PLANNING COMMISSION MEETING

FEBRUARY 27, 2018

Updated 2/22/2018 to include: Staff Report for Ordinance 2018-06
AGENDA
February 27, 2018
6:00 p.m.

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 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 13, 2018 Planning Commission Meeting. (Page 5)

E. QUASI-JUDICIAL HEARINGS (to begin at or after 6:00 p.m.)

1. CU2018-010: A request by Grant Anderson, DBA Fox Creek LLC, on behalf of KGM LLC, for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on TL-3103, Section 31, T2N-R1E, F.M. (located at 2304 Old Elliott Highway, on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). (Staff Contact: Manish Singh) (Page 7)

2. CU2018-011: A request by Gary Evans, DBA Grass Station 49, on behalf of David Lanning and Morgan Evans, for conditional use approval of a retail marijuana store in the General Use 1 (GU-1) zone on TL-221, Section 2, T1S-R2W, F.M. (located at 2502 Parks Highway, on the north side of Parks Highway, on the west side of Java Lane). (Staff Contact: Manish Singh) (Page 99)
F. **LEGISLATIVE** (to begin at or after 6:00 p.m.)

1. **ORDINANCE NO. 2018-06:** An Ordinance Amending Chapter 18.104 FNSBC Regarding Notification of Rezoning, Conditional Uses, And Variances And Amending Procedures For Rezoning And Conditional Use Permits (Sponsor: Assemblymember Roberts) (Staff Contact: Christine Nelson)

G. **EXCUSE FUTURE ABSENCES**

H. **COMMISSIONER’S COMMENTS**

I. **ADJOURNMENT**

Any questions, please contact the Community Planning at 907-459-1260 or via email at: FNSBPC@fnsb.us
MINUTES

FEBRUARY 13, 2018

Are not available at this time
STAFF REPORT

CU2018-010
DEPARTMENT OF COMMUNITY PLANNING
STAFF REPORT

CU2018-010
February 27, 2018 Planning Commission Meeting

TO: Fairbanks North Star Borough Planning Commission
FROM: Manish Singh, AICP, Planner II
DATE: February 15, 2018
RE: CU2018-010: A request by Grant Anderson DBA Fox Creek LLC, on behalf of KGM LLC, for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on TL-3103, Section 31, T2N-R1E, F.M. (located at 2304 Old Elliott Highway, on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N).

I. EXECUTIVE SUMMARY

The Community Planning Department recommends APPROVAL of the conditional use request with three (3) conditions and three (3) Findings of Fact in support of approval. The staff analysis finds that the marijuana cultivation facility, indoor large, 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. The proposed cultivation facility requires a conditional use permit in GU-1 zone because there are dwelling units on at least four adjacent properties, including the subject property [FNSBC 18.96.240(A)(6)].

Figure 1: Location Map (the location of the cultivation facility is shown as red star)
II. GENERAL INFORMATION

A. Purpose To request a marijuana cultivation facility, indoor large in the GU-1 zone.

B. Location 2304 Old Elliott Highway, on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N

C. Access Elliott Highway

D. Size/PAN

<table>
<thead>
<tr>
<th>Area</th>
<th>PAN (Lot)</th>
</tr>
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<tbody>
<tr>
<td>4.65 acres</td>
<td>0227463 (TL-3103)</td>
</tr>
</tbody>
</table>

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

F. Existing Land Use Single-Family Residence, Vacant Building

G. Surrounding Land Use/Zoning Northwest: Zoning: GU-1

Land Use: Residential (dwelling unit located approximately 400 feet away from the proposed facility)
South: Zoning: GU-1  
Land Use: Residential (dwelling unit located approximately 525 feet away from the proposed facility)

East: Zoning: GU-1 (across Elliott Hwy)  
Land Use: Northern Exposure RV Park, Residential (dwelling unit located approximately 400 feet away from the proposed facility)

H. Community Facilities  
Electricity: GVEA, Water: Private well, Sewer: Existing commercial septic system and/or 2,000 gallon wastewater tank

