


Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Marcus Mueller, Interim Planning Director 

DATE: June 10, 2020

SUBJECT: Application for a new Retail Marijuana Store License. **Applicant:** Alaska Harvest Company LLC; **Landowner:** Shiron Properties LLC; **Parcel #:** 05516035; **Property Description:** Lot 9C, College Village Subd. Resubdivision Lots 9&10 Block 1, according to Plat 77-122, Kenai Recording District; **Location:** 43837 Kalifornsky Beach Road, Soldotna, AK 99669, Kalifornsky Area.

The Kenai Peninsula Borough Planning Commission reviewed the subject application during their regularly scheduled June 8, 2020 meeting.

A motion to recommend approval of the Alaska Harvest Company LLC, 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 KP.B 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 E. PUBLIC HEARING

4. State application for a retail marijuana store license; Kalifornsky Area

Staff report given by Scott Huff

PC MEETING: June 8, 2020

Applicant: Alaska Harvest Company LLC
Landowner: Shiron Properties LLC
Parcel ID#: 055-160-35
Legal Description: Lot 9C, College Village Subdivision Resubdivision Lots 9 & 10 Block 1, according to Plat 77-122, Kenai Recording District
Location: 43837 Kalifornsky Beach Road

BACKGROUND INFORMATION: On February 3, 2020, the applicant notified the borough that he/she had submitted an application to the state for a Retail Marijuana Store license. On March 1, 2020, the applicant supplied the borough with a signed acknowledgement form and a site plan of the proposed Retail Marijuana Store license on the above described parcel. The Alcohol and Marijuana Control Office notified the borough that the application was complete on May 4, 2020. 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.
 - Lot 9C has direct access to Kalifornsky Beach Road, a state maintained road, and will not be accessing a borough right-of-way.
 - The site diagram notes ingress/egress across Lot 9A to Poppy Lane. Staff has not been able to verify if a public access easement has been granted by the land owner of Lot 9A.
 - The signed acknowledgement form indicates that there will not be any parking in borough rights-of-way.
 - The site plan shows the routes delivery vehicles can use is from Kalifornsky Beach Road with access to the rear of the building where a parking/turnaround area will allow for vehicles to turn safely.
 - On-site parking and loading areas would be east of the building and would preclude vehicles from backing out into the roadway.
 - The site plan shows the existing building located on Lot 9C 11.9 feet from Kalifornsky Beach Road right of way. The building is located within the 20 foot building setback as established by College Village Subdivision plat (KN 77-122). The building is in violation of KPB 20.30.240 Building Setback and is subject to KPB 20.10.030(C) Violations and remedies.
6. The signed acknowledgement form indicates that business will not be conducted, or allow any consumer access, 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 May 19, 2020 to 8 landowners of the parcels within 300 feet of the subject parcel. Public notice of the application was published in the May 28, 2020 & June 4, 2020 issues of the Peninsula Clarion.

KPB AGENCY REVIEW: Application information was provided to pertinent KPB staff and other agencies.

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).

Mr. Huff noted that information was received after the submission of this report information was received noting that a setback exception was granted on the building by PC Resolution 2008-38, so the building is not in violation and that the last bullet point under point 5 should be removed.

END OF STAFF REPORT

Chairman Martin asked if anyone from the public wished to comment on this item.

Robin Davis, 36485 Pingo Street, Kenai: Mr. Davis is the chairman of Kalifornsky Advisory Planning Commission (APC). He stated this item was reviewed at their last meeting. He wanted it noted that the APC felt they were not given enough time for an adequate review of this license, nor did they feel they had enough time to solicit comments from their area residents. He felt that the APC needed more time to review controversial items like this, ensuring the public had opportunity to weigh in. This would allow the APC to make better-informed recommendations to the Planning Commission. Mr. Davis noted in general the APC need more time to review any items affecting their area.

Ron Isaac, 620 Cedar St., Kenai: Mr. Isaac stated that he had an item on the Planning Commission agenda last month that was postponed so that it could be reviewed by the APC. He believes if the public did not get a chance to comment on this item at an APC meeting they still have an opportunity to comment at the Planning Commission meeting. He believed this item should not be held up and would be in favor of it going forward. If the APC cannot get their comments or review in on time, he believes that should not be a reason to postpone an item.

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

MOTION: Commissioner Bentz moved, seconded by Commissioner Venuti, to forward to the Assembly the application of the retail Marijuana store license for Alaska Harvest Company LLC with staff's findings and that the three conditions be placed on the state license.

MOTION PASSED BY MAJORITY VOTE: Yes-10, No-0, 2-Absent

Yes: Brantley, Venuti, Ruffner, Whitney, Ernst, Ecklund, Morgan, Carluccio, Bentz, Martin

Absent: Foster, Fikes (Commissioner Fikes lost connection to the meeting)