A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Mona Lisa Drexler Assembly Chambers, Juanita Helms Administration Center, 907 Terminal Street, Fairbanks, Alaska. The meeting was called to order at 6:30 p.m. by Wendy Presler, Chairman.

MEMBERS PRESENT: Chris Guinn  Mark Billingsley
Michael Stepovich  Pat Thayer
Charles Whitaker  Wendy Presler
John Perreault  Mindy O’Neall
David Brandt  Eric Muehling

MEMBERS ABSENT: Robert Peterson

OTHERS PRESENT: Kellen Spillman, Deputy Director of Community Planning
Manish Singh, Planner II
Wendy Doxey, Asst. Borough Attorney
Stephanie Pearson, Community Research Tech
Mary Bork, Administrative Assistant IV
Bridget Hamilton, Permit Tech

A. ROLL CALL

B. MESSAGES

1. Chairperson’s Comments
   None

2. Commissioner’s Comments
   None

3. Communications to the Planning Commission
   Mr. Spillman there will be a number of ordinances introduced by the Assembly that will be coming forward to the Planning Commission. The first two are introduced by the administration, one to add community gardens to the zoning code and one to modify the existing sign code. Then we have two ordinances that are being sponsored by Assembly members, one on how the buffers for marijuana facilities are measured and the second is on the appeal process for grandfather rights.

4. Citizen’s Comments – limited to three (3) minutes
   a. Items other than those appearing on the agenda.
      None
5. Disclosure & Statement of Conflict of Interest

   Mr. Whitaker shared that he has worked on the chimneys for the applicant in CU2017-011.

   Ms. Presler questioned if Mr. Whitaker has worked on the chimneys for the applicant and whether he feels his decision tonight might impact any future business that he may get from the applicant.

   Mr. Whitaker responded not on his part, no.

   Ms. Presler further questioned if he thought he could be fair and impartial in making his decision.

   Mr. Whitaker replied he does.

   Ms. Doxey queried Mr. Whitaker if he has a financial or other private interest that could vary with the outcome of the decision on this matter.

   Mr. Whitaker responded no.

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.

   MOTION: To approve the Agenda and Consent Agenda by Ms. Thayer, seconded by Mr. Billingsley.

   CARRIED WITHOUT OBJECTION

D. MINUTES

1. *None

E. CONSENT AGENDA ITEMS

   None

F. QUASI-JUDICIAL HEARING

1. CU2017-011: A request by Leslea Nunley DBA Tanana Herb Company for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 3, Tanana Chase Subdivision (located at 3495 Old River Landing Road, on the southeast corner of Perkins Drive and Old River Landing Road).
   (Staff Contact: Manish Singh)

   OATH GIVEN
Mr. Singh presented the staff report. Based on the staff analysis, the Department of Community Planning recommended APPROVAL of the conditional use request with the following four (4) conditions of approval and three (3) Findings of Fact:

Conditions for Approval

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 comply with all recommendations and/or requirements resulting from the plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau).
   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 (ADEC) Solid Waste Program and shall comply with all recommendations and/or requirements resulting from the plan review or provide documentation that a plan review for onsite disposal of marijuana plant waste is not required.
   d. The applicant or holder of this conditional use permit shall submit a ‘No-rise Certification for Floodways’ and obtain a new floodplain permit and a new certificate of compliance for the proposed improvements, or revise the building design, to comply with Title 15 Floodplain Management Regulations.

2. The marijuana cultivation facility, indoor large shall not operate between the hours of 9:00 p.m. and 7:00 a.m.

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 modifications are made to the site plan, floor plan, or other FNSB required documents, the applicant or holder of this conditional use permits shall submit revised documents to the FNSB Community Planning Department. If modifications are made to the marijuana cultivation facility, indoor large, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050(D).

Findings of Fact for 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 proposed conditional use is not inconsistent with ‘Perimeter Area’ and ‘Preferred Residential Land’ comprehensive plan land use designations. The 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. 3AAC 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 well and a septic system
   b. The site is served by Chena Goldstream 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. Six (6) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed cultivation conditional use.
   e. Traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service area and have adequate capacity for the additional trips generated.

