

By: Mark Whisenhunt
Introduced: August 21, 2017
Public Hearing: Sept. 18, 2017
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-37**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 2893 SOUTH BIG LAKE ROAD, SUITE 1, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 3 WEST, SECTION 21; TAX ID# 1783B04L001, SEWARD MERIDIAN.

WHEREAS, an application has been received from Sara Williams, on behalf of The Green Spot, LLC, for a conditional use permit for the operation of a marijuana retail facility at 2893 S. Big Lake Road, Suite 1, located within Township 17 North, Range 3 West, Section 21; Tax ID# 17873B04L001, 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 1983; and

WHEREAS, other than new signage and additional lighting, there are no planned changes to the exterior appearance of the existing structure; and

WHEREAS, the proposed operation is wholly contained within Suite 1 of the existing commercial building; and

WHEREAS, South Big Lake Road is dominated by commercial and industrial uses on its frontage; and

WHEREAS, South Big Lake Road abuts the parcel to the west and West Lions Court abuts the parcel to the north; and

WHEREAS, the subject parcel is surrounded by commercial developments and vacant land; and

WHEREAS, to the south, southwest, and north there are commercial developments such as a construction business, a bar, and various retail businesses respectively. Behind the property to the east is an undeveloped property that is mostly forested. Across Big Lake Road to the west, there is a vacant parcel and an industrial utility building; and

WHEREAS, the attached map labeled "Building Uses and Topography" dated September 3, 2017 shows the commercial nature of the uses on South Big Lake Road; and

WHEREAS, the closest school (Big Lake Elementary School) is approximately 3,100 feet away from the proposed use; and

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

WHEREAS, the subject lot has two legal access points. One onto South Big Lake Road and the other onto West Lions Court; and

WHEREAS, South Big Lake Road is classified as a Major Collector, which is capable of accommodating traffic generated by several commercial land uses; and

WHEREAS, West Lions Court is classified as a Minor Collector, which has the ability to accommodate high access to commercial land uses; 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 security plan in place which includes education of employees on all security measures; 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 household food waste and dirt, and disposed of at a State of Alaska approved facility and in compliance with ADEC regulations; and

WHEREAS, the existing building is approximately 74 feet from the South Big Lake Road right-of-way, 100 feet front the south side lot line, 36 feet from the east side lot line, and approximately 37 feet from the West Lions Court right-of-way; 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 any processes that generate noise associated with the proposed use; and

WHEREAS, according to the application material, all marijuana will be stored in sealed, odor control packaging; 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, on May 15, 2017, the State of Alaska Marijuana Control Board voted to approve The Green Spot Retail Marijuana Store License # 10060 with delegation; and

WHEREAS, a copy of the delegated approval for The Green Spot Retail Marijuana Store License # 10060 has been provided; and

WHEREAS, the State of Alaska Fire Marshal's office has issued Plan Review #2017Anch1358 for Tenant Occupancy Change, allowing The Green Spot, LLC to occupy Suite 1 of 2893 S. Big Lake Road; and

WHEREAS, the proposed use is approximately 567 square feet in size; and

WHEREAS, the minimum parking spaces required for a facility 567 square feet in size is 2 spaces; and

WHEREAS, according to the site plan, 14 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 site plan, each space will be 20 feet in length and ten feet wide; 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 September 18, 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 17-37:

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 9:00 a.m. - 10:00 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, the ADA compliant parking space and access isle detailed in the application material shall be installed.
7. 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.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 18th day of September, 2017.


COLLEEN VAGUE, Chair

ATTEST


MARY BRODIGAN, Planning Clerk

(SEAL)

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