A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Mona Lisa Drexler Assembly Chambers, Juanita Helms Administration Center, 907 Terminal Street, Fairbanks, Alaska. The meeting was called to order at 6:01 p.m. by Wendy Presler, Chairperson.

MEMBERS PRESENT:  Mark Billingsley  Chris Guinn  Eric Muehling  Mindy O’Neall  Robert Peterson  Wendy Presler  Mike Stepovich  John Perreault  Charles Whitaker  David Brandt

MEMBERS ABSENT:  Patricia Thayer

OTHERS PRESENT:  Christine Nelson, Director of Community Planning  Manish Singh, Planner  Stacy Wasinger, Planner  Wendy Doxey, Assistant Borough Attorney  Nicole Nordstrand, Administrative Assistant

A. ROLL CALL

B. MESSAGES

1. Chairperson’s Comments

Ms. Presler reminded Commissioners to provide feedback to the Planning Department on the Eielson Air Force Base Growth Management Plan Focus Area Sample Data and Stakeholders document from the Consultants.

2. Commissioner’s Comments

There were no comments by Commissioners.

3. Communications to the Planning Commission

Ms. Nelson advised Commissioners of the second session in the Land Use Education Series to be held tomorrow primarily geared towards the lending industry concerning Grandfather Rights and Amnesty and, determining the industry’s needs and the needs of their customers.

Ms. Nelson mentioned potential ordinance amendments, supported by the Mayor, two of which affect the Central Business District and concern ground floor residential housing and brew pubs, and the other will be amendments to grandfather rights process to make the process work better, and happen more smoothly and quickly.
Ms. Nelson reported that the agenda and minute templates are under review and will be changing in the near future to a standardized format for all FNSB Boards and Commissions.

4. Citizen’s Comments – limited to three (3) minutes

There were no comments by citizens.

5. Disclosure & Statement of Conflict of Interest

There were no disclosures or conflicts 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.

Ms. Presler advised the Commission that under Agenda Item F “Quasi-Judicial Hearing”, items numbers 2 and 3 are the same applicant and property, and barring any objection, it is her intent to have both items read into the record, have one presentation from Staff, then the Applicant will be provided their opportunity to speak, and then public testimony heard on both permits. She further advised that there will need to be two separate motions on each item before debate and then each item voted on separately.

CARRIED WITHOUT OBJECTION

D. MINUTES


E. CONSENT AGENDA ITEMS

There were no consent agenda items.

(Commissioner O’Neall joined meeting at 6:06 p.m.)

F. QUASI-JUDICIAL HEARING

1. CU2017-020: A request by Michael Emers on behalf of Rosie Creek Farm, LLC for conditional use approval of a marijuana product manufacturing facility, limited in the Rural and Agricultural 20 (RA-20) zone on Tract A, Rosie Creek Farm Subdivision (located at 2659 Livingston Loop, on the south side of Livingston Loop, south Rosie Creek Trail, and north of the Tanana River).

OATH GIVEN

Ms. Wasinger presented her report and presentation on CU2017-20.
Questions by the Commissioners

There were no questions by Commissioners.

Applicant’s Presentation

Mr. Michael Emers explained his desire is for value added processing of their product. He likened it to adding a commercial kitchen to process their farm crops which they hope to do in the future. He stated his preference to process the product on-site rather than sell to other processors which will effectively result in less traffic and trips in and out of the neighborhood.

Mr. Emers further reported that he has cultivation permits from the State of Alaska and the Borough, and indicated he realizes that the only access to their property is through a residential neighborhood, that his lot is unique in that it is split zoned, and part of the access is in the residential neighborhood. He stated that he has had his vegetable farm there for 20 years, with customers coming weekly, and that there might be a slight increase in employees, but there would not be much of a change in traffic.

Questions by the Commissioners

Mr. Peterson asked if there had been any complaints from neighbors since processing marijuana.

Mr. Emers explained that they have not been able to process any marijuana, but they have grown and sold, and in his discussions with his neighbors, the immediate neighbor to the west had some concerns because they oppose marijuana in general and did not want him to grow it, but they did not feel it was their place to tell him what to do with his land. He stated he is sensitive to his neighbors’ concerns and tries to be discreet with his operations; “making neighbors as happy as he can make them”.

Mr. Peterson inquired about condition number 2, in that it prohibits odor outside the facility and whether Mr. Emers could meet that standard.

Mr. Emers responded that there has been no detection of odor off the Farm and it has passed the State inspection which also requires no odor detection. He further specified that they use a really pungent fish fertilizer on the Farm and if anything, there would be a presence of that odor, but out in the residential area and in the road, there have been no complaints. He stated that they expect to be inspected for the processing facility.