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. With the conditions imposed, any solid or liquid waste including marijuana plant waste will be disposed of according to state and local regulations.
   c. With the conditions imposed, odor will be mitigated with appropriately sized odor filtration systems on cultivation, drying, and processing facilities.
   d. All marijuana and marijuana products would be secured inside the building to ensure the general public does not have access to them.
   e. The noise generated from this cultivation operation would be negligible because the operation is completely indoors.
   f. The outdoor lighting would point downwards and would not negatively impact adjacent neighbor because of the existing vegetative buffer.
   g. With the conditions imposed, the marijuana cultivation facility would operate during night times to protect public health, safety, and welfare of surrounding property owners.

Mr. Muehling stated he had a correction for the staff report, Land Use Goal 3, the sentence reads ‘adds’, which should be deleted and replaced with the word ‘expands’.
Mr. Muehling questioned what kind of traffic would be driving through the area.

Mr. Singh responded the applicant has provided information regarding the activities that are currently going on and would go on with the conditional use. Most of the employees walk to work; they expect supplies to be delivered 2-3 times throughout one year.

Mr. Perreault asked whether the operation is located on a dead-end road.

Mr. Singh replied that yes, it is located on a dead-end road and there are two properties past it.

Mr. Muehling inquired if there is information on water use and what the requirements are for growing marijuana.

Mr. Singh answered the applicant has a well on the property and they have been using the water from the well for the growing operation. They have included information from their state licensing process that DEC does not need any permits for their well and septic.

Mr. Billingsley questioned how this operation would be permitted in various residential zones if it was zoned differently.

Mr. Spillman responded that it would not be allowed in residential zones. Commercial marijuana facilities are not allowed in all of our residential zones and they are required to be at least one hundred feet away from any residential zone.

Mr. Billingsley queried that it is not conditional use in any zones, for instance MFO.

Mr. Spillman clarified that it is not a conditional use and it has to be one hundred feet away from an MFO zone.

Mr. Muehling questioned whether there is screening between the facility and the house to the southwest.

Mr. Singh replied that the facility has trees and vegetation along Perkins Drive and Old River Landing Road.

Mr. Muehling asked if there is a vegetation buffer between the applicant’s house and the neighbor to the southwest of the applicant’s house.

Mr. Singh answered that vegetative buffer has not been evaluated because the applicant had mentioned that their light bulbs are 40 watts and that they point downwards. The house to the southwest of the applicant’s house is more than two hundred feet from the facility. Staff believes that the house would not feel the lighting impact of this facility.

Mr. Billingsley asked Mr. Spillman for clarification that commercial marijuana facilities would not be allowed in RR or RE and that it would be allowed in RF.

Mr. Spillman responded that is correct, and facilities would also be allowed in RA.

Ms. Thayer questioned if there is a typo in the findings of fact 3g and that the word ‘would’, should be changed to ‘would not’.
Mr. Singh replied that yes that was a typo and there is a recommendation for correction in the presentation to add the word ‘not’.

Ms. Nunley applicant addressed the Planning Commission. Ms. Nunley has no issue with the conditions Mr. Singh is proposing and that his summarization was very thorough. The hours of operation condition would not be an issue and can be followed without problem. An almost twenty thousand dollar HVAC system has been installed, which meets requirements and has been being used to operate since August 2016. There have been no complaints about any odors from the facility and it cannot be smelled from the applicant’s house. She reiterated that the grow areas are not being extended. Obtaining the No-rise certification has been difficult, there is only one hydrologist civil engineer in Fairbanks and it is expensive, about fifteen thousand dollars. Asked that if the condition on the floodplain permit application is used that the Commission would consider allowing them to use the whole first floor instead of adding on to the building and obtaining the No-rise certificate.

Ms. Presler asked the applicant if she was planning to increase the facilities grow volume and whether or not she anticipates the traffic impact on the neighborhood would increase.

Ms. Nunley stated that is correct.

Ms. Presler clarified that Ms. Nunley is asking the Commission to allow her to use the current available space and make it a condition that if she were to expand the building she would have to go through the flood certification process.

Ms. Nunley responded that is correct.

Mr. Billingsley questioned whether she would characterize the neighborhood as anything other than residential.

Ms. Nunley replied no, she would not.

Mr. Singh queried if Ms. Nunley noticed in the staff report and the presentation that staff recommended condition 1d about flood compliance, which is now 1c.

