Submitted by: Chair of the Assembly at the Request of the Mayor
Prepared by: Municipal Clerk's Office and Planning Department
For reading: March 10, 2020

ANCHORAGE, ALASKA
AR No. 2020-70

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING A MARIJUANA LICENSE AND SPECIAL LAND USE PERMIT FOR TOP SHELF HERBS OF ALASKA, LLC, A MARIJUANA RETAIL SALES ESTABLISHMENT WITH LICENSE NUMBER M22150, DOING BUSINESS AS TOP SHELF HERBS OF ALASKA, LLC, AND LOCATED AT 901 PHOTO AVENUE.

(Spenard Community Council) (Case 2020-0027)

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. The approvals in sections 2 and 3 of this resolution are for Top Shelf Herbs of Alaska, LLC a marijuana retail sales establishment with municipal license number M22150, doing business as Top Shelf Herbs of Alaska, LLC, located at 901 Photo Avenue, in the B-3 district, within Lot 12, Block 3, Frank Dickson Subdivision; generally located Northwest of the intersection of Photo Avenue and North Star Street, in Anchorage.

Section 2. The application submitted for the requested marijuana establishment license generally meets the applicable provisions of Anchorage Municipal Code (AMC) chapter 10.80. A retail marijuana store license is hereby approved for Top Shelf Herbs of Alaska, LLC, subject to the following conditions pursuant to AMC section 10.80.015:

1. The licensee and his/her agents and employees shall conform to the narrative submitted with the license/special land use permit application, as modified by this resolution, and with all applicable portions of Anchorage Municipal Code.

2. All licensees, employees, and agents of the marijuana establishment who sell, cultivate, manufacture, test, or transport marijuana or marijuana product, or who check the identification of a consumer or visitor, shall obtain a marijuana handler permit from the Alaska Marijuana Control Board (AMCO). The marijuana handler permit shall be kept in the holder's immediate possession or a valid copy shall be kept on the premises of the marijuana establishment at all times.

Section 3. The application submitted for the requested special land use permit for marijuana generally meets the applicable provisions of AMC section 21.03.105 and AMC section 21.05.055. A special land use permit for a marijuana retail sales establishment is hereby approved for Top Shelf Herbs of Alaska, LLC, subject to

the following conditions pursuant to AMC subsection 21.03.020M.:

1. All uses shall conform to the plans and narrative submitted with the license/special land use permit application, as modified by this resolution, and with all applicable portions of Anchorage Municipal Code, and may be modified in accordance with AMC subsection 21.03.105C.9.

2. A notice of zoning action shall be filed with the State of Alaska Recorder's Office before operation of the establishment.

3. The establishment shall be open for inspection and examination by the municipality during municipal business hours and establishment business hours.

4. The premises shall be ventilated so that the odor of marijuana cannot be detected at any lot line by a person with a normal sense of smell. Violation could lead to a requirement to increase air filtering and/or change the ventilation location in the establishment.

5. The Conditions Certificate, issued by the Planning Department and containing conditions imposed by the Assembly on this special land use permit, shall be displayed in a visible location near the main entrance at all times.

6. The retail sales establishment shall be closed to the public between midnight and 8:00 a.m. each day.

7. Submit to Planning, the current site plan submitted under building permit #C19-2047.

Section 4. The conditions contained in this resolution shall be met and shall be verified by inspection before the marijuana establishment can begin operations.

Section 5. Failure to comply with the conditions of this license and special land use permit and the applicable provisions of Anchorage Municipal Code shall constitute grounds for modification or revocation of the license and/or the special land use permit.

Section 6. The marijuana license approved in section 2 above expires on August 31, 2020. An application to renew the marijuana license may be submitted in accordance with AMC section 10.80.036. The special land use permit for marijuana approved in section 3 above is valid until it expires in accordance with AMC subsection 21.03.105C.10.

Section 7. In accordance with AMC subsection 10.80.061B., the Municipal Clerk

shall, upon approval of this municipal marijuana establishment license and fulfillment of the conditions in Section 2 and verification pursuant to Section 4, provide written notification to the AMCO that the protest is lifted.

Section 8. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2020.

_____
Chair of the Assembly

ATTEST:

_____
Municipal Clerk

MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 139-2020

Meeting Date: March 10, 2020

From: **MAYOR**

Subject: **A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVING A MARIJUANA LICENSE AND SPECIAL LAND USE PERMIT FOR TOP SHELF HERBS OF ALASKA, LLC, A MARIJUANA RETAIL SALES ESTABLISHMENT WITH LICENSE NUMBER M22150, DOING BUSINESS AS TOP SHELF HERBS OF ALASKA, LLC, AND LOCATED AT 901 PHOTO AVENUE.**

Top Shelf Herbs of Alaska, LLC has applied for a retail sales establishment license and special land use permit. The facility is proposed to be located at 901 Photo Avenue in the Spenard Community Council.

The applicant has successfully completed their public notice requirements, and on January 17, 2020, the Planning Department mailed 322 public hearing notices to residents and property owners within 500 feet of the site of the proposed facility. As of this writing, no responses have been received.

The Municipal Clerk's office and the Planning Department have reviewed the application against the requirements of Anchorage Municipal Code (AMC) chapter 10.80, AMC section 21.03.105, and AMC section 21.05.055 and considered any comments received from various reviewing agencies, the community council, and the public. Staff has determined that the applicant is generally in compliance with municipal code, with the conditions recommended in the Assembly Resolution.

THE ADMINISTRATION RECOMMENDS APPROVAL.

Prepared by:	Ryan Yelle, Senior Planner, Planning Department
Approved by:	Michelle J. McNulty, AICP, Director, Planning Department
Concur:	Christopher M. Schutte, Director Office of Economic and Community Development
Concur:	Kathryn R. Vogel, Municipal Attorney
Concur:	William D. Falsey, Municipal Manager
Respectfully submitted:	Ethan A. Berkowitz, Mayor

PLANNING DEPARTMENT
STAFF ANALYSIS
SPECIAL LAND USE PERMIT FOR MARIJUANA

Date: March 10, 2020

Case Number: 2020-0027

Applicant: Top Herbs of Alaska, LLC
SOA License Number: M22150

Request: Special land use permit for a marijuana retail sales establishment

Site Address: 901 Photo Avenue
Legal Description: Lot, 12, Block 3, Frank Dickson Subdivision
Parcel ID Number: 010-014-33

Community Council: Spenard

Attachments:
1. Maps
2. Application
3. Reviewing Agency and Public Comments
4. Posting Affidavit

Recommendation Summary: Approval with conditions

Site Information

Size:	6,250ft^2	Topography:	Flat
Zoning:	B-3	Utilities:	Public sewer and water

Surrounding Area

	NORTH	EAST	SOUTH	WEST
Zoning:	B-3 General Business	B-3 General Business	R-3 Mixed Residential	B-3 General Business

Comprehensive Plan

Classification: "Main Street Corridor" per the *2040 Anchorage Land Use Plan*, Land Use Plan Map

Site Description and Proposal

This is a request for a special land use permit for a marijuana retail sales establishment within a B-3 district. The site is located northwest of the

intersection of Photo Avenue and North Star Street. The proposed establishment will be located within an existing commercial structure. Approximately 1,008ft² of available building space will be dedicated to marijuana retail. This retail sales establishment will be open seven days a week, from 8:00am until midnight.

