

By: Mark Whisenhunt
Introduced: June 5, 2017
Public Hearing: June 19, 2017
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-22**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 1044 SOUTH OLD GLENN HIGHWAY, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 2 EAST, SECTION 11; TAX ID# 17N02E11C017, SEWARD MERIDIAN.

WHEREAS, an application has been received from Phillip Izon, dba KushTopia for a conditional use permit for the operation of a marijuana cultivation facility at 1044 South Old Glenn Highway, located within Township 17 North, Range 2 East, Section 11; Tax ID# 17N02E11C017, Seward Meridian; and

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

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

WHEREAS, according to the application material, a fence 10 feet in height will be constructed. The portion facing the Old Glenn Highway will be made of wood planks. The remainder will be constructed of chain link fencing; and

WHEREAS, access to the premises is from the Old Glenn Highway via an established driveway; and

WHEREAS, the proposed conditional use operation will be wholly contained within the proposed structure; and

WHEREAS, according to the application material, the proposed use will be set back approximately 277 feet from the Old Glenn Highway right-of-way, 100 feet from the north lot line, 106 feet from the south lot line and 800 feet from the west lot line; and

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

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

WHEREAS, according to the security plan, a combination of cameras, lighting, and fencing will be used to secure the site and monitor all activities at the facility; and

WHEREAS, according to the application material, no loitering will be allowed at the facility; and

WHEREAS, according to the application material, no business signs will be located at the site or visible from off site; and

WHEREAS, the closest residential structure is approximately 245 feet away from the proposed use; and

WHEREAS, according to the application material, upon completion of the fourth and final level of shipping containers, the applicant will apply an exterior insulation finishing system

(EIFS), to give the structure a finished commercial structure look; and

WHEREAS, the closest school (Job Corps, Palmer) is approximately 10,800 feet away from the proposed use; and

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

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

WHEREAS, after proper notification of the State of Alaska Alcohol & Marijuana Control Office; all marijuana products or waste material deemed unusable will be mixed into used soil or house hold trash and disposed of at the Borough landfill; and

WHEREAS, the applicant has obtained Flood Hazard Development Permit #172920170007 to construct the proposed facility; and

WHEREAS, the State of Alaska Fire Marshal has issued Plan Review Certificate #2017Anch1010, approving the construction of the proposed use; and

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

WHEREAS, the applicant has submitted an odor mitigation plan, ensuring no marijuana odor will emit from the building; and

WHEREAS, all exhaust vents from the building will be fitted with carbon filters to remove marijuana odors; and

WHEREAS, the Old Glenn Highway has many different uses on its frontage, including residential, commercial, and industrial; and

WHEREAS, on April 4, 2017, the State of Alaska Marijuana Control Board voted to approve KushTopia's Marijuana Cultivation Facility, License # 11611 with delegation; and

WHEREAS, a copy of the delegated approval for KushTopia's Marijuana Cultivation Facility, License # 11611 with delegation has been provided; and

WHEREAS, according to the applicant's wastewater and waste material disposal plan, no wastewater will be generated from the proposed use; and

WHEREAS, with no waste being disposed of on site, the proposed marijuana cultivation facility is fully compliant with ADEC regulations; and

WHEREAS, according to the application material, only natural pesticides, such as neem oil, will be used as part of its operation; and

WHEREAS, according to the application material, fertilizers and natural pesticides will be stored within the facility in designated cabinets; and

WHEREAS, according to the applicant, fertilizers will be stored according to each manufacturer's recommendations; and

WHEREAS, according to the application material, all employees will be educated on all securities measures; and

WHEREAS, the Planning Commission has reviewed this application with respect to standards set forth in MSB 17.60.100, 17.60.150 and 17.60.160; and

WHEREAS, the Planning Commission conducted a public hearing on June 19, 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 17-22:

1. The proposed use, with conditions, will not detract from the value, character and integrity of the surrounding area (MSB 17.60.100(B)(1)).
2. The proposed use will not be harmful to the public health, safety, convenience and welfare (MSB 17.60.100(B)(2)).
3. Sufficient setbacks, lot area, buffers or other safeguards are being provided (MSB 17.60.100(B)(3)).
4. The applicant has met all of the requirements of this chapter (MSB 17.60.100(B)(4)).

5. The proposed use will not negatively affect other properties due to factors such as noise and odor (MSB 17.60.150(A)(1)).
6. Measures are in place to reduce negative affects upon adjacent properties (MSB 17.60.150(A)(2)(a-c)).
7. The proposed use is compatible with the character of the surrounding area (MSB 17.60.150(A)(3)).
8. The proposed use is more than 1,000 feet away from any school grounds (MSB 17.60.150(B)(1)).
9. The applicant has provided documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60.150(D)(1)).
10. The proposed use is in full compliance with all applicable fire code (MSB 17.60.150(D)(2)).
11. The wastewater and waste material disposal plan demonstrates compliance with the Alaska State Department of Environmental Conservation (MSB 17.60.160(A)).
12. The odor mitigation plan demonstrates mitigation measures will prevent odors from materially impacting adjoining properties (MSB 17.60.160(B)).
13. Storage of fertilizers will comply with all local, state, and federal laws (MSB 17.60.160(C)).

14. A security plan which includes education for employees on security measures has been provided (MSB 17.60.160(D)).

15. The proposed use meets the minimum setback requirements for marijuana cultivation facilities (MSB 17.60.160(E)).

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 cultivation 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. An amendment to the Conditional Use Permit shall be required prior to any expansion of the conditional use.
3. Borough staff shall be permitted to enter premises subject to this permit to monitor compliance with permit requirements. Such access will at minimum, be allowed on demand when activity is occurring, and/or with prior verbal or written notice, and/or at other times as necessary to monitor compliance. Denial of

access to Borough staff shall be a violation of this Conditional Use Permit.

4. Within 90 days of installation of the six shipping containers identified as Phase One (1) in the application material, an as-built survey showing the actual location of the facility shall be provided to the Matanuska-Susitna Borough Development Services Division.
5. All development shall be in compliance with MSB 17.29 Flood Damage Prevention and Flood Hazard Development Permit #172920170007.
6. The fence identified in the application material shall be constructed in compliance with Flood Hazard Development Permit #172920170007, by December 31, 2018.
7. The exterior insulation finishing system (EIFS) detailed in the application material, shall be installed by December 31, 2020.

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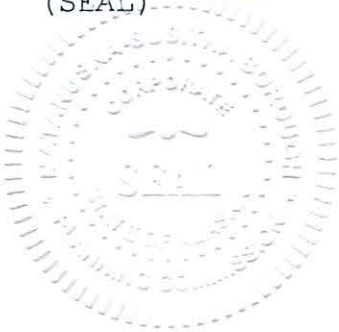
ADOPTED by the Matanuska-Susitna Borough Planning Commission this 19th day of June, 2017.


COLLEEN VAGUE, Chair

ATTEST


MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Vague, Healey, Chesbro, Elder, Glashan, and*
NO: *Rauchenstein*