

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

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 19-03

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL 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 OutPost, LLC for a conditional use permit for the operation of a marijuana retail facility at 1044 S. Old Glenn Highway, (Tax ID# 17N02E11C017); within Township 17 North, Range 2 East, Section 11, Seward Meridian; and

WHEREAS, MSB 17.60.030(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 building is a two-story log structure that was constructed in 2002 and is approximately 2,464 square feet in size; and

WHEREAS, KushTopia, a licensed and permitted commercial marijuana cultivation facility currently operates in a separate facility on the subject parcel; and

WHEREAS, the proposed use is wholly contained within the two-story log structure; and

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

WHEREAS, lands surrounding the property to the north and south are large, privately owned parcels. The parcel to the north is used for agriculture purposes, with no residential home. The parcel to the south is developed with a log home; and

WHEREAS, the closest residential structure is located to the south and is approximately 105 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 proposed facility; and

WHEREAS, according to the application material, the property has been used for commercial purposes in the past including a taxidermy business, a log home business, and a marketing business; and

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

WHEREAS, the proposed use accesses the Old Glenn Highway via a shared existing driveway on the east side of the property; and

WHEREAS, the Old Glenn Highway is classified as a major collector, which is capable of accommodating traffic generated by several commercial retail businesses; 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, the State Fire Marshal Office has issued Plan Review #2018Anch1181 for the structure; and

WHEREAS, the structure is in full compliance with the applicable State of Alaska fire code; and

WHEREAS, after proper notification of the State of Alaska Alcohol & Marijuana Control Office, all marijuana products deemed unusable will be ground up and mixed with compostable material and sealed in a container. The waste will then be taken State of Alaska Alcohol & Marijuana Control Office approved site or the local landfill; and

WHEREAS, according to the application material, the structure is located approximately 45.7 feet from the Old Glenn Highway right-of-way, 56.1 feet from the south lot line, 950 feet from the west side lot line, and 38.1 feet from the north side lot line; and

WHEREAS, the 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 processes that generate noise associated with the proposed use; and

WHEREAS, the application material indicates the proposed hours of operation are from 8:00 a.m. to 5 a.m. daily; and

WHEREAS, the applicant has submitted an odor mitigation plan, ensuring no marijuana odor will emit from the building; and

WHEREAS, according to the application material, the building will use a combination of carbon and charcoal filters fitted on all exhaust fans and vents to remove marijuana odor; and

WHEREAS, according to the application material, loitering will not be allowed; and

WHEREAS, the application material indicates a wood fence is installed on the front/east side of the property and is connected to the log cabin to afford privacy and make the facility less visible to pedestrians and traffic; and

WHEREAS, the applicant has improved the property since taking ownership by removing junk and trash, removal of trash fire pits, remodeling the log structure, and adding a new fence; and

WHEREAS, at the December 20-21, 2018 meeting, the State of Alaska Marijuana Control Board voted to approve OutPost, LLC Marijuana Retail Facility, License #17068 with delegation; and

WHEREAS, a copy of the delegated approval for the applicant's marijuana retail facility has been provided to the MSB Development Services Division; and

WHEREAS, the proposed use is approximately 2,464 square feet in size; and

WHEREAS, a marijuana retail facility 2,464 square feet in size is required to provide eight parking spaces with one ADA compliant space; and

WHEREAS, according to the site plan, nine customer parking spaces will be provided with one space being an ADA compliant space; and

WHEREAS, according to the site plan, each space will be 20 feet in length and 10 feet wide; and

WHEREAS, there are no vertical clearance limitations on site; and

WHEREAS, ADA guidelines require one van accessible parking space, 11 feet wide with a five-foot wide parking isle, for every 1 to 25 spaces; and

WHEREAS, according to the site plan, one van accessible parking space, 11 feet wide with a five-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 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 19-03:

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, with conditions, 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 use, with conditions, 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, with conditions, to reduce negative affects upon adjacent properties (MSB 17.60.150(A)(2)(a-c)).
7. The proposed use, with conditions, 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 applicant has provided documentation demonstrating 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 applicant shall install fencing the remainder of the southern boundary line from the Old Glenn Highway ROW and connect it to the existing border fencing. The fencing shall be similar in nature to the existing border fencing. Clear separation between the properties shall be established and the fencing shall provide screening and shield retail customer headlights to the extent feasible.

If measures are taken to leave a gap in part of the fencing so as not to interfere with the abutting landowner's vehicular access, the hours of operation are 8 a.m. until 12 a.m. daily. The above identified fence shall be constructed by June 30, 2019. Alternatively, if continuous fencing from the Old Glenn Highway ROW to the

existing southern border fencing is installed, and a separate driveway is established for the abutting landowner to access their property, the hours of operation are 8 a.m. until 12 a.m. daily.

5. All development shall be in compliance with MSB 17.29 Flood Damage Prevention and Flood Hazard Development Permit #172920180074.
6. 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.
7. Within thirty (30) days of opening the facility, a copy of the active license issued by the State of Alaska Marijuana Control Board shall be provided to the MSB Development Services Division.

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



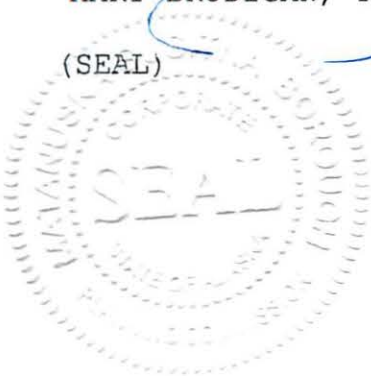
COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



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