

By: Sandra Swanger-Jensen
Introduced: June 5, 2017
Public Hearing: June 19, 2017
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-24**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF FORKS ROADHOUSE ALCOHOL BEVERAGE DISPENSARY (BAR) WITH FOOD SERVICE UNDER MSB 17.70, LOCATED AT 13046 W. PETERSVILLE ROAD, TRAPPER CREEK; WITHIN TOWNSHIP 26 NORTH, RANGE 08 EAST, SECTION 03, SEWARD MERIDIAN.

WHEREAS, an application has been received from Daniel Kerschbaum dba Forks Roadhouse for a conditional use permit under MSB 17.70 for the operation of an alcohol beverage dispensary (bar) with food service; and

WHEREAS, the Planning Commission has reviewed this application, associated materials, and staff report with respect to public notification set forth in MSB 17.03, and the standards in MSB 17.70.100, and MSB 17.70.110; and

WHEREAS, the proposed site is located within the Trapper Creek Community Council and part of the Petersville Road Management Plan; and

WHEREAS, findings of fact and conclusions of law have been listed in the staff report; and

WHEREAS, the Planning Commission conducted a public hearing on June 19, 2017 on this matter; and

WHEREAS, public hearing notices were mailed to all property owners within one-half mile of the subject property boundary line; and

WHEREAS, a total of 12 public hearing notices were mailed on May 5, 2017; and

WHEREAS, a public hearing notice was mailed to the Trapper Creek Community Council since it is the closest council to the Petersville community area; and

WHEREAS, Trapper Creek Community Council meetings are schedule for the 3rd Thursday of each month, which would have been May 18, 2017; and

WHEREAS, MSB records indicate the Petersville Community Council has had no activity since 6/14/2013, and no contact since 2007, and no members; therefore, has an inactive status; and

WHEREAS, a public hearing notice was published for general circulation on May 5, 2017 in the Frontiersman within the MSB public notice newspaper page; and

WHEREAS, a public hearing notice was posted on the borough web page on May 5, 2017 under the heading Public Notices & Announcements; and

WHEREAS, the public hearing notice contained the following:
The MSB Planning Commission will conduct a Public Hearing meeting on Monday, June 19, 2017 at 6:00 p.m. in the Borough Assembly Chambers in Palmer, located at 350 E. Dahlia Avenue, Palmer, AK;

and

WHEREAS, the public notice contain the following description:
The Matanuska-Susitna Borough (MSB) Planning Commission will consider the following: Application: CONDITIONAL USE PERMIT (CUP) FOR ALCOHOL BEVERAGE DISPENSARY (BAR), MSB Code: MSB 17.70 - Regulation of Alcoholic Beverage Uses; Applicant: The Forks Reborn, LLC., dba The Forks Roadhouse; Location: 13046 W. Petersville Road, Trapper Creek; Township 26 North, Range 08 West, Section 03, Seward Meridian, and Request: An application for a CUP has been submitted for the operation of an alcohol beverage dispensary (bar) with food service; and

WHEREAS, the public hearing notice contained the legal description for The Forks Reborn, LLC., U.S. 3597, within T. 26 N., R. 8 W., Section 03, Seward Meridian, and the borough tax account number as U03597000L00; and

WHEREAS, the public hearing notice identified the applicant as The Forks Reborn, LLC, who is also the owner of the subject parcel; and

WHEREAS, a public hearing notice, application and material were available for review on the borough web page under the heading *Public Notices & Announcements*; and

WHEREAS, the public hearing notice contained contact information consisting of a phone and fax number, including an email address; and

WHEREAS, the subject parcel (U.S. 3597) is the historic site known as The Roadhouse; and

WHEREAS, the current location and new constructed main building is approximately the same footprint as the previous historic building prior to burning down in 2012; and

WHEREAS, the Forks Reborn LLC dba Forks Roadhouse has a current MSB business license as No. 27594 and will expire on 12/31/2017; and

