

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

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-25**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF SETTLER'S BAY GOLF COURSE ALCOHOL BEVERAGE DISPENSARY (BAR) WITH FOOD SERVICE UNDER MSB 17.70, LOCATED AT 7307 S FRONTIER DRIVE, WASILLA; WITHIN TOWNSHIP 16 NORTH, RANGE 02 WEST, SECTION 03, SEWARD MERIDIAN.

WHEREAS, an application has been received from Settler's Bay Golf Course, LLC. dba Settler's Bay Golf Course 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 Knik-Fairview Community Council boundary; 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 600 feet of the subject property boundary line; and

WHEREAS, a total of 45 public hearing notices were mailed on May 19, 2017; and

WHEREAS, a public hearing notice was mailed to the Knik-Fairview Community Council; and

WHEREAS, a public hearing notice was published for general circulation on May 19, 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 19, 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: Settler's Bay Golf Course, LLC.; Location: 7307 S. Frontier Drive, Wasilla; Township 16 North, Range 02 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 notices information included the

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physical address of the subject property: 7307 S. Frontier Drive, Wasilla, AK; and

WHEREAS, the public hearing notice contained the legal description for Settler's Bay Subdivision Unit No. 3, Phase I, within T. 16 N., R. 02 W., Section 03, Seward Meridian, and the borough tax account number as 2684000T00C-5; and

WHEREAS, the public hearing notice identified the applicant as Settler's Bay Golf Course, 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 established restaurant and golf course currently operates as a restaurant/eating place with liquor license (beer and wine) issued by the Alcoholic Beverage Control Board; and

WHEREAS, the adjacent subdivisions to the subject parcel is Settler's Bay Phase 2 to the west, Phase 3, 4, 5 & 9 in between the golf course to the north, to the east is Tidewater Landings Estate & Tidewater Landings Bluff, and to the southeast is Secluded Point Estate; and

WHEREAS, the Settler's Bay residential and commercial area is

situated approximately eight miles from downtown Wasilla off of Knik-Goose Bay Road; and

WHEREAS, the Pro-Shop and maintenance buildings on the subject parcel will remain the same as previous use; and

WHEREAS, the Albatross Restaurant has been in operation since 1984, and the Borough has not received any complaints related to vehicular parking on S. Frontier Drive; and

WHEREAS, the nearest other operating beverage dispensary is Settler's Bay Lodge off Knik-Goose Bay Road and S. Settler's Bay Drive driving approximately 1.7 miles; 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 borough does not have a regulation adopted for the number of beverage dispensary licenses which can be obtained within a certain area; and

WHEREAS, the nearest schools are Dena'ina Elementary School about 4 miles from the Settler's Bay Golf Course establishment via South Knik-Goose Bay Road, and Redington High School 4.9 miles via South Knik Goose Bay Road. State regulations preclude beverage dispensary licenses within 200 feet of a school; and

WHEREAS, the nearest church is about 7.3 miles driving from this site via South Knik-Goose Bay Road. State regulations preclude beverage dispensary licenses within 200 feet of a church; and

WHEREAS, the Albatross Restaurant sits 60 feet back from the side property line and 165 feet from the right-of-way boundary line; and

WHEREAS, the west side of the building is buffered with trees from the golf course; and

WHEREAS, the parking lot is paved; and

WHEREAS, the outdoor service area will be open during the same business hours as the bar; and

WHEREAS, the hours of operation are from May to September between 11:00 am to 10:00 pm. open seven days a week; and

WHEREAS, the sign for the Settler's Bay Golf Course is at the entrance of the parking area with a spot light to shine directly at the sign. The lighting on the sign will not impact any residential homes; 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, traffic patterns have already been established with the established restaurant and golf course that currently operates as a restaurant/eating place with a liquor license (beer and wine) issued by the Alcoholic Beverage Control Board; and

WHEREAS, MSB driveway permits will be required to be obtained for all relevant driveways on subject parcel; and

WHEREAS, the operation has been operating at this location

since it was built in 1984; and

WHEREAS, the current establishment has a "premise" wine and beer license (premise), and is adding the service for an alcohol beverage dispensary; and

WHEREAS, there is a sign for the Settler's Bay Golf Course at the entrance of the parking area with a spot light to shine directly at the sign. The lighting on the sign will not impact any residential homes; and

WHEREAS, no other additional signage has been proposed; and

WHEREAS, the patio and deck area from the bar can be accessed without going through the bar area; and

WHEREAS, the Settler's Bay residential and commercial area is situated approximately eight miles from downtown Wasilla off of Knik-Goose Bay Road; and

WHEREAS, this establishment is accessed from S. Frontiers Drive off of a paved residential road with year around access; and

WHEREAS, serving alcohol will not increase demand for parking; and

WHEREAS, there are approximately 90 regular parking spaces; and

WHEREAS, there are two handicap parking spaces; and

WHEREAS, the *Trip Generation, 7th Edition* by the *Institute of Transportation Engineers* book identifies *Land Use: 932 High-Turnover (sit-Down) Restaurant* does not differentiate whether an

establishment serves alcohol or no alcohol; and

WHEREAS, there is no proposed new driveway for this facility;
and

WHEREAS, there are two access points into the restaurant
parking area; and

WHEREAS, traffic will be able to circulate and flow through
the parking area; and

WHEREAS, no new driveways are proposed for this facility; and

WHEREAS, state laws regulate that a person serving alcohol
cannot serve a drunken person or serve minors; and

WHEREAS, employees at this establishment are to be TAP
certified (Training for Alcohol Professionals) during their course
of employment with Albatross Restaurant; and

WHEREAS, the Alcoholic Beverage Control Board (ABC) has no
record of violations with Settler's Bay Golf Course or The
Albatross Restaurant; and

WHEREAS, there have not been any complaints filed or
violations with the borough regarding the operation of a 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.

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 17-25:

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(B)(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 existing development of residential and commercial use (MSB 17.70.100(A)(2)(c)).
9. Adequate parking is being provided (MSB 17.70.100(A)(2)(d)).
10. Access to the premises will not create an unreasonable traffic hazard (MSB 17.70.100(A)(2)(e)).
11. Increase in traffic, if any, will not overtax existing road systems (MSB 17.70.100(A)(2)(f)).
12. The use is compatible with the surrounding area; will not materially detract from the value, character and integrity of the surrounding neighborhoods (MSB 17.70.100(A)(2)(g)).
13. The existing establishment of the alcohol beverage dispensary (bar) should not increase the crime rate, fatal or alcohol related accidents in the area (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 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. Obtain all relevant MSB driveway permits for the subject parcel off of S. Frontier Drive within 90 days after approval of this conditional use permit.
8. 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 alcohol beverage dispensary.
9. 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.

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



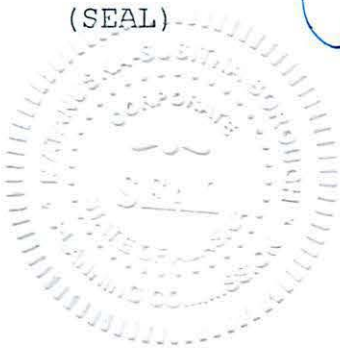
Colleen VAGUE, Chair

ATTEST



MARY BROOIGAN, Planning Clerk

(SEAL)



YES: *Vague, Healy, Chesbro, Elder, Glasgow, and*
NO: *Rauchenstein*