I. Code Violations  
None on file

J. Flood Zone  
A (44%), X (56%) (March 17, 2014 dFIRM)

K. Zoning History  
Zoning changed from UU to GU-1 through Ordinance No. 88-010, effective April 25, 1988

L. Ownership  
KGM LLC  
607 Old Steese Highway Ste B 303  
Fairbanks, AK 99701

M. Applicant  
Grant Anderson DBA Fox Creek LLC  
607 Old Steese Highway Ste B 303  
Fairbanks, AK 99701

III. PROPERTY DEVELOPMENT HISTORY

The application states that the subject parcel contains an existing single-family residence and an existing building (74’ X 40’) (see site plan in Figure 3). The FNSB Assessor’s Records reflect that the single-family residence was constructed in 1998 and the detached building was constructed in 1999. These structures are located in GU-1 zoning where zoning permits are not required for residential and accessory uses. The existing 74’ X 40’ building obtained a FNSB Floodplain Permit and a Certificate of Compliance on January 23, 2018 (FP2018-027, Exhibit 1).

IV. PROPOSED USE AND PROJECT INFO

The applicant has requested a conditional use permit to use the existing 74’ X 40’ building as a marijuana cultivation facility, indoor large (see existing building in Figure 4). The total floor area of the proposed cultivation facility would be 2,960 sq.ft. The cultivation facility is proposed to have a flower room, a clone/veg room, a drying room, a working room, storage, restroom and a utility room (see floor plan in Figure 5). The property contains a 30’ wide private access easement, aligning with the Old Elliot Highway and serving only the property to the south (TL-3100) (this easement is shown as green line in the site plan in Figure 3). Additionally, Fox creek runs through the property (see aerial image in Figure 2) and the Fox water well is located at approximately 975 feet north to the proposed cultivation facility.
Figure 3: Site Plan
The indoor cultivation unit is shown in red
Figure 4: Existing 74’ X 40’ building (proposed marijuana cultivation facility)

Figure 5: Floor Plan
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 proposed marijuana cultivation facility, indoor large requires a conditional use permit in GU-1 zone because the principal buildings located on the adjacent properties to the northwest, south and southeast contain dwelling units [FNSBC 18.96.240(A)(6)]. The applicant estimates having maximum 6-10 full-time employees. The applicant has stated that the facility will operate daily from 7 am to 7 pm.

The subject property is currently zoned GU-1 and is surrounded by GU-1 zoning on all sides (see zoning map Figure 6). The adjacent property to the northwest, south, and southeast are developed residentially with the nearest residence located to the west at approximately 400 feet from the proposed marijuana cultivation facility. The adjacent property to the east across Elliott Highway is an RV park (Northern Exposure RV Park) and has a residence located approximately 400 feet from the proposed marijuana cultivation facility. The adjacent property to the northeast is also owned by KGM, LLC, the property owner for this conditional use application. The Comprehensive Plan Land Use Map characterizes the area as ‘Outskirt Area’. The subject property is currently partially located in a floodplain and has wetlands along the Fox Creek (see floodplain map in Figure 7 and see wetlands map in Figure 8). The existing 74’ X 40’ building obtained a FNSB Floodplain Permit and a Certificate of Compliance on January 23, 2018 (FP2018-027, Exhibit 1).

Figure 6: Zoning in the Surrounding Area
Figure 7: Floodplain in the Surrounding Area

Figure 8: Wetlands 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 60 dear property owner notices and received two inquiries about this case. Additionally, the applicant posted a public notice sign meeting the “Notice by Applicant” requirements listed in FNSBC 18.104.010 (Exhibit 3).

