

By: Mark Whisenhunt
Introduced: June 19, 2017
Public Hearing: July 17, 2017
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-26

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 3361 WEST MACHEN ROAD, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 1 WEST, SECTION 7; TAX ID# 2420B02L001, SEWARD MERIDIAN.

WHEREAS, an application has been received from Sean Tower of Rosebuds Shatter House, for a conditional use permit for the operation of a marijuana retail facility at 3361 West Machen Road, located within Township 17 North, Range 1 West, Section 7; Tax ID# 2420B02L001, 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 facilities are declared to be a public nuisance; and

WHEREAS, the subject lot was developed for and has been used as commercial since 1999; and

WHEREAS, other than new signage and additional lighting, the subject structure has maintained the appearance and size since its original construction in 1999; and

WHEREAS, the proposed operation is wholly contained within the existing commercial building; and

WHEREAS, West Machen Road is dominated by commercial and industrial uses on its frontage; and

WHEREAS, the Parks Highway right-of-way abuts the parcel to the south. The Parks Highway and West Machen Road are both within the right-of-way; and

WHEREAS, to the south and west of the subject parcel there are several commercial uses and one church. To the north and east there is a mix of residential uses and vacant land. The city limits of Wasilla abut the subject property to the east; and

WHEREAS, the map labeled "Building Uses and Topography" dated June 30, 2017 shows the commercial nature of the uses on West Machen Road; and

WHEREAS, the closest school (a private pre-school known as, Bright Minds Learning Center) is approximately 3,000 feet away from the proposed use; and

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

WHEREAS, the subject lot accesses directly onto the frontage road known as West Machen Road; and

WHEREAS, West Machen Road is classified as a Major Collector, which is capable of accommodating traffic generated by several commercial retail businesses; and

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

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

WHEREAS, according to the security plan, security cameras, motion detectors, and lighting will be used to monitor all activities at the facility; and

WHEREAS, after proper notification of the State of Alaska Alcohol & Marijuana Control Office; all marijuana products deemed unusable will be mixed with saw dust and shredded paper, sealed in a container, and disposed of at a State of Alaska licensed marijuana cultivation facility or the Borough landfill; and

WHEREAS, the existing building is approximately 152 feet from the Parks Highway right-of-way, and approximately 30 feet from each side lot line; 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, 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, 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, no new landscaping or berms are planned or required by code; and

WHEREAS, the subject location has been used for commercial purposes for approximately 18 years; and

WHEREAS, on May 15, 2017, the State of Alaska Marijuana Control Board voted to approve the Rosebuds Shatter House Retail Marijuana Store License # 12022 with delegation; and

WHEREAS, a copy of the delegated approval for the Rosebuds Shatter House Retail Marijuana Store License # 12022 with delegation has been provided; and

WHEREAS, the Matanuska-Susitna Borough Fire Code Official has issued Plan Review #2017-126 for Tenant Improvement Approval; and

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

WHEREAS, the proposed use is approximately 750 square feet in size; and

WHEREAS, the minimum parking spaces required for a facility 750 square feet in size is 3 spaces; and

WHEREAS, according to the site plan, 6 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 an eight 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 July 17, 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 17-26:

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 and 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. Documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60150(D)(1)).

10. The proposed use is in full compliance with all applicable fire code (MSB 17.60.150(D)(2)).
11. The proposed use is located on a parcel that is appropriate for commercial use (MSB 17.60.170(A)(1-3)).
12. The proposed use meets the minimum number of parking space for retail facilities (MSB 17.60.170(B)).
13. The proposed use complies with current ADA parking space guidelines (MSB 17.60.170(C)).

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. An amendment to the Conditional Use Permit shall be required prior to any expansion of the conditional use.
3. The operation shall comply with the maximum permissible sound level limits allowed, per the requirements of MSB 8.52 - Noise, Amplified Sound and Vibration.

4. The hours of operation shall not exceed 10:00 a.m. - 10:00 p.m., Monday through Saturday.
5. Prior to operating, a copy of the certificate of occupancy issued by the MSB Fire Code Official must be provided to the MSB Development Services Division.
6. 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.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 17th day of July, 2017.


MARY ANDERSON, Vice Chair

ATTEST


MARY BRODIGAN, Planning Clerk

(SEAL)

YES:

Anderson, Chasko, Elder, Glasbarn, and Rauchenstein

NO: