PLANNING COMMISSION MEETING

February 21, 2017
The Planning Commission will hold a work session on Conditional Uses and the Planning Commission’s Role presented by Wendy Doxey.

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION
REGULAR MEETING
AGENDA
6:30 p.m.
February 21, 2017

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 February 7, 2017 PC Meeting. (Page 5)

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
G. PUBLIC HEARING

1. RZ2017-003: A request by F. Lawrence Bennett from Bennett Engineering on behalf of Joseph W. Dinkins to rezone approximately 15,000 sq.ft. 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)

H. APPEALS

NONE

I. UNFINISHED BUSINESS

J. NEW BUSINESS

K. EXCUSE ABSENT MEMBERS

L. COMMISSIONER’S COMMENTS

1. Other

M. ADJOURNMENT
MINUTES

February 7, 2017

Are not available in time for this meeting
STAFF REPORT

CU2017-011
TO: Fairbanks North Star Borough Planning Commission
FROM: Manish Singh, Planner II
DATE: February 13, 2017
RE: 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).

I. EXECUTIVE SUMMARY

The Department of Community Planning recommends APPROVAL of the conditional use request with four (4) 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, Title 15 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 an existing building as commercial marijuana cultivation facility, indoor large in the GU-1 zone.

B. Location
On the southeast corner of Perkins Drive and Old River Landing Road

C. Access
Perkins Drive, Old River Landing Road

D. Size/PAN

<table>
<thead>
<tr>
<th>Area</th>
<th>PAN (Lot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>85565.4 sq.ft.</td>
<td>0331279 (Lot 3)</td>
</tr>
</tbody>
</table>

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

F. Existing Land Use
Marijuana cultivation facility, indoor small

Figure 1: Existing marijuana cultivation facility
G. Surrounding Land Use/Zoning

North: Old River Landing Road
Zoning: GU-1
Land Use: Residential

South: Zoning: GU-1
Land Use: Residential

East: Zoning: GU-1
Land Use: Tanana River

West: Perkins Drive
Zoning: GU-1
Land Use: Residential

H. Community Facilities
Water & Sewer: Private
Electricity: GVEA

I. Code Violations
None on file

J. Flood Zone
Floodway (100%) (March 17, 2014 dFIRM)

K. Zoning History
Unrestricted Use (UU) to GU-1 in 1988

L. Ownership
James & Leslea Nunley
2008 Perkins Drive
Fairbanks, AK 99709

M. Applicant
Leslea Nunley DBA Tanana Herb Company
PO Box 81772
Fairbanks, AK 99708

III. ZONING AND DEVELOPMENT HISTORY

Lot 3 was created with the recording of a plat for Tanana Chase Subdivision in 1978 (Exhibit 1). The lot was rezoned from Unrestricted Use (UU) to GU-1 in 1988. The property currently has a two-story structure (shown in red in Figure 2) and a portion of this structure has been used as a marijuana cultivation facility, indoor small since August 2016 with a Zoning Permit (ZP-17567, Exhibit 2).

This two-story structure was constructed in 2002 in Flood Zone A without any Floodplain Permit. This property was designated as ‘Flood Zone AE’ in the ‘Floodway’ with the adoption of new digital flood maps in March 2014 after the structure had already been constructed. Prior to the current marijuana cultivation use, it contained two apartments on the second floor and shop space on first floor. This property obtained a Floodplain Permit (Exhibit 3) with Certificate of Compliance (Exhibit 4) in November 2016 when the use of the property changed from residential to marijuana cultivation. Currently, the second floor is vacant and a portion of the first floor is used as a marijuana cultivation facility, indoor small.
Figure 2: Site Plan
(Source: Base map provided by Applicant, annotations in color by staff for illustrative purposes.)
IV. PROPOSED USE AND PROJECT INFO

The applicant intends to expand the existing first floor by adding three additions (shown in blue in Figure 2) and then use the whole 3466.7 sq.ft. of first floor of the two-story structure at 3495 Old River Landing Road as a marijuana cultivation facility, indoor large. A marijuana cultivation facility, indoor large is defined 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 [FNSBC 18.04.010].

The applicant currently uses a 1,458.4 sq.ft. portion of the first floor of the two-story structure as a marijuana cultivation facility, indoor small (shown in green in Figure 3) with a Zoning Permit. A zoning permit for marijuana cultivation facility, indoor small allow only a maximum of 1,500 sq.ft. of net floor area in GU-1 zone. This property is adjacent to a lot upon which the principal building is used as a dwelling and therefore, it must obtain a conditional use permit for more than 1,500 sq.ft. of net floor area of marijuana cultivation in the GU-1 zone.

With this conditional use permit application, the applicant has proposed to use the total 3,466.7 sq.ft. area on the first floor for a marijuana cultivation facility, indoor large. The applicant has proposed to add more floor area for marijuana drying and processing, and supplies and equipment storage on the first floor (shown in yellow in Figure 3). The applicant does not propose any increase in the existing marijuana growing area and the second floor is proposed to remain vacant. The net floor area of the marijuana cultivation facility would increase from 1,458.4 sq.ft. to 3,466.7 sq.ft. because the applicant has proposed to use more floor area for marijuana cultivation related functions such as drying, processing and marijuana storage.

**Figure 3: First Floor 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 65 dear property owner notices mailed out and staff received two telephonic inquiries about this case.

VI. STAFF ANALYSIS

A. Surrounding Land Use and Zoning

Figure 4 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 5 shows that the neighboring properties are predominantly developed as residential.
Figure 4: Zoning Map  
(Source: FNSB GIS)

Figure 5: Existing Land Use  
(Source: FNSB GIS & Assessing)
B. Comprehensive Plan Designation

The Comprehensive Plan Land Use Map characterizes this area as **Perimeter Area and Preferred Residential Land (Figure 6)**. Perimeter Area is “generally within a 10 to 20 minute travel time of urban destinations, and which contains primarily residential use; variable densities are encouraged providing they are compatible with the surrounding community, sensitive to natural systems and have adequate water and sewer facilities.” Preferred Residential Land is “determined to be more suitable than other lands for development because it is generally: a) on slopes of 20% or less, b) not designated wetlands, c) has a lower probability of containing detrimental permafrost conditions.”

**Figure 6: Comprehensive Plan Designation Map**
(Source: FNSB GIS)

The Perimeter Area designations are within 10 to 20 minutes’ drive from the urban densities and contain primarily residential uses. The development in Perimeter Area is recommended to be compatible with the surrounding community, natural systems and is recommended to have water and sewer facilities. The subject property is located in a neighborhood that has primarily developed residentially (Figure 5).

The Preferred Residential Land designation recommends development of the available land because of the natural suitability, however, the development does not necessarily only have to be residential. The natural suitability in Preferred Residential Land
designation includes less than 20% slope, not being designated wetlands and having lower probability of containing detrimental permafrost conditions. The subject property meets these natural suitability criteria and therefore, could be developed as a marijuana cultivation facility.

The proposed conditional use is not inconsistent with Perimeter Area and Preferred Residential Land comprehensive plan land use designations because it proposes a marijuana cultivation facility in an existing structure which previously was developed and used as a residential property until 2016. The State Fire Marshall office has stated that marijuana cultivation facilities have F-1 (Factory and Industrial) occupancy under International Building Code. The second story with F-1 occupancy cannot be used residually. The F-1 occupancy also restricts the use of second story for any marijuana cultivation, drying or processing uses.

With the conditions imposed, the marijuana conditional use will be compatible with the surrounding community because it would minimize any negative impacts on the surrounding residential properties. It would be compatible with the natural systems because, with the conditions imposed, it will meet the Title 15 requirements. With the conditions imposed, the marijuana cultivation facility will have adequate water and sewer capacity because it has an existing well and septic system.

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 in the Borough. Commercial Marijuana is a new industry and this conditional use would serve the market by making products available for commercial marijuana product manufacturing and retail establishments.

**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 this marijuana cultivation establishment would support up to seven jobs (three full-time and four seasonal) with this conditional use. This operation would diversify the commercial activity in the Fairbanks North Star Borough enhancing community’s ability to generate revenue.
C. Transportation & Parking

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>7 employees during harvest period</td>
<td>Nursery (Wholesale)</td>
<td>23.40 trip ends/ 5 employees</td>
<td>32.76 trip ends</td>
</tr>
<tr>
<td>Proposed marijuana cultivation facility, indoor large</td>
<td>3 employees during non-harvest period</td>
<td>Nursery (Wholesale)</td>
<td>23.40 trip ends/ 5 employees</td>
<td>14.04 trip ends</td>
</tr>
</tbody>
</table>

Figure 7: Old River Landing Road and Perkins Drive
(Source: FNSB GIS)

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.

The lot is accessible with a 25 foot wide gravel driveway from Old River Landing Road. The proposed use would generate approximately 33 trip ends per weekday in the harvest period and approximately 14 trip ends per weekday in the non-harvest period. These calculations are based on the estimated maximum 7 employees during harvest period and maximum 3 employees during non-harvest period and relying on the closest related land use “Nursery (Wholesale)” in the Institute of Transportation Engineers (ITE) Trip Generation Manual (Table 1). The harvest period is projected to occur every 6-8 weeks and is estimated to last approximately 2-3 weeks. Old River Landing Road and Perkins Drive are rural service area maintained gravel roads (Figure 7) and they could easily accommodate the small number of trip ends generated by the proposed facility.

Although a marijuana cultivation facility, indoor large is a conditional use on the subject parcel in GU-1 zone because it is adjacent to a residential property, the GU-1 zone allows several uses without any zoning permit that have significantly higher vehicular and freight trip generation potential. These outright allowed uses in GU-1 include a gas station with convenience store, a warehouse/distribution center, apartment complexes, shopping centers, drive-through facilities etc. Compared to these uses, a marijuana cultivation facility has a much lower trip generation potential.

The application material states that the three full time year-round employees currently live within a walkable distance from the facility (approximately 400 feet), further reducing the trip generation potential of the marijuana cultivation facility.

Parking demand is based on FNSB standard requirements of 3 parking spaces for every 4 employees [FNSBC 18.96.060 (C)]. The applicant expects maximum 7 employees in the foreseeable future for the marijuana cultivation facility, indoor large. The site plan provided by the applicant shows 6 parking spaces when only 5 parking spaces are required. The site plan shows the gravel 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)].

D. FNSBC 18.104.050 (B) Application for a Conditional Use

The Applicant submitted a conditional use application on January 05, 2017 in support of this requirement. They supplemented their application material with additional information on January 06, January 12, January 18, January 19, January 23, January 24, and February 07, 2017.

E. 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 owners have provided written consent to the proposed marijuana cultivation facility.
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 5). 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 5).

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.

F. Agency Comments

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

a. State Fire Marshal
b. Chena Goldstream Fire Service Area
c. Alaska State Troopers
d. FNSB Rural Services (Becker Ridge Road Service Area)
e. FNSB Floodplain Administrator
f. Alaska Department of Environmental Conservation (ADEC)
g. Alaska Department of Natural Resources (ADNR)
h. Golden Valley Electric Association (GVEA)

All written comments are included in the “Agency Comments” section following this report.
G. 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 183: The purpose of Title 18 is “to implement the Fairbanks North Star Borough comprehensive plan” (FNSBC 18.12.020). The Comprehensive Plan Land Use Map characterizes this area as Perimeter Area and Preferred Residential Land.

The Perimeter Area designations are within 10 to 20 minutes’ drive from the urban densities and contain primarily residential uses. The development in Perimeter Area is recommended to be compatible with the surrounding community, natural systems and is recommended to have water and sewer facilities. The subject property is located in a neighborhood that has primarily developed residentially (Figure 5).

The Preferred Residential Land designation recommends development of the available land because of the natural suitability, however, the development does not necessarily only have to be residential. The natural suitability in Preferred Residential Land designation includes less than 20% slope, not being designated wetlands and having lower probability of containing detrimental permafrost conditions. The subject property meets these natural suitability criteria and therefore, could be developed as a marijuana cultivation facility.

The proposed conditional use is not inconsistent with Perimeter Area and Preferred Residential Land comprehensive plan land use designations because it proposes a marijuana cultivation facility in an existing structure which previously was developed and used as a residential property until 2016. The State Fire Marshall office has stated that marijuana cultivation facilities have F-1 (Factory and Industrial) occupancy under International Building Code. The second story with F-1 occupancy cannot be used residentially. The F-1 occupancy also restricts the use of second story for any marijuana cultivation, drying or processing uses.

With the conditions imposed, the marijuana conditional use will be compatible with the surrounding community because it would minimize any negative impacts on the surrounding residential properties. It would be compatible with the natural systems because, with the conditions imposed, it will meet the Title 15 requirements. With the conditions imposed, the marijuana cultivation facility will have adequate water and sewer capacity because it has an existing well and septic system.

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 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

3 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.
submittals state that they would support seven 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 a property 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 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 help protect the property rights of the surrounding property owners.

The subject property is in ‘Floodway’ and designated floodways in the Borough are subject to periodic inundation of floodwaters which could cause loss of life or property, health or safety hazards. Properties within the designated floodways have additional requirements established by the Title 15 of the Borough code to ensure structures are safe from potential flooding because improvement in a designated floodway result in an increase in flood levels within the community during a flood. This property originally obtained a Floodplain Permit (FP2017-010, **Exhibit 3**) and a Certificate of Compliance (**Exhibit 4**) for the marijuana cultivation facility, indoor small use in November 2016.

The applicant has applied for a Floodplain Permit for the proposed additions and improvements to the building for the marijuana cultivation facility, indoor large conditional use. Development of structures in a Floodway requires a ‘No-rise Certification for Floodways’ under Title 15 to demonstrate that the proposed improvements will not increase the flood levels by more than a foot. A ‘No-rise Certification for Floodways’ is prepared by a registered professional engineer and requires hydrologic and hydraulic analysis. If the proposed improvements are not in compliance with Title 15, then the building must be redesigned and/or retrofitted to meet Title 15 to ensure public health, safety and welfare. However, their Floodplain Permit application for improvement was incomplete as of January 17, 2017 and it has not yet been determined whether the proposed improvements would increase the flood levels.

Alternatively, if the applicant does not construct the additions on the first floor as part of this conditional use permit, they could use the existing structure and may or may not be required to obtain a new Floodplain Permit and a new Certificate of Compliance. However, a ‘No-rise Certification for Floodways’ would not be required. Depending on the cost of the building improvements, additional Title 15 requirements may apply. Therefore, Community Planning staff recommends a condition requiring the marijuana cultivation facility, indoor large to comply with Title 15 regulations to protect public health, safety and welfare without stating the specific permits required.

The marijuana cultivation facility is served by Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service area. The proposed conditional use
will have a safe traffic flow because the additional traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road.

The proposed conditional use promotes economic development and the growth of private enterprise because it would support seven jobs in the area and would diversify the existing industrial neighborhood.

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 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 new or revised state issued license. The applicant has applied for a Floodplain Permit for the proposed improvements for the marijuana cultivation facility, indoor large conditional use.

(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:** The property has a well for water and an existing septic system. The applicant has provided sufficient information to demonstrate that the proposed marijuana cultivation facility, indoor large has adequate water and sewage capacity for operation. The application materials include documentation that Alaska Department of Environmental Conservation (ADEC) reviewed their existing marijuana cultivation facility, indoor small plans and did not require any permits. This conditional use proposes to increase net floor area of the existing marijuana facility by expanding the marijuana drying and processing areas and addition supplies and equipment storage areas on the first floor. Therefore, the existing well and septic system would be adequate for this addition because the applicant has not proposed any increase in the existing marijuana growing area which would have required additional water and sewage capacity.

**Fire:** The applicant has demonstrated that the proposed conditional use has adequate fire services. The subject parcel is located within the Chena Goldstream 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 served by Alaska State Troopers.

**Transportation:** The applicant has demonstrated that the proposed conditional use has adequate transportation facilities. The marijuana cultivation facility is served by Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service...
area. The proposed conditional use will have a safe traffic flow because the additional traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road. The applicant has provided 6 off-street parking spaces and a loading area with sufficient backing and maneuvering space. FNSB Code requires only 5 off-street parking spaces for 7 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 plan for site security, fire safety, and employee health to help address public health, safety, and welfare concerns.

The state licensing and operational standards for marijuana facilities are governed by 3AAC 306. The application material acknowledges that a marijuana cultivation facility, indoor large cannot legally operate without obtaining a state issued license [FNSBC18.04.010] and compliance with 3AAC 306 is required to obtain a state license.

The subject property is in ‘Floodway’ and designated floodways in the Borough are subject to periodic inundation of floodwaters which could cause loss of life or property, health or safety hazards. Properties within the designated floodways have additional requirements established by the Title 15 of the Borough code to ensure structures are safe from potential flooding because improvement in a designated floodway result in an increase in flood levels within the community during a flood. This property originally obtained a Floodplain Permit (FP2017-010, Exhibit 3) and a Certificate of Compliance (Exhibit 4) for the marijuana cultivation facility, indoor small use in November 2016.

The applicant has applied for a Floodplain Permit for the proposed additions and improvements to the building for the marijuana cultivation facility, indoor large conditional use. Development of structures in a Floodway requires a ‘No-rise Certification for Floodways’ under Title 15 to demonstrate that the proposed improvements will not increase the flood levels by more than a foot. A ‘No-rise Certification for Floodways’ is prepared by a registered professional engineer and requires hydrologic and hydraulic analysis. If the proposed improvements are not in compliance with Title 15, then the building must be redesigned and/or retrofitted to meet Title 15 to ensure public health, safety and welfare. However, their Floodplain Permit application for improvement was incomplete as of January 17, 2017 and it has not yet been determined whether the proposed improvements would increase the flood levels.

Alternatively, if the applicant does not construct the additions on the first floor as part of this conditional use permit, they could use the existing structure and may or may not be required to obtain a new Floodplain Permit and a new Certificate of Compliance. However, a ‘No-rise Certification for Floodways’ would not be required. Depending on the cost of the building improvements, additional Title 15 requirements may apply. Therefore, Community Planning staff recommends a condition requiring the marijuana cultivation facility, indoor large to comply with Title 15 regulations to protect public health, safety and welfare without stating the specific permits required.
Applicant’s business plan details their proposed site security measures and waste disposal methods including controlled access gates and doors, video surveillance, and alarms. The applicant intends to secure all marijuana and marijuana products inside the building to ensure the general public does not have access to them. 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 suggests compliance with 3AAC 306 as a condition to ensure public health, safety and welfare.

Lighting, noise, odor, water quality and runoff can be potential concerns for surrounding properties with a commercial operation. The applicant uses 40 Watt LEDs for outdoor security lighting requirements. These lights point toward the ground. The marijuana cultivation facility has vegetative tree buffer between these cultivation building and neighboring residences. The marijuana cultivation building is at least 200 feet away from the nearest residences on Lot 9A, Lot 2 and Lot 4 and the outdoor lighting does not negatively impact the public health, safety and welfare of these surrounding properties. The subject property is not adjacent to any residential zone.

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 a condition requiring 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 noise generated from this cultivation operation would be negligible because the operation is completely indoors. The only noise generated from the facility is the noise from ventilation system.

The applicant has mentioned that marijuana plant waste would be disposed of according to Alaska Marijuana Control Board regulations. The applicant intends to shred/chip all marijuana plant matter and mix with organic material and store on property. The applicant has stated that this plant waste after mixing with organic material would have no saleable value or potency. This impotent plant waste stored on property will be used for fill or potential landscaping on site. Any waste other than the plant waste will be taken to the Borough sanitation facility for business disposal.

Douglas Buteyn, Northern/Southeastern Regional Program Manager for ADEC Solid Waste Program has commented that ADEC does not permit using marijuana plant waste mixed with organic material for filling or landscaping on site. He stated that this conditional use application does not include sufficient information for him to make a determination that the applicant does not need a composting or other applicable permit from ADEC Solid Waste Program. He clarified that indefinite onsite disposal of marijuana plant waste could potentially impact public health, safety and welfare. However, the applicant could compost marijuana waste onsite with appropriate ADEC permits or dispose it in Borough landfill. Therefore, Community Planning staff recommends a condition requiring the applicant to obtain a formal plan review by the ADEC Solid Waste Program for the onsite disposal of marijuana plant waste and 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.
The applicant has stated that the hours of operation of the cultivation facility will be 10 am to 8 pm during harvest times and 10 am to 4 pm during non-harvest times. These hours of operation do not negatively impact the neighborhood’s public health, safety and welfare because the operation is completely indoors and supplies are delivered only 2-3 times per year. However, if the cultivation operations extend late night, the neighbors’ public health, safety and welfare could be compromised because the neighborhood has developed residentially and is not currently used to experience non-residential activities during night. Therefore, Community Planning staff recommends no operation of the marijuana cultivation facility between the hours of 9:00 p.m. and 7:00 a.m.

Fire and rescue services for this operation are available through the Chena Goldstream 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. The Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) have provided a certificate of approval for the existing marijuana cultivation facility, indoor small; however, this certificate of approval requires any changes or modifications to the approved plans to be resubmitted for review by State Fire Marshal. On January 18, 2017, the Division of Fire and Life Safety confirmed that they have received the application and plans for the proposed conditional use. Therefore, Community Planning staff recommends the compliance with all recommendations and/or requirements resulting from this plan review as a condition to minimize fire and other safety risks, thereby ensuring public health, safety and welfare.

The applicant has demonstrated that the proposed conditional use has adequate transportation facilities. The marijuana cultivation facility is served by Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service area. The proposed conditional use will have a safe traffic flow because the additional traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road. The applicant has provided 6 off-street parking spaces and a loading area with sufficient backing and maneuvering space. FNSB Code requires only 5 off-street parking spaces for 7 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 and Marijuana Control Board (MCB) for plan reviews and approvals. Because this conditional use approval is for a particular use of the said property, a change in the site plan or operation method or expansion onto second floor 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 recommends a condition to file final site and floor plans with Community Planning to ensure compliance with Planning Commission approved site plan, floor plan and conditions. If modifications are made in the final site or floor plans, an amendment to the conditional use permit may be required.

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 four (4) 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 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 FNSB C 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 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.

b. 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.
DRAFT PLANNING COMMISSION MOTION:

I move to approve the Conditional Use Permit for a commercial marijuana cultivation facility, indoor large with four (4) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval.
**General Information**

<table>
<thead>
<tr>
<th><strong>Date:</strong> 6/8/2016</th>
<th><strong>Telephone:</strong> 907-479-3374</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant:</strong> NUNLEY LESLEA</td>
<td><strong>Cell Phone:</strong> 907-388-8023</td>
</tr>
<tr>
<td><strong>Mailing Address:</strong> 2008 PERKINS DRIVE, FAIRBANKS AK 99709</td>
<td><strong>Email:</strong> <a href="mailto:lesleanunley@gmail.com">lesleanunley@gmail.com</a></td>
</tr>
</tbody>
</table>

**Property Description:** 0331279 LOT 3 TANANA CHASE  
**Site Address:** 3495 OLD RIVER LANDING RD

<table>
<thead>
<tr>
<th><strong>Existing Use:</strong> Residential</th>
<th><strong>Structure:</strong> Multiple residences: Two Apartments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential</strong></td>
<td><strong>Structure:</strong> Accessory structure: Storage</td>
</tr>
<tr>
<td><strong>Proposed Use:</strong> Commercial</td>
<td><strong>Structure:</strong> Marijuana cultivation facility, indoor small: 1458.4 sq.ft.</td>
</tr>
</tbody>
</table>

| **Dwelling Units:** 2 | **New:** 0 | **Existing:** 2 |

| **Building Height (stories):** 24 |
| **Total Area of Structure:** 3,750 SF |
| **Lot Size:** 85,565 SF |
| **Est. Construction Cost:** $20,000 |

**Note:** This zoning permit is only for the 1,458.4 sq.ft. of the ground floor of the two-story apartment building.

If any area other than the 1,458.4 sq.ft. of net floor area shown on the site plan for the marijuana cultivation facility, indoor small is used for any functions supporting a marijuana establishment, the applicant or holder of this zoning permit shall submit revised documents to the FNSB Community Planning Department for zoning compliance review.

The applicant or holder of this zoning permit shall provide a copy of the State approved Floor Plan to FNSB Community Planning Department.

If the net floor area for the marijuana cultivation facility, indoor small exceeds 1,500 sq.ft., a Conditional Use Permit shall be required pursuant to FNSBC 18.104.050.
- I certify that I am the owner or that I am authorized to act for the owner of the property.
- I certify that this information is to the best of my knowledge true and complete.
- I acknowledge and will comply with the conditions set forth in this zoning permit.
- I understand that the holder of this permit is required to comply with all other applicable laws, including city, borough, state and federal laws.
- I agree to submit current and accurate documents if the site plan or other application materials are changed subsequent to issuance of this permit.
- I understand that this permit is appealable and that this appeal must be submitted and perfected within 15 days of the date of the decision in accordance with FNSBC 18.54.070.
- This permit is issued contingent upon the applicant obtaining the appropriate State of Alaska Commercial Marijuana Facility License.

Applicant Signature: [Signature]
Date: 6/8/16

Zoning Specifications

| Existing Zone: | GU-1 (100%) |
| Minimum Lot Size: | 40000 |
| Front Yard Req: | 0 |
| Side Yard Req: | 0 |
| Rear Yard Req: | 0 |
| Flood Zone: | AE (100%) |
| Road Service Area: | Yes |
| Parking Spaces Req: | 0 |
| Building Type: | Principal |

Conditions

- Floodplain Permit Required: Yes
- Marijuana cultivation facility, indoor small
- FNSB Driveway Permit Required: Yes
- Reasons: Marijuana cultivation facility, indoor small meets Title 18 requirements

Permit Approval: Approved

Zoning Official: Singh, M
Date: 6/8/2016

This is a Fairbanks North Star Borough Community Planning Department Zoning Permit. Please contact other departments and agencies to obtain permits as necessary.
# ZONING PERMIT APPLICATION

**APPLICANT:**  
Name: LESLEA NUNLEY  
Mailing Address: 3008 PERKINS DRIVE, FAIRBANKS, AK 99709  
Phone: 907-479-3374  
Fax: 877-469-5383  
E-mail: lesleanunley@gmail.com  

**Comm. Planning Dept**  
JUN 07 2016  
RECEIVED

## Property Information:

**Legal Description:** Lot 3 Tanana Chase  
**Street Address:** 3495 Old River Landing  
**Lot Size:** 25,580 square feet  
**Parcel Account Numbers (PAN):** 033279

**Existing Use & Structures:** Two story building with 2 apartments completely separate with separate entrance from downstairs storage.

## Proposed Use/Construction:

| Description of proposed use: | No Change to Existing Apartments.  
| Number of existing building: | 2 apartments (not part of proposed use)  
| Size of existing construction in square feet: | Remodel 1484 sq ft  
| Number of proposed dwelling units: | 0  
| Size of proposed construction in square feet: | Remodel of 1484 sq ft  
| Building height/number of stories: | 2 story existing 24 ft high

Remodel of downstairs to cultivation facility, $20,000, none proposed. 2 existing in upstairs unit.

I certify that (I am) ☐ (I am authorized to act for) the owner of the property.

I certify that the information included in this application is to the best of my knowledge true and complete.

I understand that processing of this application may take up to 5 working days from the date of a complete application.

I have attached a detailed site plan drawn to scale, in compliance with the guidelines document titled "Site Plans".

I understand that the Zoning Permit is appealable and that said appeal must be submitted and perfected within 15 days of the date of the decision in accordance with 18.54.070.

I can be notified of the decision at the above ☐ (phone number) ☐ (address) ☐(email address)

**APPLICANT SIGNATURE:**  
**DATE:** 10/17/16

The 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.
Lot 3 Tanana Chase
3495 Old River Landing. 1st Floor Proposed use — Marijuana Cultivation Facility indoor small. Space rented from Owner and used directly for cultivation 1458.4 Sq Ft

- Boiler Room for entire building heat
- HVAC Room for entire building
- Fire Rated Door Restricted access
- Emergency Exit Only

Grow Room #1
15.25' x 29.5' = 449.9 sq ft
Restricted Access Area

Clone/Vegative Room
15.3' x 16.9' = 262.5 Sq Ft
Restricted Access Area

Pocket doors

Total Net Floor Area of Cultivation Facility
449.9 x 2= 899.8
262.5 x 2= 525.0
41.6 = 1453.4 Total Sq Ft in Grow
Highlighted in GREEN

Grow Room #2
15.25' x 29.5' = 449.9 sq ft
Restricted Access Area

Restroom
6.5' x 6.4' = 41.6 Sq Ft

Lockable Cabinet for camera system/DVR

Garage Door 10'

Water Heater

Garage used for parking for Owner of building.

Scale 1" = 8'
LOT 3 TANANA CHASE
3495 OLD RIVER LANDING
2nd floor existing use: 2 - 1 bedroom apartments
Completely separate unit with outside entrance
No proposed changes
Not to be used as part of marijuana cultivation facility

OLD RIVER LANDING ROAD

OUTDOOR STAIRCASE

BEDROOM 1

ENTRY HALL

APT #1 ENTRY

KITCHEN & LIVING AREA

APT #1

BATH

kdir & LIVING AREA

APT #2 ENTRY

BATH

ENTRY HALL

BATH

PARKING/DRIVEWAY

1" = 8'
COMMERCIAL LEASE

RECEIVED
This Lease is made between James and Leslea Nunley DBA Nunley Rentals, LLC ("Lessor"), and Tanana Herb Company, LLC, ("Tenant"). Tenant hereby offers to lease from Lessor the real property located in the City of Fairbanks, State of Alaska, with a common address of 3495 Old River Landing, legal description Lot 3 Tanana Chase (the "Real Property"), upon the following terms and conditions. (This document shall hereafter be referred to as the "Lease").

TERMS AND CONDITIONS

1. Term and Rent. Lessor leases to Lessee the above Real Property for a term of Five years, commencing

March 1, 2016, and terminating on March 1, 2021, or sooner as provided herein at the annual rental of $18,000.00 Dollars ($18,000.00), payable in equal installments in advance on the first day of each month for that month’s rental, during the term of this Lease. All rental payments shall be made to Lessor at the address specified below.

James & Leslea Nunley 2003 Perkins Dr. Fairbanks, AK 99709

2. Option to Renew. Provided that Tenant is not in default in the performance of this Lease, Tenant shall have the option to renew the Lease for one additional term(s) of 12 months commencing at the expiration of the initial Lease term. All of the terms and conditions of the Lease shall apply during the renewal term except that the monthly rent shall be renegotiated at that time. The option shall be exercised by written notice given to Lessor not less than 60 days prior to the expiration of the prior Lease term. If notice is not given in the manner provided herein within the time specified, this option shall lapse and expire.

3. Use. Tenant shall use and occupy the Real Property for the commercial purpose of a Standard Marijuana Cultivation Facility. The Real Property shall be used for no other purpose.

Tenant’s lease includes only the area of the 1st floor of the building diagram outlined in green on the attached diagram and designated as restricted access. All other area of the building are for the use of the owner and for maintenance on the systems for the entire building.

4. Care and Maintenance of Real Property. Tenant acknowledges that the Real Property is in good order and repair, unless otherwise indicated herein. Tenant shall, at its own expense and at all times, maintain the Real Property in good and safe and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted.

5. Ordinances and Statutes. Tenant shall comply with all statutes, ordinances, regulations, covenants, conditions and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Real Property, occasioned by or affecting the use thereof by Tenant.

6. Utilities. Tenant shall be solely liable for utility charges as they become due, which will consist of electricity and telephone services.

7. Indemnification of Lessor. Lessor shall not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on the Real Property or any part thereof, and Tenant agrees to indemnify and hold Lessor harmless from any claims for damages, no matter how caused, except for those caused by the sole negligence or sole unlawful conduct of Lessor.

This Agreement is entered into between the parties and constitutes the complete agreement.

Signature of Lessee:

Signature of Lessee:

Date: 3/1/16

Date: 3/1/16

Signed 6/7/16

Signed 6/7/16

37
FNSB FLOODPLAIN
DEVELOPMENT
PERMIT

Requirements for this permit:

1. Lowest floor elevated to or above BFE if Substantial Improvement.
2. To be designed so that below BFE the structure is watertight, FF certificate required.

Issued To: Name: NUNLEY LESLEA
Mailing Address: PO BOX 81772
City/State/Zip: FAIRBANKS AK 99708

Issued By: Nancy Durham, MURP, CFM
(Floodplain Administrator)

Date: 11/15/2016
BFE: 426.3

Description of proposed work:
Tanana Herb Co. will use 1458.4 square feet of the lower floor for marijuana cultivation. The rest of downstairs is for owners personal use. The upstairs is also for owners use. Changes to the building for Tanana Herb Co. use include erecting 15 ft. of non-bearing wall and installing one exterior door.

Specific Standards:
Project may be a substantially improved structure. Improvement costs required as top of bottom floor (423.8') is beneath the new Base Flood Elevation of 426.3'.
Structure Value=$194,583 (50%=$97,291.50); Total Improvements=$27,300 - NOT Substantial Improvement.

Parcel
0331279 LOT 3 TANANA CHASE
3495 OLD RIVER LANDING

NOTE:
This permit authorizes development in the Special Flood Hazard Area described above.
A Certificate of Compliance shall be applied for within 60 days after obtaining the elevation certificate.
The holder of this permit is required to comply with all other applicable laws, including city, borough, state and federal laws.
CERTIFICATE OF COMPLIANCE

This change of use is not a Substantial Improvement. The shop was constructed in 1987 & house with shop constructed in 2002 while in Flood Zone A with a BFE of 421' (NGVD 1929). Any new construction and/or substantial improvements are required to meet the current Floodplain Regulations.

This certificate is issued by the FNSB Flood Plain Administrator pursuant to the requirements of FNSB 15.04.055 certifying that at the time of issuance, development described below was in compliance with the floodplain management requirements of the Fairbanks North Star Borough for the following described property:

Permit Number: FP 2017-0010
Owner: NUNLEY LESLEA

Issued By: Nancy Durham, MUP, CFM (Floodplain Administrator) Date: 11/15/2016

Description of proposed work:
Tanana Herb Co. will use 1458.4 square feet of the lower floor for marijuana cultivation. The rest of downstairs is for owners personal use. The upstairs is also for owners use. Changes to the building for Tanana Herb Co. use include erecting 15 ft. of non-bearing wall and installing one exterior door.

Parcel(s) Project Address:
0331279 LOT 3 TANANA CHASE 3495 OLD RIVER LANDING
Agency Comments

CU2017-011
February 10, 2017 12:30 PM

Phone call conversation with

Diana Parks
Supervisor - Plan Review Bureau, Division of Fire and Life Safety
5700 East Tudor Road, Anchorage, AK 99507
Phone: 907-269-5479, Email: diana.parks@alaska.gov

Manish Singh, FNSB Planner, asked why the second story of the marijuana cultivation facility at 3495 Old River Landing Road could not be used for cultivation, processing or packaging operation but only be used for office. Ms. Parks replied that a marijuana cultivation facility has F1 occupancy (Factory and Industrial Occupancy, International Building Code). The existing building has SB type of construction which means it does not have the structural ability for at least one hour of fire. The second story in F1 occupancy cannot be used for any purposes such as marijuana cultivation, processing or packaging without 5A construction or without installing a sprinkler system. A 5A construction would have structural ability for at least one hour of fire. Ms. Parks mentioned that the upstairs can only be used for an office and cannot be used for residential purpose.

Manish Singh, FNSB Community Planner
Mr Buteyn,
I understand from Manish at Borough Planning that you need more information from me in regards to my intentions for disposing of the solid waste material from my marijuana cultivation facility. As you may expect we waste very little of the plant so the solid waste product that we discard is minimal. It consists mainly of the stalk. We have been feeding the stalks into a chipper/shredder and then mixing them with composting materials in a ratio that renders it completely unusable. We are then allowing it to completely compost on site. We have a large area to work with and don’t expect the small amount of compost to become a problem. Since we are a small facility there is very little to contend with. We have not made any plans past the composting stage but would be happy to put the compost to use if that is required or allowed.

It would be very helpful if you would let me know what is expected from your Agency in regards to this matter. What we have been doing to date has been approved with everyone we have spoken to so far but I understand that things change, especially in this new industry. If you have any other questions feel free to contact me at this email address or my phone (907) 388-8023.

Sincerely,
Leslea Nunley
Tanana Herb Company, LLC
January 24, 2017 1:40 PM

Phone call conversation with

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

Manish Singh, FNSB Planner, asked the options marijuana cultivation facilities have to dispose their plant waste after rendering it unusable pursuant to 3AAC 306.740. Mr. Buteyn clarified that DEC has multiple divisions and Marijuana Control Board may not have contacted DEC's Solid Waste Program specifically before allowing the existing marijuana cultivation facility at Old River Landing Road.

He further clarified that a cultivation operation could take the unusable waste to the Borough Landfill. They can also compost it in side for their personal use; however, the applicant must contact ADEC Solid Waste Program to check for any permit requirements for the onsite composting. ADEC Solid Waste Program does not permit [outright] using the unusable plant waste for filling or landscaping because the reading of DEC codes would treat this a commercial waste and the applicant needs to check with DEC for any permitting requirements [18AAC 60.007].

He concluded that it is less likely that a marijuana cultivation facility would need a permit for composting onsite but it is good to check with ADEC Solid Waste Program.

Manish Singh, FNSB Community Planner
Dear Mr. Buteyn,

Thank you for your comment. I have a follow up question. Where can a marijuana grower eventually dispose their plant waste after rendering it unusable pursuant to 3AAC 306.740. 3AAC 306.740 (a) requires a marijuana establishment to “store, manage, and dispose of any solid or liquid waste..... with applicable federal, state, and local statutes, ordinances, regulations, and other law.”

I have had applicants who have proposed to take the waste to a landfill or to a transfer station. Is that appropriate from DEC’s perspective? Any guidance in this matter would be very helpful.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701

Hi Manish:

I’ve taken a quick look at this conditional use request and focused my review on waste disposal. The one thing I have to question is the description of the plan for disposing of marijuana plant waste. On page 6 of the pdf document, the application states: “Plant waste will be disposed of according to our agreement with the Alaska Marijuana Control Board. All marijuana plant matter will be shredded/chipped and mixed with organic material and stored on the property.”

While the shredding and mixing described agrees with the requirements of the state’s marijuana regulations, I need to see a more complete explanation of what is meant by “stored on the property”. As is, I cannot tell if the intent is to store the material indefinitely, to accumulate the material for eventual disposal, or to compost (or otherwise treat) the material. Storage for an undefined period of time can eventually look a lot like on-site disposal so I need more information so I can better compare the disposal plan to permit requirements under the state’s solid waste regulations.

Thank you for the opportunity to review this request. Let me know if you have any questions.
From: Manish Singh [mailto:MSingh@fnsb.us]
Sent: Friday, January 13, 2017 3:00 PM
To: Tyler, David L (DPS) <david.tyler@alaska.gov>; Aden, David G (DPS) <david.aden@alaska.gov>; chief@cgfr.com; Horton, George C (DNR) <george.horton@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>; Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>; JLRad@geva.com; Nancy Durham <NDurham@fnsb.us>; Michael Bredlie <MBredlie@fnsb.us>
Subject: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

Dear Sir/Ma’am,

The Fairbanks North Star Borough Planning Commission is considering CU2017-011, a request for conditional use approval of a Commercial Marijuana Cultivation Facility, Indoor Large in the General Use 1 (GU-1) zone, located at 3495 Old River Landing Road (on the southeast corner of Perkins Drive and Old River Landing Road). This application (CU2017-011) is scheduled for a Planning Commission quasi-judicial public hearing on February 21, 2017.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 27, 2017. If you have any questions regarding this proposal, please contact me at (907) 459 1225 or msingh@fnsb.us

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
Yes, and we actually received the application and plans for the addition today.

Jill Roberts
Plan Review Bureau
Division of Fire & Life Safety
jillian.roberts@alaska.gov
Phone 269-2004 Fax 269-0098

Manish Singh
Planner II
Department of Community Planning
907-459-1225 / msingh@fnsb.us
Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701

From: Jillian T [mailto:jillian.roberts@alaska.gov]
Sent: Wednesday, January 18, 2017 7:47 AM
To: Manish Singh
Cc: Parks, Diana C (DPS)
Subject: RE: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

Hi Jill,

Thank you for forwarding me the approval documents for 3495 Old River Landing Road (Plan Review # 2016Anch1374). The certificate states that “any changes or modifications to the approved plans must be resubmitted for review by State Fire Marshal.” The current conditional use application I have, proposes to add additional area for cold storage, drying room, and processing room in their existing approved marijuana cultivation operation. Do these applicants need to resubmit their plans for your review?

Thanks,
Manish
To: Parks, Diana C (DPS); Manish Singh
Subject: RE: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

Manish,

This project has been approved by our office. Copies of the approval documents are attached.

Take care,

Jill Roberts
Plan Review Bureau
Division of Fire & Life Safety
jillian.roberts@alaska.gov
Phone 269-2004 Fax 269-0098

From: Parks, Diana C (DPS)
Sent: Friday, January 13, 2017 4:27 PM
To: Roberts, Jillian T (DPS)
Subject: FW: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

I can’t find the file or the approval documents in Hansen. Sorry, I tried. Susan doesn’t have the file.

Diana Parks
Supervisor - Plan Review Bureau
Division of Fire and Life Safety
5700 East Tudor Road
Anchorage, AK 99507
diana.parks@alaska.gov
http://www.dps.state.ak.us/Fire/PRB/
907-269-2004

From: Tyler, David L (DPS)
Sent: Friday, January 13, 2017 3:58 PM
To: Nakano, Lloyd M (DPS); Parks, Diana C (DPS)
Subject: Fwd: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

Begin forwarded message:

From: Manish Singh <MSingh@fnsb.us>
Date: January 13, 2017 at 3:00:20 PM AKST
To: "David.tyler@alaska.gov" <David.tyler@alaska.gov>, "David.aden@alaska.gov" <David.aden@alaska.gov>, "chief@cgfr.com" <chief@cgfr.com>, "George.horton@alaska.gov" <George.horton@alaska.gov>, "Tonya.bear@alaska.gov" <Tonya.bear@alaska.gov>, "Doug.buteyn@alaska.gov" <Doug.buteyn@alaska.gov>, "JLKarl@gvea.com" <JLKarl@gvea.com>, Nancy
Dear Sir/Ma’am,

The Fairbanks North Star Borough Planning Commission is considering CU2017-011, a request for conditional use approval of a Commercial Marijuana Cultivation Facility, Indoor Large in the General Use 1 (GU-1) zone, located at 3495 Old River Landing Road (on the southeast corner of Perkins Drive and Old River Landing Road). This application (CU2017-011) is scheduled for a Planning Commission quasi-judicial public hearing on February 21, 2017.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 27, 2017. If you have any questions regarding this proposal, please contact me at (907) 459 1225 or msingh@fnsb.us

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
Hi Jill,

Thank you for forwarding me the approval documents for 3495 Old River Landing Road (Plan Review # 2016Anch1374). The certificate states that "any changes or modifications to the approved plans must be resubmitted for review by State Fire Marshal." The current conditional use application I have, proposes to add additional area for cold storage, drying room, and processing room in their existing approved marijuana cultivation operation. Do these applicants need to resubmit their plans for your review?

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701

From: Roberts, Jillian T (DPS) [mailto:jillian.roberts@alaska.gov]
Sent: Wednesday, January 18, 2017 7:47 AM
To: Parks, Diana C (DPS); Manish Singh
Subject: RE: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

Manish,

This project has been approved by our office. Copies of the approval documents are attached.

Take care,

Jill Roberts
Plan Review Bureau
Division of Fire & Life Safety
Jillian.roberts@alaska.gov
Phone 269-2004 Fax 269-0098
From: Parks, Diana C (DPS)  
Sent: Friday, January 13, 2017 4:27 PM  
To: Roberts, Jillian T (DPS)  
Subject: FW: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

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Supervisor - Plan Review Bureau  
Division of Fire and Life Safety  
5700 East Tudor Road  
Anchorage, AK 99507  
diana.parks@alaska.gov  
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907-269-2004

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Date: January 13, 2017 at 3:00:20 PM AKST  
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I have attached the application with this email. The department requests you to send us your comments for this proposal by January 27, 2017. If you have any questions regarding this proposal, please contact me at (907) 459 1225 or mSingh@fnsb.us

Thanks,  
Manish

Manish Singh  
Planner II
Manish Singh

From: Roberts, Jillian T (DPS) <jillian.roberts@alaska.gov>
Sent: Wednesday, January 18, 2017 7:47 AM
To: Parks, Diana C (DPS); Manish Singh
Subject: RE: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

Follow Up Flag: Follow up
Flag Status: Completed

Manish,

This project has been approved by our office. Copies of the approval documents are attached.

Take care,

Jill Roberts
Plan Review Bureau
Division of Fire & Life Safety
jillian.roberts@alaska.gov
Phone 269-2004 Fax 269-0098

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Sent: Friday, January 13, 2017 4:27 PM
To: Roberts, Jillian T (DPS)
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907-269-2004

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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
August 09, 2016

Leslea Nunley
PO Box 81772
Fairbanks, AK 99708

SUBJECT: Tanana Herb Company (3495 Old River Landing) - Renovation / Remodel
CITY: Fairbanks
PLAN REVIEW: 2016Anch1374
OCCUPANCY: F1
2009 INTERNATIONAL BUILDING AND FIRE CODE

Dear Leslea Nunley:

Plans for the Renovation / Remodel have been reviewed by this office for conformity with the State Fire Safety Regulations and are hereby approved. Enclosed is a certificate of approval that must be posted on the premises until the project has been completed according to the approved plans and all regulations have been adhered to.

Approval of submitted plans is not approval of omissions or oversights by this office or noncompliance with any applicable regulations of the Municipal Government.

It must be understood that the inclusion of and compliance with State Fire Safety Regulations does not preclude the necessity of compliance with the requirements of local codes and ordinances.

If we can be of further assistance in this matter, please feel free to contact us at the address above.

Sincerely,

[Signature]

Jillian Roberts
Plans Examiner

Enclosure: Approval Certificate
State of Alaska
Office of the State Fire Marshal
Plan Review

This is to certify that the plans for this building were reviewed by the State Fire Marshal on August 09, 2016 for conformance with AS 18.70.010 -- 100, 13 AAC 50.027.

This certificate shall be posted in a conspicuous place on the premises named Tanana Herb Company (3495 Old River Landing) and shall remain posted until construction is completed.

NOTICE: Any changes or modifications to the approved plans must be resubmitted for review by the State Fire Marshal.

Plan Review #: 2016Anch1374 By: ___

Jillian Roberts
Plans Examiner

Renovation / Remodel ONLY
Hi Manish:

I've taken a quick look at this conditional use request and focused my review on waste disposal. The one thing I have to question is the description of the plan for disposing of marijuana plant waste. On page 6 of the pdf document, the application states: “Plant waste will be disposed of according to our agreement with the Alaska Marijuana Control Board. All marijuana plant matter will be shredded/chipped and mixed with organic material and stored on the property.”

While the shredding and mixing described agrees with the requirements of the state's marijuana regulations, I need to see a more complete explanation of what is meant by “stored on the property”. As is, I cannot tell if the intent is to store the material indefinitely, to accumulate the material for eventual disposal, or to compost (or otherwise treat) the material. Storage for an undefined period of time can eventually look a lot like on-site disposal so I need more information so I can better compare the disposal plan to permit requirements under the state’s solid waste regulations.

Thank you for the opportunity to review this request. 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

---

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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: Manish Singh [mailto:MSingh@fnsb.us]
Sent: Friday, January 13, 2017 3:00 PM
To: Tyler, David L (DPS) <david.tyler@alaska.gov>; Aden, David G (DPS) <david.aden@alaska.gov>; chief@cgfr.com; Horton, George C (DNR) <george.horton@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>; Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>; JLKarl@gvea.com; Nancy Durham <NDurham@fnsb.us>; Michael Bredlie <MBredlie@fnsb.us>
Subject: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

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I have attached the application with this email. The department requests you to send us your comments for this proposal by January 27, 2017. If you have any questions regarding this proposal, please contact me at (907) 459 1225 or msingh@fnsb.us

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, January 17, 2017 10:41 AM  
To: Manish Singh  
Subject: RE: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)  

Follow Up Flag: Follow up  
Flag Status: Flagged

Manish,

A Floodplain Permit is required for this project. FNSB received an incomplete Floodplain Permit application on January 6, 2017. Once the remaining items (detail narrative and no rise certification with calculations) are submitted a determination can be made on issuing a Floodplain Permit.

Sincerely,

Nancy Durham, MURP, CFM  
Flood Plain Administrator  
FNSB Community Planning  
n Durham@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, January 13, 2017 3:00 PM  
To: David.tyler@alaska.gov; David.aden@alaska.gov; chief@cgfr.com; George.horton@alaska.gov; Tonya.bear@alaska.gov; Doug.buteyn@alaska.gov; Jl.Karl@qvea.com; Nancy Durham; Michael Bredlie  
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Thanks,  
Manish

Manish Singh  
Planner II
Application Material Received on
January 05, 2017

CU2017-011
**Fairbanks North Star Borough**  
**Department of Community Planning**  
907 Terminal Street/P.O. Box 71267  
Fairbanks, Alaska 99707-1267  
(907) 459-1260  Fax: (907) 459-1255  
planning@fnsb.us

---

**MARIJUANA FACILITY**  
**CONDITIONAL USE PERMIT APPLICATION**  
*File No. cu2017-011*

**FEES:**  
☑️ $800 conditional use permit application  
☐ $250 verification of sensitive use buffers  
☐ $200 sign deposit (check or cash only)

<table>
<thead>
<tr>
<th><strong>Applicant:</strong></th>
<th><strong>Property Owner:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contact Name:</strong></td>
<td><strong>Name:</strong></td>
</tr>
<tr>
<td>LESLEA NUNLEY</td>
<td>LESLEA NUNLEY</td>
</tr>
<tr>
<td><strong>Business Name:</strong></td>
<td><strong>Mailing Address:</strong></td>
</tr>
<tr>
<td>TAMANA HEMP COMPANY</td>
<td>2008 PERKINS DRIVE</td>
</tr>
<tr>
<td><strong>Mailing Address:</strong></td>
<td><strong>City, State Zip:</strong></td>
</tr>
<tr>
<td>PO Box 81712</td>
<td>FAIRBANKS, AK 99709</td>
</tr>
<tr>
<td><strong>City, State Zip:</strong></td>
<td><strong>Phone:</strong></td>
</tr>
<tr>
<td>FAIRBANKS, AK 99708</td>
<td>907-479-3374</td>
</tr>
<tr>
<td><strong>Phone:</strong></td>
<td><strong>Cell:</strong></td>
</tr>
<tr>
<td>907-388-8023</td>
<td>907-388-8023</td>
</tr>
<tr>
<td><strong>E-mail:</strong></td>
<td><strong>E-mail:</strong></td>
</tr>
<tr>
<td><a href="mailto:tananahempco@gmail.com">tananahempco@gmail.com</a></td>
<td><a href="mailto:leslea.nunley@gmail.com">leslea.nunley@gmail.com</a></td>
</tr>
</tbody>
</table>

**Property Information:**  
*Property Description:*  
lot 3 TAMANA CTIASE

<table>
<thead>
<tr>
<th><strong>Street Address:</strong></th>
<th><strong>Lot Size:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>3495 OLD RIVER LAUNING</td>
<td>85,580 sq ft.</td>
</tr>
<tr>
<td><strong>Parcel Account Numbers (PAN):</strong></td>
<td><strong>Zoning District:</strong></td>
</tr>
<tr>
<td>0331279</td>
<td>GU-1</td>
</tr>
</tbody>
</table>

**Conditional Use Request Information:**  
**Proposed Use(s):**  
INDOOR unlimited marijuana cultivation facility on 1st Floor - Vicant 2nd Floor

**Request Description and Reasons for the Request:**  
I currently use under 1500 SQ FT OF THE FIRST FLOOR FOR A SMALL INDOOR CULTIVATION FACILITY. I WOULD LIKE TO USE THE ENTIRE SQUARE FOOTAGE OF THE 1ST FLOOR, EXCEPT FOR THE BOILER ROOM THAT SERVES THE ENTIRE BUILDING, I WILL ALSO BE ADDING SOME SQ FT FOR SLEEPING.

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:  
Leslea Nunley  
DATE: 12/07/16

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).
Lot 3 Tanana Chase
3495 Old River Landing
1st Floor Proposed use: Marijuana Cultivation Facility Indoor Unlimited Space rented from owner and used for cultivation 3466.7 total SQ FT Current use: 1457.8 SQ FT under current permit for Marijuana Cultivation Facility Indoor Small.
Lot 3 Tanana Chase
3495 Old River Landing
2nd Floor existing use: 2-1 bedroom apartments
Completely separate unit with outside entrance
Proposed Changes: Vacant Commercial office space.

- Entry
- Office 12' x 18' = 192 sq ft
- Office 12' x 18' = 216 sq ft
- Office 12' x 18' = 216 sq ft
- Entry Hall 17'
- Stairs to the Second Floor
- 16' 12'
- 22' 18'

Scale 1" = 8'

Comm. Planning Dept
JAN 05 2017
RECEIVED

Unrelated to marijuana cultivation facility unlimited
Narrative for Application for Conditional Use Permit for
Lot 3 Tanana Chase for Marijuana Cultivation Facility Indoor Unlimited

Tanana Herb Company has been operating a Marijuana Cultivation Facility Indoor Small in 1500 square foot of the building on Lot 3 Tanana Chase, as approved by the Borough Planning Department, since August of 2016. We are asking for a Conditional Use Permit to allow us to use the entire first floor of the building in order to have more space for processing, for an employee changing area, an arctic entry and storage of supplies and equipment. The areas used for growing product will remain the same.

Hours of operation are 10:00AM to 4:00PM during grow periods. Harvest periods increase work hours to 10:00AM to 8:00PM. Workers are limited to 3 at most times, with a possibility of up to 7 total workers during harvest times, which occur every 6-8 weeks and will last approximately 2 - 3 weeks. The property has adequate space in front of the building and along the driveway for parking without blocking access to emergency vehicles or overflowing onto any adjacent roadways.

Increased traffic to the area is minimal as supplies are delivered 2-3 times per year and the 3 main workers live next door to the facility and walk across the lawn to work. During harvest times the additional employees frequently stay at the owners house next door during the length of the harvest, leaving minimal vehicle traffic even during the 2-3 harvests that happen 6-8 weeks apart. Area traffic will not change from current use if a conditional use permit is approved.

Once approval of a conditional use permit is approved we will add the Arctic Entry, HVAC room and cold storage onto the first floor and move around doorways as indicated in the submitted plans. Work will be completed by a general contractor with the owners assisting. The work is expected to take approximately 2 weeks. Carpentry work will be completed during daylight hours.

Since beginning operation in August of 2016 there have been no issues with noise, dust, light or odors impacting the surrounding residential establishments. The proposed usage and changes to the building will not increase any of those potential impacts.

Supplies that will be stored on the property for business use will be cocoa for growing medium and plant based nutrients and natural pesticides. Chemicals stored on the property would be hydrogen peroxide and clorox bathroom cleaner with bleach for sanitizing.

Plant waste will be disposed of according to our agreement with the Alaska Marijuana Control Board. All marijuana plant matter will be shredded/chipped and mixed with organic material and stored on the property. Any waste other than plant waste will be taken to the Borough Sanitation facility for business disposal. The only waste other than plant waste will be bags from growing mediums and nutrients and bathroom trash cans.

This facility operates with electricity from Golden Valley Electric Association. There is no anticipated increase to the electricity usage with the proposed changes. Water for the facility is from a private well on the property and there is no anticipated increase to that usage. The property is served by a private septic system in which there is no anticipated increase in usage with the proposed changes.
Fire protection is provided by Chena Goldstream Fire Department and has been approved by the Fire Chief for access of emergency equipment. Proposed changes to the building will be submitted to the State Fire Marshalls Office for review and approval before any changes to the building will be undertaken. Police protection falls under the jurisdiction of the Alaska State Troopers. The Alaska Marijuana Control Board has approved the security measures as adequate, which include outdoor lighting at all entrances, security cameras and monitoring by a security agency through a security system on the building. Those measures will be upgraded to meet the proposed changes and submitted to the Alaska Marijuana Control Board for review and approval prior to changes being made to the building.

In conclusion, this request is being made in order to have more space, that is outside of the actual growing room areas, for storage of supplies and equipment and for the employees to have better facilities for changing clothes and working on harvest during the harvest times. It will make it easier to keep the facility clean and free of pests and contaminants as well as allowing easier access to supplies and equipment. It does not increase the floor space for growing the product or increase the use of services or utilities.
Application Material Received on
January 06, 2017

CU2017-011
Manish Singh

From: Leslea Nunley <tananaherbcompany@gmail.com>
Sent: Thursday, January 05, 2017 6:54 PM
To: Manish Singh
Subject: Conditional use application submitted 1/5/17

Manish,

Thank you for the phone call to advise me you needed more detail on the site plan and letting me know that the deadline for submittal is tomorrow, Friday 1/6/17. I will be in your offices tomorrow morning with that revised plan. I would also like to provide you with a summary of my narrative that demonstrates conformance with Borough ordinances and statutes. Thank you for allowing me to email this information to you.

As you know, I currently operate a marijuana cultivation facility, indoor small on the property. This property is a GU-1 zoned property and that use is allowed in zoning ordinances. I have obtained all of the permits necessary from the Borough and the State to operate the facility. This property is also zoned to use as a marijuana cultivation facility, indoor large, provided a conditional use permit application is filed and that permit approved. This property also lies in a flood plain area and I have received the flood plain permit for the current use. I will submit the proposed change of use and building additions to that department for their approval as well. I will also be providing revised building plan documents to the State Fire Marshalls office, as any change to a commercial building is of interest to them, and the Alaska Marijuana Control Office (AMCO) for their approval. My current State of Alaska Marijuana Cultivation Facility license will not change with the approval of the proposed conditional use permit but, since the restricted access areas are being enlarged, I will submit the diagram change so that it is on record with that office.

The current growing area’s of the facility will not change with the approval of the conditional use permit. I will not be enlarging the area I use for that purpose. I will be using more area for processing the harvest and for changing into and out of work clothing. This will make the work easier for the staff. It will also allow me to have more area for storage of materials such as the cocoa we use as soil and new planting pots and nutrients, etc. It will be more efficient to have those products close at hand and be more organized for the staff. As such, my proposed changes will not have an increased impact on the local area in the manner of noise polution or odor or increased traffic. All of that will remain the same as it is currently under the zoning permit I already have. The sewage/waste, water and electric utilities will also remain the same as they are currently and they have proven to be adequate for the use. The area Fire Chief has inspected the property to ensure there was adequate space for emergency vehicles and has given his approval for that purpose. I believe that I have addressed the concerns for the public health, safety and welfare and that my proposed use of this property will not endanger or create hazards for the local residents.

If there are any other questions or concerns that I need to address feel free to contact me.

Sincerely,
Leslea Nunley
Owner, Tanana Herb Company, LLC
907-388-8023
Application Material Received on
January 12, 2017

CU2017-011
Manish,

Thank you so much for being so helpful with this process. As I don’t work with this every day I rely on your expertise and you have been a lifesaver. I will do my best to answer your questions and provide you with whatever you need.

In answer to questions number........

1. The total square footage of the first floor, that I want to use for Marijuana Cultivation, is 3466.7 square feet. I did indeed mean to request the conditional use for only that portion which would be a “Marijuana Cultivation Facility, Indoor Large”. Thank you for clarifying that with me.

2. The upstairs portion will be kept as vacant office space. There is no intention at this time to use that portion of the building for the Marijuana Cultivation Facility. The decision to designate it as office space was due to the State Fire Marshalls requirement that it be used only for that purpose.

3. I contacted DEC early last year, as required by the Alaska Marijuana Control Office, to ensure I had met any requirements of their agency. AMCO also sent them the information regarding my licence application. They responded that the use did not require me to meet anything that would change what I already had. I am contacting AMCO to get a copy of their response for your records and will forward it to you upon receipt. I will keep you updated on that.

4. The security system that we are currently using will be expanded to cover the addition to the facility. The security system we currently use is what is required by the Marijuana Control Board and meets the State regulations currently in place. It consists of an alarm system that is monitoring all of the entries and is attached to a panel that is monitored by a security company. If there are any unauthorized or suspicious entries they contact me directly for a password to ensure all is well and if that fails they contact the police. We also will have high definition camera’s, in all areas of the first floor where marijuana is located, that cover the entire room as well as camera’s on all entry and exit points of the building and the parking areas. Those camera’s are attached to a monitor and recorder that keep the data for 40 days, as required by law. This system was inspected by the AMCO enforcement officer and met the above requirements.

If there is anything else I can answer or provide please let me know. If not I will be providing you with the picture and affidavit of posting of the sign when we get closer to February 1st and I will see you then.

Sincerely,
On Jan 11, 2017, at 4:37 PM, Manish Singh <MSingh@fnsb.us> wrote:

Dear Ms. Nunley,

Thank you for submitting a conditional use application for a commercial marijuana cultivation use on Lot 3, Tanana Chase Subdivision. As discussed on phone today, I need following clarifications/information before I could proceed with the staff report –

1. What is the total square footage of the first floor you want to use for Marijuana Cultivation? You have requested a conditional use for ‘Marijuana Cultivation Facility, Indoor Unlimited’. Was this intentional or did you mean ‘Marijuana Cultivation Facility, Indoor Large’?
2. The upstairs are listed as ‘Vacant Office’ in the site plan. Was this intentional? Do you plan to keep it vacant or do you plan to use it for any function associated with the marijuana cultivation?
3. Did you contact DEC previously and had your operation reviewed? If yes, can you update me with the outcome of your conversation?
4. What kind of security system you propose for the operation? Does it have alarms?

I look forward to hear from you soon and please let me know if you have any questions for me.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Application Material Received on
January 18, 2017

CU2017-011
Department of Environmental Conservation
Attn: Kimberly Stryker
State Fire Marshal
Attn: Jessica Faulkner
Diana Parks

VIA email: DEC.FSSPermit@alaska.gov
jessica.faulkner@alaska.gov
diana.parks@alaska.gov

Tanana Herb Company, LLC DBA Tanana Herb Company
Standard Marijuana Cultivation Facility License #10207

3 AAC 306.300(a)(2)(B), 3 AAC 306.400(b)(2)(B), 3 AAC 306.500(b)(2)(B), and 3 AAC 306.605(b)(2)(B)
require that an applicant for a marijuana establishment license operate in compliance with each
applicable public health, fire, safety, and tax code and ordinance of the state and the local government
in which the applicant's proposed licensed premises are located.

This latter serves to provide written notice and request for compliance status from the above
referenced entities regarding the above application (see attached application documents for more
information). Please complete and return this form to the AMCO office at the email below.

REVIEWER: [Signature] [DEC] [□ Fire Marshal]

DATE: 5/5/2016 PHONE: (907) 269-6289

[☑] Compliant [□] Non-compliant

COMMENTS: No permit is needed from DEC for this facility.

If you have any questions, please send them to the email address below.

Sincerely,
Cynthia Franklin, Director
marijuana.licensing@alaska.gov
Manish,

I am attaching the letter from DEC that states no compliance is necessary from them for this facility. I don’t know why Mr. Buteyn would become involved at the point that I have already requested and been approved by DEC. I also don’t understand what he means by “treating” the solid waste. It is plant matter with no potency levels, no different than the waste from my vegetable garden at the end of the year. The Marijuana Control Board does not consider any waste that has potency as waste. That all has to be accounted for and is sold as product. What will be mixed with soil and kept on the property is stems with no saleable value or potency. The property is almost 2 acres with lots of places where this plant waste mixed with soil can be used for fill or potential landscaping. This is not potential hazardous waste in any means, which has already been determined by main State DEC office.

Also, would you allow me to take pictures and send them over the weekend? It’s a tad bit cold today to go outside and the ice fog is bad enough I’m not sure how clear those pictures will be.

Leslea

On Jan 17, 2017, at 3:26 PM, Manish Singh <MSingh@fnsb.us> wrote:

Hi Leslea,

I received some comments from Mr. Buteyn in ADEC Solid Waste Program. He is concerned about your marijuana plant waste disposal proposal in the conditional use permit application. You could respond to his comments by providing me more details as a response to this email. I will be happy to include more detailed information about the marijuana waste disposal proposal in my staff report.

Thanks,
Manish

Hi Manish:

I’ve taken a quick look at this conditional use request and focused my review on waste disposal. The one thing I have to question is the description of the plan for disposing of marijuana plant waste. On page 6 of the pdf document, the application states: “Plant waste will be disposed of according to our agreement with the Alaska Marijuana Control Board. All marijuana plant matter will be shredded/chipped and mixed with organic material and stored on the property.”
While the shredding and mixing described agrees with the requirements of the state’s marijuana regulations, I need to see a more complete explanation of what is meant by “stored on the property”. As is, I cannot tell if the intent is to store the material indefinitely, to accumulate the material for eventual disposal, or to compost (or otherwise treat) the material. Storage for an undefined period of time can eventually look a lot like on-site disposal so I need more information so I can better compare the disposal plan to permit requirements under the state’s solid waste regulations.

Thank you for the opportunity to review this request. 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

From: Manish Singh [mailto:MSingh@fnsb.us]  
Sent: Friday, January 13, 2017 3:00 PM  
To: Tyler, David L (DPS) <david.tyler@alaska.gov>; Aden, David G (DPS) <david.aden@alaska.gov>; chief@cgfr.com; Horton, George C (DNR) <george.horton@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>; Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>; JKarl@gvea.com; Nancy Durham <NDurham@fnsb.us>; Michael Bredlie <MBredlie@fnsb.us>  
Subject: CU2017-011: Requesting Comments for Marijuana Cultivation Application (3495 Old River Landing Road)

Dear Sir/Ma’am,

The Fairbanks North Star Borough Planning Commission is considering CU2017-011, a request for conditional use approval of a Commercial Marijuana Cultivation Facility, Indoor Large in the General Use 1 (GU-1) zone, located at 3495 Old River Landing Road (on the southeast corner of Perkins Drive and Old River Landing Road). This application (CU2017-011) is scheduled for a Planning Commission quasi-judicial public hearing on February 21, 2017.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 27, 2017. If you have any questions regarding this proposal, please contact me at (907) 459 1225 or msingh@fnsb.us
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

<CU2017-011_Nunley_App.pdf>
Application Material Received on
January 19, 2017

CU2017-011
As co-owner of the property address, 3495 Old River Landing in Fairbanks Alaska, I authorize my spouse Leslea Nunley to apply for a conditional use permit for the purpose of a marijuana cultivation facility at this address.

James Nunley
1/18/17

Comm. Planning Dept
JAN 19 2017
RECEIVED
Application Material Received on
January 23, 2017

CU2017-011
Manish Singh

From: Leslea Nunley <lesleanunley@gmail.com>
Sent: Saturday, January 21, 2017 4:06 PM
To: Manish Singh
Subject: Re: CU2017-011

Follow Up Flag: Follow up
Flag Status: Flagged

Manish,

Thank you for the work you are doing getting this information together for the Commission. To answer your questions more conclusively -

1. We will be mitigating odor from the indoor operation in the same manner we have mitigated it since we started operation in August of 2016. We do have carbon air filtration systems and have no complaints of odors to date. We will not be expanding the area's that we grow, meaning there will be the same amount of plants growing and being harvested as there have been in the last 6 months so there should not be anymore odors than we have dealt with to date.

2. The outdoor security lighting will change from what is currently in use by moving one light from the front corner of the building to the middle of the building over the proposed new front arctic entry door. The lights we will be using are 40 Watt LED's that do point towards the ground and do not shine all over the yard or the surrounding properties. They do meet the requirement that all exits be illuminated for better camera/picture resolution. The lot has trees bordering Perkins Drive and that border is approximately 25 feet wide so the house across the street has that added protection. Old River Landing is bordered as well by trees which offer added protection to the house on that side of the property. The property I live at, which is the adjacent property, has outbuildings that shield the house from the lights of the other property. There is enough land in between that remains dark, even when the lights are on, so as not to create a problem for my home. I am adamant about light pollution, as I enjoy the Northern Lights in the winter, so I am sensitive to this issue and have been careful to ensure this will not be a problem.

3. The only noise this facility would generate, that is above the noise of a boiler in a normal home, would be from the movement of air from fans and HRV systems. I live next door and have never heard the noise. When I walk up to the building I do not become aware of the noise of the HRV systems until I am within 25 feet of the building. There are no neighbors that are close enough to the building to hear any noise from the facility. That will not be changing with the proposed conditional use.

In summary, even though I am asking to be given the approval to use more square footage on the first floor of this building, I will not be increasing the space I am using for the actual growing of the plants. I will be using the additional space for storage of non hazardous materials, space for changing areas and processing of the plants. The processing of the plants does not increase odor or noise and basically consists of a place to sit down with a pair of scissors and trim the plants for sale or storage. These will be highly restricted areas, just like the grow areas are, but they will not require an increase in the HVAC systems or anymore than normal office-type electric usage. It will just make it easier for us to keep the facility clean and well organized and allow us to use more space to spread out drying plants to ensure they maintain integrity and air movement that will discourage growth of mold. This is what I am referring to when I indicated the conditional use would not have any more impact on the surrounding area and the neighbors than the current use. The noise will not increase, and it is minimal to start with. The security lighting will not change in a manner that will create any type of spot.
lighting effect for the surrounding homes. And finally, any odor from within the facility will continue to be mitigated with the carbon filtered air exchange system that is currently in use and there will not be an increase in production that would cause additional odors.

Again, thank you for your time.
Leslea Nunley

On Jan 20, 2017, at 4:07 PM, Manish Singh <MSingh@fnsb.us> wrote:

Hi Leslea,

I have made progress with writing the staff report for your conditional use application. In an email on January 05, 2017, you stated that “the proposed changes will not have an increased impact on the local area in the manner of noise pollution or odor or ... lighting.” I need to include more details in the staff report for Planning Commission to make a decision on. You could provide me more information for answering following questions –

1. How do you plan to mitigate odor in your indoor operation? Do you propose to use carbon air exchange system?
2. I understand you would have required outdoor security lighting. What type of lights are you proposing (motion sensors? Pointing downwards?)? Do you have vegetative buffer to help mitigate lighting pollution between your marijuana cultivation facility and the neighboring properties? Please explain how this outdoor lighting would not negatively impact the health, safety and welfare of the neighbors?
3. How much noise is this facility likely to generate? Please explain how this noise would not negatively impact the health, safety and welfare of the neighbors?

I look forward to hear from you soon. Let me know if you have any questions for me.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Application Material Received on
January 24, 2017

CU2017-011
Front of building from edge of driveway on Old River Landing Road

Corner of Old River Landing to the left and Perkins Drive continuing to the right of the Y
Old River Landing running past the north side of the building and ending at the Tanana River

Perkins Drive continuing past Old River Landing to the west and ending at the Nava/Pinker property
Perkins Drive back towards Rosie Creek Road which is the access to Old River Landing road. This is the corner of Old River Landing looking north.
Application Material Received on
February 07, 2017

CU2017-011
Manish Singh

From: Leslea Nunley <tanaherbcocompany@gmail.com>
Sent: Tuesday, February 07, 2017 4:51 PM
To: Manish Singh
Subject: use of upstairs at 3495 Old River Landing

Follow Up Flag: Follow up
Flag Status: Flagged

Manish,

I would like to clarify the use of the upstairs at 3495 Old River Landing, where I have applied for a conditional use permit to use more of the ground floor only for my marijuana cultivation facility. The building sits on a GU-1 zoned parcel and was originally used for a fish processing plant by a company that got chum salmon out of the Tanana River. It was used for that commercial purpose for many years and then became a storage unit for the owners until I bought the property in the early 90’s. I used the property for storage and commercial rentals for years and then residential rentals for the upstairs apartments and my personal storage downstairs later on.

When I applied for a marijuana cultivation license through the State of Alaska I was required to work with the State Fire Marshalls Office in order to meet Health and Safety requirements before the State approved my license. The State Fire Marshall made the decision that marijuana licensees of all types would have to meet F1 Fire and Safety Codes instead of greenhouse codes. Because of that ruling we were no longer allowed to rent the upstairs spaces in a residential manner. I could use them as offices or rent them as such but I could not use them as residential units.

In order to meet the health, safety and welfare codes of the F1 designation, that the State Fire Marshalls office has determined to be the code all marijuana businesses must comply with, I have to leave the apartments vacant. My intention is to keep them vacant. I am not advertising to rent them and I am not intending to rent them if someone inquires about them. I have designated that space as commerical office space on the plans as required by the F1 code, instead of apartment space. I am not going to rent that space and I am not asking for approval to use the space for the marijuana business under this conditional use process.

If you have any other questions or need any further clarification please give me call.

Thank you,

Leslea Nunley, owner
Tanana Herb Company, LLC
DEPARTMENT OF COMMUNITY PLANNING  
STAFF REPORT  

RZ2017-003  
February 21, 2017 Planning Commission Meeting  

TO: Fairbanks North Star Borough Planning Commission  
FROM: Manish Singh, Planner II  
DATE: February 10, 2017  

RE: RZ2017-003: A request by F. Lawrence Bennett from Bennett Engineering on behalf of Joseph W. Dinkins to rezone approximately 15,000 sq.ft. 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).  

I. EXECUTIVE SUMMARY  

The Department of Community Planning recommends approval of the rezone from MF to LC instead of the applicant’s request for GC with nine (9) Findings of Fact in support of approval. The staff recommends approval with LC zone because the LC zone meets the Comprehensive Plan land use designation – ‘Urban Preferred Commercial Area’ and 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. 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 LC zone will act as a buffer zone between more intensive commercial uses and residential areas. Additionally, the Community Planning staff does not find the rezone to LC to be a spot zone or a reverse spot zone.  

II. GENERAL INFORMATION  

A. Purpose  
To rezone approximately 15,000 sq.ft. of Lots 9, 10 and 11, Block 1, South Cushman Subdivision from MF to GC or other appropriate zone  

B. Location  
South of 22nd Avenue and west of South Cushman Street  

C. PAN/Size  

<table>
<thead>
<tr>
<th>PAN (Lot)</th>
<th>Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>0099627 (Lot 9)</td>
<td>5,000 sq.ft.</td>
</tr>
<tr>
<td>0099635 (Lot 10)</td>
<td>5,000 sq.ft.</td>
</tr>
<tr>
<td>0099643 (Lot 11)</td>
<td>5,000 sq.ft.</td>
</tr>
<tr>
<td><strong>Total Area</strong></td>
<td><strong>15,000 sq.ft.</strong></td>
</tr>
</tbody>
</table>

D. Existing Zone  
Multiple-Family Residential (MF)
E. Proposed Zone
General Commercial (GC) by applicant, Light Commercial (LC) by Community Planning

F. Existing Land Use
Undeveloped

H. Surrounding Land Use/Zoning
North: Commercial/LI
South: Vacant/GC & LI
West: Residential/MF
East: Vacant/GC

I. Zoning History
Annexed into City of Fairbanks on August 24, 1954
Light Industrial with Fairbanks Ordinance Chapter 13 and unofficial Zoning Map in 1959
Light Industrial I (LI-I) to Multiple Residential I (R3-I) with Ord. No. 72-24, adopted on September 14, 1972
Multiple Residential I (R3-I) to Multiple-Family Residential (MF) with Ord. No. 88-010, effective on April 25, 1988

J. Non-conforming Structures, Uses
None

K. Comprehensive Plan Designation
Urban Preferred Commercial Area

L. Community Facilities
Water/sewer: City of Fairbanks
Electricity: GVEA

M. Code Violations
None listed/known

N. Soils
Urban Land

O. Flood Zone
X: Protected by Levee (100%)
(March 17, 2014 dFIRM)

P. Ownership
Joseph W. Dinkins
2319 South Cushman Street
Fairbanks, AK 99701

Q. Applicant
F. Lawrence Bennett
Bennett Engineering
947 Reindeer Drive
Fairbanks, AK 99709
III. REZONE REQUEST DESCRIPTION

The applicant has requested to rezone approximately 15,000 sq.ft. of Lots 9, 10, and 11, Block 1, South Cushman Subdivision from Multiple-Family Residential (MF) to General Commercial (GC). The applicant has stated that “the current zoning is unsatisfactory because the area surrounding the properties’ location has evolved to commercial use and is no longer suitable for residential use alone. A change in zoning to General Commercial will provide for land use consistent with the surrounding area and the opportunity for economic development not possible within the Multiple-Family Residential category.”

The purpose of the GC zone is “to provide for a wide variety of retail, office, wholesale, personal service and other general service uses for the consumer population of large segments of the community. Because of the potential for heavy traffic and the appearance and performance of these uses, this district is located on the periphery of residential areas and at the intersections of arterial and major collector streets and roads [FNSBC 18.64.010].”

Figure 1: Zoning in the Surrounding Area
(Source: FNSB GIS; proposed rezone boundary is hatched in blue)

The three parcels within the proposed rezone boundary are currently zoned MF (Figure 1). It shows that the proposed rezone boundary is bounded by LI in north, GC and LI in south, GC in east, and MF in west.
The three parcels within the proposed rezone boundary are currently vacant (Figure 2). The parcels on the east side are also currently vacant. The parcels on the west side are developed residentially. The parcels on the north side are developed commercially by Total Electric Supply Company (TESCO). Currently there are no land use buffers between the commercial uses on South Cushman Street and the residential uses on 22nd Avenue.

South Cushman Street functions as a commercial corridor for the nearby residential neighborhoods. Businesses located on South Cushman Street also draw patrons from all areas of the Borough. Most parcels along South Cushman Street are developed with commercial uses.

IV. ZONING AND DEVELOPMENT HISTORY

The existing zoning is mixed within the South Cushman Subdivision. For example, the east portion of Block 2, South Cushman Subdivision is LI and the west portion of Block 2, South Cushman Subdivision is MF. Similarly, the three parcels of Block 1, South Cushman Subdivision that are subject of this rezone request have MF zoning but they are surrounded by LI zone in north and GC zone in south.
This mix of zones is the result of past annexation and rezoning practices without having adopted long term land use planning documents. The three subject parcels were annexed to the City of Fairbanks in 1954. This South Cushman area including South Cushman Subdivision was the southern edge of the City of Fairbanks in mid 1950s. Therefore, most of the industrial uses were located in the South Cushman area to protect the residential neighborhoods in the inner city. The unofficial zoning map of the City of Fairbanks from 1959 shows all of South Cushman area between 17th Avenue and 23rd Avenue zoned as Light Industrial (Exhibit 1). This area including South Cushman Subdivision remained Light Industrial when Fairbanks North Star Borough adopted their first zoning ordinance in 1968.

All parcels within Block 1 including the three subject parcels and the west portion of Block 2, South Cushman Subdivision were rezoned from Light Industrial to Multiple Residential in 1972 (Exhibit 2). This rezone action left portions of Light Industrial zone as remainder next to Multiple-Family Residential zone. FNSB Regional Comprehensive Plan and Land Use map were adopted in September 2005 after most of this mixed zoning was already in effect in 1972. After the FNSB Regional Comprehensive Plan and Land Use map were adopted, only one rezone has been applied and approved for the neighborhood. Ord. No. 2013-056 rezoned the two vacant parcels (Lot 12 &13, Block 1, South Cushman Subdivision) east of the proposed rezone boundary from MF to GC in 2013 (Exhibit 3).

V. STAFF ANALYSIS

(i) Comprehensive Plan

The FNSB Regional Comprehensive plan attributes ‘Urban Preferred Commercial Area’ land use designation to the area enclosed by the proposed rezone boundary (Figure 3). Urban Preferred Commercial Area is defined as “activities such as office buildings, government offices, schools, public facilities, entertainment, shopping, and churches. These facilities shall be located to provide conveniently to residential areas without impacting residential uses. Primarily located in urban areas.”
The applicant has stated that the land uses envisioned in the comprehensive plan are not compatible with MF zoning and would be more compatible with commercial zoning. The applicant has specifically requested GC.

The Community Planning staff supports a commercial zoning designation for the Urban Preferred Commercial Area land use designation. However, Community Planning Staff believes LC would be more appropriate especially in this rezone request because the Urban Preferred Commercial Area intends to provide commercial uses for residential areas without impacting residential areas. If the subject parcels are rezoned from MF to GC, the more intensive commercial uses allowed in GC zone may impact the residential areas west of the proposed rezone boundary.

Comprehensive Plan goals:

**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
The applicant has stated that this rezone request from MF to GC is consistent with Land Use Goal 3, Strategy 6, Action A.

The subject parcels do not have frontage on Cushman Street but they are close to Cushman Street within ‘Urban Preferred Commercial Area’ land use designation. The market area around Cushman Street is not only limited to the nearby residential neighborhoods but businesses located on Cushman Street draw patrons from all areas of the Borough. Most parcels along South Cushman Street are developed with commercial uses. The Community Planning staff believes that a commercial zoning instead of the existing residential zoning on these parcels would help develop commercial uses to serve the market area.

The Community Planning staff believes that a rezone to either GC or LC would allow the three parcels to be developed commercially. The staff recommends LC instead of GC to minimize the impact of commercial uses on the existing residential properties on the west side. The LC zone would act as a buffer between the existing GC on the east and existing MF on the west.

**Land Use Goal 4** – To enhance development opportunities while minimizing land use conflicts

**Strategy 10** – Attract and support development that is compatible with and enhances existing land use

**Action B** – Develop a pattern of compatible land uses and either separate, transition or buffer incompatible land uses

The Community Planning staff emphasizes on Action B which was not addressed by the applicant. Action B recommends separating, transitioning or buffering incompatible land uses. The LC zone, proposed by the staff would 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.

**Land Use Goal 4** – To enhance development opportunities while minimizing land use conflicts

**Strategy 11** – Enhance effective and harmonious resolution of community land-use conflicts

**Action A** – Resolve specific zoning problems such as those occurring in Smith Ranch/Beaver Park/6 Mile Village, and General Commercial rezones adjacent to existing residential areas

The applicant did not address Land Use Goal 4, Strategy 11, Action A.

The Community Planning staff believes that the rezone to LC is consistent with Land Use Goal 4, Strategy 11, Action A which specifically recommends resolving existing land use conflicts of GC being located next to residential areas in the Borough. The rezone of the three subject parcels to LC would allow creating a land use buffer between the existing GC on the east and existing MF on the west.

**Economic Development Goal 1** – To strengthen and expand the existing economy

**Strategy 1** – Establish the Borough as the center of economic activity for Interior Alaska.
The applicant has stated that this rezone request from MF to GC is consistent with Economic Development Goal 1, Strategy 1.

The urban commercial areas of Fairbanks have a widespread customer base including patrons from nearby villages. A commercial zoning on the subject parcels would enable the Borough to have more businesses, thereby helping in eventually developing as a center of economic activity. The Community Planning staff believes that both GC and LC zones take the borough one step closer to meet this goal and strategy. The staff recommends LC instead of GC to minimize the impact of commercial uses on the existing residential properties on the west side.

**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 has stated that this rezone request from MF to GC is consistent with Economic Development Goal 1, Strategy 1, Action B.

The commercial zone is the Title 18 allow for a variety of commercial activities. Although several parcels along Cushman Street are already developed commercially, rezoning the subject parcels with a commercial zoning would allow the borough to have more businesses including start-ups, thereby helping in diversifying the economy. The Community Planning staff believes that both GC and LC zones take the borough one step closer to meet this goal, strategy and action. The staff recommends LC instead of GC to minimize the impact of commercial uses on the existing residential properties on the west side.

(ii) **Public Health, Safety and Welfare**

The applicant has stated that this rezone request from MF to GC conforms to the public health, safety and welfare because this rezone would align the zoning of the subject properties with that of surrounding properties. The proposed rezone boundary already has a commercial zone, GC on east and south sides and an industrial zone, LI on north side. It abuts a residential zone, MF, only on the west side. Additionally, the applicant has mentioned that this rezone from MF to GC would allow similar uses to that actually occurring in the area. The Total Electric Supply Company (TESCO) operates its store north across 22nd Ave and an office building is located northeast of the proposed rezone boundary on South Cushman Street. A parking lot and a vehicle sales business are also located on the southeast corner of the 22nd Ave and South Cushman Street intersection.

The Community Planning staff believes that a commercial zone would align the zoning of the subject properties with that of surrounding properties and would allow use of the subject properties similar to those already occurring in the area. However, the staff is concerned about the health, safety and welfare impacts on the residential properties existing west of the proposed rezone boundary because as it is specifically pointed out in FNSB Regional Comprehensive Plan, a GC zone located next to a residential zone is a land use conflict and could negatively impact the health, safety and welfare of the adjacent residential properties.
The GC district requested by the applicant is intended for a wide variety of retail, office, wholesale, personal service and other general service uses for the consumer population of large segments of the community. It is intended to be located on the periphery of residential areas and at the intersections of arterial and major collector streets because the uses allowed in GC have potential for heavy traffic and could have negative impacts on the adjacent residential areas. The uses allowed in GC zone could operate 24 hours/7 days a week and do not have to abide by any building height, outdoor storage or gross floor area limitations. The uses allowed in GC zone do not have any restricting the outdoor lighting during night except they are restricted from directing lighting towards residential zones.

The LC zone is intended to provide for light commercial uses and to provide a buffer for residential areas. This district is not intended to create significant noise, odor, or other nuisances. The LC zone allows less dense development and places restrictions on other potential impacts. The LC zone allows only one building per lot with a maximum gross floor area of 5,000 square feet and a maximum height of 25 feet. The uses allowed in LC cannot operate between the hours of 9:00 p.m. and 7:00 a.m. The LC zone has additional restrictions compared to GC zone for outdoor storage to minimize the negative impacts on the adjacent residential areas. In LC zone, all outdoor lighting including signage is turned off between the hours of 10:00 p.m. and 6:00 a.m. except for motion detector security lighting.

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.

The GC district allows for several intensive uses that are not allowed in LC zone which could potentially negatively impact the health, safety and welfare of the adjacent residential areas on the west. These uses are marijuana retail store, gasoline, propane and diesel sales, the manufacture or sale of alcoholic beverages for consumption on or off the premises, and drive-in/drive-through facilities. The GC zone requires only 10 feet of side and/or rear yard setback from a property line adjacent to a residential zone whereas the LC zone requires 15 feet of side and/or rear yard setback and a sight obscuring fence when adjacent to a residential zone.

Therefore, Community Planning staff recommends the rezone from MF to LC instead of the applicant’s request of MF to GC to protect the health, safety and welfare of the adjacent residential area located to the west of the proposed rezone boundary.

(ii) Traffic and Trip Generation

This three subject parcels have access from 22nd Avenue, west of South Cushman Street. 22nd Avenue is a Minor Collector Road. South Cushman Street and 23rd Avenue are both Major Collector Roads. Minor collectors collect and distribute traffic from local roads and carry it to major collectors or the arterial system. Additionally, the subject area is serviced by the Purple Line and Green Line Bus Routes.

Maximum Traffic Generation under Current Zoning

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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.
Multi-Family zoning would allow one unit for every 2000 sq. ft. of lot area. Under multi-family zoning, up to 7 units could be constructed on the subject property. At 5.81 trips per unit (ITE Trip Generation, 9th Edition), multi-family dwellings under current MF zoning could generate approximately 40.67 daily vehicle trips.

**Maximum Traffic Generation under Proposed Zoning**

The uses allowed in GC zoning could generate a significantly higher number of daily vehicle trips. On the high end of potential trip generation, a gasoline/service station with four fueling positions and a convenience market could generate over 500 trip ends per weekday. This use is allowed outright in the GC zone with a zoning permit.

The LC zone does not allow as many uses with very high trip generation. On the high end of potential trip generation for LC zoning, a 5000 sq. ft. specialty retail center could generate approximately 220 trip ends per weekday.

The rezoning of the three parcels from a residential zone to an appropriate commercial zone would increase the trip generation potential. Capacity wise, an urban collector could accommodate a Traffic Volume (AADT) from 500 to 6,000. Nevertheless, the trip generation potential with applicant's request of GC would be much higher compared to the LC because 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.

(iii) **FNSBC Section 18.104.020 (C)**

*The proposed rezone conforms to the comprehensive plan.*

The applicant has stated that the ‘Urban Preferred Commercial Area’ comprehensive plan land use designation is not compatible with MF zoning and would be more compatible with commercial zoning. The applicant has specifically requested GC. The applicant’s request for GC does not meet 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. The applicant’s request for GC also does not meet and Land Use Goal 4, Strategy 10, Action B which is to separate, transition or buffer incompatible land uses.

The current MF zone is intended only for high density residential development. Community Planning believes that 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 from FNSB Comprehensive Plan.

Community Planning supports a rezone to commercial zoning designation because it implements the Urban Preferred Commercial Area land use designation. However, Community Planning believes LC would be more appropriate because the Urban Preferred Commercial Area is intended to allow for commercial uses to serve surrounding residential areas with minimum impacts to residential areas. If the subject parcels are rezoned from MF to GC, the more intensive commercial uses allowed in GC zone may have more substantial impacts on the residential areas west of the proposed rezone boundary.

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2 Alaska Functional Classification Update, Final Report, June 2010
Community Planning recommends LC instead of GC because Land Use Goal 4, Strategy 11, Action A specifically recommends resolving existing land use conflicts of GC being located next to residential areas in the Borough. Land Use Goal 4, Strategy 10, Action B recommends separating, transitioning or buffering incompatible land uses which the LC zone does by creating a transition from the more intensive commercial uses allowed in GC on the east to the existing residential to the west.

The proposed rezone conforms to the public health, safety and welfare.

The applicant has requested to rezone from MF to GC which may negatively impact the health, safety and welfare of the residential properties existing west of the proposed rezone boundary. Several uses allowed in the GC zone have high trip generation potential.

The Community Planning staff believes that rezoning from MF to LC would protect the health, safety and welfare of the residential properties west of the proposed rezone boundary while allowing for light commercial uses at the same time. The uses allowed in LC zone have restrictions on outdoor storage, outdoor lighting, gross floor area, maximum height and hours of operation. The light commercial uses allowed under LC zoning would be more compatible with the commercial uses on north, south and east sides and buffer the residential uses on the west side from GC zone. The LC zone would conform to the public health, safety and welfare by providing a buffer for the existing residential areas.

(iv) Spot Zone Analysis

The Alaska Supreme Court has stated that the classic definition of spot zoning is, “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area, for the benefit of the owner of such property and to the detriment of other owners.” Determining whether a rezone constitutes spot zoning depends on the facts and circumstances of each case. In Griswold v. City of Homer, 925 P.2d 1015, Alaska, 1996 the court stated it would consider the following three factors in determining the constitutionality of spot zoning:

1. The consistency of the amendment with the comprehensive plan;
2. The benefits and detriments of the amendment to the owners, adjacent landowners, and community; and
3. The size of the area rezoned.

The three subject properties are currently zoned MF. This existing MF zoned boundary is estimated to encompass more than 250 acres and has more than 1,000 parcels. The applicant has requested for GC zone for the three subject properties which already exists adjacent on the east side of the subject properties (see Figure 1 for the zoning in the surrounding area).

Community Planning believes the LC zone would be more appropriate for these three subject properties which are also adjacent to property developed with residentially on the west side. The LC zone generally allows similar uses to those of the GC zone which already exists adjacent on the east side. The LC zone restricts certain high intensity commercial uses allowed in the GC zone but the LC zone has additional restrictions to allow commercial development of a property with lesser impacts on the adjacent residential properties. The LC zone on these three subject properties would act as a buffer between the intensive commercial uses and residential properties.
(1) **Consistency of the amendment with the comprehensive plan;**

The applicant has stated that the ‘Urban Preferred Commercial Area’ comprehensive plan land use designation is not compatible with MF zoning and would be more compatible with commercial zoning. The applicant has specifically requested GC. The applicant’s request for GC does not meet 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. The applicant’s request for GC also does not meet and Land Use Goal 4, Strategy 10, Action B which is to separate, transition or buffer incompatible land uses.

The current MF zone is intended only for high density residential development. Community Planning believes that 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 from FNSB Comprehensive Plan.

Community Planning supports a rezone to commercial zoning designation because it implements the Urban Preferred Commercial Area land use designation. However, Community Planning believes LC would be more appropriate because the Urban Preferred Commercial Area is intended to allow for commercial uses to serve surrounding residential areas with minimum impacts to residential areas. If the subject parcels are rezoned from MF to GC, the more intensive commercial uses allowed in GC zone may have more substantial impacts on the residential areas west of the proposed rezone boundary.

Community Planning recommends LC instead of GC because Land Use Goal 4, Strategy 11, Action A specifically recommends resolving existing land use conflicts of GC being located next to residential areas in the Borough. Land Use Goal 4, Strategy 10, Action B recommends separating, transitioning or buffering incompatible land uses which the LC zone does by creating a transition from the more intensive commercial uses allowed in GC on the east to the existing residential to the west.

(2) **The benefits and detriments of the amendment to the owners, adjacent landowners, and community;**

**Benefit to the Property Owner**

The GC zone benefits the property owner because it would allow for commercial development of the property. The uses allowed in GC zone could operate 24 hours/7 days a week and do not have to abide by any building height, outdoor storage or gross floor area limitations.

The LC zone would also have benefit for the property owner because it allows for commercial development of the property. However, the LC zone could have lesser benefits for the property owner compared to GC, because LC zone allows only one building per lot with a maximum gross floor area of 5,000 square feet and a maximum height of 25 feet. The LC zone does not allow certain high intensity commercial uses that are allowed in the GC zone. These uses are marijuana retail store, gasoline, propane and diesel sales, the manufacture or sale of alcoholic beverages for consumption on or off the premises, and drive-in/drive-through facilities. The LC zone restricts business operation between the hours of 9:00 p.m. and 7:00 a.m. The LC zone also has restrictions on the outdoor storage.
Benefit to the Adjacent Landowner

The current residential MF zoning has benefits for the adjacent residential property on the west. The MF zone does not have benefits for the commercially developed properties on the north and south sides because a residential property does not attract as many customers as commercial properties do. A rezone of the subject properties from residential to commercial zone could bring benefits to the adjacent commercial properties because it would help implement the ‘Urban Preferred Commercial Area’ envisioned in the comprehensive plan. The intensive GC commercial zoning could have potentially negative impacts for the residential property owner adjacent on the west side. The LC commercial zoning would help protect the property rights of the residential property owner on the west side while help develop the ‘Urban Preferred Commercial Area’ at the same time.

The GC zone does not have benefits for the adjacent residential landowner because it allows for several intensive uses which could negatively impact the health, safety and welfare of the adjacent residential areas on the west. These uses are marijuana retail store, gasoline, propane and diesel sales, the manufacture or sale of alcoholic beverages for consumption on or off the premises, and drive-in/drive-through facilities. The uses allowed in GC zone could operate 24 hours/7 days a week and do not have to abide by any building height, outdoor storage or gross floor area limitations. The uses allowed in GC zone do not have any restricting the outdoor lighting during night except they are restricted from directing lighting towards residential zones.

The LC zone has benefits for the adjacent residential landowner because the purpose of LC zone is to provide for light commercial uses while buffering the residential areas. This district is not intended to create significant noise, odor, or other nuisances. The LC zone allows less dense development and places restrictions on other potential impacts. The LC zone does not allow for marijuana retail store, gasoline, propane and diesel sales, the manufacture or sale of alcoholic beverages for consumption on or off the premises, and drive-in/drive-through facilities. The LC zone allows only one building per lot with a maximum gross floor area of 5,000 square feet and a maximum height of 25 feet. The uses allowed in LC cannot operate between the hours of 9:00 p.m. and 7:00 a.m. The LC zone has additional restrictions for outdoor storage to minimize the negative impacts on the adjacent residential areas. In LC zone, all outdoor lighting including signage is turned off between the hours of 10:00 p.m. and 6:00 a.m. except for motion detector security lighting.

Benefit to the Community

South Cushman Street functions as a commercial corridor not only for the nearby residential neighborhoods but businesses located on South Cushman Street also draw patrons from all areas of the Borough and even the rest of interior Alaska. Most parcels along South Cushman Street are developed with commercial uses. The borough residents have developed a land use vision for the community through the comprehensive planning process. The three subject parcels were designated as ‘Urban Preferred Commercial Area’ which proposes to develop subject properties with commercial uses with minimum impacts to the surrounding residential areas. The rezoning of the subject properties to LC meets 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 and Land Use Goal 4, Strategy 10, Action B which is to separate, transition or buffer incompatible land uses.
The GC zone would have limited benefits for the community. Although the commercial uses allowed under GC zoning could be used by the nearby residential areas but the GC zone allows for several intensive uses which could negatively impact the health, safety and welfare of the residential areas on the west. These uses are marijuana retail store, gasoline, propane and diesel sales, the manufacture or sale of alcoholic beverages for consumption on or off the premises, and drive-in/drive-through facilities. The uses allowed in GC zoning could generate a significantly higher number of daily vehicle trips that could negatively impact the residential community on the west.

The LC zone would have greater overall benefit for the community because it would protect the health, safety and welfare of the residential properties existing west of the proposed rezone boundary while allowing for light commercial uses at the same time. The LC zone does not allow several uses that have very high trip generation potential. These uses are marijuana retail store, gasoline, propane and diesel sales, the manufacture or sale of alcoholic beverages for consumption on or off the premises, and drive-in/drive-through facilities. The LC zone has restrictions on number of buildings, hours of operation and the total gross floor area.

(3) The size of the area rezoned.

