

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

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 17-39**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING THE MODIFICATION A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 1150 N. HELEN LANE, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 1 WEST, SECTION 2; TAX ID# 1068000L020, SEWARD MERIDIAN.

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WHEREAS, an application had been received from Peter Zell, dba Bad Gramm3r, to modify a conditional use permit for the operation of a marijuana retail facility at 1150 N. Helen lane, located within Township 17 North, Range 1 West, Section 2; Tax ID# 1068000L020, Seward Meridian; and

WHEREAS, the applicant is specifically requesting to remove the fencing portion from its original application and listed as condition three in Planning Commission Resolution 17-03; and

WHEREAS, MSB 17.60.040 allows a property owner to apply for a modification of a conditional use permit; and

WHEREAS, MSB 17.60.030(A)(4) requires a conditional use permit for the operation of a marijuana retail facility; and

WHEREAS, on March 20, 2017, Bad Gramm3r, LLC obtained approval from the MSB Planning Commission to operate a marijuana retail facility at the subject property, through the adoption of Planning Commission Resolution 17-03; and

WHEREAS, Bad Gramm3r, LLC is currently operating in accordance with Conditional Use Permit 176020160006; and

WHEREAS, according to the applicant, fencing was included in the original application as a security measure, not as a screening measure; and

WHEREAS, there has been no fencing around this commercial property since it was developed in 2004, other than a six-foot-tall wooden fence along the north side lot line between lots 19 and 20; and

WHEREAS, the eight-foot-tall chain-link (aka cyclone) fence, if constructed, will not act as a screening measure, because chain-link fences are inherently see-through and not sight obscuring; and

WHEREAS, the existing structure is not dilapidated, obtrusive, or garish in nature; 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, a combination of cameras, motion detectors, and lighting will be used to secure the site and monitor all activities both inside and around the exterior of the facility; and

WHEREAS, there are no fencing requirements or fencing standards in Matanuska-Susitna Borough code for marijuana retail facilities; and

WHEREAS, according to the applicant, requiring a locked gate and fence may slow an emergency response to the facility; and

WHEREAS, according to the applicant, the facility has not had any problems with vandalism or crime to date; and

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

WHEREAS, the presence or absence of a chain-link (aka cyclone) fence will not change the impact of noise or odor of the existing commercial use; and

WHEREAS, other than new signage, the subject structure has maintained its appearance and size since its original construction in 2004; and

WHEREAS, the closest school (Wasilla High School) is approximately 4,300 feet away from the proposed use; and

WHEREAS, the absence of a fence has no impact on the setback distance to school grounds; and

WHEREAS, the Bad Gramm3r Marijuana Retail Facility has obtained a State of Alaska Marijuana Establishment License #11121, in accordance with 3AAC 306.005, and

WHEREAS, a copy of the State of Alaska Marijuana Establishment License #11121 for the Bad Gramm3r Marijuana Retail Facility has been provided; and

WHEREAS, the chain-link (aka cyclone) fence is not a part of Bad Gramm3r's security plan filed with the State of Alaska Alcohol & Marijuana Control Office; and

WHEREAS, the absence of the chain-link (aka cyclone) fence has no impact on State of Alaska Marijuana Establishment License #11121 issued for the Bad Gramm3r Marijuana Retail Facility; and

WHEREAS, the Matanuska-Susitna Borough Fire Code Official has issued a Certificate of Occupancy for 1150 N. Helen Lane; and

WHEREAS, the absence of the chain-link (aka cyclone) fence has no impact on the Certificate of Occupancy for 1150 N. Helen Lane; and

WHEREAS, the absence of a fence has no impact on the proximity to existing businesses; and

WHEREAS, the absence of a fence has no impact on whether the associated roads are appropriate for the existing commercial use; and

WHEREAS, the absence of a fence has no impact on the required parking standards; and

WHEREAS, the proposed use is 1,743 square feet in size; and

WHEREAS, according to the site plan, eight customer parking spaces are being provided; and

WHEREAS, according to the site plan, each space is 20 feet in length and ten feet wide; and

WHEREAS, according to the applicant, there are no vertical clearance limitations on site; and

WHEREAS, the absence of a fence has no impact on the ADA parking requirement; 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 a ten-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 17-39:

1. the absence of a fence will not detract from the value, character and integrity of the surrounding area (MSB 17.60.100(B)(1)).

2. the absence of a fence 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 absence of a fence 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 existing use is compatible with the character of the surrounding area (MSB 17.60.150(A)(3)).
8. The existing 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 existing use is in full compliance with all applicable fire code (MSB 17.60.150(D)(2)).
11. The existing use is located on a parcel that is appropriate for commercial use (MSB 17.60.170(A)(1-3)).

12. The existing use meets the minimum number of parking space for retail facilities (MSB 17.60.170(B)).

13. The existing 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 hereby modifies the conditional use permit approved on March 20, 2017 for the operation of a marijuana retail facility, by removing the fencing requirement of condition three detailed in Planning Commission Resolution 17-03.

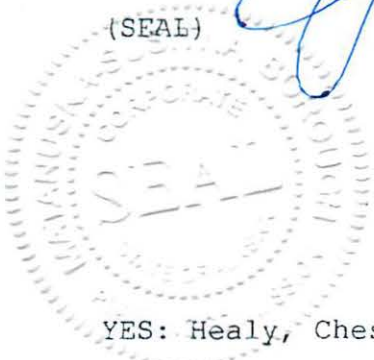
ADOPTED by the Matanuska-Susitna Borough Planning Commission this 18<sup>th</sup> day of September, 2017.

  
MARY ANDERSON, Vice-Chair

ATTEST

  
MARY BRODIGAN, Planning Clerk

(SEAL)



YES: Healy, Chesbro, Elder, Glashan, and Rauchenstein

NO: Anderson