

By: Mark Whisenhunt
Introduced: February 6, 2017
Public Hearing: March 6, 2017
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-03**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 1150 N. HELEN LANE, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 1 WEST, SECTION 2; TAX ID# 1068000L020, SEWARD MERIDIAN.

WHEREAS, an application had been received from Peter Zell, dba Bad Gramm3r, for a conditional use permit for the operation of a marijuana retail facility at 1150 N. Helen lane, located within Township 17 North, Range 1 West, Section 2; Tax ID# 1068000L020, Seward Meridian; and

WHEREAS, MSB 17.60.030(A)(4) requires a conditional use permit for the operation of a marijuana retail facility; and

WHEREAS, unless this type of use is maintained under and in accordance with a lawfully issued permit, marijuana retail facility is declared to be a public nuisance; and

WHEREAS, an operation of such a land use without a permit is prohibited; and

WHEREAS, the proposed conditional use operation is wholly contained within the 1,743 square foot commercial building; and

WHEREAS, there is no industrial equipment or processes that generate noise associated with the proposed use; and

WHEREAS, there are no outdoor speakers or public announcement systems associated with the proposed use; and

WHEREAS, the daily trip rate for a marijuana retail facility is estimated to be 199.69 to 252.58 per 1,000 square feet of the commercial facility; and

WHEREAS, the daily trip rate for the proposed 1,743 square foot marijuana retail facility is estimated to 339 to 441 vehicles per day; and

WHEREAS, the peak hour trip rate is estimated to be 34 to 45 vehicles, which is approximately 10 percent of the total daily trip rate; and

WHEREAS, the daily trip rate for the proposed use is less than 100 vehicles during the morning or afternoon peak hour, and less than a total of 750 vehicles per day; and

WHEREAS, the proposed use will not be processing, manufacturing, or storing hazardous substances identified in MSB 17.61.020(A)(3); and

WHEREAS, the proposed use is confined to a generally flat area on the parcel; and

WHEREAS, the proposed use is commercial retail in nature and will not generate contaminated water runoff; and

WHEREAS, the property is located in the Core Area; however, there are no specific zoning designations for this parcel; and

WHEREAS, the applicable subdivision restrictions (dated July 25th, 1967) describe the subject lot, as well as Lots 1, 19, 21, 22, and 23 as commercial; and

WHEREAS, the subject lot was developed for and has been used as commercial since 2004; and

WHEREAS, the subject location has been used for commercial retail for approximately thirteen years; and

WHEREAS, lots 20, 21, 22, and 23 of the Williwaw Subdivision are sandwiched between two roads: Bogard road to the south and Helen Lane to the north. Accessing Bogard road is prohibited and as such, the lots are required to access Helen Lane; and

WHEREAS, Bogard Road has several different uses on its frontage including commercial, industrial, and residential; and

WHEREAS, other than new signage, the subject structure will maintain the appearance and size since its original construction in 2004; and

WHEREAS, the closest school (Wasilla High School) is approximately 4,300 feet away from the proposed use; and

WHEREAS, consumption of marijuana is prohibited at the site; and

WHEREAS, the applicant has obtained a Matanuska-Susitna Borough driveway permit for legal access on to Helen Lane; and

WHEREAS, access onto Helen Lane is preferred as it is a lower classification of road (minor collector), as opposed to Bogard Road which has a higher classification (minor arterial); and

WHEREAS, persons under the age of 21 are prohibited from entering the proposed use; and

WHEREAS, according to the application material, the proposed use will have a robust security plan in place; and

WHEREAS, all marijuana products deemed unusable will be sealed in a container and disposed of at the Matanuska-Susitna Borough landfill, after proper notification of the State of Alaska Alcohol & Marijuana Control Office; and

WHEREAS, the existing structure meets all applicable setback requirements required by MSB 17.55 - Setbacks and Screening Easements; and

WHEREAS, all of the required site plans and operational information have been provided by the applicant; and

WHEREAS, according to the application material, all marijuana will be stored in sealed containers; and

WHEREAS, according to the application material, loitering will not be allowed, helping to ensure noise and odor will not be an issue; and

WHEREAS, on February 2, 2017, the State of Alaska Marijuana Control Board voted unanimously to approve Bad Gramm3r's Retail Marijuana Store License # 11121 with delegation; and

WHEREAS, official minutes from the Marijuana Control Board meeting showing Bad Gramm3r's delegated approval was obtained from the State of Alaska's official website; and

WHEREAS, the Matanuska-Susitna Borough Fire Code Official has issued Plan Review #2016-096 for Tenant Improvement Approval; and

WHEREAS, a certificate of occupancy must still be issued by the MSB Fire Code Official upon completion of remodel work within the subject building; and

WHEREAS, the subject lot is sandwiched between two roads: Bogard road to the south and Helen Lane to the north; and

