

The regular meeting of the Matanuska-Susitna Borough Planning Commission was held on January 7, 2019, at the Matanuska-Susitna Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6:04 p.m. by Chair Colleen Vague.

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

Planning Commission members present and establishing a quorum:

Ms. Mary Anderson, Assembly District #1
Ms. Patricia Chesbro, Assembly District #3
Ms. Colleen Vague, Assembly District #4, Chair
Mr. Chris Elder, Assembly District #5
Mr. Stafford Glashan, Assembly District #6
Mr. Sassan Mossanen, Assembly District #7

Planning Commission members absent and excused were:

Ms. Eileen Patterson, Assembly District #2

Staff in attendance:

Ms. Eileen Probasco, Planning & Land Use Director
Ms. Jessica Smith, Planning Services Manager
Ms. Shannon Bodolay, Assistant Borough Attorney
Ms. Susie Lemon, Assistant Borough Attorney
Mr. Mark Whisenhunt, Planner II
Mr. Joseph Metzger, Planner II
Mr. Christopher Cole, Planner II
Mr. Adam Bradway, Planner I
Ms. Mary Brodigan, Planning Commission Clerk

II. APPROVAL OF AGENDA

Chair Vague 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 Mr. Mark Whisenhunt, a member of Planning Staff.

IV. CONSENT AGENDA

A. Minutes

1. December 3, 2018, regular meeting minutes
2. December 17, 2018, regular meeting minutes

B. INTRODUCTION FOR PUBLIC HEARING: QUASI-JUDICIAL MATTERS

1. **Resolution PC 19-05**, a Conditional Use Permit (CUP) in accordance with MSB 17.60 – Conditional Uses; allowing the operation of a marijuana cultivation facility, located at 266 South McCallister Drive, Suite 1 (Tax ID# 7267B01L001A); within Township 17 North, Range 1 West, Section 7, Seward Meridian. Public Hearing: January 21, 2019. (*Applicant: James Hacker and Jana Weltzin, on behalf of Scorpion Grass, Staff: Mark Whisenhunt*)
2. **Resolution PC 19-06**, a Conditional Use Permit (CUP) in accordance with MSB 17.60 – Conditional Uses; allowing the operation of a marijuana retail facility, located at 266 South McCallister Drive, Suite 2 (Tax ID# 7267B01L001A); within Township 17 North, Range 1 West, Section 7, Seward Meridian. Public Hearing: January 21, 2019. (*Applicant: James Hacker and Jana Weltzin, on behalf of Scorpion Grass, Staff: Mark Whisenhunt*)

C. INTRODUCTION FOR PUBLIC HEARING: LEGISLATIVE MATTERS

1. **Resolution PC 19-07**, recommending the Assembly approve an update to the Boroughwide Comprehensive Development Plan. Public Hearing: January 21, 2019. (*Staff: Eileen Probasco and Jessica Smith*)

Chair Vague read the consent agenda into the record.

Chair Vague 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.

(The meeting recessed at 6:13 p.m., and reconvened at 6:17 p.m.)

IX. PUBLIC HEARING: QUASI-JUDICIAL MATTERS (*Public Hearings 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 PC 19-01**, a Conditional Use Permit (CUP) in accordance with MSB 17.60 – Conditional Uses; for the operation of a marijuana cultivation facility, located at 5650 North Cunningham Road; (Tax ID# 18N01E14C012); within Township 18 North, Range 1 East, Section 14, Seward Meridian. (*Applicant: Adam Boyd on behalf of Suilnua, LLC, Staff: Mark Whisenhunt*)

Chair Vague read the resolution title into the record.

Chair Vague:

- 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.

Commissioner Chesbro:

- stated that she knows the applicant, but does not know the business;
- the applicant was a student many years ago; and
- stated that she can be impartial in a decision.

Chair Vague ruled that there is no conflict of interest.

There was no objection noted.

Mr. Whisenhunt provided a staff report:

- staff recommended approval of the resolution with conditions.

Commissioners questioned staff regarding:

- confirmation that the facility will be fitted with carbon filters to remove marijuana odors as stated in the resolution; and
- clarification of which building documented on the survey on page 119 of the packet will house the application.