Ms. Nunley responded she did and had some confusion on if she wanted to move forward with the proposed improvements she would have to go through another conditional use process or if it could be done by making it a condition.

Mr. Singh clarified staff is proposing two alternatives to the proposal. One is building the additions and providing a no-rise certificate or the building design be revised to meet the title 15 requirements which would be to use what space is currently there.

Ms. Nunley stated she now understood.

Ms. Presler further clarified the way the condition is currently written you could not go forward without getting the No-rise certificate. If you choose not to build the additions then you would need to submit a revised drawing and that could be done after this meeting.
Interested Person Testimony Opened

Mr. Daniel Boyce interested person, addressed the Planning Commission. He had no idea there was a commercial grow operation going on in the neighborhood and he had not noticed an increase in traffic. He had noticed an odor; it had been very strong even with the HVAC system installed. He lives eight lots up the road from the facility and there has been a very definite odor at times within the neighborhood. There is not adequate odor control at the facility currently.

Mr. Whitaker questioned if the system could be upgraded and no more odors would be evident you wouldn’t have a problem having this facility in your neighborhood.

Mr. Boyce replied he did not think a commercial grow operation is appropriate in a residential neighborhood even if it is GU-1 zoned. If the odor was controlled and the traffic level stays at the same volume he would not have a problem with the facility operating in the area.

Mr. Dennis Boyce interested person, addressed the Planning Commission. He had the same concerns about the odor. He also had a concern that the facility would go from a small to a large operation and once the permit was issued for a large operation, is there a limit to how big the facility can get without coming before the Commission again? Once the facility has been permitted and if it did expand then the traffic would increase, the odor would increase, everything would increase.

Mr. Muehling asked how Mr. Boyce would characterize the odor.

Mr. Boyce responded it is a pungent smell and we didn’t even know the operation was operating. It was just assumed somebody in the neighborhood was growing pot and we could occasionally smell it.

Mr. Muehling inquired if it is an overwhelming smell.

Mr. Boyce replied that the odor is strong and putrid.

Interested Person Testimony Closed

Ms. Nunley explained that when she submits to the state marijuana control board what she is using the inside of her building for, which is the same that was submitted to the FNSB, she is not allowed to just change that plan when she wants to, she would have to go through the process again and it must be approved. The odor of the marijuana should not be smelled that far away and she believes there are other people in the neighborhood growing marijuana that could be part of the problem. She has done everything she believes she can do in order to mitigate the odor coming from her facility. She has questioned the neighbors closest to her facility and none of them are having an issue with odor.

MOTION: To approve CU2017-010 for a commercial marijuana cultivation facility, indoor large with four (4) conditions, as amended, and adopting the staff report, and three (3) findings of fact, as amended in support of approval by Ms. Thayer, seconded by Mr. Whitaker.
Mr. Perreault stated after hearing testimony he is planning on voting to support this conditional use. Compliance has been demonstrated and the conditions are there to alleviate the concerns of both staff and odor. If there is a problem that is a condition and compliance can be called from the Borough to ensure that the condition is being met. It is possible that the odor stated by the neighbors is coming from another source.

Ms. Thayer added that the health, safety and welfare concerns we have heard from interested person testimony, they didn’t even realize the facility was even in existence that tells me traffic is not significant, and there is not additional noise. I feel very comfortable with supporting this as well in addition to what Mr. Perreault has stated.

Mr. Guinn stated he will vote in favor of the conditional use. Rather than reiterate everything Ms. Thayer had said I would like to expound that if in the future the facility is not meeting the odor condition, this permit could be revoked.

Mr. Billingsley commented that he thought we’ve built into discretion for this kind of situation and given this neighborhood is residential, based on the map, based on testimony he will vote against the conditional use. He does realize the neighbors weren’t aware the facility was there and the applicant seems to be a responsible owner. He thinks that we are setting precedent and we’re establishing what we think the standards should be.

Mr. Brandt stated he had the same concern that Mr. Boyce had about once this conditional use is permitted, what would keep the applicant or future property owner from expanding to five thousand or ten thousand square feet.

Mr. Doxey clarified for Planning Commission awareness, once the testimony portion is closed if you ask a question of staff then the applicant has to have an opportunity to rebut and it is up to the chair whether or not to allow that. Conditional use permits are set up in a way where you are granting the conditional use permit based on what is proposed. If there is any modification to that it has to come back before the Planning Commission for an amendment. Theoretically if it is a modification to the conditional use it does by code have to come back before the Planning Commission.

