

By: Joe Metzger
Introduced: March 18, 2019
Public Hearing: April 15, 2019
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 19-10**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA CULTIVATION FACILITY AT 12825 WEST BIG LAKE ROAD (TAX ID# 17N03W14C019); WITHIN TOWNSHIP 17 NORTH, RANGE 3 WEST, SECTION 14, SEWARD MERIDIAN.

WHEREAS, an application has been received from Thomas Russell, on behalf of Herbal Dreams, LLC for a conditional use permit for the operation of a marijuana cultivation facility at 12825 West Big Lake Road (Tax ID# 17N03W14C019); within Township 17 North, Range 3 West, Section 14, 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, there is no industrial equipment or processes that generate noise or dust associated with the proposed use; and

WHEREAS, the proposed use is accessed from West Big Lake Road onto an existing, Alaska Department of Transportation permitted private driveway; and

WHEREAS, the subject property is assessed as commercial and has historically been used as such including a commercial construction operation and an automotive repair shop; and

WHEREAS, parcels to the north and west are currently vacant and range in size from 11.50 to 40 acres; and

WHEREAS, the subject parcel abuts the West Big Lake Road right-of-way to the south, while the parcel directly to the east of the proposed use is used for commercial purposes and is comprised of 2 acres; and

WHEREAS, the closest residential structure is located to the southeast and is approximately 465 feet away from the proposed use; and

WHEREAS, the surrounding parcels are mixed use with the majority being used for commercial purposes; and

WHEREAS, according to the application material, the proposed use is set back approximately 104 feet from the West Big Lake Road right of way on the south lot line, 111 feet from the east lot line, 354 feet from the west lot line and 600+ feet from the north lot line; and

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

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

WHEREAS, the closest school, Houston Middle School, is approximately 7,700 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, key cards, motion detectors, alarms, and lighting will be used to secure the site and monitor all activities at the facility; and

WHEREAS, the proposed use has an odor mitigation plan that will utilize a series of inline fans, scrubbers, and carbon filters to clean and circulate the air inside the cultivation facility; and

WHEREAS, the State of Alaska Fire Marshal has issued Plan Review Certificate #2018Anch1919, approving the renovation and remodeling of the proposed use; and

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

WHEREAS, a copy of approved Plan Review Certificate #2018Anch1919 has been provided; 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 plastic sealable drums, and disposed of at

the landfill. Alternatively, the waste will be composted onsite as indicated in the site plan in a 16'x 8' outdoor fenced compost area; and

WHEREAS, the subject parcel is approximately 11.53 acres in size; and

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

WHEREAS, with exception of a fenced outdoor compost, the proposed use is wholly contained within the commercial steel structure; and

WHEREAS, consumption of marijuana or marijuana products on the licensed premises or within 20 feet of the exterior of any cultivation facility is prohibited under State of Alaska regulation 3AAC 306.405(c) (2); and

WHEREAS, according to the application material, the exterior of the building will be maintained in a professional manner so as to not appear as an eyesore to the public or surrounding neighbors; and

WHEREAS, the topography of the parcel is generally flat, with the north end of the property consisting of native vegetation and wetlands while the south end of the property has been cleared and is mostly devoid of vegetation; and

WHEREAS, Herbal Dreams, LLC has received approval from the State Marijuana Control Board for a marijuana cultivation license #16170, in accordance with 3 AAC 306.005; and

WHEREAS, written documentation showing approval from the State Marijuana Control Board for a marijuana cultivation license #16170 has been provided; and

WHEREAS, according to the application material, there will be trays under the growing tables to catch excess water. The water that is collected will be reabsorbed back into the room; and

WHEREAS, according to the application material, if larger quantities of wastewater are collected than can be reabsorbed, the waste water will be stored in containers and disposed of by a third party contractor; and

WHEREAS, according to the application material, Herbal Dreams, LLC will provide employees with all of the personal protective equipment needed and Material Safety Data Sheets for all chemicals being used; and

WHEREAS, according to the application material, all nutrients and chemicals will be stored on shelving or in a fireproof cabinet per the manufacturer's recommendations and per state, local, and federal regulations; 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 15, 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 19-10:

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.

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ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 15th day of April, 2019.



COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



YES: *Vague, Anderson, Chesbro, Elder, Skashar, and
Mossanen*
NO: