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

A. ROLL CALL

MEMBERS PRESENT:  Charles Whitaker    Eric Muehling
                  John Perreault    Robert Peterson
                  Patricia Thayer   Chris Guinn
                  Mindy O’Neall      Mike Stepovich

MEMBERS ABSENT:    David Brandt        Wendy Presler

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

B. MESSAGES

1. Chairperson’s Comments

   There were no comments by the Chairperson.

2. Commissioner’s Comments

   There were no comments by Commissioners.

3. Communications to the Planning Commission

   Ms. Nelson communicated that a new security measure was implemented which closes the door accessing the Chizmar room from the lobby side.

   Ms. Nelson advised of an upcoming meeting with Surveyors on Friday, October 27, 2017, to discuss issues and concerns with Title 17 and potential amendments to Code that may improve services.

   Ms. Nelson reminded Commissioners that Commissioner Stepovich would be attending the APA Conference in Anchorage in November.

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

   Ms. Tammi Ganguli expressed concerns with zoning and the rights of the homeowners.
Ms. Thayer and Ms. Doxey clarified under this section her comments should be strictly related to matters generally with no references should be made to any matter to be heard in this agenda.

Ms. Ganguli continued explaining her concerns with General Use 1 zoning during the platting process and testified as to her belief that the rights of property owners are not being considered and that even if rezoning were to occur, those existing GU-1 uses would get grandfathered in since they were there before the rezone.

5. Disclosure & Statement of Conflict of Interest

There were no disclosures or conflicts of interest reported.

C. * APPROVAL OF REVISED 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 Mr. Peterson and seconded by Mr. Whitaker.

PASSED WITHOUT OBJECTION

D. MINUTES


E. QUASI-JUDICIAL HEARING

1. CU2018-003: A request by Ryan Hallsten DBA R.C.H. Cultivation on behalf of S. Corp Inc. for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 21, Fairbanks Industrial Park Subdivision (located at 2745 Hanson Road, on the south side of Hanson Road, between Commerce Street and Deere Street).

OATH ADMINISTERED

The Applicant, Ryan Hallsten, was present, along with Charles Hnilicka, and Mr. Hallsten’s attorney Jason Weiner.

Mr. Manish Singh provided a presentation of his staff report and recommendations on behalf of the Borough’s Planning Department.

Questions by Commissioners

Mr. Quinn commented that the property backs up to the railroad corridor, and noticed that the Railroad did not respond, and expressed concern with contents of the railroad tanks and presence of fertilizer on the subject site. Mr. Singh responded that fire safety was considered on this property, and that the Applicant will work with the City of Fairbanks’ Fire Department to meet their requirements as well as building code requirements.
Ms. Thayer inquired if there is fence separating the property from the railroads property, and if so, who owns it. Mr. Singh responded there is physical separation between the railroad and this property through fencing and existing vacant structure, and fencing belongs to the property owner.

**Applicant’s Testimony**

Mr. Hallsten testified to the Planning Commission that the subject lot is one of the cleanest lots and well-maintained building in the subdivision. He further testified of his family’s lengthy involvement with the property and desire to not obstruct anyone’s business.

**Questions by Commissioners**

Mr. Muehling asked what methods Big Foot Pumping & Thawing will be using to dispose of marijuana wastewater. Mr. Hallsten responded that Big Foot Pumping & Thawing follows the mandate of Golden Heart Utilities which requires a dilution requirement.

Mr. Muehling asked for clarification of the disposal of marijuana plant waste. Mr. Hallsten communicated the State requirements and the method which would be utilized.

Mr. Muehling inquired what expertise Mr. Hallsten has or would be relying on to determine the appropriate size for odor carbon filters systems. Mr. Hallsten responded that he does not have the expertise, but would make sure there was enough in place in the areas needed to clear the odor.

Ms. O’Neall inquired if Mr. Hallsten resides on the property, and Mr. Hallsten that currently they do, but intends to move due to Fire Marshal requirements.

Mr. Perreault inquired about the residence in the back of the property. Mr. Hallsten responded that the building is used for storage.

Ms. Thayer asked if Mr. Hallsten had physically gone out to other property owners within 500 feet to determine their thoughts. Mr. Hallsten reported that he did speak to Mr. Wickwire, who initially expressed concern with additional traffic and crime. Mr. Hallsten explained he and his parents have assured Mr. Wickwire that there would be little to no increase in traffic.

**Interested-Person Testimony Opened**

Clerk contacted Mr. Steve Hallsten telephonically and administered the Oath.

Mr. Steve Hallsten testified that he does not have any objection to the proposed operation.

Ms. Thayer clarified for the record that Mr. Steve Hallsten is the property owner. Mr. Steve Hallsten confirmed he is the property owner.

**Interested-Person Testimony Closed**

**Applicant’s Rebuttal**

No rebuttal offered.
MOTION: To approve the Conditional Use Permit for a commercial marijuana cultivation facility, indoor large with three (3) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval by Ms. O’Neall and seconded by Mr. Peterson.

Discussion on the Motion

Ms. O’Neall thanked the applicants for putting together an application that addressed the health, safety, and welfare of this body, and the site security and waste disposal issues are met, as such will be supporting approval.

Mr. Muehling commented Land Use goal 3 and Economic Development goal 2 is satisfied, and the applicant has satisfied his concerns on odor, wastewater, and solid waste.

Ms. Thayer communicated the health, safety and welfare have been met, that it is a GU-1, and will be supporting approval.

Mr. Doxey pointed out there is a discrepancy between the staff report and conditions and noted that on page 29 of the Staff Report it noted compliance with 3 AAC 306, however it is not in the conditions.

Ms. Thayer inquired what 3 AAC 306 addresses, and Ms. Doxey responded it is generally the State regulations for marijuana facilities.

MOTION: To amend motion 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 by Ms. O’Neall and seconded by Mr. Guinn.

ROLL CALL (Motion to Amend):

Seven (7) in Favor: Mr. Muehling, Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. O’Neall, Mr. Stepovich, Mr. Perreault, and Ms. Thayer.

Zero (0) Opposed.

MOTION TO AMEND APPROVED

ROLL CALL (Main Motion):

Seven (7) in Favor: Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. O’Neall, Mr. Stepovich, Mr. Perreault, Mr. Muehling, and Ms. Thayer.

Zero (0) Opposed.

MOTION TO APPROVE CU2018-003 IS APPROVED

(The meeting recessed from 6:43 – 6:53 p.m.)

2. CU2017-010: A remand of a request by Dan Sloan on behalf of the Fairbanks North Star Borough Public Works Department, for conditional use approval of a solid waste public dumping site in the Multiple-Family Residential/Professional Office (MFO) zone on
Lot 1, Chena Pump Solid Waste Transfer Station Subdivision (located on the south side of Old Chena Ridge Road, west side of Chena Pump Road, and southwest of the Parks Highway). The Board of Adjustment remanded this case to the Planning Commission to reheat and enter specific findings consistent with the following: Whether the impacts on nearby residential neighborhoods have been adequately addressed with the proposed conditions, or whether additional conditions should be imposed to ensure the protection of the public health, safety and welfare. Specifically, the Planning Commission should consider (1) noise mitigation; (2) whether set hours of operation or maintenance should be imposed; (3) whether limitations on the use of lighting are necessary; and (4) whether a vegetative buffer or similar control will assist in mitigating the visual impact of the use of and/or runoff from the property.

Ms. Thayer established for Commissioners and anyone testifying on this matter would be focused on the four remand points and restated the four points.

Ms. Thayer inquired from Mr. Peterson if he had listened to or read the entire record of this matter that was heard on February 7, 2017 in which Mr. Peterson was absent.

Mr. Peterson confirmed he had read the entire transcript.

Ms. Thayer stated for the record that everything from the February 7, 2017 hearing on this matter is already part of the record, has been re-reviewed, it does not need to be repeated at this meeting unless something needs to be restated as it concerns the four remand points.

Ms. Thayer reminded Commissioners that in their addendum packets there are two testimonies by affidavit.

Ms. Thayer explains to Mr. and Ms. Ganguli that they each have three (3) minutes for a total of six (6) minutes, so sought to clarify how they wanted to handle the two (2) individuals that were to testify telephonically.

Mr. Ryan Koma Fenton stated that one of the realtors, Ms. Megan Quan, is their neighbor and she should be able to testify without taking the Ganguli’s time.

Discussion ensued about Ms. Quan being within the Dear Property Owner notification radius and it was determined she is outside the area to be considered.

Ms. Ganguli explained her understanding of the proceedings with the realtor’s testifying and that she was never informed by doing so would take away from her three (3) minutes.

Ms. Robin Maher with the Maher Family Trust gave up her three (3) minutes to one of the realtors to testify.

Ms. Thayer announced the Gangulis would have a total of nine (9) minutes to split between the four (4) people testifying.

OATH ADMINISTERED

The Applicant, FNSB Public Works was represented by FNSB Engineer, Dave Halverson, FNSB Project Manager, Chad Hoiser, and FNSB Solid Waste Manager, Bob Jordan.
Ms. Stacy Wasinger provided a presentation of her staff report and recommendations on behalf of the Borough’s Planning Department.