The total area of the proposed rezone boundary is approximately 15,000 sq.ft. The case law does not give an exact size for making a spot zone determination and 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 from FNSB Comprehensive Plan. A commercial zone would be more appropriate to create uses that are compatible with the ‘Urban Preferred Commercial Area’.

The LC zone generally allows similar uses to those of the GC zone which already exists adjacent on the east side. The LC zone has restrictions on number of buildings, hours of operation and the total gross floor area. However, 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.

The rezone to LC would create a land use buffer between existing residential uses on west and existing GC zoning on east implementing Land Use Goal 4, Strategy 11, Action A from FNSB Comprehensive Plan and allow land uses compatible with the ‘Urban Preferred Commercial Area’ land use designation. The LC zone would protect the health, safety and welfare of the adjacent residential property owners. In the future, as the area continues to develop larger scale rezones are possible.

VI. RECOMMENDATION

Based on the staff analysis above, the Department of Community Planning recommends APPROVAL of the rezone from MF to LC instead of the applicant’s request for GC.
VII. FINDINGS OF FACT

The Department of Community Planning further recommends adoption of the staff report and following findings of fact in support of APPROVAL of the rezone from MF to LC:

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.
(3) 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.ft. 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.

DRAFT PLANNING COMMISSION MOTION:

I move to recommend approval of the rezone of approximately 15,000 sq.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.
Legend

Restricted Residential
General Residential
Multiple Residential
Neighborhood Shopping
Business I
Business II
Light Industrial
Heavy Industrial:
Park Areas
School Grounds
Row House Zone
AN ORDINANCE AMENDING TITLE 49 OF THE FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES, SECTION 49.15.010.

WHEREAS, by deleting portions of that area known as South Fairbanks from (a) Restricted Residential X; (b) General Residential; (c) Multiple Residential II; (d) Business II and (e) Light Industrial I and by adding to (a) Outdoor Recreation, (b) General Residential, (c) Multiple Residential II; (d) Multiple Residential III; (e) Residential-Office, (f) Business II, (g) Light Industrial I and (h) Light Industrial II.

WHEREAS, on February 1, 1972, and after due publication and notification, the Planning Commission of the Fairbanks North Star Borough held public hearings for revising that portion of the South Fairbanks area bound on the north by the new Airport Way; on the west by Codles Street; on the south by 17th Avenue; and on the east by the Military Reservation Boundary; and

WHEREAS, on March 7, 1972, and after due publication and notification, the Commission held public hearings for revising that portion of the South Fairbanks area bound on the north by 17th Avenue; on the west by Codles Street; on the south by 21st Avenue; and on the east by the Military Reservation Boundary; and

WHEREAS, on April 4, 1972, and after due publication and notification, the Commission held public hearings for revising that portion of the South Fairbanks area bound on the north by 23rd Avenue; on the west by Codles Street; on the south by 30th Avenue; and on the east by the Military Reservation Boundary; and

WHEREAS, the Planning Commission, after public hearings, recommends that the above mentioned properties be revised, and

WHEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough that:

Title 49 of the Fairbanks North Star Borough Code of Ordinances, Section 49.15.010, 2008 Boundaries, (a) Outdoor Recreation be amended by adding the words which are underlined; (b) Restricted Residential II be amended by deleting the words which are in capitals and brackets; (c) General Residential be amended by adding the words which are underlined; (d) Multiple Residential X be amended by deleting the words which are in capitals and brackets and by adding the words which are underlined; (e) Multiple Residential II be amended by adding the words which are underlined; (f) Residential-Office be amended by adding the words which are
boundary line of said Section 5, 230 feet; thence east 144.1 feet; thence north 205 feet, more or less, to a line parallel with and 120 feet south of the south boundary line of the ARR.

That property within Section 15, TLS, RMH, F.M., which is bounded on the west by South Wickersham Street; on the north by 15th Avenue; on the east by Gilliam Way; and on the south by 16th Avenue.

(i) Multiple Residential I Zone.

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The NW ¼ NE ¼, Section 11, T15, R2W, P.M.

The NE ¼ NE ¼, Section 11, T15, R2W, P.M.

Beginning at the intersection of the south right-of-way line of Airport Way and the east right-of-way line of Lathrop Street, thence 6 degrees 01' W a distance of 80 feet; thence 59 degrees 59' E a distance of 320 feet; thence 89 degrees 59' E a distance of 100 feet; thence N 0 degrees 01' E to the S right-of-way line of Airport Way; thence westerly along the south right-of-way line of Airport Way to the point of beginning.

The N ¼ NW ¼, NW ¼ NE ¼, SW ¼ NW ¼, W ¼ SE ¼ NW ¼ of Section 16, T15, R1W, Fairbanks Meridian.

Fairbanks Community Hospital Site, recorded as instrument number 69-2051 in the Office of the District Recorder, Fairbanks, Alaska. This site is bounded on the north by 16th Avenue, on the west by Lathrop Street, on the south by 19th Avenue and on the east by Cowles Street.

That area bounded on the north by the east-west alley between Glacier and Haines Avenues extended; on the south by the Chena River, on the east by 8th Street extended and on the west by Hamilton Avenue.

That portion of land in the Rickert Homestead which is bounded on the west by Barnette Street, on the east by Gillam Way, on the north by Tenth Avenue and on the south by Eleventh Avenue extended.

That parcel of land bounded on the south by the north boundary of Lemeta Subdivision, on the west by Margaret Street, on the north by Isabella Creek, and on the east by the northerly extension of the east boundary line of Lemeta Subdivision.

That parcel of land lying within the SW ¼ SW ¼, Section 34, T1N, E1W, P.M. described as: Commencing at the southwest corner of Section 34, T1N, E1W, P.M., thence easterly along the Fairbanks Base Line a distance of 670 feet to a point of beginning, thence south 89 degrees 53' east along the Fairbanks Base Line a distance of 738 feet, thence due north a distance of 716.05 feet, thence south 89 degrees 53' west a distance of 730 feet, thence due south a distance of 716.05 feet to the point of beginning.
PASSED AND APPROVED THIS 14th DAY OF September, 1972.

ATTEST:

[Signature]
Robert J. Britwurst
Presiding Officer

[Signature]
Kenneth W. Woodruff
Clerk of the Assembly
EXHIBIT 3

By: Luke T. Hopkins, Mayor  
Introduced: 07/11/13  
Advanced: 07/11/13  
Adopted: 07/25/13

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2013 – 56

AN ORDINANCE REZONING LOTS 12 AND 13 OF BLOCK 1 OF THE SOUTH CUSHMAN 
SUBDIVISION FROM MULTIPLE-FAMILY RESIDENTIAL TO GENERAL COMMERCIAL OR 
OTHER APPROPRIATE ZONE. (LOCATED SOUTH OF 22ND AVENUE, WEST OF SOUTH 
CUSHMAN STREET, AND EAST OF RICKERT STREET)

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

Section 1. Classification. This ordinance is not of a general and permanent 
nature and shall not be codified.

Section 2. The following described property is rezoned from Multiple-Family 
Residential (MF) to General Commercial (GC):

LOTS 12 AND 13 OF BLOCK 01 OF THE SOUTH CUSHMAN SUBDIVISION

Section 3. The official zoning map is amended in accordance with this 
ordinance.

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 25th DAY OF JULY, 2013.

Diane L. Hutchison  
Presiding Officer

ATTEST:

Nanci Ashford-Bingham, MMC  
Municipal Borough Clerk

Ayes: Davies, Howard, Sattley, Dukes, Roberts, Lawrence, Dodge, Kassel, Hutchison
Noes: None
Businesses on the northwest corner of Cushman St. and 22\textsuperscript{nd} Ave

22\textsuperscript{nd} Ave, looking west
Existing business on the north side of the subject properties

Residential Property on Lot 8, adjacent west of subject property
Application Material Received on
December 30, 2016

RZ2017-003
REZONE APPLICATION  □ REZONE
File No.  RZ-2017-003  □ REZONE WITH SPECIAL LIMITATIONS

FEES: □ $1,000 rezone application**
      □ $200 sign deposit (check or cash only)
      **Fee waived if rezoning a split zone parcel or rezoning a GU property to an appropriate residential zone if the rezone encompasses at least 13 acres or 6 more contiguous lots

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Property Owner:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Name:</td>
<td>Name: Joseph W. Dinkins</td>
</tr>
<tr>
<td>Business Name:</td>
<td>Mailing Address: 2319 South Cushman Street</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>City, State Zip: Fairbanks AK 99701</td>
</tr>
<tr>
<td>City, State Zip:</td>
<td>Phone: 907-452-4487</td>
</tr>
<tr>
<td>Phone: 907-479-5118</td>
<td>Cell: 907-347-5384</td>
</tr>
<tr>
<td>E-mail: <a href="mailto:benco@alaska.net">benco@alaska.net</a></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Property Information:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Description:</td>
<td>Lots 9, 10 &amp; 11, Block 1, South Cushman Subdivision</td>
</tr>
<tr>
<td>Street Address:</td>
<td>621 22nd Avenue</td>
</tr>
<tr>
<td>Parcel Account Numbers (PAN):</td>
<td>0099627 (Lot 9); 0099635 (10); 0099643 (11)</td>
</tr>
<tr>
<td>Size: 15000 sf (total) .344 acres</td>
<td></td>
</tr>
<tr>
<td>Existing Use:</td>
<td>Vacant Land</td>
</tr>
<tr>
<td>Existing Zone:</td>
<td>Multiple-Family Residential</td>
</tr>
<tr>
<td>Proposed Zone:</td>
<td>General Commercial</td>
</tr>
</tbody>
</table>

I certify that the information included in this application is to the best of my knowledge true and complete.

APPLICANT SIGNATURE: [Signature] DATE: 30 Dec 2016
OWNER SIGNATURE (if different): [Signature] DATE: 30 Dec 2016

If the applicant is not the sole property owner, written consent of all property owners must be provided pursuant to FNSBC 18.104.040(B).
December 30 2016

Fairbanks North Star Borough
Department of Community Planning
PO Box 71267
Fairbanks AK 99707-1267

Re: Public Hearing Application for Rezone
Lots 9, 10 and 11, Block 1, South Cushman Subdivision
621 22nd Avenue, Fairbanks

Ladies and Gentlemen:

On behalf of my client, Mr. Joseph W. Dinkins, I am pleased to submit the attached application for a public hearing on the rezone of Mr. Dinkins’ property referenced above.

My checks for $1000 (rezone application) and $200 (sign deposit) are enclosed.

Please contact me if you have questions or comments.

Thank you!

Sincerely yours,

F. Lawrence Bennett, P.E., RLS
BENNETT ENGINEERING

cc: Mr. Dinkins

Encl.
REZONE INTAKE CHECKLIST

Please submit the required documentation listed below. Applications will not be scheduled for a Planning Commission meeting agenda until these items have been submitted and the application has been deemed complete.

REZONE

1. Attach a detailed written narrative that addresses the following criteria set forth in 18.104.020:
   □ Explain why the existing zone is unsatisfactory and state the reasons for requesting the rezoning. Discuss the advantages of rezoning the property.
   □ Explain how the proposed rezone conforms to the FNSB Regional Comprehensive Plan and/or the North Pole Land Use Plan. Please review the Plan goals, strategies and actions that would be furthered by the proposed rezone and to include them in the narrative. Copies of the Regional Comprehensive Plan are available at the Department of Community Planning or online at:
   □ Explain how the proposed rezone will protect the public health, safety and welfare, including protection from the impacts of traffic, noise, screening/buffering, etc.

2. Submit the following:
   □ Public Notice Sign Posting Affidavit. The form is included in the application packet
   □ Zoning Petition if more than one property owner is involved in the proposed rezone. The form is included in this application packet
   □ Include application fee (cash, check or charge)
   □ Include sign deposit (cash or check only – separate payment)
Narrative to accompany Public Hearing Application for Rezone of Lots 9, 10 & 11, Block 1, South Cushman Subdivision

This application requests a rezone of Lots 9, 10 & 11, Block 1, South Cushman Subdivision, located at 621 22nd Avenue, Fairbanks, from Multiple-Family Residential to General Commercial. The property is owned by Mr. Joseph W. Dinkins and is adjacent to Lots 12 and 13, also owned by Mr. Dinkins, which were rezoned from Multiple Family Residential to General Commercial in 2013.

The current zoning is unsatisfactory because the area surrounding the properties’ location has evolved to commercial use and is no longer suitable for residential use alone. A change in zoning to General Commercial will provide for land use consistent with the surrounding area and the opportunity for economic development not possible within the Multiple-Family Residential category.

The requested rezone will 1) be consistent with development envisioned by the Fairbanks North Star Borough Regional Comprehensive Plan, 2) align these properties’ zoning with that of surrounding properties, and 3) allow use similar to that actually occurring in the area.

With respect to the Borough’s Regional Comprehensive Plan, the plan’s vision includes opportunities in “strengthening the Borough’s role as the commercial, transportation, and cultural hub of Interior Alaska.” Land Use Goal 3 Strategy 6, “Provide for commercial land uses in both urban and non-urban areas,” includes Action A, “Provide for a variety of commercial uses that adequately serve the market area.” Land Use Goal 4 relates to enhancing development opportunities while minimizing land use conflicts. Its Strategy 10, “Attract and support development that is compatible with and enhances existing land use,” is consistent with this requested rezone.

Economic Development Goal 1 (“To strengthen and expand the existing economy”) Strategy 1 is to “Establish the Borough as the center of economic activity for Interior Alaska,” while Economic Development Goal 2 is “To diversify the economy;” its 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,” includes Action B, “Create a variety of types and sizes of commercial and industrial areas that support diversification of economic activity.”

Furthermore, with respect to this specific location, the comprehensive plan clearly intends that commercial development occur in this area. Please note the “Urban Preferred Commercial Area” on an accompanying page. Lots 9, 10 & 11 are located well within this area. The plan has this to say about the Urban Preferred Commercial
Area: "Activities such as office buildings, government offices, schools, public facilities, entertainment, shopping, and churches. These facilities shall be located to provide conveniently [sic.] to residential areas without impacting residential uses. Primarily located in URBAN areas."

Secondly, the requested rezone will align these properties' zoning with that of surrounding properties. Properties adjacent to Lots 9, 10 and 11 on three sides are zoned either General Commercial or Light Industrial. Please see the accompanying page entitled "Current Zoning, December 2016." North of Lots 9, 10 and 11, across 22nd Avenue, six lots within Block 2 of South Cushman Subdivision are zoned Light Industrial. Directly to the east, Lots 12, 13, 14, 15 and 16, Block 1, South Fairbanks Subdivision, are zoned General Commercial. South of the subject lots, Lot 4, Block 19, of Bjerremark Subdivision is zoned General Commercial. The one exception is Lot 8, directly west of Lot 9, which is zoned Multiple-Family Residential; a residence currently occupies that property.

In addition, this rezone will allow land use consistent with that which is actually taking place in the area. North across 22nd Avenue, Total Electric Supply Company (TESCO) operates its store, while an office building is located northeast of Lots 9, 10 and 11, adjacent to the TESCO building. Directly east of Lot 13 is a parking lot owned by the Educational Association Building Corporation and used by tenants and visitors of the D & B Building. Variety Motors operates its vehicle sales business southeast of Lots 9, 10 and 11.

Finally, with regard to protection of public health, safety and welfare, by concentrating commercial activities in the designated Urban Preferred Commercial Area, the rezone will limit public impacts from commercial activities to one of these areas.

Please see the attached Site Plan for the location of improvements (of which there are essentially none) on these three lots. A set of two pages of photos is attached as well.

flb
30December2016
Red = “Urban Preferred Commercial Area”

From *Fairbanks North Star Borough Comprehensive Plan*
Adopted March 1984; Amended March 1990
Rezone Application – Lots 9, 10 & 11, Block 1, South Cushman Subdivision – Current Zoning, December 2016
Rezone Application – Lots 9, 10 & 11, Block 1, South Cushman Subdivision
Site Plan, based on FNSB GIS, December 2016, Approx scale: 1” = 25’
Looking southwest across Lots 9, 10 and 11

Looking southeast across Lots 9, 10 and 11
Looking southeast across previously rezoned Lots 12 and 13

Looking northeast across 22nd Avenue toward TESCO
Agency Comments

RZ2017-003
No Agency comments were received
as of February 13, 2017
for RZ2017-003
Public Comments

RZ2017-003
Dear Property Owner:

The Fairbanks North Star Borough Planning Commission will consider RZ2017-003, a request to rezone Lots 9, 10 and 11, Block 1, South Cushman Subdivision from Multiple-Family Residential (MF) to General Commercial (GC) (located south of 22nd Avenue and west of South Cushman Street).

You are being notified as required by ordinance because your property is within 1,000 feet of the request. You may provide comments on this application by returning this notice, submitting other written comments prior to the meeting, or by testifying in person. A public hearing before the Planning Commission on this request will be held at or after 6:30 p.m. on Tuesday, February 21, 2017, at the Juanita Helms Administration Center, Assembly Chambers, 907 Terminal Street, Fairbanks.

For more information, please email planning@fnsb.us or contact Manish Singh at 459-1260. The staff report to the commission will be available online at www.co.fairbanks.ak.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Property Owner: Ken Keblo
Address or Lot/Block/Sub: Block 21, Lot 05C

RZ2017-003: A request by F. Lawrence Bennett from Bennett Engineering on behalf of Joseph W. Dinkins to rezone approximately 15,000 sq.ft. 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).

The 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.
Mr. Pauling,

Thank you for your response. Your comments will be added to the addendum packet for the Planning Commission.

Mary Bork, Admin. Asst. IV
FNSB Dept. of Community Planning
FNSBPC@fnsb.us – for Communications to the Planning Commission Clerk
907-459-1259

From: Michael Pauling [mailto:michaelpauling@ymail.com]
Sent: Thursday, February 02, 2017 1:15 PM
To: Webmail Planning
Subject: RZ2017-003

I own the property at 707 24th Avenue located in Fairbanks. I have received noticed of the request to rezone cited above. I am open to the rezoning of the area in question provided it is for the betterment of the neighborhood and part of an Economic Growth initiative that will enhance the quality of life for those in immediate vicinity. Michael Pauling
1. Michael Pauling, 02/01/2017

Recommends light commercial uses next to residential properties

2. Thomas A. Beck, Attorney representing the Laundromat at 2301 S. Cushman, 02/03/2017

No objection with a motel or other light commercial use because it should protect the residential areas. Anything that brings more customers for existing businesses would be helpful for the neighborhood.
Additional Material Received for the Official Packet of Record Planning Commission Meeting of Feb. 21, 2017

To Include:

Presentations
Addendums
Evidence
Amended Staff Reports
ADDENDUM
MATERIALS
RECEIVED

CU2017-011
Manish Singh

From: Leslea Nunley <tananaherbcompany@gmail.com>
Sent: Tuesday, February 14, 2017 2:34 PM
To: Manish Singh
Subject: Re: Conditional use for Marijuana Cultivation

Follow Up Flag: Follow up
Flag Status: Flagged

Manish,

We would like to use the composted material for general landscaping once that material has reached that stage of compost that it is broken down to soil. With the small amount of composted material that we’ve accumulated so far we do not anticipate having enough composted material to use for any purpose for several years. It will remain in the composting stage, in the composting area, until we have enough accumulated that it needs to be used or disposed of. At that time we will follow whatever guidelines DEC has for its use if they have any. If they don’t we will use it for general landscaping on the property itself.

Leslea

On Feb 14, 2017, at 2:10 PM, Manish Singh <MSingh@fnsb.us> wrote:

Hi Leslea,

Thank you for forwarding me the email from Mr. Buteyn. As I understand from Mr. Buteyn’s response, the Solid Waste Program doesn’t need anything more from you.

