

By: Mark Whisenhunt  
Introduced: January 7, 2019  
Public Hearing: January 21, 2019  
Action: Approved

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 19-06**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 266 SOUTH MCCALLISTER DRIVE, SUITE 1 (TAX ID# 7267B01L001A); WITHIN TOWNSHIP 17 NORTH, RANGE 1 WEST, SECTION 7, SEWARD MERIDIAN.

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WHEREAS, an application has been received from James Hacker and Jana Weltzin, on behalf of Scorpion Grass for a conditional use permit for the operation of a marijuana retail facility at 266 South McCallister Drive (Tax ID# 7267B01L001A); within Township 17 North, Range 1 West, Section 7, 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 proposed use is wholly contained within Suite 1 of the newly constructed commercial structure; and

WHEREAS, the proposed use is accessed through an existing permitted driveway onto McCallister Drive; and

WHEREAS, the subject property has been used commercially since at least 2005; and

WHEREAS, the Park Highway right-of-way abuts the parcel on the northeast side; and

WHEREAS, to the northwest, west, and southeast are parcels ranging from one to four acres in size and currently have commercial uses; and

WHEREAS, the Parks Highway is known to have commercial operations on its frontage; and

WHEREAS, this area of the Parks Highway is heavily developed with commercial businesses accessed by frontage roads; and

WHEREAS, the applicant is constructing a commercial building with metal siding to operate the proposed use; and

WHEREAS, the closest school (a private pre-school known as, Bright Minds Learning Center) is approximately 3,300 feet away from the proposed use; and

WHEREAS, persons under the age of 21 are prohibited from entering the premises of the proposed use; and

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

WHEREAS, the Matanuska-Susitna Borough Fire Marshal has issued Plan Review Certificate #2018-140, approving the construction of the proposed use; and

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

WHEREAS, after proper notification to the State of Alaska Alcohol & Marijuana Control Office; all marijuana products deemed unusable will be mixed with compostable waste and disposed of at the Borough landfill; and

WHEREAS, according to the application material, the proposed use is set back approximately 100 feet from the north side lot line, 128 feet from the west site lot line, 114 feet from the south side lot line, 56 feet from the Parks Highway right-of-way, and 385 feet from the McCallister Drive right-of-way; and

WHEREAS, the commercial structure meets all applicable setback requirements required by MSB 17.55 - Setbacks and Screening Easements; and

WHEREAS, the subject parcel is approximately 3.43 acres in size; and

WHEREAS, according to the application material, the proposed use has a diversion prevention plan in place; and

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

WHEREAS, the facility will be fitted with carbon filters to remove marijuana odors; and

WHEREAS, the proposed hours of operation are 9:00 a.m. - 10:00 p.m., daily; and

WHEREAS, existing vegetation to the east will be maintained. In addition, 19 deciduous (Paper Birch) trees will be planted along the south and southeast lot lines as shown on the site plan with the received stamp date of November 26, 2018; and

WHEREAS, the closest residential structure is located approximately 135 feet to the south; and

WHEREAS, Scorpion Grass has received delegated approval from the State Marijuana Control Board for marijuana retail license #15788, in accordance with 3AAC 306.005; and

WHEREAS, written documentation showing delegated approval from the State Marijuana Control Board for marijuana retail license #15788 has been provided; and

WHEREAS, a copy of approved Plan Review Certificate #2018-140 has been provided; and

WHEREAS, McCallister Drive is classified as a minor collector road; and

WHEREAS, the proposed use is approximately 907 square feet in size; and

WHEREAS, a marijuana retail facility 907 square feet in size is required to provided three parking spaces. One of which must be ADA compliant; and

WHEREAS, according to the site plan, seven total 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, six regular customer parking spaces and one ADA compliant space will be provided; 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 21, 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 19-06:

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 application material 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 has provided a copy of the documents 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, 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 operation 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. The operation shall comply with the maximum permissible sound level limits allowed, per the requirements of MSB 8.52 - Noise, Amplified Sound and Vibration.
5. The hours of operation shall not exceed 9:00 a.m. - 10:00 p.m., daily.
6. On-site consumption of marijuana and marijuana products is prohibited.

ADOPTED by the Matanuska-Susitna Borough Planning Commission  
this 21<sup>st</sup> day of January, 2019.

  
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COLLEEN VAGUE, Chair

ATTEST

  
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MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Vague, Anderson, Patterson, Chestro, Elder, and*  
NO: *Alaskan*