Questions by Commissioners

Mr. Guinn inquired if Ms. Wasinger felt adding the additional 10 foot buffer will mitigate Fish and Game from making Cripple Creek an anadromous stream. Ms. Wasinger explained the Fish and Game recommendations concerning discharge directly to the stream and is an additional mitigation measure.

Mr. Muehling commented that the lighting would be facing down and asked if there is a standard in lumens and could there be a different standard during hours of operation versus when the gate is closed. Ms. Wasinger explained that there is nothing in Title 18 requiring number of lumens, and deferred to the Applicant as to whether they are considering dimming lights after hours.

Ms. Doxey supplemented the answer Ms. Wasinger gave on requiring something that it not specifically in code and explained it can be done as long as the record supports the condition.

Mr. Perreault asked for clarification on hours of operation on landfill gate hours versus haulers. Ms. Wasinger explained the haulers come about an hour prior to opening of the gate hours allowing them to get to the landfill when they open and then reverse at the end of the day, and she further explained that the Commission could establish separate hours of operation versus service.

Mr. Peterson asked if restrictions placed on the Borough would impact contract provisions with the haulers. Ms. Wasinger deferred to the Applicant to explain.

Ms. Thayer asked if there will be a gate at the new driveway and if restricted hours are imposed, would that impact the existing transfer site. Ms. Wasinger replied that there is a gate, and indicated that that could be a challenge operationally for the existing site, but deferred to the Applicant for further comment on those impacts.

Applicant’s Testimony

The Applicant, FNSB Public Works was represented by FNSB Engineer, Dave Halverson, read from a prepared statement as follows:

- Public Works has postponed expansion of the site due to the appeal
- Missed construction season
- Concur with the Staff Report and recommendations
- Feel Staff have adequately addressed the issue on remand
- Narrative discussions on those issue and photos are included in the agenda packet

Questions by Commissioners

Mr. Whitaker commented that it proposes using warmer light temperature, and asked what kelvin rating is going to be used. Mr. Hoiser replied that the existing lights are approximately 2,700 kelvin and the new lights will be right in the same color temperature and be directed downward. Mr. Whitaker then inquired what the ones at the Farmers Loop site are and Mr. Hoiser replied that they are 4,000.
Mr. Perreault asked for information on the directionality of the lights and if they are LEDs or classic sorbian lights, and if they are light pillar producing display. Mr. Hoiser reported the lights are LED, will be directed downward, and are referred to as “100% cut off lights” and are not intended to have light directed up into the atmosphere as opposed to the flood lights currently existing that are not directed downward. Mr. Perreault commented that the current hours of operation are 24/7, and asked if that remains, would there be an option for dimming of the lights. Mr. Halverson replied that would not be an option for safety reasons, and some options they could explore.

Mr. Peterson asked if snow removal could be done safely during hours of operation versus at night. Mr. Jordan explained the contractual requirements of the contractor for scheduling snow removal and is based upon the amount of snow rather than times of day unless it is hard pack which is done in the evenings.

Mr. Muehling drew attention to the aerial photo on page 123 of the meeting packet, and asked who owns the property to the West. (Question out of order for Staff) Mr. Muehling asked what the character of the neighborhood is for the top five transfer sites indicated in the graph on page 132. Mr. Halverson indicated Farmer’s Loop West has a subdivision adjacent to it, Farmer’s Loop East has a commercial operation adjacent, the North Pole site is in an industrial area with some residences directly north and adjacent to the transfer site, and Badger Road is bounded on two sides by Badger Road and Holmes Road with private property to the west and to the north and is uncertain of the level of the development in that area. Mr. Muehling then asked if there are any rural residential lots up against this proposed site and Mr. Halverson responded there currently are no developed properties.

Mr. Guinn inquired if any of the other transfer sites have varied hours of operation. Mr. Jordan replied that all transfer sites are 24/7, with the exception of a trial period for a select few transfer sites having attendants on sites, the hours were limited through October 31, 2017, and could result in changes to the future operations at the transfer site.

Mr. Muehling commented that he was given a survey for the Farmers Loop West trail period and asked hour the public responded related to the limited hours and cleanliness. Mr. Jordan indicated the vast majority either agreed or strongly agreed, and further detailed specifics on the responses.

Mr. Perreault asked if the proposed lights have been used at any of the other sites. Mr. Halverson indicated there are plans underway to install in the future at several other sites. Mr. Perreault then asked if the other sites of no spill LED and if there has been any feedback from neighbors to those sites. Mr. Jordan replied they had no comments at all.