I need to ask whether you would be using the composted material to replenish the soil in your grow rooms? Or would you be using it for general landscaping and fill on your property?

In summary, can you write what you plan to do with the composted material? This information would help me correctly communicate your operation plan to the Planning Commission.

Thanks,
Manish

From: Leslea Nunley [mailto:tananaherbcompany@gmail.com]
Sent: Tuesday, February 14, 2017 1:55 PM
To: Manish Singh
Subject: Fwd: Conditional use for Marijuana Cultivation

Manish,

This is the answer I received from Mr. Buteyn and I apologize for not getting it to you sooner. I thought I had done that already and I hope I didn’t cause you anymore work than is already necessary.

Thank you,
Leslea
Leslea

Thank you for your question and the additional explanation. Your email does a pretty good job of providing the information I needed.

When I spoke with Manish, my main concern was the limited information in the narrative included with your submittal to the Borough. In general, the only thing our program knows about a particular project is what is said in the project narrative. If the narrative doesn’t fully describe the solid waste part of the project, we have to ask the questions to fill in the gaps.

The narrative for your project simply says “All marijuana plant matter will be shredded/chipped and mixed with organic material and stored on the property.” There is no mention of composting the material and no explanation of what you and the Marijuana Control Board agreed would be done. Without that explanation, I didn’t know what you meant by “stored on the property” and I was a little concerned because long-term storage eventually looks a lot like permanent disposal. Knowing that you are composting the plant material eliminates most of my concerns.

The only remaining issue is what you plan to do with the composted material. You mention you haven’t made plans for that yet and, since there aren’t any regulations for what must be done, I can’t tell you what you have to do. However, since you’re willing to put the material to use, I suggest using the composted material to replenish the soil in your grow rooms. That will avoid the problem of an ever-increasing pile of compost and should provide a benefit to your operation.

Since you’ve answered my questions, the Solid Waste Program doesn’t need anything more from you. However, if there is opportunity to do so, you might want to add a discussion about your composting plans to the project narrative.

Thank you again for writing and giving me this additional information.

Douglas Buteyn
Northern/Southeastern Regional Program Manager
From: Leslea Nunley [mailto:lesleanunley@gmail.com]
Sent: Thursday, February 02, 2017 12:50 PM
To: Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>
Subject: Conditional use for Marijuana Cultivation

Mr Buteyn,
I understand from Manish at Borough Planning that you need more information from me in regards to my intentions for disposing of the solid waste material from my marijuana cultivation facility. As you may expect we waste very little of the plant so the solid waste product that we discard is minimal. It consists mainly of the stalk. We have been feeding the stalks into a chipper/shredder and then mixing them with composting materials in a ratio that renders it completely unusable. We are then allowing it to completely compost on site. We have a large area to work with and don't expect the small amount of compost to become a problem. Since we are a small facility there is very little to contend with. We have not made any plans past the composting stage but would be happy to put the compost to use if that is required or allowed.

It would be very helpful if you would let me know what is expected from your Agency in regards to this matter. What we have been doing to date has been approved with everyone we have spoken to so far but I understand that things change, especially in this new industry. If you have any other questions feel free to contact me at this email address or my phone (907) 388-8023.

Sincerely,
Leslea Nunley
Tanana Herb Company, LLC
STAFF PRESENTATION

CU2017-011
CU2017-011
Marijuana Cultivation Facility, Indoor Large
3495 Old River Landing Road

FNSB Planning Commission Meeting
February 21, 2017
Location

Chena Ridge Road
Existing Marijuana Cultivation Facility, Indoor Small
Lot 5 Tanana Chase
3495 Old River Landing
1st Floor: Proposed Use: Marijuana Cultivation Facility Indoor Unlimited Space rented from owner and used for cultivation 3466.7 total SQ FT
Current use: 1457.8 SQ FT under current permit for Marijuana Cultivation Facility Indoor Small.
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...

- Well and Septic System
- Chena Goldstream Fire Service Area
- GVEA Service Area
- Alaska State Troopers
- Perkins Drive, Old River Landing Road
- Six Parking Spaces and Loading Area
3. ...will protect the public health, safety and welfare.

- Flood safety
- Site security
- Lighting
- Odor
- Noise
- Waste disposal methods
- Hours of operation
- Fire and rescue
- Outdoor storage
- Traffic impacts
- FNSB Sensitive Uses
Staff Recommendation

Approval with four (4) conditions
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 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).

e. 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.
Conditions

d-c. 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).
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.
Findings of Fact

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.
Findings of Fact

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.
Findings of Fact

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 not operate during night times to protect public health, safety, and welfare of surrounding property owners.
I move to approve the Conditional Use Permit 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 the approval.
Conditional Use Approval Criteria

(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
DEPARTMENT OF COMMUNITY PLANNING
Revised STAFF REPORT after Planning Commission Meeting

CU2017-011
February 21, 2017 Planning Commission Meeting

TO: Fairbanks North Star Borough Planning Commission
FROM: Manish Singh, Planner II
DATE: Amended on February 22, 2017

RE: 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).

I. EXECUTIVE SUMMARY

The Department of Community Planning recommends APPROVAL of the conditional use request with four (4) 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, Title 15 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 an existing building as commercial marijuana cultivation facility, indoor large in the GU-1 zone.

B. Location

On the southeast corner of Perkins Drive and Old River Landing Road

C. Access

Perkins Drive, Old River Landing Road

D. Size/PAN

<table>
<thead>
<tr>
<th>Area</th>
<th>PAN (Lot)</th>
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<tbody>
<tr>
<td>85565.4 sq.ft.</td>
<td>0331279 (Lot 3)</td>
</tr>
</tbody>
</table>

E. Existing Zone

General Use 1 (GU-1)

F. Existing Land Use

Marijuana cultivation facility, indoor small
G. Surrounding Land Use/Zoning

North: Old River Landing Road
   Zoning: GU-1
   Land Use: Residential

South: Zoning: GU-1
       Land Use: Residential

East: Zoning: GU-1
      Land Use: Tanana River

West: Perkins Drive
      Zoning: GU-1
      Land Use: Residential

H. Community Facilities

Water & Sewer: Private
Electricity: GVEA

I. Code Violations

None on file

J. Flood Zone

Floodway (100%) (March 17, 2014 dFIRM)

K. Zoning History

Unrestricted Use (UU) to GU-1 in 1988

L. Ownership

James & Leslea Nunley
2008 Perkins Drive
Fairbanks, AK 99709

M. Applicant

Leslea Nunley DBA Tanana Herb Company
PO Box 81772
Fairbanks, AK 99708

III. ZONING AND DEVELOPMENT HISTORY

Lot 3 was created with the recording of a plat for Tanana Chase Subdivision in 1978 (Exhibit 1). The lot was rezoned from Unrestricted Use (UU) to GU-1 in 1988. The property currently has a two-story structure (shown in red in Figure 2) and a portion of this structure has been used as a marijuana cultivation facility, indoor small since August 2016 with a Zoning Permit (ZP-17567, Exhibit 2).

This two-story structure was constructed in 2002 in Flood Zone A without any Floodplain Permit. This property was designated as ‘Flood Zone AE’ in the ‘Floodway’ with the adoption of new digital flood maps in March 2014 after the structure had already been constructed. Prior to the current marijuana cultivation use, it contained two apartments on the second floor and shop space on first floor. This property obtained a Floodplain Permit (Exhibit 3) with Certificate of Compliance (Exhibit 4) in November 2016 when the use of the property changed from residential to marijuana cultivation. Currently, the second floor is vacant and a portion of the first floor is used as a marijuana cultivation facility, indoor small.
Figure 2: Site Plan
(Source: Base map provided by Applicant, annotations in color by staff for illustrative purposes.)
IV. PROPOSED USE AND PROJECT INFO

The applicant intends to expand the existing first floor by adding three additions (shown in blue in Figure 2) and then use the whole 3466.7 sq.ft. of first floor of the two-story structure at 3495 Old River Landing Road as a marijuana cultivation facility, indoor large. A marijuana cultivation facility, indoor large is defined 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 [FNSBC 18.04.010].

The applicant currently uses a 1,458.4 sq.ft. portion of the first floor of the two-story structure as a marijuana cultivation facility, indoor small (shown in green in Figure 3) with a Zoning Permit. A zoning permit for marijuana cultivation facility, indoor small allow only a maximum of 1,500 sq.ft. of net floor area in GU-1 zone. This property is adjacent to a lot upon which the principal building is used as a dwelling and therefore, it must obtain a conditional use permit for more than 1,500 sq.ft. of net floor area of marijuana cultivation in the GU-1 zone.

With this conditional use permit application, the applicant has proposed to use the total 3,466.7 sq.ft. area on the first floor for a marijuana cultivation facility, indoor large. The applicant has proposed to add more floor area for marijuana drying and processing, and supplies and equipment storage on the first floor (shown in yellow in Figure 3). The applicant does not propose any increase in the existing marijuana growing area and the second floor is proposed to remain vacant. The net floor area of the marijuana cultivation facility would increase from 1,458.4 sq.ft. to 3,466.7 sq.ft. because the applicant has proposed to use more floor area for marijuana cultivation related functions such as drying, processing and marijuana storage.

Figure 3: First Floor 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 65 dear property owner notices mailed out and staff received two telephonic inquiries about this case.

VI. STAFF ANALYSIS

A. Surrounding Land Use and Zoning

Figure 4 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 5 shows that the neighboring properties are predominantly developed as residential.
Figure 4: Zoning Map
(Source: FNSB GIS)

Figure 5: Existing Land Use
(Source: FNSB GIS & Assessing)
B. Comprehensive Plan Designation

The Comprehensive Plan Land Use Map characterizes this area as **Perimeter Area and Preferred Residential Land** (Figure 6). Perimeter Area is “generally within a 10 to 20 minute travel time of urban destinations, and which contains primarily residential use; variable densities are encouraged providing they are compatible with the surrounding community, sensitive to natural systems and have adequate water and sewer facilities.” Preferred Residential Land is “determined to be more suitable than other lands for development because it is generally: a) on slopes of 20% or less, b) not designated wetlands, c) has a lower probability of containing detrimental permafrost conditions.”

**Figure 6: Comprehensive Plan Designation Map**
(Source: FNSB GIS)

![Map of Perimeter Area and Preferred Residential Land]

The Perimeter Area designations are within 10 to 20 minutes’ drive from the urban densities and contain primarily residential uses. The development in Perimeter Area is recommended to be compatible with the surrounding community, natural systems and is recommended to have water and sewer facilities. The subject property is located in a neighborhood that has primarily developed residentially (**Figure 5**).

The Preferred Residential Land designation recommends development of the available land because of the natural suitability, however, the development does not necessarily only have to be residential. The natural suitability in Preferred Residential Land
designation includes less than 20% slope, not being designated wetlands and having lower probability of containing detrimental permafrost conditions. The subject property meets these natural suitability criteria and therefore, could be developed as a marijuana cultivation facility.

The proposed conditional use is not inconsistent with Perimeter Area and Preferred Residential Land comprehensive plan land use designations because it proposes a marijuana cultivation facility in an existing structure which previously was developed and used as a residential property until 2016. The State Fire Marshall office has stated that marijuana cultivation facilities have F-1 (Factory and Industrial) occupancy under International Building Code. The second story with F-1 occupancy cannot be used residentially. The F-1 occupancy also restricts the use of second story for any marijuana cultivation, drying or processing uses.

With the conditions imposed, the marijuana conditional use will be compatible with the surrounding community because it would minimize any negative impacts on the surrounding residential properties. It would be compatible with the natural systems because, with the conditions imposed, it will meet the Title 15 requirements. With the conditions imposed, the marijuana cultivation facility will have adequate water and sewer capacity because it has an existing well and septic system.

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 expands a commercial marijuana cultivation establishment in the Borough. Commercial Marijuana is a new industry and this conditional use would serve the market by making products available for commercial marijuana product manufacturing and retail establishments.

**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 this marijuana cultivation establishment would support up to seven jobs (three full-time and four seasonal) with this conditional use. This operation would diversify the commercial activity in the Fairbanks North Star Borough enhancing community’s ability to generate revenue.
C. **Transportation & Parking**

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>7 employees during harvest period</td>
<td>Nursery (Wholesale)</td>
<td>23.40 trip ends/ 5 employees</td>
<td>32.76 trip ends</td>
</tr>
<tr>
<td>Proposed marijuana cultivation facility, indoor large</td>
<td>3 employees during non-harvest period</td>
<td>Nursery (Wholesale)</td>
<td>23.40 trip ends/ 5 employees</td>
<td>14.04 trip ends</td>
</tr>
</tbody>
</table>

**Figure 7: Old River Landing Road and Perkins Drive**
(Source: FNSB GIS)

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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.

The lot is accessible with a 25 foot wide gravel driveway from Old River Landing Road. The proposed use would generate approximately 33 trip ends per weekday in the harvest period and approximately 14 trip ends per weekday in the non-harvest period. These calculations are based on the estimated maximum 7 employees during harvest period and maximum 3 employees during non-harvest period and relying on the closest related land use “Nursery (Wholesale)” in the Institute of Transportation Engineers (ITE) Trip Generation Manual (Table 1). The harvest period is projected to occur every 6-8 weeks and is estimated to last approximately 2-3 weeks. Old River Landing Road and Perkins Drive are rural service area maintained gravel roads (Figure 7) and they could easily accommodate the small number of trip ends generated by the proposed facility.

Although a marijuana cultivation facility, indoor large is a conditional use on the subject parcel in GU-1 zone because it is adjacent to a residential property, the GU-1 zone allows several uses without any zoning permit that have significantly higher vehicular and freight trip generation potential. These outright allowed uses in GU-1 include a gas station with convenience store, a warehouse/distribution center, apartment complexes, shopping centers, drive-through facilities etc. Compared to these uses, a marijuana cultivation facility has a much lower trip generation potential.

The application material states that the three full time year-round employees currently live within a walkable distance from the facility (approximately 400 feet), further reducing the trip generation potential of the marijuana cultivation facility.

Parking demand is based on FNSB standard requirements of 3 parking spaces for every 4 employees [FNSBC 18.96.060 (C)]. The applicant expects maximum 7 employees in the foreseeable future for the marijuana cultivation facility, indoor large. The site plan provided by the applicant shows 6 parking spaces when only 5 parking spaces are required. The site plan shows the gravel 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)].

D. FNSBC 18.104.050 (B) Application for a Conditional Use

The Applicant submitted a conditional use application on January 05, 2017 in support of this requirement. They supplemented their application material with additional information on January 06, January 12, January 18, January 19, January 23, January 24, and February 07, 2017.

E. 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 owners have provided written consent to the proposed marijuana cultivation facility.
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 5). 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 5).

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.

**F. Agency Comments**

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

- a. State Fire Marshal
- b. Chena Goldstream Fire Service Area
- c. Alaska State Troopers
- d. FNSB Rural Services (Becker Ridge Road Service Area)
- e. FNSB Floodplain Administrator
- f. Alaska Department of Environmental Conservation (ADEC)
- g. Alaska Department of Natural Resources (ADNR)
- h. Golden Valley Electric Association (GVEA)

All written comments are included in the “Agency Comments” section following this report.
G. 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 Comprehensive Plan Land Use Map characterizes this area as Perimeter Area and Preferred Residential Land.

The Perimeter Area designations are within 10 to 20 minutes’ drive from the urban densities and contain primarily residential uses. The development in Perimeter Area is recommended to be compatible with the surrounding community, natural systems and is recommended to have water and sewer facilities. The subject property is located in a neighborhood that has primarily developed residentially (Figure 5).

The Preferred Residential Land designation recommends development of the available land because of the natural suitability, however, the development does not necessarily only have to be residential. The natural suitability in Preferred Residential Land designation includes less than 20% slope, not being designated wetlands and having lower probability of containing detrimental permafrost conditions. The subject property meets these natural suitability criteria and therefore, could be developed as a marijuana cultivation facility.

The proposed conditional use is not inconsistent with Perimeter Area and Preferred Residential Land comprehensive plan land use designations because it proposes a marijuana cultivation facility in an existing structure which previously was developed and used as a residential property until 2016. The State Fire Marshall office has stated that marijuana cultivation facilities have F-1 (Factory and Industrial) occupancy under International Building Code. The second story with F-1 occupancy cannot be used residentially. The F-1 occupancy also restricts the use of second story for any marijuana cultivation, drying or processing uses.

With the conditions imposed, the marijuana conditional use will be compatible with the surrounding community because it would minimize any negative impacts on the surrounding residential properties. It would be compatible with the natural systems because, with the conditions imposed, it will meet the Title 15 requirements. With the conditions imposed, the marijuana cultivation facility will have adequate water and sewer capacity because it has an existing well and septic system.

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 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

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3 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.
submittals state that they would support seven 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 a property 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 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 help protect the property rights of the surrounding property owners.

The subject property is in ‘Floodway’ and designated floodways in the Borough are subject to periodic inundation of floodwaters which could cause loss of life or property, health or safety hazards. Properties within the designated floodways have additional requirements established by the Title 15 of the Borough code to ensure structures are safe from potential flooding because improvement in a designated floodway result in an increase in flood levels within the community during a flood. This property originally obtained a Floodplain Permit (FP2017-010, Exhibit 3) and a Certificate of Compliance (Exhibit 4) for the marijuana cultivation facility, indoor small use in November 2016.

The applicant has applied for a Floodplain Permit for the proposed additions and improvements to the building for the marijuana cultivation facility, indoor large conditional use. Development of structures in a Floodway requires a ‘No-rise Certification for Floodways’ under Title 15 to demonstrate that the proposed improvements will not increase the flood levels by more than a foot. A ‘No-rise Certification for Floodways’ is prepared by a registered professional engineer and requires hydrologic and hydraulic analysis. If the proposed improvements are not in compliance with Title 15, then the building must be redesigned and/or retrofitted to meet Title 15 to ensure public health, safety and welfare. However, their Floodplain Permit application for improvement was incomplete as of January 17, 2017 and it has not yet been determined whether the proposed improvements would increase the flood levels.

Alternatively, if the applicant does not construct the additions on the first floor as part of this conditional use permit, they could use the existing structure and may or may not be required to obtain a new Floodplain Permit and a new Certificate of Compliance. However, a ‘No-rise Certification for Floodways’ would not be required. Depending on the cost of the building improvements, additional Title 15 requirements may apply. Therefore, Community Planning staff recommends a condition requiring the marijuana cultivation facility, indoor large to comply with Title 15 regulations to protect public health, safety and welfare without stating the specific permits required.

The marijuana cultivation facility is served by Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service area. The proposed conditional use
will have a safe traffic flow because the additional traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road.

The proposed conditional use promotes economic development and the growth of private enterprise because it would support seven jobs in the area and would diversify the existing industrial neighborhood.

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 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 new or revised state issued license. The applicant has applied for a Floodplain Permit for the proposed improvements for the marijuana cultivation facility, indoor large conditional use.

(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: The property has a well for water and an existing septic system. The applicant has provided sufficient information to demonstrate that the proposed marijuana cultivation facility, indoor large has adequate water and sewage capacity for operation. The application materials include documentation that Alaska Department of Environmental Conservation (ADEC) reviewed their existing marijuana cultivation facility, indoor small plans and did not require any permits. This conditional use proposes to increase net floor area of the existing marijuana facility by expanding the marijuana drying and processing areas and addition supplies and equipment storage areas on the first floor. Therefore, the existing well and septic system would be adequate for this addition because the applicant has not proposed any increase in the existing marijuana growing area which would have required additional water and sewage capacity.

Fire: The applicant has demonstrated that the proposed conditional use has adequate fire services. The subject parcel is located within the Chena Goldstream 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 served by Alaska State Troopers.