Public and Agency Comments

On January 17, 2020 the Planning Department mailed 322 public hearing notices in accordance with AMC 21.03.020H. As of this writing, no responses have been received. Public hearing notices were also mailed to the Spenard Community Council, and the Midtown Community Council. No comments from either community council have been received.

Approval Criteria (AMC 21.03.105C.7.)
The assembly may approve a special land use permit for marijuana if, in the judgment of the assembly, the application meets the following approval criteria.

a. The proposed use is consistent with the comprehensive plan, all applicable provisions of this title, and applicable state regulations.

The *2040 Anchorage Land Use Plan* defines this site as "Main Street Corridor." The proposed use of this site as a marijuana retail sales establishment is consistent with its classification in the *Anchorage 2040 Land Use Plan*, and its current B-3 (General Business) zoning designation.

This site is compliant with AMC 21.06.020, *Table 21.06-2: Table of Dimensional Standards – Commercial and Industrial Districts*. The existing structure is placed in a conforming location within a conforming lot.

The vehicular circulation area is not expanding by either the greater of 10 parking spaces, or 10 percent of the existing area. Thus, dedicated snow storage area is not required per AMC 21.07.040F.4. *Snow Storage Areas on New Development Sites*.

The applicant has established nonconforming rights for the lack of a pedestrian connection to an abutting right-of-way. Thus, this site is considered compliant with AMC 21.07.060E.4. *On-Site Pedestrian Connections*.

The applicant has established nonconforming rights for the lack of parking lot perimeter and site perimeter landscaping as required by AMC 21.07.080 *Landscaping, Screening, and Fences*. Thus, this standard is considered met.

Adequate parking on-site is provided per AMC 21.07.090E, *Table 21.07-4: Off-Street Parking Spaces Required.* The gross floor area of the building is approximately 3,400ft^2. Considering all current and planned uses on-site, the total parking requirement is to provide 10 parking spaces. A total of 14 parking spaces are provided on-site.

In accordance with AMC 21.07.090H.8. *Vehicular Access and Circulation*, the standard is met. Compliant vehicle turning and maneuvering space is provided on-site.

In accordance with AMC 21.07.090J, Table 21.07-8: *Accessible Parking Spaces* the standard is met. A parking lot providing 14 parking spaces is required to provide one van-accessible parking space. The development of one van-accessible parking space is shown on the submitted site plan.

The site plan shall be considered compliant with the standards of AMC 21.07.090J.9. *Accessible Routes.* An accessible route from the accessible parking space to the front door of the establishment is provided.

b. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04.

There are no applicable district-specific standards for the B-3 district regarding this use.

The purpose of the B-3 district is:

> *"The B-3 district is intended primarily for general commercial uses in commercial centers and areas exposed to heavy traffic. These commercial uses are intended to be located on arterials, or within commercial centers of town, and to be provided with adequate public services and facilities. They are subject to the public view and should provide an attractive appearance with landscaping, sufficient parking, and controlled traffic movement. Environmental impacts should be minimized. Abutting residential areas should be protected from potentially negative impacts associated with commercial activity. While B3 district areas shall continue to meet the need for auto-related and other auto-oriented uses, it is the municipality's intent that the B-3 district also shall provide for safe and convenient personal mobility in other forms. Planning and design shall accommodate pedestrians and bicyclists. In addition to a wide range of commercial office, retail and commercial services, other*

use categories such as residential and community uses, and mixed-use projects, are allowed."

c. The proposed use is consistent with applicable use-specific standards set forth in chapter 21.05

See attached code compliance checklist.

d. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, and operating characteristics (e.g., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

Compatibility is defined in AMC 21.14 as:

> *"The characteristics of different uses, activities, or designs which allow them to be located near or next to each other in harmony. Some elements affecting compatibility include the height, scale, mass, bulk, and setbacks of structures. Other characteristics include traffic, parking, access and circulation, landscaping and buffering, drainage and storm water runoff, exterior lighting, dust, noise, hours of operation, and demand on public facilities and services. Compatible does not necessarily mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of the surrounding context and avoiding adverse impacts on neighboring uses."*

This marijuana retail sales establishment will be located within a highly-visible and well-traveled commercial corridor fronting Benson Boulevard. The existing building was originally constructed in 1983 to serve various commercial uses. Other commercial uses neighbor the petition site to the north, west, and east, with mixed-residential uses located to the south. The proposed establishment will occupy the ground floor, encompassing approximately 1,008ft^2 of floor space. The lot totals 6,250ft^2. Daily hours of operation will be 8:00am-midnight, seven days a week. The proposed hours of operation may extend beyond those of neighboring businesses.

e. The proposed use is appropriately located with respect to existing and/or planned water supply, power supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.

The site is served by public water and sewer.

The site is located within the Anchorage Roads and Drainage Service Area, the Building Service Area, and the Police and Fire Service Areas.

Fixed-route public transportation is available on 15-minute headways within one-quarter mile of the petition site via route 10.

f. Any significant adverse impacts anticipated to result from the use can and will be mitigated or offset to the maximum extent feasible.

This proposed marijuana retail sales establishment will be located within an existing building that has served various commercial uses within the past few decades. The surrounding land uses are zoned B-3 (General Commercial) and R-3 (Mixed Residential). The petition site has direct access to Photo Avenue and North Star Street. Both Photo Avenue and North Star Street are classified as "Local Streets" in this area under the *2014 Official Streets and Highways Plan*; seeing less than 2,000 vehicle trips daily. Additionally, the applicant has provided both a security and waste disposal plan in accordance with the requirements of AMC 21.03.105C.3.a. It does not appear that this retail sales establishment will cause significant adverse impacts to traffic flow, or neighboring residences and businesses.

g. The owner/operator of the establishment has no previous denials or revocations of a marijuana license or special land use permit, or previous documented violations of municipal or state law/regulation relating to marijuana establishments. Alternately, the owner/operator has provided sufficient evidence of rehabilitation to the assembly.

The owner and/or operator of this establishment has no previous denials or revocations of a marijuana license or special land use permit.

h. The owner/operator of a marijuana retail establishment has meaningfully engaged in neighborhood responsibility planning with residents and other neighborhood businesses to mitigate concerns such as odor, parking, and security. Neighborhood responsibility planning guidelines may be included in AMC chapter 2.40.

As part of their application, the petitioner has submitted a memorandum of understanding (MOU) which was entered into with the Spenard Community Council on December 20, 2019.

Additional Considerations

There appear to be differences between the site plan submitted under building permit #C19-2047 and this special land use permit application. The applicant

shall provide the current site plan to the Planning Department and Development Services as a condition of approval.

Recommendation

The Planning Department recommends APPROVAL subject to the following conditions:

1. All uses shall conform to the plans and narrative submitted with the license/special land use permit application and with all applicable portions of Anchorage Municipal Code, and may be modified in accordance with AMC 21.03.105C.9.

2. A notice of zoning action shall be filed with the State of Alaska Recorder's Office before operation of the establishment.

3. The establishment shall be open for inspection and examination by the municipality during municipal business hours and establishment business hours.

4. The premises shall be ventilated so that the odor of marijuana cannot be detected at the lot line by a person with a normal sense of smell. Violation could lead to a requirement to increase air filtering and/or change the ventilation location in the establishment.

5. The Conditions Certificate, issued by the Planning Department and containing conditions imposed by the Assembly on this special land use permit, shall be displayed in a visible location near the main entrance at all times.

6. The retail sales establishment shall be closed to the public between midnight and 8:00 a.m. each day.

7. Submit to Planning, the current site plan submitted under building permit #C19-2047.

Advisory Comment:
A Health Permit, issued by the Anchorage Health Department is required prior to beginning operations.

Ryan Yelle, Senior Planner

Michelle J. McNulty, AICP, Director

Parcel ID No. 010-014-33

Municipality of Anchorage, Planning Department
Code Compliance Checklist
Commercial Marijuana Establishment Application

Applicant: Top Shelf Herbs of Alaska, LLC
Establishment Type: Retail

Case #: 2020-0027/**License #:** M22150
Date: March 10, 2020

Address: 901 Photo Avenue
Zoning District: B-3

Parcel ID #: 010-014-33
Community Council: Spenard

Municipal application is in concurrence with state application? ☑Yes ☐No

Code Citation and Topic	Compliance Information	Complies	Recommended Condition
21.03.105C.2. Required Community Meeting, including notice and meeting summary		☑Yes ☐No	
21.03.105C.3. Required Submittals		☑Yes ☐No	
21.03.105C.4. Required public notice for Assembly public hearing: mailed, published, posted, community council		☑Yes ☐No	
21.03.105C.5. Report of all marijuana licenses located within 1,000 feet of subject property	See below.	N/A	
21.05.055A.2. Separation from Protected Land Uses	The closest protected land use is a Correctional Community Residential Center, located approximately 665 feet to the east of the petition site.	☑Yes ☐No	
21.05.055A.3. Prohibited with Alcohol License		☑Yes ☐No	
21.05.055A.4. Prohibited with Residential		☑Yes ☐No	

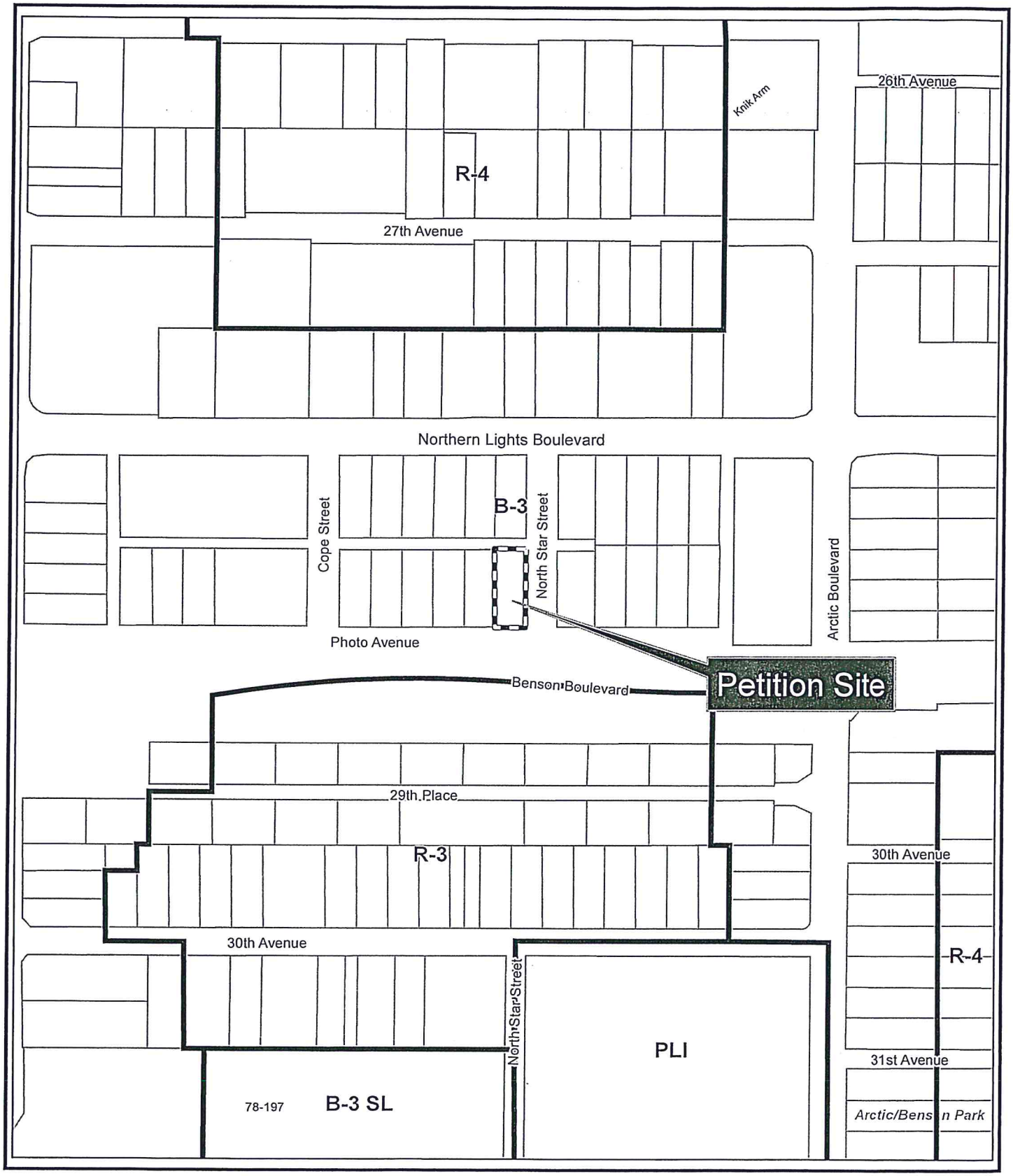
Code Citation and Topic	Compliance Information	Complies	Recommended Condition
21.05.055A.5. Inspection of Premises	Ongoing requirement	N/A	The establishment shall be open for inspection and examination by the municipality during municipal business hours and establishment business hours.
21.05.055A.6. Ventilation	Ongoing requirement	N/A	The premises shall be ventilated so that the odor of marijuana cannot be detected at the lot line by a person with a normal sense of smell. Violation could lead to a requirement to increase air filtering and/or change the ventilation location in the establishment.
21.05.055A.7. Public Display of Conditions	Ongoing requirement	N/A	The Conditions Certificate, issued by the Planning Department and containing conditions imposed by the Assembly on this special land use permit, shall be displayed in a visible location near the main entrance.
21.05.055A.8. Permanent Structure		☑Yes ☐No	
21.05.055A.9. Signs		☑Yes ☐No	
For Retail Sales Establishments			
21.05.055.B.4.b.i. Required to be closed between midnight and 8 a.m.		☑Yes ☐No	The retail sales establishment shall be closed to the public between midnight and 8:00 a.m. each day.
21.05.055B.4.b.ii. No drive-through		☑Yes ☐No	
21.05.055B.4.b.iii. No outdoor storage or display of products		☑Yes ☐No	
21.05.055B.4.b.v. Neighborhood responsibility planning		☑Yes ☐No	

Marijuana Licenses Within 1,000 Feet of Subject Property

Establishment Name	Type	MOA License Number	Address
Dankorage, LLC	Retail	M10306	2812 Spenard Rd.
Alaska Cannabis Exchange	Retail	M12437	2906 Spenard Rd.
Momo's Bakery	Manufacturing	M10903	2917 Spenard Rd.

Maps

2020-0027

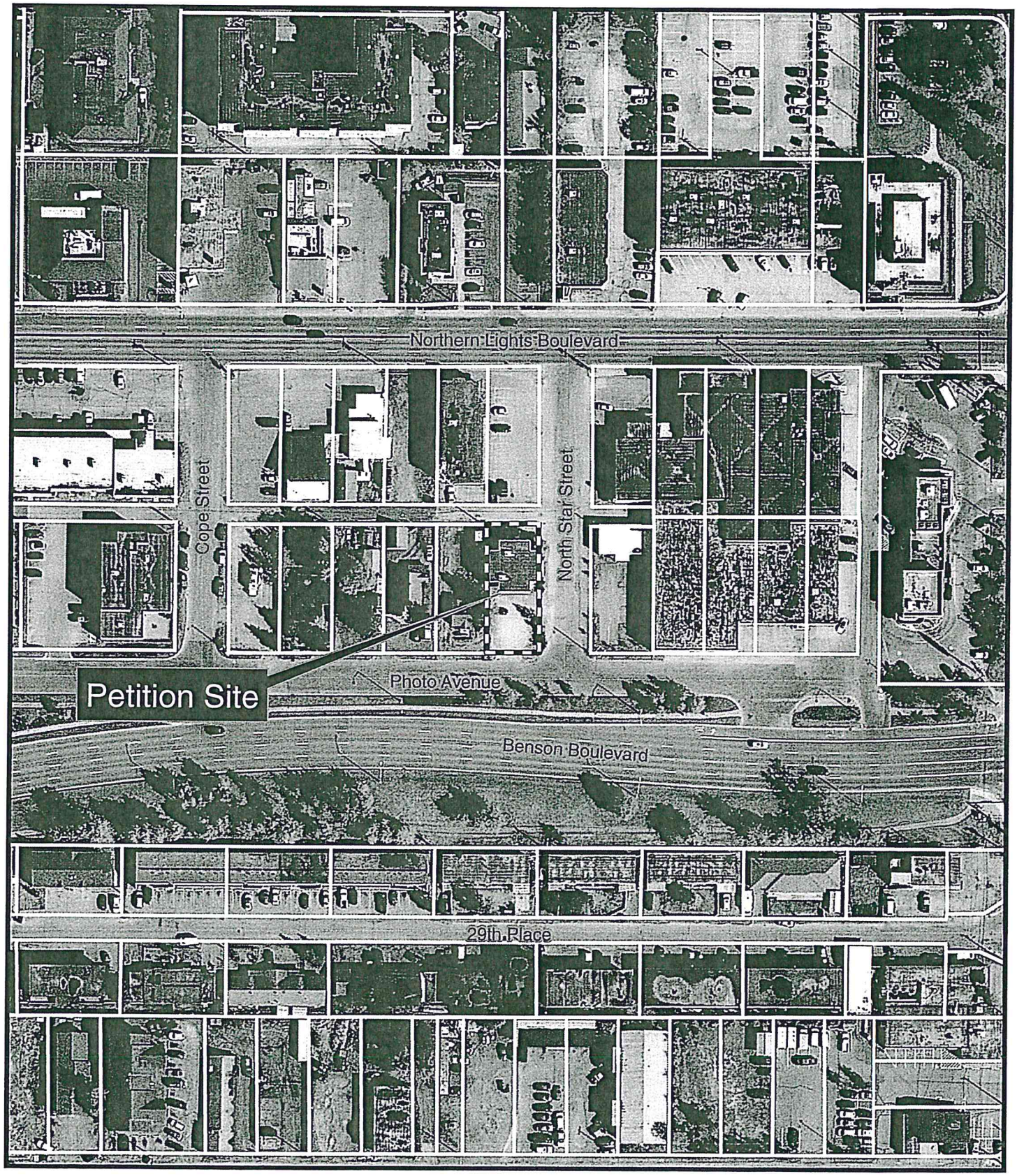


Municipality of Anchorage
Planning Department

Date: January 07, 2020

N

2020-0027



Municipality of Anchorage
Planning Department
Date: January 07, 2020

N

Application

Application for License and Special Land Use Permit for Marijuana

Municipality of Anchorage
Clerk's Office/Planning Department
PO Box 196650
Anchorage, AK 99519-6650

APPLICANT

Name of Authorized Applicant (see 3 AAC 306.020(d)) (Last, First, MI):
Leimbach, Chism , Cassanova

Home Physical Address: 38150 Rochelle Ave Chugiak, AK 99567	Home Mailing Address: 38150 Rochelle Ave Chugiak, AK 99567
Contact Phone – Day: 864-363-7238 Evening: Fax:	Business Mailing Address: 901 Photo Avenue Anchorage, AK 99503
E-mail (required): chismleimbach@yahoo.com	

TYPE OF MARIJUANA ESTABLISHMENT PROPOSED

☐ Cultivation Facility (including Limited Cultivation Facility)
☐ Manufacturing Facility (including Concentrate Manufacturing Facility)
☐ Testing Facility
☒ Retail Sales Establishment

Business Owner Name: Chism Leimbach

Doing Business As Name: Top Shelf Herbs of Alaska, LLC

State of Alaska Marijuana Control Board License Number: 22150

Other marijuana licenses applied for or approved on the property?
N/A

PROPERTY INFORMATION

Property Tax # (000-000-00-000): 010-014-33-000

Site Street Address: 901 Photo Avenue Anchorage, Ak 99503

Current Legal Description: (use additional sheet if necessary)
Lot 12, Block 3, Frank Dickson Sudivision

Zoning District: B-3	Lot Size: 6,250	Grid #:
Any dwelling units on the property? ____Yes __X__ No	Any liquor licenses on the property? ____Yes __X__ No	

FACILITY OPERATIONAL INFORMATION

What is the licensed premises area in square feet? 1008 sq ft

What will be the business days and hours of operation? Sun-Sat 8am-12am

Accepted by	Poster & Affidavit	Fee	Case Number	Requested Meeting Date	License Number
			2020-0027		22150

APPLICATION REQUIREMENTS

1 copy required:
- ☒ Signed/notarized application (original)
- ☒ Property owner letter of authorization (with original signature)

17 copies required:
- ☒ Signed/notarized application (copies)
- ☒ Criminal justice information and records as required by AMC 10.80.056
- ☒ Summary of community meeting/community meeting mailer
- ☒ Project narrative explaining the proposal, with an analysis of how the proposal meets the special land use permit for marijuana approval criteria set forth below

For all marijuana establishments (AMC 21.03.105C.3.a.):
- ☒ Site plan(s) to scale depicting, with dimensions:
  - ◇ building footprint ◇ parking areas ◇ vehicle circulation and driveways ◇ loading facilities
  - ◇ landscaping ◇ pedestrian facilities ◇ required open space ◇ fences ◇ lighting
  - ◇ snow storage area or alternative strategy ◇ trash receptacle location and screening detail
  - ◇ freestanding sign location(s)
- ☒ Security plan indicating how the applicant will comply with the requirements of municipal and state law and regulation
- ☒ Waste disposal plan

For marijuana cultivation facilities (AMC 21.03.105C.3.b.):
- ○ Plan that specifies the methods to be used to prevent the growth of harmful mold
- ○ Projected amount of water that will be used
- ○ Projected amount of wastewater that will be discharged
- ○ Letter from the applicable electric utility stating that power capacity at the proposed location is sufficient for the intended use
- ○ Odor control plan indicating how the applicant will comply with the requirements of municipal and state law and regulation
- ○ Information on moisture and temperature controlled storage (AMC 10.80.535C.)

For marijuana manufacturing facilities (AMC 21.03.105C.3.c.):
- ○ Description of the type of products to be processed and the equipment to be used, including a list of any solvents, gases, chemicals, or other compounds that will be used, kept, or created at the manufacturing facility, the location of such materials, and how such materials will be stored
- ○ Certification of an industrial hygienist or professional engineer, as required in AMC subsection 21.05.055B.2.
- ○ Projected amount of water that will be used
- ○ Projected amount of wastewater that will be discharged

For marijuana retail sales establishments (AMC 21.03.105C.3.d.):
- ○ Neighborhood responsibility planning MOU or community engagement report, as required in AMC subsection 21.05.055B.4.

(Additional information may be required)

RECENT REGULATORY INFORMATION (Events that have occurred in the last 5 years for all or a portion of the site)

☐ Building or Land Use Permit for:

☐ Land Use Enforcement Action for:

☐ Nonconforming Determination requested for property? ☒ Yes ☐ No Please See attached Appendix A

MARIJUANA ESTABLISHMENTS NEAR PETITION SITE

Locate and provide the name and address of all licensed marijuana establishments within 1,000 feet of the petition site. (use additional sheet if necessary)

Name:	Address:

SPECIAL LAND USE PERMIT FOR MARIJUANA APPROVAL CRITERIA (AMC 21.03.105C.7.)

The assembly may only approve a special land use permit for marijuana if, in the judgment of the assembly, the application meets the following approval criteria. Each criterion must have a response in as much detail as it takes to explain how the project satisfies the criterion. The burden of proof rests with the applicant. (In the B-2A, B-2B, and B-2C districts, please contact the Planning Department as the approval criteria are different.)

1. The proposed use is consistent with the comprehensive plan, all applicable provisions of this title [Title 21], and applicable state regulations.

2. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04.

3. The proposed use is consistent with applicable use-specific standards set forth in chapter 21.05.

4. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, operating characteristics (e.g., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

5. The proposed use is appropriately located with respect to existing and/or planned water supply, power supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.

6. Any significant adverse impacts anticipated to result from the use can and will be mitigated or offset to the maximum extent feasible.

7. The owner/operator of the establishment has no previous denials or revocations of a marijuana license or special land use permit, or previous documented violations of municipal or state law/regulation relating to marijuana establishments. Alternatively, the owner/operator has provided sufficient evidence of rehabilitation to the assembly.

8. The owner/operator of a marijuana retail establishment has meaningfully engaged in neighborhood responsibility planning with residents and other neighborhood businesses to mitigate concerns such as odor, parking, and security. Neighborhood responsibility planning guidelines may be included in AMC chapter 2.40.

SWORN STATEMENT LISTING ALL CRIMINAL CONVICTIONS, NOTWITHSTANDING THE FORM OF JUDGMENT AND INCLUDING WITHHELD JUDGMENTS, DEFERRED JUDGMENTS, AND BOND FORFEITURES, AGAINST EVERY OWNER AND MANAGER OF ANY OFFENSE OTHER THAN TRAFFIC INFRACTIONS FOR THE FIVE YEARS PRECEDING THE APPLICATION DATE, AS REQUIRED BY AMC 10.80.021A

I, the applicant, hereby swear that the following is a complete list of all such convictions for each proposed owner and manager of the proposed establishment. Chism Leimbach - AS11.71050(a)(1): MICS4 Make/Deliv/Poss w/int <1oz VIA (Class A Misdemeanor), Entered guilty plea on 4/17/2018, Conviction set aside after SIS on 04/17/2019.

(use additional sheet if necessary)

OTHER LICENSEES AND AFFILIATES (3 AAC 306.020)

List all other licensees and affiliates with their physical home addresses. (use additional sheet if necessary)

Last, First, MI:	Address:
Fazio, Mark	8526 South Ben Hur Dr., Unit 2, Palmer, AK 99645

(initial) I hereby certify that I am owner of the property described above, or that I have permission from the owner to use the property described above, and that I am applying for a municipal license and special land use permit for marijuana in conformance with Title 10 and Title 21 of the Anchorage Municipal Code. My establishment will remain in conformance with municipal code at all times.

(initial) If I am applying for a license for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana retail sales establishment, I swear that neither I nor any proposed licensee (as defined in 3 AAC 306.020(b)(2)), agent, or employee of the proposed licensee, have any ownership or financial interest in any marijuana testing facility. If I am applying for a license for a marijuana testing facility, I swear that neither I nor any proposed licensee, agent, or employee of the proposed licensee, have any ownership or financial interest in any marijuana cultivation facility, marijuana manufacturing facility, or marijuana retail sales establishment.

(initial) I hereby swear that no proposed licensee (as defined in 3 AAC 306.020(b)(2)) owes past-due taxes (property, business personal property, or other), fees (utility or other), or fines (traffic, library, trash, or other) to the municipality.

(initial) In accordance with AMC 10.80.056, I will immediately provide the Municipal Clerk with any communication from the state Marijuana Control Board disclosing the substance of information received by the Board as a result of a criminal history record check.

(initial) I understand municipal code requirements regarding separation distance from protected land uses, and I attest that to the best of my knowledge, the proposed premises meets the separation requirements of Title 21 of the Anchorage Municipal Code.

(initial) I acknowledge that the Assembly may deny my application for a special land use permit for marijuana if it determines that my application does not meet the criteria listed in AMC 21.03.105C.7., and that the Assembly may deny my application for a marijuana establishment license for any of the reasons listed in AMC 10.80.080.

(initial) I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the license or special land use permit. I also understand that assigned hearing dates are tentative and may have to be postponed by the Planning Department, Municipal Clerk, or the Assembly, for administrative reasons or to meet legal requirements regarding notice and public hearings.

State of Alaska
Third Judicial District

I Chism Leimbach, being duly sworn, deposes and says that he/she is the individual making the foregoing application and is the authorized agent for this business; acknowledges that a person other than the proposed licensee(s) may not have a direct or indirect financial interest in the business being issued the license per AMC 10.80.015A.; **and affirms that the answers to the questions, the sworn statements regarding (1) listing all criminal convictions and (2) past due taxes, fines, and fees, and all other information contained in this application are true and complete to his/her knowledge.**

Subscribed and sworn before me this 20th day of Dec, 2019.

Signature of Applicant

NOTARY PUBLIC
K. SAETERN
STATE OF ALASKA
MY COMMISSION EXPIRES May 18, 2023

Notary Public

My commission expires: 05/18/23

Under AMC 8.30.170, a person commits the crime of unsworn falsification if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement that the person does not believe to be true (1) in an application for a benefit; or (2) on a form bearing notice, authorized by law, that false statements made in it are punishable. Unsworn falsification is a class A misdemeanor.

Owner Permission Letter for Use and Occupancy of Premises

City of Anchorage
Planning and Zoning Commission
4700 Elmore Road
Anchorage, AK 99507

Date: October 29, 2019

Re: Top Shelf Herbs of Alaska, LLC DBA: Top Shelf Herbs of Alaska, LLC – 901 Photo Ave, Suite A, Anchorage, AK 99503

Dear Zoning Office,

Bullseye Investments, Inc. hereby grants permission for Top Shelf Herbs of Alaska, LLC, doing business as Top Shelf Herbs of Alaska, LLC to lease and use my property located at 901 Photo Ave, Suite A, Anchorage, AK 99503 as a marijuana retail establishment. I am aware that Top Shelf Herbs of Alaska, LLC will be selling marijuana and marijuana products on this property once a license is granted by the Alcohol & Marijuana Control Board and once the special land use permit is approved by the Anchorage Assembly.

If you have any questions regarding this correspondence, please feel free to contact me.

Sincerely,

Bullseye Investments, Inc.
As:

Community Meeting Summary

Date: December 4th, 2019

Location: Spenard Community Center, 202 W 48th Avenue, Anchorage AK

Date of Notice Mailing: Tuesday, November 12th

Text of Meeting Notice **Mailed to 325 Addresses**:

Community Meeting Notice

On **December 4th**, 2019 at **7pm** a Community Meeting will be held at **2020 W 48th Ave**, Anchorage, AK 99517 regarding the following:

An application has been filed with the Alcohol and Marijuana Control Offices for a **Marijuana Retail Facility** at **901 Photo Ave, Suite A**, Anchorage AK 99503, **DBA Top Shelf Herbs of Alaska LLC**

An Application has also been filed with the Anchorage Planning Offices for a Special Land Use Permit to operate a Marijuana Retail Facility at 901 Photo Ave, Anchorage AK 99503, DBA Top Shelf Herbs of Alaska LLC

Top Shelf Herbs of Alaska LLC is seeking a Memorandum of Understanding with the Spenard Community Council

This community meeting, to be held at 2020 W 48th Ave Anchorage AK 99517 is an opportunity to meet with the project developer and voice any concerns the community may have. Please join us for more information!

If you are unable to attend this meeting and/or would like more information, please contact Chism Leimbach at 864-363-7238, or via email at chismleimbach@yahoo.com
This notice is sent in compliance with Anchorage Municipal Code Section 21.03.020H.

Thirty three people attended the December 4th Meeting.

Top Shelf Herbs representatives in attendance were: Chism Leimbach, Licensee, Mark Fazio, Licensee, and Rebecca Rein, Top Shelf Herbs representative.

The following concerns were raised:

1. Tawny Seccareccia, a Spenard Community Council member in attendance that evening, alleged that Chism's criminal history rendered him ineligible for a marijuana license. She stated that she had sent an email to AMCO with her concerns, and that her comment was "brushed off." Mr. Leimbach spoke in his own defense, and explained that there was not a conviction of any crimes that rendered him ineligible for a marijuana license, as evidenced by the fact that AMCO had not only renewed his handler permit after holding one for 3 years, but had also granted him his marijuana retail license with delegation to the municipality. It was discussed that Ms. Seccareccia's concerns might appear as an agenda item at the next Marijuana Control Board Meeting.
2. A Spenard Community Council member named Phil asked the licensees to explain where their building was located at. The licensees explained the location.
3. Another community council member asked which businesses surrounded the licensed premises, and the licensees explained who their neighbors were.

Memorandum of Understanding
Between Top Shelf Herbs of Alaska LLC
and Spenard Community Council
Effective Date: 20 December 2019

This Memorandum of Understanding (hereafter "Agreement") is hereby entered into by and between **Spenard Community Council** and **Top Shelf Herbs of Alaska LLC** (hereafter identified by name or as "Operator"), an applicant for a municipal marijuana retail license to be located at 901 Photo Avenue, Suite A, Anchorage, Alaska, 99503.

WHEREAS, the Community Council has a vested interest in ensuring this Operator represents the best interests of the community council area; and

WHEREAS, Top Shelf Herbs of Alaska LLC has applied for local and state licensing for a new retail business within the community council area; and

WHEREAS, the Community Council and Top Shelf Herbs of Alaska LLC have a long-term interest in fostering a mutually beneficial relationship to address communication and problem solving; and

WHEREAS, this Agreement is intended to satisfy neighborhood responsibility planning requirements in municipal code;

Now, therefore, the parties agree as follows:

Agreement Basics

1. The point of contact for Top Shelf Herbs of Alaska LLC is:

Chism Leimbach
Phone: (864) 363-7238
Email: chismleimbach@yahoo.com

Contact may be outside of store hours if necessary to address issues as they arise. Changes to the point of contact or contact information shall be promptly shared with the Community Council.

2. The point of contact for the Spenard Community Council is the council president.
Jay Stange
Phone: (917) 601-3165
Email: spenardcc@gmail.com

3. The Operator shall demonstrate engagement with the community council and the residents and property owners within 500 feet of the proposed business location on a quarterly basis for one year from the date of opening and then annually from year two onward. This engagement is recommended to be attendance at Spenard Community Council meetings.

1. The proposed use is consistent with the comprehensive plan, all applicable provisions of this title [Title 21], and applicable state regulations.

    a. The current Anchorage comprehensive plan does not address cannabis businesses. However, page 41, Chapter 3 lists long-term economic goals of providing " a wide variety of job opportunities" as well as "a diverse and stable economy." This retail establishment will support both of these goals.

    b. The proposed use in in compliance with Title 21.

    c. This proposed use has been granted a Marijuana Retail Establishment License by the State of Alaska Alcohol and Marijuana Control Office, and is in compliance with all applicable state regulations.

2. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04.

    a. The proposed use in the B-3 (General Business) District which is intended for general commercial uses in commercial centers exposed to heavy traffic.

    b. The proposed use is on a parcel that has a non-conforming determination. Please see the attached determination, Appendix A, dated 11/6/2019.

    c. The lot has the minimum area and width required by the B-3 (General Business) District Pursuant to AM 21.05.010.

    d. The lot has a lack of pedestrian facilities, which is a Legal Nonconforming Characteristic of Use and is considered conforming, in accordance with AMC 21.12.060A.

3. The proposed use is consistent with applicable use-specific standards set forth in chapter 21.05.

    a. The proposed use is on a parcel that has a non-conforming determination. Please see the attached determination, Appendix A, dated 11/6/2019.

    b. The lot has the minimum area and width required by the B-3 (General Business) District Pursuant to AM 21.05.010.

4. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, operating characteristics (e.g., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

    a. The proposed use is compatible with the other commercial uses surrounding it. The use is located off of Photo Avenue and North Star Street, in between Northern Lights and Benson Boulevard. It is surrounded on all four sides by other commercial uses and collocated in a building that is currently occupied by two commercial office uses.

5. The proposed use is appropriately located with respect to existing and/or planned water supply, power supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.

Reviewing Agency & Public Comments

MUNICIPALITY OF ANCHORAGE

Anchorage Health Department

Anchorage Health Department

Date: February 14, 2020

RECEIVED
FEB 14 2020
PLANNING DEPARTMENT

To: Planning Department, Current Planning Division
Clerk's Office, Business License Official

Thru: Christy Lawton, Public Health Division Manger
Darcy Harris, Environmental Health Program Manager

From: Janine Nesheim, Environmental Sanitarian III

Subject: Comments Regarding SLUP 2020-0027, Top Shelf Herbs of Alaska, LLC dba Top Shelf Herbs of Alaska, LLC, SLUP for Marijuana (Retail Sales establishment)

This SLUP reviews plans for Top Shelf Herbs of Alaska, LLC, a retail marijuana facility to be located at 901 Photo Avenue, Suite A.

Comments re Food Safety

This facility is currently in the plan review and permitting process with AHD (Service Request #SR 0648; Health Permit # FA0016474). The health permit will be issued after passing Dry and Stocked Shelf Inspections.

There are no objections at this time.

MUNICIPALITY OF ANCHORAGE
Traffic Department

TRAFFIC DEPARTMENT

MEMORANDUM

RECEIVED
FEB 07 2020
PLANNING DEPARTMENT

DATE: February 6, 2020

TO: Current Planning Division Supervisor.
Planning Department

THRU: Kristen A. Langley, Traffic Safety Section Supervisor,
Traffic Department

FROM: Randy Ribble, Assistant Traffic Engineer

SUBJECT: 2020-0027 Special Land Use Permit for Marijuana, Top Shelf Herbs

901 Photo Avenue, Anchorage Alaska

The site plan include within the application does not match approved site plan from change of use building permit for C19-2047. Provide approved plan to planning department for their case files.

MEMORANDUM

DATE: **January 23, 2020**

TO: **Dave Whitfield, Planning Manager, Planning Section, Planning Division**

FROM: **Paul Hatcher, Engineering Technician III, Planning Section, AWWU**

RE: **Zoning Case Comments**
Hearing date: March 10, 2020
Agency Comments due: February 14, 2020

RECEIVED
JAN 24 2020
PLANNING DEPARTMENT

AWWU has reviewed the materials and has the following comments.

2020-0013 ALPINE VIEW ESTATES PH 3 TR B-2C, Amendment to Special Land Use Permit for Alcohol (Brewery) for Girdwood Brewing Company, LLC dba Girdwood Brewing Company, Grid SE4815

1. AWWU water is not available to this parcel, sanitary sewer is available to this parcel.
2. AWWU has no objection to the conditional use amendment.

2020-0027 FRANK DICKSON BLK 3 LT 12, Special Land Use Permit for Marijuana (Retail Sales Establishment) for Top Shelf Herbs of Alaska, LLC dba Top Shelf Herbs of Alaska, LLC, Grid SW1629

1. AWWU water and sanitary sewer are available to this parcel.
2. AWWU has no objection to the special land use permit.

If you have any questions pertaining to public water or sewer, please call 564-2721 or send an e-mail to paul.hatcher@awwu.biz

163490673		12/14/2016	5	DRUNK	21C2	G	901 PHOTO AV	
170390525		02/08/2017	5	DRUNK	21C1	C	901 PHOTO AV	
170930528		04/03/2017	5	DRUNK	22C1	C	901 PHOTO AV	
171260405		05/06/2017	1	MEDIC	22B1	C	901 PHOTO AV	
171270371	17-18197	05/07/2017	4	WARR	1B1	R	901 PHOTO AV	
171290385		05/09/2017	3	DIST	21B2	G	901 PHOTO AV	
171650130		06/14/2017	3	TRES	22B2	C	901 PHOTO AV	
171700332		06/19/2017	5	WELFAR	CIT1	C	901 PHOTO AV	
172250108		08/13/2017	3	SUSP	21A1	C	901 PHOTO AV	
172280135	17-33033	08/16/2017	3	TRES	21B1	R	901 PHOTO AV	
173560289		12/22/2017	3	TRES	21B2	W	901 PHOTO AV	
181270760		05/07/2018	3	TRES	21A1	C	901 PHOTO AV	
182760488		10/03/2018	3	TRES	22C2	C	901 PHOTO AV	
190240587		01/24/2019	3	TRES	22C2	C	901 PHOTO AV	
190550203		02/24/2019	3	TRES	21A1	C	901 PHOTO AV	
191770202		06/26/2019	2	ALARM		CANC	901 PHOTO AV	
191810610		06/30/2019	2	ALARM	21C1	CO	901 PHOTO AV	
191930060		07/12/2019	3	TRES		CANC	901 PHOTO AV	
191980440		07/17/2019	2	SUSP	22B2	C	901 PHOTO AV	
191990450		07/18/2019	4	FU	22B1	C	901 PHOTO AV	
192010224		07/20/2019	3	TRES		CANC	901 PHOTO AV	
192030207		07/22/2019	2	ALARM	22B1	CA	901 PHOTO AV	
192200172	19-28219	08/08/2019	6	FOUND	22B1	R	901 PHOTO AV	
192340149		08/22/2019	5	WELFAR	21B1	C	901 PHOTO AV	
192610152	19-33634	09/18/2019	3	SUSP	22A2	R	901 PHOTO AV	

End of document

RECEIVED
JAN 21 2020
PLANNING DEPARTMENT
APD
2020-0027

Call No	Report No	Received Date	Priority	Call Type	Unit ID	Disposition	Location	Apartment
070610195		03/02/2007	3	DVW	W10	C	901 PHOTO AV	
073370451	07-58532	12/03/2007	6	FOUND			901 PHOTO AV	
080020546		01/02/2008	5	DRUNK	23C1	C	901 PHOTO AV	
083560360		12/21/2008	5	DRUNK	21B1	G	901 PHOTO AV	
092540307	09-45326	09/11/2009	5	VAND	22B2	R	901 PHOTO AV	
100820622	10-13649	03/23/2010	8	PARK	CSO3	R	901 PHOTO AV	
100910372		04/01/2010	4	FU	CSO3	C	901 PHOTO AV	
102150201		08/03/2010	1	MEDIC	23B1	C	901 PHOTO AV	
112140318	11-35710	08/02/2011	4	THEFT			901 PHOTO AV	
112140326		08/02/2011	4	FU	CSO2	C	901 PHOTO AV	
112290232		08/17/2011	4	FU	22B2	C	901 PHOTO AV	
113560636		12/22/2011	5	DRUNK		CANC	901 PHOTO AV	
120630612		03/03/2012	5	DRUNKT	21C2	C	901 PHOTO AV	
121880186		07/06/2012	1	MEDIC	21B1	C	901 PHOTO AV	
121900538	12-31682	07/08/2012	8	76	26C	R	901 PHOTO AV	
121940242		07/12/2012	3	TRES	21B2	C	901 PHOTO AV	
122050692		07/23/2012	3	TRES	X49	G	901 PHOTO AV	
131050131		04/15/2013	2	ALARM	21B1	6	901 PHOTO AV	
131090604		04/19/2013	3	TRES	22C2	C	901 PHOTO AV	
131470269		05/27/2013	5	DRUNK	23B2	C	901 PHOTO AV	
132030199		07/22/2013	3	TRES	22B2	W	901 PHOTO AV	
132140161		08/02/2013	3	TRES	22B2	C	901 PHOTO AV	
132140178	13-33455	08/02/2013	5	DRUNKT	22B2	R	901 PHOTO AV	
132280124		08/16/2013	3	DIST	21A2	G	901 PHOTO AV	
132370305		08/25/2013	8	76	21B1	C	901 PHOTO AV	
132670502		09/24/2013	3	DIST	21C1	G	901 PHOTO AV	
132820044		10/09/2013	5	DRUNK	21A2	C	901 PHOTO AV	
141140190		04/24/2014	8	76	22B2	C	901 PHOTO AV	
142200248		08/08/2014	5	DRUNK	22B2	C	901 PHOTO AV	
142270291		08/15/2014	5	WELFAR	22B2	C	901 PHOTO AV	
142270715		08/15/2014	5	DRUNK		CANC	901 PHOTO AV	
142600706		09/17/2014	3	TRES	21C1	G	901 PHOTO AV	
142800501	14-41813	10/07/2014	6	FOUND			901 PHOTO AV	
142930577		10/20/2014	3	TRES	21C1	G	901 PHOTO AV	
143300004		11/26/2014	5	DRUNK		CANC	901 PHOTO AV	
152310371		08/19/2015	5	DRUNK	21B1	G	901 PHOTO AV	
162050518		07/23/2016	2	ALARM	K15	6	901 PHOTO AV	
162910672	16-43806	10/17/2016	2	ALARM	21A2	CO	901 PHOTO AV	

Posting Affidavit

AFFIDAVIT OF POSTING

CASE NUMBER: 2020-0027

I, Chism Leimbach hereby certify that I have posted a Notice as prescribed by Anchorage Municipal Code 21.03.020H.5. on the property that I have petitioned for Marijuana - SLUP. The notice was posted on 12/31/2019 which is at least 21 days prior to the public hearing on this petition. I acknowledge this Notice(s) must be posted in plain sight and displayed until all public hearings have been completed.

Affirmed and signed this 31st day of December, 2019.

Chism C Leimbach
Signature

LEGAL DESCRIPTION

Tract or Lot: Lot 12

Block: Block 3

Subdivision: Frank Dickson

901
NOTICE OF
PUBLIC HEARING
Special Land Use Permit
2020-0027
Special land use permit for a marijuana retail sales establishment

AUTHORIZED
PARKING ONLY
NO OVERNIGHT PARKING
UNAUTHORIZED VEHICLES WILL BE IMPOUNDED
AT OWNERS RISK & EXPENSE!
Fred's Towing & Recovery
641 E. 57th Place
243-4037
NOTICE OF
PUBLIC HEARING
Municipality of Anchorage - Planning Department
M
MARIJUANA
Case Type:
Special Land Use Permit
Case Number:
2020-0027
Public Hearing Location:
ZJ Loussac Library
Assembly Chambers
3600 Denali Street
Anchorage, AK 99503
Details
Special land use permit for a marijuana retail sales establishment.
For more information 907-343-7943
www.muni.org/cityviewportal