Mr. Muehling commented a GU-1 zone outright allows the use of a gas station, convenient store, warehouse, distribution center, apartment complexes, shopping centers or drive-through. He started to compare and think about what could be and what the impacts are of the marijuana grow facility. They seemed to be rather minimal in terms of the impacts in this zoning which is not really residential zoning, it is GU-1 zoning. He thought it important that our economy diversify and this is just one more way that we diversify our economy here in Fairbanks.

Ms. Presler added that like Mr. Billingsley she was opposed to the idea of converting this to a large grow operation in the middle of a residential use area. Through testimony, listening to the applicant and because the intent is not to increase the grow capacity or their volume but simply to make more room as well as make a cleaner facility she thought that this was a good proposal and would support it in this case.

Ms. Doxey pointed out that before we get to the motion, Commissioner Muehling had brought up what appears to be an error in the staff report and your motion considers adopting the staff report. If the Planning Commission wants to amend the motion to incorporate the amendment to the staff report.
MOTION: To amend the motion to include the staff report as amended by Mr. Perreault, seconded by Ms. Thayer.

Discussion on the motion to amend
None

ROLL CALL
Ten (10) in Favor: Mr. Stepovich, Mr. Perreault, Mr. Brandt, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Ms. O’Neall, and, Mr. Billingsley, Ms. Thayer, and Ms. Presler

Zero (0) Opposed:

MOTION CARRIED

Further discussion on the main motion as amended
None

Main motion now reads as follows:

MOTION: To approve CU2017-010 for a commercial marijuana cultivation facility, indoor large with four (4) conditions, as amended, and adopting the staff report, as amended, and three (3) findings of fact, as amended in support of approval by Ms. Thayer, seconded by Mr. Whitaker.

ROLL CALL
Nine (9) in Favor: Mr. Perreault, Mr. Brandt, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Ms. O’Neall, Ms. Thayer, Mr. Stepovich, and Ms. Presler,

One (1) Opposed: Mr. Billingsley

MOTION CARRIED

G. PUBLIC HEARING

RZ2017-003: A request by F. Lawrence Bennett from Bennett Engineering on behalf of Joseph W. Dinkins to rezone approximately 15,000 sq. of Lots 9, 10 and 11, Block 1, South Cushman Subdivision from Multiple-Family Residential (MF) to General Commercial (GC) or other appropriate zone (located south of 22nd Avenue and west of South Cushman Street). (Staff Contact: Manish Singh)

Mr. Singh presented the staff report. Based upon staff analysis, the Department of Community Planning recommended approval of the rezone from MF (multifamily) to LC (light commercial) instead of the applicant’s request for GC (general commercial) with the following nine (9) findings of fact.

1. The FNSB Regional Comprehensive plan assigns Urban Preferred Commercial Area land use designation to the area within the proposed rezone boundary.
2. The current MF zone does not allow land uses envisioned with ‘Urban Preferred Commercial Area’ land use designation for the subject properties because the MF zone is intended only for high density residential development.

3. The current MF zone is no longer appropriate for the area within the proposed rezone boundary because the parcels on north, east and south have developed with commercial uses and the uses allowed under MF zone are not compatible with the ‘Urban Preferred Commercial Area’ land use designation from FNSB Comprehensive Plan.

4. The land uses envisioned in the comprehensive plan are more compatible with LC zone because the LC zone is intended to provide for light commercial uses for the consumer population and to provide a buffer for residential areas. The LC zone is not intended to create significant noise, odor, or other nuisances.

5. The LC zone is consistent with Land Use Goal 4, Strategy 11, Action A which is to resolve existing land use conflicts of GC being located next to residential areas in the Borough.

6. The LC zone is consistent with Land Use Goal 4, Strategy 10, Action B which is to separate, transition or buffer incompatible land uses because LC zone will create a transition from the more intensive commercial uses allowed in GC on the east of the proposed rezone boundary to the existing residential uses developed in MF on the west of the proposed rezone boundary.

7. The LC zone does not make any of the existing lots, structures or uses within the proposed rezone boundary nonconforming because there is no minimum lot size requirement for LC zone and the three lots within the proposed rezone boundary are currently vacant.

