

By: Peggy Horton
Introduced: May 2, 2022
Public Hearing: May 16, 2022
Action: Adopted

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 22-08

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT TO OPERATE A MARIJUANA CULTIVATION FACILITY AT 3097 SOUTH SYLVAN LANE, TAX ID# 6315B01L011 & L012; WITHIN TOWNSHIP 17 NORTH, RANGE 2 WEST, SECTION 22, SEWARD MERIDIAN.

WHEREAS, Ryan McKay and Jana Weltzin on behalf of AK Legacy Genetics, submitted a conditional use permit application to operate a marijuana cultivation facility at 3097 South Sylvan Lane, Tax ID# 6315B01L011 & L012; within Township 17 North, Range 2 West, Section 22, Seward Meridian; and

WHEREAS, MSB 17.60.030 requires a conditional use permit for the operation of marijuana cultivation facilities; and

WHEREAS, unless this type of use is maintained under and in accordance with a lawfully issued permit, a marijuana cultivation facility is declared to be a public nuisance. Operation of such a land use without a permit is prohibited; and

WHEREAS, the proposed use is wholly contained within a 1,650 square foot facility; and

WHEREAS, according to the application material, the applicant is refurbishing a garage structure, originally built in 1975, for the proposed use; and

WHEREAS, the applicant stated the entire structure will receive a green metal panels on all sides to blend in with the trees and natural landscaping; and

WHEREAS, the applicant received Borough approved driveway permits for both access points onto South Sylvan Lane; and

WHEREAS, Surrounding parcels range in size from one to five acres; and

WHEREAS, the subdivisions to the west of South Sylvan Lane are fully built out with residential uses. Lots to the north, east, and south of the proposed use are developed with residential uses with a few vacant parcels mixed in; and

WHEREAS, according to the application material, the proposed use is set back approximately 141 feet from the West Cielo Court right-of-way to the north, 117 feet from the South Sylvan Lane right-of-way to the west, 122 feet from the south lot line, and 224 feet from the east lot line; and

WHEREAS, the subject parcel is mostly forested and a buffer of trees separates the proposed facility from South Sylvan Lane; and

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

WHEREAS, according to the application material, the proposed use has policies and procedures in place to prevent loitering; and

WHEREAS, according to the application material, the use will require between two and five employees, and for short periods, up to seven; and

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

WHEREAS, according to the application material, there is no advertising signage for the facility; and

WHEREAS, according to the application material, all exterior lighting will be directed downward and shielded to mitigate any unwanted light pollution; 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 closest school, Goose Bay Elementary, is approximately 3,000 feet away from the proposed use; 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, the applicant provided a security plan, which includes education of employees on all security measures; and

WHEREAS, according to the application material, after proper notification to the State of Alaska Alcohol & Marijuana Control

Office, all marijuana products deemed unusable will be mixed with compostable waste, stored within locked containers inside the facility, and eventually taken to the landfill; and

WHEREAS, the Central Mat-Su Deputy Fire Marshal has issued Plan Review Certificate #2022-061, approving the renovation and remodeling of the garage for the proposed use; and

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

WHEREAS, the subject parcel is approximately 2.84 acres in size; and

WHEREAS, the closest residential structure, not within this property, is located approximately 270 feet west of the proposed use; and

WHEREAS, the applicant provided all of the required site plans and operational information for the proposed use; and

WHEREAS, according to the application material, marijuana product will be packaged in sealed, air-tight containers and air sanitizers will be used when transporting marijuana to and from the premises; and

WHEREAS, according to the application material, the air filtration system will be outfitted with multiple charcoal filters to filter air for odor particles; and

WHEREAS, according to the application material, the applicant will maintain the charcoal filters and exhaust fans according to the manufacturer's specifications; and

WHEREAS, The structure's foundation lies approximately four feet below South Sylvan Lane and 12 feet below West Cielo Court; and

WHEREAS, AK Legacy Genetics, LLC received delegated approval from the State Marijuana Control Board for marijuana cultivation license #28628, in accordance with 3 AAC 306.005; and

WHEREAS, the applicant provided written documentation showing delegated approval from the State Marijuana Control Board for marijuana cultivation license #28628; and

WHEREAS, according to the application material, the applicant will ensure that only Environmental Protection Agency approved insecticide and fungicide are used in the facility; and

WHEREAS, according to the application material, the facility will have designated shelving areas for storage of herbicides, fungicides, insecticides, fertilizers, cleaning products, and other chemicals; and

WHEREAS, according to the application material, the applicant will use and dispose of all chemicals, fertilizers, herbicides, fungicides, insecticides, cleaning chemicals, etc., in accordance with their respective manufacturers' recommendations, and comply with all local, state, and federal laws; and

WHEREAS, the Planning Commission has reviewed this application with respect to applicable 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 May 16, 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 22-08:

1. The proposed use, with conditions, will preserve and 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 applicant 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 documentation demonstrating all applicable licenses pertaining to 3 AAC 306.005 have been obtained (MSB 17.60.150(D)(1)).
10. The applicant must still provide 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 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.

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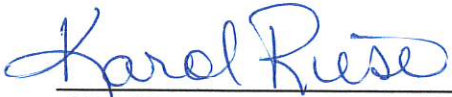
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ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 16th day of May, 2022.



PATRICIA CHESBRO, Vice-Chair

ATTEST



KAROL RIESE, Planning Clerk

(SEAL)

YES: (4) Commissioner Allen, Rubeo, Scoggin, Chesbro

NO: (1) Commissioner Glenn