VII. AGENCY COMMENTS

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

a. State Fire Marshal
b. Steese Volunteer Fire Department
c. U.S. Army Corps of Engineers
d. Alaska State Troopers
e. Alaska Department of Transportation and Public Facilities (ADOT&PF)
f. Alaska Department of Environmental Conservation (ADEC)  
g. Alaska Department of Natural Resources (ADNR)  
h. Alaska Department of Fish and Game (ADF&G)  
i. Golden Valley Electric Association (GVEA)  
j. FNSB E-911 Addressing  
k. FNSB Floodplain Administrator  
l. Fairbanks Soil and Water Conservation District (FSWCD)

FSWCD expressed concerns about the potential effluent discharge into the drinking waters of Fox Spring. FSWCD recommended mitigation strategies such as “onsite wastewater treatment prior to discharge” and “off-site disposal of wastewater”.

Mitch Flynn, the Fire Chief for Steese Volunteer Fire Department, commented on this application and stated that “…I did witness severe overflow that surrounded this building a number of years ago, so I know it’s prone to flooding from winter overflow…The property has no hydrants but is served with water shuttle tenders for water supply operations in the event of a fire…”

Nancy Durham, FNSB Floodplain Administrator, issued a FNSB Floodplain Permit and a Certificate of Compliance for the existing ‘warehouse/hanger’ detached building on January 23, 2018.

Lloyd M Nakano, the Assistant State Fire Marshal, commented on this application and required “plan reviews in accordance with 13 Alaska Administrative Code 50.027.”

Doug Buteyn, the Northern/Southeastern Regional Program Manager for ADEC Solid Waste Program, commented on this application and stated that no permit was needed for a compost pile. However, Mr. Buteyn had concerns on any storage without composting which may result in an ever-growing pile of waste material on the property. Mr Buteyn recommended that “if composting is the goal, this [application] should include information about how the composting will be achieved and how the finished compost will be used.”
Audra Brase, Regional Supervisor for Alaska Department of Fish and Game, commented that “ADF&G has no objections or comments regarding this application.”

Randi Motsko, the Fairbanks Area Planner for ADOT & PF, commented that she has “no comments”.

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

VIII. STAFF ANALYSIS

A. Transportation & Parking

The subject property is accessible from Elliott Highway. Elliott Highway is maintained by the Alaska Department of Transportation & Public Facilities (ADOT & PF). It is classified as a principal arterial type roadway. Average Daily Traffic (ADT) counts on Elliott Highway in the immediate area were 1,191 vehicles per day in 2015. The proposed marijuana cultivation use would generate approximately 47 trip ends per weekday. This calculation is based on the estimated maximum eight workers in the cultivation facility and relying on the closest related land use “Nursery (Wholesale)” in the Institute of Transportation Engineers (ITE) Trip Generation Manual (Table 1). The Elliott Highway could accommodate the small number of trip ends generated by the proposed cultivation facility.

Table 1: Trip Generation Summary

<table>
<thead>
<tr>
<th>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>Marijuana cultivation facility, indoor large</td>
<td>10 employees</td>
<td>Nursery (Wholesale)</td>
<td>23.40 trip ends/5 employees</td>
<td>46.8 trip ends</td>
</tr>
</tbody>
</table>

The applicant intends to use the existing 20’ wide driveway for this conditional use permit. For conditional uses having direct access from state maintained roads, Community Planning Department has previously relied on a driveway permit from ADOT&PF to check adequacy of the existing driveways for proposed conditional uses. Therefore, Community Planning recommends a condition that the applicant shall obtain a formal plan review by the ADOT & PF for the existing driveway and shall comply with all recommendations and/or requirements resulting from this review or provide documentation that a review for the driveway is not required.

The proposed facility is located in GU-1 zoning where FNSB parking standards do not apply. However, Community Planning has analyzed the off-street parking provided on

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1 This section of this staff report includes comments from Donald Galligan, FNSB Transportation Planner
2 Statewide Functional Classification GIS Map, Alaska DOT&PF Transportation Data Programs
3 2015 Annual Average Daily Traffic (AADT) GIS Map, Alaska DOT&PF Transportation Data Programs
site using FNSB parking standard requirement of three parking spaces for every four employees [FNSBC 18.96.060(C)]. The applicant expects maximum 10 employees for the marijuana cultivation facility. The parking plan provided by the applicant shows the eight parking spaces that are adequate for the 10 employees (see site plan in Figure 3). The site plan shows the gravel traffic circulation and loading area with adequate backing, turning and maneuvering space.

