PLANNING COMMISSION MEETING

March 7, 2017
AGENDA

6:00 p.m.
March 7, 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 21, 2017 PC Meeting.  (Page 5)

E. CONSENT AGENDA ITEMS

   NONE

F. QUASI-JUDICIAL HEARING

   1. CU2017-012: A request by Matthew Langberg DBA Ci’s Canna LLC on behalf of
      Rod & Lori Cahill and Norseman Investments LLC for conditional use approval of a
      marijuana cultivation facility, indoor large in the General Commercial (GC) zone on
      Lot 3A & Lot 3B, Block 6, Rickert Subdivision (located at 1616 Cushman Street, on
      the west side of Cushman Street, between 16th Avenue and 17th Avenue).  (Staff
      Contact: Manish Singh)  (Page 23)

G. PUBLIC HEARING

      Buffer Distances For Marijuana Establishments And Deleting The Definition of
      Cultivation Broker Facility And Deleting It As A Use in Title 18.  (Sponsors: Assemblymembers Dodge and Davies)  (Staff Contact: Kellen Spillman)  (Page 93)
2. **Ordinance 2017-21**: An Ordinance Amending FNSBC Title 18 To Define Community Gardens And To Add Community Gardens As A Permitted Use Or Conditional Use In Appropriate Zones. *(Staff Contact: Kellen Spillman)*
   (Page 107)

3. **Ordinance 2017-19**: An Ordinance Amending FNSBC Title 18 Definitions And Sign Regulations To Delete And Amend Content-Based Sign Regulations To Comply With First Amendment Protection, Exempting Flagpoles From Required Yards And Amending FNSBC 1.20.080 Fine Schedule. *(Staff Contact: Christine Nelson)*
   (Page 119)

**H. APPEALS**

NONE

**I. UNFINISHED BUSINESS**

**J. NEW BUSINESS**

**K. EXCUSE ABSENT MEMBERS**

**L. COMMISSIONER’S COMMENTS**

1. FMATS  (Page 137)

2. Other

**M. ADJOURNMENT**
MINUTES

February 21, 2017
A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Mona Lisa Drexler Assembly Chambers, Juanita Helms Administration Center, 907 Terminal Street, Fairbanks, Alaska. The meeting was called to order at 6:30 p.m. by Wendy Presler, Chairman.

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

MEMBERS ABSENT: Robert Peterson

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

A. ROLL CALL

B. MESSAGES

1. Chairperson’s Comments
   None

2. Commissioner’s Comments
   None

3. Communications to the Planning Commission

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

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

   a. Items other than those appearing on the agenda.

      None
5. Disclosure & Statement of Conflict of Interest

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

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

Mr. Whitaker responded not on his part, no.

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

Mr. Whitaker replied he does.

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

Mr. Whitaker responded no.

C. * APPROVAL OF AGENDA AND CONSENT AGENDA

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

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

CARRIED WITHOUT OBJECTION

D. MINUTES

1. *None

E. CONSENT AGENDA ITEMS

None

F. QUASI-JUDICIAL HEARING

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

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

**Conditions for Approval**

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

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

   b. The applicant or holder of this conditional use permit shall comply with all recommendations and/or requirements resulting from the plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau).

   c. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Environmental Conservation (ADEC) Solid Waste Program and shall comply with all recommendations and/or requirements resulting from the plan review or provide documentation that a plan review for onsite disposal of marijuana plant waste is not required.

   d. The applicant or holder of this conditional use permit shall submit a ‘No-rise Certification for Floodways’ and obtain a new floodplain permit and a new certificate of compliance for the proposed improvements, or revise the building design, to comply with Title 15 Floodplain Management Regulations.

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

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

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

**Findings of Fact for approval**

1. The proposed conditional use will conform to the intent and purpose of Title 18, Title 15 and of other ordinances and state statutes:

   a. The purpose of Title 18 will be met because the proposed conditional use is not inconsistent with ‘Perimeter Area’ and ‘Preferred Residential Land’ comprehensive plan land use designations. The Comprehensive Plan Land Use Goal 3 and Economic Development Goal 2 are being enhanced with the development of this site as a marijuana cultivation facility.
b. The intent of Title 18 will be met because with the conditions imposed, the conditional use will both protect private property rights and promote public health, safety, and welfare.

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

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

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

   a. The site has an onsite well and a septic system
   b. The site is served by Chena Goldstream Star Fire Service Area for fire protection and rescue services and by Alaska State Troopers for law enforcement.
   c. The site is currently connected to the GVEA grid and will provide sufficient energy supply for indoor cultivation activities.
   d. Six (6) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed cultivation conditional use.
   e. Traffic generated by the proposed use will have relatively little impact on Perkins Drive and Old River Landing Road which are maintained by Becker Ridge road service area and have adequate capacity for the additional trips generated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ms. Nunley stated that is correct.

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

Ms. Nunley responded that is correct.

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

Ms. Nunley replied no, she would not.

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

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

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

Ms. Nunley stated she now understood.

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

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

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

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

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

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

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

Mr. Muehling inquired if it is an overwhelming smell.

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

Interested Person Testimony Closed

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

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

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

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

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

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

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

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

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

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

Discussion on the motion to amend
None

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

Zero (0) Opposed:

MOTION CARRIED

Further discussion on the main motion as amended
None

Main motion now reads as follows:

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

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

One (1) Opposed: Mr. Billingsley

MOTION CARRIED

G. PUBLIC HEARING

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

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

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

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

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

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

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

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

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

9. The rezone is not a spot zone because:
   a. It is consistent with the Comprehensive Plan Urban Preferred Commercial Area land use designation and Land Use Goal 4, Strategy 11, Action A and Land Use Goal 4, Strategy 10, Action B;
   b. (1) The LC zone would also have benefit for the property owner because it would allow for commercial development of the property. However, the LC zone would have lesser benefits for the property owner compared to GC, because LC zone has more restrictions on number of buildings, gross floor area, maximum height, hours of operation, outdoor storage and outdoor lighting.

   (2) The LC zone has benefits for the adjacent landowners because it is intended to provide for light commercial uses and to provide a buffer for residential areas. The restrictions on number of buildings, gross floor area, maximum height, hours of operation, outdoor storage and outdoor lighting in LC zone would have benefits for adjacent residential property owner. The commercial uses allowed under LC zoning would have benefits for the adjacent commercial property owners.
(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. The size of the property is not the only factor in the spot zone determination. The current MF zone is no longer appropriate for the subject properties because the uses allowed under MF zone are not compatible with the ‘Urban Preferred Commercial Area’ land use designation. The LC uses are sufficiently similar to those allowed under adjacent GC zoning to be considered as a land use classification not totally different from that of the surrounding area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Bennett replied four years ago in 2013.

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

Mr. Spillman stated we did have the same comprehensive plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Bennett stated he understands.

Public Testimony Opened

None

Public Testimony Closed

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

Discussion

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

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

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

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

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

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

One (1) Opposed:  Mr. Guinn

MOTION CARRIED

H. APPEALS

None

I. UNFINISHED BUSINESS

None

J. NEW BUSINESS

None

K. EXCUSE ABSENT MEMBERS

None

L. COMMISSIONER’S COMMENTS

1. FMATS

   Ms. Thayer relayed information regarding ongoing projects at FMATS.

M. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:41 p.m.
CU2017-012: A request by Matthew Langberg DBA CI’s Canna LLC on behalf of Rod & Lori Cahill and Norseman Investments LLC for conditional use approval of a marijuana cultivation facility, indoor large in the General Commercial (GC) zone on Lot 3A & Lot 3B, Block 6, Rickert Subdivision (located at 1616 Cushman Street, on the west side of Cushman Street, between 16th Avenue and 17th Avenue).

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 marijuana cultivation facility, indoor large (see Figure 1), with proposed conditions, will meet the intent and purpose of Title 18 and of other ordinances and state statutes, will have adequate public services and will protect public health, safety and welfare.

Figure 1: Existing Building at 1616 S. Cushman Street
II. GENERAL INFORMATION

A. Purpose
To allow use of an existing two-story building as marijuana cultivation facility, indoor large in the GC zone.

B. Location
On the west side of Cushman Street, between 16th Avenue and 17th Avenue

C. Access
Cushman Street, Stacia Street

D. Size/PAN

<table>
<thead>
<tr>
<th>Area</th>
<th>PAN (Lot)</th>
</tr>
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<tbody>
<tr>
<td>5,225 sq.ft.</td>
<td>0512389 (Lot 3A)</td>
</tr>
<tr>
<td>5,225 sq.ft.</td>
<td>0088421 (Lot 3B)</td>
</tr>
</tbody>
</table>

E. Existing Zone
General Commercial (GC)

F. Existing Land Use
Vacant two-story building

G. Surrounding Land Use/Zoning
North: Zoning: GC
      Land Use: Vacant building

South: Zoning: GC
      Land Use: Commercial

East: Zoning: GC
      Land Use: Commercial

West: Zoning: MFO (across Stacia St.)
      Land Use: Vacant Land

H. Community Facilities
Water & Sewer: City of Fairbanks
Electricity: GVEA

I. Code Violations
None on file

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

K. Zoning History
Business II zone to General Commercial (GC) with Ordinance No. 88-010, effective April 25, 1988

L. Ownership
Rod and Lori Cahill
607 Old Steese Hwy Ste B156
Fairbanks, AK 99701

M. Applicant
Matthew Langberg DBA CI’s Canna LLC
209 Bridget Ave Unit A
Fairbanks, AK 99701
Email: mlangberg@langbergenterprises.com
Phone: (907) 388-8507
III. ZONING AND DEVELOPMENT HISTORY

FNSB Assessor's Records estimate that the existing two-story building was constructed in 1963 without any zoning permits (Exhibit 1). This building contains retail and office space on ground floor and residential apartments on second floor.

IV. PROPOSED USE AND PROJECT INFO

The applicant has requested a conditional use permit to use the existing two-story building at 1616 S. Cushman Street as a marijuana cultivation facility, indoor large (see Figure 2). 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 has proposed off-street parking within 300 feet on the adjacent property, Lot 1, 2A & 2B, Block 6, Rickert Subdivision (see Figure 2) as allowed in FNSBC 18.96.060(E).

Figure 2: Site Plan
(The proposed marijuana cultivation building is shown in red; the parking is shown in green)
The total floor area of this two-story marijuana cultivation facility is 9,600 sq.ft. with 4,800 sq.ft. on each floor. The applicant has structured the development of this marijuana cultivation facility into two phases. In the first phase, the applicant has proposed to operate only on the second floor (see second floor plan in Figure 3). The second floor is currently used as residential units. This second floor has a separate entrance with a staircase on east side (see entrance staircase is red color in Figure 3). A person does not need to enter the commercial space of first floor to access the second floor with this staircase.

In the second phase, the applicant intends to expand on first floor; however, the applicant has not provided specific floor plan for first floor at the time of this conditional use application (see Figure 4).

The applicant estimates having maximum 6 employees. The applicant has stated that the facility may operate 24-hours a day. The cultivation facility will not be open for the general public and the visitors would be infrequent. The applicant intends to use Deep Water Culture, a hydroponic method, for marijuana cultivation. The applicant intends to recycle all of their water used in cultivation. There is an existing sign on the property; however, the applicant does not intend to use it for this proposed marijuana cultivation facility.

**Figure 3: Second Floor Plan (Phase 1)**
(Residential Units on Second Floor are proposed to be converted into Marijuana Cultivation Floor)
The subject property is currently zoned GC. This property is surrounded by GC in north, south and east and by MFO in west across Stacia Street (Figure 5). The surrounding properties in north, south and east are developed commercially. The parcels on the west are currently vacant (Figure 6). The Comprehensive Plan Land Use Map characterizes this area as ‘Urban Preferred Commercial Area’ (Figure 7).
Figure 5: Zoning in the Surrounding Area

Figure 6: Land Use in the Surrounding Area
V. APPLICABLE APPROVAL CRITERIA

Conditional Uses for marijuana establishments are governed by FNSBC18.104.050(C) and FNSBC18.96.240 (see Exhibit 2 for details).

VI. PUBLIC NOTICE

The Community Planning Department mailed 231 dear property owner notices and received one walk-in inquiry about this case.

VII. AGENCY COMMENTS

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

- City of Fairbanks Building Department
- City of Fairbanks Fire Department
- City of Fairbanks Police Department
- City of Fairbanks Chief of Staff
- Alaska Department of Transportation and Public Facilities (ADOT&PF)
- Golden Heart Utilities (GHU)
- Golden Valley Electric Association (GVEA)

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

A. Transportation & Parking

The subject property is accessible with from South Cushman Street and Stacia Street. South Cushman Street has sidewalks on both sides and is served by the Green and Purple bus lines. South Cushman Street is classified as an arterial type roadway. It is maintained by the City of Fairbanks and was reconstructed in 2014. Average Daily Traffic (ADT) counts on South Cushman Street in the immediate area ranged between 8,000 and 9,000 vehicles per day from 2011 - 2013.\(^2\) The proposed use would generate approximately 28 trip ends per weekday in Phase 1. This calculation is based on the estimated maximum 6 employees in Phase 1 and relying on the closest related land use “Nursery (Wholesale)” in the Institute of Transportation Engineers (ITE) Trip Generation Manual (Table 1). South Cushman Street could easily accommodate the small number of trip ends generated by the proposed facility for Phase 1. The application does not have enough information such as a floor plan for first floor or number of employees for Phase 2, therefore Community Planning staff couldn’t analyze transportation impacts for Phase 2.

Table 1: Trip Generation Summary\(^3\)

<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>6 employees for Phase 1</td>
<td>Nursery (Wholesale)</td>
<td>23.40 trip ends/5 employees</td>
<td>28.08 trip ends</td>
</tr>
</tbody>
</table>

Although a marijuana cultivation facility, indoor large is a conditional use on the subject parcel in GC zone, the GC zone allows many uses with a zoning permit that have significantly higher trip generation potential. These outright allowed uses in GC include a gas station with convenience store, apartment complexes, shopping centers, drive-through facilities etc. Compared to these uses, a marijuana cultivation facility has a much lower trip generation potential.

The applicant has proposed off-street parking within 300 feet on the adjacent property, Lot 1, 2A & 2B, Block 6, Rickert Subdivision (see Figure 2) as allowed in FNSBC 18.96.060(E). Parking demand for the marijuana cultivation facility is based on FNSB standard requirements of 3 parking spaces for every 4 employees [FNSBC 18.96.060(C)]. The applicant expects maximum 6 employees for Phase 1 for the marijuana cultivation facility, indoor large. The site plan provided by the applicant shows 5 required parking spaces for Phase 1. The site plan shows the paved traffic circulation and loading area with adequate backing, turning and maneuvering space (see Figure 2).