WHEREAS, the proposed hours of operation are 10:00 am to 2:00 am; due to remoteness of the location and variability of road conditions hours may deviate between the seasons depending on these and other business factors; and

WHEREAS, the applicant states on the liquor license renewal form there will be live music. The previous establishment also had live music; and

WHEREAS, the operation must comply with the maximum permissible sound level limits allowed, per the requirements of MSB 8.52 - Noise, Amplified Sound and Vibration; and

WHEREAS, the previous establishment known as "The Forks Roadhouse" was a well-known historic site for a recreational playground area and a place to stop in and listen to music; and

WHEREAS, the Borough has no record of complaints filed under MSB Code 8.40 (Liquor License Referrals) against the existing beverage dispensaries in the area; and

WHEREAS, the nearest school off of Petersville Road is Trapper Creek Elementary School approximately 16 miles and the school is 2.7 miles from the intersection of Petersville Road and Parks Highway in Trapper Creek; and

WHEREAS, the nearest churches are located at mile 0.80 and mile 1.5 on Petersville Road, which is about 14 miles from the subject parcel, which is located at mile 18.7 Petersville Road; and

WHEREAS, the State of Alaska regulations preclude beverage dispensary licenses within 200 feet of a church; and

WHEREAS, the subject property is 5.0 acres in size; and

WHEREAS, the subject parcel designated area for the new establishment will occupy the southwest corner between two rights-of-way; and

WHEREAS, the constructed facility currently has a setback violation to the Petersville Road right-of-way in accordance with MSB 17.55; and

WHEREAS, the State of Alaska is working with the applicant to relocating the right-of-way (Petersville Road) to resolve a building setback violation under MSB 17.55. A Public Use Easement document is in the process of being prepared by the state and will be recorded prior to operation of the establishment for conformance with MSB 17.55; and

WHEREAS, a State of Alaska driveway permit is required off of

Petersville Road; and

WHEREAS, the subject parcel has three existing small cabins and an existing Quonset hut; and

WHEREAS, the cabins will be demolished due to their condition; the Quonset hut will be dismantled and removed off the property boundary line to resolve setback violation under MSB 17.55; and

WHEREAS, the constructed commercial building has a setback of 25.5 feet from the proposed relocation of the state right-of-way; and

WHEREAS, the adjacent and surrounding parcels are similar in size to the subject parcel and have recreational cabins owned by individual owners. The remainder of the land within the township, range and section of the northwest quarter, the southwest quarter and the northeast quarter are owned by the Matanuska-Susitna Borough, excluding the right-of-way, which is owned by the State of Alaska. Within the Southeast quarter there are two large parcels owned by individuals; and

WHEREAS, the establishment lot area will have a gravel parking area designated by the front door of the building, an existing right-of-way on the southwest corner and a new proposed public use easement on the northwest side of the new building. Other areas on the parcel consist of trees and natural vegetation; and

WHEREAS, there will be one unlit sign mounted on the building over the main entrance door with the dimensions of four feet by

three feet; and

WHEREAS, no other additional signage has been proposed.

WHEREAS, there is exterior lighting near all the exterior doors around the building; and

WHEREAS, the parking area is a large gravel area to accommodate at least 10 spaces; and

WHEREAS, the prepared easement plan by Alaska Rim Engineering dated March 15, 2017, shows the existing Petersville Road public use easement going through the subject parcel (U.S. 3597) and the proposed relocated public use easement; and

WHEREAS, the traffic patterns in this area were established previously on the historical site; and

WHEREAS, the establishment is located in a remote area off of a dirt road and limited to seasonal access by vehicles, which would not create any high level of traffic; and

WHEREAS, the road to the establishment is paved for the first 10 miles and four-wheel drive is recommended thereafter to reach the Forks Roadhouse; and

WHEREAS, Petersville Road is favorable to drive during the months of July through August, and June and September can be not so good; the rest of the time during the winter months after mile 14, there is a great deal of snow which requires a snowmachine to reach Forks Roadhouse; and