B. **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 owner has 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 4) demonstrates that the marijuana cultivation facility is not located within the buffer distances provided in FNSBC18.96.240(A)(3)(a-e) because this facility doesn’t have any FNSB sensitive uses within 500 feet.

   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 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 4).

   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 applicant has applied for a conditional use permit for the proposed marijuana cultivation facility, indoor large on the subject property in the GU-1 zone because the
principal buildings located on the adjacent properties to the northwest, south, and southeast contain dwelling units.

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 ‘Outskirt Area’. Outskirt Area is “area generally within a 20 to 30 minute travel time of urban destinations, and which contains primarily open space, mining and residential uses; variable densities are encouraged provided they are compatible with the surrounding community, sensitive to natural systems and have adequate water and sewer facilities. Other uses include agriculture, and supporting commercial uses.”

The proposed conditional use is consistent with the ‘Outskirt Area’ designation because the subject property is located within 20 to 30 minute travel time from the urban density. This commercial cultivation of marijuana is consistent with the ‘agriculture and supporting commercial’ uses allowed under ‘Outskirt Area’. With the conditions imposed, the marijuana cultivation use will be compatible with the surrounding community and will be sensitive to natural systems adequate water and sewer facilities.

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 6-10 full-time 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 GU-1 zone because the adjacent property has a dwelling as a primary structure. The public notification, public hearing procedures and approval criteria for conditional uses help protect the property rights of the surrounding property owners.

The subject property is accessible from Elliott Highway. Elliott Highway is maintained by the Alaska Department of Transportation & Public Facilities (ADOT & PF). It is classified as a principal arterial type roadway. The Elliott Highway could accommodate the small number of trip ends generated by the proposed cultivation facility. With the condition to require a plan review for the existing driveway from ADOT&PF, the conditional use will have adequate transportation facilities.

The proposed conditional use promotes economic development and the growth of private enterprise because it would support 6-10 full-time jobs in the area and would help diversify the commercial activity in the Fairbanks North Star Borough.

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.

The subject property is currently partially located in a floodplain (see floodplain map in Figure 8). Properties within the designated floodplain have additional requirements established by the Title 15 of the Borough code to ensure structures are safe from potential flooding. Designated floodplains in the Borough are subject to periodic inundation of floodwaters, which could cause loss of life or property, health or safety hazards.

On January 23, 2018, FNSB Department of Community Planning issued a FNSB Floodplain Permit and a Certificate of Compliance for the existing 'warehouse/hanger' detached building. The Certificate of Compliance shows that the base flood elevation (BFE) is 777 feet (NAVD88) and the top of the bottom floor is at 779 feet (NAVD88), which is constructed above the BFE, protecting the health safety and welfare related to the floodplain. If located in floodplain, the compost pile constitutes fill and requires a floodplain permit. The proposed marijuana cultivation use of this existing building will continue to comply with Title 15 as long as any changes within the floodplain are
reviewed and obtain appropriate permits. However, any changes made without complying with FNSB Title 15 - Floodplain Management Regulations could negatively impact the health safety and welfare related to the floodplain. Therefore, Community Planning recommends a condition requiring the marijuana cultivation facility to obtain all applicable floodplain permits for changes within the floodplain and compliance with the FNSB Title 15 - Floodplain Management Regulations. With the condition to comply with FNSB Title 15 - Floodplain Management Regulations, the proposed conditional use will meet the intent of FNSB Title 15 - Floodplain Management Regulations.

(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 and Wastewater/Sewage: The applicant has proposed to use an existing well on the property to meet the water supply needs for marijuana cultivation.

The applicant has stated that the property has an existing commercial septic system for the wastewater produced from marijuana cultivation (non-domestic wastewater). The applicant has stated that “this [septic] system is engineer designed and will meet all of the DEC division of wastewater and wastewater discharge policies. Any wastewater deemed unfit to be discharged into the septic system will be held in an onsite wastewater tank (2,000 gallon) and be transferred via commercial carrier to the wastewater treatment plant.”