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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.


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 current property owners, Rod and Lori Cahill 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 (Exhibit 3) demonstrates that the commercial marijuana cultivation facility is not located within the buffer distances provided in FNSBC18.96.240(A)(3)(a-e). The proposed cultivation facility has five (5) sensitive uses within 500 feet; however, the proposed marijuana cultivation facility is not located within their respective buffer distances.

FNSBC18.96.240(A)(3)(c) requires a 100 foot buffer from the state licensed day care facilities, church buildings and residential zones. Little Thinkers Home Care and The Learning Center are state licensed day care facilities located at 1554 Stacia Street and 1701 S. Cushman Street respectively. Crown of Glory Worship Center and Christ is the Answer are church buildings located at 1710 S. Cushman Street and 402 Sixteenth Avenue respectively. Lot 14-19, Block 23, Rickert Subdivision are zoned MFO, which is a residential zone. The proposed facility is not located within this 100 foot buffer for any of these sensitive uses. All state buffer requirements provided in 3AAC 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 3).

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 not in GU-1 or GU-5 zone.

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 ‘Urban Preferred Commercial Area’ (Figure 7). The proposed conditional use is consistent with the comprehensive plan land use designation, Urban Preferred Commercial Area, for the subject property because it proposes commercial indoor cultivation of marijuana along South Cushman Street which is already developed with commercial uses (Figure 6).

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 six jobs with this conditional use. This 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 GC zone. The public notification, public hearing procedures and approval
criteria for conditional uses help protect the property rights of the surrounding property owners.

The marijuana cultivation facility is served by South Cushman Street and Stacia Street. South Cushman Street is classified as an arterial type roadway and is maintained by the City of Fairbanks. 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 South Cushman Street. Additionally, South Cushman Street has sidewalks on both sides and is served by Green and Purple bus lines.

The proposed conditional use promotes economic development and the growth of private enterprise because it would support six jobs in the area and would diversify the existing commercial corridor of Cushman Street.

The applicant has addressed site security elements and has developed strategies for plant and liquid waste disposal. 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: 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.

(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 proposed conditional use has adequate existing water and sewage capacity. The property is within the City of Fairbanks limits and is connected to Golden Heart Utilities water and sewer lines.

Energy: The proposed conditional use has adequate power supply because they are covered by GVEA grid.

Police: The proposed conditional use is served by City of Fairbanks Police Department.

Transportation: The marijuana cultivation facility is served by South Cushman Street and Stacia Street. South Cushman Street is classified as an arterial type roadway and is maintained by the City of Fairbanks. The proposed conditional use will have adequate transportation facilities because the additional traffic generated by the proposed use will have relatively little impact on South Cushman Street. Additionally, South Cushman Street has sidewalks on both sides and is served by Green and Purple bus lines. The applicant has provided the required 5 off-street parking spaces and a loading area with sufficient backing and maneuvering space.
(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. 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.

Site security, marijuana liquid and plant waste, outdoor lighting, noise, odor and hours of operation could be potential concerns for surrounding properties with a commercial marijuana cultivation operation.

**Site Security and Marijuana Waste Disposal:** The applicant intends to secure all marijuana and marijuana products inside the building to ensure the general public does not have access to them. The applicant has stated that their security system include door and window monitors, and cameras covering the cultivation facility. The applicant has stated that the marijuana plant waste would be rendered unusable via mixing with equal parts cardboard. It would then be disposed of at the Solid Waste Facility in town.

The state licensing, operational standards including restricted access areas, security alarm systems, video surveillance, waste disposal methods 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. Compliance with state regulations related to security, waste disposal, health and safety would mitigate any security breach and help ensure employees’ health and safety. Therefore, Community Planning recommends compliance with 3AAC 306 as a condition to ensure public health, safety and welfare.

**Wastewater Discharge:** The applicant intends to use Deep Water Culture, a hydroponic method, for marijuana cultivation. The applicant intends to recycle all of their water used in cultivation. Marc Harmon, Environmental Compliance Manager for Golden Heart Utilities (GHU), has commented that the wastewater resulting from marijuana cultivation and processing could adversely affect GHU wastewater treatment plant, collection system workers and the environment. This could negatively impact the public health, safety and welfare. GHU requires marijuana cultivation establishments to submit a ‘wastewater control plan’ prior to discharge. This control plan would help GHU assess the potential risks and determine if permitting is necessary. Therefore, Community Planning recommends a wastewater control plan review by Golden Heart Utilities and to comply with all requirements and/or recommendations resulting from the plan review prior to the commencement of operations.

**Odor:** 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.
Outdoor Lighting: The site plan provided by the applicant shows three exterior roof lights which would point downward on the parking areas. Two of these three roof lights point down toward the parking lot on the north side which has already developed commercially. One light points down toward the loading area on the west side. The west property line abuts residential MFO zone, which exists across Stacia Street. This roof light is approximately 80 feet away from Stacia Street and the three MFO zoned lots adjacent west of Stacia Street are currently vacant. Therefore, the outdoor lighting does not negatively impact the public health, safety and welfare of these surrounding properties. Additionally, FNSBC 18.96.140 restricts directing Lighting, glare and general illumination towards residentially zoned properties.

Noise: 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 running water and carbon filter fans. Moreover, this property is located along South Cushman Street which has developed commercially. Properties surrounding the marijuana cultivation facility already experience similar noise and lighting levels.

Hours of Operation: The applicant has stated that the facility may operate 24-hours a day. These hours of operation do not negatively impact the neighborhood’s public health, safety and welfare because the facility is located on South Cushman Street which is arterial type roadway and experiences 24-hour traffic. Moreover, there are no limits in hours of operation in the GC zone.

Fire Safety: Fire and rescue services for this operation are available through the City of Fairbanks Fire Department. Kyle Green, Deputy Fire Marshall for City of Fairbanks, has commented that marijuana cultivation facilities have F-1 (Factory and Industrial) occupancy under International Building Code. The F-1 occupancy restricts the use of second story for any marijuana cultivation, drying or processing uses without a sprinkler system or a 5-A type construction. A 5-A type construction requires a minimum 1-hr fire rating for the structure. Any lack in ensuring necessary fire safety provisions for an indoor marijuana cultivation operation could result in a fire or an employee/visitor safety issue because marijuana cultivation operations have high usage of electricity in a moist environment. Therefore, Community Planning staff recommends a formal plan review by the City of Fairbanks Building Department and Fire Department and compliance with all recommendations and/or requirements resulting from the plan review as a condition to minimize fire and other safety risks, thereby ensuring public health, safety and welfare.

Future Expansion on First Floor (Phase 2): The applicant’s submittals do not include a specific floor plan for first floor for Phase 2 (see Figure 4), therefore, the potential health, safety welfare impacts and adequacy of existing public facilities could not be fully analyzed by Community Planning. The applicant did not provide enough information in the application or in the floor plan for the first floor (Phase 2) for Community Planning to make a recommendation. Therefore, Community Planning recommends a condition to apply for a new conditional use permit or for an amendment to this conditional use permit when the applicant expands on first floor with this marijuana cultivation use.

The applicant’s submittals indicate that the applicant must go to other agencies such as the City of Fairbanks Building and Fire Departments 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 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 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.

IX. 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 GC zone with four (4) conditions.

X. CONDITIONS

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

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

   b. The applicant or holder of this conditional use permit shall obtain a formal plan review by the City of Fairbanks Building Department and Fire Department and shall comply with all recommendations and/or requirements resulting from the plan review.

   c. The applicant or holder of this conditional use permit shall obtain a written wastewater control plan review by Golden Heart Utilities and shall comply with all requirements and/or recommendations resulting from the plan review.

2. Indoor cultivation, drying, and processing rooms or portions of the building shall be equipped with appropriately sized odor filtration systems and marijuana odor shall not be detectable by the public from outside the cultivation facilities.

3. If any portion of the first floor is used for any functions supporting a marijuana establishment an amendment to the Conditional Use Permit or a new Conditional Use Permit shall be required.

4. If any modifications are made to the site plan, second story 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 conditional use, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050(D).

XI. FINDINGS OF FACT

The Department of Community Planning further recommends the following Findings of Fact in support of approval:
1. With the conditions imposed, the proposed conditional use will conform to the intent and purpose of Title 18 and of other ordinances and state statutes:

   a. The purpose of Title 18 will be met because the proposed conditional use is consistent with ‘Urban Preferred Commercial Area’ comprehensive plan land use designation. The Comprehensive Plan Land Use Goal 3 and Economic Development Goal 2 are being enhanced with the redevelopment 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.

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 is served by City of Fairbanks sewer and water.
   b. The site is served by City of Fairbanks Police and Fire Department.
   c. The site is currently connected to the GVEA grid and will provide sufficient energy supply for indoor cultivation activities.
   d. Five (5) required 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 South Cushman Street which is maintained by the City of Fairbanks and has 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 GC zone and Standards for Commercial Marijuana Establishments (FNSBC 18.64 and 18.96.240, respectively) as well as state requirements for a commercial marijuana cultivation facility.

   a. With the conditions imposed, 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 on the parking area and would not negatively impact adjacent residential zones.
g. The hours of operation do not negatively impact the neighborhood because the facility is located on South Cushman Street which is arterial type roadway and experiences 24-hour traffic.

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.
Exhibit 1

UMB03 06 RICKERT : 0667062

General

Neighborhood: Bjerremark

Valuation Method: Cost

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</tr>
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Land

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<td>5.0000</td>
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Improvements

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<th>Qty</th>
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Non-Standard Improvts

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Printed On 11/18/2016 Printed By steert page 1
# Qualifiers

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<th>QG</th>
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## Primary Sections

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Total SQ FT: 9830

## Secondary Sections

|   |   |   |   |   |
|---|---|---|---|
| Finish Type | FP | Base Summ | Deviation | Value |

Total SQ FT: 10,300

## Amenities

<table>
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<tr>
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Price: 11,300
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.
500 Foot Buffer List for Ci’s Canna Conditional Use Permit

Ci’s Canna
Block 6 of Rickert Lot 3A, 3B
1616 Cushman St.
Fairbanks, AK 99701

Block 22 of Rickert

- Lots 5, 6, 7, 8, 9, 10, 17, 16, 15, 14, 13, 12, 11A, 11B, 17 are all residential

Block 23 of Rickert

- Lots 1, 2B, 2A, 3, 4, 5, 6, 7, 8C, 8B, 8A, 9C, 9B, 9A, 19, 18, 17, 16, 15, 14, 13, 12, 11A, 11B, 10A, 10B are all residential.

Block 7 of Rickert

- Lots 8, 9 have the Borealis Towing impound yard
- Lots 5, 6, 7 are empty
- Lots 1, 3 & 4N has a commercial building which has Crown of Glory Worship Center and Mattie’s One-Step Hair and Beauty Supply

Block 5 of Rickert

- Lots 2A, 2B have Heartland Realty and then a vacant commercial building
- Lots 3 has Pacos Tacos and some residential space
- Lot 4W has a residential 5plex
- Lots 4E, 5W, 5E are empty and used for parking
- Lot 6 is Esther Barber and Styles and the Alaska Motel
- Lot 7A is empty and used for parking
- Lot 8E has a commercial building which will potentially another Marijuana Cultivation Facility and a Marijuana Retail.

Block 6 of Rickert

- Lots 1, 2A, 2B, 3A, 3B is Hoitts Plaza which is two commercial buildings and parking area
- Lots 4, 5 is Fairbanks Paint & Glass
- Lot 6N is vacant and used for parking
- Lot 6 is the American Legion
- Lots 6S, 7 is a commercial building which currently has the Oriental Market, Ak Legal Services, District Recorder, Vital Statistics and Division of Agriculture

Block 10 of Rickert

- Lots 1A, 2A, 3A are residential
Block 17 of Rickert

- Lots 13, 14, 15, 16, 17, 18, 19, 20A, 20B are all residential

Block 18 of Rickert

- Lots 10E, 11, 12 are all residential

Block 4 of Gateway

- Lot 1-A, 1-B is a commercial warehouse, a portion of which is The Learning Center

Block 5 of Gateway

- Lots 1, 2, 15, 17, 18, 19, 20, 21, 22, 23, 24 are all residential
- Lots 3, 4, 5, 6, 7 are the Travelodge building and parking
- Lots 8, 9, 10 are vacant
- Lots 11, 12 are used for Parking for Street Sounds
- Lots 13, 14 is the Christ is the Answer Church
- Lot 16 is Robert A. Sparks Attorney Office

Block 3 of Gateway

- Lots 1, 2E, 3, 4E have a vacant building and parking
- Lots 5, 6, 7A, 7B, 8, 9 are the Willow House Hotel and Parking
- Lot 10 is empty and used for parking
- Lot 11 has the Baker and Associates Insurance building
- Lot 13 has Street Sounds shop
Cushman Street looking north

Proposed marijuana cultivation facility at 1616 Cushman St.
Proposed loading area, south of subject property

Stacia St. looking north
Agency Comments

CU2017-012
February 14, 2017 11:15 AM

Phone call conversation with

Kyle Green
Deputy Fire Marshall, City of Fairbanks
Phone: 907-450-6614, Email: kgreen@fairbanks.us

Manish Singh, FNSB Planner, asked if the building at 1616 Cushman Street would require a sprinkler system for using second story for marijuana cultivation. Manish mentioned that on a different marijuana cultivation location under state fire marshal’s jurisdiction, the state restricted the use of upstairs for marijuana cultivation without sprinkler system.

Mr. Green mentioned that City’s Building Department issues the Certificate of Occupancy. The City Fire Marshall only recommends to Building Department. To the best of his knowledge, the building on 1616 Cushman St. is not a 5A (1 hour fire resistance) construction and will require a sprinkler system to use the second story as a marijuana cultivation facility. A marijuana cultivation facility has F1 occupancy (Factory and Industrial Occupancy, International Building Code).
January 17, 2017

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

Type of Request:  Conditional Use Permit- CU 2017-012 - Langberg

Property Location:  1616 Cushman Street, Fairbanks, Alaska: (Rickert Subdivision,
Block 6, Lots 3B, 3A)

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

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

Thank you,

Sincerely,

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

cc:  George Stefan, FNSB
January 23, 2017

(via electronic submittal)
Fairbanks North Star Borough, Department of Community Planning
Planning Commission
P.O. Box 71267
Fairbanks, AK 99707-1267

RE: File No. CU2017-012: Conditional Use Permit Application for Ci’s Canna

FNSB Planning Commission Members:

Thank you for the opportunity to comment on the Conditional Use Permit Application submitted by Ci’s Canna.

Wastewater that results from cannabis cultivation, processing, and manufacturing is considered to be non-domestic wastewater and is therefore subject to local, state, and federal regulation. This includes wastewater produced during extraction, hydroponic irrigation, and the manufacture of edible products.

