


# Kenai Peninsula Borough

## Planning Department

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### MEMORANDUM

TO: Wayne Ogle, Assembly President  
Kenai Peninsula Borough Assembly Members

FROM: Max Best, Planning Director 

DATE: January 8, 2019

SUBJECT: Application for a new Retail Marijuana Store License. **Applicant:** Mary's Garden; **Landowner:** Fred M. & Julie J. West; **Parcel #:** 13117011 ; **Property Description:** That portion of the Northwest ¼ Northeast ¼ Southeast ¼, Section 27, Township 4 North, Range 11 West, lying northwest of the Sterling Highway.; **Location:** 50110 Sterling Hwy, Kalifornsky Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled January 7, 2019 meeting.

A motion to recommend approval of the Mary's Garden, a Retail Marijuana Store 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).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

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

AGENDA ITEM F. PUBLIC HEARING

4. State application for a marijuana establishment license; Kasilof / Kalifornsky Area

Staff Report given by Bruce Wall

PC MEETING: January 7, 2019

**Applicant:** Mary's Garden  
**Landowner:** Fred M. & Julie J. West  
**Parcel ID#:** 131-170-11  
**Legal Description:** That portion of the Northwest ¼ Northeast ¼ Southeast ¼, Section 27, Township 4 North, Range 11 West, lying northwest of the Sterling Highway.  
**Location:** 50110 Sterling Hwy

BACKGROUND INFORMATION: On March 6, 2018, the applicant notified the borough that he/she had submitted an application to the state for a Retail Marijuana Store license. On March 16, 2018, the applicant supplied the borough with a signed acknowledgement form and a site plan on December 6, 2018 of the proposed Retail Marijuana Store on the above described parcel. The Alcohol and Marijuana Control Office notified the borough that the application was complete on December 5, 2018. 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 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 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 parcel has direct access to a state maintained road and 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. The signed acknowledgement form indicates that the proposed facility will not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

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.

**PUBLIC NOTICE:** Public notice of the application was mailed on December 11, 2018 to the 10 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the December 27, 2018 & January 3, 2019 issues of the Peninsula Clarion.

**KPB AGENCY REVIEW:** Application information was provided to pertinent KPB staff and other agencies on December 27, 2018.

#### ATTACHMENTS

- State marijuana establishment application with associated submitted documents
- Site Plan
- Acknowledgement form
- Aerial map
- Area land use map with 500' & 1,000' parcel radius

#### 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).
4. The marijuana establishment shall not conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises, between the hours of 2:00 a.m. and 8:00 a.m.

#### END OF STAFF REPORT

Mr. Wall added that this will be located in the former retail store for the Tustumena Smokehouse. This will be heard at the January 22, 2019 Assembly meeting.

Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak, the public hearing was closed and discussion was opened among the commission.

**MOTION:** Commissioner Ecklund moved, seconded by Commissioner Ruffner to forward the application to the Assembly with the finding and recommendations attached.

**MOTION PASSED:** Seeing and hearing no discussion or objection the motion passed by unanimous consent.