

By: Rick Benedict  
Introduced: June 3, 2024  
Public Hearing: June 17, 2024  
Action: **APPROVED**

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. PC 24-09**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT FOR THE OPERATION OF A MARIJUANA RETAIL FACILITY AT 10600 E. Max Drive, TAX ID#2209B02L001A.

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WHEREAS, an application has been received from Scott Wells on behalf of Smoke Out Point for a conditional use permit for the operation of a marijuana retail facility at 10600 E. Max Drive, TAX ID#2209B02L001A; 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 subject parcel is approximately .86 acres in size; and

WHEREAS, based on the information provided by the applicant, a Core Area Conditional Use Permit in accordance with MSB 17.61.020(A)(1) through (4) is not required; and

WHEREAS, the subject parcel is within the boundary of the Gateway Community Council; and

WHEREAS, the subject parcel is part of the Bradley Lake #2 Subdivision; and

WHEREAS, the applicant has submitted an authorization form signed by the property owner, permitting Smoke Out Point to operate as a marijuana retail store within the new commercial building; and

WHEREAS, according to the application material, the proposed marijuana retail store will not generate noise or odors; and

WHEREAS, the proposed hours of operation are 10:00 a.m. to 10:00 p.m., Sunday through Thursday, and 10:00 a.m. to 12:00 a.m., Friday and Saturday; and

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

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

WHEREAS, according to the application material, signs will be posted at the proposed use's entrance prohibiting loitering; and

WHEREAS, the application material states that exterior lighting will be downward-directional and shielded to prevent light pollution; and

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

WHEREAS, according to the application materials, employees of the proposed use will immediately check the identification of all persons who enter the facility; and

WHEREAS, according to the application material, the operation will utilize an alarm and video surveillance system, along with lighting, as part of its security plan; and

WHEREAS, according to the application material, the operation has a security plan, which includes educating employees on all security measures; and

WHEREAS, the commercial structure fully complies with the State of Alaska fire code; and

WHEREAS, the State of Alaska Marijuana Control Board met April 12-14, 2022, and awarded the operation a marijuana retail store license currently in delegated status; and

WHEREAS, the MSB Development Services Division received a copy of the delegated approval for the applicant's marijuana retail facility; and

WHEREAS, a marijuana retail facility with an area of 3,195 square feet must provide nine parking spaces, one of which must be ADA-compliant; and

WHEREAS, according to the application material, ten parking spaces will be provided for the proposed use, one of which will comply with ADA requirements; and

WHEREAS, each parking space is twenty feet long and ten feet wide; and

WHEREAS, according to the application material, no vertical clearance limitations are on-site; and

WHEREAS, the proposed retail facility will be contained within a new 60' x 40' two-story commercial structure of approximately 4,800 square feet; and

WHEREAS, according to the application material, approximately 3,195 square feet of net floor space are licensed for marijuana retail sales; and

WHEREAS, according to the application material, the building proposed for marijuana retail sales was completed in 2023; and

WHEREAS, according to the application material, two pre-existing residential structures are located north of the proposed operation on the subject parcel; and

WHEREAS, according to Borough records, the pre-existing residential structures were constructed in the mid-1970s; and

WHEREAS, according to the application material, one residential structure located northwest of the use will remain on the property, and the second located northeast of the use will be demolished by the end of July 2024; and

WHEREAS, according to the application material, the building's exterior is beige and tan, with steel side panels and metal roofing; and

WHEREAS, the proposed use will access East Max Drive, for which the applicant has obtained a commercial driveway permit from the Borough's permitting center (#D29385); and

WHEREAS, according to the application material, the operation will advertise the access route to the facility on its website and popular mapping platforms; and

WHEREAS, according to the application material, a sign will be installed at the exit of the subject parcel directing traffic to South Colleen Street and discouraging left turns; and

WHEREAS, the applicant has obtained a general construction permit (#C29230) from the Borough to improve the eastern portion of East Max Drive from the intersection of South Colleen Street to the subject parcel's driveway; and

WHEREAS, according to the application material, the operation will maintain the improved portion of East Max Drive from the intersection at South Colleen Street to the subject parcel's driveway; and

WHEREAS, East Max Drive is a Borough roadway that, upon improvement, will be acceptable for commercial use, according to a review by MSB PD&E; and

WHEREAS, East Max Drive is not maintained by the Borough; and

WHEREAS, uses along East Max Drive are a mix of commercial and residential; and

WHEREAS, the area surrounding the subject parcel comprises a mix of commercial, residential, and vacant uses; and

WHEREAS, an antique store exists west of the proposed use on the adjacent parcel, and a seasonal produce market exists to the northeast; and

WHEREAS, residential uses comprise many remaining north, west, and south uses; and

WHEREAS, the proposed use is approximately 45 feet southeast of the nearest residential structure on the subject parcel and 94 feet east of the nearest commercial structure on the adjacent parcel; and

WHEREAS, according to the application material, the operation will have one free-standing metal, aluminum, and fiberglass advertising sign, 5'2" W x 7'7" L, at the southeast corner of the subject parcel adjacent to South Glenn Highway; and

