

The regular meeting of the Matanuska-Susitna Borough Planning Commission was held on June 6, 2016, at the Matanuska-Susitna Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6:00 p.m. by Chair John Klapperich.

I. CALL TO ORDER, ROLL CALL, AND DETERMINATION OF QUORUM

Planning Commission members present and establishing a quorum:

- Ms. Mary Anderson, Assembly District #1
- Mr. Thomas Healy, Assembly District #2
- Mr. John Klapperich, Assembly District #3 *Chair*
- Ms. Colleen Vague, Assembly District #4
- Mr. William Kendig, Assembly District #5
- Mr. Tomas Adams, Assembly District #6
- Mr. Vern Rauchenstein, Assembly District #7

Staff in attendance:

- Mr. Alex Strawn, Development Services Manager
- Ms. Shannon Bodolay, Assistant Borough Attorney
- Ms. Susan Lee, Planner II
- Ms. Frankie Barker, Environmental Planner II
- Ms. Mary Brodigan, Planning Commission Clerk

II. APPROVAL OF AGENDA

Chair Klapperich inquired if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved without objection.

III. PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Ms. Sara Williams, a member of the audience.

IV. CONSENT AGENDA

A. Minutes

1. May 16, 2016, regular meeting minutes

A. INTRODUCTION FOR PUBLIC HEARING: QUASI-JUDICIAL MATTERS

(There were no introductions for quasi-judicial matters.)

B. INTRODUCTION FOR PUBLIC HEARING: LEGISLATIVE MATTERS

1. **Resolution 16-24**, amending the comprehensive planning process as requested by the Chase Community Council. Public Hearing: June 20, 2016. *(Staff: Taunnie Boothby)*

2. **Resolution 16-25**, recommending the Assembly support the development of a Regional Transportation Planning Partnership Program. Public Hearing: June 20, 2016. (Staff: Jessica Smith)

Chair Klapperich read the consent agenda into the record.

Chair Klapperich inquired if there were any changes to the consent agenda.

GENERAL CONSENT: The consent agenda was approved without objection.

V. COMMITTEE REPORTS

(There were no committee reports.)

VI. AGENCY/STAFF REPORTS

(There were no agency/staff reports.)

VII. LAND USE CLASSIFICATIONS

(There were no land use classifications.)

VIII. AUDIENCE PARTICIPATION (Three minutes per person.)

The following person spoke regarding concerns with public process: Mr. Eugene Carl Haberman.

IX. PUBLIC HEARING: QUASI-JUDICIAL MATTERS *(Public Hearing not to begin before 6:15 P.M.)*

Commission members may not receive or engage in ex-parte contact with the applicant, other parties interested in the application, or members of the public concerning the application or issues presented in the application.

- A. **Resolution 16-20**, a request for a Conditional Use Permit in accordance with MSB 17.70, Regulation of Alcoholic Beverages Uses, for the operation of a Liquor Package Store within a proposed convenience store, located on Lot 11, Hollywood Heights; 14468 W. Hollywood Road; within Township 17 North, Range 3 West, Section 24. *(Applicant: Three Bears Alaska, Inc., Staff: Susan Lee)*

Chair Klapperich read the resolution title into the record.

Chair Klapperich:

- read the memorandum regarding quasi-judicial actions into the record;
- queried commissioners to determine if any of them have a financial interest in the proposed Conditional Use Permit (CUP);
- have had any ex parte contact with the applicant, members of the public, or interested parties in the proposed CUP; and

- if all commissioners are able to be impartial in a decision.

Ms. Susan Lee provided a staff report:

- staff recommended approval of the resolution with conditions.

Commissioners questioned staff regarding:

- if and how the borough limits the number of liquor licenses in the borough; and
- clarification of borough regulations versus state regulations.

Mr. Stephen Mierop of Three Bears Alaska provided an overview of the application.

Commissioners questioned the applicant regarding:

- whether the previous property owner, Omni, had a liquor license;
- which lot(s) will be developed at this time and what will the footprint of the building be;
- hours of operation; and
- will there be a package store included in the new store planned for the future.

Chair Klapperich opened the public hearing.