Ms. Presler requested an explanation of what processing involves.

Mr. Emers answered that he is not the expert on processing, but it’s concentrating the marijuana product into hash. He further explained the two (2) physical processes involved.

Interested Person Testimony Opened

Ms. Diana Sparacino advised that she did not know about the first permit because her property was not near enough. She advised she has owned her property since 1991, and built on it four years ago, and that she picked the property for its location, RE-4 zoning designation, and while aware of the Farm, it was a much smaller operation when she purchased her property. She further expressed her surprise at how unquiet the area is. She stated her two main issues are
zoning and roads/traffic. She stated that the split zoning issue is the access through a RE-4 residential for commercial use and related an example of a semi-truck situation. She explained that the roads are not in the best conditions, especially during breakup, and feels the traffic has now become “light industrial” use.

**Questions by the Commissioners**

**Mr. Whitaker** questioned what year Ms. Sparacino built her home.

**Ms. Sparacino** replied she built in September 2012 and in April 2013 moved into it.

**Mr. Whitaker** queried if Ms. Sparacino was living there when there was a community sponsored agriculture.

**Ms. Sparacino** responded affirmatively.

**Mr. Whitaker** probed if there was a lot less traffic now.

**Ms. Sparacino** replied that she does not believe there is a lot less traffic now, that in general, the subdivision gets a lot of traffic, and stated it is the gateway to the “recreational area”.

**Mr. Whitaker** interjected that he left the question too far open, and stated he meant to say his question was related to Mr. Emers’ Farm having had 20 people coming out there for the community sponsored agriculture, but he now only has 4 or 8 employees.

**Ms. Sparacino** indicated that she sees his employees driving, and that she is concerned that Mr. Emers’ own driveway is not the best and a lot of times people are parked on the road. She further indicated that the delivery trucks create dust and she does not have the security of a long driveway to minimize the dust. She stated that she did not know if there is more traffic as compared to the vegetable Farm’s traffic.

**Mr. Richard Deivert** he has lived on his property since 1992, and showed Commissioners a sheet of paper with a list (appeared to be compiled by him) of case files from the Alaska State Troopers related to his residence and incidents over the years of theft, break-ins, and attempted break-ins. He provided a summary of a burglary incident on his property in December 2014.

**Ms. O’Neall** sought confirmation that his primary concerns are the thefts.

**Mr. Deivert** detailed that his concerns are that the drug business is a cash only business and the neighborhood is already compromised, and made various statements concerning what he conveyed as general criminal activities over the years.

**Rebuttal by the Applicant**

**Mr. Emers** stated his appreciation for his neighbors taking the time to come and express their concerns. He indicated that his house has also been broken into and that they took down the sign to the farm to mitigate theft and general safety issues. He stated his desire to work with his neighbors on security concerns and that the Farm has a security system monitored by a security firm and that he does not keep cash on the property.
Questions by the Commissioners

Mr. Muehling questioned how Mr. Emers would characterize the security and if there is security on site 24/7.

Mr. Emers responded that there is 24/7 security.

Mr. Perreault asked if the break-in to his property was before or after he began the marijuana business.

Mr. Emers replied that it was about 20 years ago.

Mr. Perreault questioned if Mr. Emers has had any security concerns since putting up the new security measures and opening as a marijuana business.

Mr. Emers responded that when they submitted their application to the State, and when their address was posted for public notice, and the sign was still up, cars were coming down the road to see what was going on and as a result they removed the sign.

Mr. Perreault stated that one of the concerns expressed was that the product can be illegally traded, and sought confirmation that every bit of their product from growth to delivery is tracked and measured and monitored by the State.

Mr. Emers replied they have to account for absolutely everything that comes off the plants.

Ms. Presler requested confirmation that the people that would actually be Mr. Emers’ customers are not the general public.

Mr. Emers replied that he cannot sell to the general public that he can only sell to a retail store or another cultivator or processor.

Interested Person Testimony Closed

MOTION: To approve CU2017-020 for a marijuana product manufacturing facility, limited on with three (3) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval by Mr. Billingsley and seconded by Ms. O’Neall.

Discussion on the Motion

Mr. Billingsley stated that some of the concerns raised were a general opposition to drugs and the related crimes, but marijuana has been legalized and there is extensive security requirements under State law and regulations, and Staff determined traffic would not be impacted significantly, rather there could be potentially less than when there was a community sponsored agriculture program out there, so it seems an appropriate area for a manufacturing facility to be located.

Mr. Perreault stated he would be voting in support of this and agreed with Mr. Billingsley’s comments with the exception that he does not believe there is associated crime with this facility.
and pointed out that the paraphernalia Mr. Deivert brought was a needle which has nothing to
do with the legal marijuana trade in Alaska. He further stated that Mr. Emers has shown
compliance with the law in letter and spirit and there is no reason to object to proceeding with
his permit.

Ms. Presler stated that Staff did a good job of documenting that there are adequate public
facilities for this operation, and Mr. Emers has stated he does not anticipate an increase in
number of employees that would increase traffic and felt it may actually decrease. She further
stated that it does meet the intent of the land use plan and economic development goals and for
these reasons she is also in support.

Mr. Billingsley wanted noted, there is an on-site well and sewage holding tank, it is served by
the Goldstream Fire Service area and Livingston Loop is served by the Becker Ridge Road
Service area, it has adequate on-site parking, the associated use (farm) is consistent with the
designated zoning, the stormwater seems to be under control, the “no odor” is dealt with by the
conditions, the noise is not going to be a major concern, and the lighting is handled.

Ms. Wendy Doxey requested discussion from the Commission on Condition No. 2 regarding
odor. She stated she heard that odor actually may not be a concern for this facility, so if a
condition is going to be imposed she requested a record be made addressing that issue.

Mr. Billingsley responded that it appeared odor would not be a concern because there will be a
filter on the processing facility.

Ms. Doxey indicated her understanding from the Staff is that the proposed filters would mitigate
the impact from the manufacturing facility itself, but that the outdoor facility is producing odors,
and that the odor from the manufacturing facility are not necessarily a concern beyond the odors
already being produced by the zoning permitted cultivation facility.

Ms. Presler responded that she understood Mr. Emers to say that in the insulated connex
building and ATCO unit there would be some odor mitigating filtration system installed and she
believed the Commission could not consider the outdoor cultivation since it is already permitted
and being monitored by the State and for this particular permit, the manufacturing facility is the
only issue.

Ms. Doxey stated that when a condition is imposed, the concern needs to be identified and that
the condition addresses that concern. She indicated that discussion was needed on what odor
concerns are being addressed from the manufacturing facility.

Mr. Billingsley stated the concern is that the manufacturing facility is going to produce odor and
believes that the filter is going to mitigate that odor.

Ms. Presler elaborated that the odor produced could be from the extracting of the resin and oils.

Mr. Billingsley interjected with “production of the hash”.

Ms. Presler further stated “production of the hash” and that those are the types of odors the
Commission is concerned with, but Mr. Emers has a plan in place to install an odor filtration
system that can handle any odor.
Mr. Muehling stated that “the testimony was ice-water hash processing, press and dried and resin extraction to get oil”.

ROLL CALL

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

Zero (0) Opposed:

MOTION PASSED

The meeting recessed at 6:55 p.m., and reconvened at 7:05 p.m.

2. CU2017-021: A request by Haley Essig DBA Thirdstate on behalf of Green Diamond Properties, LLC for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Tract A, White Firehood Subdivision (located at 200 Pheasant Farm Road, on the east side of Pheasant Farm Road, south of Chena Hot Springs Road)

3. CU2017-022: A request by Haley Essig DBA Thirdstate on behalf of Green Diamond LLC for conditional use approval of a marijuana cultivation facility, outdoor limited in the General Use 1 (GU-1) zone on Tract A, White Firehood Subdivision (located at 200 Pheasant Farm Road, on the east side of Pheasant Farm Road, south of Chena Hot Springs Road).

OATH GIVEN

Mr. Singh presented his report and presentation on CU2017-21 and CU2017-022.

Questions from Commissioners

Mr. Billingsley requested Mr. Singh go back over the site plans again.

Mr. Singh stated that the two boxes show the extent of the two site plans; the house and the indoor building with the driveway, and then on the southside of the driveway is the proposed site of the greenhouse.

Mr. Billingsley asked for confirmation that the greenhouse is right before you get to the house.

Mr. Singh responded affirmatively. He further indicated that coming from Pheasant Farm Road, the driveway begins and then there is the outdoor cultivation greenhouse where there is potential parking.

Mr. Billingsley asked for the dimensions of the greenhouse.

Mr. Singh replied that the outdoor greenhouse is 100’ x 30’ and the existing indoor building is 60’ x 40’, but they are adding an additional 42’ x 40’ to the indoor building.
Mr. Muehling stated that site is not covered by a fire service area, however, the conditions proposed requires them to have adequate fire and safety capacity. He requested that Mr. Singh define adequate and is that a requirement.

Mr. Singh replied that the Borough does not have any fire code, rather the State Fire Marshal has jurisdiction to enforce the fire code outside the City of Fairbanks or City of North Pole. He related his conversations with the Fire Marshal’s Office. He further stated that Staff does not have any expertise and they have previously deferred to the State Fire Marshal for fire safety issues, and it is his belief that the Applicant is taking measures to follow DNR’s “firewise” practices and other measures to protect their property, so that was deemed adequate by Community Planning Staff.

Mr. Muehling asked if the definition for “adequate” come from DNR and the fire code.

Mr. Singh responded that the word “adequate” is not defined in code and different agencies might have opinions, but it is Community Planning’s criteria and the way it has been interpreted in the past that Community Planning has relied on the Fire Marshal’s opinion. He further stated that being in a fire service area is not an approval criteria for the Fire Marshal. He summarized that if the Fire Marshal gives a “go ahead” to the property, Community Planning has previously called that adequate.

Mr. Perreault asked what other active properties are on Pheasant Farm Road.

Mr. Singh responded that there are a lot of trees along the road, so it was difficult to tell, but from the aerial imagine there were dwellings and vacant parcels (pointed to them on the screen).

Mr. Perreault asked if the one to the southeast is accessed from Baseline Road.

Mr. Singh responded affirmatively.

Mr. Perreault stated that the road is not served by a road service area, but is maintained by the users.

Mr. Singh responded affirmatively.

Mr. Billingsley queried about the condition requiring that the outdoor operation be equipped with an appropriate-sized odor filtration system to minimize the marijuana odor, and asked if there is a table that is going to be relied upon to determine what is appropriate.

Mr. Singh explained there is no table, but that the Applicant would install a filtration unit at each vent in the greenhouse.

Mr. Billingsley questioned whether the Borough is concerned on how it is going to enforce that condition.

Mr. Singh replied that based on how the condition is written, as long as they have filtration systems on each vent location, it will be deemed adequate by the Borough, since is not necessarily a quantifiable measurement.
Applicant’s Presentation

Ms. Haley Essig pointed out to the Commission that they are going above and beyond what is required for fire mitigation and are following DNR’s “firewise” practices which includes landscaping, they have also called the Steese Fire Department and were informed that they would respond if someone were trapped in a burning building, and Steese Fire Department recommended the 50 gallon barrels. She stated that they would like to get approved without the odor mitigation condition and deferred to Mr. Solie to further expand on the basis for removing that condition.

Mr. Eric Solie clarified it is the odor mitigation of the greenhouse and not the indoor facility. He explained that the greenhouse is 3,000 square feet and consists of two forty-eight inch exhaust fans on the east end of the greenhouse and the intake is on the west end and consists of large louveres which are controlled by a computerized system that monitors the temperature, humidity, and carbon dioxide levels. He stated that each exhaust unit is capable of 21,000 cubic feet per minute of air flow. He further explained the common practice of mitigating odor using carbon filters and air exchange and stated it would be cost prohibitive to eliminate the odor and questioned what odor minimizations would be considered sufficient, and at this point, requested condition number 2 be removed since it does not appear there is a clear answer as to what would be adequate.

Ms. Essig added that they have spoken with all their neighbors on touching property and all understand there will be odors.

Mr. Solie stated their neighbors are here to speak in favor of their operation.

Questions from Commissioners

Mr. Whitaker asked if the State has a requirement for mitigating the odor in outdoor grow operations.

Mr. Solie replied that they do not and that an outdoor farm is considered an outdoor cannabis cultivation facility and there is not a technologically feasible way to eliminate the odor. He further mentioned that the greenhouse is located at the southern end of the property, and wind directions are north/northeast, so for the majority of the time, the odor would be disbursed over their 40 acre property, and the greenhouse would only be operational during the summer and fall, and tends to only smell during harvesting season.

Mr. Peterson questioned that the request is for an outdoor grow, but it is an indoor greenhouse, so wondered how they got that definition.

Ms. Essig responded that after discussion with Mr. Singh, and that while the material of the greenhouse is not odor permeable, the vents will be, and because of that it is considered an outdoor grow.

Mr. Billingsley requested input from Ms. Doxey.

Ms. Doxey stated that Title 18 defines marijuana cultivation facility, outdoor limited, and read the relevant portion.
Mr. Muehling asked what expertise were relied on to determine the filtration system for the indoor operation.

Mr. Solie responded that cubic feet per minute are the primary consideration, and an appropriate-sized carbon filtration system for the indoor will enable them to contain all odors.

Mr. Muehling asked what the purpose of the airflow is.

Mr. Solie responded that it ensures that temperature, humidity, and carbon dioxide levels are kept at an optimal range for growth.

Mr. Muehling questioned that the Applicant could not afford an adequate carbon filter system for the amount of airflow required to keep that sized greenhouse cool.

Mr. Solie replied that the cost would be prohibitive.

Mr. Muehling asked what if this were two greenhouses instead one, does that change the equation.

Mr. Solie stated he was not sure.

Mr. Guinn asked how many water gallons per minute are they going to be able to pump.

Mr. Solie indicated he does not have the number of gallons per minute, but for the fire mitigation, he stated they would comply.

Mr. Guinn expressed concern about water on hand to combat the fire, and stated relying on a well to provide that amount of water is not the smartest thing to do, and stated his curiosity if it would be pumped into tanks to have it available.

Mr. Solie replied that they will have reservoirs on hand that are used for feeding the plants; 100’s of gallons, and depending on what the State Fire Marshal states regarding water on hand, they will comply with those requirements.

Mr. Guinn stated that some of the rural fire departments have buried 10,000 gallon tanks around the Borough and their ISO has been lowered for that particular area. He further stated that 10,000 gallons has been a common number for putting out a structure fire.

Ms. Essig stated that they are trying to be proactive and training all their employees in incipient fire training, will have 11 fire extinguishers on site, and two 55 gallon barrels to mitigate the fire spreading; however, employees will evacuate the building.

Mr. Singh asked the Applicant if he believed that putting carbon filters on each vent of certain size would reduce the odor that the greenhouse would produce without any carbon filters at all.

Mr. Solie responded affirmatively.

Mr. Billingsley asked Planning Staff how the issue of odor gets resolved.

Mr. Singh responded that Community Planning lacks expertise on air filtration, but would recommend consulting a filtration or HVAC expert, and that the Department’s intent is not to
completely eliminate the odor since it is “outdoor”, but to minimize it for neighbors in close proximity.

Mr. Perreault questioned Mr. Singh, and identified that the application is for a greenhouse, but if it were truly outdoor, there would be no limit put on odor.

Mr. Singh replied that that is correct, but there would be other considerations, however, there would be no condition related to odor.

Mr. Perreault asked if there are other permits similar to this one where it is listed as an outdoor, but is inside a vented greenhouse.

Mr. Singh responded affirmatively that the very first permit which came before the Commission was an indoor and outdoor, which was approved, and required an appropriately sized filtration system, but that the language used today, is that no odor shall be detectable outside the building which came into effect after the Commission had heard four or five cases.

Mr. Perreault clarified that that is for an indoor facility.

Mr. Singh replied that it was for all cultivation buildings and, in that conditional use, there were some indoor building and outdoor greenhouses, but the conditions that were written were the same; appropriately sized air filtration systems.

Mr. Perreault stated that the permit is for an outdoor grow, despite it being inside a building, the building being wide open is treated as an outdoor grow, but if the roof was off of it other conditions would apply, but odor would not.

Mr. Singh replied that was correct, and given the situation, the Department’s interest was to minimize it to protect the health, welfare, and safety of the neighbors.

Interested Person Testimony Opened

Ms. Sherry Meierotto stated she has resided at her property since 1998 which is 2,300 feet from the property (not adjacent) and in general, is not opposed to medical marijuana. She detailed her concerns/questions:

- Young children in the neighborhood and noxious fumes not being adequately taken care of with filters.
- The element of crimes in Two Rivers - burglaries, thefts, murders, etc., and security measures in place for those Two Rivers residents who cruise around looking for an easy break in and finding it an easy target.
- Increased traffic of a criminal nature.
- Fire safety – her house burned down a few years ago, no fire service response and DNR will not fight actual fire
- Lack of familiarity with road conditions – Pheasant Farm is bad and sometimes impassable which drives people to other roads.

Mr. Perreault inquired who uses Pheasant Farm Road other than the two properties in the purple square and next to the purple square.
Ms. Meierotto replied that there is a large amount of traffic and she does not know what they are accessing, some are from the Peonies Farm, but unsure who they are or where they are going.

Mr. David Russell introduced himself and provided his address, and indicated he has the 40 acres of the 80 acres track and operate it is a Peonies Farm.

Ms. Presler asked Mr. Russell if he received a Dear Property Owner letter.

Mr. Russell indicated that he was not aware of receiving one.

Ms. Presler inquired if the property is in his name or his wife’s name.

Mr. Russell stated that it is in both their names, and stated that they are the adjoining property.

Ms. Presler found Mr. Russell to be an interested party as he is the owner of the property which lies within the shaded blue area.

Mr. Russell advised that he operates one of the largest peony operations in the state on the 40 acres just south of the property in question. He stated he shares the common driveway that cuts from Pheasant Farm to Baseline and through the corner of Applicant’s property, and has been in discussions with Applicant to improve the driveway and Pheasant Farm itself, and neither have retail businesses, so neither will increase traffic. He further indicated that his property is also a grow operation in that he grows peonies, and part of the fertilizer waste the Applicant discards, may be able to be used in his operation, and stated his shock on the odor discussions. He stated their property is in the middle of nowhere, and he has no concerns about the odor since they are not in a residential area, and stated his use of fish meal and manure. He stated his belief that the 24/7 occupancy at the proposed property is encouraging for the area to combat crime.

Questions from Commissioners

Mr. Muehling stated that not all odors are created equal and people smell things differently, so asks how he would respond to someone who says fish meal smells okay; marijuana doesn’t.

Mr. Russell stated he is surprised by that, and stated “frankly, fish meal stinks”, and further stated that the odor level achieved by plants in the greenhouse is not going to come anywhere near his fertilizing with fish meal a few times a year.

Interested Person Testimony Closed

Rebuttal by Applicant

Ms. Essig stated they would have someone living on site 24/7 and hopes that will decrease the crime in the area, in addition, will meet the state requirements for lighting and recording cameras around the facility and greenhouse.

Mr. Solie stated that they dropped off business cards at neighboring properties and apologized for having missed Ms. Meierotto’s property. He stated that they have been in contact with a couple of neighbors concerning upkeep of Pheasant Farm Road and is meeting with a local contractor to have Pheasant Farm Road graded.
Questions from Commissioners

Mr. Billingsley inquired if they are Green Diamond
Ms. Essig responded that Green Diamond is the landowner.

Mr. Billingsley queried who would be sleeping on the property.
Ms. Essig responded that it would be an employee; a manager essentially.

Mr. Billingsley questioned if they would be leasing the land and running the business.
Ms. Essig responded affirmatively.

Mr. Billingsley asked if it was a fully enclosed greenhouse.
Ms. Essig stated that there are no open sides or anything.

Mr. Billingsley inquired if it was odor permeable.
Ms. Essig replied that the material is not odor permeable (the actual plastic material).

Ms. Billingsley indicated he noted that from an email to Staff, that the odor permeable part of it would be the “vents”.

Mr. Solie responded affirmatively and stated it would be the louvers that stretch the entire width of the structure on the west side and are not odor tight as they are somewhat open.

Mr. Billingsley inquired if the west end was one of the long or short ends.
Mr. Solie replied that it is one of the short ends.

Mr. Billingsley reiterated that it is on the short ends, and on the other end are the fans.
Mr. Solie interjected is “two big fans that are pulling/pushing”.

MOTION: To approve CU2017-021 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 by Mr. Billingsley and seconded by Mr. Perreault.

Discussion on the Motion

Mr. Perreault stated he supports this permit as it is clear from the application and testimony that there is an adequate plan is in place to maintain the safety of the operation and are prepared for being outside a fire service area.

Ms. Presler indicated her concurrence with Mr. Perreault, and stressed that both testimony from Ms. Meierotto and correspondence from Steese Volunteer Fire Department; indicate that in the
event of a fire that spreads to land or trees, they would support the firefighting effort and mitigate spreading to a forest fire.

Mr. Muehling stated his belief that the odor issues are being adequately addressed for the structure.

Ms. Doxey advised she has serious concerns of the legality of the conditions imposing the fire practices, and if imposed, a record needs to be developed that demonstrates what about that particular use at that particular location is posing a land use impact to surrounding property owners that justifies the condition, and also, is the condition the least impactful condition to address whatever concerns have been identified.

Ms. Presler clarified it is condition number 3, and read the condition. She stated her belief that the condition may have come about by the Applicant volunteering to address concerns Staff may have had and stated her understanding that Ms. Doxey's concern with imposing it as a condition because this condition may not have been imposed for a similar facility.

Ms. Doxey indicated she is not concerned that it may not have been imposed for a similar facility, rather what is it about this facility that justifies imposing this condition from a land use impact perspective.

Mr. Perreault stated that from the concerns he has seen and heard is that structure fires are not going to be put out, and in order to protect wildfires or brush fires from developing and potentially spreading to other properties, that this is a reasonable condition to impose on a facility that is outside a fire protection area in order to keep other property owners from bearing the burden of mistakes or accidents made on that property.