8. The LC zone protects public health, safety or welfare of the residential properties existing west of the proposed rezone boundary while allowing for light commercial uses envisioned in the comprehensive plan at the same time. The light commercial uses allowed under LC zoning would be more compatible and would act as a land use buffer from the existing residential properties on the west side.

9. The rezone is not a spot zone because:
   a. It is consistent with the Comprehensive Plan Urban Preferred Commercial Area land use designation and Land Use Goal 4, Strategy 11, Action A and Land Use Goal 4, Strategy 10, Action B;

   b. (1) The LC zone would also have benefit for the property owner because it would allow for commercial development of the property. However, the LC zone would have lesser benefits for the property owner compared to GC, because LC zone has more restrictions on number of buildings, gross floor area, maximum height, hours of operation, outdoor storage and outdoor lighting.

   (2) The LC zone has benefits for the adjacent landowners because it is intended to provide for light commercial uses and to provide a buffer for residential areas. The restrictions on number of buildings, gross floor area, maximum height, hours of operation, outdoor storage and outdoor lighting in LC zone would have benefits for adjacent residential property owner. The commercial uses allowed under LC zoning would have benefits for the adjacent commercial property owners.
The LC zone would have benefits for the community because it would help implement community’s vision for the subject properties by implementing ‘Urban Preferred Commercial Area’ and Land Use Goal 4, Strategy 11, Action A and Land Use Goal 4, Strategy 10, Action B. The LC zone would protect the health, safety and welfare of the residential properties existing west of the proposed rezone boundary. The LC zone does not allow several uses that have very high trip generation potential and has restrictions on number of buildings, hours of operation and the total gross floor area.

c. The total area of the three parcels within the proposed rezone boundary is 15,000 sq. The size of the property is not the only factor in the spot zone determination. The current MF zone is no longer appropriate for the subject properties because the uses allowed under MF zone are not compatible with the ‘Urban Preferred Commercial Area’ land use designation. The LC uses are sufficiently similar to those allowed under adjacent GC zoning to be considered as a land use classification not totally different from that of the surrounding area.

d. The area within the remainder MF zone boundary is estimated to be more than 250 acres and has more than 1,000 parcels. Therefore, the rezone from MF to LC is not a reverse spot zone because this rezone does not single out a small parcel of land with MF zoning totally different from that of the surrounding area.

Mr. Perreault expressed concern about the rezone to LC instead of GC could look like a spot zone and questioned whether the Planning Department had plans to implement the LC zone along the zoning borders more in the future.

Mr. Singh responded that LC is a fairly new zone in this community. LC did not exist when most of the zoning for this area was revised. With the adoption of the comprehensive plan we are restricted from putting GC next to residential zones. This is not a spot zone because LC uses are very similar to GC uses; LC does not allow a few very intensive uses that are allowed in GC. LC has restrictions on hours of operation, and the size of the buildings in order to mitigate the negative impact that GC could have on the adjacent residential zone.

Mr. Perreault asked if there is a plan to implement LC more frequently in situations like this rezone.

Mr. Singh replied that it depends on the applications received. Staff would be inclined to rezone more parcels into LC to buffer the residential areas from more intensive GC areas. Changing these three parcels brings us one step closer to achieving our comprehensive plan that specifically asks us to buffer GC from MF.

Mr. Muehling stated that MF lots are a buffer that provides protection from commercial activity in the area. He questioned the need for the use of LC or just leaving the three parcels as MF since both would be a buffer.

Mr. Singh responded that staff tries to evaluate the benefits to the adjacent property owners. The existing MF is no longer compatible with the comprehensive plan which asks for a preferred commercial area. The existing MF zone would not attract more customers to the neighborhood and would not bring a benefit to the adjacent commercial properties. LC is the middle ground that brings the customers for the GC owners and still protects the health, safety and welfare of the MF owners.
**Mr. Spillman** added that the comprehensive plan that staff is working to implement identifies all three of these parcels as urban preferred commercial. We have a few areas in the community that it specifically identifies as urban preferred commercial. In working towards achieving that we must recognize that there is still residentially developed and zoned properties that need to be protected from some of the more intensive commercial uses. Both LC and MF could be used as a buffer; we are trying to work as identified in the comprehensive plan to having this area be a commercial area.