In an effort to limit discharges that would adversely affect the Golden Heart Utilities, Inc. (GHU) wastewater treatment facility, collection system workers, and the environment, GHU requires cannabis cultivation and processing establishments to submit a wastewater control plan prior to discharge. The control plan is meant to identify and document cultivation techniques, estimated wastewater volumes, chemical usage, and extraction processes. With that information, GHU assesses risk and determines if permitting is necessary. The enclosed guidance document is intended to aide Ci’s Canna in the development of a cannabis wastewater control plan.

GHU would like thank the Commission for its assistance in facilitating environmental protection and welcomes any questions.

Regards,

Marc Harmon
Environmental Compliance Manager

Enclosure: Guidance Document: GHU Cannabis Wastewater Control Plan Components
Cannabis Wastewater Control Plan Components

1. The names, addresses and contact information for business owners and managers who will be on-site during business hours.

2. A description of the products and services to be offered by the business.

3. A description of the operation including growing technique. Is it a hydroponics growing operation or will “soil” media be used?

4. A description, estimated volume, and the disposal location for all non-domestic wastewater sources.

5. A description of the methods to be used to prevent the growth of mold and control pests.

6. A description of the equipment, substances and solvents used for extracting cannabis.

7. A list of all toxic, flammable, or other hazardous or non-hazardous materials that will be used or kept at the business, the location and volumes of such materials and how such materials will be stored.

8. A diagram of the building showing floor drains, chemical storage locations, cultivation locations, and extraction locations. The diagram must include all wastewater sources and show how the wastewater produced will drain/flow to the sanitary sewer or onsite collection system.

9. A list of the chemicals and the respective Safety Data Sheet (SDS) for all fertilizers, growth hormones, pesticides and/or herbicides used in the grow operation (include the volume stored on-site).

10. A list and the respective SDSs for all solvents used in the extraction process (include the volume stored on-site).

GHU requires that the control plan be properly signed and certified, per the requirements of 40 CFR 403.12(l).

Please send all correspondence to the GHU Environmental Compliance Inbox at env@akwater.com
Application Material Received on January 06, 2017

CU2017-012
MARIJUANA FACILITY
CONDITIONAL USE PERMIT APPLICATION
File No. (U2017-012)

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

Applicant:
Contact Name: MATTHEW LANGBERG
Business Name: CI'S CANNA
Mailing Address:
206 BRIDGET AVE. UNIT A.
Fairbanks, AK 99701
Phone: 907-388-2607
E-mail: mlangberg@langbergetrueprises.com

Property Owner:
Name: NORSEMAN LLC
Mailing Address:
P.O. BOX 10035
Fairbanks, AK 99710
City, State Zip: City, State Zip:
Phone: 907 378 2333
Cell: SAME
E-mail: brennan@norsemanllc.com

Property Information:
Property Description: RICKERT, BLOCK G, LOTS 3B, 3A
Street Address: 1616 CUSHMAN ST.
Parcel Account Numbers (PAN): 512399, 88421
Lot Size: 5225 sf + 5225 sf
Zoning District: GC
Existing Use(s): VACANT BUILDING

Conditional Use Request Information:
Proposed Use(s): STANDARD MARIJUANA CULTIVATION
Request Description and Reasons for the Request:
CONDITIONAL USE APPLICATION.

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: DATE: 1/16/2017

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).
Property Information for PAN#: 0088421

PROPERTY DESCRIPTION: RICKERT, BLOCK: 06, LOT: 03B
OWNER: Cahill Rod G [ownership], Cahill Lori J [co-owner]
BILLING ADDRESS: 607 Old Steese Hwy Ste B156 Fairbanks, AK 99701 3163
SITUS ADDRESS: 1616 Cushman St
PARCEL SIZE: 5225 SF
NEIGHBORHOOD: Bjorremark (0130)
LAND CLASS: Low Density Retail
PRIMARY USE: Assembled
FLOOD ZONE: X: Protected By levee (100%)
SPECIAL REG. AREAS: None
ZONING: GC (100%)
COMP PLAN: Urban Area (100%), Urban Preferred Commercial Area (100%), Urban Boundary (100%)
PLANNING DISTRICT: Fairbanks (100%)
ROAD DISTRICT: N/A
URBAN BOUNDARY (2003): YES
ROAD SERVICE AREA: City of Fairbanks (100%)
EMS RESPONSE AGENCY: N/A
FIRE SERVICE AREA: City of Fairbanks (100%)
FIRE SERVICE (Property DB): City of Fairbanks
STRUCTURES: N/A
BUSINESS ON SITE: N/A
MILL GROUP: Rickert (0115) (Est. Mill Rate: 17.113)
PLAT NUMBER: nothing (___none)
DESCRIPTION (VAULT): 2015 T/R Assembled Now known as UMB03 BLOCK 6 RICKERT
PREVIOUSLY ASSESSED AS LOT 3B BLOCK 6 RICKERT
PREVIOUSLY ASSESSED AS UMB01 BLOCK 6 RICKERT
2001 T/R ASSEMBLED NOW KNOWN AS UMB01 BLOCK 6 RICKERT LOT 3B BLOCK 6 RICKERT
INSTRUMENT 96.332 11-14-44
COMMUNITY PLANNING PERMITS:
Variances: 19830009

Assessment History
No Data Available...

The Fairbanks North Star Borough does not warrant the accuracy of maps or data provided, nor their suitability for any particular application. There may be errors in the data.
Fairbanks North Star Borough
All Data Report

PAN# 0512389
Printed on: 12/02/2016

Property Information for PAN#: 0512389
PROPERTY DESCRIPTION: RICKERT, BLOCK: 06, LOT: 03A
OWNER: Cahill Rod G [owner], Cahill Lori J [co-owner]
BILLING ADDRESS: 607 Old Steese Hwy Ste B159 Fairbanks, AK 99701 3163
SITUS ADDRESS: N/A
PARCEL SIZE: 5225 SF
NEIGHBORHOOD: Bjerremark (0130)
LAND CLASS: Assembled/See Umbrella
PRIMARY USE: Assembled
FLOOD ZONE: X: Protected By Levee (100%)
SPECIAL REG. AREAS: None
ZONING: GC (100%)
COMP PLAN: Urban Area (100%), Urban Preferred Commercial Area (100%), Urban Boundary (100%)
PLANNING DISTRICT: Fairbanks (100%)
ROAD DISTRICT: N/A
URBAN BOUNDARY (2003): YES
ROAD SERVICE AREA: City of Fairbanks (100%)
EMS RESPONSE AGENCY: N/A
FIRE SERVICE AREA: City of Fairbanks (100%)
FIRE SERVICE (Property DB): City of Fairbanks
STRUCTURES: N/A
BUSINESS ON SITE: N/A
MILL GROUP: Rickert (0115) (Est. Mill Rate: 17.113)
PLAT NUMBER: nothing (___none)
DESCRIPTION (VAULT): 2015 T/R Assembled Now known as UMB03 BLOCK 6 RICKERT
PREVIOUSLY ASSESSED AS LOT 3A BLOCK 6 RICKERT
PREVIOUSLY ASSESSED AS UMB01 BLOCK 6 RICKERT
2001 T/R ASSEMBLED NOW KNOWN AS UMB01 BLOCK 6 RICKERT
LOT 3A BLOCK 6 RICKERT
INSTRUMENT 96.332 11/14/44
COMMUNITY PLANNING PERMITS: NONE

Assessment History
No Data Available...

The Fairbanks North Star Borough does not warrant the accuracy of maps or data provided, nor their suitability for any particular application. There may be errors in the data.
I'll address the items in the Conditional Use Permit in the order they're listed in the application.

- We anticipate having a maximum of 6 full time employees.
- Due to security reasons, we intend to source and self-deliver supplies needed for the cultivation. Visitors will be infrequent.
- The Cultivation Facility will not be open to the general public, their may be employees working at various times twenty-four (24) hours a day.
- The activities on the sight the majority of the time will consist of management of the plants, office work to include maintaining records/logs. Monthly we will harvest the crop. Occasionally we will have visitors.
- We intend to build out the interior of the facility in phases based on funding as well as demand. We do not have a set schedule.
- Our cultivation will be done inside of our enclosed space. The plants will be enclosed in an airtight space and ventilated through a carbon filter that will prevent any odor issues. The noise generated within the space will be made up of running water and carbon filter fans. FloraMicro and FloraBloom Advanced Nutrient system and pH down liquid all sourced from the company General Hydroponics will be the only chemicals we currently intend to use outside of over the counter cleaning agents.
- Due to the specific method of growing we intend to use, (Deep Water Culture) we will have very little waste. The only waste we will have will be plant waste which will be rendered unusable via mixing with equal parts cardboard and then disposed of at the Solid Waste Facility in town.
- We will source our electricity from GVEA.
- We will source our water from the city.
- We will disposed of the sewage via the city refuse lines.
- The system we have designed will allow us to recycle nearly all of our water. We will continue to recirculate the water and then add additional water and/or chemicals as necessary to maintain the health of our plants.
- The building is within the city and all fire protection and policing will be done by the local authorities.
- Deep-Water Culture with a recirculating oxygen system.
- We will have security that complies with the States requirement, to include, door and window monitors, cameras that cover the facility in its entirety to include the entrances as well as an online monitoring capabilities so that we will be alerted immediately if anything should occur. We will not have security fencing.
1. The proposed conditional use space will conform with the ordinances and state statutes. Our location complies with the zoning requirements. We are complying with all of the security requirements the Marijuana control board has set to include exterior lighting, recording cameras, door and window monitor’s, remote monitoring etcetera. As our facility is completely enclosed and we will have carbon filtration system, odors will not be emitted to the atmosphere outside. The noise generated within the facility will be limited to running water for our cultivation and the fans for the filters. We will not have any signage notifying the public of our location.

2. The facility we have chosen has more than adequate existing sewage capacities as it is on the city lines. The facility is easily accessed so transportation will not be an issue. We are tied into the GVEA power grid and city water. Being within the city we have city fire and policing should that ever become necessary.

3. The conditional use permit will not have any negative affects on the public’s health, safety nor welfare. We will comply with all city fire codes. Any odors created within the facility will be run through a carbon filter before being emitted outside. We will have an advanced security system that will include automated notification to the proper authorities should any issues occur. All of our waste will be rendered unusable before it is disposed of.
500 Foot Buffer List for Ci’s Canna Conditional Use Permit

Ci’s Canna
Block 6 of Rickert Lot 3A, 3B
1616 Cushman St.
Fairbanks, AK 99701

Block 22 of Rickert

- Lots 6, 7, 8, 9, 10, 17, 16, 15, 14, 13, 12, 11A, 11B are all residential

Block 23 of Rickert

- Lots 1, 2B, 2A, 3, 4, 5, 6, 7, 8C, 8B, 8A, 9C, 9B, 9A, 19, 18, 17, 16, 15, 14, 13, 12, 11A, 11B, 10A, 10B are all residential.

Block 7 of Rickert

- Lots 8 has the Borealis Towing impound yard
- Lots 5, 6, 7 are empty
- Lots 1, 3 & 4N has a commercial building which has Crown of Glory Worship Center and Mattie’s One-Step Hair and Beauty Supply

Block 5 of Rickert

- Lots 2A, 2B have Heartland Realty and then a vacant commercial building
- Lots 3 has Pacos Tacos and some residential space
- Lot 4W has a residential 5plex
- Lots 4E, 5W, 5E are empty and used for parking
- Lot 6 is Esther Barber and Styles and the Alaska Motel
- Lot 7A is empty and used for parking
- Lot 8E has a commercial building which will potentially another Marijuana Cultivation Facility and a Marijuana Retail.

Block 6 of Gateway

- Lot 1-A, 1-B is a commercial warehouse, a portion of which is The Learning Center
Block 5 of Gateway

- Lots 1, 2, 15, 17, 18, 19, 20, 21, 22, 23, 24 are all residential
- Lots 3, 4, 5, 6, 7 are the Travelodge building and parking
- Lots 8, 9, 10 are vacant
- Lots 11, 12 are used for Parking for Street Sounds
- Lots 13, 14 is the Christ is the Answer Church
- Lot 16 is Robert A. Sparks Attorney Office

Block 3 of Gateway

- Lots 1, 2E, 3, 4E have a vacant building and parking
- Lots 5, 6, 7A, 7B, 8, 9 are the Willow House Hotel and Parking
- Lot 10 is empty and used for parking
- Lot 11 has the Baker and Associates Insurance building
- Lot 13 has Street Sounds shop
I Rod G Cahill, the owner of 1616 Cushman lots 28,34 & 36,
Block 6 Ricket Homestead Subdivision
According to the Plat Filed Nov. 4, 1944
have given control back to Nusmen
Investments LLC on Dec. 12, 2015
who will be doing a Foreclosure
on the Note & Deed of Trust.
Nusmen Investments LLC is Advertising
The Property for Mer. Jur. Lending

Rod Cahill
AGREEMENT INCORPORATING
TRANSFER OF REAL PROPERTY, COMMERCIAL LEASE
AND OPTION TO PURCHASE

This Agreement is executed in triplicate effective 12-29-16 between
Norseman Investments, LLC, an Alaska limited liability company (Norseman),
Matthew Langberg (Langberg) and Ci’s Canna LLC (Canna).

Whereas, Norseman holds legal title to real property (Premises) located at 1616
Cushman Street, Suite C, Fairbanks, Alaska.

Whereas, Langberg holds legal title to real property (Fifth Avenue Property)
located at 1306 Fifth Avenue, Fairbanks, Alaska.

Whereas, Norseman is desirous to lease the Premises to Canna.

Whereas, Canna is desirous to lease the Premises from Norseman.

Whereas, Langberg is desirous to convey his equity in the Fifth Avenue Property in
consideration of an option to purchase the Premises.

Now therefore, the parties agree as follows:

1. Norseman leases the Premises to Canna, and Canna leases the Premises
   from Norseman. The lease shall be referred to herein as the "Master Lease".

2. The term of the Master Lease shall be sixty (60) months commencing on
   January 1, 2017 and terminating on December 31, 2021.

3. Rent shall be due and payable to Norseman as follows:
   a) Rent for January 2017 through May 2017 is covered by a conveyance by
      Langberg of his equity in the Fifth Avenue Property to Equity Trust
      Company, Custodian fbo Lisa Brasier Roth IRA. Lease shall terminate
      within ninety (90) days should Fairbanks North Star Borough decline an
      operating license. Canna shall be entitled to receive a pro rata equity
      payback effective the date of termination of the lease.
   b) Rent for June 2017 through December 2017 shall be seven thousand
      dollars ($7,000) per month, triple net.
   c) Rent for January 2018 through November 2021 shall be eight thousand
      five hundred dollars ($8,500), triple net.

