



## **KENAI PENINSULA BOROUGH**

PLANNING DEPARTMENT

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**MIKE NAVARRE**  
**BOROUGH MAYOR**

### **MEMORANDUM**

**TO:** Blaine Gilman, Assembly President  
Kenai Peninsula Borough Assembly Members

**FROM:** Max Best, Planning Director *MB*

**DATE:** September 14, 2016

**SUBJECT:** Limited Marijuana Cultivation Facility License Application. **Applicant:** Alaska Bud Brothers Aerogardens LLC; **Landowner:** James R. Gossman; **Parcel #:** 13351106; **Property Description:** Tract B, Fort Morgan Subdivision Addn. 1 Amended, according to Plat 83-23, Kenai Recording District.; **Location:** 22720 Yukon Road , Kasilof.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled September 12, 2016 meeting.

A motion to recommend approval of the Alaska Bud Brothers Aerogardens LLC, a Limited Marijuana Cultivation Facility license 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

1. State application for a marijuana establishment license; Kasilof Area

Staff Report given by Bruce Wall

PC Meeting: 9/12/16

**Applicant:** Alaska Bud Brothers Aerogardens LLC  
**Landowner:** James R. Gossman  
**Parcel ID#:** 133-511-06  
**Legal Description:** Tract B, Fort Morgan Subdivision Addn. 1 Amended, according to Plat 83-23, Kenai Recording District.  
**Location:** 22720 Yukon Road Kasilof

BACKGROUND INFORMATION: On June 27, 2016 the applicant notified the borough that he/she had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On June 30, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan on June 30, 2016 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 August 10, 2016. 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 cultivation 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 cultivation 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.

This applicant previously applied for a standard cultivation license however, he determined after talking with the State that it was going to be too cumbersome for him to comply with the requirements of the standard license. He changed it to a limited cultivation license which limits him to 500 square feet of cultivation area.

**PUBLIC NOTICE:** Public notice of the application was mailed on August 22, 2016 to the 7 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the September 1, 2016 & September 8, 2016 issues of the Peninsula Clarion.

**KPB AGENCY REVIEW:** Application information was provided to pertinent KPB staff and other agencies on August 22, 2016.

**ATTACHMENTS**

- State marijuana establishment application with associated submitted documents
- Aerial map
- Area land use map with 500' & 1,000' parcel radius
- Public Notice

**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 Venuti moved, seconded by Commissioner Isham to recommend approval of Alaska Bud Brothers Aerogardens LLC license according to staff recommendations and findings with a recommendation that the following 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.

|                    |                |                |                |                  |                   |                    |
|--------------------|----------------|----------------|----------------|------------------|-------------------|--------------------|
| CARLUCCIO<br>YES   | COLLINS<br>YES | ECKLUND<br>YES | ERNST<br>YES   | FOSTER<br>ABSENT | GLENDENING<br>YES | ISHAM<br>YES       |
| LOCKWOOD<br>ABSENT | MARTIN<br>YES  | MORGAN<br>YES  | RUFFNER<br>YES | VENUTI<br>YES    | WHITNEY<br>YES    | 11 YES<br>2 ABSENT |