ADEC Division of Water, Wastewater Discharge regulates wastewater holding tanks and treats wastewater produced from the marijuana cultivation operation as non-domestic wastewater. ADEC does not allow any non-domestic wastewater discharge into a septic system without their express written approval (18 AAC 72, Wastewater Disposal Regulations). Therefore, Community Planning recommends a condition requiring a formal plan review by ADEC Division of Water, Wastewater Discharge for the proposed wastewater storage tank and/or the use of a septic system for non-domestic wastewater discharge; and recommends compliance with all recommendations and/or requirements resulting from the plan review as a condition to ensure that there is adequate wastewater/sewage capacity for the conditional use. With this condition imposed, the property will have adequate wastewater/sewage capacity for the proposed conditional use. In future, in order to obtain an ADEC approval for non-domestic wastewater discharge into the existing septic system, the applicant will likely need to hire a professional engineer to design the septic system and characterize the wastewater.

Emergency Fire Response: The proposed conditional use has adequate fire services because the property is served by Steese Volunteer Fire Department.

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

Police: The proposed conditional use is served by Alaska State Troopers for law enforcement.

Transportation: The subject property is accessible from Elliott Highway. Elliott Highway is maintained by the Alaska Department of Transportation & Public Facilities (ADOT & PF). It is classified as a principal arterial type roadway. Elliott Highway could
accommodate the small number of trip ends generated by the proposed cultivation facility. With the condition to require a plan review for the existing driveway from ADOT&PF, the conditional use will have adequate transportation facilities. The applicant has provided eight 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 applicant has stated that “the ownership team of Fox Creek has operated other Legal cannabis operations in the Fairbanks North Star Borough for almost two years. Both operations have passed all inspections with flying colors…” 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 to 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 but the applicant has addressed these issues in a way that mitigates the public health, safety and welfare concerns.

**Site Security and Marijuana Waste Disposal:** The applicant intends to comply with the state security regulations for marijuana cultivation. The applicant has stated that these security provisions include motion detectors, hardened doors at access points, door strikes, motion detecting flood lights, panic buttons, and a complete camera system.

The applicant’s proposal for the marijuana plant waste management intends to meet the regulations set forth by Alaska Department of Environmental Conservation and Marijuana Control Board. The applicant plans to ground the marijuana plant waste and render it inert by mixing it with soil in an equal ratio and then compost the inert waste onsite. On January 4, 2018, Doug Buteyn, the Northern/Southeastern Regional Program Manager for ADEC Solid Waste Program, commented on this application and stated that no permit was needed for a compost pile. However, Mr. Buteyn had concerns on any storage without composting which may result in an ever-growing pile of waste material on the property. Mr Buteyn recommended that “if composting is the goal, this [application] should include information about how the composting will be achieved and how the finished compost will be used.”

On January 16, 2018, the applicant responded to Mr. Buteyn’s concerns and provided details of his composting plan. The applicant does not expect the waste disposal to exceed 15-20 pounds per week. The applicant has stated that “compost piles will not be kept on site for more than one year before they are utilized/removed. Waste piles should not exceed 15x15 and will be housed in a fabricated and leak-proofed bed.” The applicant intends to use the composted waste on his adjacent barley fields, for general landscaping, and for future real property development or donate the composted waste to community gardens.
The state licensing and 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, limited cannot legally operate without obtaining a state issued license [FNSBC18.04.010]. Compliance with state regulations related to security, waste disposal, health and safety would help ensure employees' health and safety. Therefore, Community Planning recommends a condition requiring the site to meet all licensing requirements for a commercial marijuana cultivation facility.

**Odor:** The applicant plans to address odor by carbon filters. 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 recommends a condition requiring installation of appropriately sized odor filtration systems in the indoor cultivation space such that the marijuana odor shall not be detectable by the public from outside the indoor cultivation facility ensuring the public health, safety and welfare.

