



# **KENAI PENINSULA BOROUGH**

## **PLANNING DEPARTMENT**

144 North Binkley Street • Soldotna, Alaska 99669-7520

**PHONE:** (907) 714-2200 • **FAX:** (907) 714-2378

*Toll-free within the Borough: 1-800-478-4441, Ext. 2215*

[www.kpb.us](http://www.kpb.us)

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

## **M E M O R A N D U M**

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

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

**DATE:** June 15, 2016

**SUBJECT:** Standard Marijuana Cultivation Facility License Application. **Applicant:** Croy's Enterprises, LLC; **Landowner:** James Michael Harris; **Parcel #:** 05829015; **Property Description:** T 5N R 10W SEC 23 Seward Meridian KN 2011039 ROBINETTE COMMERCIAL SUB # 3 LOT 2A1 BLOCK 6; **Location:** 36130 Pine Street, Soldotna, AK, Soldotna Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled June 13, 2016 meeting.

A motion to recommend approval of the Croy's Enterprises, LLC, a Standard 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 KPB 7.30.020(A).

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

AGENDA ITEM F. PUBLIC HEARING

6c. State application for a marijuana establishment license; east of Soldotna

Staff Report given by Bruce Wall

PC MEETING: June 13, 2016

**Applicant:** Croy's Enterprises LLC

**Landowner:** James Michael Harris

**Parcel ID#:** 058-290-15

**Legal Description:** Lot 2A1, Robinette Commercial Subdivision #3, according to Plat 2011-39, Kenai Recording District, State of Alaska.

**Location:** 36130 Pine Street

BACKGROUND INFORMATION: On February 29, 2016 the applicant notified the borough that he had submitted an application to the state for a standard marijuana cultivation facility license. On March 4, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed cultivation facility on the above parcel. On March 18, 2016 the applicant supplied a letter that clarified the parking. The state Marijuana Control Board notified the borough that the application was complete on May 4, 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 main access to Pine Street is greater than 28 feet wide.
  - The letter supplied by the applicant indicates that there will not be any parking in borough rights-of-way.
  - The site plan shows a clear route for delivery vehicles which will allow 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 that it is not arbitrary, capricious, or unreasonable.

PUBLIC NOTICE: Public notice of the application was mailed on May 23, 2016 to the 5 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the June 2, 2016 & June 9, 2016 issues of the Peninsula Clarion News.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on May 24, 2016.

#### ATTACHMENTS

- Site plan with associated letter
- Aerial map
- Area land use map with 500' & 1,000' parcel radius
- Agency comments
- Public comments
- State marijuana establishment application with associated submitted documents
- Ordinance 2016-05
- Ordinance 2016-07(substitute)
- 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:

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).

The State Marijuana Control Board rescinded the approval of this application due to a change of ownership. The 60 day comment period is not running at this point. It was advertised so the public hearing still needs to be heard but there would not be a problem to postpone action.

#### END OF STAFF REPORT

Chairman Martin opened the meeting for public comment.

1. James Mike Harris  
Mr. Harris stated that they have had a change with Croy's Enterprises, LLC. The partner he thought he had resigned at the last minutes. He was still pursuing on as a lone wolf trying to manage this situation. It is a matter of corporate change. Mr. Harris stated they will have to repost and do another affidavit of reposting to the public. He hoped that they could push forward at the local level but it probably wouldn't matter if it was delayed. Once he gets all the necessary paperwork back to the State then they will hear it at their monthly meeting. They are looking at probably another 30 days before he might go back to a completed status. The State is behind because when he asked for the document that they stated they needed, it wasn't even drafted yet. Mr. Harris stated they are all

working under criteria that they are trying to work through even with the State. He was available for questions.

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

Commissioner Foster asked if he received comments from his neighbors. Mr. Harris replied no, they are in a commercial / residential atmosphere. This was his dad's homestead and the residences that live there know him very well. He has a great support of his community and neighborhood.

Mr. Harris mentioned that it was good to establish this industry as a recognized and safe environment for people to come to. It will create a safer environment so that people aren't introduced to a gateway drug because they are not going to be going to places that are black market and unsafe by being influenced to a harder drug. He hoped the Commission was prepared to try to understand what they are trying to do with the legalization of this product which is ultimately a win thing for the community. A lot of people don't understand that but there are a lot of things that they are being educated by. Hopefully, they will be able to get this off of the Class 1 drug deal within the next month which will create a lot of these issues going away.