4. Rent shall be payable in advance on the first day of each month. A late fee of
   six hundred dollars ($600) shall be due and payable on rent paid more than
   five (5) days past its due date.
5. **Canna** shall be responsible for all utilities during the term of the Master Lease specifically including fuel, electricity, water, sewer, trash collection, snow removal, taxes and insurance.

6. **Canna** is familiar with the condition of the Premises and leases the same "as is" and shall be responsible for the cost of all maintenance and repairs during the term of the Master Lease.

7. **Canna** shall comply with all laws and ordinances regarding signage, hours of operation, and security video during the term the Master Lease.

8. **Norseman** shall be responsible for property taxes assessed on the Premises by the Fairbanks North Star Borough for the first five months of the Master Lease (January 1, 2017 through May 31, 2017). **Canna** shall be responsible for property taxes for the remaining term of the Master Lease.

9. **Canna** shall provide insurance on the Premises with a reputable insurance company for replacement cost in the minimum amount of one million six hundred thousand dollars ($1,600,000) and for liability in the minimum amount of two million dollars ($2,000,000) naming **Norseman** as loss payee during the term of the Master Lease.

10. **Canna** may sublease the Premises or portions thereof. All such subleases shall be subordinate to the Master Lease and each such sublease shall contain a statement to that effect. No sublease shall extend beyond the termination date of the master lease without written approval. **Norseman** retains use of Suite 102 for its own use and benefit for a period of forty (40) months commencing January 1, 2017. **Norseman** shall be responsible for electricity for that suite during such period. After the expiration of the forty-month period, **Norseman** shall lease Suite 102 back from **Canna** at the rate of $1.50 per square foot for the remainder of the master lease. This lease shall survive the option to purchase described next below.

11. On condition that all terms and conditions of the Master Lease are current, **Langberg** shall have the option to purchase the Premises at any time during that portion of the Master Lease commencing April 1, 2020 and terminating on December 31, 2021.

12. In the event of the exercise of the option to purchase, the purchase price shall be seven hundred fifty thousand dollars ($750,000) payable to **Norseman** in full at closing. **Langberg** shall be responsible for all closing costs.

13. In order to exercise the option to purchase, **Langberg** shall close on the purchase during that portion of the Master Lease set out next above. No other formality shall be required of **Langberg** in the exercise of the option to purchase.
14. The option to purchase is personal to Langberg and is not assignable. The consideration for the option to purchase shall be non-refundable.

15. Time is of the essence in this agreement and in particular in the payment of rent and exercise of the option to purchase.

16. This is the entire agreement between the parties. No other agreement shall be express or implied.

Norseman Investments, LLC, an Alaska limited liability company - Lessor

By Lisa Brasier, Member

Ci’s Canna LLC - Lessee

By Matthew Langberg

Matthew Langberg, individually

Subscribed and acknowledged before me this date by Lisa Brasier on behalf of Norseman Investments, LLC in Fairbanks, Fourth Judicial District, State of Alaska.

Dated 1/5/17

Erika Maskins

Notary public, Alaska
My commission expires 6/19/20

Subscribed and acknowledged before me this date by Matthew Langberg, individually and on behalf of Ci’s Canna LLC, in Fairbanks, Fourth Judicial District, State of Alaska.

Dated 12/30/16

Marcia Lushin

Notary public, Alaska
My commission expires 11/19/19
Norseman LLC authorizes the business Cj’s Canna to attain a conditional use permit and utilize the property located at Lot 3A and 3B, Block 06 of Rickert (1616 Cushman Street, Fairbanks AK 99701) for a Marijuana Cultivation Facility. Norseman LLC also authorizes Cj’s Canna to use parking spaces in the parking lot located at Lot 1, 2A and 2B, Block 06 of Rickert.

Norseman LLC Designated Representative: [Signature]
Print Name: Lisa Brasier
Sign Name: [Signature]
Date: 11/4/17
NAME(S)

Legal Name: Norseman Investments, LLC

ENTITY DETAILS

Entity Type: Limited Liability Company
Entity #: 10013187
Status: Good Standing
AK Formed Date: 5/28/2013
Duration/Expiration: Perpetual
Home State: ALASKA
Next Biennial Report Due: 1/2/2019
Entity Mailing Address: P.O. BOX 10035, FAIRBANKS, AK 99710
Entity Physical Address: 1901 MARY ANN STREET, STE 100, FAIRBANKS, AK 99701

REGISTERED AGENT

Agent Name: Lisa Brasier
Registered Mailing Address: P.O. BOX 10035, FAIRBANKS, AK 99710
Registered Physical Address: 1901 MARY ANN STREET, STE 100, FAIRBANKS, AK 99701

OFFICIALS

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<td>Lisa Brasier</td>
<td>Member</td>
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FILED DOCUMENTS

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Juneau Mailing Address
P.O. Box 110806
Juneau, AK 99811-1086

Physical Address
333 Willoughby Avenue
9th Floor
Juneau, AK 99801-1770

Phone Numbers
Main Phone: (907) 465-2550
FAX: (907) 465-2974

Anchorage Mailing/Physical Address
550 West Seventh Avenue
Suite 1500
Anchorage, AK 99501-3567

Phone Numbers
Main Phone: (907) 269-8160
FAX: (907) 269-8156

https://www.commerce.alaska.gov/cbp/Main/CorporationDetail.aspx?id=10013187
Application Material Received on
January 09, 2017

CU2017-012
1-6-2017

We, Rod & Lori Cahill the owners of 1616 Cushman Street at Block 6, Lots 2B, 3A and 3B Rickett Homestead Subdivision according to the plat filed November 4, 1944 have given control back to Norseman Investments LLC on December 12, 2015 who be doing a foreclosure on the Note and Deed of Trust.

Until said time we authorize Cl's Canna to acquire a Conditional Use Permit and utilize the property for a Marijuana Cultivation and/or Marijuana Retail location.

Rod Cahill:  Rod Cahill

Date: 1-9-17

Lori Cahill:  Lori Cahill

Date: 1-9-17
Application Material Received on January 23, 2017

CU2017-012
Currently vacant. In Phase Two we intend to use the space for cultivation but do not have specific floor plans yet. Total area of cultivation in both phases would be 4800 + 4800 sq ft. We’re applying for the marijuana cultivation facility indoors large.

Signed:

Comm. Planning Dept
JAN 23 2017
RECEIVED
500 Foot Buffer List for Ci’s Canna Conditional Use Permit

Ci’s Canna
Block 6 of Rickert Lot 3A, 3B
1616 Cushman St.
Fairbanks, AK 99701

Block 22 of Rickert

- Lots 5, 6, 7, 8, 9, 10, 17, 16, 15, 14, 13, 12, 11A, 11B, 17 are all residential

Block 23 of Rickert

- Lots 1, 2B, 2A, 3, 4, 5, 6, 7, 8C, 8B, 8A, 9C, 9B, 9A, 19, 18, 17, 16, 15, 14, 13, 12, 11A, 11B, 10A, 10B are all residential.

Block 7 of Rickert

- Lots 8, 9 have the Borealis Towing impound yard
- Lots 5, 6, 7 are empty
- Lots 1, 3 & 4N has a commercial building which has Crown of Glory Worship Center and Mattie’s One-Step Hair and Beauty Supply

Block 5 of Rickert

- Lots 2A, 2B have Heartland Realty and then a vacant commercial building
- Lots 3 has Pacos Tacos and some residential space
- Lot 4W has a residential 5plex
- Lots 4E, 5W, 5E are empty and used for parking
- Lot 6 is Esther Barber and Styles and the Alaska Motel
- Lot 7A is empty and used for parking
- Lot 8E has a commercial building which will potentially another Marijuana Cultivation Facility and a Marijuana Retail.

Block 6 of Rickert

- Lots 1, 2A, 2B, 3A, 3B is Hoitts Plaza which is two commercial buildings and parking area
- Lots 4, 5 is Fairbanks Paint & Glass
- Lot 6N is vacant and used for parking
- Lot 6 is the American Legion
- Lots 6S, 7 is a commercial building which currently has the Oriental Market, Ak Legal Services, District Recorder, Vital Statistics and Division of Agriculture

Block 10 of Rickert

- Lots 1A, 2A, 3A are residential
Block 17 of Rickert

- Lots 13, 14, 15, 16, 17, 18, 19, 20A, 20B are all residential

Block 18 of Rickert

- Lots 10E, 11, 12 are all residential

Block 4 of Gateway

- Lot 1-A, 1-B is a commercial warehouse, a portion of which is The Learning Center

Block 5 of Gateway

- Lots 1, 2, 15, 17, 18, 19, 20, 21, 22, 23, 24 are all residential
- Lots 3, 4, 5, 6, 7 are the Travelodge building and parking
- Lots 8, 9, 10 are vacant
- Lots 11, 12 are used for Parking for Street Sounds
- Lots 13, 14 is the Christ is the Answer Church
- Lot 16 is Robert A. Sparks Attorney Office

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- Lots 5, 6, 7A, 7B, 8, 9 are the Willow House Hotel and Parking
- Lot 10 is empty and used for parking
- Lot 11 has the Baker and Associates Insurance building
- Lot 13 has Street Sounds shop
ORDINANCE 2017-14
MEMORANDUM

TO: Fairbanks North Star Borough Planning Commission
THROUGH: D. Christine Nelson, Director
          Department of Community Planning
FROM: Kellen Spillman, Deputy Director
       Department of Community Planning
DATE: March 7, 2017

SUBJECT: ORDINANCE NO. 2017-14: An Ordinance Amending FNSBC 18.96.240A.3
       Regarding Buffer Distances for Marijuana Establishments and Deleting the
       Definition of Cultivation Broker Facility and Deleting It as a Use in Title 18

Purpose and Intent

The attached ordinance was referred by the FNSB Assembly; it amends Chapter 18.96.240 to
require buffers between marijuana establishments and sensitive uses to be measured from the
nearest public entrance of a commercial marijuana establishment rather than the edge of the
establishment. Depending on the use, the buffer distance will be measured to the outer boundary
(school building and playground), or principal building (correctional facilities, housing facilities
owned by a public housing authority with children as residents, youth centers, group homes
serving persons under the age of 18, public swimming pools, state licensed day care facilities,
arcades, state substance use treatment provider, and church buildings) of a sensitive use rather
than from the lot line. Measurement of the distance for a residential zone will remain the same.

This ordinance also deletes all references to “cultivation broker facility” as it is no longer a state-
licensed use.

Background

The State of Alaska’s marijuana regulations measure the following buffers: “500 feet of a school
ground, a recreation or youth center, a building in which religious services are regularly
conducted, or a correctional facility. The distance specified in this subsection must be measured
by the shortest pedestrian route from the public entrance of the building in which the licensed
premises would be located to the outer boundaries of the school ground, the outer boundaries of
the recreation or youth center, the main public entrance of the building in which religious services
are regularly conducted, or the main public entrance of the correctional facility.” [3 AAC
306.010(a)]

“Outer boundaries” and “school ground” are not terms defined in State or FNSB code. “School
buildings” is defined in FNSB Title 18 as “buildings, except church buildings as defined, used
primarily for teaching and instruction on a daily basis as its primary use, including elementary and
secondary schools and colleges. This definition does not include trade/technical/vocational
school.” [FNSBC 18.04.010(B)].
Current FNSB standards require buffer distances for sensitive uses to 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”[FNSBC 18.96.240(A)(3)].

Consistency with the FNSB Regional Comprehensive Plan

Allowing marijuana facilities to develop in appropriate areas of the community is consistent with the Land Use section of the Comprehensive Plan, which recognizes that the foremost aspect of land use is the retention and maintenance of private property rights (Goal 1) and works to reduce the natural conflict that develops between individuals’ private property rights as well as those with general community needs and interests (Goal 1, Strategy 3).

This proposed ordinance is consistent with Land Use Goal 4, to enhance development opportunities while minimizing land use conflicts, and Action B under that Goal, to develop a pattern of compatible land uses and either separate, transition or buffer incompatible land uses. The Borough’s marijuana standards have included buffer standards from the beginning, recognizing that “some uses are especially susceptible to the potential negative impacts of marijuana-related activities and land uses, requiring buffering in addition to the standard zoning regulations” (Ord 2015-41).

While buffering of sensitive uses is generally supported by the Comprehensive Plan, the specific sensitive uses or method of measuring those buffers is not specifically addressed.

Analysis

Measurement to Sensitive Use Lot Line (Current Method)

The Department of Community Planning has had difficulty administering the measurement to “lot line” in the past, primarily because of the difficulty determining where a lot boundary is actually located due to the extensive use of easements in the Fairbanks North Star Borough. In the excerpt below, John Bennett, former Right-of-way Chief at the Alaska Department of Transportation notes that about 90% of the DOT highways are built in easements, rather than fee simple right-of-way dedication.

“What is the nature of property interest in our highway rights-of-way today? This is difficult to quantify but as we review the varying authorities that form the system of highway rights-of-way, my educated guess is that 90% of the system inventory are highway easements as opposed to fee interests. First consider that in 1959 we received the bulk of the 5,400 mile highway system as an easement interest. The State Highway System inventory as of 12/31/12 was 5,620 miles…”

Easements present a challenge when choosing to “buffer” from lots because the property owner actually owns to the centerline of the roadway in most cases, which means that the “buffer” would begin at the centerline of the roadway. Administering “buffers” from the lot line is difficult because significant title research is frequently required to see if a roadway is built in an easement, or is a fee simple dedicated right-of-way.

---

At the time John was Right-of-Way Chief AKDOT&PF Northern Region
Figure 1 is an example of a roadway in the Fairbanks North Star Borough (Chena Hot Springs Road) that is built in an easement. If there were a sensitive use on one of the “lots” within the buffer, the measurement would begin at the centerline of Chena Hot Springs Road because much of the road is located within an easement. Cases such as this make researching and administering buffers from the lot line very difficult.

**Figure 1: Easement Example**

Generally the Community Planning Department supports measuring buffer distances to physical features, like buildings or defined playground boundaries, as they are easier to measure physically and digitally. The aerial imagery that the FNSB shot in 2012 is currently more accurate than the parcels within the FNSB GIS system. The aerial photos at the FNSB have been tied to high quality GPS control points and are generally accurate to two meters. The FNSB is in the process of redrafting the parcels and tying them to high quality GPS control, but currently accuracy varies widely. **If this ordinance passes it will generally result in overall smaller buffer distances.**

This ordinance also proposes to change the buffer measurement point for sensitive uses. Instead of measuring to the lot line of the lot containing any sensitive use or zone, measurements are split into four different methods, depending on the type of sensitive use or zone:

1. Outer boundaries of school buildings, including outdoor school facilities where students are regularly found;
2. Outer boundaries of playgrounds;
3. The lot line of a lot in a residential zone; or
4. The principal building containing other uses listed in subsections (A)(3)(a) through (c) of this section.
If this ordinance passes, as written, some of the measurement point terminology would require further interpretation. “Outer boundaries” may be interpreted in different ways. Lots or zoning lots that contain schools or playgrounds often also include associated areas discussed below. Further, a determination of whether a facility is one “where students are regularly found” could be subject to various factors, including the season, a particular curriculum utilizing the area, use by non-students, and what constitutes “regularly found”.

