

By: Joe Metzger
Introduced: March 4, 2019
Public Hearing: April 1, 2019
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 19-08**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 495 WEST SUNFLOWER CIRCLE (TAX ID# 7108000T00H-1); WITHIN TOWNSHIP 18 NORTH, RANGE 1 WEST, SECTION 28, SEWARD MERIDIAN.

WHEREAS, an application has been received from Michael Musbach, on behalf of Alaska Frosted Flowers, LLC for a conditional use permit for the operation of a marijuana cultivation facility at 495 West Sunflower Circle (Tax ID# 7108000T00H-1); within Township 18 North, Range 1 West, Section 28, 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 proposed use is wholly contained within a steel structure; and

WHEREAS, the proposed use is accessed from West Sunflower Circle onto an existing permitted private driveway; and

WHEREAS, the subject structure is assessed as commercial and has historically been used as such; and

WHEREAS, parcels to the north and east are residential in nature and range in size from 1 acre to 4.75 acres; and

WHEREAS, large parcels border to the south and west. The parcel directly to the south is approximately 18 acres and used for residential purposes, while the parcel to the west is vacant and comprised of 160 acres; and

WHEREAS, according to the application material, the proposed use is set back 110 feet from the West Sunflower Circle right of way on the east lot line, 164 feet from the south lot line, 200 feet from the west lot line and 339 feet from the north lot line; and

WHEREAS, the subject parcel is mostly forested and a buffer of trees separates the proposed facility and West Sunflower Circle; and

WHEREAS, according to the application material, the proposed use has a diversion prevention plan in place to prevent the potential for marijuana to be diverted to an unregulated market; and

WHEREAS, the application material indicates there will not be any business signs associated with the use; and

WHEREAS, according to the application material, the appearance of the building is being upgraded by remodeling, painting, and landscaping, and will appear like any other shop in the area; and

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

WHEREAS, the closest school, Twindly Bridge Charter School is approximately 3,700 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, the proposed use has a robust 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, alarms, and lighting will be used to secure the site and monitor all activities at the facility; and

WHEREAS, the State of Alaska Fire Marshal has issued Plan Review Certificate #2018Anch1274, approving the renovation and remodeling of the proposed use; and

WHEREAS, a copy of approved Plan Review Certificate #2018Anch1274 has been provided; 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, stored in a secure waste storage area in dumpsters, and disposed of by a third party contractor at the landfill; and

WHEREAS, the subject parcel is approximately 10 acres in size;
and

WHEREAS, the closest residential structure is located
approximately 210 feet to the east of the proposed use; and

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

WHEREAS, there are no outdoor processes associated with the
proposed use; and

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

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

WHEREAS, the facility will not be open to the public; and

WHEREAS, Alaska Frosted Flowers, LLC has received delegated
approval from the State Marijuana Control Board for marijuana
cultivation license #17952, in accordance with 3 AAC 306.005; and

WHEREAS, written documentation showing delegated approval
from the State Marijuana Control Board for marijuana cultivation
license #17952 has been provided; and

WHEREAS, according to the application material, there will be
catchment containers placed under all plants so no run off water
will occur. Any excess water will be reabsorbed back into the
marijuana plants directly or will dissipate by evaporation; and

WHEREAS, according to the application material, no hazardous pesticides, herbicides, or fungicides will be used; and

WHEREAS, according to the application material, fertilizers will be stored behind a locked door in designated cabinets and will be stored so as to comply with all federal, state, and local laws and per the manufacturers 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 April 1, 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 19-08:

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 application material meets 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 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 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.

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 1st day of April, 2019.

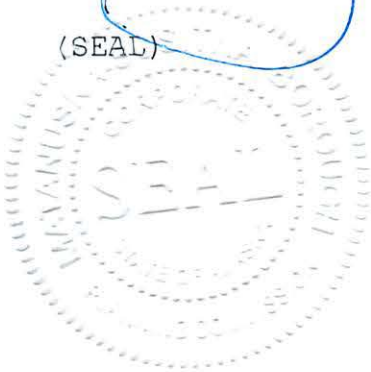


COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk
(SEAL)



YES: *Vague, Chesbro, Elder, and Moztanen*
NO: *Anderson*