**Ms. Thayer** inquired whether lot four and the lot below it are being used as the commercial bus station. She asked because there is an access that could possibly be developed onto 22nd Avenue.

**Mr. Singh** replied that the property is currently being taxed as vacant and has no structures on it.

**Mr. Guinn** queried that if the ultimate goal twenty years from now is to have this area zoned as commercial not much will get done in the area unless you go in and make wholesale changes to the zoning like you did with Smith Ranch neighborhood. Unless more is changed, twenty years from now someone looking at this will see a spot zone.

**Mr. Spillman** responded if you look at the listed intent of the LC zone, it was created just for these circumstances. The actual intent of the LC zone specifically says it is to buffer. In this case we think it is being used just how it was intended, it is buffering the GC zone from MF properties that have already developed. If someone looks at it twenty years from now it may look a little funny, until they look into Mr. Singh’s staff report and listen to this meeting, they will see that the use of LC makes sense. We have a lot of areas in this community that are not concurrent with our comprehensive plan and we are trying to fix that one step at a time.

**Ms. Presler** asked whether the three lots could be changed to GC since we no longer allow those uses to abut each other.

**Mr. Singh** replied that staff is trying to follow the comprehensive plan by not recommending GC for those three properties and proposing LC so that one of the action items in our comprehensive plan gets implemented.

**Ms. Presler** stated that by recommending GC for those three properties we would be going against the comprehensive plan calling for a buffer and that is the purpose that LC serves.

**Mr. Singh** answered in this situation where GC is next to MF, yes.

**Mr. F. Lawrence Bennett**, Bennett Engineering, addressed the Planning Commission. Stated that he and his client would prefer to have the property rezoned to GC; they are willing to accept LC with reservations. If the plan is to have the area eventually be commercial why not get it over with and zone it GC? What do the neighbors think it should be zoned; there has not been a lot of input from them. We’re uncomfortable with the restrictions on the business hours of operations with LC. There are no current plans for this property; we don’t want the restrictions that come with LC if it will interfere with future plans.

**Ms. O’Neall** questioned whether Mr. Bennett expressed his concern to staff about the LC potentially needing to be rezoned to GC in the future.
Mr. Bennett replied that when he spoke with staff that LC was a new idea and we were focused on GC. They talked a little bit about that LC was intended to be a transition from GC to residential.

Ms. O’Neall stated that she was interested in hearing from staff if there is a plan for when a rezone needs to be rezoned again in the future to fit the needs of the area.

Mr. Spillman responded when or if this commercial line moves further into the neighborhood and there have been additional rezones of LC or GC it could be possible at that time to reevaluate the zoning. If the commercial line moves further to the west LC zoning buffer may no longer be needed and could possibly be rezoned to GC.

Ms. O’Neall asked would it be the responsibility of the property owner to come back and have the zoning changed in the future if the commercial line was pushed further into the neighborhood.

Mr. Spillman replied if staff was performing a wholesale rezone similar to what was done in the Smith Ranch neighborhood; staff would see that opportunity and propose that opportunity to the owners because GC increases and encourages a few more commercial type activities. If we don’t have what our comprehensive plan is calling for, a buffer zone, if we don’t need that in the future then those commercial activities are appropriate with other commercial uses.

Ms. O’Neall questioned if staff’s intent is to eventually make these lots GC in the future.

Mr. Spillman responded that is what our comprehensive plan guides us to do and the whole point to our zoning code is to implement our comprehensive plan. That is the intent and it might not happen tomorrow, implementing a comprehensive plan can take a very long time.

Ms. Presler queried when the lots to the east were rezoned from MF to GC, how long ago was that.

Mr. Bennett replied four years ago in 2013.

Ms. Presler further queried did we have the same comprehensive plan in 2013 that we follow now?
Mr. Spillman stated we did have the same comprehensive plan.

Ms. Presler questioned why we allowed the parcels to the east to be rezoned from MF to GC under the same comprehensive plan.

Mr. Spillman responded a small portion of it was their proximity to South Cushman Street. The biggest distinguishing factor was that when lots 12 & 13 were requested to be rezoned lots 9-11 were vacant and were not established as residential. Lot 8 that is directly adjacent to the current rezone request is established as a residential lot.

