



## **KENAI PENINSULA BOROUGH**

### **PLANNING DEPARTMENT**

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**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 

**DATE:** June 15, 2016

**SUBJECT:** Limited Marijuana Cultivation Facility License Application. **Applicant:** Peace Frog Botanicals, LLC; **Landowner:** Jeffrey D Phelps; **Parcel #:** 01359005; **Property Description:** T 7N R 11W SEC 30 Seward Meridian KN 0810076 HERSHBERGER SUB NO 2 LOT 2 BLK 1; **Location:** 47459 Lakeside Drive, Kenai, AK, Nikiski 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 Peace Frog Botanicals, 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 KPB 7.30.020(A).

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

AGENDA ITEM F.

PUBLIC HEARING

6e. State application for a marijuana establishment license; Nikiski area

Staff Report given by Bruce Wall

PC MEETING: June 13, 2016

**Applicant:** Peace Frog Botanicals, LLC

**Landowner:** Jeffrey D Phelps

**Parcel ID#:** 013-590-05

**Legal Description:** Lot 2, Block 1, Hershberger Subd. No. 2, according to Plat 81-76, Kenai Recording District.

**Location:** 47459 Lakeside Street

**BACKGROUND INFORMATION:** On February 29, 2016 the applicant notified the borough that she had submitted an application to the state for a limited marijuana cultivation facility license. On March 15, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed cultivation facility on the above parcel. The state Marijuana Control Board notified the borough that the application was complete on May 6, 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 there is a circular drive accessing Lakeside Street with each entrance being approximately 15 feet wide for a total that is greater than 28 feet wide.
  - The site plan indicates sufficient parking on site to prevent 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 6 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
- 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 has approved this application pending the Fire Marshall and the Borough approvals.

#### END OF STAFF REPORT

Chairman Martin opened the meeting for public comment.

1. Dollynda Phelps  
Ms. Phelps was available to answer questions.

Chairman Martin asked if there were questions for Ms. Phelps.

Commissioner Foster asked if there were any neighbors near this property. Ms. Phelps replied that there are none. There is a small cabin and a gentleman from Texas that has property across from the street which is the only two structures in the area. They are very pleased and supportive of what they are doing. She stated they have received Fire Marshall approval on April 8, 2016.

Mr. Best asked about her training for her marijuana handling permits. Ms. Phelps replied that she has been providing the course and has certified about 80 people. It was going very well. She allows one retake if they fail the first time. Mr. Best asked how long the training takes. Ms. Phelps replied that it is approximately two hours.

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

**MOTION:** Commissioner Lockwood moved, seconded by Commissioner Holsten to recommend approval of Peace Frog Botanicals, LLC, a marijuana cultivation facility located at 47459 Lakeside Street, Nikiski 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

6f. State application for a marijuana establishment license; Nikiski Area

Staff Report given by Bruce Wall

PC MEETING: June 13, 2016

**Applicant:** Permafrost Distributors

**Landowner:** Chase R. Griffith

**Parcel ID#:** 012-260-10 & 012-260-11

**Legal Description:** Lot 10 & Lot 11, Block 1, Field Subdivision 2, according to Plat 1541, Kenai Recording District.

**Location:** 54200 Leonard Drive

**BACKGROUND INFORMATION:** On February 26, 2016 the applicant notified the borough that he had submitted an application to the state for a limited marijuana cultivation license. On May 20, 2016 the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed cultivation facility on the above described parcel. The state Marijuana Control Board notified the borough that the application was complete on May 19, 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.