FNSB Community Planning staff would need to create a policy providing guidelines/interpretations of which facilities are included as school facilities and what qualifies as the outer boundaries of schools and playgrounds. In early drafting of a potential policy several items that the FNSB Community Planning Department could interpret as “outer boundaries of school buildings, including outdoor school facilities where students are regularly found” are as follows:

- Any area clearly “used on a daily basis for educational purposes”
- School building
- Playgrounds
- Sports fields
- Bus drop-offs
- Parking and loading areas devoted primarily to the use of the “school building”
- Any development accessory to the school building other than natural areas and wooded open space

Areas that the department could interpret as not meeting this proposed clause could include the following:

- Trails
- Undeveloped open space
- Other principal buildings that are not school buildings

An example of a potential application of this policy is available for the North Pole Elementary School in Figure 2.

Figure 2: Example of Possible Interpretation of “Outdoor School Facilities Where Students are Regularly Found”
In another example, a sensitive use is one of multiple principal uses on one lot, such as a tutoring center (meeting the school definition) in a strip mall development. In this situation, other non-sensitive uses may be located on the same lot and should not require a buffer. It is more appropriate then to buffer only from the building and associated grounds devoted to the sensitive use. An example of a potential application of this policy is available for the Aurora Tutoring Center in Figure 3.

**Figure 3:** Example of Possible Interpretation of “Outdoor School Facilities Where Students are Regularly Found”

The Community Planning Department supports changing the method for measuring the required distance from a lot containing a sensitive use, to the actual sensitive use (building or “outer boundaries”), with the assumption that the Department will establish a policy.

**Measuring to Nearest Public Entrance of Marijuana Facility**

This ordinance proposes to change the measurement point of buffers to be the public entrance of the marijuana establishment rather than more generally to the marijuana establishment. The current method of measuring from the marijuana establishment has not necessarily been problematic and has been interpreted as the nearest point on the building in which the marijuana establishment exists. However, specifying that the buffer shall be measured from “the nearest public entrance of a commercial marijuana establishment” provides a greater level of specificity and clarity for the applicant, adjacent landowners, FNSB staff and any other interested parties. Additionally this will bring this portion of FNSB Code into consistency with Alaska Administrative Code. Though “public entrance” is not defined in FNSB code, this is a commonly accepted term, and interpretation should be fairly straightforward, and the applicant would be required to note all public entrances when submitting a site plan. Further, measuring a buffer from a single identified point is easy to administer and understand. Community Planning supports this proposed change.

**Removing Cultivation Broker Facility**

This ordinance removes “cultivation broker facility” from FNSB code. This is a cleanup measure. A broker cultivation license was included in early drafts of the state’s marijuana regulations, but was removed before final adoption of the State Regulations. There is no state licensing of marijuana
brokers. The Department of Community Planning supports the removal of “cultivation broker facility”.

**Recommendation**

The Community Planning Department recommends approval of this ordinance because:

1. It is more appropriate public policy to buffer from the actual sensitive use than a lot line.
2. In the case of multiple principal uses on a lot or zoning lot, buffer distances will be measured from the principal building and accessory outdoor space devoted to the principal use.
3. With this recommendation it is understood that the Community Planning Department will develop a policy about what will constitute “outer boundaries” and “outdoor school facilities where students are regularly found”.
4. Changing the measurement point from “commercial marijuana establishment” to “nearest public entrance of a commercial marijuana establishment” will bring FNSB Code into consistency with Alaska Administrative Code.
5. There is no longer a listed license type of “cultivation broker facility” in Alaska Administrative Code.

**Proposed Draft Motion:**

I move that the Planning Commission recommend approval of Ordinance No. 2017-14 to the FNSB Assembly.

**Attachments:**

Attachment A: ORD NO. 2017-14
MEMORANDUM

TO: Christine Nelson, Director
    Department of Community Planning

FROM: April Trickey, CMC
       Acting Borough Clerk

DATE: February 10, 2017

SUBJECT: REFERRAL OF ORDINANCE NO. 2017-14

On February 9, 2017, the Fairbanks North Star Borough Assembly referred Ordinance No. 2017-14 sponsored by Assemblymembers Dodge and Davies to the Planning Commission for review and recommendation.

ORDINANCE NO. 2017-14. An Ordinance Amending FNSBC 18.96.240A.3 Regarding Buffer Distances For Marijuana Establishments And Deleting The Definition Of Cultivation Broker Facility And Deleting It As A Use In Title 18. (Sponsors: Assemblymembers Dodge and Davies)

-Referral to the Planning Commission on March 7, 2017; Referred to the Committee of the Whole on March 16, 2017; Advanced to March 23, 2017 for Public Hearing

A recommendation is due back no later than March 13, 2017.

Please place this item on March 7, 2017 commission agenda and notify Assemblymembers Dodge and Davies of the date and time of the meeting.

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

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

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

ORDINANCE NO. 2017- 14

AN ORDINANCE AMENDING FNSBC 18.96.240A.3 REGARDING BUFFER DISTANCES FOR MARIJUANA ESTABLISHMENTS AND DELETING THE DEFINITION OF CULTIVATION BROKER FACILITY AND DELETING IT AS A USE IN TITLE 18

WHEREAS, The Fairbanks North Star Borough adopted Ordinance 2015-41 on October 23, 2015, which permitted marijuana establishments in certain zones and created standards for those establishments, including buffer requirements; and

WHEREAS, The State of Alaska’s adopted final regulations (3 AAC 306) became effective February 21, 2016, after the FNSB adopted zoning regulations; and

WHEREAS, The FNSB Comprehensive Plan’s Land Use Goal 4 is to enhance development opportunities while minimizing land use conflicts, and Action B under that Goal is to develop a pattern of compatible land uses and either separate, transition or buffer incompatible land uses; and

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
WHEREAS, Staff and applicants have found it difficult to administer and interpret the current standard of measuring the buffer distance from the lot line of the lot containing a sensitive use or zone to the commercial marijuana establishment; and

WHEREAS, Having clear buffer standards assists business owners, nearby residents and property owners in their understanding and expectation of where marijuana establishments may be located; and

WHEREAS, State regulations originally included a license for a cultivation broker facility and therefore was included in the FNSB adopted regulations, but it is not a type of licensed issued by the state.

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

Section 1. Classification. This ordinance is of a general and permanent nature and shall be codified.

Section 2. FNSBC 18.96.240A.3, Standards for commercial marijuana establishments – General Standards, is hereby amended as follows:

18.96.240A.3, Standards for commercial marijuana establishments – General Standards

   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

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
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.]
Buffer distances shall be measured from the nearest public entrance of a commercial
marijuana establishment to:

1. outer boundaries of schools buildings, including outdoor school facilities
   where students are regularly found;
2. outer boundaries of playgrounds;
3. the lot line of a lot in a residential zone; or
4. the principal building containing other uses listed in subsections (A)(3)(a)
   through (c) of this section.

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.

Section 3. FNSBC 18.04.010.B regarding definitions is hereby amended
as follows [Note: The clerk shall re-alphabetize this section]:

"CULTIVATION BROKER FACILITY" MEANS A FACILITY DEFINED BY
STATE LAW THAT PROVIDES THE ESSENTIAL BUSINESS FUNCTIONS OF A
LIMITED MARIJUANA CULTIVATION FACILITY, INCLUDING STORING MARIJUANA,
PURCHASING OR ARRANGING THE PURCHASE OF THE LIMITED MARIJUANA
CULTIVATION FACILITY’S MARIJUANA CROP, ARRANGING TESTING AND
TRANSPORTATION OF MARIJUANA, AND FILING THE REPORTS AND PAYING
THE STATE’S MARIJUANA EXCISE TAX.]
Section 4. FNSBC 18.28.020.B regarding conditional uses in the RA-40, RA-20, RA-10 and RA-5, rural and agricultural districts, is hereby amended as follows [Note: The clerk shall re-alphabetize and re-number this section]:

[5. CULTIVATION BROKER FACILITY;]

Section 5. FNSBC 18.32.020.B regarding conditional uses in the RF-4 and RF-2, rural farmstead districts, is hereby amended as follows [Note: The clerk shall re-alphabetize and re-number this section]:

[5. CULTIVATION BROKER FACILITY;]

Section 6. FNSBC 18.60.020.B regarding permitted uses in the LC, light commercial district, is hereby amended as follows [Note: The clerk shall re-alphabetize and re-number this section]:

[31. CULTIVATION BROKER FACILITY, IN CONJUNCTION WITH A RETAIL MARIJUANA STORE ON THE SAME SITE;]

Section 7. FNSBC 18.64.020.A regarding permitted uses in the GC, general commercial district, is hereby amended as follows [Note: The clerk shall re-alphabetize and re-number this section]:

[6. CULTIVATION BROKER FACILITY;]

Section 9. FNSBC 18.72.020.A regarding permitted uses in the LI, light industrial district, is hereby amended as follows [Note: The clerk shall re-alphabetize and re-number this section]:

[13. CULTIVATION BROKER FACILITY, LIMITED;]
Section 10. Effective Date. This ordinance is effective at 5:00 p.m. on the
first Borough business day following its adoption.

PASSED AND APPROVED THIS _____ DAY OF ____________, 2017.

ATTEST:

Kathryn Dodge
Presiding Officer

APPROVED:

Nanci Ashford-Bingham, MMC
Borough Clerk

Jill S. Dolan
Borough Attorney

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
MEMORANDUM

TO: Fairbanks North Star Borough Planning Commission

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

FROM: Kellen Spillman, Deputy Director
       Department of Community Planning

DATE: March 7, 2017

SUBJECT: ORDINANCE NO. 2017-21: An Ordinance Amending Title 18 to Define
          Community Gardens and to Add Community Gardens as a Permitted or
          Conditional Use in Appropriate Zones

Purpose and Intent

The attached ordinance was referred by the FNSB Assembly and sponsored by the FNSB
Administration; it proposes to introduce, regulate, and define the use of “Community Gardens”,
both neighborhood and regional, into the zoning code.

Background

In the current structure of the FNSB zoning code, if a specific use is not listed, an interpretation
must be made as to the closest listed use. Currently “community gardens” are not a defined use,
thus a use of a parcel as a community garden would fall under the definition of “agriculture”, which
is allowed only in very few zoning districts. The current defined use of agriculture is very broad
and encompassing. It includes several specific uses that could have an impact on health, safety,
and welfare outside of agriculture zones, including noise and odor impacts. Below is the existing
definition of “agriculture” that could also include large scale operations.

“Agriculture means the cultivation of the soil or nutrient solution, including but not limited to
indoor agriculture, the growing of crops and/or plants, animal and poultry husbandry, dairying,
grazing and accessory uses customarily incident to agricultural activities. This definition
does not include commercial cultivation of marijuana.

The FNSB Community Planning Department was approached by an applicant who wished to
establish the use of “community gardens” in a zone that did not allow “agriculture”. This proposal
triggered a review of the zoning code for consistency with the FNSB Regional Comprehensive
Plan in the context of community gardens.

Consistency with the FNSB Regional Comprehensive Plan

The creation of “community gardens” as a defined use and adding them as a permitted or
conditional use in the appropriate zones is consistent with the FNSB Regional Comprehensive
Plan. Below are three sections from the Plan applicable to this ordinance:
Community and Human Resources Goal 1, Strategy 1, Action E is “to create community gardens on selected public or private land to provide agriculture opportunities to densely populated areas.”

Land Use Goal 4, Strategy 10, Action B is to “encourage agricultural development that is compatible with surrounding land uses and densities, and the intention of the Rural and Agricultural Zone and the Rural Farmstead Zone is for agricultural uses.”

Economic Development Goal 1, Strategy 4, Action B is to “promote agriculture by supporting non-profit and volunteer organizations that promote agricultural development within the Borough.”

Analysis

“Agriculture” as a principal use includes a wide range of activities from large scale operations with potentially negative land use impacts, such as noise and smell, to small scale uses that would have little to no negative impacts. The broadness of this definition has created a need for additional specificity and different regulations to different types of agricultural uses that would have more or less impact. There are currently a few different subsets and types of agricultural uses listed in the zoning code including, “Agriculture, commercial”, “Agriculture, indoor”, “Biosolids”, “Livestock, commercial” and “Livestock, domestic” to list a few. For reasons similar to Ordinance 2017-41, in which the use of “agriculture, indoor” was defined, Community Planning supports the creation of the use of “community gardens” and its allowance into several zones where “agriculture” is not currently allowed. It would be expected that most small community gardens would not have the same negative externalities of smell and noise that could arise from larger scale agricultural operations such as those with livestock.

It is possible that larger community gardens in urban settings could have other negative externalities such as traffic, parking, and the need for water/sewer. Recognizing these potential land-use conflicts, this ordinance draws a size threshold of 10,000 square feet under cultivation as the distinguishing factor between a “Neighborhood Community Garden” and a “Regional Community Garden”. These two uses are being proposed to be regulated differently, with the “neighborhood” variety being permitted in most zones, including the more dense urban residential zones and the “regional” variety being a conditional use in many zones. This size distinction would allow the Planning Commission to review most of the larger proposals to ensure compatibility, possibly through conditions, of any community garden over 10,000 square feet.

The Fairbanks Community Garden located in Hamilton Acres is an example of an existing garden that at nearly 2.5 acres would fall under the proposed use category of a regional community garden (Figure 1).
There are a few zoning districts where Regional Community Gardens may, or may not be compatible with the intent of the zoning district. Primarily these zones include the multi-family office zone, commercial zones, and the light industrial zone. As drafted this ordinance would not allow Regional Community Gardens, even as a conditional use in the Multi-Family Office (MFO) zone, General Commercial (GC) zone, Light Commercial (LC) Zone, Central Business District (CBD), and Light Industrial (LI) zone. If the Planning Commission wished to add Regional Community Gardens as a conditional use to these zones it is possible through amendment. There is draft language below if the Commission would like to make this amendment. Additionally, the intent of the MFO, GC, LC, CBD, and LI zoning districts is available in Attachment B.

