

By: Taunnie Boothby
Introduced: July 17, 2017
Public Hearing: August 7, 2017
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-29

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 4520 FIELD OF DREAMS STREET, LOCATED WITHIN TOWNSHIP 18 NORTH, RANGE 1 WEST, SECTION 21; TAX ID# 18N01W21D003, SEWARD MERIDIAN.

WHEREAS, an application has been received from Jay Murray, on behalf of Emerald City Organics, LLC for a conditional use permit for the operation of a marijuana cultivation facility at 4520 North Field of Dreams Street, located within Township 18 North; Range 1 West, Section 21; Tax ID# 18N01W21D003, 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, the proposed use is set back approximately 212 feet from the east lot line, 353 feet from the west lot line, 179 feet from the north lot line, and 267 feet to the 60'x 60' temporary turnaround easement line to the south; and

WHEREAS, several large parcels, ranging from approximately 30 acres to 80 acres in size surround the subject property on all

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sides completely encompassing Township 18 North Range 01 West Section 21; and

WHEREAS, the owner of the subject property also owns adjacent lands to the north, east and west sides totaling approximately 80 acres; and

WHEREAS, land uses within the 1,200 foot public notice area consists of three residential structures, agricultural and undeveloped lands; and

WHEREAS, access to the premises is via an established road named Faith Road which joins to a private road known as N. Field of Dreams Street; and

WHEREAS, according to the applicant, the proposed conditional use operation, after the structure renovations, will include two employees traveling to and from the facility twice a day, septic truck once a month for wastewater removal, and one product delivery per month. The estimated average traffic impact is 4.13 vehicular trips (2.06 round trips) per day; and

WHEREAS, the closest residential structure is approximately 1,352 feet away from the proposed use facility; and

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

WHEREAS, other than enclosing the existing garage and stable doors, the exterior appearance of the structure will not change; and

WHEREAS, according to the application material, no business signs associated with the cultivation facility will be located at the site or visible from off site; 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 security card access for employees, video surveillance (internal and external), motion detectors, and an alarm system on all doors and windows will be used to monitor all activities at the facility; and

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

WHEREAS, the closest school (Twindly Bridge Charter School) is approximately 6,700 feet away from the proposed use, and

WHEREAS, according to the application material, waste material will be ground up, stored, and monitored in a fenced compost area. When the compost is matured it will be transferred to the property owner for use on the hay fields; and

WHEREAS, according to the applicant's wastewater and waste material disposal plan, all water waste will be collected in storage tanks and removed by a licensed water waste disposal company. The applicant is exploring alternative wastewater disposal methods such as application as a fertilizer. Any

wastewater disposal shall comply with applicable Alaska Department of Environmental Conservation wastewater regulations; and

WHEREAS, according to the odor mitigation plan, the building's HVAC system will be fitted with carbon filters to remove marijuana odors; and

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

WHEREAS, consumption of marijuana or marijuana products on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility is prohibited under State of Alaska regulation 3AAC 306.405 (c)(2); and

WHEREAS, the applicant is required to submit plans for approval by the State Fire Marshal to ensure the facility meets all fire and life safety standards in the State of Alaska commercial building codes; and

WHEREAS, the State of Alaska Fire Marshal is still processing the applicant's request for plan review; and

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

WHEREAS, according to the odor mitigation plan, employees will be responsible for odor control; including work clothes stored at the facility. When work clothes are transported for cleaning to and from the facility, they will be stored in odor proof bags; and

WHEREAS, according to the application material, noise will not be heard more than 50 feet away from the facility and should only consist of a low hum sound from the ventilation system and occasional grinding of plant waste during working hours; and

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

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

WHEREAS, according to the State of Alaska Alcohol & Marijuana Control Office, the application for the applicant's marijuana cultivation facility is under review; and

WHEREAS, the State of Alaska Alcohol & Marijuana Control Office will not activate The applicant's cultivation license until the State Fire Marshal issues an approved plan review for the facility; and

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

WHEREAS, according to the applicant, nutrient additives and natural pesticides will be stored within the facility in accordance with manufacturers specifications for safe use; and

WHEREAS, according to the application material, all employees will be educated on all security 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 August 7, 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 17-29:

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 must provide a copy of the documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60.150(D)(1)).
10. The State of Alaska Fire Marshal State of Alaska Fire Marshal is still processing The applicant's request for plan review to obtain full compliance with all applicable fire code (MSB 17.60.150(D)(2)). The plan review number is 2017anch1375.
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 facility (MSB 17.60.160(E)).

BE IT FURTHER RESOLVED, 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. Any deviation from the wastewater plan submitted as part of the application shall be in accordance with applicable Alaska Department of Environmental Conservation (ADEC) wastewater regulations. Documentation of compliance with ADEC regulation shall be submitted to the Borough prior to implementing alternative disposal methods.
4. 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.

5. The gate with fencing located within Faith Road right of way shall be relocated out of the right-of-way prior to operating.
6. A copy of all licenses issued by the State of Alaska Marijuana Control Board shall be provided the MSB Development Services Division prior to operating.
7. A copy of the approved plan review which shows full compliance with the applicable fire code, issued by the State Fire Marshal shall be provided to the MSB Development Services Division prior to operating.

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ADOPTED by the Matanuska-Susitna Borough Planning
Commission this 7th day of August, 2017.



COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)

YES: *Vague, Anderson, Healy, Chubro, Elder, Glashan,*
NO: *and Rauchensteiner*