



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

LAYDOWN

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

FROM: Max Best, Planning Director 

DATE: July 20, 2016

SUBJECT: Limited Marijuana Cultivation Facility License Application. **Applicant:** Cannaboyd;
Landowner: Jason & Tallee S Boyd; **Parcel #:** 17207157 ; **Property Description:** T 5S
R 11W SEC 7 Seward Meridian HM 0860053 BLUEBERRY HILL SUB NO 2 LOT 4A;
Location: 35047 Lowbush Street, Homer, AK, Fritz Creek Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled July 18, 2016 meeting.

A motion to recommend approval of the Cannaboyd, a Limited Marijuana Cultivation Facility license application passed by unanimous consent with the recommendation to have 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).

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

AGENDA ITEM F. PUBLIC HEARING

2. State application for a Limited Marijuana Cultivation Facility license in the Fritz Creek Area

Staff Report given by Bruce Wall

PC MEETING: Monday, July 18, 2016

Applicant: Cannaboyd

Landowner: Jason & Tallee S Boyd

Parcel ID#: 172-071-57

Legal Description: T 5S R 11W SEC 7 Seward Meridian HM 0860053 BLUEBERRY HILL SUB NO 2 LOT 4A

Location: 35047 Lowbush Street, Homer, AK

BACKGROUND INFORMATION: On 4/20/2016 the applicant notified the borough that he had submitted an application to the state for a Limited Marijuana Cultivation Facility license. On 6/17/2016 the applicant supplied the borough with a signed acknowledgement form and a site plan on 6/17/2016 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 6/13/2016. 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 have been met:

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, consistent with Federal drug free school zone policies.
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; consistent with 3 AAC 306.010.
4. The proposed facility is not located within a local option zoning district; which are created to protect the residential character of neighborhoods.
5. The proposed facility is located where there is sufficient ingress and egress for traffic to the parcel.
 - Although the parcel has frontage along Lowbush Street, the existing access to the property is an easement through the property to the south to East End Road. The site plan indicates that this will be their access for the facility. East End Road is a state maintained road and they will not be accessing a borough 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 that it is not arbitrary, capricious, or unreasonable.

PUBLIC NOTICE: Public notice of the application was mailed on 6/30/2016 to the 6 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the 7/7/2016 & 7/14/2016 issues of the Homer News.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies on 6/30/2016.

ATTACHMENTS

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

The State Marijuana Control Board will consider this application at its September 7, 2016 meeting. Two comment letters in opposition have been received which are included in the lay down / desk packet.

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 Holsten moved, seconded by Commissioner Ecklund to recommend approval of Cannaboyd Limited Marijuana Cultivation Facility license according to staff recommendations, findings and 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 KP.B 7.30.020(A).

Commissioner Glendening referred to KP.B 7.30.020(E) which allows them to recommend additional conditions on the license. He asked if the protection against damage, odors, noise, impacts, road damage, criminal activity and public safety was included in the State's consideration. Mr. Wall replied that the State has an extensive list of regulations to address all of those items. He stated he would have a hard time adding additional conditions however there may be some unique situations on a particular application where that may be applicable.

Commissioner Holsten referred to the two comments letters which expressed opposition to the license. One of things they mentioned was a concern over odors. She asked if they would have to take their concerns to the State where it would be reviewed to make sure the applicant met the criteria. Mr. Wall replied that the applicant stated in his application to the state how he was going to control odors, which is required to be addressed in the application. He stated that the applicant indicated that there was distance from adjacent properties and that he would be in an enclosed structure. It was very unlikely that odors would leave the facility but if that happened then the applicant would install more filters. This is a requirement that the State has and would be enforceable by the state.

Commissioner Glendening expressed concern that the copy of the application in the packet was hard to decipher. He asked if staff was able to decipher the information. Mr. Wall replied that the printed packet was fairly faint on this application. The PDF application was more readable and was able to go through and catch all of the information.

VOTE: The motion passed by unanimous consent.

CARLUCCIO YES	COLLINS YES	ECKLUND YES	ERNST ABSENT	FOSTER ABSENT	GLENDENING YES	HOLSTEN YES
ISHAM YES	LOCKWOOD ABSENT	MARTIN YES	RUFFNER ABSENT	VENUTI YES	WHITNEY YES	9 YES 4 ABSENT

AGENDA ITEM F. PUBLIC HEARING

3. Ordinance 2016-25; Amends KP.B 2.40, Planning Commission Membership & Appointment.

Amended Memorandum & Staff Report given by Max Best

PC Meeting 7/18/16

This was postponed from the June 13, 2016 Planning Commission meeting. There is a motion on the floor which states: "*Motion on the Floor: Commissioner Foster moved, seconded by Commissioner Isham to recommend approval of Ordinance 2016-25; An ordinance amending KP.B 2.40.010 to reduce Planning Commission Membership.*"

There is a proposed amendment from the Borough Mayor, Mike Navarre and Assembly member Dale Bagley. It is an amendment which would take the City Commissioners down to four and eliminating one commissioner outside the cities and combining Kasilof, Clam Gulch, Ninilchik and Anchor Point. Additionally, they are using the cities with the four highest populations which eliminates Soldotna. The amended ordinance is as follows:

One concern raised about this ordinance is the proposal to combine the Planning Commission seats for Soldotna and Kenai into one seat. Of the first-class and home rule cities in the borough, Kenai has the highest population and Soldotna has the third highest population. To address this concern we propose to amend this ordinance to reduce the total commission membership from 13 to 11, and provide that the four cities with the largest population shall have members on the commission. At this time those four cities are Kenai, Homer, Seward and Soldotna. Additionally we would need to add another seat for the areas outside the first-class and home rule cities for the apportionment to better fit with the statutory requirements. The proposed amendments