The following persons spoke in opposition of Resolution 16-20: Mr. Thomas Tomasi, Ms. Jill Pock, Ms. Carolyn Reitter, Ms. Dana Stewart, and Ms. Carol Tyler.

The following person spoke regarding concerns with public process: Mr. Eugene Carl Haberman.

Chair Klapperich invited the applicant to respond to questions and statements made by members of the public.

Mr. Stephen Mierop responded to questions and statements made by members of the public.

There being no one else to be heard, Chair Klapperich closed the public hearing and discussion moved to the Planning Commission.

MOTION: Commissioner Kendig moved to approve Resolution 16-20. The motion was seconded.

Commissioner Kendig:

- acknowledged the opposition to an additional liquor store in the Big Lake area;
- noted that there are no borough restrictions on the number of liquor licenses in a particular area;
- stated that the commission will need to come up with facts and findings should they deny this application;
- opined that there is no legal basis for denial; and
- he will be voting in favor of this application.

Commissioner Adams:

- noted that some of the comments referred to the proximity of the store to churches and schools;

- noted that the other liquor stores are just as close to churches and schools;
- opined that if they are a good store, they will be rewarded with the patronage of members of the community; and
- stated that he will be supporting this application.

Commissioner Healy:

- opined that members of the public are asking the commission to address matters that should more appropriately be handled by the Alcoholic Beverage Control (ABC) Board;
- noted that staff has determined that this applicant is in compliance with borough standards; and
- stated that he sees no reason to deny this application.

Commissioner Vague:

- noted that 100% of the people that submitted comments voiced their opposition to the CUP;
- opined that it is sad that the one time that the commission gets this much input, they cannot support the communities desires;
- would like to see the notification area increased; and
- stated that it's unfortunate that they don't have any cause to vote against this CUP.

Commissioner Anderson:

- stated that she went online to review the minutes from the Big Lake Community Council meeting;
- the minutes showed that this item was discussed, but they took no action;
- opined that the commission is not called on to make decisions based on morality;
- reviewed the state regulations, and the state limits the number of liquor licenses issued to the entire borough, but not by location;
- denying a CUP based on the fact that there are already three other liquor stores in the area does not fall under the purview of the commission; and
- stated that regardless of how she feels about this from the heart, she will be voting in favor of this resolution.

Chair Klapperich:

- stated that he researched complaints made against Three Bears, but found none;
- he is unable to come up with findings or conclusions to support denial of the application;
- suggested that perhaps all area businesses will benefit in the long run from this business; and
- stated that he will be voting in favor of the CUP.

MOTION: Commissioner Adams moved a primary amendment to strike the second whereas statement on page 233 of the packet. The motion was seconded.

VOTE: The primary amendment passed without objection.

MOTION: Commissioner Adams moved a primary amendment to strike the 9th and 10th whereas statements on page 235 of the packet. The motion was seconded.

VOTE: The primary amendment passed without objection.

MOTION: Commissioner Adams moved a primary amendment to strike the last sentence in first whereas statement on page 236 of the packet. The motion was seconded.

VOTE: The primary amendment passed without objection.

MOTION: Commissioner Adams moved a primary amendment to strike the fourth whereas statements on page 236 of the packet. The motion was seconded.

VOTE: The primary amendment passed without objection.

MOTION: Commissioner Adams moved a primary amendment to strike the word “that” in the fifth whereas statement on page 232 of the packet to read: “written comments were submitted stating that a fourth liquor store should not be allowed in the Big Lake area.” The motion was seconded.

VOTE: The primary amendment passed without objection.

VOTE: The main motion passed as amended without objection.

X. PUBLIC HEARING LEGISLATIVE MATTERS

- A. Resolution 16-22**, recommending amendments to Assembly Ordinance 16-003, an Ordinance Amending MSB 17.60 to Include Permit Requirements and Standards for Marijuana Related Facilities. Referred by the Assembly to the PC on April 5, 2016, for 90 days. Continued from May 16, 2016. (*Staff: Alex Strawn*)

Chair Klapperich read the resolution title into the record.

Mr. Alex Strawn stated that he didn't have any new information to add with this resolution.