Transportation: The applicant has demonstrated that the proposed conditional use has adequate transportation facilities. The marijuana cultivation facility is served by Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service
area. The proposed conditional use will have a safe traffic flow because the additional traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road. The applicant has provided 6 off-street parking spaces and a loading area with sufficient backing and maneuvering space. FNSB Code requires only 5 off-street parking spaces for 7 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 plan for site security, fire safety, and employee health to help address public health, safety, and welfare concerns.

The state licensing and operational standards for marijuana facilities are governed by 3AAC 306. The application material acknowledges that a marijuana cultivation facility, indoor large cannot legally operate without obtaining a state issued license [FNSBC18.04.010] and compliance with 3AAC 306 is required to obtain a state license.

The subject property is in ‘Floodway’ and designated floodways in the Borough are subject to periodic inundation of floodwaters which could cause loss of life or property, health or safety hazards. Properties within the designated floodways have additional requirements established by the Title 15 of the Borough code to ensure structures are safe from potential flooding because improvement in a designated floodway result in an increase in flood levels within the community during a flood. This property originally obtained a Floodplain Permit (FP2017-010, Exhibit 3) and a Certificate of Compliance (Exhibit 4) for the marijuana cultivation facility, indoor small use in November 2016.

The applicant has applied for a Floodplain Permit for the proposed additions and improvements to the building for the marijuana cultivation facility, indoor large conditional use. Development of structures in a Floodway requires a ‘No-rise Certification for Floodways’ under Title 15 to demonstrate that the proposed improvements will not increase the flood levels by more than a foot. A ‘No-rise Certification for Floodways’ is prepared by a registered professional engineer and requires hydrologic and hydraulic analysis. If the proposed improvements are not in compliance with Title 15, then the building must be redesigned and/or retrofitted to meet Title 15 to ensure public health, safety and welfare. However, their Floodplain Permit application for improvement was incomplete as of January 17, 2017 and it has not yet been determined whether the proposed improvements would increase the flood levels.

Alternatively, if the applicant does not construct the additions on the first floor as part of this conditional use permit, they could use the existing structure and may or may not be required to obtain a new Floodplain Permit and a new Certificate of Compliance. However, a ‘No-rise Certification for Floodways’ would not be required. Depending on the cost of the building improvements, additional Title 15 requirements may apply. Therefore, Community Planning staff recommends a condition requiring the marijuana cultivation facility, indoor large to comply with Title 15 regulations to protect public health, safety and welfare without stating the specific permits required.
Applicant’s business plan details their proposed site security measures and waste disposal methods including controlled access gates and doors, video surveillance, and alarms. The applicant intends to secure all marijuana and marijuana products inside the building to ensure the general public does not have access to them. 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 suggests compliance with 3AAC 306 as a condition to ensure public health, safety and welfare.

Lighting, noise, odor, water quality and runoff can be potential concerns for surrounding properties with a commercial operation. The applicant uses 40 Watt LEDs for outdoor security lighting requirements. These lights point toward the ground. The marijuana cultivation facility has vegetative tree buffer between these cultivation building and neighboring residences. The marijuana cultivation building is at least 200 feet away from the nearest residences on Lot 9A, Lot 2 and Lot 4 and the outdoor lighting does not negatively impact the public health, safety and welfare of these surrounding properties. The subject property is not adjacent to any residential zone.

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 a condition requiring 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 noise generated from this cultivation operation would be negligible because the operation is completely indoors. The only noise generated from the facility is the noise from ventilation system.

The applicant has mentioned that marijuana plant waste would be disposed of according to Alaska Marijuana Control Board regulations. The applicant intends to shred/chip all marijuana plant matter and mix with organic material and store on property. The applicant has stated that this plant waste after mixing with organic material would have no saleable value or potency. This impotent plant waste stored on property will be used for fill or potential landscaping on site. Any waste other than the plant waste will be taken to the Borough sanitation facility for business disposal.

Douglas Buteyn, Northern/Southeastern Regional Program Manager for ADEC Solid Waste Program has commented that ADEC does not permit using marijuana plant waste mixed with organic material for filling or landscaping on site. He stated that this conditional use application does not include sufficient information for him to make a determination that the applicant does not need a composting or other applicable permit from ADEC Solid Waste Program. He clarified that indefinite onsite disposal of marijuana plant waste could potentially impact public health, safety and welfare. However, the applicant could compost marijuana waste onsite with appropriate ADEC permits or dispose it in Borough landfill. Therefore, Community Planning staff recommends a condition requiring the applicant to obtain a formal plan review by the ADEC Solid Waste Program for the onsite disposal of marijuana plant waste and 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.
The applicant has stated that the hours of operation of the cultivation facility will be 10 am to 8 pm during harvest times and 10 am to 4 pm during non-harvest times. These hours of operation do not negatively impact the neighborhood’s public health, safety and welfare because the operation is completely indoors and supplies are delivered only 2-3 times per year. However, if the cultivation operations extend late night, the neighbors’ public health, safety and welfare could be compromised because the neighborhood has developed residentially and is not currently used to experience non-residential activities during night. Therefore, Community Planning staff recommends no operation of the marijuana cultivation facility between the hours of 9:00 p.m. and 7:00 a.m.

Fire and rescue services for this operation are available through the Chena Goldstream 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. The Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) have provided a certificate of approval for the existing marijuana cultivation facility, indoor small; however, this certificate of approval requires any changes or modifications to the approved plans to be resubmitted for review by State Fire Marshal. On January 18, 2017, the Division of Fire and Life Safety confirmed that they have received the application and plans for the proposed conditional use. Therefore, Community Planning staff recommends the compliance with all recommendations and/or requirements resulting from this plan review as a condition to minimize fire and other safety risks, thereby ensuring public health, safety and welfare.

The applicant has demonstrated that the proposed conditional use has adequate transportation facilities. The marijuana cultivation facility is served by Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service area. The proposed conditional use will have a safe traffic flow because the additional traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road. The applicant has provided 6 off-street parking spaces and a loading area with sufficient backing and maneuvering space. FNSB Code requires only 5 off-street parking spaces for 7 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 and Marijuana Control Board (MCB) for plan reviews and approvals. Because this conditional use approval is for a particular use of the said property, a change in the site plan or operation method or expansion onto second floor 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 recommends a condition to file final site and floor plans with Community Planning to ensure compliance with Planning Commission approved site plan, floor plan and conditions. If modifications are made in the final site or floor plans, an amendment to the conditional use permit may be required.

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 four (4) 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 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).

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 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.
DRAFT PLANNING COMMISSION MOTION:

I move to approve the Conditional Use Permit for a commercial marijuana cultivation facility, indoor large with four (4) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval.
**Fairbanks North Star Borough**  
**Department of Community Planning**  
P.O. Box 71267  
Fairbanks, Alaska 99707-1267

**Zoning Permit Number:** 17567

This permit is issued based on the lot dimensions and zone applicable to the lot on the date of issuance. If prior to construction, the zone or the lot dimensions change, this permit will no longer be valid and a new permit must be obtained.

### General Information

<table>
<thead>
<tr>
<th>Date:</th>
<th>6/8/2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>NUNLEY LESLEA</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>2008 PERKINS DRIVE, FAIRBANKS AK 99709</td>
</tr>
<tr>
<td>Property Description:</td>
<td>0331279 LOT 3 TANANA CHASE</td>
</tr>
<tr>
<td>Site Address:</td>
<td>3495 OLD RIVER LANDING RD</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Existing Use:</th>
<th>Residential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structure:</td>
<td>Multiple residences : Two Apartments</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Proposed Use:</th>
<th>Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structure:</td>
<td>Marijuana cultivation facility, indoor small : 1458.4 sq.ft.</td>
</tr>
</tbody>
</table>

| Dwelling Units: | 2 |
| New: | 0 |
| Existing: | 2 |

| Building Height (stories): | 24 |
| Total Area of Structure: | 3,750 SF |
| New: | 0 SF |
| Existing: | 3,750 SF |
| Lot Size: | 85,565 SF |
| Est. Construction Cost: | $20,000 |

**Note:** This zoning permit is only for the 1,458.4 sq.ft. of the ground floor of the two-story apartment building.

If any area other than the 1,458.4 sq.ft. of net floor area shown on the site plan for the marijuana cultivation facility, indoor small is used for any functions supporting a marijuana establishment, the applicant or holder of this zoning permit shall submit revised documents to the FNSB Community Planning Department for zoning compliance review.

The applicant or holder of this zoning permit shall provide a copy of the State approved Floor Plan to FNSB Community Planning Department.

If the net floor area for the marijuana cultivation facility, indoor small exceeds 1,500 sq.ft., a Conditional Use Permit shall be required pursuant to FNSBC 18.104.050.
- I certify that I am the owner or that I am authorized to act for the owner of the property.
- I certify that this information is to the best of my knowledge true and complete.
- I acknowledge and will comply with the conditions set forth in this zoning permit.
- I understand that the holder of this permit is required to comply with all other applicable laws, including city, borough, state and federal laws.
- I agree to submit current and accurate documents if the site plan or other application materials are changed subsequent to issuance of this permit.
- I understand that this permit is appealable and that this appeal must be submitted and perfected within 15 days of the date of the decision in accordance with FNSBC 18.54.070.
- This permit is issued contingent upon the applicant obtaining the appropriate State of Alaska Commercial Marijuana Facility License.

[Signature]  6/8/16

**Zoning Specifications**

| Existing Zone: | GU-1 (100%) |
| Minimum Lot Size: | 40000 |
| Flood Zone: | AE (100%) |
| Road Service Area: | Yes |
| Parking Spaces Req: | 0 |
| Building Type: | Principal |

**Conditions**

- Floodplain Permit Required: Yes
- Conditions: Marijuana cultivation facility, indoor small
- FNSB Driveway Permit Required: Yes
- Reasons: Marijuana cultivation facility, indoor small meets Title 18 requirements

Permit Approval: Approved

[Signature]  6/8/2016

Zoning Official: Singh, M

*This is a Fairbanks North Star Borough Community Planning Department Zoning Permit. Please contact other departments and agencies to obtain permits as necessary.*
ZONING PERMIT APPLICATION

APPLICANT:
Name: LESLEA NUNLEY
Mailing Address: 3003 PERKINS DRIVE
FAIRBANKS, AK 99709
Phone: 907-479-8374
Fax: 907-469-5383
E-mail: lesleanunley@gmail.com

Property Information:
Legal Description: Lot 3 Tanana Chase
Street Address: 3975 Old River Landing
Lot Size: 25,580 square feet
Parcel Account Numbers (PAN): 033,279

Existing Use & Structures:
2 story building w/2 apartments completely separate with separate entrance from downstairs storage

Proposed Use/Construction:
- Commercial

- Number of dwelling units:
  - Existing: 8 units (2 offices, not part of proposed use)
  - Proposed: 0

- Size of existing construction in square feet:
  - Existing: 3,500 sq. ft., remodel (4,000 sq. ft.)

- Size of proposed construction in square feet:
  - 0 sq. ft.

- Number of existing dwelling units:
  - 8 units

- Total Number of dwelling units:
  - 8 units existing, 0 proposed

- Building height/number of stories:
  - 2 existing, 2.4 ft. high

- Estimated cost of new construction:
  - $30,000

- Number of Bedrooms:
  - 2 existing, 2 new

I certify that I am the owner of the property.
I certify that the information included in this application is to the best of my knowledge true and complete.
I understand that processing of this application may take up to 5 working days from the date of a complete application.
I have attached a detailed site plans, drawn to scale, in compliance with the guidelines document titled “Site Plans”.
I understand that the Zoning Permit is appealable and that the decision must be submitted and perfected within 15 days of the date of the decision in accordance with 18.54.070.
I can be notified of the decision at the above (phone number) (address). Email address

APPLICANT SIGNATURE: [Signature]
DATE: 10/7/16

The 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.
Lot 3 Tanana Chase
3495 Old River Landing. 1st Floor Proposed use – Marijuana Cultivation Facility indoor small. Space rented from Owner and used directly for cultivation 1458.4 Sq Ft

Boiler Room for entire building heat

Fire Rated Door Restricted access

Grow Room #1
15.25' x 29.5' = 449.9 sq ft
Restricted Access Area

Grow Room #2
15.25' x 29.5' = 449.9 sq ft
Restricted Access Area

Clone/Vegetative Room
15.3' x 16.9' = 268.5 Sq Ft
Restricted Access Area

Restroom
6.5' x 6.4' = 41.6 Sq Ft

Garage Door 10'

Garage used for parking for Owner of building.

Lockable Cabinet for camera system/DVR

Water Heater

Not used for Marijuana grow, Personal storage for building owner

Total Net Floor Area of Cultivation Facility
449.9 x2+ 268.5 x2+ 41.6 = 1458.4 Total Sq Ft in Grow
Highlighted in GREEN

Pollard N
LOT 3 TAMANA CHASE
3495 OLD RIVER LANDING
2nd floor existing use; 2 - 1 bedroom apartments
Completely separate unit with outside entrance
No proposed changes
Not to be used as part of marijuana cultivation facility

OLD RIVER LANDING ROAD

PARKING/DRIVEWAY
COMMERCIAL LEASE

RECEIVED
This Lease is made between James and Leslea Nunley DBA Nunley Rentals, LLC ("Lessor"), and Tanana Herb Company, LLC, ("Tenant"). Tenant hereby offers to lease from Lessor the real property located in the City of Fairbanks, State of Alaska, with a common address of 3495 Old River Landing, legal description Lot 3 Tanana Chase (the "Real Property"), upon the following terms and conditions. (This document shall hereafter be referred to as the "Lease").

TERMS AND CONDITIONS

1. Term and Rent. Lessor leases to Lessee the above Real Property for a term of Five years, commencing March 1, 2016, and terminating on March 1, 2021, or sooner as provided herein at the annual rental of $18,000.00 Dollars ($18,000.00), payable in equal installments in advance on the first day of each month for that month's rental, during the term of this Lease. All rental payments shall be made to Lessor at the address specified below.

   James & Leslea Nunley  2003 Perkins Drive  Fairbanks, AK 99709

2. Option to Renew. Provided that Tenant is not in default in the performance of this Lease, Tenant shall have the option to renew the Lease for one additional term(s) of 12 months commencing at the expiration of the initial Lease term. All of the terms and conditions of the Lease shall apply during the renewal term except that the monthly rent shall be renegotiated at that time. The option shall be exercised by written notice given to Lessor not less than 60 days prior to the expiration of the prior Lease term. If notice is not given in the manner provided herein within the time specified, this option shall lapse and expire.

3. Use. Tenant shall use and occupy the Real Property for the commercial purpose of a Standard Marijuana Cultivation Facility. The Real Property shall be used for no other purpose.

   Tenant's lease includes only the area of the 1st floor of the building diagram outlined in green on the attached diagram and designated as restricted access. All other area of the building are for the use of the owner and for maintenance on the systems for the entire building.

4. Care and Maintenance of Real Property. Tenant acknowledges that the Real Property is in good order and repair, unless otherwise indicated herein. Tenant shall, at his own expense and at all times, maintain the Real Property in good and safe and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted.

5. Ordinances and Statutes. Tenant shall comply with all statutes, ordinances, regulations, covenants, conditions and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Real Property, occasioned by or affecting the use thereof by Tenant.

6. Utilities. Tenant shall be solely liable for utility charges as they become due, which will consist of electricity and telephone services.

7. Indemnification of Lessor. Lessor shall not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on the Real Property or any part thereof, and Tenant agrees to indemnify and hold Lessor harmless from any claims for damages, no matter how caused, except for those caused by the sole negligence or sole unlawful conduct of Lessor.

This Agreement is entered into between the parties and constitutes the complete agreement.

Signature of Lessee:  
Date: 3/1/16

Signature of Lessee:  Leslea Nunley  
Date: 3/1/16

Signature of Lessor: Tanana Herb Company  
Date: 3/1/16

Amend 6/17/16
FNSB FLOODPLAIN DEVELOPMENT PERMIT

Requirements for this permit:

1. Lowest floor elevated to or above BFE if Substantial Improvement.
2. To be designed so that below BFE the structure is watertight, FF certificate required.

Issued To: Name: NUNLEY LESLEA
Mailing Address: PO BOX 81772
City/State/Zip FAIRBANKS AK 99708

Issued By: Nancy Durham, MURP, CFM (Floodplain Administrator)

Date: 11/15/2016 BFE: 426.3

Description of proposed work:
Tanana Herb Co. will use 1458.4 square feet of the lower floor for marijuana cultivation. The rest of downstairs is for owners personal use. The upstairs is also for owners use. Changes to the building for Tanana Herb Co. use include errecting 15 ft. of non-bearing wall and installing one exterior door.

Specific Standards:
Project may be a substantially improved structure. Improvement costs required as top of bottom floor (423.8') is beneath the new Base Flood Elevation of 426.3'.
Structure Value=$194,583 (50%=$97,291.50); Total Improvements=$27,300 - NOT Substantial Improvement.

Parcel
0331279 LOT 3 TANANA CHASE 3495 OLD RIVER LANDING

NOTE:
This permit authorizes development in the Special Flood Hazard Area described above. A Certificate of Compliance shall be applied for within 60 days after obtaining the elevation certificate. The holder of this permit is required to comply with all other applicable laws, including city, borough, state and federal laws.
CERTIFICATE OF COMPLIANCE

This change of use is not a Substantial Improvement. The shop was constructed in 1987 & house with shop constructed in 2002 while in Flood Zone A with a BFE of 421’ (NGVD 1929). Any new construction and/or substantial improvements are required to meet the current Floodplain Regulations.

This certificate is issued by the FNSB Flood Plain Administrator pursuant to the requirements of FNSB 15.04.055 certifying that at the time of issuance, development described below was in compliance with the floodplain management requirements of the Fairbanks North Star Borough for the following described property:

Permit Number: FP 2017-0010

Owner: NUNLEY LESLEA

Issued By: Nancy Durham, MURP, CFM (Floodplain Administrator) Date: 11/15/2016

Description of proposed work:
Tanana Herb Co. will use 1458.4 square feet of the lower floor for marijuana cultivation. The rest of downstairs is for owners personal use. The upstairs is also for owners use. Changes to the building for Tanana Herb Co. use include erecting 15 ft. of non-bearing wall and installing one exterior door.

Parcel(s) Project Address:
0331279 LOT 3 TANANA CHASE 3495 OLD RIVER LANDING
FNSBC Title 18 Rezone Approval Criteria

1. The proposed rezone conforms to the comprehensive plan

- **Urban Preferred Commercial Area**: allow for commercial uses to serve surrounding residential areas with minimum impacts to residential areas
- **Land Use Goal 4, Strategy 11, Action A**: resolve existing land use conflicts of GC being located next to residential areas in the Borough
- **Land Use Goal 4, Strategy 10, Action B**: separate, transition or buffer incompatible land uses
2. *The proposed rezone conforms to the public health, safety and welfare.*

- Comp. Plan Land Use Conflict
- Intent of zoning
- Uses allowed
- Traffic and Trip Generation
- Hours of Operation
- Building height, outdoor storage or gross floor area
- Outdoor Lighting
- Setback and fencing requirements
1. The consistency of the amendment with the comprehensive plan;

2. The benefits and detriments of the amendment to the owners, adjacent landowners, and community; and

3. The size of the area rezoned.
Staff Recommendation

Community Planning recommends **APPROVAL** of the rezone from **MF to LC** instead of the applicant’s request for GC.
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.
Findings of Fact

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.
Findings of Fact

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.
Findings of Fact

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.
Findings of Fact

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.
Findings of Fact

(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.
(3) 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.ft. 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.
I move to recommend approval of the rezone of approximately 15,000 sq.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.
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