WHEREAS, according to the application material, the advertising sign will be backlit during operating hours and off when closed; and

WHEREAS, according to the application material, the advertising sign will be visible from South Glenn Highway and promote access to the facility from South Colleen Street; and

WHEREAS, no advertising signage is proposed along East Max Drive; and

WHEREAS, the proposed use is approximately 25 feet north of the South Glenn Highway right-of-way, approximately 53 feet east of the western property line, approximately 128 feet south of the East Max Drive right-of-way, and approximately 51 feet west of the South Glenn Highway right-of-way; and

WHEREAS, according to the application material, the advertising signage will not be installed or overhang the South Glenn Highway right-of-way; and

WHEREAS, ADOT is in Phase 2 of the project, which extends East Bradley Lake Avenue and adds a signaled intersection where the roadway will meet at South Glenn Highway to the northeast of the subject property; and

WHEREAS, Phase 2 of the Glenn Highway Reconstruction Project will remove access to South Colleen Street from South Glenn Highway; and

WHEREAS, according to the application material, the applicant proposes to advertise access to the use via the signaled intersection at South Glenn Highway and East Bradley Lake Avenue when Phase 2 of the Glenn Highway Reconstruction Project is complete; and

WHEREAS, South Glenn Highway is a state-maintained major arterial roadway capable of handling commercial traffic; and

WHEREAS, on October 5, 2021, the State of Alaska Fire Marshal issued an approved Full Plan Review (#2021Anch1557) for the commercial structure; and

WHEREAS, the closest school (Amazing Grace Academy) is approximately 9,088 feet from the proposed use; and

WHEREAS, the director of the Alcohol & Marijuana Control Office (AMCO) is authorized to issue the license once the applicant obtains a conditional use permit to operate within the borough; and

WHEREAS, the applicant provided a copy of the approved Full Plan Review (#2021Anch1557) to the MSB Development Services Division; and

WHEREAS, the Institute of Transportation Engineers (ITE) Trip Generation, 11<sup>th</sup> Edition, shows a "Marijuana Dispensary" of approximately 3,195 square feet in an urban area is expected to produce approximately 75 trips per weekday PM hour based on the average trip start/end generation rates; and

WHEREAS, South Colleen Street is a Borough-owned and maintained roadway; and

WHEREAS, according to the application material, the applicant proposes advertising access to the marijuana retail facility from the eastern portion of East Max Drive via South Colleen Street; and



WHEREAS, ADA guidelines require one van-accessible parking space, 11 feet wide with a five-foot-wide parking aisle, for every 1 to 25 spaces; 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 17, 2024, 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 24-09:

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 spaces for retail facilities (MSB 17.60.170(B)).
13. The proposed use complies with current ADA parking space guidelines (MSB 17.60.170(C)).

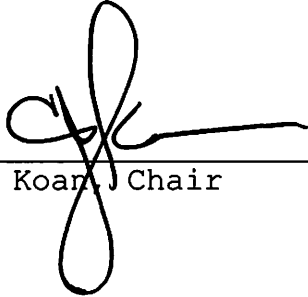
BE IT FURTHER RESOLVED, that the Planning Commission finds this application does meet the standards of MSB 17.60 and does hereby approve the conditional use permit for the operation of a marijuana retail facility, with the following conditions:

1. Prior to operating, the applicant shall notify the Borough upon completion of improvements to East Max Drive. Provide evidence of compliance to Planning staff.
2. Prior to operating, the applicant shall have the ADA parking stall and access aisle painted and compliant with the current ADA guidelines, including mounting the ADA van-accessible sign to indicate its location. Provide evidence of compliance to Planning staff.
3. The operation shall comply with all applicable federal, 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 before any expansion of the conditional use.
5. 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

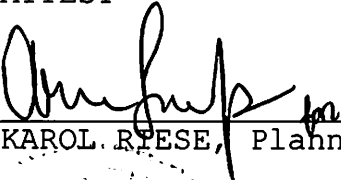
necessary to monitor compliance. Denial of access to Borough staff shall violate this conditional use permit.

6. On-site consumption of marijuana and marijuana products is prohibited.
7. The hours of operation shall not exceed 10:00 a.m. to 10:00 p.m., Sunday through Thursday, and 10:00 a.m. to 12:00 a.m., Friday and Saturday.
8. The applicant shall maintain the improved portion of East Max Drive for commercial use.
9. Signs directing traffic to access/egress routes appropriate for commercial use shall be maintained on the subject property, as described in the application materials.
10. The operation shall maintain online mapping applications and its website with the proposed access/egress plan described in the application materials.

ADOPTED by the Matanuska-Susitna Borough Planning Commission  
this 17<sup>th</sup> day of June, 2024.

  
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C.J. Koan, Chair

ATTEST

  
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KAROL REESE, Planning Clerk

(SEAL)

YES: ALLEN, McCABE, KOAN, GLENN, SHAW

NO:  $\emptyset$