**Figure 2: Matrix of Community Gardens and Proposed Zones**

<table>
<thead>
<tr>
<th>TYPE OF COMMUNITY GARDEN</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COMMUNITY GARDEN, NEIGHBORHOOD</strong></td>
<td>OR</td>
</tr>
<tr>
<td><strong>COMMUNITY GARDEN, REGIONAL</strong></td>
<td>Z</td>
</tr>
</tbody>
</table>

**Notes:**
- Z = Permitted Use; Zoning Permit Required
- CUP = Conditional Use Permit; Public Hearing Required
- PU = Permitted Use; No Zoning Permit Required
The addition of community gardens as an allowed use in several zones would also help to encourage the Borough’s overall food security. Alaska relies heavily on outside sources for food. According to the Alaska Food Policy Council, Alaska is importing an estimated 95 percent of its food. This reliance makes Alaska vulnerable to any disasters or events that might impact the production and import of food to the state.

It is clear that this proposed ordinance is consistent with the FNSB Regional Comprehensive Plan as Community and Human Resources Goal 1, Strategy 1, Action E that states “to create community gardens on selected public or private land to provide agriculture opportunities to densely populated areas”, yet the use of a “community garden” as a principal use is not permitted in the urban residential zones. This proposed change would permit community gardens, as either an outright permitted use or a conditional use, in many zones, including zones that could be classified as “densely populated areas”. As the ordinance is drafted, with the distinction between “neighborhood” and “regional” community gardens, they will be “compatible with surrounding land uses and densities”.

In developing this ordinance the FNSB Community Planning Department met with several stakeholders including the City of Fairbanks and the Fairbanks Community Garden to solicit input and review of the ordinance. While there was no formal action by those entities, the representatives from both of those organizations appeared to be in agreement of the ordinance.

**Recommendation**

The Community Planning Department recommends approval of this ordinance due to the consistency with the FNSB Regional Comprehensive Plan.

**Proposed Draft Motion:**

I move that the Planning Commission recommend approval of Ordinance No. 2017-21 to the FNSB Assembly.

**Possible Motion if the Planning Commission wants to add Regional Community Gardens as a conditional use in additional zones:**

I move to recommend amending Ordinance 2017-21 to add community gardens, regional as a conditional use in the Multi-Family Office zone, General Commercial zone, Light Commercial Zone, Central Business District, and Light Industrial Zone.

I move that the Planning Commission recommend approval of Ordinance No. 2017-21, as amended, to the FNSB Assembly.

**Attachments**

Attachment A: ORDINANCE NO. 2017-21
Attachment B: Intents of the MFO, LC, GC, CBD, and LI Districts
MEMORANDUM

TO: Christine Nelson, Director
    Department of Community Planning

FROM: Nanci Ashford-Bingham, MMC
    Borough Clerk

DATE: February 24, 2017

SUBJECT: REFERRAL OF ORDINANCE NO. 2017-21 – COMMUNITY GARDENS

On February 23, 2017, the Fairbanks North Star Borough Assembly introduced and referred Ordinance No. 2017-21 sponsored by Mayor Kassel to the Planning Commission for review and recommendation.

ORDINANCE NO. 2017-21. An Ordinance Amending FNSBC Title 18 To Define Community Gardens and To Add Community Gardens As A Permitted Or Conditional Use In Appropriate Zones. (Sponsor: Mayor Kassel)

-Referred to the Planning Commission on March 7, 2017; Referred to the Committee of the Whole on March 16, 2017; Advanced to March 23, 2017 for Public Hearing

A recommendation is due to the Assembly by March 13, 2017.

Please place this item on the March 7, 2017 commission agenda and notify Mayor Kassel of the date and time of the meeting.

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

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

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

ORDINANCE NO. 2017-21

AN ORDINANCE AMENDING FNSBC TITLE 18 TO DEFINE COMMUNITY GARDENS AND TO ADD COMMUNITY GARDENS AS A PERMITTED OR CONDITIONAL USE IN APPROPRIATE ZONES

WHEREAS, Community and Human Resources Goal 1, Strategy 1, Action E of the FNSB Regional Comprehensive Plan is to create community gardens on selected public or private land to provide agricultural opportunities to densely populated areas; and

WHEREAS, Land Use Goal 4, Strategy 10, Action B of the FNSB Regional Comprehensive Plan is to encourage agricultural development that is compatible with surrounding land uses and densities, and the intention of the Rural and Agricultural Zone and the Rural Farmstead Zone is for "agricultural uses"; and

WHEREAS, FNSBC Title 18 does not currently list community gardens as a principal use, therefore necessitating the proposed amendment; and

WHEREAS, According to the Alaska Food Policy Council, 95 percent of Alaska’s food is imported, making Alaska vulnerable in times of disasters and the Department of Homeland Security recommends storing at least a three-day supply of food in case of emergency; and

WHEREAS, Economic Development Goal 1, Strategy 4, Action B of the FNSB Regional Comprehensive Plan is to promote agriculture by supporting non-profit
and volunteer organizations that promote agricultural development within the Borough; and

WHEREAS, Growing food locally contributes to local economies by generating jobs and sales of food at farmers markets and grocery stores; and

WHEREAS, The addition of community garden uses to the list of permitted or conditional uses to appropriate zoning districts will enable the creation of centralized food production areas that better serve the community; and

WHEREAS, Community gardens may be appropriate in the rural type residential districts and should be evaluated as conditional uses.

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

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. FNSBC 18.04.010 Definitions, is hereby amended to add the following definitions: [the Clerk shall add or amend the definitions in alphabetical order]

"Community garden, neighborhood" means the cultivation of the soil, or the growing of crops or plants on a lot or zoning lot for personal use, trade, or sale off-site with the area under cultivation not exceeding 10,000 square feet. A community garden may be divided into separate plots for cultivation by individuals or families, or the area may be farmed collectively by members of a group. This definition does not include the cultivation of marijuana.
“Community garden, regional” means the cultivation of the soil, or the growing of crops or plants on a lot or zoning lot for personal use, trade, or sale off-site with the area under cultivation exceeding 10,000 square feet. A community garden may be divided into separate plots for cultivation by individuals or families, or the area may be farmed collectively by members of a group. This definition does not include the cultivation of marijuana.

Section 3. FNSBC 18.20.020.A pertaining to the Outdoor Recreational District is hereby amended to add the following:

Community garden, neighborhood
Community garden, regional

Section 4. FNSBC 18.28.020.A pertaining to the Rural and Agricultural Districts is hereby amended to add the following:

Community garden, neighborhood
Community garden, regional

Section 5. FNSBC 18.32.020.A pertaining to the Rural Farmstead Districts is hereby amended to add the following:

Community garden, neighborhood

Section 6. FNSBC 18.36.020.B pertaining to the Rural Estate Districts is hereby amended to add the following:

Community garden, neighborhood

Section 7. FNSBC 18.40.020.B pertaining to the Rural Residential District is hereby amended to add the following:

Community garden, neighborhood
Section 8. FNSBC 18.44.020.A pertaining to the Single-Family Residential Districts is hereby amended to add the following:

Community garden, neighborhood

Section 9. FNSBC 18.44.020.B pertaining to the Single-Family Residential Districts is hereby amended to add the following:

Community garden, regional

Section 10. Effective Date. This ordinance shall be effective at 5:00 p.m. of the first Borough business day following its adoption.

PASSED AND APPROVED THIS ____ DAY OF ________, 2017.

Kathryn Dodge
Presiding Officer

APPROVED:

Jill S. Dolan
Borough Attorney

ATTEST:

Nanci Ashford-Bingham, MMC
Borough Clerk

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
MFO 18.56.010

This district is intended for a combination of very high density residential, quasi-residential, and nonresidential development that maintains the high density residential and nonresidential nature of this district. This district is intended for areas where community sewer and water systems are available.

LC 18.60.010

This district is intended to provide for light commercial uses for the consumer population and to provide a buffer for residential areas. This district is not intended to create significant noise, odor, or other nuisances. (Ord. 99-075 § 2, 2000. 2004 Code § 18.32.010.)

GC 18.64.010

The GC district is intended 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. (Ord. 88-010 § 2, 1988. 2004 Code § 18.34.010.)

CBD 18.68.010

This district is intended to provide for retail, office, wholesale, personal service and other general service uses for the consumer population of the entire community in a centrally located and contained high density setting. (Ord. 88-010 § 2, 1988. 2004 Code § 18.36.010.)

LI 18.72.020

This district is intended to provide for light manufacturing, fabricating, assembly, disassembly, processing and treatment activities in an urban or suburban environment. This district’s uses are intended to be conducted in a manner not detrimental to the rest of the community by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious materials, odors, fire, or explosive hazards, or glare or heat. (Ord. 88-010 § 2, 1988. 2004 Code § 18.38.010.)
TO: Fairbanks North Star Borough Planning Commission
FROM: D. Christine Nelson, Director
Department of Community Planning
DATE: February 28, 2017
SUBJECT: ORDINANCE NO. 2017-19: An Ordinance Amending Title 18 Definitions And Sign Regulations To Delete And Amend Content-Based Sign Regulations To Comply With First Amendment Protection, Exempting Flagpoles From Required Yards And Amending FNSBC 1.20.080 Fine Schedule

Purpose and Intent

The attached ordinance was referred by the FNSB Assembly on February 23, 2017. The purpose of this ordinance is to amend the sign standards to bring FNSBC 18.96.070 into compliance with court decisions protecting freedom of speech.

Background

The United States Supreme Court ruled in Reed v. Town of Gilbert that signage regulations based on the content of the sign are unconstitutional. Much of the FNSB sign code is currently content-based as elucidated by Reed so it must be amended.

Proposed Ordinance

Ordinance No. 2017-19 proposes to amend Title 18 by removing sign regulations based on content of the signage and to rewrite the rest of the sign code to meet constitutionality guidelines. In the proposed ordinance, the current sign standards have been revised to eliminate content-based requirements and amended in a manner that generally retains the original intent of the existing sign requirements while avoiding the focus on content to determine if a sign complies with code. This ordinance does not intend to substantially change the amount of signage permitted but does involve some changes in order to allow an equivalent amount of signage while meeting first amendment protections. The proposed ordinance also amends the fine schedule associated with signage violations and exempts flagpoles from the required yard setbacks in each zone, just as street furniture, transit amenities, and other structures are exempted in FNSBC 18.96.040(C).

Consistency with the FNSB Regional Comprehensive Plan

The FNSB Regional Comprehensive Plan is generally silent about signage; however a couple of goals and strategies emphasize aesthetics which is one of the principal purposes of sign regulation.
Ord. 2017-19
Community Planning Staff Report

Environment Goal 4 is: To protect and enhance both the natural and formal landscape; Strategy 12: Support beautification measures; and Action B: Maintain the aesthetic integrity of rural highways and community roads.

Economic Development Goal 1 is: To strengthen and expand the existing economy; Strategy 4: Emphasize development and expansion of mining, local manufacturing, agriculture, tourism, conventions, hospitality and forest-related businesses; Action C: Promote tourism by beautification through landscaping and/or signage of highways and junctions that create “first-impressions” of Fairbanks.

Regulation of signage for aesthetic purposes is consistent with both of these goals. In addition, signage allows businesses to advertise and display locational information to help draw customers; thereby boosting economic activity in the borough as outlined in the Comprehensive Economic Development Strategy (CEDS) adopted as an element of the comprehensive plan. The proposed ordinance is consistent with the FNSB Regional Comprehensive Plan.

Analysis

The primary purpose of this proposed ordinance (Exhibit #1) is to delete content-based sign regulations which have been deemed by the United States Supreme Court as unconstitutional under First Amendment protections while maintaining the intent and purpose of FNSB’s existing sign regulations to the maximum extent possible by revising them into content-neutral language. Content-based signage essentially means that if you have to read the sign to determine whether the sign complies with the regulation, it is most likely considered to be content-based, and therefore unconstitutional. Content-neutral sign regulation can regulate the number, size, type and placement but not what the sign says. For example, free-standing or roof signs could be allowed in certain zones and may be regulated by the total number of signs, maximum height, total square footage, dimensions, setbacks, and potentially other requirements, but not the text or graphics on the sign itself. This limitation changes the definitions of certain signs in our current code such as political, directional, menu or price signs, all of which have been eliminated from the proposed code since they are content-based. It also mandates that the remainder of the sign code be written differently to reflect the content-neutral focus. Finally, in order to make the sign regulations easier to understand and functional, some of the provisions were re-organized for clarity. A matrix (Exhibit #2) has been provided to compare the current sign regulations to the proposed regulations to demonstrate what was changed. The matrix includes code references as well as line numbers in the ordinance to show where the current and the proposed language can be located in the proposed ordinance for your review.

Substantive changes include:

- Clarifying and expanding the purpose and intent of the sign code to regulate signage in order to manage and mitigate aesthetic impacts as well as protecting pedestrians and motorists from potential hazards from signs. This language sets the context for all of the subsequent regulations.
- Extending general regulations of signage to all signs in all zones, including the GU zones, and in public rights-of-way. Most of these regulations are safety-related and should apply no matter where the sign is located.
Eliminating content based definitions and adding some clarifying definitions to support new sign provisions.

Dwellings are currently allowed one identification sign; they would be allowed 2 signs per dwelling unit but no restriction on what the sign says. The increase to 2 signs was based on inclusion of the building number as a sign. More than 2 signs were not proposed because of aesthetics and the potential for excess signage associated with multi-family dwellings and apartment complexes.

Non-residential uses in residential zones would be allowed 3 signs, rather than 1 sign currently. The increase to 3 signs was based on inclusion of the building number as a sign and also to reflect more realistic commercial signage currently existing in residential zones. More than 3 signs were not proposed because of aesthetics and the potential for excess commercial signage in residential zones.

Two additional signs would be allowed on any property that is for sale or rent but could say anything; the sign would not be restricted to advertising property for sale or rent.

One additional sign would be allowed for a commercial or non-residential use such as a home occupation or a daycare that is accessory to a residential use. The sign could say anything and would not be required to advertise that commercial or non-residential use.

Directional, price, menu, no trespassing and other miscellaneous signs are content-based regulations but these types of signs would be allowed as individual signs of 3 square feet or less hung separately for a cumulative total of not more than 35 square feet. Government signs could also replace some of these sign types.

In commercial and industrial zones, proposed language clarifies that 1 sign is allowed per street lot line if one principal use is in operation on the lot and this is consistent with the current code. Language was added to allow 2 signs per street lot line if more than 1 principal use is in operation on the lot. This helps address signage limitations for malls and other developments with multiple tenants on a single parcel.

Proposed language was added to address several new sign types not currently listed in the sign code including signage on mailboxes or signs not visible from roads or trails, as well as legal non-conforming signs. Legal non-conforming signs must be brought into compliance within 5 years unless the sign is altered, enlarged or replaced in which case, the sign must be brought into compliance at that time.

