

By: Joe Metzger
Introduced: May 20, 2019
Public Hearing: June 3, 2019
Action: Approved

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 19-17**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 1204 N. HYER SPUR (TAX ID# 7775000L002); WITHIN TOWNSHIP 17 NORTH, RANGE 1 EAST, SECTION 4, SEWARD MERIDIAN.

WHEREAS, an application has been received from Teri Zell on behalf of Higher by Bad Gramm3r, LLC for a conditional use permit for the operation of a marijuana retail facility at 1204 N. Hyer Spur, (Tax ID# 7775000L002); within Township 17 North, Range 1 East, Section 4, 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 retail facility will be wholly contained within the commercial structure approximately 2,503 square feet in size; and

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

WHEREAS, there are no outdoor speakers or public announcement systems associated with the proposed use; and

WHEREAS, The Boutet Company, Inc, conducted and prepared a Limited Traffic Impact Analysis (LTIA) in support of a Traffic Impact Analysis Threshold Worksheet submitted as part of the application material; and

WHEREAS, traffic data and generation rates used in the LTIA were obtained from two references. "Trip Generation, 10th Edition, published by the Institute of Transportation Engineers, as well as, "Site Traffic Counts" acquired by The Boutet Company at the Bad Gramm3r Cannabis Store located at 115 N. Helen Lane, Wasilla, Alaska; and

WHEREAS, based on the LTIA, peak hour site trip rates for the proposed 2,503 square foot marijuana retail facility is calculated to be 75 trips; and

WHEREAS, the daily trip rate for the proposed use is calculated to be 632 trips; and

WHEREAS, it is the opinion of Jacques Boutet, PE that the proposed facility does not require a traffic impact analysis; and

WHEREAS, the proposed use will not be processing, manufacturing, or storing hazardous substances identified in MSB 17.61.020(A)(3); and

WHEREAS, the proposed use is confined to a generally flat area on the parcel; and

WHEREAS, the proposed use is commercial retail in nature and will not generate contaminated water runoff; and

WHEREAS, the subject parcel remained vacant until two portable structures, which have since been remodeled and combined into one, were moved unto the property in 2011; and

WHEREAS, the subject property has historically been used for commercial purposes since 2011; and

WHEREAS, the property is located in the Core Area; however, there are no specific zoning designations for this parcel; and

WHEREAS, the proposed use accesses North Hyer Spur from an existing, MSB permitted driveway; and

WHEREAS, North Hyer Spur has many different uses on its frontage, including residential, commercial, and industrial; and

WHEREAS, North Hyer Spur is classified as a collector road and is capable of handling traffic from residential and commercial uses; and

WHEREAS, the subject parcel has over 700' of road frontage and abuts the North Hyer Spur to the east, south, northeast and southeast; and

WHEREAS, the closest residential structure is located to the west and is approximately 140 feet away from the proposed use; and

WHEREAS, the application material indicates two illuminated signs will be installed on the proposed facility. One sign will be installed on the roofline of the building and will say "HIGHER", while the other sign will be installed above the entrance to the facility; and

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

WHEREAS, there are 6 parcels within 1000' from the subject parcel that are used for commercial or industrial purposes; and

WHEREAS, the surrounding area is comprised of mixed uses. The parcels to the north and west are used for residential purposes, while the parcels to the east and south are used for commercial or industrial uses; and

WHEREAS, aerial imagery of the surrounding area indicates the proposed use is part of a larger commercial and industrial development. The lots being used for commercial and industrial uses have been leveled and are devoid of vegetation, while the lots being used for residential purposes are treed and full of vegetation; and

WHEREAS, consumption of marijuana is prohibited at the site; and

WHEREAS, persons under the age of 21 are prohibited from entering the facility; and

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

WHEREAS, the closest school (Birchtree Charter School) is approximately 4,800 feet away from the use; and

WHEREAS, according to the application material, the use has a security plan in place, which includes education of employees on all security measures; and

WHEREAS, security cameras, motion detectors, panic buttons, and lighting are used to monitor all activities at the facility; and

WHEREAS, the Mat-Su Borough Central Mat-Su Fire Department has issued Plan Review #2019-024, for the commercial structure; and

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

WHEREAS, the applicant has provided a copy of the approved Plan Review #2019-024; and

WHEREAS, after proper notification of the State of Alaska Alcohol & Marijuana Control Office, all marijuana products deemed unusable are blended together before being mixed with compostable material, and sealed in a container. The waste will then be taken to a MSB Central Landfill to be disposed of; and

WHEREAS, according to the application material, the commercial structure is located approximately 123 feet from the North Hyer Spur right-of-way on the eastern boundary, approximately 148 feet to the northern property line, approximately 31 feet to a section line easement on western

boundary, and is approximately 450 feet from the southern boundary, which is also the North Hyer Spur right-of-way; and

WHEREAS, the proposed use is located approximately 31' to a section line easement on the western boundary. An earthen berm, located near the southwest corner of the facility is approximately 30' tall and is contained within the section line easement. This berm provides visual screening to the adjacent residential homes; and

WHEREAS, the commercial 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, at the February 20-22, 2019, the State of Alaska Marijuana Control Board meeting, the Board voted to approve Higher by Bad Gramm3r Retail Marijuana Store License # 19178 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 use is approximately 2,503 square feet in size; and

WHEREAS, a marijuana retail facility 2,503 square feet in size is required to provided eight parking spaces with one ADA compliant space; and

WHEREAS, 17 customer parking spaces are being provided; and

WHEREAS, each space is 20 feet in length and ten 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 is being 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 June 3, 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 19-17:

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 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. If for any reason, the berm located in the section line easement to the west of the facility is removed, a fence shall be installed that provides visual screening and shields customer headlights to the extent feasible.
6. Any signage associated with the facility shall not be illuminated in the direction of residential homes located to the north and west of the use.
7. Exterior lighting shall be directed downward, and/or shielded as necessary, to minimize light spillage onto adjacent properties.
8. The hours of operation shall not exceed 9:00 a.m. - 10:00 p.m., daily.
9. On-site consumption of marijuana and marijuana products is prohibited.
10. A fence shall be constructed along the west boarder of the parcel along the section line common with Lot 1, Lot

17, Lot 18 and Lot 1 to the north, or completely surrounding the facility, within one year of approval.

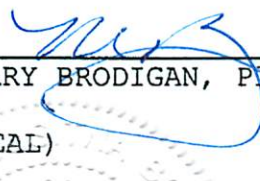
11. The applicant shall use visual buffering or adjust field of view of security cameras to prevent filming of neighboring residential properties.

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 3rd day of June, 2019.



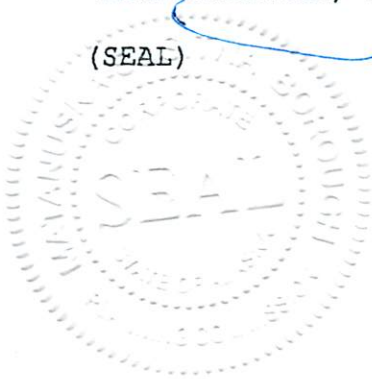
COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN, Planning Clerk

(SEAL)



Yes: Chesbro, Elder, Glashan, and Mossanen

No: Vague

