

By: Peggy Horton
Introduced: April 4, 2022
Public Hearing: April 18, 2022
Action: Adopted

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 22-05**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 2888 SOUTH CLAPP STREET, TAX ID# 1011B01T001-2, WITHIN TOWNSHIP 17 NORTH, RANGE 1 WEST, SECTION 19, SEWARD MERIDIAN.

WHEREAS, Kerby Coman, for Green Degree, submitted a conditional use permit application for the operation of a marijuana retail facility at 2888 South Clapp Street, Tax ID# 1011B01T001-2, located within Township 17 North, Range 1 West, Section 19, 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, according to the application material, the proposed retail facility will be wholly contained within a 1,200 square foot commercial structure; and

WHEREAS, the proposed use has no industrial equipment or processes that generate noise; and

WHEREAS, the proposed use will access South Clapp Street from an existing, permitted driveway; and

WHEREAS, South Clapp Street is classified as a collector and is capable of accommodating traffic associated with commercial use; and

WHEREAS, South Clapp Street has many different uses fronting on it, including residential, recreational, and commercial; and

WHEREAS, South Knik-Goose Bay Road is classified as a major arterial and has several different uses on its frontage including commercial, industrial, and residential; and

WHEREAS, the proposed hours of operation are 8:00 a.m. until 5:00 a.m., daily; and

WHEREAS, according to the application material, the proposed use will be located approximately 130 feet from the South Clapp Street right-of-way, approximately 38 feet to the South Knik-Goose Bay Road right-of-way and approximately 26 feet from the section line easement along the west side; and

WHEREAS, the proposed use is located southeast of, and approximately 300 feet from, the closest residential structure; and

WHEREAS, there are a variety of land uses within 1,100 feet, including single and multifamily residential, convenience store and gas station, mini-storage facility, package store, and church property; 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 (Snowshoe Elementary) is approximately 8,800 feet from the proposed use; and

WHEREAS, according to the application material, security cameras, motion detectors, and lighting are used to monitor all activities at the facility; and

WHEREAS, the Central Mat-Su Fire Department Deputy Fire Marshal issued Plan Review #2021-084 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 provided a copy of the approved Plan Review #2021-084; and

WHEREAS, after proper notification of the State of Alaska Alcohol & Marijuana Control Office, all marijuana products deemed unusable are ground up with trash and disposed of in the onsite dumpster. The final destination for the waste is the landfill; and

WHEREAS, the applicant has provided all of the required site plans and operational information other than evidence the

commercial structure has been moved to meet the setback requirements of MSB 17.55; and

WHEREAS, according to the application material, all retail operations will be taking place indoors; and

WHEREAS, according to the application material, no outdoor activity is planned that will create additional noise or odor; and

WHEREAS, according to the application material, the proposed use is 973.2 square feet in size; and

WHEREAS, according to the application material, the applicant's landscaping involved leveling the lot and is currently proposing some grass seeding and possibly tree planting; and

WHEREAS, according to the application material, the commercial structure will have lighting on all four sides, which will be downward directional and shielded to minimize light spillage on neighboring properties and into nearby traffic; and

WHEREAS, according to the application material, the structure will meet all applicable setback requirements of MSB 17.55; and

WHEREAS, the State of Alaska Marijuana Control Board (AMCO) voted to approve Green Degree Clapp Street Retail Marijuana Store License# 27096 with delegation at the August 18-19, 2021 meeting; and

WHEREAS, planning staff received a copy of AMCO's delegated approval for the applicant's marijuana retail facility; and

WHEREAS, according to the application material, the net floor area is approximately 1,200 square feet in size; and

WHEREAS, a marijuana retail facility, 1,200 square feet in size, is required to provide three parking spaces with one Americans with Disabilities Act (ADA) compliant space; and

WHEREAS, according to the application material, eleven customer parking spaces are proposed, and

WHEREAS, according to the application material, each parking space is 20 feet in length and ten feet wide, and

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

WHEREAS, according to the application material, 11 customer parking spaces are proposed; and

WHEREAS, ADA guidelines require one van accessible parking space with an eight-foot wide parking aisle, for every 1 to 25 spaces; and

WHEREAS, according to the application material, one ADA compliant space is 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 April 18, 2022 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 22-05:

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. The proposed use, with conditions, will provide sufficient setbacks, lot area, buffers and other safeguards (MSB 17.60.100(B)(3)).
4. The application material, with conditions, 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. The proposed use, with conditions, has measures in place 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. Documentation demonstrating the applicant obtained all applicable licenses pertaining to 3 AAC 306.005 was provided to planning staff (MSB 17.60.150(D)(1)).
10. The proposed use will be 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, with conditions, 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. Prior to operating, the applicant shall provide to Planning Staff, a surveyor's as-built drawing, performed after moving the building, showing the location and dimensions of the commercial structure to indicate

compliance with MSB 17.55, Setbacks and Screening Easements.

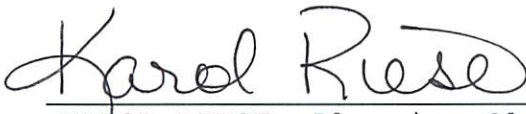
2. The ADA parking access aisle shall be painted, and shall be compliant with the current ADA guidelines, within one year of the date of decision.
3. The operation shall comply with all applicable state and local regulations.
4. All aspects of the operation shall comply with the description detailed 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.
5. Borough staff shall be permitted to enter the 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.
6. The hours of operation shall not exceed 8:00 a.m. - 5:00 a.m., daily.
7. On-site consumption of marijuana and marijuana products is prohibited.

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 18th day of April, 2022.




STAFFORD GLASHAN, Chair

ATTEST



KAROL RIESE, Planning Clerk

(SEAL)



YES: (6) Commissioner Allen, Rubeo, Glashan, Chesbro,
Scoggin, Glenn

NO: (0)