Ms. Doxey inquired as to how the risk for this use at this property is different than say the Peony Farm to the south.

Mr. Perreault stated he doesn't believe the Peony Farm uses electric lights or greenhouses; its an outdoor operation.

Ms. Doxey stated she doesn't need discussion on the Peony Farm operations, rather discussion on this use, at this location, identifying the danger/risk being addressed specific to this property.

Mr. Perreault observed that any building that uses electricity runs the risk of having a fire at some point whether it is a residence; grow facility or any other commercial operation.

Ms. Doxey indicated that if that is true, then the way we address things like that is through legislative changes, but when we are in a conditional use format, we need to be looking at the risk posed by this use, at this location; a narrower focus.

Mr. Perreault stated he isn't trying to change legislation and that typically they have coverage from a fire service area, but since this lies outside it; it cannot be required, so alternatively, it is being required that they take steps to ensure their neighbors are protected in case there is a fire.

Ms. Doxey stated that if the Commission believes every marijuana facility outside a fire service area needs to have fire protection because every marijuana facility poses some risk, then that
needs to be done through a legislative change, versus addressing herein what is different about
this use that causes some risk that is trying to be addressed.

Mr. Billingsley interjected that he would be okay with giving up the condition.

Ms. Presler stated that she is also leaning towards Mr. Billingsley’s idea because she is not
sure that the risk poses any (interrupted).

Mr. Perreault interjected that he felt it is a completely reasonable thing to ask, not just of this,
but of every other one, and since he cannot change legislation right now, remove it in order to
proceed.

Mr. Peterson stated he would be more in favor of imposing something upward of 10,000
gallons in a holding tank and believes having this facility there is a fire risk with employees
working outside of fire protection, 20+ miles from town, presents a risk to employees, and to
surrounding areas.

Ms. Presler questioned the risk, and gave an analogy that if it were a gift shop, would we be
imposing the same conditions.

Mr. Peterson stated Chena Hot Springs as an example, and believes a requirement exits for a
sprinkler systems and all kinds of things in place, so questioned the difference.

Ms. Presler stated that that is a high occupancy building.

Ms. Doxey & Ms. Presler both indicated that that would be a Fire Marshal issue and not a
Borough regulation.

Ms. Presler detailed the need to establish that this particular type of use creates an increase
fire risk, and asked what part of it does.

Mr. Muehling stated that there are times when access to this property is difficult with two roads
available to the property and affects the fire risk.

Ms. Presler responded that that impacts the neighbor too; and if the neighbor doesn’t have to
do it why do they.

Mr. Peterson indicated it is because they are a commercial business.

Ms. Doxey stated that in the Staff Report there might be some concerns with humid conditions
with electricity, so if the Commission is concerned then that needs to be discussed if that is the
risk.

Mr. Perreault stated that he would much rather strike the requirement then imposing conditions
that have not been imposed even for higher risk uses. He further stated that the Applicant is
aware of the risk and they can make their choices accordingly.

Mr. Guinn stated that their insurance agent would be out to inspect and if there are problems
they will either get insurance or not.
Ms. Presler stated it might be a self-regulating situation that the Commission does not need to be involved in.

**MOTION:** To strike condition number 3 from the Conditional Use Permit by Mr. Perreault and seconded by Mr. Billingsley.

**ROLL CALL (Motion to Strike)**

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

One (1) Opposed: Mr. Peterson

**MOTION PASSED**

**ROLL CALL (Main Motion CU2017-021)**

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

One (1) Opposed: Mr. Peterson

**MOTION:** To approve CU2017-022 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 by Mr. Muehling and seconded by Mr. Whitaker.

**MOTION:** To strike conditions 2, odor filtration, and 3, firewise landscaping practices, by Mr. Perreault and seconded by Ms. Presler.

**Discussion on Motion to Strike**

Mr. Perreault stated it does not make sense to impose a condition to remove odor, particular in a rural area, because if the greenhouse did not have a top, odor mitigation would not be an issue. He further stated that the “firewise” landscaping practice in condition 3 is best summed up in the previous motion discussions.

Mr. Billingsley indicated that there might be in issue with the definition of marijuana cultivation facility, outdoor limited, because this is limited to buildings that do utilize odor permeable materials and this structure does not have odor permeable materials, but has louvers at one end, and when closed, it is not an outdoor facility at all. He further stated that Mr. Perreault’s justification for getting rid of the odor condition that they are in the middle of nowhere could apply to the indoor facility too.

