

By: Joe Metzger
Introduced: December 17, 2018
Public Hearing: January 7, 2019
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 19-02

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A MODIFICATION TO CONDITIONAL USE PERMIT #176020170009 WHICH ALLOWS THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 1044 S. OLD GLENN HIGHWAY (TAX ID# 17N02E11C017); WITHIN TOWNSHIP 17 NORTH, RANGE 2 EAST, SECTION 17, SEWARD MERIDIAN.

WHEREAS, an application has been received from Phillip Izon on behalf of KushTopia for a modification to a conditional use permit #176020170009 which allows the operation of a marijuana cultivation facility at 1044 S. Old Glenn Highway, (Tax ID# 17N02E11C017); within Township 17 North, Range 2 East, Section 11, Seward Meridian; and

WHEREAS, MSB 17.60.040(A) allows a property owner or the owners' authorized agent to request a modification to an existing conditional use permit; 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 original application indicated that the proposed 10-foot tall chain link fence would aid in security and provide additional screening; and

WHEREAS, according to the application material, a 6-foot tall wood and chain link fence will replace the proposed 10-foot tall

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chain link and wood fence as indicated in the original application;
and

WHEREAS, a 6-foot tall wood fence is proposed to surround the facility on the north, east, and south sides of the facility while a chain link fence will surround the west side of the facility;
and

WHEREAS, according to the application material, a 6-foot tall wood and chain link fence along with the present security procedures are sufficient to protect the community and business from nefarious activities; and

WHEREAS, a 6-foot tall wood plank fence on the north, south, and east sides of the facility should provide better visual screening than a 10-foot tall chain link fence; and

WHEREAS, the application material indicates the operator is pursuing a Conditional Use Permit for a marijuana retail facility on the property and a 6-foot tall wood fence is more appealing and welcoming than a 10-foot chain link fence; and

WHEREAS, according to the application material, there are multiple layers of fencing in addition to robust security measures that include motion cameras, audio listening devices, security dogs, and 24/7 on site security to continuously monitor the premises; and

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

WHEREAS, a November 16, 2018 site visit confirms a 6-foot tall wood plank and chain link fence has been installed as reflected in the current site plan; and

WHEREAS, the wood fence appears well kept and is not dilapidated or obtrusive; 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, access to the premises is from the Old Glenn Highway via an established driveway; and

WHEREAS, the applicant obtained Flood Hazard Development Permit #172920170007 to construct the existing facility; and

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

WHEREAS, the proposed change in location and type of fencing will not change the impact of noise or odor of the existing cultivation facility; and

WHEREAS, there is no industrial equipment or processes that generate noise associated with the proposed use; and

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

WHEREAS, the closest school (Job Corps, Palmer) is approximately 10,800 feet away from the proposed use; and

WHEREAS, the proposed change in the type and location of the

fencing has no impact on the setback distance to the school grounds; and

WHEREAS, KushTopia has obtained a State of Alaska Marijuana Establishment License #11611 for a Standard Marijuana Cultivation Facility; and

WHEREAS, a copy of the State of Alaska Marijuana Establishment License #11611 for KushTopia has been provided; and

WHEREAS, the proposed change in the type and location of the fencing has no impact on State of Alaska Marijuana Establishment License #11611 issued for KushTopia; and

WHEREAS, the State of Alaska Fire Marshal has issued Plan Review Certificate #2017Anch1010, approving the construction of the proposed use; and

WHEREAS, the proposed change in the type and location of the fencing has no impact on the Plan Review Certificate #2017Anch1010; and

WHEREAS, with no waste being disposed of on site, the proposed marijuana cultivation facility is fully compliant with ADEC regulations; and

WHEREAS, the proposed change in the type and location of the fencing has no impact on compliance with ADEC regulations; and

WHEREAS, the proposed change in the type and location of the fencing has no impact on the odor mitigation or ventilation plan; and

WHEREAS, the proposed change in the type and location of the fencing has no impact on compliance with local state and federal laws pertaining to hazardous chemicals; and

WHEREAS, according to the application material, all employees will be educated on all security measures; and

WHEREAS, according to the application material, the existing use is set back approximately 277 feet from the Old Glenn Highway right-of-way, 103.6 feet from the north lot line, 117.9 feet from the south lot line and 707.7 feet from the west lot line; and

WHEREAS, the proposed change in the type and location of the fencing will have no impact on the minimum setback requirements; 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 January 7, 2019 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 19-02:

1. The proposed change in location and type of fencing will not detract from the value, character and integrity of the surrounding area (MSB 17.60.100(B)(1)).

2. The proposed change in location and type of fencing 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 application material meets all of the requirements of this chapter (MSB 17.60.100(B)(4)).
5. The proposed change in location and type of fencing 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 change in the type and location of fencing 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 has provided 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 proposed change in the type and location of fencing will not affect compliance with ADEC regulations (MSB

17.60.160(A)).

12. The proposed change in the type and location of the fencing will have no impact on the current odor mitigation or ventilation plan (MSB 17.60.160(B)).
13. The proposed change in the type and location of fencing will have no impact on compliance with local, state, or federal hazardous chemical 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 modification to conditional use permit #176020170009 which allows the operation of a marijuana cultivation facility, with the following language replacing condition six of permit #176020170009:

6. The 6-foot tall fence identified in the application material requesting to modify conditional use permit #176020170007, as shown in Exhibit B, shall be installed and maintained in compliance with Flood Hazard Development Permit #172920170007. The existing welded

wire fence will be replaced with 6-foot chain link as described in the application by September 30, 2019.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 7th day of January, 2019.



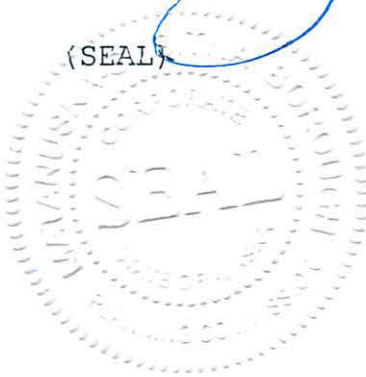
COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



APPROVED UNANIMOUSLY: Vague, Anderson, Chesbro, Elder,
Mossanen, and Glashan