, 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.

The Assembly will consider this application at its April 17, 2018 meeting.

The applicant informed staff that the Alaska State Marijuana Control Board has approved this application pending the Borough's comments.

PUBLIC NOTICE: Public notice of the application was mailed on March 19, 2018 to the 10 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the March 29, 2018 & April 5, 2018 issues of the Homer News.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on March 19, 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

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 Ernst to recommend approval of Green Escape, 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).

Commissioner Carluccio asked if this operation will all be done by robotics and drones. Mr. Wall replied that the size of this operation is only going to be 350 square feet of cultivated areas so it will be a small operation. The applicant told staff that there will be no other employees. There will be a residence on the property where the applicant will be living. He thought that this was going to be a one man operation.

VOTE: The motion passed by unanimous consent.

BENTZ YES	CARLUCCIO YES	ECKLUND YES	ERNST YES	FIKES YES	FOSTER ABSENT	ISHAM YES
LOCKWOOD ABSENT	MARTIN YES	MORGAN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	11 YES 2 ABSENT

AGENDA ITEM G. ANADROMOUS WATERS HABITAT PROTECTION (KPB 21.18)

1. A Conditional Use Permit pursuant to KPB 21.18 to replace the existing twin culverts with a box culvert within the 50-foot Habitat Protection District of the North Fork Anchor River as established in KPB 21.18.081(B)(5).

KPB Planning Commission Resolution 2018-10

Staff Report given by Karyn Noyes

PC MEETING: April 9, 2018

Applicant: Alaska Department of Transportation and Public Facilities (ADOT)
PO Box 196900
Anchorage, Alaska 99519-6900

Project Location: Section 26, T4S R14W, Seward Meridian, HM N1/2 SE1/4 (KPB Parcel # 165-200-49) and within the Nikolaevsk Road ADOT Right-of-Way on both banks of the North Fork Anchor River.

Background Information


The purpose of the proposed project is to replace the existing twin culverts with a culvert that will improve stream function and not create a barrier to migrating fish and to protect the upstream road embankment from erosion during the 100-year flood and overbank flow events. The goal is to create environmental and hydraulic conditions that closely mimic natural stream conditions. This will allow natural stream processes including the unrestricted upstream and downstream movement of adult and juvenile salmonids and other aquatic organisms, as well as transport of streambed material to occur. The existing culverts were not designed for fish passage and are undersized, perched, not placed at the correct gradient, and have created a large scour hole. The work proposed is part of a larger North Fork Road Gravel to Pavement project.

Project Details within the 50-foot Habitat Protection District

1. Remove two existing 8-foot diameter, 81-foot long corrugated galvanized steel culverts
2. Add a 34-foot span by 13-foot rise aluminum box culvert that is embedded approximately 40% of the rise. The horizontal culvert location is roughly the same as the existing culverts.
3. Construct a headwall on the inlet end of the culvert only.
4. Add streambed material in the culvert. The streambed location in the culvert will match the streambed elevation determined from the average streambed gradient in this reach.
5. Construct erosion protection using riprap to stabilize the streambed and culvert near the culvert inlet and outlet.
6. Add erosion protection using riprap on the upstream and downstream road embankment to protect the upstream road embankment from erosion during the 100-year flood and overbank flow events.
7. The riprap will measure 30 feet wide by 270 feet long on the upstream road embankment and 20 feet wide by 40 feet long on the downstream road embankment.
8. Add fish habitat features in the culvert and create a stream channel in the existing downstream scour hole. This simulated stream channel will be constructed as follows.

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