Mr. Perreault interjected that it’s primarily because it is listed as an outdoor facility.

Mr. Billingsley questioned why we are concerned about the odor escaping the indoor facility.

Mr. Perreault replied that the indoor facilities are commonly in more populated areas.
Mr. Billingsley questioned why worry about that.

Mr. Perreault responded that it falls within one definition. He further stated that the outdoor one is loosely defined, and stated his belief that odor control should be a condition.

Mr. Billingsley questioned that one of the conditions passed in the previous permit was that they had to control the odor coming out of the indoor facility, so trying to determine what the guiding principle is.

Mr. Perreault stated that an outdoor one should not have that condition.

Mr. Peterson stated that the difference is that if it was outdoors it would just be outdoors and would not have high-powered fans which may move the air a lot further than if it was a grow in a field. He stated his agreeance to removing the fire plan, but feels the odor filtration should remain.

Mr. Muehling stated he would be fine with removing the “firewise” landscaping practices, and while a filter will never completely remove the odor, in past practices the Commission has affirmed that an effort is necessary to remove odor from these facilities.

Mr. Billingsley inquired if legal has advised if this qualifies as a marijuana cultivation facility, outdoor limited, especially the odor permeable portion.

Ms. Doxey responded that this issue has not been discussed as a group in the legal department, and stated her interpretation.

Mr. Brandt stated that the definition says odor permeable materials; the materials of the louvers are not completely permeable because they do not seal.

Ms. Doxey indicated that that might be a highly technical distinction.

Mr. Perreault stated everyone’s agreeance that the greenhouse is a structure and if you are inside the greenhouse you are indoors.

Mr. Billingsley stated that if it really is a marijuana cultivation facility, outdoor limited, it could be rejected because the Applicant applied for the wrong permit, and ask Community Planning to re-evaluate it.

Ms. Doxey interjected the Commission could ask for an amended application be brought before them.

Mr. Billingsley stated he is not opposed to this operation, rather questions the regulation.

Mr. Muehling sought to have Mr. Perreault take the two conditions one at a time.

MOTION: To withdraw the Motion to Strike by Mr. Perreault and seconded by Mr. Billingsley.

CARRIED WITHOUT OBJECTION
MOTION: To strike condition 3, firewise landscaping practices, by Mr. Perreault and seconded by Mr. Muehling.

ROLL CALL (Motion to Strike Condition No. 3)

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

One (1) Opposed: Mr. Peterson

Ms. Doxey indicated that the odor condition, as written, may not be enforceable.

Mr. Perreault opined if it cannot be enforced, it should not be passed.

Mr. Muehling inquired if this is the language that has been passed in the past.

Ms. Doxey stated she did not have an example in front of her, but she has no recollection of past conditions recently with conditions such as “appropriately sized to minimum odor”.

Mr. Billingsley stated that in the past, they have most often dealt with indoor operations where they have to completely eliminate odor, but in this case it is to “minimize” it.

Ms. Doxey clarified that Staff had indicated they would interpret this condition to have been met as long as there were odor filtration systems at each venting location.

MOTION: To strike condition 2, odor filtration, by Mr. Perreault and seconded by Mr. Stepovich.

Discussion on Motion to Strike

Mr. Perreault stated his position that the application is for an outdoor grow operation and imposing odor restriction is not practical in the broadest terms and there is no ability to quantify what it would take to minimize odor.

Ms. Presler and Mr. Whitaker stated their support of Mr. Perreault’s Motion and reasoning.

Mr. Muehling discussed that he understands there is no way to eliminate the odor completely, but believes some effort is necessary regardless of the location, and worried that a precedent might be set. He further stated he would like to see filtration on all facilities.

ROLL CALL (Motion to Strike Condition No. 2)

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

One (1) Opposed: Mr. Muehling

MOTION PASSED
ROLL CALL (Main Motion)

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

Zero (0) Opposed:

MOTION PASSED

H. APPEALS

There were no appeals.

I. UNFINISHED BUSINESS

There was no unfinished business.

J. NEW BUSINESS

There was no new business.

K. EXCUSE ABSENT MEMBERS

L. COMMISSIONER’S COMMENTS

Mr. Whitaker asked if there was any way to schedule a tour of marijuana facilities.

Ms. Doxey responded that the Commission could arrange a tour and it would need to be publicly noticed, but cautioned Commissioners that they would not be able to consider that evidence for any particular quasi-judicial matter before it because potentially every facility is different.

Ms. O’Neall attended the FMATS meeting held on 7th and provided a summary of topics covered at the meeting.

M. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:49 p.m.