Chair Vague invited the applicant or their representative to provide an overview of their application.

Mr. Adam Boyd, Applicant, provided an overview of their application.

Commissioners questioned the applicant regarding the pronunciation and meaning of the business name.

Chair Vague opened the public hearing.

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

Chair Vague invited staff to respond to questions and statements from the audience.

Mr. Whisenhunt responded to questions and statements from members of the audience.

Chair Vague invited the applicant to respond to questions and statements from the audience.

Mr. Boyd stated that they had nothing further to add and would answer questions.

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

MOTION: Commissioner Anderson moved to approve Resolution PC 19-01. The motion was seconded.

Commissioners Anderson and Chesbro spoke in favor of Resolution PC 19-01.

VOTE: The main motion passed without objection.

B. Resolution PC 19-02, a modification to an existing Conditional Use Permit in accordance with MSB 17.60 – Conditional Uses; for the operation of a marijuana cultivation facility, located at 1044 S. Old Glenn Highway; (Tax ID# 17N02E11C017); within Township 17 North, Range 2 East, Section 11, Seward Meridian. (*Applicant: Phillip Izon dba KushTopia, Staff: Joseph Metzger*)

Chair Vague read the resolution title into the record.

Chair Vague:

- 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.

Mr. Metzger provided a staff report:

- staff recommended approval of the resolution with conditions.

Commissioners questioned staff regarding:

- whether the applicant is compliant with the initial CUP;
- clarification of fencing materials, location, and when the fence was constructed;
- was there discussion between staff and the applicant regarding the type of fence;
- are fences required in borough code for marijuana facilities;
- is the fence on page 239 of the packet part of the security plan; and

- whether the applicant should have come back before the PC prior to installing a different fence design.

Chair Vague invited the applicant or their representative to provide an overview of their application.

Mr. Phillip Izon, II , and Cynthia Izon, Applicants, provided an overview of their application.

Commissioners questioned the applicant regarding:

- whether borough staff approved a design change from an 10-foot chain link fence to a 6-foot wooden fence; and
- when was the fence installed.

Chair Vague opened the public hearing.

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

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

(The meeting recessed at 7:19 p.m., and reconvened at 7:30 p.m.)

MOTION: Commissioner Anderson moved to approve Resolution PC 19-02. The motion was seconded.

Discussion ensued regarding:

- the applicant modified the plans for the fence and installed it without going before the PC;
- the applicant agreed to a 10-foot chain link fence, but installed a 6-foot wooden fence;
- whether the applicant was notified by staff that they would need to modify their CUP before changing the design of the fence;
- viewing the public hearing as if it took place in December when the applicant wanted it; and
- whether staff told the applicant to not construct the fence.

MOTION: Commissioner Glashan moved a primary amendment to the BE IT FURTHER RESOLVED statement to add a sentence to Condition # 6 of Permit # 176020170009 to read: "The existing welded wire fence will be replaced with a 6-foot chain link as described in the application by September 30, 2019." The motion was seconded.

Commissioners Glashan and Anderson spoke in favor of the amendment.

VOTE: The primary amendment passed unanimously.

Commissioners Glashan spoke in favor of the resolution.

Commissioner Anderson stated her concerns that the process was not followed.

Ms. Smith pointed out that there are no fencing requirements for marijuana facilities in code.

Chair Vague opined that we don't really have a code if we don't follow the code.

VOTE: The main motion passed as amended without objection.

- C. **Resolution PC 19-03**, a Conditional Use Permit (CUP) in accordance with MSB 17.60 – Conditional Uses; for the operation of a marijuana retail facility, located at 1044 S. Old Glenn Highway; (Tax ID# 17N02E11C017); within Township 17 North, Range 2 East, Section 11, Seward Meridian. (*Applicant: Phillip Izon dba OutPost, LLC, Staff: Joseph Metzger*)

Chair Vague read the resolution title into the record.

Chair Vague:

- 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.

Mr. Metzger provided a staff report:

- questioned if everyone received and read the email from the applicant; and
- staff recommended approval of the resolution with conditions.