Mr. Guinn asked if there is a side yard buffer in LC zoning and have you ever limited the hours of operation in a commercial zone.

Mr. Spillman replied yes, in every other LC zone the hours of operation are limited.

Ms. Doxey stated that the hours of operations comes from the actual ordinance itself, that’s in
code, so if this gets rezoned LC that code provision will apply.

Mr. Guinn questioned if this is the zone with 7:00am to 9:00pm hours.

Mr. Spillman responded that there have been rezones with special limitations in the recent past that have put operating hour restrictions on it.

Mr. Whitaker asked staff hypothetically if the applicant wanted to build an emergency veterinarian clinic on these parcels would they be able to get a conditional use permit with LC zoning to extend the hours of operation restrictions.

Mr. Spillman replied those hours are codified and cannot be changed.

Mr. Billingsley questioned what the owners plans are for the property.

Mr. Bennett responded he is unclear at this time; he has talked about a medical facility or a rest home.

Mr. Muehling inquired of staff if the long-term intent of the comprehensive plan that the commercial use would gradually move west and when that happens it will move west with LC zoning. Will applications be recommended with LC instead of GC?

Mr. Spillman replied it is difficult to say, both the LC and the GC zone are compatible with the urban preferred commercial area. After we see that they are both compatible we look a step further into the comprehensive plan.

Ms. Thayer queried how long the applicant has owned lots 9-11 and were they all purchased at the same time.

Mr. Bennett answered within the last year, and they were not all purchased at the same time.

Ms. Thayer queried Mr. Bennett that when you purchase this many lots together there is typically an intent of use behind the purchase, and asked him to expound upon that.
Mr. Bennett responded that the owner purchased them as MF with the intent that he could get them rezoned and use them for commercial purposes without specific ideas as to what those purposes would be.

Ms. Thayer stated that Mr. Bennett had mentioned a nursing home, which is permissible use in MF zoning.

Mr. Bennett queried what about a medical facility? Zoning it commercial gives it more value, and more options, I am just suggesting a couple that he would consider putting there whether it would need to have LC or GC zoning or not.

Mr. Perreault commented that if the commission knew there was a plan and the LC would be thwarting that plan, which would be something to take into consideration; especially with looking at LC moving west along with the border of the commercial area, both in use and in planning.

Mr. Bennett stated he understands.

Public Testimony Opened

None

Public Testimony Closed

MOTION: To recommend approval of the rezone of approximately 15,000sq.ft. of Lots 9, 10 and 11, Block 1, South Cushman Subdivision from Multiple-Family Residential (MF) to Light Commercial (LC), and adopt the staff report and nine (9) Findings of Fact in support of the recommendation of approval, by Ms. O’Neall, seconded by Ms. Presler.

Discussion

Ms. O’Neall commented that based on the staff report it is clear that the recommendation for approval is in compliance with the intent of the comprehensive plan. From a long-term view this case matched the cities intent of developing that area.

Mr. Guinn stated that the highest and best use of the property will be a LC use regardless of whether we zone it GC or LC because it is further away from South Cushman Street. He expressed concern about the hours of operation limitations in a LC zone. He stated that he is in favor of the GC zone and not the LC zone.

Mr. Muehling concurs that for long range planning it makes sense to separate MF from GC zoning and that the LC is useful as a buffer.

Mr. Whitaker agreed with Mr. Muehling, LC is great for a buffer between the GC and the residential neighborhood.

Ms. Presler stated it is an important point that when Lots 12 & 13 were zoned from MF to GC there were still 3 empty lots in between them and with a residential dwelling right next to these lots I agree that the use of the LC zone as a buffer is more appropriate than a GC zone in this instance.
ROLL CALL

Nine (9) in Favor: Mr. Brandt, Mr. Muehling, Mr. Whitaker, Ms. O’Neall, Mr. Billingsley, Ms. Thayer, Mr. Stepovich, Mr. Perreault, Ms. Presler

One (1) Opposed: Mr. Guinn

MOTION CARRIED

H. APPEALS

None

I. UNFINISHED BUSINESS

None

J. NEW BUSINESS

None

K. EXCUSE ABSENT MEMBERS

None

L. COMMISSIONER’S COMMENTS

1. FMATS

   Ms. Thayer relayed information regarding ongoing projects at FMATS.

M. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:41 p.m.