**Outdoor Lighting:** FNSBC 18.96.140 states that “lighting, glare and general illumination shall not be directed towards residentially zoned properties other than that property from which the lighting, glare and general illumination originates.” However, the subject property is not adjacent to a residential zone. The site plan provided by the applicant shows three exterior lights (see Figure 5). The applicant has stated that “outdoor lighting will be on motion detectors or aimed in such a way so as not to pollute the area with light.” Moreover, the nearest residence is located approximately 400 feet from the proposed marijuana cultivation facility. Therefore, Community Planning believes that the outdoor lighting does not negatively impact the public health, safety and welfare of the surrounding properties.

**Noise:** The applicant has stated that “noise will be minimal as all functions are enclosed in the building.” Therefore, Community Planning believes that the noise produced from the indoor cultivation building will not negatively impact the public health, safety and welfare of the surrounding properties.

**Hours of Operation:** The subject property is located in GU-1 zoning where there are no restrictions on hours of operation. The applicant has stated that the hours of operation would be 7 am – 7 pm, daily. Community Planning believes that these hours of operation will not negatively impact the neighborhood’s public health, safety and welfare because the cultivation operation has direct access from Elliott Highway, which is a principal arterial type roadway and experiences 24-hour traffic.

**Fire Safety:** Fire and rescue services for this operation are available through the Steese Volunteer Fire Department. Any lack in ensuring necessary fire safety provisions for a 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 recommends a formal plan review by the Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) 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.
**Wetlands:** A portion of the subject property has freshwater forested/shrub wetlands. The site plan provided by the applicant reflects that the marijuana cultivation building, parking and compost pile are located outside the wetlands. The U.S. Army Corps of Engineers (USACE) regulates any development within wetlands on the subject property. Any development within the wetlands which is not formally approved by USACE may result in a public health, safety and welfare issue. Therefore, Community Planning recommends a condition requiring a formal plan review by USACE and compliance with all recommendations and/or requirements resulting from the plan review as a condition to protect the public health, safety and welfare or provide documentation that a review for wetlands is not required.

**Contamination to Fox Water Well, Fox Creek and other water resources:** On October 3, 2017, FSWCD expressed concerns about the potential effluent discharge into the drinking waters of Fox Spring. FSWCD recommended mitigation strategies such as “onsite wastewater treatment prior to discharge” and “off-site disposal of wastewater”. On January 18, 2018, the applicant responded to FSWCD’s concerns and stated “we have reached out to Friends of Fox Water and plan to discuss out plans with them as well as post at conspicuous locations our plans for wastewater management and our commitment to protecting the community resource that Fox Springs has been for decades. We are working closely with DEC on an engineered septic system and additionally will hold any wastewater that may pose (per DEC) a threat to Fox Springs or other water resources in a 2,000 gallon holding tank placed in secondary containment which will be hauled away via commercial carrier.”

ADEC Division of Water, Wastewater Discharge regulates wastewater holding tanks and treats wastewater produced from the marijuana cultivation operation as non-domestic wastewater. ADEC does not allow any non-domestic wastewater discharge into a septic system without their express written approval (18 AAC 72, Wastewater Disposal Regulations). Community Planning believes that the recommended condition of approval to obtain plan reviews from ADEC, and following subsequent recommendations, will address the concern of potentially contaminating the water resources and therefore, protect public health, safety and welfare.