WHEREAS, the State of Alaska manages road systems in the

Planning Commission Resolution 17-24
Adopted: June 19, 2017

central region. The state identifies the function and class of Petersville Road as follows: beginning at zero milepost and ending at 2.6743 is a major collector (CDS Route 171300), beginning at 2.6743 and ending at 16.8933 is a minor collector (CDS Route 171300), and mile post 16.8933 to 37.0613 is a local road (CDS Route 171300). The subject parcel is located at milepost 18.7; and

WHEREAS, the applicant obtained a State of Alaska business transfer of ownership and name with a "no premise" liquor license for the years 2014/2015; and

WHEREAS, the applicant has applied for a "premise" liquor license for 2016/2017, which requires a MSB conditional use permit approved by the borough planning commission under MSB 17.70; and

WHEREAS, the surrounding area is predominantly recreational use; the character of the building is similar to the previous structure on a historical site that contributes to the character of the neighborhood as a central recreational hub; and

WHEREAS, the borough does not have prescriptive parking standards; however, the narrative by the applicant states there is a gravel area for parking with 10 spaces; and

WHEREAS, handicapped parking has not been identified separately from the general parking area, but there is at least one parking space that will accommodate necessary handicapped access; and

WHEREAS, the State of Alaska Division of Fire & Life Safety,

Planning Commission Resolution 17-24
Adopted: June 19, 2017

Plan Review Bureau states this is not in a fire service area and they do not review for parking spaces; and

WHEREAS, the establishment is not connected to any hard surface highway system to create a high level of traffic; and

WHEREAS, the clientele at this establishment should not greatly increase traffic as this is a remote recreational area and hours of operation are limited; and

WHEREAS, the location of this establishment being in a remote and undeveloped area, the traffic will be very low and similar to the previous generated traffic of all-terrain vehicles, modern four-wheel drive vehicles and snowmachines; and

WHEREAS, the subject parcel (U.S. 3597) is the historic site of The Roadhouse; and

WHEREAS, the current location and new constructed main building is approximately the same footprint as the previous historic building prior to burning down in 2012; and

WHEREAS, there is no alcohol-related accident data available for Petersville Road; and

WHEREAS, there were no records found with the state or borough that would indicate an increase in crime resulting from this development; and

WHEREAS, the Alcoholic Beverage Control Board (ABC) has no record of violations by the owners listed; and

WHEREAS, there have not been any complaints filed or

violations with the borough regarding the operation of an alcohol beverage dispensary at this location; and

WHEREAS, no information has been submitted to the borough indicating the applicant is untrustworthy or unfit to conduct business in the borough or that the applicant is a potential source of harm to the public.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby approves the aforementioned findings of fact and makes the following conclusions of law supporting approval of Planning Commission Resolution 17-24:

1. All requirements to demonstrate public notification have been met (MSB 17.03.020(A)(1-4)).
2. All requirements to demonstrate the public hearing notice contained the required contents have been met (MSB 17.03.040(A)(1-2)), and (MSB 17.03.040(A)(1-6)).
3. The conditional use is compatible with and will preserve or not materially detract from the value, character and integrity of the surrounding area (MSB 17.70.100(A)(1)(a)).
4. This conditional use will not be harmful to the public health, safety, convenience and welfare (MSB 17.70.100(A)(1)(b)).

5. There are sufficient setbacks, lot area, buffers or other safeguards being provided (MSB 17.70.100(A)(1)(c)).
6. There will not be any negative effects upon the properties in the area due to such factors as dust, noise, obtrusive advertising and glare (MSB 17.70.100(A)(2)(a)).
7. There will not be any negative effect on the safe, efficient flow of traffic on any highway, arterial, collector or street from which access to and from the establishment is obtained (MSB 17.70.100(A)(2)(b)).
8. Measures are in place to reduce any negative effect upon adjacent and nearby properties due to the remoteness of the establishment, seasonal access, and natural landscaping (MSB 17.70.100(A)(2)(c)).
9. Due to the remoteness of the establishment, adequate parking is being provided to accommodate a reasonably expected customer base (MSB 17.70.100(A)(2)(d)).
10. Due to the remoteness of the establishment, access to the premises, should not create an unreasonable traffic hazard (MSB 17.70.100(A)(2)(e)).
11. Traffic will not overtax existing road systems (MSB 17.70.100(A)(2)(f)).

