

By: Mark Whisenhunt
Introduced: October 23, 2017
Public Hearing: November 6, 2017
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-46

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 2301 SOUTH KNIK-GOOSE BAY ROAD, SUITE 2, LOCATED WITHIN TOWNSHIP 17 NORTH, RANGE 1 WEST, SECTION 17; TAX ID# 1005000L00W-1, SEWARD MERIDIAN.

WHEREAS, an application has been received from Charles Shannon Oman, dba The Happy Harvest Company for a conditional use permit for the operation of a marijuana cultivation facility at 2301 South Knik-Goose Bay Road, Suite 2, located within Township 17 North, Range 1 West, Section 17; Tax ID# 1005000L00W-1, 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, the subject lot was developed for and has been used as commercial since 1984; and

WHEREAS, other than new signage, the subject structure has maintained the appearance and size since its original construction in 1984; and

WHEREAS, the proposed conditional use operation is wholly contained within Suite 2 of a commercial building; and

WHEREAS, Lots W-1 & W-2 share a common access onto Knik-Goose Bay Road. There are no other roads associated with this parcel; and

WHEREAS, according to the application material, the proposed use will be set back approximately 94 feet from the Knik-Goose Bay right-of-way, 100 feet from the east lot line, 221 feet from the south lot line and 191 feet from the west lot line; 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 application material, loitering will not be allowed at the facility; helping to ensure noise and odor will not be an issue; and

WHEREAS, according to the application material, no business signs will be located at the site or visible from off site; and

WHEREAS, the closest school (Snowshoe Elementary) is approximately 8,000 feet away from the proposed use; and

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

WHEREAS, Knik-Goose Bay Road is classified as a Major Collector, which is capable of accommodating traffic generated by several commercial businesses; and

WHEREAS, persons under the age of 21 are prohibited from entering the premises of the proposed use; 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 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 into compostable soils, sealed in a container, and disposed of at the Borough landfill; and

WHEREAS, the Matanuska-Susitna Borough Fire Code Official has issued Plan Review #2017-173 for 2301 S. Knik-Goose Bay Road, Suite 2; 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 any processes that generate noise associated with the proposed use; and

WHEREAS, all exhaust vents from the unit will be fitted with carbon filters to remove marijuana odors; and

WHEREAS, no new landscaping or berms are planned or required by code; and

WHEREAS, Knik-Goose Bay Road has several different uses on its frontage including commercial, industrial, and residential; and

WHEREAS, to the west and southwest of the subject parcel are commercial uses. To the north there is a mix of residential uses and vacant land. To the east and northeast there is a religious service building, and a mix of residential, vacant, and commercial uses; and

WHEREAS, the applicant has initiated an application for licensing per 3 AAC 306.005; and

WHEREAS, according to the application material, a third party wastewater disposal company will dispose of the wastewater at an ADEC approved 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, nutrients and natural pesticides will be stored according to each manufacturer's recommendations; 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 November 6, 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 17-46:

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 still provide documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60.150(D)(1)).
10. The proposed use is in 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, natural pesticides, and cleaners 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, 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 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

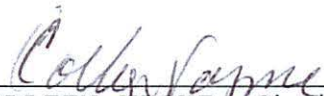
Conditional Use Permit shall be required prior to any expansion of the conditional use.

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 to the MSB Development Services Division.
5. Prior to operating, a copy of the Certificate of Occupancy issued by the Matanuska-Susitna Borough Fire Code Official shall be provided to the MSB Development Services Division.
6. Prior to operating, an as-built survey showing the actual location of the facility shall be provided to the Matanuska-Susitna Borough Development Services Division. The as-built survey shall show the distance from the facility to the east side lot line.
7. The area within Unit #2 that has been walled-off for the purpose of meeting the minimum 100-foot setback

requirement, shall not be used in any way which relates to the permitted marijuana cultivation facility.

8. Prior to operating, a copy of a driveway permit or easement will be provided to the Borough Development Services Division. The owner/operator shall obtain legal access to the parcel through a documented easement or DOT driveway permit. If driveway construction is needed, it must be completed by June 30, 2018.

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 6th day of November, 2017.



COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



APPROVED UNANIMOUSLY: Vague, Anderson, Healy, Chesbro, Elder,
Glashan, and Rauchenstein