



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 

DATE: June 15, 2016

SUBJECT: Limited Marijuana Cultivation Facility License Application. **Applicant:** Green Rush Gardens LLC; **Landowner:** Ryan J. Geller; **Parcel #:** 06380004; **Property Description:** T 5N R 9W SEC 11 Seward Meridian KN 0840184 WEAVER SUB PART 1 AMENDED LOT 3 B LK 3; **Location:** 38827 Twin Road, Sterling, AK, Sterling 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 Green Rush Gardens 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

6i. State application for a marijuana establishment license; Sterling area

Staff Report given by Bruce Wall

PC MEETING: June 13, 2016

Applicant: Green Rush Gardens LLC

Landowner: Ryan J. Geller

Parcel Number: 063-800-04

Legal Description: Lot 3, Block 3, Weaver Subdivision Part One, according to Plat 82-2, Kenai Recording District.

Location: 38827 Twin Road

BACKGROUND INFORMATION: On April 11, 2016 the applicant notified the borough that he had submitted an application to the state for a limited marijuana cultivation facility license. On April 22, 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 applicant provided an updated site plan on May 5, 2016. The state Marijuana Control Board notified the borough that the application was complete on May 24, 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 Twin Road with each entrance being 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 25, 2016 to the 16 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 25, 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. Seeing and hearing no one wishing to speak Chairman Martin closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Isham moved, seconded by Commissioner Holsten to recommend approval of Green Rush Gardens, LLC, a marijuana cultivation facility located at 388527 Twin Road, 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).

Commissioner Glendening asked if this application was associated with the Green Rush smoking facility for marijuana in Kenai which is countered to their moratorium. He stated that Green Rush Gardens on their organization certificate and asked if exclusive rights to the name Green Rush. If so, he asked if they were connected in anyway to the operations in Kenai. Mr. Wall replied no, the State regulations prohibit the issuance of a license to somebody that has been operating a marijuana club. He wasn't sure how the State was dealing with that and wasn't aware of any cross ownership between those two businesses. Commissioner Glendening stated that their membership and ownership profile was remarkably similar to the operation in Kenai.

Commissioner Glendening stated that his application shows that he is the sole investor with a zero contribution for capital contributions yet he is 100% owner. He asked if the Borough was concerned about that. Mr. Wall replied that ownership was not something that the Borough gets into.

Mr. Wall asked if Commissioner Glendening felt there was some joint ownership. Mr. Glendening replied that it was possibly could be but probably not. It was determined that it was a State question.

There being no further comments or questions, the Commission proceeded to vote.

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

Chairman Martin called a recess at 8:58 p.m. Chairman Martin reconvened the meeting at

AGENDA ITEM F. PUBLIC HEARING

7. Ordinance 2016-25; An ordinance amending KPB 2.40.010 to reduce Planning Commission Membership

Memorandum given by Max Best

PC Meeting: 6/13/16

The apportionment for the planning commissioners sets out and impacts the number of planning commissioners needed to maintain the proper proportion of planning commissioner members from within and outside the cities in the borough. AS 29.40.020 (a) provides:

"Each first and second class borough shall establish a planning commission consisting of five residents unless a greater number is required by ordinance. Commission membership shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in home rule and first class cities located in the borough ..." (emphasis added).

The area outside of cities in this borough is much greater than the area inside of cities and therefore, population grows faster outside of cities. This is the paramount reason that the KPB planning commission membership was raised in 2002 by ordinance 2001-29 from 11 members to 13 members. Today, with the borough code requirement that each city have a representative on the planning commission, 15 members are needed to best comply with AS 29.40.020.

To avoid this ever-increasing number of planning commissioners, a reduction in the number of commissioners from cities is needed. Each planning commissioner represents the whole borough and reviews land related regulations throughout the borough; especially plats, vacations and material sites. There is little justification for the apportionment described in AS 29.40.020, but changing state statute would be difficult and time consuming.