12. The character of the building is similar to the previous structure on a historical site that contributes to the character of the neighborhood as a central recreational hub, and is compatible with the character of the surrounding neighborhood and previous use (MSB 17.70.100(A)(2)(g)).
13. The existing establishment for the operation of the alcohol beverage dispensary (bar) in this remote location should not increase the crime rate, fatal and nonfatal injuries or increase accidents (MSB 17.70.110(B)(1)).
14. The applicant has not had a liquor license suspended or revoked in the 12 months preceding the application (MSB 17.70.110(B)(2)).
15. The applicant has demonstrated that he is not untrustworthy or unfit to conduct business in the borough or that the applicant is a potential source of harm to the public (MSB 17.70.110(B)(3)).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Commission finds this application does meet the applicable standards of MSB 17.70 and does hereby approve the conditional use permit for an alcohol beverage dispensary with the following conditions:

1. The owner and/or operator shall comply with all other applicable federal, state, and local regulations.
2. Failure to comply with any of the requirements in MSB 17.70 is a violation of the permit, and is subject to enforcement pursuant to MSB 17.70.215.
3. If the operation expands or alters from the information submitted in the application, an amendment to the conditional use permit shall be required.
4. Signage and lighting shall be limited to that which does not directly shine onto the adjacent properties or thoroughfares.
5. The operation shall comply with the maximum permissible sound level limits allowed, per the requirements of MSB 8.52 - Noise, Amplified Sound and Vibration.
6. All parking for the facility shall be on-site.
7. The applicant shall comply with all State Fire and Life Safety requirements.
8. Prior to operation, provide Development Services with an approved State of Alaska Driveway permit or a written statement from the applicable authority with the State of Alaska stating a driveway permit is not required.
9. Prior to operation, provide Development Services a copy of the State of Alaska recorded Public Use Easement and

attached documents on the relocation of Petersville Road within U.S. 3597 (T. 26 N., R. 8 W., Section 3, S.M.).

10. Prior to operation, provide Development Services the State of Alaska recorded document vacating the State of Alaska interest in the existing right-of-way of Petersville Road within U.S. 3597 to resolve the building setback violation under MSB 17.55 (T. 26 N., R. 8 W., Section 3, S.M.).
11. Borough staff shall be permitted to enter onto any portion of the property to monitor compliance with permit requirements. Such access will at minimum, be allowed on demand when activity is occurring and, with prior verbal or written notice, and at other times as necessary to monitor compliance. Denial of access to Borough staff shall be a violation of this Conditional Use Permit for an alcohol beverage dispensary.
12. This permit must be approved by the Matanuska-Susitna Borough Planning Commission. The decision may be appealed within 21 days of the date of approval by the

/

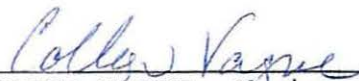
/

/

/

Planning Commission in accordance with MSB 15.39 Board
of Adjustment and Appeals.

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



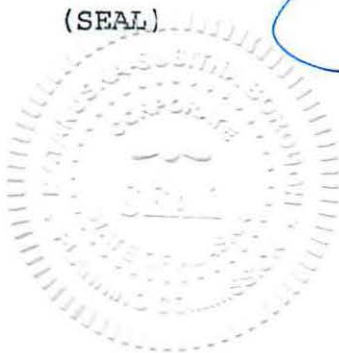
COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



*Passed Unanimously: Vague, Healy, Chusbro, Elder,
Glasgow, and Rauchenstein*