Commissioners questioned staff regarding:

- designations of the properties north and south of the proposed business as documented on page 227 of the packet;
- clarification of the driveway situation;
- how will the passing of Resolution PC 19-02 change this application;
- is the fence design up to the applicant;
- clarification of why the applicant proposes putting in a fence;
- clarification of setbacks for a marijuana retail facility; and
- will the state be willing to approve a driveway permit should the applicant agree to build a driveway for his neighbor.

Chair Vague invited the applicant or their representative to provide an overview of their application.

Mr. Phillip Izon, II, and Ms. Cynthia Izon, Applicants, provided an overview of their application.

Commissioners questioned the applicant regarding:

- clarification that the applicant will pay for the driveway even if the neighbor refuses to pay for his portion;
- does the applicant have the financial ability to pay for the full driveway;

- what is the applicant's preference with hours of operation; and
- clarification of which property has the shared driveway.

Chair Vague opened the public hearing.

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

Chair Vague invited the applicant to respond to questions and statements from the audience.

Mr. Izon stated that they had nothing further to add.

Chair Vague invited staff to respond to questions and statements from the audience.

Mr. Metzger responded to questions and statements from a member of the audience.

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

MOTION: Commissioner Anderson moved to approve Resolution PC 19-03. The motion was seconded.

MOTION: Commissioner Glashan moved a primary amendment to Condition # 4 to change the hours of operation from 8 a.m. until 5 a.m. to 8 a.m. until 12 a.m. The motion was seconded.

Commissioner Glashan spoke in favor of his amendment.

VOTE: The primary amendment passed without objection.

MOTION: Commissioner Anderson moved a primary amendment to Condition # 4 to replace "If measures are taken" with "the applicant shall" and to strike everything after "June 30, 2019," to read: "the applicant shall leave a gap in part of the fence so as not to interfere with the abutting landowner's vehicular access, the hours of operation are 8 a.m. until 12 a.m. daily. The above identified fence shall be constructed by June 30, 2019." The motion was seconded.

Commissioner Anderson spoke in favor of her amendment.

Commissioners Elder, Glashan, and Mossanen spoke regarding concerns with legal access.

VOTE: The primary amendment failed with Commissioners Vague, Chesbro, and Anderson in favor.

Discussion ensued regarding:

- concerns with approving the application without knowing what the access will be and what the fencing will be;
- the southern property not having access;

- the neighbor should build their own driveway; and
- whether there is a legal reason in borough and/or state code to change the closing hours from 5 a.m. to 12 a.m.

MOTION: Commissioner Chesbro moved a primary amendment to ensure that all references to the hours of operation in the resolution are 8 a.m. until 12 a.m. The motion was seconded.

Commissioners Elder and Mossanen stated their concerns with the hours being limited to midnight.

The primary amendment passed with Commissioner Glashan in opposition.

VOTE: The main motion passed as amended without objection.

(The meeting recessed at 8:51 p.m., and reconvened at 8:57 p.m.)

X. PUBLIC HEARING LEGISLATIVE MATTERS

A. **Resolution PC 19-04**, recommending Assembly approval of Boundary Changes to Community Councils within the Core Area, which include Tanaina Community Council, North Lakes, South Lakes, Gateway, Farm Loop, and the creation of the Greater Palmer Community Council Boundary. *(Staff: Christopher Cole)*

Chair Vague read the resolution title into the record.

Ms. Eileen Probasco provided a staff report:

- staff recommended approval of the resolution.

Commissioners questioned staff regarding:

- will expanding the community council boundaries automatically expand the boundaries for comp plans or will that be a separate public process;
- clarification of the Tanaina Community Council boundary; and
- whether the people being absorbed into a community council have had an opportunity to weigh in.

Chair Vague opened the public hearing.

The following persons spoke in opposition of Resolution PC 19-04: Mr. Brian Endle.

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

Chair Vague invited staff to respond to questions and statements from the audience.

Ms. Probasco had nothing further to add.

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

MOTION: Commissioner Anderson moved to approve Resolution PC 19-04. The motion was seconded.