Ms. O’Neall asked if everyone is allowed to use the transfer site or is it restricted to Borough residences. Mr. Jordan explained that it is the Borough minus the City of Fairbanks per code.

Mr. Whitaker asked if consideration has been given to using full cutoffs with a shield. Mr. Hosier indicated they have not asked for a design with a shield. Mr. Whitaker then asked if the neighbors still are not satisfied would consideration be given for shielding, and Mr. Halverson replied that it is something that could be incorporated into this site plan.
Interested-Person Testimony Opened

Ms. Thayer again reminded those testifying that testimony is limited to the four points on remand.

Ms. Ganguli indicated that Megan Quan is no longer able to testify.

Mr. Robert Koslick testified of the necessity of set hours due to unsavory and sanitary conditions, and should have an attendant with proper authority. He further testified that vegetative buffers are a must and should be high enough to conceal the backside of dumpsters.

Mr. Guinn inquired if he had any thoughts on the hours of operation, and Mr. Koslick responded that 7 – 5 or 8 – 5 would be reasonable for most people.

Mr. Halverson asked if Mr. Koslick utilizes the site, and if so, what times of the day. Mr. Koslick responded that he uses the site at all times throughout the day. Mr. Halverson then asked how the hours of operation would address his concerns if he is experiencing it during the day, and Mr. Koslick responded that adding the attendant would be key to addressing his concerns.

Ms. Doxey clarified that Mr. Ganguli, Ms. Ganguli, and the realtors would share nine (9) minutes.

(Clerk attempted to reach Realtor Elizabeth Schok – no answer)

Ms. Tammi Ganguli read a portion of the Community Planning’s mission statement and then testified about protecting the value of the homes in the area which she asserts will be impacted with expansion to the existing transfer site. She further stated the current lights are visible from her home including vehicle lights, expressed concerns with the reduction of the vegetative buffer, and impacts of noise from maintenance and users. She concluded that an expansion plan should address all their concerns including maintaining the values of their homes.

Mr. Guinn and Ms. Thayer discuss the issue of allowing property value testimony as being a valid argument on remand.

Mr. Muehling inquired what type of vegetative buffer exits now, and Ms. Ganguli replied there are spruce and birch trees, and testified that the trees are currently old and tall, and explained how the project would require cutting some down.

Ms. Thayer inquired if the existing transfer site was there when they purchased their house. Ms. Ganguli replied that it did exist.

(Clerk reached Realtor Elizabeth Schok via telephone)

OATH ADMINISTERED TO ELIZABETH SCHOK

Ms. Thayer re-read the four points on remand and advised that her testimony should be limited to those points.

Ms. Elizabeth Schok testified that in her experience as a realtor, noise and lighting would certainly have an impact on the residential neighborhood, and enlarging the site would be detrimental to the property values of homes in that area.
Mr. Perreault asked Ms. Schok to speak to conversations she has had with potential home buyers, and Ms. Schok explained her experience in showing homes in the area and conversations surrounding the transfer site.

Mr. Muehling inquired the distance of the detrimental impact on property values. Ms. Schok responded that within ear shot and noted that sound carries in the valley especially in the winter.

Mr. Perreault asked Ms. Schok if she sold any homes in the area when it was first constructed. Ms. Schok replied that she has sold homes in the area for the past 10 – 13 years. Mr. Perreault commented that even with the existing transfer site, the neighborhood is considered middle to upper class, and Ms. Schok agreed.

Mr. Halvorson asked if Ms. Schok had any clients who did not purchase a house due to the transfer site. Ms. Schok related one instance she had experienced.

(Ms. Schok disconnected)

Mr. Ryan Koma Fenton testified that based upon the turnout it is evident the neighborhood is concerned about health, safety and welfare, and reported his paramount concerns are noise, visual impact, and run-off to the stream.

Mr. Perreault asked Mr. Fenton to speak to the nature of vegetation between Allen Adale and the stream and transfer site. Mr. Fenton advised that the drawings do not show the slope and explained the topography of the area and visual impacts will significant.

Mr. Rajive Ganguli testified of his concerns with noise, visual impacts, safety hazard with the relocation of the entrance, suggested a trial period with an attendant at this site prior to going forth with the expansion, and finally explained his concern with property values decreasing.

Mr. Michael Maher testified he is concerned with increased noise, lack of hours of operation, lighting, and removal of vegetation.

Ms. Jo Heckman testified the top reason for purchasing their home was the view, and she is concerned she will not be able to use that same reason to prospective buyers because of this expansion project. Ms. Heckman noted that the transfer site was there when she purchased her home, but it was deteriorated, and it is not a safe place. She explained her belief that the vegetative buffer removed for the stream work was 20 – 30 feet.

