

By: Mark Whisenhunt
Introduced: August 7, 2017
Public Hearing: August 21, 2017
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-30

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 13856 N. GLENN HIGHWAY, LOCATED WITHIN TOWNSHIP 19 NORTH, RANGE 3 EAST, SECTION 28; TAX ID# 19N03E28B007, SEWARD MERIDIAN.

WHEREAS, an application has been received from Chad & Lynette Kudlacek, dba Hilltop Premium Green, for a conditional use permit for the operation of a marijuana retail facility at 13856 North Glenn Highway, Township 19 North, Range 3 East, Section 28, Seward Meridian; Tax ID# 19N03E28B007, 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 proposed structure is a single story commercial structure approximately 1,120 square feet in size with the proposed retail facility occupying 504 square feet of the structure; and

WHEREAS, the applicant is proposing to construct the commercial structure in full compliance with fire and life

safety standards of the State of Alaska commercial structure codes; and

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

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

WHEREAS, the surrounding parcels range from 6 to 40 acres in size and are heavily forested. One is undeveloped, three have residential homes, including the applicant's, and one is a Tesoro gas station which abuts the proposed use to the east; and

WHEREAS, the closest residential structure is approximately 310 feet 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 proposed facility; 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, the closest school (Sutton Elementary School) is approximately 8,400 feet away from the proposed use; and

WHEREAS, the proposed use accesses the Glenn Highway via a section line easement on the west side of the property; and

WHEREAS, the applicant has submitted a request to Alaska Department of Transportation to upgrade the existing driveway to commercial standards; and

WHEREAS, the applicant has received approval from the Matanuska-Susitna Borough to construct access through the section line easement on the west side of the property; and

WHEREAS, the Glenn Highway is classified as a Highway, which is capable of accommodating traffic generated by several commercial retail businesses; 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, the State Fire Marshal Office has issued Full Plan Review #2017Anch1293, for the proposed commercial structure; and

WHEREAS, the applicant has provided a copy of the approved Full Plan Review #2017Anch1293; and

WHEREAS, after proper notification of the State of Alaska Alcohol & Marijuana Control Office, all marijuana products deemed unusable will be ground up and mixed with compostable material and sealed in a container. As approved by the State of Alaska Alcohol & Marijuana Control Office, the compost will then

be removed and used as soil for the applicant's private garden;
and

WHEREAS, according to the application material, the proposed commercial structure will be located more than 55 feet from the Glenn Highway right-of-way, 51 feet from the section line easement to the west, 158 feet from the south side lot line, and 42 feet from the east side lot line; and

WHEREAS, the proposed 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, according to the application material, all marijuana will be stored in sealed containers reducing odor from inventory; and

WHEREAS, according to the application material, the building's HVAC system will be fitted with charcoal based filters to remove marijuana odors; and

WHEREAS, according to the application material, all areas adjacent to the proposed commercial building and parking lot which were disturbed during construction will be planted with grass; and

WHEREAS, on July 13, 2017, the State of Alaska Marijuana Control Board voted to approve Hilltop Premium Green Marijuana Retail Facility, License # 12635 with delegation; and

WHEREAS, the proposed use is approximately 504 square feet in size; and

WHEREAS, the minimum parking spaces required for a facility 504 square feet in size is 2 spaces; and

WHEREAS, according to the site plan, 9 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, 11 feet wide with a five foot wide parking isle, for every 1 to 25 spaces; and

WHEREAS, according to the site plan, one van accessible parking space, 11 feet wide with a five foot wide parking isle will be provided; and

WHEREAS, the subject parcel is within the Sutton Special Land Use District; and

WHEREAS, the Sutton Special Land Use District does not identify the proposed use as a conditional use or a prohibited use; and

WHEREAS, as per MSB 17.27.050, those uses not identified as conditional uses or prohibited uses are permitted; 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 August 21, 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 17-30:

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. The applicant must provide a copy of the documents 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, 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 12:00 p.m. - 8:00 p.m., daily.
5. 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.
6. Prior to operating, a copy of all licenses issued by the State of Alaska Marijuana Control Board shall be provided the MSB Development Services Division.

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ADOPTED by the Matanuska-Susitna Borough Planning
Commission this 21st day of August, 2017.



COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)

YES: *Vague, Anderson, Healy, Elder, Glashan,*
 and Rauchenstein
NO: