PLANNING COMMISSION MEETING

OCTOBER 25, 2016
FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION MEETING
MONA LISA DREXLER ASSEMBLY CHAMBERS AT THE
JUANITA HELMS ADMINISTRATIVE CENTER
809 PIONEER ROAD, FAIRBANKS, ALASKA

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION
REGULAR MEETING

REVISED AGENDA

6:00 p.m.
October 25, 2016

A. ROLL CALL

B. MESSAGES
   1. Chairperson’s Comments
   2. Commissioner’s Comments
   3. Communications to the Planning Commission
   4. Citizen’s Comments – limited to three (3) minutes
      a. Agenda items not scheduled for public hearing
      b. Items other than those appearing on the agenda
   5. Disclosure & Statement of Conflict of Interest

C. APPROVAL OF AGENDA AND CONSENT AGENDA
   Approval of consent agenda passes all routine items indicated by asterisk (*) on agenda. Consent agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

D. *MINUTES
   1. *Minutes from October 11, 2016 PC Meeting. (Page 5)

E. CONSENT AGENDA ITEMS
   NONE

F. QUASI-JUDICIAL HEARING
   1. CU2017-003 A request by Sherry Gilbert on behalf of CGH Holdings, LLC for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 1, Midway Industrial Park Subdivision. (Located at 1725 Richardson Hwy, on the south side of Richardson Hwy, between El Paso St and Sinclair Ave) (Staff Contact: Manish Singh) (Page 7)
2. **ITEM POSTPONED TO NOVEMBER 8, 2016 MEETING**  
   **V2017-001** A request by Brian Roberts on behalf of Calvin and Cindy Stageman for a lot size highway variance of 29,183 square feet to the minimum lot size requirement of 40,000 feet in the General Use 1 (GU-1) zone. *(Located at 1815 Rozak Road, on the west side of Rozak Road, south of Richardson Highway)* (Staff Contact: Stacy Wasinger)

3. **ITEM POSTPONED TO NOVEMBER 8, 2016 MEETING**  
   **V2017-002** A request by Brian Roberts on behalf of Jonathan Pearson for a lot size highway variance of 12,056 square feet to the minimum lot size requirement of 40,000 feet in the General Use 1 (GU-1) zone on Lot 1, Block 1 Badger Industrial Park Subdivision. *(Located on the east side of Midland Street, south of Richardson Highway)* (Staff Contact: Stacy Wasinger)

4. **ITEM POSTPONED TO NOVEMBER 8, 2016 MEETING**  
   **V2017-003** A request by Brian Roberts on behalf of Jonathan Pearson for a lot size highway variance of 4,833.56 square feet to the minimum lot size requirement of 40,000 feet in the General Use 1 (GU-1) zone on Lot 2, Block 1 Badger Industrial Park Subdivision. *(Located east of Midland Street, south of Richardson Highway)* (Staff Contact: Stacy Wasinger)

G. **PUBLIC HEARING**


2. **Ord 2016-60** An Ordinance Amending FNSBC 18.112.030 Regarding Initiation Of Complaints And Amending FNSBC 1.16.030 Regarding Complaints And Complainant Personal Information. (Sponsors: Assemblymembers Hutchison and Dodge) *(Staff Contact: Christine Nelson)* *(Page 77)*

3. **ITEM POSTPONED**  
   **OC2017-002** An ordinance amending FNSBC 18.96.240 to add exterior lighting standards for commercial marijuana establishments. *(Staff Contact: Christine Nelson)*

H. **APPEALS**  
NONE

I. **UNFINISHED BUSINESS**  
NONE

J. **NEW BUSINESS**

1. PC Rules and Procedures *(Page 87)*

K. **EXCUSE ABSENT MEMBERS**

L. **COMMISSIONER’S COMMENTS**

1. FMATS *(Page 105)*

2. Other

M. **ADJOURNMENT**
MINUTES

October 11, 2016

Are Not Available at the time of Publication
DEPARTMENT OF COMMUNITY PLANNING  
STAFF REPORT  

CU2017-003  
October 25, 2016 Planning Commission Meeting  

TO: Fairbanks North Star Borough Planning Commission  
FROM: Manish Singh, Planner II  
DATE: October 10, 2016  

RE: CU2017-003: A request by Sherry Gilbert on behalf of CGH Holdings, LLC for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 1, Midway Industrial Park Subdivision (located at 1725 Richardson Hwy, on the south side of Richardson Hwy, between El Paso St and Sinclair Ave).

I. EXECUTIVE SUMMARY

The Department of Community Planning recommends APPROVAL of the conditional use request with five (5) conditions and three (3) Findings of Fact in support of approval. The staff analysis finds that the commercial marijuana cultivation facility, indoor large, with proposed conditions, will meet the intent and purpose of Title 18 and of other ordinances and state statutes, will have adequate public services and will protect public health, safety and welfare.

II. GENERAL INFORMATION

A. Purpose To allow use of existing buildings as commercial marijuana cultivation facility, indoor large in the GU-1 zone.

B. Location On the south side of Richardson Hwy, between El Paso St and Sinclair Ave

C. Access Richardson Highway, Frontage Road

D. Size/PAN  

<table>
<thead>
<tr>
<th>Area</th>
<th>PAN (Lot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.33 Acres</td>
<td>0340065   (Lot 1)</td>
</tr>
</tbody>
</table>

E. Existing Zone General Use 1 (GU-1)

F. Existing Land Use Storage Buildings

G. Surrounding Land Use/Zoning  

North: Richardson Highway  
Zoning: GU-1  
Land Use: Industrial
III. ZONING AND DEVELOPMENT HISTORY

Lot 1 was created with the recording of a plat for Midway Industrial Park Subdivision in 1981 (Exhibit 1). The lot was rezoned from Unrestricted Use (UU) to GU-1 in 1988. The property has a house and eight (8) storage buildings (Figure 1). The existing house and four (4) of the eight (8) existing storage buildings on the property were constructed in 1999. Two (2) storage buildings were added on the subject property in 2001 and two (2) storage buildings were added in 2008. The property is in flood zone ‘A’ and doesn’t have any existing zoning or floodplain permits. A plat note indicates that the property flooded to an undetermined depth in August 1967. A self-storage business with the name ‘Hide-Away Self Storage’ operated on the subject property. The applicant no longer intends to continue the business. However, the applicant is still waiting for a few out of state and deployed tenants to retrieve their belongings from the property.

IV. APPLICANT’S NARRATIVE

All of the submittals by the applicant have been included in the application section of the packet. The applicant intends to use two (2) of the eight (8) existing storage buildings and the existing house structure at 1725 Richardson Hwy as a commercial marijuana cultivation facility, indoor large (shown in blue in Figure 2). The applicant has proposed an 8,072.79 sq.ft. marijuana cultivation facility, indoor large.
Figure 1: Existing House Structure and Storage Buildings on 1725 Richardson Hwy
(Source: Staff)

Figure 2: Site Plan
(Source: Base map provided by Applicant, annotations in color by staff for illustrative purposes.)
V. APPLICABLE APPROVAL CRITERIA

Conditional Uses are governed by the following provisions of Title 18, Fairbanks North Star Borough Code of Ordinances:

18.104.050 (C)

1. Whether or not the proposed conditional use conforms to the intent and purpose of this title and of other ordinances and state statutes.

2. Whether or not there are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use.

3. Whether or not the proposed conditional use will protect the public health, safety and welfare.

The Planning Commission may approve or deny a conditional use request or may approve a conditional use request with conditions to ensure the protection of the public health, safety and welfare. Such conditions may relate to any, or more, of the following: traffic flow and access requirements, lighting, pedestrian movements.

Marijuana Facilities are also governed by the provisions of Title 18, Standards for Commercial Marijuana Establishments:

18.96.240

A. General Standards

1. Applicability. Standards of this section shall apply to commercial marijuana establishments regardless of whether they are a permitted or conditional use.

2. A commercial marijuana establishment may only be allowed with the written consent of the owner of the property.

3. No marijuana establishment, except a marijuana testing facility, shall be located within the following buffer distances:

   a. Five hundred feet of primary and secondary school buildings (K-12) including vocational programs, playgrounds, adult and juvenile correctional facilities and housing facilities owned by a public housing authority with children as residents; and

   b. Two hundred feet of any post-secondary school buildings including but not limited to trade/technical/vocational schools, colleges and universities; and

   c. One hundred feet of youth centers, group homes serving persons ages 18 and under, public swimming pools, state licensed day care facilities, arcades, state licensed substance use treatment provider or facility providing substance abuse use treatment, church buildings and residential zones (RE, RR, SF, TF, MF, MFO).
d. Buffer distances shall be measured from the lot line of the lot containing a use or zone listed in subsections (A)(3)(a) through (c) of this section to the commercial marijuana establishment.

e. Buffer distance measurements shall not extend beyond the nearest ordinary high water (OHW) mark of a river or lake or beyond the nearest edge of a right-of-way (ROW) of a controlled access facility.

4. Outdoor Storage. No outdoor storage of marijuana, marijuana products or hazardous substances shall be allowed.

5. In all zones in which marijuana establishments, with the exception of a marijuana testing facility, are a permitted or conditional use, the applicant shall include an area map drawn to scale indicating all land uses on complete parcels within a 500-foot proximity of the lot upon which the applicant is seeking a zoning permit or conditional use permit.

6. Marijuana establishments other than marijuana cultivation facilities, indoor small and marijuana testing facilities located in GU-1 or GU-5 zoning and adjacent to a lot upon which a principal building used as a dwelling is located are a conditional use subject to the requirements of this title.

B. Cultivation Facility Standards.

1. Yard Setbacks. Outdoor marijuana cultivation facilities, including all land planted with marijuana, shall be located at least 50 feet from a lot line.

2. Height Limitations.

   a. The maximum height for a marijuana cultivation facility, indoor small shall be 35 feet.

   b. The maximum height for a marijuana cultivation facility, indoor large shall be 75 feet.

Public Notice

There were 62 dear property owner notices mailed out and staff did not receive any inquiry about this case.

VI. STAFF ANALYSIS

A. Development and Use

This application is to obtain a conditional use permit approval for a marijuana cultivation facility, indoor large, which is defined in FNSBC 18.04.010 as “a legally licensed, fully enclosed commercial marijuana cultivation facility as defined by state law, in which all growing, preparation and packaging activities are conducted completely indoors. Net floor area of all cultivation facility structures does not exceed 10,000 square feet.
The applicant has proposed an 8,072.79 sq.ft. marijuana cultivation facility, indoor large which would utilize the existing house and two (2) of the eight (8) storage buildings. The remaining six (6) storage buildings will not be used for any marijuana establishment related function at this point. The applicant has structured the development of the marijuana cultivation use into two phases. In the first phase, the applicant would use only one of the storage buildings (listed as Building 3 in Figure 2) for cultivation, drying, processing and storage and would use the house for employee break room, bathroom, office area and mechanical room (see Figure 3 for details). In phase two, the applicant would add one more storage building into cultivation process (listed as Building 4 in Figure 2). The applicant has mentioned that she may lease one of the existing buildings (listed as Building 7 in Figure 2) for another commercial marijuana establishment. However, a separate land use permit and state license would be applied for any other commercial marijuana establishment which is outside the scope of CU2017-003.

**Figure 3: Proposed Floor Plan for Building 3 and the House (Phase 1)**
(Source: Applicant)

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**B. Surrounding Land Use and Zoning**

*Figure 5* shows that the surrounding parcels are zoned General Use 1 (GU-1). The intent of the GU-1 zone is “to be located in rural areas where community sewer and water systems are unavailable.” A marijuana cultivation facility, indoor large is a conditional use in the GU-1 zone if adjacent to a lot upon which a principal building used as a dwelling [FNSBC 18.96.240 (A) (6)]. *Figure 6* shows that the neighboring properties are a mix of vacant, residential, commercial and industrial lots.
Figure 5: Zoning Map  
(Source: FNSB GIS)

Figure 6: Existing Land Use  
(Source: FNSB GIS & Assessing)
C. Comprehensive Plan Designation

The Comprehensive Plan Land Use Map characterizes this area as Urban Area (Figure 7). Urban Area is “Area that is served or can be served with community water and sewer, and contains the most intensive residential, commercial, and industrial development.” The proposed conditional use is consistent with the comprehensive plan land use designation, Urban Area, for the subject property because it proposes a marijuana cultivation facility, indoor large along Richardson Highway that is already commercial and industrial in nature (Figure 6).

Figure 7: Comprehensive Plan Designation Map
(Source: FNSB GIS)

The request is consistent with the following goals of the Comprehensive Plan:

**Land Use Goal 3** – To have a variety of land uses that fit the diverse needs of the community

Strategy 6 – Provide for commercial land uses in both urban and non-urban areas

Action A – Provide for a variety of commercial areas that adequately serve the market area

This conditional use proposal adds a commercial marijuana cultivation establishment into a neighborhood that has other commercial businesses. Commercial Marijuana is a new industry and this conditional use would serve the market by making products available for other proposed commercial marijuana product manufacturing and retail establishments in the Borough.
Economic Development Goal 2 – To diversify the economy
Strategy 6 – Emphasize development that brings new dollars into the community, including efforts to add value to the region’s natural, manufactured, service and intellectual resources.

Action B – Create a variety of types and sizes of commercial and industrial areas that support diversification of economic activity.

The applicant submittals state that they would bring four new jobs in the area because they intend to start a new business with this conditional use. The operation would diversify the commercial activity in the Fairbanks North Star Borough enhancing community’s ability to generate revenue.

D. Transportation & Parking

The lot is accessible with a 20 foot wide paved driveway from Frontage Road and Richardson Highway. Community Planning staff estimates approximately 18.72 trip ends would be generated per weekday by this proposed marijuana cultivation facility, indoor large, based on the estimated maximum 4 employees that may be on site after phase two and using the closest related land use in the Institute of Transportation Engineers (ITE) Trip Generation Manual, “Nursery (Wholesale)” (Table 1). The Average Daily Traffic (ADT) count on Richardson Highway in the immediate area was 15,625 in 2014. Richardson Highway is an interstate type road and can easily accommodate the small number of trip ends generated by the proposed facility.

Table 1: Trip Generation Summary

<table>
<thead>
<tr>
<th>Existing and proposed land use</th>
<th>Size/employees</th>
<th>Closest related land use in ITE Trip Generation Manual</th>
<th>Trip generation standard in ITE</th>
<th>Weekday trip ends</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed marijuana cultivation facility, indoor large</td>
<td>4 employees</td>
<td>Nursery (Wholesale)</td>
<td>23.40 trip ends/ 5 employees</td>
<td>18.72 trip ends</td>
</tr>
</tbody>
</table>

Parking demand is based on FNSB standard requirements of 3 parking spaces for every 4 employees [FNSBC 18.96.060 (C)]. The applicant expects 4 employees in the foreseeable future after phase two for the marijuana cultivation facility, indoor large. The site plan provided by the applicant shows 7 parking spaces whereas only 3 parking spaces are required to address 4 marijuana cultivation employees. The site plan also shows the paved traffic circulation area with adequate backing, turning and maneuvering space. The proposed facility also provides a loading area that meets the FNSB loading area requirements [FNSBC 18.96.060 (D)].

1 This section of this staff report includes comments from Kellen Spillman, FNSB Deputy Planning Director and Acting Transportation Planner after a review of the application materials with FNSB Planner Manish Singh.
2 Annual Average Daily Traffic (AADT) GIS Map. Transportation Data Programs, ADOT & PF. 2014.
3 Statewide Functional Classification GIS Map. Transportation Data Programs, ADOT & PF. 2016.
E. FNSBC 18.104.050 (B) Application for a Conditional Use

The Applicant submitted a conditional use application on August 10, 2016 in support of this requirement. They supplemented their application material with additional information on September 07, September 09, and October 03, 2016.

F. FNSBC 18.96.240 Standards for Commercial Marijuana Establishments

A. General Standards

2. A commercial marijuana establishment may only be allowed with the written consent of the owner of the property.

   The property owner has provided written consent to the proposed marijuana use.

3. No marijuana establishment, except a marijuana testing facility, shall be located within the following buffer distances (see FNSBC 18.96.240(A)(3)(a-e)).

   The buffer map and property detail provided by the applicant demonstrates that the commercial marijuana cultivation facility, indoor large is not located within the buffer distances provided in FNSBC 18.96.240(A)(3)(a-e) (Exhibit 2). All State buffer requirements provided in 3 AAC 306 must also be met.

4. Outdoor Storage. No outdoor storage of marijuana, marijuana products or hazardous substances shall be allowed.

   The applicant is not proposing outdoor storage of marijuana, marijuana products, or hazardous substances, as shown in the site plan (Figure 2) and explained in the narrative.

5. In all zones in which marijuana establishments, with the exception of a marijuana testing facility, are a permitted or conditional use, the applicant shall include an area map drawn to scale indicating all land uses on complete parcels within a 500-foot proximity of the lot upon which the applicant is seeking a zoning permit or conditional use permit.

   The applicant’s submittals include an area map drawn to scale indicating all land uses within a 500-foot proximity of the subject lot (Exhibit 2).

6. Marijuana establishments other than marijuana cultivation facilities, indoor small and marijuana testing facilities located in GU-1 or GU-5 zoning and adjacent to a lot upon which a principal building used as a dwelling is located are a conditional use subject to the requirements of this title.

   The subject property is in GU-1 zone with an adjacent lot with a dwelling. Therefore, the applicant has applied for a conditional use permit for marijuana cultivation facility, indoor large.
G. Agency Comments

The FNSB Department of Community Planning contacted following agencies for comments:

a. State Fire Marshal  
b. North Star Fire Service Area  
c. Alaska State Troopers  
d. Alaska Department of Transportation and Public Facilities (AK DOT & PF)  
e. FNSB Emergency Operations  
f. FNSB Floodplain Administrator  
g. Alaska Department of Environmental Conservation (ADEC)  
h. Alaska Department of Natural Resources (ADNR)  
i. Golden Valley Electric Association (GVEA)

All written comments are included in the “Agency Comments” section following this report.

H. FNSBC 18.104.050(C) Hearing and Decision by the Planning Commission

1) Whether or not the proposed conditional use conforms to the intent and purpose of this title and of other ordinances and state statutes.

Purpose of FNSBC Title 18: The purpose of Title 18 is “to implement the Fairbanks North Star Borough comprehensive plan” (FNSBC 18.12.020). The application material and the narrative for this proposal align with Land Use Goal 3, Strategy 6, Action A and Economic Development Goal 2, Strategy 6, Action B.

Land Use Goal 3, Strategy 6, Action A provides for a variety of commercial areas that adequately serve the market area. This conditional use would serve the market by making products available for other proposed commercial marijuana product manufacturing and retail establishments in the Borough. Economic Development Goal 2, Strategy 6, Action B welcomes new dollars into the community and promotes diversification of the Borough economy. The applicant submittals state that they would bring four new jobs in the area and would help maintain a healthy economy. The operation would diversify the commercial activity in the Fairbanks North Star Borough enhancing community’s ability to generate revenue.

Intent of FNSBC Title 18: The intent of Title 18 which is “to protect private property rights, to promote the public health, safety and general welfare of the residents of the borough, and safety from fire and to promote the efficient distribution of water, sewage, schools, parks and other public requirements; to provide safe traffic flow on the public streets; to promote economic development and the growth of private enterprise; and to divide the borough into districts (FNSBC 18.12.020).”

Allowing an owner to develop their private property is an example of protecting private property rights via clearly defined local zoning regulations. This proposal is to use the

5 This section and other sections involving floodplain related reviews in this staff report include comments and feedback from Nancy Durham, FNSB Floodplain Administrator after a review of the application materials with FNSB Planner Manish Singh.
property as a marijuana cultivation facility, indoor large which requires a conditional use permit in GU-1 zone because the adjacent property has a dwelling as primary structure. The public notification, public hearing procedures and approval criteria for conditional uses protect the property rights of the surrounding property owners.

With the conditions imposed, the application promotes the public health, safety and general welfare of the residents of the borough because the applicant has addressed site security elements and has developed strategies for plant and liquid waste disposal and sanitation. Moreover, the applicant has agreed to comply with state marijuana regulations.

The subject property is in flood zone ‘A’ and properties within the designated floodplains have additional requirements established by the Title 15 of the Borough code to ensure structures are safe from potential flooding. Designated floodplains in the Borough are subject to periodic inundation of floodwaters which could cause loss of life or property, health or safety hazards. The subject property doesn’t have the required elevation certificates, floodplain permits and certificates of compliance for each of the nine (9) existing structures on site. Without elevation certificates, it cannot be determined whether the buildings are above base flood elevation or not. Further, it is unclear if the existing and proposed structures are adequately floodproofed, elevated or otherwise protected from probable flood damages. Therefore, Community Planning staff recommends the commercial marijuana establishment complies with Title 15 regulations to protect public health, safety and welfare by obtaining elevation certificate for the existing house and two (2) of the eight (8) storage buildings proposed to support the marijuana cultivation facility. The proposed commercial structures may need floodplain permits if the buildings are below base flood elevation.

The proposed cultivation facility will have a safe traffic flow because it is served by Frontage Road and Richardson Highway. Traffic generated by the proposed use will have relatively little impact on Richardson Highway which is an interstate type road. The proposed conditional use promotes economic development and the growth of private enterprise because it would bring four new jobs in the area and would diversify the existing industrial neighborhood.

The application material and the narrative for this proposal illustrates that it meets the intent of Title 18 because this application is to protect property rights and with the conditions imposed, it would promote the public health, safety and general welfare of the residents of the borough.

**Alaska State Statute and Other Ordinances:** 3 AAC 306 governs the state licensing and operational standards for marijuana facilities. Title 18 requires that a borough permitted commercial marijuana facility obtain a license pursuant to all state regulations. The applicant has provided information sufficient to show they intend to meet the state regulations and to apply for a state issued license.

FNSBC 15.04.050 states that no person shall start construction on any new or substantially improved structure within the Special Flood Hazard Area without first obtaining a floodplain permit. The property is in flood zone ‘A’ and the existing house and eight (8) storage buildings were constructed between 1999 and 2008 without any floodplain permits after Title 15 Floodplain Management Regulations were already in effect. Moreover, in absence of the required floodplain permits and certificates of
compliance, it is unclear if the existing and proposed structures are adequately floodproofed, elevated or otherwise protected from probable flood damages. Therefore, Community Planning staff recommends the proposed commercial marijuana establishment complies with Title 15 regulations to protect public health, safety and welfare.

(2) **Whether or not there are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use.**

**Water & Sewage:** With the conditions imposed, the applicant has demonstrated that the proposed marijuana cultivation facility, indoor large has adequate water and sewage capacity for operation. The property has a commercial well for water and an existing septic system. The application states that the septic system is 10 years old and was installed by an ADEC approved septic installer. However, it is not clear if this arrangement is adequate for the proposed marijuana cultivation facility, indoor large. Alaska Department of Environmental Conservation (ADEC) regulates underground nonresidential septic systems and wells in the Borough. Therefore, Community Planning staff recommends a formal plan review by ADEC and compliance with all recommendations and/or requirements resulting from the plan review as a condition to ensure that there is adequate water supply and sewage capacity for the conditional use.

**Fire:** The applicant has demonstrated that the proposed conditional use has adequate fire services. The subject parcel is located within the North Star Fire Service Area.

**Energy:** The applicant has demonstrated that the proposed conditional use has adequate power supply because they are covered by GVEA grid.

**Police:** The applicant has demonstrated that their site is covered by Alaska State Troopers.

**Transportation:** The applicant has demonstrated that the proposed conditional use has adequate transportation facilities. The proposed cultivation facility will have a safe traffic flow because it is served by Frontage Road and Richardson Highway. Traffic generated by the proposed use will have relatively little impact on Richardson Highway which is an interstate type road. The applicant has provided 7 off-street parking spaces and a loading area with sufficient backing and maneuvering space. FNSB Code requires only 3 off-street parking spaces for 4 employees of the cultivation conditional use.

(3) **Whether or not the proposed conditional use will protect the public health, safety and welfare.**

With the conditions imposed, this use will protect the public health, safety, and welfare through responsible operation of the facility as demonstrated in applicant’s business plan and by meeting Title 15 floodplain management regulations. The proposed marijuana cultivation facility, indoor large meets the standards required by FNSBC 18.96.240 and the operating plan is intended to minimize and mitigate adverse impacts on surrounding properties. The applicant has a detailed approach to site security, fire safety, and employee health to help address public health, safety, and welfare concerns. However, the application does not include any information about the required floodplain permits and certificates of compliance.
The state licensing and operational standards for marijuana facilities are governed by 3 AAC 306. The application material acknowledges that a marijuana cultivation facility, indoor large cannot legally operate without obtaining a state issued license [FNSBC 18.04.010] and compliance with 3 AAC 306 is required to obtain a state license. Additionally, FNSBC 15.04.050 states that no person shall start construction on any new or substantially improved structure within the Special Flood Hazard Area without first obtaining a floodplain permit. Therefore, the facility cannot legally operate under Borough code without obtaining required floodplain permits and certificates of compliance.

The subject property is in flood zone ‘A’ and special flood hazard areas in the Borough are subject to periodic inundation of floodwaters which can cause loss of life or property, health or safety hazards. The subject property doesn’t have the required floodplain permits and certificates of compliance. Without elevation certificates, it is unknown whether the buildings are above base flood elevation or not. Further, it is unclear if the existing and proposed structures are adequately floodproofed, elevated or otherwise protected from probable flood damages. Therefore, Community Planning staff recommends the commercial marijuana establishment to comply with Title 15 regulations to protect public health, safety and welfare.

As part of this recommendation, Elevation Certificates must be required for the existing house and two (2) of the eight (8) storage buildings proposed to support the marijuana cultivation facility to verify that each building is properly elevated to meet Title 15 and the National Flood Insurance Program Regulations. It would mean each building’s top of bottom floor is at or above the Base Flood Elevation (BFE) of 464.1 feet⁶. Once each building is confirmed to be in compliance with Title 15, a Certificate of Compliance must be obtained for the property.

Otherwise, if any of the proposed non-residential structures used to support the proposed marijuana cultivation facility are not in compliance with Title 15 and are classified as substantial improvement⁷, then those structures must be retrofitted to meet Title 15 to ensure public health, safety and welfare which could be performed by the various following methods:

- Elevating the entire structure and mechanical equipment (utilities such as plumbing fixtures, electrical equipment, gas lines, and heating and air conditioning equipment; electrical circuit; furnaces; hot water heater, appliances including ductwork, etc.) above the Base Flood Elevation. In addition, utilities must be designed and installed to prevent damage; or
- Adding permanent flood vents to the structure on a minimum of two sides of the structure, one foot above lowest adjacent grade, whereas for each square foot of building there is one square inch of opening. In addition, all electrical, mechanical plumbing, and any equipment must be elevated on a platform at or above the Base Flood Elevation; or

⁶ North American Vertical Datum of 1988
⁷ Substantial improvement is defined as “any repair, reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of assessed value of the structure before the start of construction of the improvement” (FNSBC 15.04.010).
- Floodproofing a commercial structure (any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate damage or improved real property, water and sanitary facilities, structures and their contents). It is recommended that floodproofing be implemented up to one foot above the Base Flood Elevation for a factor of safety and to receive full credit for flood insurance rating. A certified Floodproofing Certificate is required for this method; and
- Water storage tank, fuel tank, propane tank, sewage holding tank must either be elevated and anchored on a platform at or above the Base Flood Elevation or anchored to a platform on the ground; and materials used must be water-resistant at the time of any repair.

Applicant’s business plan comprehensively details their proposed site security measures and waste disposal methods including controlled access gates and doors, fencing, video surveillance, alarms, and plant and liquid waste disposal. The applicant has proposed to contract ATS Alaska for site security and a private company for garbage removal. Compliance with state regulations related to security, health and safety will mitigate any security breach and help ensure employee and visitor’s health and safety. Therefore, Community Planning staff suggests compliance with 3 AAC 306 as a condition to ensure public health, safety and welfare.

FNSBC 18.96.240 (A) (4) requires that all marijuana, marijuana products, and hazardous substances be stored indoors. The applicant intends to secure all marijuana products and hazardous substances inside structures to ensure the general public does not have access to them. This requirement affects public health, safety, and welfare by ensuring that controlled and marijuana products are accessible only to authorized employees.

Lighting, noise, odor, water quality and runoff are potential concerns for surrounding properties with any commercial operation. The application states that the two storage buildings utilized for marijuana cultivation are interior buildings on the property and there is heavy wooded tree buffer between these cultivation buildings and neighboring residences. Therefore, the applicant’s proposal for meeting security requirements would not impact neighbors with unnecessary lighting. Moreover, the subject property is not adjacent to any residential zone. The applicant has mentioned that the noise generated from this cultivation operation would be negligible. Moreover, the conditional use is proposed to be located next to Richardson Highway which is an interstate type roadway and with other commercial and industrial uses in proximity. Businesses and industries surrounding the property already experience similar noise and lighting levels.

The applicant plans to address odor by carbon air exchange system. However, if these filters are not of sufficient capacity, the odor could potentially become a public health, safety and welfare issue for the neighbors. Therefore, Community Planning staff recommends installing appropriately sized odor filtration systems in the cultivation space as a condition to ensure the public health, safety and welfare.

The applicant has mentioned that the hours of operation of the cultivation facility will be 12 pm to 8 pm. These hours of operation do not impact the neighborhood’s public health, safety and welfare because the conditional use is proposed to be located next to Richardson Highway which is interstate type roadway and experiences 24-hour traffic.
Fire and rescue services for this operation are available through the North Star Fire Service Area. Any lack in ensuring necessary fire safety provisions for an indoor marijuana cultivation operation could result in a fire or employee and visitor safety issues because marijuana cultivation operations have high usage of electricity in a moist environment. Therefore, Community Planning staff recommends a formal plan review by the Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and compliance with all recommendations and/or requirements resulting from the plan review as a condition to minimize fire and other safety risks, thereby ensuring public health, safety and welfare.

The proposed cultivation facility will have a safe traffic flow because it is served by Frontage Road and Richardson Highway. Traffic generated by the proposed use will have relatively little impact on Richardson Highway which is an interstate type road. The applicant has provided 7 off-street parking spaces and a loading area with sufficient backing and maneuvering space. FNSB Code requires only 3 off-street parking spaces for 4 employees of the cultivation conditional use.

The applicant’s submittals indicate that the applicant is likely to go to other agencies such as State Fire Marshal, Alaska Department of Environmental Conservation and Marijuana Control Board (MCB) for plan reviews and approvals. Although this conditional use approval is for a particular use of the said property, a change in the site plan or operation method or expansion into other existing buildings may result in increased impacts or trigger a public health, safety and welfare concern which have not been analyzed as part of this application or in the public hearing for the Conditional Use permit. Therefore, Community Planning staff suggests a condition that if any modifications are made to the site plan, floor plan, or other FNSB required documents, the applicant shall submit revised documents to the FNSB Community Planning Department. If substantial modifications are made to these documents, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050 (D).

VII. RECOMMENDATION

Based on the staff analysis, the Department of Community Planning recommends **APPROVAL** of the conditional use permit request for marijuana cultivation facility, indoor large in the GU-1 zone with five (5) conditions.

VIII. CONDITIONS

1. The applicant or holder of this conditional use permit shall comply with all applicable land use related laws. Applicable permits and approvals may include but are not limited to:

   a. As required by the FNSB and the Department of Commerce, Community, and Economic Development (Alcohol and Marijuana Control Office), the applicant or holder of this conditional use permit shall ensure the site meets all licensing requirements for a commercial marijuana cultivation facility.

   b. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and shall comply with all recommendations and/or requirements resulting from the plan review.
c. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Environmental Conservation and shall comply with all recommendations and/or requirements resulting from the plan review.
d. The applicant or holder of this conditional use permit shall obtain the applicable floodplain permits and certificates of compliance for each structure to be utilized for the commercial marijuana establishment to comply with Title 15 Floodplain Management Regulations. If required, the structures utilized for the commercial marijuana establishment must be adequately floodproofed, elevated or otherwise protected to comply with Title 15 Floodplain Management Regulations.

2. No outdoor storage of marijuana, marijuana products and hazardous substances shall be allowed pursuant to FNSBC 18.96.240 (A) (4). All marijuana or marijuana products shall be stored inside secure facilities.

3. Indoor cultivation, drying, and processing rooms or portions of the building shall be equipped with appropriately sized odor filtration systems to eliminate odor from the cultivation and processing operations.

4. If any of the remaining six (6) existing storage buildings, other than the two (2) existing storage buildings proposed to be used as marijuana cultivation buildings (shown as Building 3 and Building 4 in Figure 2 of the Staff Report) and the existing residence proposed to be used as marijuana employee area and office (shown as Building 9 in Figure 2 of the Staff Report), is used for any functions supporting a marijuana establishment, an amendment to the Conditional Use Permit or a separate appropriate land use permit shall be required.

5. If any modifications are made to the site plan, floor plan, or other FNSB required documents, the applicant or holder of this conditional use permit shall submit revised documents to the FNSB Community Planning Department. If substantial modifications are made to these documents or to the operation of the marijuana cultivation establishment, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050 (D).

IX. FINDINGS OF FACT

The Department of Community Planning further recommends the following Findings of Fact in support of approval:

1. The proposed conditional use will conform to the intent and purpose of Title 18, Title 15 and of other ordinances and state statutes:
   a. The purpose of Title 18 will be met because the Fairbanks North Star Borough Comprehensive Plan Land Use Goal 3 and Economic Development Goal 2 are being enhanced with the development of this site as a marijuana cultivation facility.
   b. The intent of Title 18 will be met because with the conditions imposed, the conditional use will both protect private property rights and promote public health, safety, and welfare.
c. 3 AAC 306 governs the state licensing and operational standards for marijuana facilities. Title 18 requires that a borough permitted commercial marijuana facility obtain a license pursuant to all state regulations. The Applicant has provided information sufficient to show they intend to meet the state regulations and to apply for a state issued license.

d. The purpose of Title 15 will be met because with the conditions imposed, the conditional use will minimize flood losses and promote health, safety and welfare.

2. With the conditions imposed, there are adequate existing energy and transportation facilities serving the site and other public services are available to serve the proposed conditional use.

   a. The site has an onsite commercial well and a septic system
   b. The site is served by North Star Fire Service Area for fire protection and rescue services and by Alaska State Troopers for law enforcement.
   c. The site is currently connected to the GVEA grid and will provide sufficient energy supply for indoor cultivation activities.
   d. Seven (7) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed cultivation conditional use.
   e. Richardson Highway is an interstate type roadway maintained by the Alaska Department of Transportation and Public facilities. Traffic generated by the cultivation conditional use is expected to be limited and Richardson Highway has sufficient capacity to accommodate the additional trips generated by this conditional use.

3. With the conditions imposed, the proposed conditional use will protect public health, safety, and welfare as the facility will comply with Title 18 standards for the GU-1 zone, Title 15 Floodplain Management Regulations and Standards for Commercial Marijuana Establishments (FNSBC 18.84, FNSB 15.04 and 18.96.240, respectively) as well as state requirements for a commercial marijuana cultivation facility.

   a. Security systems, alarms, locks, cameras and lighting will meet state regulations required to obtain a commercial marijuana cultivation license.
   b. Any solid or liquid waste including marijuana plant waste will be disposed of according to state regulations.
   c. Odor will be mitigated with appropriately sized odor filtration systems on cultivation, drying, and processing facilities.
   d. Businesses and industries surrounding the property already experience similar noise and lighting levels.

**DRAFT PLANNING COMMISSION MOTION:**

I move to approve the Conditional Use Permit for a commercial marijuana cultivation facility, indoor large with five (5) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval.
Agency Comments

CU2017-003
Manish,

See below.

Nancy Durham, MURP, CFM
Flood Plain Administrator
FNSB Community Planning
ndurham@fnsb.us
(907) 459-1263

**Any property can flood even if it is not in a Special Flood Hazard Area. Flood insurance is recommended.

---

**From:** Manish Singh  
**Sent:** Friday, October 07, 2016 8:50 AM  
**To:** Nancy Durham  
**Subject:** CU2017-003

Hi Nancy,

Thank you for guiding me with the flood plain regulations this morning. To keep the staff report on track, I request you to please elaborate a little on following questions –

1. Why do they need to submit a Flood Plain permit application and finished construction elevation certificates for all nine buildings?

   “No person shall start construction on any new structure within the Special Flood Hazard Area without first obtaining a Floodplain Permit” (FNSBC 15.04.050). This property was built between 1999 and 2001 when Title 15 Floodplain Regulations were already in effect. At the time of construction, a Floodplain Permit was not applied for. An Elevation Certificate is required to verify that each building was properly elevated to meet Title 15 and the National Flood Insurance Program Regulations. Once each building is confirmed to be in compliance with Title 15 a Certificate of Compliance is issued for the property.

2. If the buildings with marijuana use do not meet the base flood elevation, what would kick them into ‘substantial improvement’ category?

   “Substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of assessed value of the structure before the start of construction of the improvement” (FNSBC 15.04.010).

3. If the buildings with marijuana use fall into substantial improvement category, what are their options to be complaint with Title 15? If they could use any retrofitting, can you please explain how each option of retrofitting would help mitigate flood hazards?

   If a non-residential structure is not in compliance with Title 15 and is classified as substantial improvement, then that building will need to be retrofitted to meet Title 15. This could be done by the following methods:
   - Elevating the entire structure and service equipment (utilities such as plumbing fixtures, electrical equipment, gas lines, and heating and air conditioning equipment; electrical circuit; furnaces; hot water
heater, appliances including ductwork, etc.) above the Base Flood Elevation. In addition, utilities must be designed and installed to prevent damage; or

- Adding permanent flood vents to the structure on a minimum of two sides of the structure, one foot above lowest adjacent grade, whereas for each square foot of building there is one square inch of opening. In addition, all electrical, mechanical plumbing, and any equipment will be required to be elevated on a platform at or above the Base Flood Elevation; or
- Floodproofing the structure (any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate damage or improved real property, water and sanitary facilities, structures and their contents). It is recommended that floodproofing be implemented up to one foot above the Base Flood Elevation for a factor of safety and to receive full credit for flood insurance rating. A certified Floodproofing Certificate is required for this method; and
- Water storage tank, fuel tank, propane tank, sewage holding tank can either be elevated and anchored on a platform at or above the Base Flood Elevation or anchored to a platform on the ground; and
- Materials used shall be water-resistant materials when you repair.

Once a method is decided upon, FEMA has created several Technical Bulletins showing how to meet the NFIP and Title 15 requirements.

Question 3 is the most important one. Additionally, if you can send these comments by the end of today, I can revamp the staff report on Monday. It has to be in the packet by Tuesday.

Thanks,
Manish

Manish Singh
Planner II
Department of Community Planning
907-459-1225 / msingh@fnsb.us

Fairbanks North Star Borough
PO Box 71267 / 809 Pioneer Road
Fairbanks, AK 99707-1267
Manish Singh

From: Nancy Durham
Sent: Tuesday, October 04, 2016 4:52 PM
To: Manish Singh
Cc: sgilbert@gci.net
Subject: CU2017-003

Manish,

Please disregard my previous email concerning this project (CU2017-003).

1725 Richardson Highway (PAN 340065) is located in Flood Zone A (90%) and Flood Zone X (10%). This property never had a Floodplain Permit or submitted Elevation Certificates on each building as required by Title 15 making it noncompliant with our Floodplain Regulations. This property is required to submit a Floodplain Permit application and finished construction Elevation Certificates for each of the eight storage units and one house to see if all the buildings are in compliance with the Floodplain Regulations. That means each building’s top of bottom floor is at or above the Base Flood Elevation (BFE) of 464.1’ (NAVD 88).

If the buildings do not meet the BFE, then they are likely to be subject to substantial improvement requirements. If the project is subject to substantial improvement requirements, then the buildings will need to be retrofitted to meet FNSB Title 15. This could include floodproofing, elevating and/or adding flood vents to each building.

The property summary from the Accessor's Office shows the improvements (buildings) on the property are assessed at $436,551. If substantial improvement requirements apply, we will need the appraisal value for each building included in the Conditional Use Permit. Once we receive the appraisal values of each building and the value of all improvements to each structure we will evaluate the accuracy of the costs of estimated improvements, then we can determine whether or not this project is a substantial improvement.

Nancy Durham, MURP, CFM
Flood Plain Administrator
FNSB Community Planning
ndurham@fnsb.us
(907) 459-1263

**Any property can flood even if it is not in a Special Flood Hazard Area. Flood insurance is recommended.
Manish:

I appreciate the opportunity to review this proposal. My review focused solely on compliance with applicable disposal regulations and my only comment is that more information in needed in the proposal regarding how marijuana waste will be managed.

The only information I found in the proposal packet about waste disposal is in the bulleted list of statements about the proposed cultivation facility on page 8 of the pdf copy of the proposal. That list includes the following statements:

- “Plant waste: Roots and dirt will be placed in a locked dumpster for pick up. All other plant waste will be composted and/or incinerated.”
- “We will be compliant with all State Statutes, titles, and Fairbanks North Star Borough ordinances.”

Relative to the second of these two statements, the applicable state regulations in 3 AAC 306.740 require that marijuana waste that is disposed or incinerated must be mixed with at least an equal amount of non-compostable materials (e.g. cardboard, paper, plastic) and that marijuana waste that is composted must be mixed with at least an equal amount of compostable materials (e.g. food waste, yard waste, vegetable-based oils).

The marijuana waste management plan described in the first statement doesn’t provide enough information to evaluate compliance with these regulations. At the very least, more information is needed as to how marijuana waste will be prepared for disposal, incineration, or composting, and where that prepared waste will be disposed, incinerated, or composted. It would also be helpful to know how and by whom the composted marijuana waste will be used. Also, information regarding the anticipated volume of marijuana waste that will be composted would help the ADEC Solid Waste Program determine if that aspect of the proposed operation will require a waste treatment permit.

Thank you again for the opportunity to provide these comments. Let me know if you have any questions.

Douglas Buteyn
Northern/Southeastern Regional Program Manager
ADEC Solid Waste Program
610 University Avenue
Fairbanks, AK  99709
Phone: 907-451-2135
Fax: 907-451-2188
Email: doug.buteyn@alaska.gov
September 19, 2016

Manish Singh
Planner II
FNSB Department of Community Planning
msingh@fnsb.us

Type of Request: Conditional Use Permit- CU 2017-003 - Gilbert

Property Location: 1725 Richardson Highway, North Pole, Alaska: (Lot 1 Midway Industrial Park, in Section 34, Township: 1 South, Range: 1 East Fairbanks Meridian

ADOT&PF has reviewed the above request and has no comment.

Driveways on state owned roads must meet current Alaska DOT&PF standards. If they do not meet these standards, ADOT&PF may request that they be modified to do so. If the owner wishes to modify an existing permitted driveway, or create a new driveway, an ADOT&PF driveway permit is required before construction. The ADOT&PF permitting website can be found at: http://www.dot.state.ak.us/permits/index.shtml

Thank you.

Sincerely,

Margaret L. Carpenter
Fairbanks Area Transportation Planner
(907) 451-2252

cc: George Stefan, FNSB
    Angela Parker, FNSB

Comm. Planning Dept
SEP 19 2016
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"Keep Alaska Moving through service and infrastructure."
From: Manish Singh  
Sent: Thursday, September 15, 2016 3:47 PM  
To: David.tyler@alaska.gov; David.aden@alaska.gov; Linda.mahlen@alaska.gov; margaret.carpenter@alaska.gov; George.horton@alaska.gov; Tonya.bear@alaska.gov; Doug.buteyn@alaska.gov; Dps.ast.directors.office@alaska.gov; JLKarl@gvea.com; Bill Witte; Nancy Durham  
Subject: CU2017-003: Requesting Comments for Marijuana Cultivation Facility, Indoor Large Conditional Use Application (1725 Richardson Hwy)

Dear Sir/Ma’am,

The Fairbanks North Star Borough Planning Commission is considering CU2017-003, a request for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone, located at 1725 Richardson Hwy (on the south side of Richardson Hwy, between El Paso St and Sinclair Ave). This application (CU2017-003) is scheduled for a Planning Commission public hearing on October 25, 2016.

I have attached the application material with this email. The department requests you to send us your comments on this application by September 30, 2016. If you have any questions regarding this application, please contact me at (907) 459-1225 or msingh@fnsb.us

Thanks,
Manish
Application Material Received on
August 10, 2016

CU2017-003
MARIJUANA FACILITY
CONDITIONAL USE PERMIT APPLICATION
File No. CU2014-003

FEES: $250 verification of sensitive use buffers
$200 sign deposit (cash or check only)

Applicant:

<table>
<thead>
<tr>
<th>Contact Name:</th>
<th>Sherry Gilleott</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name:</td>
<td>Arctic Greenery, LLC</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>PO Box 5820, North Pole, AK 99705</td>
</tr>
<tr>
<td>City, State Zip:</td>
<td>North Pole, AK 99705</td>
</tr>
<tr>
<td>Phone:</td>
<td>907-647-0202</td>
</tr>
<tr>
<td>E-mail:</td>
<td><a href="mailto:Sherry@asbjc.net">Sherry@asbjc.net</a></td>
</tr>
</tbody>
</table>

Property Owner:

<table>
<thead>
<tr>
<th>Name:</th>
</tr>
</thead>
</table>

Property Information:

<table>
<thead>
<tr>
<th>Property Description:</th>
<th>Lot 1 Jayway Industrial Park out of TL-2732 Sec.27 T15S R1E</th>
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</thead>
<tbody>
<tr>
<td>Street Address:</td>
<td>125 Richardson Highway</td>
</tr>
<tr>
<td>Parcel Account Numbers (PAN):</td>
<td>03400005</td>
</tr>
<tr>
<td>Existing Use(s):</td>
<td></td>
</tr>
<tr>
<td>Lot Size:</td>
<td>5.33 Acres</td>
</tr>
<tr>
<td>Zoning District:</td>
<td>GU1</td>
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</tbody>
</table>

Conditional Use Request Information:

<table>
<thead>
<tr>
<th>Proposed Use(s):</th>
<th>marijuana cultivation facility indoor large</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request Description and Reasons for the Request:</td>
<td>Request for conditional use permit for marijuana cultivation facility indoor large</td>
</tr>
</tbody>
</table>

I have attached a detailed site plan drawn to scale and to the standards of the Commercial/Industrial Site Plan guidelines. I certify that the information included in this application is to the best of my knowledge true and complete.

APPLICANT SIGNATURE: Sherry Gilleott
DATE: 8-9-16

OWNER SIGNATURE (if different):
DATE: 

If the applicant is not the sole property owner, written consent of all property owners must be provided pursuant to FNSBC 18.104.050(B).

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.

W:\Community Planning\AdminForms & Handouts\FY17 Applications\Form_Application_CU_Marijuana.docx

Revised 7/8/2016
Plot Plan

L. Frank Stallings RLS, certify that this Plot Plan was prepared by me or under my direct supervision and that to the best of my knowledge there are no other improvements or encroachments, if any, on the property other than those that are shown. Boundaries and easements are those of record on Plat No. 1. This Plot Plan should not be construed to represent a boundary survey.

Legal Description: Lot 1, Midway Industrial Park Subdivision, in Section: 34, Township: 1 South, Range: 1 East Fairbanks Meridian. (Address: 1725 Richardson Highway, North Pole, Alaska 99705)

Ordered by: Sherry Gilbert, Owner Cell (907)667-0763
Hide-Away Self Storage, Phone:(907) 488-5530

Ordered: July 12, 2016       Delivered: July 22, 2016

Surveyed by: L. Frank Stallings Surveys
515 Craig Ave.
Fairbanks, Alaska 99701
Ph: 907 456-1408 Cell 907-986-4052

Drawn by: RCK Checked by: LFS Scale: 1 Inch = 100'
This Plot Plan has been modified.

I, L. Frank Stallings, RLS, certify that this Plot Plan was prepared by me or under my direct supervision and that to the best of my knowledge there are no other improvements or encroachments, if any, on the property other than those that are shown. Boundaries and easements are those of record on Plat No. This Plot Plan should not be construed to represent a boundary survey.

Legal Description: Lot 1, Midway Industrial Park Subdivision, in Section 34, Township 1 South, Range 1 East, Fairbanks Meridian. (Address: 1725 Richardson Highway, North Pole, Alaska 99705)

Ordered by: Sherry Gilbert, Owner (907) 488-0763 Hide-Away Self Storage, Phone: (907) 488-5530

Ordered: July 12, 2016 Delivered: July 22, 2016


Drawn by: RCK Checked by: LFS Scale: 1 Inch = 100'

STATE OF ALASKA

49TH

L. FRANK STALLINGS

NO. 6412
Plot Plan

I, L. Frank Stallings ALS, certify that this Plot Plan was prepared by me or under my direct supervision and that to the best of my knowledge there are no other improvements or encroachments, if any, on the property other than those that are shown. Boundaries and easements are those of record on Plat No. 1. This Plot Plan should not be construed to represent a boundary survey.

Legal Description: Lot 1, Midway Industrial Park Subdivision, in Section: 34, Township: 1 South, Range: 1 East Fairbanks Meridian. (Address: 1725 Richardson Highway, North Pole, Alaska 99705)

Ordered by: Sherry Gilbert, Owner Cell (907) 687-0763
Hide-Away Self Storage, Phone (907) 488-5530

Ordered: July 12, 2016  Delivered: July 22, 2016

Surveyed by: L. Frank Stallings Surveys
515 Craig Ave.
Fairbanks, Alaska 99701
Ph: 907 456-1408 Cell 907-986-4052

Drawn by: RCK  Checked by: LFS  Scale: 1 Inch = 100'
Each unit is 10' x 15' with an 8 ft door.

lin = 10ft
All buildings on site plan are existing and not proposed.
Phase 1 will have two employees. If we are able to implement phase 2, we will have a total of four employees.
Vehicle trips to the site: Besides employees, there will not be more than three to five trips per week.
The hours of operation will be 12:00pm to 8:00pm
Activities occurring on the site: Except for daily operations, we have no activities planned.
Phases of development: Phase 1 building three and office. Phase 2 we would add building four.
The property is 5.33 acres. I do not expect odor, noise, dust or outdoor lighting to cross the property line. The cultivation building will have carbon filters to prevent odor. The security lighting will be on building three and eventually building four. These are both interior buildings. The light will not affect neighboring properties.
There will be no chemicals utilized or stored on the site.
Plant waste: Roots and dirt will be placed in a locked dumpster for pick up. All other plant waste will be composted and/or incinerated.
Water source: Private well.
Sewage disposal: Septic system.
Method of wastewater management: We will utilize a graywater containment system, for watering plants and eventually, landscaping.
Public services: North Pole Volunteer Fire Department, Alaska State Troopers. We will contract with a private company for garbage removal.
We will be a cultivation facility, not manufacturing.
We will be fully compliant with the states requirements for facility security. Security system is being installed by ATS Alaska.
We will be compliant with all State Statutes, titles and Fairbanks North Star Borough ordinances.
We have adequate sewage capacity, energy and water supplies. The property is covered by public services.
Our use of this property will not affect public health, safety or welfare. Carbon filters will prevent odor. Our lighting will not affect the neighbors.
1725 Richardson Highway
North Pole, Alaska 99705

Building 1: \(35.2 \times 100.2 = 3527.04\) Not Used

Building 2: \(35.2 \times 100.2 = 3527.04\) Not Used

Building 3: \(35.2 \times 100.2 = 3527.04\) Cannabis Cultivation – Phase 1

Building 4: \(35.2 \times 100.2 = 3527.04\) Not Used – Proposed Phase 2

Building 5: \(25.4 \times 100.2 = 2545.08\) Not Used

Building 6: \(20.4 \times 100.2 = 2044.08\) Not Used

Building 7: \(38.2 \times 100.2 = 3827.64\) Not Used

Building 8: \(38.2 \times 100.2 = 3827.64\) Not Used

Building 9: One story frame house: \(23.1 \times 44.1 = 1018.71\) Will be office Space, employee bathrooms and Mechanical Room – Phase 1

Total square footage of all buildings is: 27,371.31
Application Material Received on September 07, 2016

CU2017-003
Prepurchase Agreement 31 May 2016

This is an addendum to the purchase agreement dated 18 May 2016 between CGH Holdings LLC, sellers, and Sherry Gilbert and Brandon Gilbert, buyers, for the property located at 1725 Richardson Highway, legal description Lot 1 Midway Industrial Park TL 2732 out of Section 27 T1S-R1E. A monthly payment of $3600 beginning on June 1, 2016 shall be due and collected on the first of the month thereafter until closing. Of this, $2400 shall be applied to principal and shall reduce the original loan amount of $360,000 accordingly at closing. The $3600 shall come out of the $20,000 earnest money already deposited by the Gilbert family, but shall not be part of the $90,000 down payment. If the sellers default on the purchase agreement for any reason, the Gilbert family shall be refunded all monies paid to date in full. Since these monies shall be reducing the amount of the loan paid solely to James Chumbley, member CGH Holdings LLC, only his signature shall be required on this document.

James Chumbley

[Signature] 31 May 2016

Sherry Gilbert

[Signature] 8-18-16

Brandon Gilbert

[Signature] 8-18-16

Comm. Planning Dept

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Conditional Use Criteria. FNSB 18.104.050 (c).

Whether or not the proposed conditional use conforms to the intent and purpose of this title and of other ordinances and state statutes.

Arctic Greenery, LLC will operate in strict compliance with 3 AAC 306 and all local ordinances. The state application has been initiated. This conditional use permit will provide jobs and revenue for the Fairbanks North Star Borough, while protecting the safety, health and welfare of the community.

Whether or not there are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use.

The proposed property has a private well and septic system. The septic system was installed by Bud Howell Construction, a DEC approved septic installer, approximately 10 years ago. The system installed was overbuilt for a 1 bedroom, 2-bathroom apartment with an office and 28,000 square feet of storage space. The system has not malfunctioned since installation. The well was installed as a commercial, and not residential well to support the business needs, as stated above.

The electricity is provided by Golden Valley Electric Association. The electricity provided by GVEA is adequate for the current and proposed use.

Fire service is provided by North Star Volunteer Fire Department located at 2358 Bradway Road, North Pole, Alaska, 99705. The property is located 1.7 miles from the fire department.

Police service is provided by the Alaska State Troopers, D Detachment located at 1979 Peger Road, Fairbanks, Alaska 99709.

Transportation facilities. The Richardson Highway and the Frontage Road are maintained by the State of Alaska Department of Transportation. The Frontage Road provides adequate access to this and other commercial properties in the area. The property is also connected to Fairbanks and North Pole by the Fairbanks North Star Borough MACS Transit System, the green and black lines. The property is also accessible by several private taxi services.
Whether or not the proposed conditional use will protect the public health, safety, and welfare.

Arctic Greenery, LLC, cannabis cultivation, will not adversely affect the public health, safety or welfare of the community.

Although we have eight buildings, phase one will include building number 3, phase two will include building number 4 (see previously submitted plot plan). Both of these buildings are interior buildings on the property. On the Northeast side, these buildings are approximately 100 feet from the property line. On the Northwest side they are approximately 160 feet from the property line. On the South side they are 300 feet from the property line. With the exception of the Frontage Road, there is a heavily wooded tree buffer. The lighting we use, will not penetrate the tree buffer and will not affect any of the neighboring properties. Our cultivation buildings will also have an extensive carbon filtration system. This system and the distance of the buildings from neighboring properties, will prevent any odor from crossing property lines.

The access road to the property is paved. Our parking area is gravel. Phase one will include 2 employees and phase two will include a maximum of 4. Visitors, if any will be kept to a minimum. Loitering will not be allowed. We will have a low volume of traffic on our property. We will not create dust issues for neighboring properties.

We have completely fenced in the eight buildings, with 6-feet of chain link and one foot of barbed wire, for a 7-foot fence. The property has three locked gates. Employees only will be allowed in the secure area. We have a contractor installing a security system with cameras. No one under the age of 21 will be allowed on the property. Personal use of marijuana will not be allowed on the property.

Our operation will be indoors, quiet and contained. We will not create noise for the neighboring properties.

The tree buffers on three sides of the property will not be thinned or removed, but in the future we plan on landscaping, paving and improving the appearance of the property from the frontage road.

Comm. Planning Dept
SEP 07 2016
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Application Material Received on
September 09, 2016

CU2017-003
9 September 2016

James B. Chumbley
223 Charles St.
Fairbanks, AK 99701

Dear Mr. Singh,

I, James B. Chumbley, do authorize Sherry Gilbert to operate a cannabis cultivation operation at 1725 Richardson Highway described as Lot 1 Midway Industrial Park out of TL-2732 Sec. 27 T1-S, R1E. I am the sole member of CGH Holdings, the legal owner of said property.

Signed,
James B. Chumbley

Comm. Planning Dept
SEP 09 2016
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ASSIGNMENT AND CONVEYANCE OF MEMBERSHIP INTERESTS

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, Richard L. Gingras, Martha Gingras, Robert Gingras, Richard A. Gingras and Russell Gingras hereby assign, transfer and convey all of their membership interests in CGH Holdings LLC, an Alaska limited liability company, to James Chumbley.

IN WITNESS WHEREOF the parties have executed this agreement to be valid and effective on September 7, 2016.

Richard L. Gingras

Martha Gingras

Robert Gingras

Richard A. Gingras

Russell Gingras

Comm. Planning Dept

SEP 09 2016

RECEIVED
Application Material Received on
October 03, 2016

CU2017-003
Hi Nancy,

Sorry for the delay in my response.

- The pond is existing

- The property was partially fenced with two gates when we purchased it. To complete the fence and add the back gate was $8,000.00.

- The office remodel is almost complete. We have installed the security system and cameras. We have spent approximately $3,000 on this building. We have not started any updates or renovations to building 3. We do have an estimate of $30,000 to install lighting, cameras, the security system, the carbon filter system and the required electrical update. Renovations and updates on building 4, phase 2, would not take place until next year.

- Next summer we would like to pave the front parking lot, put raised flower beds in front of the office and some brush cutting on the frontage road.

If you have any questions, please contact me.

Thank you,

Sherry Gilbert
Hi Doug,

Sorry for the brief summary on our CUP application. Below, is the answer to the waste question from our state application.

The marijuana waste will be stored in a designated locked storage area for waste material only. The state board will be given 3 days notice before the marijuana is made unusable. The plant waste will be ground and mixed with an equal amount of compostable material, such as food waste, yard waste or vegetable based grease or oils. We may also mix paper and/or cardboard waste to the ground marijuana. The waste will be delivered to an approved landfill or waste facility. We do not expect to have a large volume of waste. We will be starting a fairly small grow in building number 3.

If you have any questions, please contact me.

Thank you,

Sherry Gilbert
Hi Manish,

Attached is the picture of the posted public hearing sign. The sign was posted on September 21, 2016. I will be in Monday afternoon with the affidavit.

We are no longer operating as a mini storage, but we do have several tenants that are out of state or deployed. We are holding the property until tenants are able to retrieve it.

We have also been talking to Lawrence Bento and Justin Hocklander regarding leasing them building 7. If we do lease to Lawrence and Justin, they will be responsible for obtaining the required licensing.

If you have any questions, please let me know.

Thank you,

Sherry Gilbert
STAFF REPORT

Ord. No. 2016-59
STAFF REPORT

TO: Fairbanks North Star Borough Planning Commission

FROM: D. Christine Nelson, Director
Department of Community Planning

DATE: October 12, 2016


The attached ordinance was referred by the FNSB Assembly on September 22, 2016. The ordinance proposes to amend Title 4 to allow compensation to members of three specific boards and commissions.

The intent of the proposed ordinance is to help compensate for the time and cost of traveling to and attending these often lengthy meetings by community volunteers. This proposed ordinance allows for the compensation of $50 per member for each regularly scheduled meeting of the Planning Commission.

Adoption of this ordinance would result in approximately $1,050 compensation annually for each member if they attend each of the 21 regularly scheduled Planning Commission meetings, for a total cost of $11,550 for Planning Commission compensation each year. The total amount of compensation to the Planning Commission might be greater if additional meetings are required to handle case load or less if seats remain vacant.

Lines 22-25 anticipate including each of the three specified boards and commissions only if that board or commission makes a recommendation for adoption by the Assembly. However, an individual Planning Commission member may waive this compensation (Line 50-51).

If the Planning Commission wishes to support this proposed ordinance, a draft motion is:

Draft Motion: I move that the Planning Commission makes a recommendation to the Assembly to adopt Ordinance 2016-59.

Alternate Draft Motion: I move that the Planning Commission makes a recommendation to the Assembly not to adopt Ordinance 2016-59.
MEMORANDUM

TO: Christine Nelson, Director
    Department of Community Planning

FROM: Nanci Ashford-Bingham, MMC
    Borough Clerk

DATE: September 23, 2016

SUBJECT: REFERRAL OF ORDINANCE NO. 2016-59 – Compensation

On September 22, 2016, the Fairbanks North Star Borough Assembly referred Ordinance No. 2016-59 sponsored by Assemblymember Sattley to the Planning Commission and Platting Board for review and recommendation.

-Referral to the Planning Commission and Platting Board with recommendations due back no later than November 1, 2016

A recommendation is due no later than November 1, 2016.

As previously discussed with Kellen Spillman, Deputy Director of Community Planning please place this item on the October 25, 2016 Planning Commission agenda and on October 19, 2016 Platting Board agenda. Please notify Assemblymember Sattley of the date and time of the meetings.

As a reminder all legislative hearings by a board or commission shall be conducted according to procedures outlined in FNSBC 4.04.150(D).

Should you have any questions, please contact me at 1401.

Cc: Jim Williams, Chief of Staff
FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2016- 59

AN ORDINANCE PROVIDING FOR COMPENSATION IN THE FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES FOR THE BOARD OF EQUALIZATION (4.28.020), THE PLANNING COMMISSION (4.80.010) AND THE PLATTING BOARD (4.84.030)

WHEREAS, Certain boards and commissions spend a significant amount of time traveling to and attending public meetings; and

WHEREAS, Compensation for board and commission members will help offset expenses for the members in attending meetings and result in more applicants for these positions; and

WHEREAS, Providing compensation will require members to provide personal information for processing purposes, and therefore this ordinance should move forward only upon a recommendation for adoption by the affected board or commission members.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is of a general and permanent nature and shall be codified.
Section 2. FNSBC 4.28.020 shall hereby be amended as follows:

Regular board members and alternate members shall be appointed on the basis of their expertise in property appraisals, real estate market, construction, farming, and other fields related to their functions as members of the board of equalization. Regular board members and alternate board members shall serve for three years or until their successors are appointed and qualified. Terms shall be staggered so that approximately one-third of the terms expire each year. Compensation for board members shall be $50.00 per regularly called daily session attended unless such compensation is waived in writing and delivered prior to the effective date of the waiver.

Section 3. FNSBC 4.80.010 shall be amended to add a subsection E as follows:

E. Members of the borough planning commission shall receive compensation in the amount of $50.00 for each regular meeting the planning commission member attends unless such compensation is waived in writing and delivered prior to the effective date of the waiver.

Section 4. FNSBC 4.84.030 shall be amended to add a subsection E as follows:

E. Members of the borough platting board shall receive compensation in the amount of $50.00 for each regular meeting the platting board member attends unless such compensation is waived in writing and delivered prior to the effective date of the waiver.

Section 5. Effective date. This ordinance shall be effective at 5:00 p.m. on the first borough business day following its adoption.
PASSED AND APPROVED THIS _____ DAY OF __________, 2016.

_____________________________
John Davies
Presiding Officer

ATTEST:

_____________________________
Nanci Ashford-Bingham, MMC
Borough Clerk

APPROVED:

_____________________________
Jill S. Dolan
Borough Attorney

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
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STAFF REPORT

Ord. No. 2016-60
STAFF REPORT

TO:        Fairbanks North Star Borough Planning Commission
FROM:     D. Christine Nelson, Director
          Department of Community Planning
DATE:     October 14, 2016
SUBJECT:  ORDINANCE NO. 2016-60: An Ordinance Amending FNSBC 18.112.030 Regarding Initiation of Complaints and Amending FNSBC 1.16.030 Regarding Complaints and Complainant Personal Information

Purpose and Intent

The attached ordinance was referred by the FNSB Assembly on September 22, 2016. The ordinance proposes to amend Title 18 by removing the Initiation of Complaints section and removing specific references to disclosing complainant personal information as public records.

Background

Confidentiality

Alaska has a liberal public records law; AS 09.25.120 provides that every person has a right to inspect a public writing or record in the state. There are just twelve exceptions to the law. One exception relates to law enforcement for criminal matters and was intended to encourage individuals to inform upon criminal activity.

The FNSB zoning ordinance in effect prior to April 25, 1988 authorized prosecution of zoning violations criminally. This allowed the FNSB to keep the identities of informants/complainants for zoning violations confidential. As a matter of policy, the FNSB withheld the complainant’s name from the violator or from anyone who requested to view the file. Active enforcement cases were also considered confidential and not open for public view until closed. Complainant names were protected at all times, even after case closure, unless required to disclose through court action or the appeals process.

On April 25, 1988, the FNSB Assembly adopted a revised zoning ordinance with new enforcement provisions. Zoning violations became civil and not criminal offenses. As a result, the FNSB no longer met the disclosure exemption for criminal matters. However, case law exists that allows for some limits on public disclosure of complainant information for certain issues such as privacy. This supports a case-by-case review of public records requests involving complainant information.

Accepting Complaints

Prior to June 9, 1988, it was FNSB policy to investigate violations of the zoning ordinance only after receiving a written complaint signed by the complainant. Then, on June 9, 1988, the
Assembly passed a resolution stating that it is the policy of the borough to enforce all code violations regardless of whether or not a written complaint had been filed, while still giving written complaints priority over verbal or anonymous complaints. This direction remained in effect until February 25, 2011, when the Assembly passed Ordinance No. 2010-55. This added a section on the initiation of Title 18 complaints to the Enforcement and Penalties section requiring complainants to establish their “standing” to file a complaint, which eliminated anonymity or confidentiality because complainants could only prove their standing to file complaints by identifying themselves and their specific interests or property rights related to the violation. It also had the side effect of dramatically limiting the number of complaints from the public and referrals from FNSB staff or other agencies. It further restricted Code Enforcement staff from initiating investigations without written complaints from someone with “standing.”

**Proposed Ordinance**

Ordinance No. 2016-60 proposes to amend Title 18 by removing the Initiation of Complaints section that was added by Ordinance No. 2010-55. It also proposes to remove specific references from Title 1, applicable to all FNSB codes to disclosing complaints and complainant personal information as public records, with the intended procedures of reviewing any public records request on a case-by-case basis as stated on Lines 21-24.

**Consistency with the FNSB Regional Comprehensive Plan**

The proposed ordinance is consistent with the Comprehensive Plan, particularly Land Use Goal 1: “To recognize that the foremost aspect of land use involving private property is the retention and maintenance of private property rights”. Strategy 2 states “Work for community end goals with a minimum impact and disruption of individual private property rights” and Strategy 3 states “To work to reduce to the fullest extent possible the natural conflict that develops between private property right and community needs and interests”. Every property owner has private property rights and local zoning and land use controls attempt to strike a balance amongst those rights while working towards community goals. By allowing greater flexibility in who can file a land use violation complaint, the proposed ordinance will enable citizens to better protect their private property rights and property value) from the negative impacts of a land use violation in their neighborhood or the community. This ordinance addresses and adjusts the balance between competing private property rights within a neighborhood. It also helps meet the community interests of enforcing land use regulations to better protect quality of life, property values and private property rights.

**Analysis**

FNSB Community Planning supports the purpose and intent of Ordinance No. 2016-60. Eliminating the requirement to prove “standing” will encourage the public to submit complaints that Community Planning was not previously able to accept; and to notify the FNSB of possible zoning code violations regardless of where they live. The ordinance would also allow staff to self-initiate enforcement action and allow referrals from other agencies. Finally, the ordinance would allow review of related public records requests on a case-by-case basis prior to any release of complainant information as a public record.

The proposed ordinance enables a code enforcement program that is more responsive to neighborhood and citizen complaints addressing public health, safety and welfare concerns. The ordinance also allows for anonymous complaints if the complainant feels it is necessary.
The proposed ordinance leaves the question of how code enforcement priorities are established and implemented to the borough administration and department policies. This ordinance supports the development and operation of a broader, more responsive and effective code enforcement program to better serve citizens, property owners living near a land use violation, and community needs and concerns.

Recommendation

The Community Planning Department recommends that the FNSB Planning Commission recommend that the FNSB Assembly adopt Ordinance No. 2016-60.

Draft Motion: I move that the Planning Commission makes a recommendation of approval of Ordinance No. 2016-60 to the FNSB Assembly.
MEMORANDUM

TO: Christine Nelson, Director
   Department of Community Planning

FROM: Nanci Ashford-Bingham, MMC
       Borough Clerk

DATE: September 23, 2016

SUBJECT: REFERRAL OF ORDINANCE NO. 2016-60 – FNSBC 18.112.030 Complaints

On September 22, 2016, the Fairbanks North Star Borough Assembly referred Ordinance No. 2016-59 sponsored by Assemblymembers Hutchison and Dodge to the Planning Commission for review and recommendation.

ORDINANCE NO. 2016-60. An Ordinance Amending FNSBC 18.112.030 Regarding Initiation Of Complaints And Amending FNSBC 1.16.030 Regarding Complaints And Complainant Personal Information. (Sponsors: Assemblymembers Hutchison and Dodge)

-Referral to the Planning Commission with recommendation due back no later than November 1, 2016

A recommendation is due no later than November 1, 2016.

As previously discussed with Kellen Spillman, Deputy Director of Community Planning please place this item on the October 25, 2016 Planning Commission agenda and notify Assemblymembers Hutchison and Dodge of the date and time of the meetings.

As a reminder all legislative hearings by a board or commission shall be conducted according to procedures outlined in FNSBC 4.04.150(D).

Should you have any questions, please contact me at 1401.

Cc: Jim Williams, Chief of Staff
FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2016- 60

AN ORDINANCE AMENDING FNSBC 18.112.030 REGARDING INITIATION OF COMPLAINTS AND AMENDING FNSBC 1.16.030 REGARDING COMPLAINTS AND COMPLAINANT PERSONAL INFORMATION

WHEREAS, A program of code enforcement often relies on the reporting of complaints in order to address violations of code; and

WHEREAS, Many residents observe potential code violations that do not impact their specific property interests, but these residents still have other interests in seeing these violations resolved and they should not be prohibited from reporting them; and

WHEREAS, The borough should not have a policy that complainant information is automatically disclosed as a public record, but should analyze such requests on a case by case basis to determine whether or not personal information should be disclosed; and

WHEREAS, Requiring complainant information to be disclosed discourages reporting of complaints, resulting in less efficient code enforcement processes.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
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Section 1. Classification. This ordinance is of a general and permanent nature and shall be codified.

Section 2. FNSBC 18.112.030, Initiation of complaints, is hereby deleted as follows:

[18.112.030 INITIATION OF COMPLAINTS
ANY COMPLAINTS BROUGHT UNDER THIS TITLE MUST MEET THE FOLLOWING CONDITIONS:
A. TO INITIATE A COMPLAINT THE ALLEGED VIOLATION MUST PERSONALLY AND ADVERSELY AFFECT A MATTER IN WHICH A PERSON HAS A SPECIFIC INTEREST OR PROPERTY RIGHT IN A WAY DIFFERENT THAN THAT OF THE GENERAL PUBLIC.
B. THE COMPLAINANT BEARS THE BURDEN OF PROVING THE ADVERSE EFFECT ALLEGED IN A SUBSECTION (A) OF THIS SECTION.
C. THE COMPLAINT SHALL:
   1. BE IN WRITING.
   2. STATE IN ORDINARY AND PRECISE LANGUAGE THE PROVISIONS OF THIS TITLE ALLEGED TO HAVE BEEN VIOLATED AND THE FACTS ALLEGED TO CONSTITUTE THE VIOLATION.
   3. INCLUDE STATEMENTS OF SUPPORT AND/OR OTHER EVIDENCE SUPPORTING THE ALLEGATIONS.
D. THE DEPARTMENT UNIT MAY INVESTIGATE A COMPLAINT; PROVIDED, THAT THE ABOVE CONDITIONS HAVE BEEN MET.]

Section 3. FNSB 1.16.030, Disclosure policy and exemptions for particular records, is amended as follows:

It is the policy of the borough to disclose all public records [INCLUDING COMPLAINTS AND COMPLAINANT PERSONAL INFORMATION (NAME, ADDRESS AND AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT Text to be added is underlined Text to be deleted is [BRACKETED, CAPITALIZE]
PUBLISHED TELEPHONE NUMBER)] filed with the borough unless those records are
specifically excluded in this section. Unless necessary to the fair and just disposition of
a charge or complaint in enforcement proceedings, the following records may be
excluded from disclosure:

A. Personal information (other than name, address and published telephone
number).

B. The identity of the victim [OR COMPLAINANT] in an animal bite case or
misdemeanor.

C. Records defined as "not public records" and therefore exempt or excluded from
disclosure requirements under AS 40.25.120 or other applicable law.

D. The disclosure could constitute an unwarranted invasion of personal privacy.

E. Documents which are confidential by law or are covered by a legal privilege
including attorney client communications.

F. Documents relevant to litigation and sought by a party to litigation or a person
acting on their behalf shall not be disclosed except in accordance with the rules of
procedure applicable in a court or an administrative adjudication.

Section 4. Effective date. This ordinance shall be effective at 5:00 p.m.
on the first borough business day following its adoption.

PASSED AND APPROVED THIS ____ DAY OF ________, 2016.

__________________________
John Davies
Presiding Officer

ATTEST:

__________________________
Nanci Ashford-Bingham, MMC
Borough Clerk

APPROVED:

__________________________
Jill S. Dolan
Borough Attorney

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
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NEW BUSINESS
RULES AND PROCEDURES OF THE PLANNING COMMISSION

Internal rules governing the Planning Commission are set forth below. Any situation not covered in these rules shall be governed by the current edition of Robert’s Rules of Order.

ORGANIZATION

RULE 1. The Commission shall annually elect from its membership a chairman and vice chairman and shall adopt rules for the conduct of its meetings. Robert’s Rules of Order (newly revised) shall apply unless different rules are adopted by the Commission and approved by the Assembly. The staff of the Borough Planning Department shall act in an advisory and support capacity to the Planning Commission, and shall review or coordinate the review of all applications to it. The Planning Director, or his designee, shall be the secretary of the Commission. (Ord. 80-29, 1980)

RULE 2. The Chairman shall preside at Commission meetings. If at any meeting the Chairman is not present, or is unable to act, the Vice-Chairman shall preside. If both the Chairman and the Vice-Chairman are not present or are unable to act, the members present shall select one from among them to preside as Acting Chairman.

The duties of the Chairman are:

1. To call the Commission to order at the time appointed for the meeting.
2. To ascertain the presence of a quorum.
3. To cause the journal or minutes of the preceding meeting to be read and passed upon by the Commission.
4. To lay before the Commission its business in the order indicated by RULE 5.
5. To receive any propositions made by members and put them to the Commission.
6. To divide the Commission on questions submitted to him and announce the results.
7. To decide all questions or order subject to an appeal of the Commission.
8. To preserve order and decorum in debate and all other times.
9. To enforce such other rules of the Commission that are not placed in charge of another officer for which the enforcement is not reserved by the Commission.
10. To inform the body, when necessary, or when any question is raised, or any point of order or practice pertinent to the pending business.

11. To sign and authenticate all official documents of the Commission

MINUTES

RULE 3. The minutes shall be handled as follows:

First: The proceedings of the Commission as concisely as possible, care being taken to record a true and accurate account of all the proceedings.

Second: The vote of each motion.

QUORUM

RULE 4. A majority of the appointed and confirmed members of the commission constitutes a quorum, except in no case may a quorum consist of fewer than five members. (Ord 58-2015, 12/10/2016; Ord. 79-6, 2/12/79) All Commission actions shall be by vote of a majority of the Commission's membership who are present and voting. (Ord 06-21, 3/23/06)

ORDER OF BUSINESS

RULE 5. The business of the Commission shall be disposed of in the following order:

A. Roll Call
B. Messages: 1) Chairman's Comments  
   2) Communications to the Planning Commission  
   3) Citizen's Comments
C. Minutes
D. Approval of Agenda and Consent Agenda
E. Public Hearing
F. Unfinished Business
G. New Business
H. Commissioner's Comments
I. Adjournment

RULE 6. The Chairman shall remove any item from the Consent Agenda for the purposes of debate or discussion at the request of any member of the Planning Commission.

Upon removal, the item will be open for discussion and debate as it appears on the agenda prior to the public hearing or placed under New Business at the discretion of the Chair.

Following debate, an item must be voted on or another motion may be made such as a postponement to public hearing.

CALENDAR
RULE 7. The Chairman shall have charge of the calendar of the Commission, and shall direct the Clerk as to the order in which the business of the Commission shall be transacted, and as to when the calendar shall be closed.

RULE 8. The Chairman, at each meeting, announce to the Commission the business in order, agreeable to the preceding rule, and no business shall be considered which is not on the calendar.

SPECIAL ORDERS

RULE 9. Any subject may, by majority vote of all the member of the Commission, be made a special order, and when the time for its consideration arrived, the Chairman shall lay it before the Commission.

RULE 10. The Chairman shall not allow a Planning Commission meeting to proceed past 12 midnight.

ATTENDANCE

RULE 11. Attendance is important to the conduct of the Planning Commission. As such, members are urged to make every effort to attend all meetings. In the event of an absence, a member should notify the Chair or the Planning Commission secretary as much in advance of the meeting as possible of his or her inability to attend and, if the member wishes the absence to be excused, the reason for the absence.

RULE 12. The Planning Commission will determine a member’s absence to be excused without a vote if one of the following reasons causes the member to be unable to attend the meeting:

1. The member is ill;
2. The member has a family emergency; or
3. The member has a work assignment that conflicts with the meeting date and time.

The following reasons may be the basis for an excused absence upon the majority of the Planning Commission members present and voting on the question deeming the circumstances of the absence to justify excusal:

4. The member is absent from the borough; or
5. Another reason similar to those stated in this Rule.

Any other absence will be determined to be unexcused without a vote of the Planning Commission.

RULE 13. The Commission may request the Borough Assembly declare the office of a member vacant and the Borough Mayor to replace any member of the Commission whose unexcused absences exceed those allowed by FNSB code.

RULE 14. All commission actions shall be by vote of a majority of the commission's membership who are present and voting.

RULE 15. Every member who shall be on the Commission when the question was put, will give his vote unless the Commission, with special reasons, shall excuse him. All
motions to excuse a member shall be made before the Commission decides; before the call of yeses and noes is commenced, and any member requesting to be excused from voting may make a brief verbal statement as to the reasons for making such a request and the questions shall be taken without further debate.

RULE 16. No member shall be allowed to explain his vote to discuss the questions while the yeses and noes are being called, or change his vote after the result has been announced.

DECORUM IN DEBATE

RULE 17. When any member is about to speak in debate, or deliver any matter to the Commission, he shall respectfully address himself to the Chairman and being recognized, shall confine himself to the question under debate, avoid personalities, and no member shall impugn the motive of any member’s vote or argument.

RULE 18. If any member transgresses the Rules of the Commission, the Chairman shall call him to order, or any member shall arise to a point of order, in which case the transgressing member will immediately take his seat unless permitted to explain; and the Commission shall, upon appeal, decide the case without debate. If there is no appeal, then the body shall abide by the decision of the Chair. If the decision be in favor of the member called to order, he shall be at liberty to proceed. If otherwise, and the case shall require it, he shall be liable to the censure of the Commission.

RULE 19. When a member is speaking, the Commission shall be in order and no private conversations shall be carried on.

RULE 20. The Chair will recognize members only except with the consent of the majority of the members present.

MOTIONS

RULE 21. When a motion is made and seconded, it shall be stated by the Chairman or being in writing, it shall be presented to the Chair and read aloud before debate.

RULE 22. Motions shall be reduced to writing.

RULE 23. When a question is under debate, no motion shall be made except for the following privileged motions which shall have the following precedence:

1. To adjourn
2. For a call of the Commission
3. To recess
4. To lay on the table
5. For the previous question
6. To limit or extend the limits of debate
7. To postpone to a day certain
8. To amend
9. To postpone indefinitely
RULE 24. INDEFINITE POSTPONEMENT: A measure may be indefinitely postponed by a majority vote of all votes to which the Commission is entitled, and entered in the journal. No motion to postpone indefinitely having been decided in the negative shall again be allowed on the same day. When a question is postponed indefinitely the same shall not be acted upon again, except on motion of reconsideration.

RULE 25. RECONSIDERATION: Any decision may be reconsidered unless something impossible to reverse has resulted from the decision or unless reconsideration would be to the detriment of those who have reasonably relied on the decision. Any unexecuted action may be reconsidered. Only one motion to reconsider shall be entertained on any action even if the commission overturns the original action. If a motion to reconsider a particular action fails, a second motion to reconsider the same action shall not be in order.

A notice of reconsideration may be made only by a member who voted on the prevailing side. If the action which is the subject of a motion to reconsider was not adopted on initial consideration because it did not receive the required number of yes votes, then those members voting no shall constitute the prevailing side, regardless of the relative number of yes and no votes cast on the question. A member who changes his vote before the result is announced shall be a member of the side on which his vote is finally recorded by the clerk.

Unless reconsideration is to take place before adjournment, notice must be given in writing by the close of business on the following workday. A decision to reconsider at the same meeting may not be made after any interested party has left the meeting if the action to be reconsidered is a conditional use permit, variance, or platting board appeal. Prior to reconsideration of an item, a vote must be taken on the motion to reconsider. If the motion passes, the item is then brought to the floor.

PREVIOUS QUESTION

RULE 26. The previous question may be ordered by two-thirds (2/3rds) of the members present upon all recognized motions which are debatable, and shall have the effect to cut off all debate and bring the Commission to a direct vote upon the motion or amendment than pending upon which it has been ordered.

The question shall be put in this form: “The previous question is demanded, all in favor of calling the previous question say ‘yes’; all opposed say ‘no’.”

The results of the motion are as follows: If determined in the negative, the consideration goes on as if the motion had never been made; if it is decided in the affirmative, the Chairman at once, and without debate, proceeds to put the amendment or motion as ordered. If an adjournment is had after the previous question is ordered, the subject comes up in its regular order on the next day and the previous question still operates.

DIVISION OF QUESTION

RULE 27. The division of a question cannot be demanded as a right by any member. It must be made pursuant to a motion stating precisely the division asked for, which motion can be amended. The Chairman can decide, subject to an appeal of the
Commission, that the division proposed cannot be made, otherwise, it is submitted to the Commission and decided by it.

**ROLL CALL PROCEDURE**

**RULE 28.** The vote upon any questions shall be yeses and noes, and shall be recorded in the minutes of the Commission. The Chairman shall vote when the yeses and noes are called for; his name being called last.

**AMENDMENT TO RULES**

**RULE 29.** These rules may be amended by resolution, approved by the majority of the membership of the Commission.

**SUSPENSION OF RULES**

**RULE 30.** These rules, or the order of business, established by the Commission, may be suspended by the majority of the membership of the Commission.

**RULE 31.** Special meetings may be held on the call of the chairman, or of one-fourth (1/4) or more members and whenever practicable, upon no less than twenty-four (24) hours effective notice to each member.

The notice shall indicate the purpose of the special meeting.

The calendar for a special meeting shall be as follows:
1. Roll Call
2. Consideration of matters calling for special meeting
3. Adjournment

**RULE 32.** INTERESTED PERSONS DETERMINATION. A person who did not receive a “Dear Property Owner” notice letter but who wishes to participate in a quasi-judicial matter may apply to the Planning Commission for a determination that the person is an “interested person” as defined in FNSBC 18.06.010. A person may seek an interested person determination at the hearing for the quasi-judicial matter or a person may apply for a determination in advance of the hearing. A pre-hearing application for interested person determination shall be on a form prescribed by the Planning Commission and received by the Department of Community Planning no later than 5 p.m. on the Monday one week before the scheduled quasi-judicial hearing at which the person wishes to testify and shall include:

1. An affidavit or other adequate proof that the applicant resides within the hearing notification area; or
2. A completed pre-hearing determination form demonstrating that the applicant
   a. Possesses a specific property interest;
   b. Which may be significantly affected by the proposed action; and
   c. Which may be affected in a way different than that of the general public.

The Chair of the Planning Commission or the Chair’s designee shall make the interested person determination with reasonable promptness and the Planning Commission Clerk shall notify the person of the decision with reasonable promptness.
RULE 33. TELEPHONIC TESTIMONY. A party or witness wishing to testify telephonically at a quasi-judicial matter may apply for telephonic testimony on a form prescribed by the Planning Commission and by demonstrating good cause for the request. The request must be received by the Department of Community Planning no later than 5 p.m. on the Monday one week before the scheduled quasi-judicial hearing at which the person wishes to testify. Upon receipt of an application for telephonic testimony, the Planning Commission Clerk shall promptly notify the parties (to include only the Applicant, Staff, and any interested person who has received a determination granting that interested person the level of standing equivalent to the Applicant and Staff), who may assert that the request for telephonic participation will result in substantial prejudice by submitting the assertion as well as the basis for the assertion to the Planning Commission Clerk no later than 5 p.m. on the business day following notification of the application. The Chair or the Chair's designee may deny the request for telephonic testimony if good cause is not shown or if substantial prejudice to another party will result from the telephonic participation. The Chair or the Chair's designee shall make the telephonic testimony determination with reasonable promptness and the Planning Commission Clerk shall notify the person requesting telephonic testimony of the decision with reasonable promptness. If the telephonic testimony is allowed, the person applying for telephonic testimony is responsible for making proper arrangements to accomplish the telephonic testimony. Telephonic testimony shall be offered from a landline telephone. If telephonic connection cannot be made, is lost, or is unintelligible, the meeting will continue as scheduled without the telephonic testimony.

RULE 34. TESTIMONY BY AFFIDAVIT. A party or witness wishing to testify by affidavit at a quasi-judicial matter may apply for testimony by affidavit on a form prescribed by the Planning Commission. The person must submit the affidavit containing the proposed testimony with the application to testify by affidavit no later than 5 p.m. on the Monday one week before the scheduled quasi-judicial matter at which the person wishes to testify. Upon receipt of the request:

1. The Planning Commission Clerk shall promptly distribute the affidavit to the parties (to include only the Applicant, Staff, and any interested person who has received a determination granting that interested person the level of standing equivalent to the Applicant and Staff);

2. The parties shall submit any relevant cross-examination questions to the Department of Community Planning no later than noon on the Friday prior to the quasi-judicial matter at which the affiant wishes to testify;

3. The Chair or the Chair's designee shall with reasonable promptness make a determination whether the submitted questions are reasonably necessary to explore any matters tending to contradict, modify, or explain the testimony;

   a. If the questions are reasonably necessary, the affidavit may be excluded in whole or in part and the affiant may be required to testify in person or by telephone. Alternatively, those questions that are deemed reasonably necessary may be submitted to the affiant, who shall answer the questions in a second affidavit, which shall be submitted to the Department of Community Planning no later than the Monday prior to the quasi-judicial matter at which
the affiant wishes to testify. If the affiant fails to answer the questions in a second affidavit, the original affidavit may be excluded in whole or in part;

b. If the questions are not reasonably necessary, the affidavit shall be accepted for Planning Commission consideration;

4. The Planning Commission Clerk shall promptly notify the parties of all determinations relating to reasonable necessity and rejection or acceptance of all or portions of an affidavit.

RULE 35. CONCURRENT APPLICATIONS. A party or witness wishing to testify either telephonically or by affidavit may submit concurrent applications complying with the respective requirements and procedures. If the party or witness has a preference to testify telephonically or by affidavit, that preference must be indicated on the application. The Chair or the Chair’s designee will review the preferred application first and only if that application is denied will the Chair or the Chair’s designee review the second application. If no preference is indicated, the Chair or the Chair’s designee will review the application to testify telephonically first.

RULE 36. HOLIDAYS. With respect to rules 32 through 34, any deadline that falls on a Borough-observed holiday will be extended until the following business day. If a deadline falls on a holiday and the foregoing rule is not practicable under the particular circumstances, the Chair or the Chair’s designee may modify the deadline in writing issued reasonably in advance of the deadline.

PARLIAMENTARY PRACTICE

The Rules of Parliamentary Practice contained in Robert’s Rules of Order shall be considered as implementing and governing these rules of organization and procedure of the Commission in all cases not inconsistent with these rules. (Res. 79-2, 1/23/79)
RULES AND PROCEDURES OF THE PLANNING COMMISSION

Internal rules governing the Planning Commission are set forth below. Any situation not covered in these rules shall be governed by the current edition of Robert’s Rules of Order.

ORGANIZATION

RULE 1. The Commission shall annually elect from its membership a chairman and vice chairman and shall adopt rules for the conduct of its meetings. Robert’s Rules of Order (newly revised) shall apply unless different rules are adopted by the Commission and approved by the Assembly. The staff of the Borough Planning Department shall act in an advisory and support capacity to the Planning Commission, and shall review or coordinate the review of all applications to it. The Planning Director, or his designee, shall be the secretary of the Commission. (Ord. 80-29, 1980)

RULE 2. The Chairman shall preside at Commission meetings. If at any meeting the Chairman is not present, or is unable to act, the Vice-Chairman shall preside. If both the Chairman and the Vice-Chairman are not present or are unable to act, the members present shall select one from among them to preside as Acting Chairman.

The duties of the Chairman are:

1. To call the Commission to order at the time appointed for the meeting.
2. To ascertain the presence of a quorum.
3. To cause the journal or minutes of the preceding meeting to be read and passed upon by the Commission.
4. To lay before the Commission its business in the order indicated by RULE 5.
5. To receive any propositions made by members and put them to the Commission.
6. To divide the Commission on questions submitted to him and announce the results.
7. To decide all questions or order subject to an appeal of the Commission.
8. To preserve order and decorum in debate and all other times.
9. To enforce such other rules of the Commission that are not placed in charge of another officer for which the enforcement is not reserved by the Commission.
10. To inform the body, when necessary, or when any question is raised, or any point of order or practice pertinent to the pending business.

11. To sign and authenticate all official documents of the Commission

MINUTES

RULE 3. The minutes shall be handled as follows:

First: The proceedings of the Commission as concisely as possible, care being taken to record a true and accurate account of all the proceedings.

Second: The vote of each motion.

QUORUM

RULE 4. A majority of the appointed and confirmed members of the commission constitutes a quorum, except in no case may a quorum consist of fewer than five members. (Ord 58-2015, 12/10/2016; Ord. 79-6, 2/12/79) All Commission actions shall be by vote of a majority of the Commission's membership who are present and voting. (Ord 06-21, 3/23/06)

ORDER OF BUSINESS

RULE 5. The business of the Commission shall be disposed of in the following order:

A. Roll Call
B. Messages:
   1. Chairman’s Comments
   2. Commissioner’s Comments
   3. Communications to the Planning Commission
   4. Citizen’s Comments – limited to three (3) minutes
      a. Agenda items not scheduled for public hearing
      b. Items other than those appearing on the agenda
   5. Disclosure & Statement of Conflict of Interest
C. Approval of Agenda and Consent Agenda
D. *Minutes
E. Consent Agenda Items
F. Quasi-Judicial Hearing
G. Public Hearing
H. Appeals
I. Unfinished Business
J. New Business
K. Excuse Absent Members
L. Commissioner’s Comments
M. Adjournment

RULE 6. The Chairman shall remove any item from the Consent Agenda for the purposes of debate or discussion at the request of any member of the Planning Commission.
Upon removal, the item will be open for discussion and debate as it appears on the agenda prior to the public hearing or placed under New Business at the discretion of the Chair.

Following debate, an item must be voted on or another motion may be made such as a postponement to public hearing.

CALENDAR

RULE 7. The Chairman shall have charge of the calendar of the Commission, and shall direct the Clerk as to the order in which the business of the Commission shall be transacted, and as to when the calendar shall be closed.

RULE 8. The Chairman, at each meeting, announce to the Commission the business in order, agreeable to the preceding rule, and no business shall be considered which is not on the calendar.

SPECIAL ORDERS

RULE 9. Any subject may, by majority vote of all the members of the Commission, be made a special order, and when the time for its consideration arrived, the Chairman shall lay it before the Commission.

RULE 10. The Chairman shall not allow a Planning Commission meeting to proceed past 12 midnight.

ATTENDANCE

RULE 11. Attendance is important to the conduct of the Planning Commission. As such, members are urged to make every effort to attend all meetings. In the event of an absence, a member should notify the Chair or the Planning Commission secretary as much in advance of the meeting as possible of his or her inability to attend and, if the member wishes the absence to be excused, the reason for the absence.

RULE 12. The Planning Commission will determine a member’s absence to be excused without a vote if one of the following reasons causes the member to be unable to attend the meeting:

1. The member is ill;
2. The member has a family emergency; or
3. The member has a work assignment that conflicts with the meeting date and time.

The following reasons may be the basis for an excused absence upon the majority of the Planning Commission members present and voting on the question deeming the circumstances of the absence to justify excusal:

4. The member is absent from the borough; or
5. Another reason similar to those stated in this Rule.

Any other absence will be determined to be unexcused without a vote of the Planning Commission.
RULE 13. The Commission may request the Borough Assembly declare the office of a member vacant and the Borough Mayor to replace any member of the Commission whose unexcused absences exceed those allowed by FNSB code.

RULE 14. All commission actions shall be by vote of a majority of the commission's membership who are present and voting.

RULE 15. Every member who shall be on the Commission when the question was put, will give his vote unless the Commission, with special reasons, shall excuse him. All motions to excuse a member shall be made before the Commission decides; before the call of yeses and noes is commenced, and any member requesting to be excused from voting may make a brief verbal statement as to the reasons for making such a request and the questions shall be taken without further debate.

RULE 16. No member shall be allowed to explain his vote to discuss the questions while the yeses and noes are being called, or change his vote after the result has been announced.

DECORUM IN DEBATE

RULE 17. When any member is about to speak in debate, or deliver any matter to the Commission, he shall respectfully address himself to the Chairman and being recognized, shall confine himself to the question under debate, avoid personalities, and no member shall impugn the motive of any member's vote or argument.

RULE 18. If any member transgresses the Rules of the Commission, the Chairman shall call him to order, or any member shall arise to a point of order, in which case the transgressing member will immediately take his seat unless permitted to explain; and the Commission shall, upon appeal, decide the case without debate. If there is no appeal, then the body shall abide by the decision of the Chair. If the decision be in favor of the member called to order, he shall be at liberty to proceed. If otherwise, and the case shall require it, he shall be liable to the censure of the Commission.

RULE 19. When a member is speaking, the Commission shall be in order and no private conversations shall be carried on.

RULE 20. The Chair will recognize members only except with the consent of the majority of the members present.

MOTIONS

RULE 21. When a motion is made and seconded, it shall be stated by the Chairman or being in writing, it shall be presented to the Chair and read aloud before debate.

RULE 22. Motions shall be reduced to writing.

RULE 23. When a question is under debate, no motion shall be made except for the following privileged motions which shall have the following precedence:

1. To adjourn
2. For a call of the Commission
3. To recess
4. To lay on the table
5. For the previous question
6. To limit or extend the limits of debate
7. To postpone to a day certain
8. To amend
9. To postpone indefinitely

RULE 24. INDEFINITE POSTPONEMENT: A measure may be indefinitely postponed by a majority vote of all votes to which the Commission is entitled, and entered in the journal. No motion to postpone indefinitely having been decided in the negative shall again be allowed on the same day. When a question is postponed indefinitely the same shall not be acted upon again, except on motion of reconsideration.

RULE 25. RECONSIDERATION: Any decision may be reconsidered unless something impossible to reverse has resulted from the decision or unless reconsideration would be to the detriment of those who have reasonably relied on the decision. Any unexecuted action may be reconsidered. Only one motion to reconsider shall be entertained on any action even if the commission overturns the original action. If a motion to reconsider a particular action fails, a second motion to reconsider the same action shall not be in order.

A notice of reconsideration may be made only by a member who voted on the prevailing side. If the action which is the subject of a motion to reconsider was not adopted on initial consideration because it did not receive the required number of yes votes, then those members voting no shall constitute the prevailing side, regardless of the relative number of yes and no votes cast on the question. A member who changes his vote before the result is announced shall be a member of the side on which his vote is finally recorded by the clerk.

Unless reconsideration is to take place before adjournment, notice must be given in writing by the close of business on the following workday. A decision to reconsider at the same meeting may not be made after any interested party has left the meeting if the action to be reconsidered is a conditional use permit, variance, or platting board appeal. Prior to reconsideration of an item, a vote must be taken on the motion to reconsider. If the motion passes, the item is then brought to the floor.

PREVIOUS QUESTION

RULE 26. The previous question may be ordered by two-thirds (2/3rds) of the members present upon all recognized motions which are debatable, and shall have the effect to cut off all debate and bring the Commission to a direct vote upon the motion or amendment than pending upon which it has been ordered.

The question shall be put in this form: “The previous question is demanded, all in favor of calling the previous question say ‘yes’; all opposed say ‘no’”.

The results of the motion are as follows: If determined in the negative, the consideration goes on as if the motion had never been made; if it is decided in the affirmative, the Chairman at once, and without debate, proceeds to put the amendment or motion as ordered. If an adjournment is had after the previous
question is ordered, the subject comes up in its regular order on the next day and
the previous question still operates.

DIVISION OF QUESTION

RULE 27. The division of a question cannot be demanded as a right by any member. It
must be made pursuant to a motion stating precisely the division asked for, which
motion can be amended. The Chairman can decide, subject to an appeal of the
Commission, that the division proposed cannot be made, otherwise, it is
submitted to the Commission and decided by it.

ROLL CALL PROCEDURE

RULE 28. The vote upon any questions shall be yeses and noes, and shall be recorded in
the minutes of the Commission. The Chairman shall vote when the yeses and
noes are called for; his name being called last.

AMENDMENT TO RULES

RULE 29. These rules may be amended by resolution, approved by the majority of the
membership of the Commission.

SUSPENSION OF RULES

RULE 30. These rules, or the order of business, established by the Commission, may be
suspended by the majority of the membership of the Commission.

RULE 31. Special meetings may be held on the call of the chairman, or of one-fourth (1/4)
or more members and whenever practicable, upon no less than twenty-four (24)
hours effective notice to each member.

The notice shall indicate the purpose of the special meeting.

The calendar for a special meeting shall be as follows:
1. Roll Call
2. Consideration of matters calling for special meeting
3. Adjournment

RULE 32. INTERESTED PERSONS DETERMINATION. A person who did not receive a
“Dear Property Owner” notice letter but who wishes to participate in a quasi-
judicial matter may apply to the Planning Commission for a determination that the
person is an “interested person” as defined in FNSBC 18.06.010. A person may
seek an interested person determination at the hearing for the quasi-judicial
matter or a person may apply for a determination in advance of the hearing. A
pre-hearing application for interested person determination shall be on a form
prescribed by the Planning Commission and received by the Department of
Community Planning no later than 5 p.m. on the Monday one week before the
scheduled quasi-judicial hearing at which the person wishes to testify and shall
include:

1. An affidavit or other adequate proof that the applicant resides within the
   hearing notification area; or
2. A completed pre-hearing determination form demonstrating that the
   applicant
   a. Possesses a specific property interest;
b. Which may be significantly affected by the proposed action; and

c. Which may be affected in a way different than that of the general public.

The Chair of the Planning Commission or the Chair’s designee shall make the interested person determination with reasonable promptness and the Planning Commission Clerk shall notify the person of the decision with reasonable promptness.

**RULE 33. TELEPHONIC TESTIMONY.** A party or witness wishing to testify telephonically at a quasi-judicial matter may apply for telephonic testimony on a form prescribed by the Planning Commission and by demonstrating good cause for the request. The request must be received by the Department of Community Planning no later than 5 p.m. on the Monday one week before the scheduled quasi-judicial hearing at which the person wishes to testify. Upon receipt of an application for telephonic testimony, the Planning Commission Clerk shall promptly notify the parties (to include only the Applicant, Staff, and any interested person who has received a determination granting that interested person the level of standing equivalent to the Applicant and Staff), who may assert that the request for telephonic participation will result in substantial prejudice by submitting the assertion as well as the basis for the assertion to the Planning Commission Clerk no later than 5 p.m. on the business day following notification of the application. The Chair or the Chair’s designee may deny the request for telephonic testimony if good cause is not shown or if substantial prejudice to another party will result from the telephonic participation. The Chair or the Chair’s designee shall make the telephonic testimony determination with reasonable promptness and the Planning Commission Clerk shall notify the person requesting telephonic testimony of the decision with reasonable promptness. If the telephonic testimony is allowed, the person applying for telephonic testimony is responsible for making proper arrangements to accomplish the telephonic testimony. Telephonic testimony shall be offered from a landline telephone. If telephonic connection cannot be made, is lost, or is unintelligible, the meeting will continue as scheduled without the telephonic testimony.

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1. The Planning Commission Clerk shall promptly distribute the affidavit to the parties (to include only the Applicant, Staff, and any interested person who has received a determination granting that interested person the level of standing equivalent to the Applicant and Staff);

2. The parties shall submit any relevant cross-examination questions to the Department of Community Planning no later than noon on the Friday prior to the quasi-judicial matter at which the affiant wishes to testify;

3. The Chair or the Chair’s designee shall with reasonable promptness make a determination whether the submitted questions are reasonably necessary to explore any matters tending to contradict, modify, or explain the testimony;
a. If the questions are reasonably necessary, the affidavit may be excluded in whole or in part and the affiant may be required to testify in person or by telephone. Alternatively, those questions that are deemed reasonably necessary may be submitted to the affiant, who shall answer the questions in a second affidavit, which shall be submitted to the Department of Community Planning no later than the Monday prior to the quasi-judicial matter at which the affiant wishes to testify. If the affiant fails to answer the questions in a second affidavit, the original affidavit may be excluded in whole or in part;

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FMATS
TECHNICAL COMMITTEE MEETING
Wednesday, October 5, 2016
12:00 – 2:00 P.M.
City of Fairbanks, 800 Cushman Street, City Council Chambers

1. Call to Order
2. Introduction of Members and Attendees
3. Public Comment Period (3 minute limit)
4. Approval of the October 5, 2016 Agenda
5. Approval of the September 7, 2016 Minutes  Pg 2-10
6. Subcommittee Reports
7. Old Business
   a. Coordinator’s Office Reorganization Update
   b. Draft FMATS Freight Mobility Plan Existing Conditions Report
   c. Air Quality Planning Subcommittee Update
   d. 2017 – 2020 Transportation Improvement Program
8. New Business
   a. FMATS 2015 – 2018 Transportation Improvement Program Administrative Modification #5 (Action Item)  Pg 11-25
   b. Alaska Statewide Long-Range Transportation Plan Comments (Action Item)
   c. Letter to EPA via DEC regarding the Non-Attainment Area and Highway Sanctions (Action Item)  Pg 26-28
   d. FMATS Bylaws Update  Pg 29-46
9. Public Comment Period
10. Other Issues
11. Informational Items
    a. FTA 5339 Transit Facility Grant Update  Pg 47-53
    b. Update on the 3rd Street Widening Project
    c. Statewide Bicycle and Pedestrian Master Plan
    d. Statewide Long-Range Transportation Plan Online Open House
    e. 09.21.15 PC Action Items  Pg 54
    f. Obligations and Offsets  Pg 55-58
12. Technical Committee Comments
13. Adjourn

Next Scheduled Technical Committee Meeting – Wednesday, November 2, 2016, Noon, City Hall, City Council Chambers
Additional Material Received for the Official Packet of Record Planning Commission Meeting of OCT. 25, 2016

To Include:

Presentations
Addendums
October 24, 2016

Manish Singh  
Fairbanks North Star Borough  
PO BOX 71267  
Fairbanks, Alaska 99707-1267  
Via Hand Delivery

Dear Mr. Singh,

Please add Lawrence Bento to Conditional Use Permit number CU2017-003, Arctic Greenery, LLC.

If you have any questions, please contact me.

Thank you,

Sherry Gilbert

Comm. Planning Dept

OCT 24 2016
RECEIVED
Sherry:

Thank you for the more detailed explanation. The process you describe below looks to be compliant with the requirements of the state marijuana regulations.

Douglas Buteyn
Northern/Southeastern Regional Program Manager
ADEC Solid Waste Program
610 University Avenue
Fairbanks, AK 99709
Phone: 907-451-2135
Fax: 907-451-2188
Email: doug.buteyn@alaska.gov

From: Sherry Gilbert [mailto:sgilbert@eci.net]
Sent: Sunday, October 02, 2016 5:13 PM
To: Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>
Cc: Manish Singh <MSingh@fnsb.us>
Subject: CU2017-003 Waste Disposal

Hi Doug,

Sorry for the brief summary on our CUP application. Below, is the answer to the waste question from our state application.

The marijuana waste will be stored in a designated locked storage area for waste material only. The state board will be given 3 days notice before the marijuana is made unusable. The plant waste will be ground and mixed with an equal amount of compostable material, such as food waste, yard waste or vegetable based grease or oils. We may also mix paper and/or cardboard waste to the ground marijuana. The waste will be delivered to an approved landfill or waste facility. We do not expect to have a large volume of waste. We will be starting a fairly small grow in building number 3.

If you have any questions, please contact me.

Thank you,

Sherry Gilbert
DEPARTMENT OF COMMUNITY PLANNING  
STAFF REPORT ADDENDUM  

CU2017-003  
October 25, 2016 Planning Commission Meeting  

TO: Fairbanks North Star Borough Planning Commission  
FROM: Nancy Durham, MURP, CFM, Flood Plain Administrator  
DATE: October 25, 2016  
RE: CU2017-003: A request by Sherry Gilbert on behalf of CGH Holdings, LLC for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 1, Midway Industrial Park Subdivision (located at 1725 Richardson Hwy, on the south side of Richardson Hwy, between El Paso St and Sinclair Ave).

Fairbanks North Star Borough (FNSB) Title 15.04.050 and the Code of Federal Regulations (CFR) Title 44, Chapter I, Subchapter B, Part 60, Subpart A, §60.3(b)(1) states that no person shall start construction on any new or substantially improved structure within the Special Flood Hazard Area without first obtaining a floodplain permit.

The house/office and eight storage buildings on the site (Figure 8) were constructed between 1999 and 2001 according to the Assessing Records. The Conditional Use Permit application involves three buildings: Storage Buildings 3 & 7 and the house/office. FNSB adopted Ordinance No. 71-9 regulating land use in flood hazard areas in order to reduce flood losses on May 27, 1971. Ordinance No. 71-9 established requirements for Land Use Permits (Floodplain Permits) and evidence that the proposed development would adequately be protected from flood inundation. All of the buildings were constructed without the required Floodplain Permit and did not receive a Certificate of Compliance as required by FNSB Title 15.04.070.

The applicant submitted the Floodplain Permit Application on October 13, 2016. The applicant submitted Elevation Certificates (ECs) for each building on site on October 12, 2016 and revised ECs on October 13, 2016. Upon review of the ECs, it was determined by the Flood Plain Administrator that all eight storage buildings met FNSB Title 15 Floodplain Management Regulations (FNSB Title 15). However, the Flood Plain Administrator found the house/office to be non-compliant with FNSB Title 15 because the basement is below the Base Flood Elevation (BFE). The Flood Plain Administrator is in the process of issuing the Floodplain Permit for the property which includes the house/office and eight storage buildings. One Floodplain Permit can be issued for the entire site to start the process of becoming compliant with FNSB Title 15 via ECs and the Certificate of Compliance.

The top of bottom floor (“the lowest floor of the lowest enclosed area including basement”) is required to be at or above the BFE to meet FNSB Title 15. Basements (“any area of the building having its floor subgrade or below ground level on all sides”) are prohibited from being constructed in A Zones unless the basement is elevated to or above the BFE. A basement is defined as being greater than four feet in height, whereas, a crawlspace (“shallow, unfinished

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1 FEMA Definition of Lowest Floor @ www.fema.gov/lowest-floor
2 Code of Federal Regulations Title 44, Chapter I, Subchapter B, Part 59 Subpart A, § 59.1 Definition of Basement
horizontal space beneath the lowest floor of a building, used to access plumbing, wiring, duct work, storage, etc.) is no more than four feet in height.

The BFE for the site is 464.1 feet (NAVD 88). Storage Building 3, top of bottom floor is 466.4 feet and Storage Building 7, top of bottom floor is 465.7 feet making both buildings above the BFE and compliant with FNSB Title 15. However, the house/office top of bottom floor is at 463.6 feet, which is measured at the top of the basement (enclosure) floor rather than the top of the house/office floor. The height of the basement currently measures four feet, six inches (4' 6") from the ground to the bottom of next highest floor; and the basement is below natural grade and fully enclosed.

Upon inspection of the house/office (Figure 9), it was determined that the only cost-effective way to bring that structure into compliance with FNSB Title 15 is to add at least six inches (6") of fill into the basement (enclosure) to raise the ground level to or above the BFE. After the fill is added to the basement (enclosure), an updated EC is required for the house/office. Once the Flood Plain Administrator receives, reviews and approves the new EC, the property will receive the Certificate of Compliance and be in full compliance with FNSB Title 15 Floodplain Management Regulations.

Therefore, the marijuana cultivation facility cannot legally operate under Borough code without obtaining the required Floodplain Permit for the property, a new EC for the house/office and Certificate of Compliance for the property.

Figure 8: Site Plan
(Source: Site plan provided by Applicant, annotations in color by staff for illustrative purposes.)

3 FNSB Title 15.04.010 Definition of Crawlspace
4 FNSB Title 18.04.010 Definitions of Basement & Crawlspace
Figure 9: Existing House Structure and Storage Buildings on 1725 Richardson Hwy
(Source: Staff)
REVISED CONDITION 1d:

1. The applicant or holder of this conditional use permit shall comply with all applicable land use related laws. Applicable permits and approvals may include but are not limited to:

   d. The applicant or holder of this conditional use permit shall obtain the applicable floodplain permits and certificates of compliance for each structure to be utilized for the commercial marijuana establishment to comply with Title 15 Floodplain Management Regulations including, but not limited to: If required, the structures utilized for the commercial marijuana establishment must be adequately floodproofed, elevated or otherwise protected to comply with Title 15 Floodplain Management Regulations.

   1) The top of bottom floor of the basement (enclosure) for the house/office shall be filled from the elevation of 463.6 feet to or above the Base Flood Elevation of 464.1 feet.

   2) A new Elevation Certificate for the house/office shall be submitted after the fill has been added.

   3) A Certificate of Compliance shall be obtained to demonstrate compliance with FNSB Title 15 Floodplain Management Regulations.
CU2017-003
Marijuana Cultivation Facility, Indoor Large
1725 Richardson Highway

FNSB Planning Commission Meeting
October 25, 2016
Floodplain Management Regulations (FNSBC Title 15)

• Constructed without Floodplain Permits and Certificates of Compliance

• Applicants provided Elevations Certificates

• Base Flood Elevation: 464.1’

• Existing eight (8) storage buildings above BFE

• The top of bottom floor (enclosure) of proposed marijuana office and employee area: 463.6’
1. ...the intent and purpose of this title and of other ordinances and state statutes.

- Comprehensive Plan
- Floodplain Management Regulations
- Alaska State Statute
FNSBC Title 18 Conditional Use Approval Criteria

2. ...adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services...

- Commercial Well
- Septic System
- North Star Fire Service Area
- GVEA Service Area
- Alaska State Troopers
- Richardson Highway, Frontage Road
- Seven Parking Spaces and Loading Area
3. ...will protect the public health, safety and welfare.

- Flood safety
- Site security
- Waste disposal methods
- Outdoor storage
- Lighting
- Odor
- Noise
- Fire and rescue
- Hours of operation
- Traffic impacts
Approval with five (5) conditions
1. The applicant or holder of this conditional use permit shall comply with all applicable land use related laws. Applicable permits and approvals may include but are not limited to:

a. As required by the FNSB and the Department of Commerce, Community, and Economic Development (Alcohol and Marijuana Control Office), the applicant or holder of this conditional use permit shall ensure the site meets all licensing requirements for a commercial marijuana cultivation facility.
b. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and shall comply with all recommendations and/or requirements resulting from the plan review.

c. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Environmental Conservation and shall comply with all recommendations and/or requirements resulting from the plan review.
d. The applicant or holder of this conditional use permit shall obtain the applicable floodplain permits and certificates of compliance for each structure to be utilized for the commercial marijuana establishment to comply with Title 15 Floodplain Management Regulations including, but not limited to: If required, the structures utilized for the commercial marijuana establishment must be adequately floodproofed, elevated or otherwise protected to comply with Title 15 Floodplain Management Regulations.

Condition 1.d continued on next slide
Conditions

Condition 1.d continued

1) The top of bottom floor of the basement (enclosure) for the house/office shall be filled from the elevation of 463.6 feet to or above the Base Flood Elevation of 464.1 feet.

2) A new Elevation Certificate for the marijuana employee area and office (shown as Building 9 in Figure 2 of the Staff Report) shall be submitted after the fill has been added.

3) A Certificate of Compliance shall be obtained to demonstrate compliance with FNSB Title 15 Floodplain Management Regulations.
2. No outdoor storage of marijuana, marijuana products and hazardous substances shall be allowed pursuant to FNSBC 18.96.240 (A) (4). All marijuana or marijuana products shall be stored inside secure facilities.

3. Indoor cultivation, drying, and processing rooms or portions of the building shall be equipped with appropriately sized odor filtration systems to eliminate odor from the cultivation and processing operations.
4. If any of the remaining six (6) existing storage buildings, other than the two (2) existing storage buildings proposed to be used as marijuana cultivation buildings (shown as Building 3 and Building 4 in Figure 2 of the Staff Report) and the existing residence proposed to be used as marijuana employee area and office (shown as Building 9 in Figure 2 of the Staff Report), is used for any functions supporting a marijuana establishment, an amendment to the Conditional Use Permit or a separate appropriate land use permit shall be required.
5. If any modifications are made to the site plan, floor plan, or other FNSB required documents, the applicant or holder of this conditional use permit shall submit revised documents to the FNSB Community Planning Department. If substantial modifications are made to these documents or to the operation of the marijuana cultivation establishment, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050 (D).
I move to approve the Conditional Use Permit for a commercial marijuana cultivation facility, indoor large with five (5) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval.
(1) Whether or not the proposed conditional use conforms to the intent and purpose of this title and of other ordinances and state statutes.

(2) Whether or not there are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use.

(3) Whether or not the proposed conditional use will protect the public health, safety and welfare.
Manish Singh, Planner II

- Bachelor of Architecture, Indian Institute of Technology Roorkee
- Master of Urban Planning, University of Illinois at Urbana-Champaign
- Five years’ experience/education in architecture & planning
Transportation comments and feedback by:

Kellen Spillman, AICP, Deputy Director/Acting Transportation Planner

• Bachelor of Science, Economics and Minor Urban Planning, University of Utah
• Master of City & Metropolitan Planning, University of Utah
• American Institute of Certified Planners (AICP)
• Six years’ experience in land use & transportation planning
Nancy Durham, Floodplain Administrator, MURP, CFM

- Master of Urban & Regional Planning, University of New Orleans
- Certification in Historic Preservation, University of New Orleans
- Certified Floodplain Manager (CFM)
- 10 years’ experience in land use planning, floodplain management & emergency operations
D. Christine Nelson, Community Planning Director, AICP, CFM

• Certified Floodplain Manager (CFM)
• 20 years’ experience in floodplain management