OATH ADMINISTERED TO STEVE HECKMAN

Mr. Steve Heckman testified that the site should remain the way it is now, but with better maintenance, addition of an attendant, and reduction in the hours of operation.

Ms. Martha Reynolds with Interior Alaska Land Trust testified that the Staff Report refers to “slough”. She advised it is not a slough, it is Cripple Creek and flows into the Chena River, and Interior Alaska Land has been working with US Fish and Wildlife Service to restore fish habitat. She related concerns with water quality and the buffer not meeting the minimum recommended in the Alaska State US Fish and Wildlife and US Army Corp of Engineers.

Mr. Whitaker asked what the current clearance is from the dumpster to the creek, and Ms. Reynolds responded it is 50 – 60 feet on Lot 2.
Mr. Muehling inquired on the specific revegetating plan. Ms. Reynolds replied they would be planting saplings.

Mr. Perreault asked if there was any other revegetation or habitat plans for the area, and Ms. Reynolds indicated they did not.

Ms. Thayer sought clarity on the recommended buffer. Ms. Reynolds explained the type of land category be believes this land falls into and stated it is the least restrictive and recommends a 33 foot natural buffer and a secondary buffer of 33 feet where up to 50% of the natural vegetation can be removed.

Ms. Jennifer Delamere testified her property is the closest property to the transfer site, and testified on each point on remand and her concerns as they relate to those remand issues; noise, hours of operation, lighting, and vegetative buffer.

Mr. Zeb Mabie attempted to testify as an interested person, but was denied by the Chair.

Ms. Jocelyn Hairston testified of her concerns with the safety of the transfer site that could be mitigated with established hours of operation and lighting, removal of trees and the visual impacts that would result.

Mr. Guinn asked what hours of operation would she like, and Ms. Hairston replied that 6 am to 8 pm would be acceptable.

Mr. Perreault inquired what she feels the lighting should be to address the safety issue. Ms. Hairston responded that if it is well lit there will not be spots for people to hang out.

Ms. O’Neall asked if 11 fixtures would be too many, and Ms. Hairston indicated it is hard for her to say, but that lighting alone is not going to address the safety concerns.

Mr. Zeb Mabie attempted again to make an argument that his interests are different than that of the general public, and again was denied by the Chair.

Public Testimony Closed

Applicant’s Rebuttal

Mr. Halverson noted that Staff is not recommending any reduced hours of operation, drew attention to the slides in the packet showing views, and stated the hours of landfill indirectly limit noise of garbage truck.

Mr. Jordan reflected on the site expansion size largely due to snow removal and the increased safety allowing more room for snow removal and hauler trucks, adding the grade separated roll off bins.

Questions by Commissioners

Mr. Perreault inquired what the current footprint of Lot 2, and Mr. Halverson stated the existing site is larger than the proposed expansive. Discussion ensued on the increased lighting and pole size, and how the hours of operation would limit and restrict access to the existing transfer site.
Mr. Whitaker inquired from Mr. Jordan the snow removal process. Mr. Jordan explained the process of snow removal process at the site.

Mr. Quinn asked the direction of the runoffs once it is expanded. Mr. Halverson explained how the runoff would be distributed around the site.

Mr. Whitaker sought clarity on whether it is just the NW corner that is tilted down toward Cripple Creek and Mr. Halverson responded affirmatively.

(The meeting recessed from 9:07 – 9:18 p.m.)

MOTION: To approve the Conditional Use Permit for expansion of the public dumping site on Lot 1 with seven (7) conditions, and adopting the staff report and eight (8) Findings of Fact in support of the approval by Mr. Muehling and seconded by Mr. Guinn.

Discussion ensued about the appropriate number of conditions for the remand versus the original Staff Report.

MOTION: To amend to add condition number 8 for hours of operation as follows:

- Public Use Hours 7 am to 7 pm
- Service Vehicle Use Hours 7 am to 4 pm

by Mr. Muehling and seconded by Mr. Perreault.

Discussion on the Motion

Mr. Peterson stated he would be support of limiting the hours, and believed more reasonable hours would be 6 am to 8 pm, and emergency operations should be addressed too.

Mr. Perreault communicated that limiting the hours to “not 24 hours” is the key point, and would be supportive of adding language for snow removal and emergency operations as needed.

MOTION: To amend motion to amend to state “as necessary snow removal would be permitted 24/7” by Mr. Muehling and hearing no second.

MOTION FAILED.

Mr. Muehling stated there was substantial unity among the neighbors related to noise and safety concerns with the operation being open 24 hours, 7 days a week.