Commissioner Holsten asked if he planned on opening a retail store along with his cultivation business with this new process. Mr. Harris replied no, he would probably do the retail slower. He tried to sell the building after his parents passed but was unable to so now he was looking at utilizing the property.

Seeing and hearing no one else wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

**MOTION:** Commissioner Glendening moved, seconded by Commissioner Venuti to postpone action on this application until such time that the State has completed their investigation.

Commissioner Ruffner stated that his application was a complete application from the Borough's standpoint. Mr. Wall replied that he failed to see how a change of ownership was going to affect their review of the application. The Borough is checking on the tax obligation but there isn't any tax obligation with it being a new LLC. He didn't see how the ownership change could affect the decision process for the Borough.

Commissioner Foster asked if the application would have to submit a whole new application if he wanted to open a retail business. Mr. Wall replied yes, that was correct. The retail business would be a whole separate license which would be processed independently. He stated that each application would have a public hearing.

Commissioner Whitney asked if the State rescinded their approval because now they consider it an incomplete application with the ownership change. Mr. Wall replied yes, that was correct. The State had previously told the Borough that it was a complete application but because the applicant modified the application it requires him to post notice again. The notice that is posted needs to list all of the owners of the business. Since the applicant needs to go through that process again, the State can't consider it a complete application until that step is done. Once that is done, then it will be a complete application. He believed that this was the only thing keeping it from being a complete application. The 60 day clock would start ticking again once the Borough received notice of a complete application.

Commissioner Foster stated he was going to vote against the postponement in trying to make things as fluid as possible for the applicant.

Commissioner Ruffner asked if this would come back to the Commission if they recommended approval to the Assembly once the State reactivates the application. He asked if they could do a one time and they are done. Mr. Wall replied that this would be a one time and then they are done because the Borough Code doesn't specify when there is a hearing. They may have had to have a hearing again if the Code stated that the hearing had to be held once the State deemed the application complete but it doesn't say that.

Commissioner Ruffner asked if staff had a recommendation for this application. Mr. Wall felt that it really wouldn't make a difference in this case because of the additional advertising costs and the additional paperwork which would be a reason to go ahead with it.

There being no further comments or questions, Chairman Martin called for a roll call vote.

**VOTE:** The motion failed by majority consent.

CARLUCCIO NO	COLLINS NO	ECKLUND ABSENT	ERNST NO	FOSTER NO	GLENDENING YES	HOLSTEN NO
ISHAM NO	LOCKWOOD NO	MARTIN NO	RUFFNER NO	VENUTI NO	WHITNEY NO	1 YES 11 NO 1 ABSENT

**MOTION:** Commissioner Lockwood moved, seconded by Commissioner Isham to recommend approval of Croy's Enterprises, LLC, a marijuana cultivation facility located at 36130 Pine Street, Soldotna area 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).

**VOTE:** The motion passed by unanimous consent.

CARLUCCIO YES	COLLINS YES	ECKLUND ABSENT	ERNST YES	FOSTER YES	GLENDENING YES	HOLSTEN YES
ISHAM YES	LOCKWOOD YES	MARTIN YES	RUFFNER YES	VENUTI YES	WHITNEY YES	12 YES 1 ABSENT

**AGENDA ITEM F. PUBLIC HEARING**

6d. State application for a marijuana establishment license; Kasilof Area

Staff Report given by Bruce Wall

PC MEETING: June 13, 2016

**Applicant:** Greatland Ganga LLC

**Landowner:** Glen Creek Group LLC

**Parcel ID#:** 133-280-29

**Legal Description:** Lot 3, Spruce Hills Subdivision, William E. Dam Sr. 1984 Addition, according to Plat 85-43, Kenai Recording District, State of Alaska.

**Location:** 56475 Sterling Highway (east side of highway near milepost 108)

**BACKGROUND INFORMATION:** On February 24, 2016 the applicant notified the borough that he had submitted an application to the state for a marijuana cultivation license. On March 2, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed cultivation facility on the parcel described above. On March 15, 2016 the applicant supplied a revised site plan. The state Marijuana Control Board notified the borough that the application was complete on May 4, 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