Proposed language was added to clarify that signage in public rights-of-way and those signs not visible from streets, roads, highways and trails open to the public would only be subject to the general sign regulations of FNSBC 18.96.070(A).

Political signage which is currently content-based regulation is proposed to be replaced with 2 additional temporary signs that can be only be posted for the period of June through November. These temporary signs can say anything, not just political advertising or sentiments. Currently political signs are unlimited but because the content can no longer be limited to political information, allowing unlimited temporary signs is not conducive to good sign management or aesthetics.

Off-premise sign regulation which is currently content-based was addressed by allowing signage on any lot where a principal use is in operation but the sign is not required to advertise only those activities or businesses located on the site. Proposed language requires signs be removed if the principal use is no longer in operation. This approach
helps limit signage on vacant land and concentrates signage where commercial and other activity is already located.

Changes to the sign code are necessary to comply with federal law. The intent to revise the sign code with only minimal changes in order to have functional, understandable and consistent sign regulations has been met. The minor changes proposed are intended to clarify, standardize, and organize sign requirements for better implementation of the purpose and intent of FNSB sign regulation.

Recommendation

The Community Planning Department recommends that the FNSB Planning Commission recommend that the FNSB Assembly approve Ordinance No. 2017-19.

Proposed Draft Motion:

I move that the Planning Commission makes a recommendation of approval of Ordinance No. 2017-19 to the FNSB Assembly.
MEMORANDUM

TO: Christine Nelson, Director
    Department of Community Planning
FROM: Nanci Ashford-Bingham, MMC
      Borough Clerk
DATE: February 24, 2017
SUBJECT: REFERRAL OF ORDINANCE NO. 2017-19 – TITLE 18 DEFINITIONS & SIGN
         REGULATIONS

On February 23, 2017, the Fairbanks North Star Borough Assembly introduced and referred
Ordinance No. 2017-19 sponsored by Mayor Kassel to the Planning Commission for review and
recommendation.

ORDINANCE NO. 2017-19. An Ordinance Amending FNSBC Title 18 Definitions And Sign
Regulations To Delete And Amend Content-Based Sign Regulations To Comply With First
Amendment Protections, Exempting Flagpoles From Required Yards And Amending FNSBC
1.20.080 Fine Schedule. (Sponsor: Mayor Kassel)
-Refereed to the Planning Commission on March 7, 2017; Referred to the Finance Committee
on March 16, 2017; Advanced to March 23, 2017 for Public Hearing

A recommendation is due to the Assembly by March 13, 2017.

Please place this item on the March 7, 2017 commission agenda and notify Mayor Kassel of the
date and time of the meeting.

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

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

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

ORDINANCE NO. 2017-19

AN ORDINANCE AMENDING FNSBC TITLE 18 DEFINITIONS AND SIGN REGULATIONS TO DELETE AND AMEND CONTENT-BASED SIGN REGULATIONS TO COMPLY WITH FIRST AMENDMENT PROTECTIONS, EXEMPTING FLAGPOLES FROM REQUIRED YARDS AND AMENDING FNSBC 1.20.080 FINE SCHEDULE

WHEREAS, Signage serves important community functions by providing locational information and advertising; and

WHEREAS, Signage has significant visual and safety impacts on the community; and

WHEREAS, The type, number, size and location of signage can impact aesthetics and public safety within the community; and

WHEREAS, Content-based sign regulation has been determined to be unconstitutional by the United States Supreme Court in Reed v. Town of Gilbert as an infringement on First Amendment free speech rights; and

WHEREAS, FNSBC 18.96.070 currently contains content-based sign regulation as elucidated by Reed v. Town of Gilbert; and

WHEREAS, The FNSB wishes to continue to legally regulate signage to address the aesthetic impacts and public safety concerns related to signs.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is of a general and permanent nature and shall be codified.

Section 2. FNSBC 18.04.010, Definitions, is amended to add the following definitions: [the Clerk shall add or amend the definitions in alphabetical order]

"Flag" means any fabric or other flexible material attached or designed to be attached on one-side in order to be flown from a flagpole or other similar device.

"Flagpole" means a single pole structure that is free-standing or is attached to a building and used for the sole purpose of displaying flags.

"Sign" means any object, device, display or structure, or part thereof, situated outdoors or indoors, used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images, but excluding flags.

["SIGN, ANIMATED OR MOVING" MEANS ANY SIGN OR PART OF A SIGN WHICH CHANGES PHYSICAL POSITION BY ANY MOVEMENT OR ROTATION OR WHICH GIVES THE VISUAL IMPRESSION OF SUCH MOVEMENT OR ROTATION.]

"Sign area" means the entire face or display surface of a sign including the advertising surface and any framing, trim or molding, but not including the supporting structure.

["SIGN, DIRECTIONAL" MEANS SIGNS LIMITED TO DIRECTIONAL MESSAGES, PRINCIPALLY FOR PEDESTRIAN OR VEHICULAR TRAFFIC, SUCH AS "ONE WAY", "ENTRANCE" AND "EXIT."]

["SIGN, FLASHING" MEANS ANY DIRECTLY OR INDIRECTLY ILLUMINATED SIGN, OTHER THAN A SIGN THAT DISPLAYS TIME AND TEMPERATURE WHICH EXHIBITS CHANGING NATURAL OR ARTIFICIAL LIGHT OR COLOR EFFECTS BY ANY MEANS WHATSOEVER.]
"SIGN, IDENTIFICATION" MEANS ANY SIGNS DISPLAYING THE ADDRESS OR COMBINATION OF NAMES AND ADDRESSES OF OCCUPANTS OF PREMISES, AND NOT ADVERTISING ANY BUSINESS.

"Sign, government" means a sign that is constructed, placed or maintained by a government agency or a sign that is required to be constructed, placed or maintained by a government agency either directly or to enforce a property owner's rights.

"Sign, illuminated" means any sign illuminated in any way by an artificial light source.

"SIGN, MENU" MEANS A PERMANENTLY MOUNTED SIGN DISPLAYING THE BILL OF FARE OF A DRIVE IN OR DRIVE THROUGH RESTAURANT.

"Sign, legal nonconforming" means any sign which was lawfully established prior to the adoption, revision or amendment to this title, but which fails, by reason of such adoption, revision or amendment, to conform to the requirements of the zoning district in which it is located.

"SIGN, POLITICAL" MEANS A TEMPORARY SIGN ANNOUNCING OR SUPPORTING POLITICAL CANDIDATES OR ISSUES IN CONNECTION WITH ANY NATIONAL, STATE OR LOCAL ELECTION.

"SIGN, PORTABLE" MEANS A TEMPORARY SIGN THAT IS NOT PERMANENTLY AFFIXED TO A BUILDING, STRUCTURE OR THE GROUND.

"SIGN, PRICE" MEANS A PERMANENTLY MOUNTED SIGN DISPLAYING THE COST OF FUEL ON THE PREMISES OF AN AUTOMOBILE SERVICE STATION OR OTHER ESTABLISHMENT WHICH DISPENSES FUEL.

"SIGN, REAL ESTATE" MEANS A SIGN PERTAINING TO THE SALE, RENT OR LEAVE OF A PREMISES OR A PORTION OF PREMISES, ON WHICH THE SIGN IS LOCATED.

"Sign, roof" means a sign that is mounted on the roof of a building and is wholly dependent upon a building for support.

"Sign, temporary" means a sign [OR ADVERTISING DISPLAY] designed or intended to be displayed and which is displayed for a period of time not to exceed six [TWO] months and which has no flashing, animated or moving parts.
"SIGN, TIME OR TEMPERATURE" MEANS ANY SIGN OR ELEMENTS OF A SIGN WHICH ARE INTENDED TO INDICATE NO MORE INFORMATION THAN THE CURRENT TIME, THE CURRENT TEMPERATURE, OR BOTH.]

Section 3. Subsection F of FNSBC 18.60.030 regarding sign standards is hereby deleted:

[F. SIGNS SHALL NOT EXCEED 25 FEET IN HEIGHT]

Section 4. FNSBC 18.96.070 Signs, is hereby amended as follows:

This [CHAPTER] section is intended to [PROMOTE] regulate the use of signs in order to manage and mitigate the aesthetic impacts of signage and to protect pedestrians and motorists from damage or injury caused by distractions, obstructions or hazards created by signs.

A. General Regulations.

   In all zoning districts, including public rights of way, the following standards apply:

   [1. EXCEPT AS PROVIDED HEREINAFTER, ALL SIGNS SHALL BE LOCATED ON THE ZONING LOT ON WHICH THE FACILITIES, ACTIVITIES OR ENTERPRISES BEING ADVERTISED ARE LOCATED.]

   [2.1] No sign shall be erected or displayed at any location that obstructs the vision of pedestrians or motorists. A sign shall not obstruct, impair, obscure, interfere with the view of, or be similar to any authorized traffic control sign, or signal, or device.

   [3.2] No sign shall be placed or displayed on any private property without the consent of that property’s owner except a government sign required by law to be posted.

   [4.3] No sign shall be erected, constructed, displayed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.
4. Illuminated signs shall be designed and constructed so as to concentrate the illumination upon the surface area of the sign and prevent glare upon the street or adjacent property.

5. Except for temporary signs, signs shall be permanently affixed to the ground or otherwise affixed in a permanent manner to a supporting structure.

6. Unless expressly permitted in this section, no sign shall be erected or displayed on any lot or zoning lot that does not have a principal use on the lot. Signs shall be removed upon termination of that principal use on the lot.

B. Signs Permitted in all Zones.

1. Government signs;

2. Two signs if the property is for sale or rent;

3. Individual signs of three square feet or less in sign area each, separated and affixed in a permanent manner to a supporting structure, but not to exceed a cumulative total sign area of 35 square feet;

4. Signs not visible from a street, road or highway, or trail open to the public;

5. Letters or numbers affixed directly to a mailbox and its support post or column;

6. Two temporary signs during the months of June through November;

7. Legal nonconforming signs, other than nonconforming temporary signs, may continue for a period of five years from the date they became nonconforming, provided that a sign may not be altered, enlarged, or replaced.

[B]C. Permitted Signs by Zone.

Additional signs are permitted in the following zones:

1. In the RA-40, rural and agricultural district, through the MFO, multifamily residential/professional office district[; PERMITTED SIGNS ARE AS follows]:

   a. Two [ONE IDENTIFICATION] signs per dwelling;

   b. [OFFICE BUILDINGS AND OTHER] Permitted nonresidential principal uses in operation on the lot or zoning lot[, WHERE PERMITTED IN RESIDENTIAL ZONES.] may have [ONE] three signs;

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
c. [ONE REAL ESTATE SIGN PER LOT;] A commercial or other non-
residential use, if accessory to a residential use, may have one sign.

D. ONE HOME OCCUPATION SIGN ADVERTISING A BUSINESS
BEING CONDUCTED IN A DWELLING;
E. “NO TRESPASSING,” “NO DUMPING” OR “PRIVATE
PROPERTY” SIGNS;
F. SIGNS ESTABLISHED BY OR BY ORDER OF ANY
GOVERNMENTAL AGENCY, AND FLAGS AND INSIGNIAS DISPLAYED BY A
GOVERNMENT AGENCY.

G. DIRECTIONAL SIGNS;
H. OTHER TEMPORARY SIGNS AS SET FORTH HEREIN.

2. In the OR, outdoor recreation district, and in the LC, light commercial
district through the ML, mineral lands district, both inclusive, PERMITTED SIGNS ARE
AS FOLLOWS:

a. Those signs permitted in the RA-40, rural and agricultural district,
through the MFO, multiple-family residential/professional office district, both inclusive;

b. One sign per street lot line [PLUS TEMPORARY, DIRECTIONAL,
MENU OR PRICE SIGNS AS PERMITTED. SIGNS FLAT AGAINST THE BUILDING
AND NOT EXTENDING BEYOND THE BUILDING SHALL BE EXCLUDED FROM
BOTH THE AREA CALCULATIONS AND THE ONE SIGN PER STREET LOT LINE
LIMITATION;] if one principal use is in operation on the lot or zoning lot;

c. [OTHER TEMPORARY SIGNS AS SET FORTH HEREIN.] Two
signs per street lot line if more than one principal use is in operation on the lot or zoning
lot;

d. Signs flat against the building and not extending beyond the
building, but not including roof signs;

e. One temporary sign per lot or zoning lot.

3. [SIGNS] In the GU-1 and GU-5 general use districts, any additional signs
are permitted[ARE EXEMPT FROM THE REGULATIONS OF THIS SECTION].
[C. TEMPORARY SIGNS. TEMPORARY SIGNS ARE PERMITTED AS FOLLOWS.

1. SUBDIVISION SIGNS. FOR EACH REAL ESTATE SUBDIVISION THAT
HAS BEEN APPROVED IN ACCORDANCE WITH FNSBC TITLE 17, ONE SIGN
ADVERTISING THE SALE OF PROPERTY IN SUCH SUBDIVISION IS PERMITTED.
SAID SIGN SHALL BE LOCATED WITHIN THE SUBDIVISION BEING ADVERTISED
FOR SALE AND SHALL BE REMOVED WHEN 90 PERCENT OF THE LAND IN THE
SUBDIVISION HAS BEEN SOLD, BUT NOT TO EXCEED A TWO-YEAR PERIOD
WHICHEVER OCCURS FIRST.

2. PORTABLE SIGNS. EXCEPT IN RESIDENTIAL ZONING DISTRICTS,
ONE PORTABLE SIGN PER LOT ADVERTISING A BUSINESS CREATED DURING
THE WINTER MONTHS WHEN WEATHER CONDITIONS PROHIBIT THE
PLACEMENT OF A PERMANENT SIGN SHALL BE ALLOWED, ONLY UNTIL
WEATHER CONDITIONS PERMIT THE PLACEMENT OF A PERMANENT SIGN.

3. POLITICAL SIGNS.
A. POLITICAL SIGNS SHALL BE ALLOWED IN ALL ZONES.
B. IN ALL RESIDENTIAL ZONING DISTRICTS ALL SIGNS ARE
UNLIMITED.
C. IN ALL OTHER ZONING DISTRICTS, THE NUMBER OF
POLITICAL SIGNS IS UNLIMITED.
D. WHEN A POLITICAL CANDIDATE IS ADVERTISED, THE
CANDIDATE IS RESPONSIBLE FOR ENSURING THE CONDITIONS OF THIS
SECTION ARE MET.]

Section 5. Subsection D of FNSBC 18.96.080 Home Occupations
regarding sign standards is hereby deleted as follows:
[D. SIGNS SHALL BE A MAXIMUM OF EIGHT SQUARE FEET AND SELF
ILLUMINATION OR PURPOSEFUL ILLUMINATION IS PROHIBITED.]