WHEREAS, while Helen Lane is an unpaved road, it has been used for both residential and commercial uses since 2004; and

WHEREAS, according to the Borough's Transportation Planner, Helen Lane has the ability to accommodate high access to commercial land uses; and

WHEREAS, the proposed use is 1,743 square feet in size; and

WHEREAS, according to the site plan, eight customer parking spaces will be provided; and

WHEREAS, according to the site plan, each space will be 20 feet in length and ten feet wide; and

WHEREAS, according to the applicant, there are no vertical clearance limitations on site; and

WHEREAS, ADA guidelines require one van accessible parking space with an eight foot wide parking isle, for every 1 to 25 spaces; and

WHEREAS, according to the site plan, one van accessible parking space with a ten foot wide parking isle will be provided; and

WHEREAS, the Planning Commission has reviewed this application with respect to standards set forth in MSB 17.60.100, 17.60.150 and 17.60.170; and

Whereas, the Planning Commission conducted a public hearing on March 20, 2017 on this matter.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby adopts the aforementioned findings of fact and makes the following conclusions of law supporting approval of Planning Commission Resolution 17-03:

1. The use will not exceed sound levels set forth in MSB 17.61.080 and noise levels exceeding the levels in MSB 17.61.080 are prohibited. As such, a Core Area Conditional Use Permit is not required under this standard (MSB 17.61.020(A)(1)).
2. Since the use will not exceed 100 vehicles during the morning or afternoon peak hours or more than 750 vehicles a day, as specified in MSB 17.61.090, Traffic Standards,

a Core Area Conditional Use Permit is not required under this standard (MSB 17.61.020(A)(2)).

3. Since the proposed use will not be processing, manufacturing, or storing hazardous substances beyond the thresholds identified in MSB 17.61.020(A)(3), a Core Area Conditional Use Permit is not required under this standard (MSB 17.61.020(A)(3)).
4. The proposed use will not generate contaminated water runoff or other discharges that are likely to violate state water quality standards or negatively impact groundwater or surface water quality beyond adjacent property lines. As such, a Core Area Conditional Use Permit is not required under this standard (MSB 17.61.020(A)(4)).
5. The proposed use, with conditions, will not detract from the value, character and integrity of the surrounding area (MSB 17.60.100(B)(1)).
6. The proposed use will not be harmful to the public health, safety, convenience and welfare (MSB 17.60.100(B)(2)).
7. Sufficient setbacks, lot area, buffers or other safeguards are being provided (MSB 17.60.100(B)(3)).
8. The applicant has met all of the requirements of this chapter (MSB 17.60.100(B)(4)).

9. The proposed use will not negatively affect other properties due to factors such as noise and odor (MSB 17.60.150(A)(1)).
10. Measures are in place to reduce negative affects upon adjacent properties (MSB 17.60.150(A)(2)(a-c)).
11. The proposed use is compatible with the character of the surrounding area (MSB 17.60.150(A)(3)).
12. The proposed use is more than 1,000 feet away from any school grounds (MSB 17.60.150(B)(1)).
13. Documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60150(D)(1)).
14. The proposed use is in full compliance with all applicable fire code (MSB 17.60.150(D)(2)).
15. The proposed use is located on a parcel that is appropriate for commercial use (MSB 17.60.170(A)(1-3)).
16. The proposed use meets the minimum number of parking space for retail facilities (MSB 17.60.170(B)).
17. The proposed use complies with current ADA parking space guidelines (MSB 17.60.170(C)).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Commission finds this application does meet the standards of MSB 17.60 and does hereby approve the conditional use permit for the

operation of a marijuana retail facility, with the following conditions:

1. The owner and/or operator shall comply with all applicable state and local regulations.
2. All aspects of the operation shall comply with the description detailed in the application material and with the conditions of this permit; and an amendment to the Conditional Use Permit shall be required prior to any expansion of the conditional use.
3. The fence detailed in the application shall be constructed on the subject property by September 30, 2017..
4. The operation shall comply with the maximum permissible sound level limits allowed, per the requirements of MSB 8.52 - Noise, Amplified Sound and Vibration.
5. The hours of operation shall not exceed 10:00 a.m. - 8:00 p.m. daily.

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ADOPTED by the Matanuska-Susitna Borough Planning
Commission this 20th day of March, 2017.



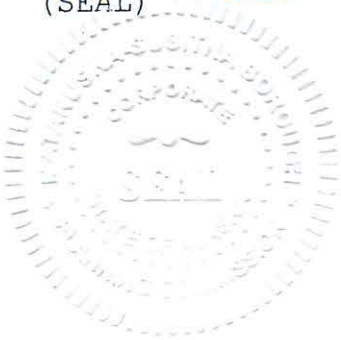
MARY ANDERSON, Vice-Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Vague, Anderson, Healy, Chesbro, Glaskan, and*
NO: *Rauchenstein*