Mr. Whitaker stated he agreed with Mr. Peterson on the expanded hours.

MOTION: To amend motion to amend condition number 8 to add “as necessary emergency snow removal shall be permitted at other times” by Mr. Perreault and seconded by Mr. Muehling.

Ms. Doxey requested some discussion on what is meant by “emergency snow removal”.

MOTION FAILED.
Mr. **Muehling** communicated that the testimony from the Applicant was that any time 3 inches or more of snow will be removed.

Ms. **Thayer** inquired if Mr. Muehling was suggesting removing the word emergency.

Mr. **Muehling** confirmed.

**ROLL CALL (Motion to Amend the Motion to Amend adding “as necessary emergency snow removal shall be permitted at other times”):**

Eight (8) in Favor: Mr. Stepovich, Mr. Perreault, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. O’Neall, and Ms. Thayer.

Zero (0) Opposed.

**MOTION PASSED**

Mr. **Peterson** commented his belief that an emergency should be anything that exceeds the normal amount of snowfall, and also due to freezing rain.

Ms. **Doxey** suggested using above-average snowfall.

**MOTION:** To amend condition number 8 by striking “emergency” by **Mr. Perreault** and seconded by **Ms. O’Neall**.

Mr. **Perreault** stated he hoped that covered Mr. Peterson’s concerns by allowing for snow removal at other times.

Ms. **O’Neall** spoke to occasions when snow removal is necessary especially during times of heavy snow fall before the average annual snow fall.

Mr. **Muehling** commented that it is not the intent to tell the Borough what are the conditions necessary before they remove snow rather that snow may be removed at other times.

Mr. **Perreault** stated his opposition to frivolous snow removal; it should be necessary.

Ms. **Doxey** clarified that the way condition 8 is worded, it could be interpreted snow removal is permitted at all other times and any other maintenance is limited to 7 – 4. She explained her concerns with it as written.

Mr. **Muehling** stated he would like to see it read “snow removal shall be permitted at other times”.

Ms. **Thayer** asked what the purpose is for adding the language.

Mr. **Muehling** explained his position is that it is not this Body’s intent to tell the Borough when and how to do snow and under what conditions.

Mr. **Peterson** stated he disagreed, and explained the people spoke of the noise, so it just cannot be left to them.
Mr. Muehling stated that his guess that snow removal during normal operation hours is getting in the way of people using the site.

ROLL CALL (Motion to Amend the Motion to Amend to Strike “emergency”):

Eight (8) in Favor: Ms. O’Neall, Mr. Stepovich, Mr. Perreault, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Mr. Peterson, and Ms. Thayer.

Zero (0) Opposed.

MOTION PASSED

MOTION: To amend motion to amend condition number 8 to strike “as necessary” by Mr. Muehling and seconded by Ms. O’Neall.

Discussion on the Motion

Mr. Muehling stated his belief that snow will be removed as necessary.

ROLL CALL (Motion to Amend the Motion to Amend to Strike “as necessary”):

Six (6) in Favor: Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. O’Neall, Mr. Stepovich, and Mr. Muehling.

Two (2) Opposed: Mr. Perreault and Ms. Thayer

MOTION PASSED

Discussion on the Motion to Amend Adding Condition #8

Mr. Muehling clarified that if the Assembly acts on this and establishes more restrictive hours of operations, those hours supersede any hours established in the permit, and stated he is comfortable with the hours of 7 am – 7 pm.

Mr. Perreault also stated his support of these hours of operation.

Ms. Doxey clarified the current motion is to amend the main motion to include condition number 8 with hours of operation and adding “snow removal shall be permitted at other times”. She further requested discussion on how this condition impacts the noise and safety concerns trying to be addressed.

Mr. Muehling stated snow removal by necessity will have to happen outside the regular hours to ensure the public’s safety.

Ms. O’Neall stated she also agreed it is a safety concern when snow removal occurs during normal operation hours.

Mr. Muehling communicated that snow removal is an intermittent activity and does not occur every day resulting in much less of an impact on the community than daily operations.
ROLL CALL (Adding “snow removal shall be permitted at other times” to Condition No. 8):

Eight (8) in Favor: Mr. Muehling, Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. O’Neall, Mr. Stepovich, Mr. Perreault and Ms. Thayer.

Zero (0) Opposed.

MOTION PASSED

Ms. Thayer called for the vote on the Motion to Amend Adding Condition No. 8.

ROLL CALL (Motion to Amend Adding Condition No. 8):

Eight (8) in Favor: Mr. Peterson, Ms. O’Neall, Mr. Stepovich, Mr. Perreault, Mr. Muehling, Mr. Guinn, Mr. Whitaker and Ms. Thayer.