Section 6. Subsection C of FNSBC 18.96.220 Standards for sexually
oriented businesses is amended as follows:

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
C. Signs. Notwithstanding the provisions of FNSBC 18.96.070 [(B) (2)] (B) AND (3)], no sexually oriented business shall display more than [ONE EXTERIOR IDENTIFICATION SIGN. IDENTIFICATION SIGNS] two signs, which shall not exceed a total combined sign area [SHALL BE A MAXIMUM] of 40 square feet [AND CONTAIN ONLY THE BUSINESS NAME, TELEPHONE NUMBER, STREET ADDRESS, HOURS OF OPERATIONS, AND GENERAL NATURE OF THE ESTABLISHMENT].

Section 7. Subsection C of FNSBC 18.96.040 is amended as follows:

C. The following are exempt from the yard requirements of this title; provided, that the sight distance requirements set forth in FNSBC 18.96.100 are met:

1. Fences meeting the provisions in FNSBC 18.96.090;

2. Flagpoles;

3. Retaining walls;

4. Signs meeting the provisions in FNSBC 18.96.070;

5. Transit amenities;

6. Street furniture;

7. Transportation-related infrastructure, including but not limited to street lamps, traffic lights, traffic signs, traffic barriers, and bollards;

8. Public bicycle racks and shelters.

Section 8. FNSBC 1.20.080, Fine Schedule, is hereby amended as follows:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Fine</th>
<th>1st offense only</th>
</tr>
</thead>
<tbody>
<tr>
<td>18.96.070(A)</td>
<td>Sign violation.</td>
<td>$300.00</td>
<td>Yes, 1st offense only</td>
</tr>
<tr>
<td>[18.96.070(B)</td>
<td>SIGN VIOLATION – DEFINED ZONE.</td>
<td>$300.00</td>
<td>YES, 1ST OFFENSE ONLY</td>
</tr>
<tr>
<td>18.96.070(C)</td>
<td>TEMPORARY SIGN VIOLATION.</td>
<td>$300.00</td>
<td>YES, 1ST OFFENSE ONLY</td>
</tr>
</tbody>
</table>

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED, CAPITALIZED]
Section 9. Effective Date. This ordinance is effective at 5:00 p.m. on the
first Borough business day following its adoption.

PASSED AND APPROVED THIS _______ DAY OF _____________, 2017.

Kathryn Dodge
Presiding Officer

APPROVED:

Jill S. Dolan
Borough Attorney

ATTEST:

Nanci Ashford-Bingham, MMC
Borough Clerk
<table>
<thead>
<tr>
<th>ZONE</th>
<th>SIGN TYPE</th>
<th>CURRENT REGULATION</th>
<th>PROPOSED CODE</th>
<th>SUBSTANTIVE CHANGES</th>
<th>CURRENT CODE REFERENCE</th>
<th>ORD. LINE #s - Current Text</th>
<th>PROPOSED CODE REFERENCE</th>
<th>ORD. LINE #s - New Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>RA, RF, RE, RR, SF, TF, MF, MFO</td>
<td>DWELLING</td>
<td>1 identification sign per dwelling</td>
<td>2 signs per dwelling unit</td>
<td>Increase of 1 additional sign allowed per dwelling because now includes building number/address</td>
<td>18.96.070(B)(1)(a)</td>
<td>147</td>
<td>18.96.070(C)(1)(a)</td>
<td>147</td>
</tr>
<tr>
<td>NON-RESIDENTIAL</td>
<td>1 sign for office building &amp; non-residential uses in residential zones</td>
<td>3 signs for permitted non-residential principal uses in operation on lot</td>
<td>Increase of 2 additional signs allowed for non-residential use because now includes building number/address and any other identifying signs</td>
<td>18.96.070(B)(1)(b)</td>
<td>148-150</td>
<td>18.96.070(C)(1)(b)</td>
<td>148-150</td>
<td></td>
</tr>
<tr>
<td>REAL ESTATE</td>
<td>1 real estate sign</td>
<td>2 signs if property is for sale or rent</td>
<td>Increase of 1 additional sign to accommodate larger parcels or ones with more than one street frontage</td>
<td>18.96.070(B)(1)(c)</td>
<td>151</td>
<td>18.96.070(B)(2)</td>
<td>132</td>
<td></td>
</tr>
<tr>
<td>HOME OCCUPATION</td>
<td>1 home occupation sign of max. 8 sq. feet in size and not illuminated</td>
<td>1 sign for a commercial or non-residential use if accessory to a residential use</td>
<td>No longer a limit on the sign size or illumination</td>
<td>18.96.070(B)(1)(d)</td>
<td>153-154 and 204-207</td>
<td>18.96.070(C)(1)(c)</td>
<td>151-152</td>
<td></td>
</tr>
<tr>
<td>NON TRESPASS/NO DUMPING/PRIVATE PROPERTY</td>
<td>Unlimited</td>
<td>Individual signs of 3 sq. feet or less with max. total of 35 sq. feet area AND/OR Government signs</td>
<td>Increase in number of signs because now includes structure address</td>
<td>18.96.070(B)(1)(e)</td>
<td>155-156</td>
<td>18.96.070(B)(3) and 18.96.070(B)(1)</td>
<td>133-135 and 131 and 67-69</td>
<td></td>
</tr>
<tr>
<td>DIRECTIONAL</td>
<td>Unlimited</td>
<td>Individual signs of 3 sq. feet or less with max. total of 35 sq. feet area AND/OR Government signs</td>
<td>Increase in number of signs because now includes structure address</td>
<td>18.96.070(B)(1)(g)</td>
<td>160</td>
<td>18.96.070(B)(3) and 18.96.070(B)(1)</td>
<td>133-135 and 131 and 67-69</td>
<td></td>
</tr>
<tr>
<td>OR, LC, GC, CBD, LJ, HI, ML</td>
<td>DWELLING</td>
<td>1 identification sign per dwelling</td>
<td>2 signs per dwelling unit</td>
<td>Increase of 1 additional sign allowed per dwelling because now includes building number/address</td>
<td>18.96.070(B)(2)(a)</td>
<td>165-166</td>
<td>18.96.070(C)(1)(a)</td>
<td>147</td>
</tr>
<tr>
<td>NON-RESIDENTIAL</td>
<td>1 sign for office building &amp; non-residential uses in residential zones</td>
<td>3 signs for permitted non-residential principal uses in operation on lot</td>
<td>Increase in number of signs because now includes structure address</td>
<td>18.96.070(B)(2)(a)</td>
<td>165-166</td>
<td>18.96.070(C)(1)(b)</td>
<td>148-150</td>
<td></td>
</tr>
<tr>
<td>REAL ESTATE</td>
<td>1 real estate sign</td>
<td>2 signs if property is for sale or rent</td>
<td>18.96.070(B)(2)(a)</td>
<td>165-166</td>
<td>18.96.070(B)(2)</td>
<td>132</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HOME OCCUPATION</td>
<td>1 home occupation sign</td>
<td>1 sign for a commercial or non-residential use if accessory to a residential use</td>
<td>18.96.070(B)(2)(a)</td>
<td>165-166</td>
<td>18.96.070(C)(1)(c)</td>
<td>151-152</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NON TRESPASS/NO DUMPING/PRIVATE PROPERTY</td>
<td>Unlimited</td>
<td>Individual signs of 3 sq. feet or less with max. total of 35 sq. feet area AND/OR Government signs</td>
<td>18.96.070(B)(2)(a)</td>
<td>165-166</td>
<td>18.96.070(B)(3) and 18.96.070(B)(1)</td>
<td>133-135 and 131 and 67-69</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DIRECTIONAL</td>
<td>Unlimited</td>
<td>Individual signs of 3 sq. feet or less with max. total of 35 sq. feet area AND/OR Government signs</td>
<td>18.96.070(B)(2)(a)</td>
<td>165-166</td>
<td>18.96.070(B)(3) and 18.96.070(B)(1)</td>
<td>133-135 and 131 and 67-69</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LOT LINE</td>
<td>One sign per street lot line plus temporary, directional, menu and price signs as permitted</td>
<td>One sign per street lot line if one principal use is in operation on lot and 2 signs per lot line if more than 1 principal use is in operation on lot</td>
<td>Clarified 1 sign per street lot line if one principal use is in operation. Added language for 2 signs per street lot line if more than 1 principal use in operation on lot</td>
<td>18.96.070(B)(2)(b)</td>
<td>167-168</td>
<td>18.96.070(C)(2)(b-c)</td>
<td>167-171 and 172-174</td>
<td></td>
</tr>
<tr>
<td>FLAT ON BUILDING</td>
<td>Signs flat against building and not extending beyond building are excluded from area calculations and one sign per street lot line limitations</td>
<td>Signs flat against building and not extending beyond building (but not including roof signs) are permitted</td>
<td>No substantive change - clarification only</td>
<td>18.96.070(B)(2)(b)</td>
<td>168-171</td>
<td>18.96.070(C)(2)(d)</td>
<td>175-176</td>
<td></td>
</tr>
<tr>
<td>GU-1</td>
<td>ALL SIGNS</td>
<td>All signs are exempt from regulations</td>
<td>All additional signs are permitted but signage is subject to general regulations.</td>
<td>Signage in GU-1 and GU-5 zones will be subject to general regulations for safety, property owner authorization and posting on vacant land</td>
<td>18.96.070(B)(3)</td>
<td>178-179</td>
<td>18.96.070(C)(3) and 18.96.070(A)(1-6)</td>
<td>178-179 and 107-109 and 113-129</td>
</tr>
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</tr>
<tr>
<td>ALL ZONES</td>
<td>TEMPORARY</td>
<td>2 months maximum duration</td>
<td>6 months maximum duration</td>
<td>definition changed length of posting</td>
<td>92-93</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SUBDIVISION</td>
<td>Unlimited</td>
<td>1 sign located in subdivision/ Remove when 90% sold but not to exceed 2 years, whichever is less</td>
<td>2 signs if property is for sale or rent</td>
<td>1 additional sign allowed and not required to remove until all lots are sold</td>
<td>18.96.070(C)(1)</td>
<td>182-188</td>
<td>18.96.070(B)(2)</td>
<td>132</td>
</tr>
<tr>
<td>POLITICAL</td>
<td>Unlimited</td>
<td>2 additional temp signs from June through November</td>
<td>Reduction in total number of signs allowed</td>
<td>18.96.070(C)(3a-d)</td>
<td>194-202</td>
<td>18.96.070(B)(6)</td>
<td>139</td>
<td></td>
</tr>
<tr>
<td>GOVERNMENT</td>
<td>Unlimited</td>
<td>Unlimited</td>
<td></td>
<td>18.96.070(B)(2)(a)</td>
<td>165-166</td>
<td>18.96.070(B)(1)</td>
<td>131</td>
<td></td>
</tr>
<tr>
<td>MAILBOX</td>
<td>Not previously explicitly listed</td>
<td>Letter and numbers directly affixed to mailbox and supports</td>
<td>Broad definition of sign necessitated adding this sign type</td>
<td>18.96.070(B)(5)</td>
<td>137-138</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NOT VISIBLE</td>
<td>Not previously explicitly listed</td>
<td>Signs not visible from street, road, highway or trail open to the public are permitted</td>
<td>Exempts these signs from all but general sign regulations</td>
<td>18.96.070(B)(4)</td>
<td>136</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LEGAL NON-CONFORMING</td>
<td>Not previously explicitly listed</td>
<td>Signs may continue for 5 years from date of non-conformity if not altered, enlarged or replaced</td>
<td>Requires sign compliance within a maximum of 5 years</td>
<td>18.96.070(B)(7)</td>
<td>140-142</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PORTABLE</td>
<td>Except in residential zones, 1 temp sign for a business created in winter only until weather conditions allow for placement of a permanent sign</td>
<td>1 temp sign in OR, LC, GC, CBD, LI, HI &amp; ML Zones</td>
<td>Portable sign type/definition no longer necessary when temporary signs include portable signs and serve the same function</td>
<td>18.96.070(C)(2)</td>
<td>189-193</td>
<td>18.96.070(C)(2)(e)</td>
<td>177</td>
<td></td>
</tr>
<tr>
<td>OFF-PREMISE</td>
<td>Requires sign to be posted on lot where activity or business advertising is located</td>
<td>Allows signs to be posted on a lot where a principal use is in operation</td>
<td>Allows signage on any lot where a principal use is in operation but is not required to advertise only those activities or businesses on the site. Signs must be removed when the principal use is no longer in operation</td>
<td>18.96.070(A)(1)</td>
<td>110-112</td>
<td>18.96.070(A)(6)</td>
<td>127-129</td>
<td></td>
</tr>
<tr>
<td>PUBLIC ROW</td>
<td>Not previously explicitly listed</td>
<td>Exempts these signs from all but general sign regulations</td>
<td></td>
<td>18.96.070(A)</td>
<td>108-109</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHER SIGNAGE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LC ZONE</td>
<td>25 foot limit on sign height</td>
<td>Removes height limit</td>
<td>18.60.030(F)</td>
<td>100</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SOB USE</td>
<td>limits content of sign and 1 sign of no more than 40 sq., feet</td>
<td>removes content-based text and allows 2 signs of no more than total 40 sq. feet</td>
<td>1 additional sign but no greater total sq. footage allowed</td>
<td>18.96.220(C)</td>
<td>209-216</td>
<td>18.96.220(C)</td>
<td>211-214</td>
<td></td>
</tr>
</tbody>
</table>
FMATS
1. Call to Order
2. Introduction of Members and Attendees
3. Approval of the March 1, 2017 Agenda
4. Approval of the February 1, 2017 Minutes
5. Committee/Working Group Reports (including the Chair’s Report)
6. Public Comment Period (Items not on the Agenda)
7. Old Business
   a. Title VI Implementation Plan Draft for Public Comments to Date
   b. Old Richardson Highway Field Visit
   c. Slater Drive Improvements
   d. Airway Drive Improvements (Action Item)
8. New Business
   a. Minnie Street Corridor Planning and Environmental Linkages Scope of Services (Action Item)
   b. Metropolitan Transportation Plan Budget Increase and Scope (Action Item)
   c. Fairbanks Road/Rail Crossing Reduction Plan Scope
   d. Cushman Street Bridge Field Visit
9. Other Issues
10. Informational Items
    a. University Avenue Widening Project Update
    b. Safety Performance Measure and Target Setting
    c. State of Good Repair Target Setting
    d. 02.15.17 Policy Board Action Items
    e. Final Rules for Performance Measures: Pavement, Bridge Freight, Emissions
       https://www.fhwa.dot.gov/tpm/rule.cfm
    f. CAPSIS Request
    g. Obligations and Offsets
11. Technical Committee Comments
12. Adjournment

Next Scheduled Technical Committee Meeting – Wednesday, April 5, 2017, Noon, City Hall, City Council Chambers