Chair Klapperich reopened the public hearing.

The following persons spoke in favor of Resolution 16-22: Ms. Sara Williams and Ms. Cheryl Bowie.

The following person spoke in favor of Resolution 16-22, and requested that frontage roads be clearly defined: Mr. Tel White.

The following persons spoke in favor of Resolution 16-22, with amendments to Option 7 on page 299 of the package: Mr. Timothy Hale and Mr. Conrad Dailey.

The following person spoke regarding concerns with public process: Mr. Eugene Carl Haberman.

(The meeting recessed at 8:12 p.m., and reconvened at 8:18 p.m.)

Mr. Strawn responded to questions and statements made by the public.

Chair Klapperich inquired if there was anyone else who wished to testify on Resolution 16-22.

The following person spoke regarding retail marijuana businesses in residential areas: Ms. Tina Smith.

There being no one else to be heard, Chair Klapperich closed the public hearing and discussion moved to the Planning Commission.

MOTION: Commissioner Kendig moved to approve Resolution 16-22. The motion was seconded.

Discussion ensued regarding:

- making sure that language in the ordinance is compatible with the American Disabilities Act (ADA);
- ADA Parking requirements;
- deferring to state setback regulations;
- restricting marijuana businesses in residential areas;
- concerns with limited grow operations being regulated by the state if the borough fails to exempt them;
- concerns with citizens having to deal with the state over complaints with limited grow businesses; and
- making amendments to Resolution 16-22 Exhibit A matrix on page 299 of the packet, rather than the ordinance.

(The Planning Commission decided to amend Resolution 16-22 Exhibit A Matrix on page 299 of the packet instead of amending the ordinance.)

MOTION: Commissioner Vague moved to amend Amendment No. 4 on the matrix on page 299 of the packet by replacing 17.60.150 with language consistent with ADA guidelines to read: “Amend MSB 17.60.170 (B) The minimum number of parking spaces for retail facilities shall be one space per 350 square feet of net floor area. Each parking space shall be at least: 20 feet in length, ten feet wide, and have a vertical clearance of at least seven feet”, and “(C) Parking spaces shall be provided to comply with current American Disabilities Act guidelines.” The motion was seconded.

VOTE: The primary amendment passed without objection.

(The Planning Commission decided to address each proposed amendment of the matrix on page 299 of the packet individually.)

1. Remove sign standards

(The Planning Commission made no changes to Amendment No. 1.)

2. Exempt “limited” grow operations

MOTION: Commissioner Vague moved to amend Amendment No. 2 by inserting "on a parcel" after the word cultivation to read: "Cultivation facilities with less than 500 square feet under cultivation on a parcel are exempt under this chapter." The motion was seconded.

VOTE: The motion to amend Amendment No. 2 passed without objection.

(The Planning Commission made no changes to Amendment Numbers 3 - 5.)

6. Reduce setback standards to match state

MOTION: Commissioner Anderson moved to amend Amendment 6 to reinsert MSB 17.60.150(B) to read: “within 50 feet of any residence located on an adjacent property, but excluding residential units that are located within the subject property;

(2) 500 feet of any drug or alcohol rehabilitation facilities;

(3) 500 feet of any halfway house or correctional facility;

(4) 1,000 feet of any elementary school, middle school, high school, college, or university, whether public or private;

(5) 1,000 feet of any licensed child care facility; or

(6) 500 feet of any public park, playground, boat ramp, or other similar recreational amenity open to the public.”

The motion was seconded.

Discussion ensued regarding whether there is a need to provide regulations in addition to those of the state.

VOTE: The motion to amend Amendment 6 failed with Commissioner Anderson in favor.

MOTION: Commissioner Adams moved to amend Amendment No. 6 to strike 17.60.150(C) and the first proposed amendment under 17.125.010, leaving the definitions for “Marijuana product manufacturing” and “Marijuana products”. The motion was seconded.

VOTE: The motion to amend Amendment No. 6 passed without objection.

7. Prohibit cultivation facilities from residential areas

Discussion ensued regarding the three options presented in Amendment No. 7 of the matrix.

MOTION: Commissioner Kendig moved to adopt Option 1. The motion was seconded.