Zero (0) Opposed.

MOTION PASSED

Further Discussion

Ms. Thayer noted concerns heard related to the vegetation buffer zone and the buffer distance to Cripple Creek, and other concerns heard were leaving things as they are, upgrading maintenance, having a gate keeper, and reduced hours of operation.

Mr. Perreault stated that hours of operation were addressed. He further discussed issues related to increasing the buffer along the west side, but could potentially impact the project.

Ms. Doxey stated that the considerations for the Commission when making determinations and weighing the testimony heard are the intent and purpose of Title 18, the adequacy of facilities, and public, health, safety and welfare, and explained how someone’s plan may or may not play into the determination.

Mr. Perreault further explained what he was suggesting may be related to the health, safety and welfare of the entire project.

Mr. Guinn stated that more information may be required and by requiring a certain buffer zone, and if that results in problems with the project, the Applicant can come back to the Commission.

Ms. Doxey cautioned that any condition must be based on information in the record.

Mr. Perreault communicated that those testifying desired a substantial buffer on the west side and testimony from the Alaska Interior Land Trust would support a condition.

Mr. Guinn stated his agreement.

Mr. Perreault stated he is less supportive of condition no 2 and explained his basis.

Ms. Thayer clarified there is an existing public utility easement.

Discussion ensued about the public utility easement whether it created a visual buffer.
Mr. Whitaker stated he would support something along the 66 foot line.

MOTION: To amend condition number 3 from 40 foot wide visual and water runoff buffer to 66 feet and would read “A minimum 66 foot wide visual and water runoff buffer of existing natural vegetation shall be maintained along the west property line, along with a 12 foot gravel access road between the fence and the vegetative buffer by Mr. Guinn and seconded by Mr. Whitaker.

Discussion on the Motion

Mr. Muehling communicated that other than one person; he did not hear testimony that a wider riparian buffer would make a difference.

Ms. Thayer commented that she heard testimony of concerns that the vegetative buffer was of concern in both depth and height.

Mr. Guinn explained he chose 66 feet as it makes it wider and it satisfies the recommendations from the US Fish and Wildlife for the minimum amount of buffer.

Mr. Whitaker commented that there were a few people from Allen Adale Road that testified on wanting a wider buffer.

ROLL CALL (Motion to Amend Condition No. 3):

Seven (7) in Favor: Mr. Guinn, Mr. Stepovich, Mr. Muehling, Mr. Perreault, Mr. Whitaker, Ms. O’Neall and Ms. Thayer

One (1) Opposed: Mr. Peterson

MOTION PASSED

Ms. O’Neall brought up the issue of placement of an attendant at the site.

Discussion ensued about requiring an attendant as a condition of the permit, whether the Commission has authority to impose such a condition, and how it would tie into the points on remand.

Ms. O’Neall suggested as a Body, the Commission send a recommendation to the Mayor communicating its concern on security at the transfer site and it recommendation to place an attendant during hours of operation.

Mr. Muehling stated his belief that the Assembly understands there is a problem at the transfer sites and will be taking action, and is not comfortable with imposing a condition in the permit.

Mr. Guinn stated he agreed with Mr. Muehling. He further brought up an earlier discussion on gate locking, and stated his assumption that if there are set hours of operation, presumably the gate would be locked outside those hours.

Ms. Doxey responded that it is not an express condition, but it might be implied.

Discussion ensued about the functionality of gate and whether it should be an implied condition.
MOTION: To amend condition number 8 to add “Site shall be secured and locked when it is not open to the public” by Mr. Guinn and seconded by Mr. Muehling.

Discussion on the Motion

Mr. Muehling stated it addresses safety and security.

Ms. O’Neall commented it addresses noise.

Mr. Perreault stated it addresses more specifically defined hours.

ROLL CALL (Motion to Amend Condition No. 8 to add “Site shall be secured and locked when it is not open to the public”):

Eight (8) in Favor: Ms. O’Neall, Mr. Muehling, Mr. Guinn, Mr. Stepovich, Mr. Perreault, Mr. Peterson, Mr. Whitaker and Ms. Thayer

Zero (0) Opposed.

MOTION PASSED

Mr. Muehling stated that the lighting has been addressed with the downward pointing lights and the offer to further screening if it becomes an issue.

Ms. Doxey pointed out there is no lighting condition currently.

Mr. Perreault commented that the lighting is addressed in the application and the development plan, and stated he would be open to supporting a general condition.

Ms. Thayer communicated that the lighting is addressed in the application, but the shielding is not addressed.

