

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

**MATANUSKA-SUSITNA BOROUGH**  
**PLANNING COMMISSION RESOLUTION NO. 17-31**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 7978 WEST SCARLET CIRCLE, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 2 WEST, SECTION 4; TAX ID# 41220001003, SEWARD MERIDIAN.

---

WHEREAS, an application has been received from Garrett Smith, dba Alaska Horticultural Arts, LLC for a conditional use permit for the operation of a marijuana cultivation facility at 7978 W. Scarlet Circle, located within Township 17 North, Range 2 West, Section 4; Tax ID# 41220001003, 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 will be set back approximately 513 feet from the S. Scarlet Circle right-of-way, 543 feet from the north lot line, approximately 300 feet from the section line easement along south lot line, 101 feet from the west lot line, and approximately 327 feet from the east side lot line; and

WHEREAS, access to the premises is from S. Scarlet Circle via an established driveway; and

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

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

WHEREAS, according to the application material, a five foot tall chain link fence with vehicle gate exists across the driveway and along portions of the north and east sides of the property; and

WHEREAS, according to the security plan, a combination of cameras, lighting, and fencing will be used to secure the site and monitor all activities at the facility; and

WHEREAS, according to the application material, no loitering will be allowed at the facility; 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, the closest residential structure is approximately 307 feet away from the subject structure; and

WHEREAS, residential developments are located southeast of the subject parcel and range from .93 acres to 5 acres; and

WHEREAS, three large lots, ranging from 320 acres to 16 acres in size surround the subject property on the northeast, north, and west sides; and

WHEREAS, land uses within the 600 foot public notice area consist of residential, commercial, and undeveloped lands; and

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

WHEREAS, the subject structure is not visible from W. Scarlet Circle or the neighboring homes; and

WHEREAS, the closest school (Midnight Sun Charter School) is approximately 5,000 feet away 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 premises of the proposed use; and

WHEREAS, according to the application material, waste material will be ground up and mixed with equal parts of compostable material to render it unusable, then disposed of at the Borough landfill; and

WHEREAS, the State of Alaska Alcohol & Marijuana Control Office will not activate a license for a marijuana related facility until the operation is in full compliance with ADEC regulations; and

WHEREAS, the State of Alaska Alcohol & Marijuana Control Office will not activate the applicant's marijuana cultivation license until the State Fire Marshal issues an approved plan review for the facility; 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, there is no outdoor industrial equipment or processes that generate noise associated with the proposed use; and

WHEREAS, all exhaust vents from the building have been fitted with carbon filters to remove marijuana odors; and

WHEREAS, according to the applicant's odor mitigation plan, the ventilation system will create a negative pressure to ensure all air leaving the facility will first pass through carbon filters; and

WHEREAS, no planted berms or landscaping is proposed or required; and

WHEREAS, on July 13, 2017, the State of Alaska Marijuana Control Board voted to approve Alaska Horticultural Arts Marijuana Cultivation Facility, License # 12659 with delegation; and

WHEREAS, a copy of the delegated approval for the applicant's marijuana cultivation facility must still be provided to the MSB Development Services Division; and

WHEREAS, when wastewater occurs, it will be collected to a holding tank and applied to the lawn or garden on the property as weather permits. In the event wastewater is not able to go on the lawn or garden, the application material stated a state licensed wastewater company will properly dispose of the wastewater; and

WHEREAS, according the applicant, the operation will use a hydroponic system as a growing method, resulting in an estimated 300-1,000 of wastewater a month; and

WHEREAS, according to the applicant, only natural pesticides 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; and

WHEREAS, according to the applicant, nutrient additives and natural pesticides will be stored according to each manufacturer's recommendations; and

WHEREAS, according to the applicant, all employees will be educated on all securities 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 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 17-31:

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 documents 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 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)).
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 nutrients 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 facilities (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. 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.
4. 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.
5. Prior to operating, 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.

6. Prior to operating, a copy of the signed approval by ADEC showing the wastewater and waste material disposal plan is fully compliant with ADEC shall be provided to the MSB Development Services Division.

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

  
COLLEEN VAGUE, Chair

ATTEST

  
MARY BRODIGAN, Planning Clerk  
(SEAL)

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