Discussion ensued regarding:

- acknowledgement that there are a lot of people that don't want any government involvement;
- will boundary changes assist with obtaining federalized dollars;
- how will boundary changes improve census numbers;
- concerns with incorporating a heavily dense area into a less dense area;
- does the commission have the ability to change the boundaries for the Participant Statistical Areas Program (PSAP) without making changes to the community council boundaries;
- how difficult will it be to notify the people that are being moved that they may now be in a community council that has a comprehensive plan;
- wouldn't it be better for the borough to communicate directly with the public rather than rely on a community council to provide information;
- sending out a borough-wide mailing with a fact sheet explaining what is being proposed and why, and how citizens will be impacted;
- hosting open houses; and
- why are these changes necessary.

MOTION: Commissioner Anderson moved to postpone Resolution PC 19-04 to June 3, 2019, to allow for open houses. The motion was seconded.

VOTE: The motion to postpone passed without objection.

VOTE: The main motion passed without objection.

XI. CORRESPONDENCE AND INFORMATION

(There was no correspondence and information.)

XII. UNFINISHED BUSINESS

(There was no unfinished business.)

XIII. NEW BUSINESS

(There was no new business.)

XIV. COMMISSION BUSINESS

A. Discussion of MSB 15.08.150, Conflict of Interest; Ex Parte Contact

Ms. Bodolay provided the Planning Commission with a reminder to avoid ex parte contacts.

B. Election of Planning Commission Chair and Vice Chair

MOTION: Commissioner Anderson moved to nominate Commissioner Vague as Chair . The motion was seconded.

VOTE: The motion passed without objection.

Motion: Commissioner Glashan moved to nominate Commissioner Anderson as Vice Chair. The motion was seconded.

VOTE: The motion passed without objection.

C. Upcoming Planning Commission Agenda Items

Ms. Smith provided a brief update on projects that will be coming before the Planning Commission.

XV. DIRECTOR AND COMMISSIONER COMMENTS

Commissioner Vague:

- stated that tonight is Ms. Smith's last commission meeting;
- she is moving out of state and on to bigger things;
- Jessica has been a great participant and asset to the Planning Commission and to the borough; and
- thanked her for all of her time and effort.

Ms. Smith stated that it has been an honor to work for the Planning Commission.

Commissioner Elder thanked Ms. Smith for everything.

Commissioner Mossanen:

- thanked Ms. Smith for all of her hard work and wished her a lot of luck and success;
- stated that he has often wondered what safety procedures the borough has in place to protect commissioners and people who attend the meetings;
- would also like to know what privileges he can afford to protect himself;
- noted that there are often instances where applicants don't get what they want and they are clearly frustrated;
- there are examples of other folks who have taken aggressive positions towards decisions that have been made; and
- requested that staff let the commission know what is in place and what is not.

Commissioner Glashan made a humorous comment about Ms. Smith.

Commissioner Chesbro:

- stated that the commission will miss Ms. Smith and is sorry that she is leaving;
- acknowledged that Orlando will probably be warmer;
- thanked the commission noting that they had a lot to digest and work through tonight;

- appreciates commissioners willingness to stand up and say what they think and still work together; and
- said good bye to Jessica.

Commissioner Anderson:

- thanked staff for all of their hard work;
- acknowledged that it doesn't always seem like the commission appreciates staff, but they do;
- stated that she asks lots of questions and appreciates the information;
- wished Ms. Smith good luck opining that whoever has hired her has hired an amazing staff person;
- they will benefit and we will feel her loss;
- thanked fellow commissioners for working through the issues tonight;
- every time we have a good healthy debate, we tend to come up with a good product; and
- hopes that everyone continues with their thoughtful responses.

Chair Vague:

- stated that she works closely with the clerk and they converse frequently throughout the meeting especially when it comes to technicalities and the rules;
- acknowledged that she appreciates Ms. Brodigan and appreciates her amazing supervisors that help her out when difficult questions arise;
- stated that she is sad for the commission, but happy for Ms. Smith;
- opined that she has great things ahead of her; and
- appreciates all of her help and acknowledged that it doesn't feel like she has been here as long as she has because it has been so much fun.

XVI. ADJOURNMENT

The regular meeting adjourned at 9:59 p.m.



COLLEEN VAGUE, Planning Commission
Chair

ATTEST:



MARY BRODIGAN, Planning Commission
Clerk

Minutes approved: January 21, 2019