Ms. Doxey clarified that generally the Applicant has to develop their property in conformance with the application presented. She further communicated that if the Applicant chose to change the type of lighting and it is not a specific condition, it is subject to interpretation of whether or not it would need to come back to the Commission.

MOTION: To amend condition number 7 to add, “lighting plan” after floor plan in line 1 by Mr. Perreault and seconded by Mr. Muehling.

Ms. Doxey pointed out that this condition is not adding anything more than what code already covers which does not require, automatically, it come back before the Commission.

Mr. Perreault confirmed his understanding that it does not necessarily have to come back to the Commission rather could just go to the Department of Community Planning.

Discussion on the Motion

Mr. Perreault communicated that lighting was a large concern of the community and that Public Works is aware of the concern and the new lights being suggested will accommodate less spillover. He further communicated that the plan being developed is an improvement over the existing lighting.
Mr. Whitaker stated his support of this motion, and communicated his appreciation to the Public Works Department for taking into account peoples’ views on the lighting.

ROLL CALL (Motion to Amend Condition No. 7 to add “lighting plan” after floor plan in line 1”):

Eight (8) in Favor: Mr. Whitaker, Mr. Guinn, Mr. Muehling, Mr. Perreault, Mr. Stepovich, Ms. O’Neall, Mr. Peterson and Ms. Thayer

Zero (0) Opposed.

MOTION PASSED

Ms. Thayer summarized that the Commission has addressed the hours of operation, vegetation, lighting, and noise.

MOTION: To strike Findings of Fact 4, 5, 7, and 8 by Mr. Perreault and seconded by Mr. Whitaker.

MOTION: To divide to consider each of the findings as separate questions by Mr. Muehling and hearing no second.

MOTION FAILED

Discussion on the Motion

Mr. Perreault quantified the basis for striking the findings as these findings no longer apply due to the changes made by the Commission.

ROLL CALL (Motion to Strike Findings of Fact 4, 5, 7 and 8):

Eight (8) in Favor: Mr. Stepovich, Mr. Perreault, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. O’Neall and Ms. Thayer

Zero (0) Opposed.

MOTION PASSED

Ms. Thayer reiterated all the points on remand have been addressed.

Ms. Doxey recommended that the Commission adopt a proposed Finding of Fact to support the proposed addition to Condition Number 8; addition of hours of operation, snow removal, and securing of gate.

Discussion ensued by the Commission on development of a proposed Finding of Fact.

MOTION: To Amend the Findings of Fact Number 5 by Mr. Perreault and seconded by Mr. Guinn.
Ms. Doxey stated that the condition as written does not support the added restrictions the Commission passed.

Further discussion ensued on the development of findings of fact supporting the restrictions imposed.

Mr. Perreault suggested the finding read “limiting public use and maintenance hours will reduce night time noise and increase public safety”.

ROLL CALL (Motion to Amend Finding of Fact Number 5 adding “limiting public use and maintenance hours will reduce night time noise and increase public safety”):

Eight (8) in Favor: Mr. Muehling, Mr. Perreault, Mr. Stepovich, Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. O’Neall and Ms. Thayer

Zero (0) Opposed.

MOTION PASSED

Ms. Doxey requested more discussion on whether an expansion is actually need based upon questions raised by the interested persons.

Ms. Peterson commented it is proactive to expand in anticipation of growth in an area.

Mr. Guinn stated he agreed with Mr. Peterson.

Ms. Doxey clarified it should be site specific to the subject property.

Mr. Stepovich communicated that a larger footprint would aid in snow removal, runoff, and trash containment.

Mr. Perreault stated that the ease of use is going to increase with the larger size and off set many of the complaints, by having a larger buffer zone and less intrusive lighting. He further communicated examples of the growth development in the Chena Pump/Chena Ridge area.

Mr. Muehling commented that its location is centrally and conveniently located for a large number of people.

Ms. O’Neall stated that this site, with the expansion, could be positive to the Community similar to expansion that has taken place at the other sites.

ROLL CALL (Main Motion):

Eight (8) in Favor: Ms. O’Neall, Mr. Whitaker, Mr. Stepovich, Mr. Perreault, Mr. Peterson, Mr. Muehling, Mr. Guinn and Ms. Thayer

Zero (0) Opposed.

MOTION PASSED
H. EXCUSE ABSENT MEMBERS

Ms. Thayer communicated that Ms. Presler’s absence is excused and announced she would be absent from the November 14, 2017 meeting. Ms. O’Neall also announced she would be absent from the November 14, 2017 meeting.

I. COMMISSIONER’S COMMENTS

Mr. Perreault and Ms. O’Neall communicated that they thought everyone did a great job in addressing the public’s concerns.

J. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:41 p.m.