MOTION: Commissioner Adams moved a secondary amendment for Option 1 to replace "100 feet from the public right-of-way" with “50 feet from the public right-of-way” to read: “Marijuana cultivation facilities shall be set back 50 from public right-of-way, and 100 feet from side or rear lot lines”. The motion was seconded.

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment to adopt Option 1 passed as amended without objection.

8. Prohibit retail faculties from residential areas

Discussion ensued regarding:

- definitions for residential areas, frontage roads, residential collectors, and arterials;
- lighting and security for retail facilities in residential areas; and
- postponing this item until June 20, 2016, to allow staff time to modify Amendment No. 8.

(The Planning Commission made no changes to Amendment No. 9.)

Discussion ensued regarding security requirements for marijuana businesses.

10. Other changes recommended by staff

MOTION: Commissioner Vague moved to amend Amendment No. 10 to add "consistent with the security plan included in the state license" to MSB 17.60.160(D) to read: "the applicant shall provide a security plan consistent with the security plan included in the state license." The motion was seconded.

VOTE: The motion to amend Amendment No. 10 passed without objection.

MOTION: Commissioner Vague moved to postpone a decision on Resolution 16-22 until June 20, 2016, to allow staff to modify Amendment No. 8. The motion was seconded.

VOTE: The motion to postpone a decision on Resolution 16-22 until June 20, 2016, passed without objection.

[Clerks note: Resolution 16-22 was placed on the June 20, 2016, agenda under Unfinished Business.]

XI. CORRESPONDENCE AND INFORMATION

(There was no correspondence and information.)

XII. UNFINISHED BUSINESS

A. **Resolution 16-23**, recommending denial of an Ordinance amending MSB 17.55 to add Riparian Buffer Standards. *(Staff: Frankie Barker)*

MOTION: Commissioner Adams moved to approve Resolution 16-23. The motion was seconded.

Ms. Frankie Barker provided an overview of staff discussions regarding public notification options for this item including social media, borough website, and presentations to community councils.

Discussion ensued regarding:

- appropriate ways to notify the public on this subject;
- requesting staff initiate a public engagement process to ensure that affected property owners are given an opportunity to provide input; and
- providing a new ordinance for consideration after appropriate public review and input.

MOTION: Commissioner Adams moved a primary amendment to the “be it further resolved” statement by striking the word “and” before “direct staff”, replacing the word “initiate” with “develop”, and inserting “then, if deemed appropriate, provide a revised ordinance for further consideration” after “provide input” to read: “Be it further resolved, that the commission recommends the Borough Assembly extend the referral time to October, direct staff to develop a public engagement process to ensure affected property owners are given the opportunity to provide input, then, if deemed appropriate, provide a revised ordinance for further consideration.” The motion was seconded.

VOTE: The primary amendment passed without objection.

VOTE: The main motion passed as amended without objection.

XIII. NEW BUSINESS

(There was no new business.)

XIV. COMMISSION BUSINESS

A. Upcoming Planning Commission Agenda Items

(Commission Business was presented and no comments were noted.)

XV. DIRECTOR AND COMMISSIONER COMMENTS

Commissioner Vague thanked staff for an excellent job providing the commission with the information that they need.

Ms. Shannon Bodolay, Assistant District Attorney, introduced their summer intern, Ms. Sara Monotone, who is here from Oregon.

Chair Klapperich:

- acknowledged that there are still challenges in planning for the future of this community;
- would love to get closer to something that the entire borough can agree on;
- noted that the commission laments at every meeting about the lack of zoning and opined that zoning is not a four letter word, but something that smart people do;

- it used to be an attraction to come to the Valley with no zoning, but now people and businesses are hesitant to invest if they don't know where they are wanted and where they aren't; and
- encouraged the commission to work towards a solution.

Commissioner Rauchenstein opined that nobody likes the word "zoning" and suggested it was time to select a new term.

XVI. ADJOURNMENT

The regular meeting adjourned at 10:49 p.m.



JOHN KLAPPERICH, Planning Commission
Chair

ATTEST:



MARY BRODIGAN, Planning Commission
Clerk

Minutes approved: June 20, 2016