The applicant’s submittals indicate that the applicant plans to go to other agencies such as the Marijuana Control Board (MCB), ADEC and Fire Marshall for plan reviews and approvals. Because this conditional use approval is for a specific use, a change in the site plan or operation method may result in increased impacts or trigger a public health, safety and welfare concern which has not been analyzed. Therefore, Community Planning recommends a condition that the applicant file final site and floor plans with Community Planning to ensure compliance with Planning Commission approved site plan, floor plan and conditions. If any modifications are made to the approved documents or operations characteristics, 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 GU-1 zone with three (3) conditions.
X. CONDITIONS

1. Prior to the commencement of marijuana cultivation operation, 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 State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) 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 formal plan review by the State of Alaska Department of Environmental Conservation for the proposed wastewater storage tank and/or the use of a septic system for non-domestic wastewater discharge; and shall comply with all recommendations and/or requirements resulting from the plan review.
   
d. The applicant or holder of this conditional use permit shall obtain a formal plan review by the Alaska Department of Transportation and Public Facilities (ADOT&PF) for the existing driveway and shall comply with all recommendations and/or requirements resulting from the plan review or provide documentation that a review for the existing driveway is not required.
   
e. The applicant or holder of this conditional use permit shall obtain a formal plan review by the U.S. Army Corps of Engineers (USACE) and shall comply with all recommendations and/or requirements resulting from the plan review or provide documentation that a review for the proposed conditional use is not required.
   
f. The applicant or holder of this conditional use permit shall obtain all applicable floodplain permits if there are any changes made within the Special Flood Hazard Area to ensure that the marijuana cultivation facility complies with the FNSB Title 15 - Floodplain Management Regulations.

2. Indoor cultivation, drying, and processing rooms or portions of the building where marijuana will be grown, processed or stored, shall be equipped with appropriately sized odor filtration systems such that the marijuana odor shall not be detectable outside the indoor cultivation facility.

3. If any modifications are made to the site plan, floor plans, or other FNSB required documents or operational characteristics, 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 ‘Outskirt Area’ comprehensive plan land use designation. 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 meet floodplain permitting requirements and will help 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 facility has an existing well to meet the water supply needs for marijuana cultivation.
   b. The facility will have a storage tank and/or a septic system for the non-domestic wastewater. With the conditions imposed, the facility will dispose of the wastewater according to the state regulations.
   c. The facility is served by the Steese Volunteer Fire Department for emergency fire response.
   d. The facility is served by Alaska State Troopers for law enforcement.
   e. The facility is currently connected to the GVEA grid which will provide sufficient energy supply for indoor cultivation activities.
   f. Eight (8) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed cultivation conditional use.
   g. The subject property is accessible from Elliott Highway, which is an interstate type roadway. Elliott Highway can accommodate the small number of trip ends generated by the proposed cultivation facility.

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 (FNSBC 18.84) and Standards for Commercial Marijuana Establishments (FNSBC 18.96.240) as well as state requirements for a commercial marijuana cultivation facility.

   a. With the conditions imposed, security systems, alarms, 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 in accordance with state and local regulations.
   c. With the conditions imposed, odor will be mitigated with appropriately sized odor filtration systems in cultivation, drying, and processing facilities.
d. All marijuana and marijuana products will 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 minimal and it would not negatively impact the neighboring residential property owners because the operation is completely indoors.

f. The outdoor lighting will not point on neighboring properties and therefore, will not negatively impact the neighborhood or residential uses.

g. The facility is located in GU-1 zoning where there are no restrictions on hours of operation.

DRAFT PLANNING COMMISSION MOTION:

I move 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.
CERTIFICATE OF COMPLIANCE

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

---

Permit Number:   FP 2018-0027

Owner: ANDERSON GRANT

Issued By: Nancy Durham, MURP, CFM  Date: 01/23/2018
(Floodplain Administrator)

Description of proposed work:
Warehouse/Hanger

Parcel(s)  Project Address:
0227463 TL-3103 SECTION 31 T2N-R1E  2283 OLD ELLIOTT HWY
FNSB FLOODPLAIN DEVELOPMENT PERMIT

Requirements for this permit:  Permit Number:  FP 2018-0027

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

Issued To:  Name: ANDERSON GRANT
Mailing Address: 607 OLD STEESE HWY, STE B,
   City/State/Zip  FAIRBANKS AK 99701

Issued By:  Nancy Durham  MURP, CFM  Date: 01/23/2018
   (Floodplain Administrator)  BFE:  777'

Description of proposed work:
Warehouse/Hanger

Specific Standards:
Top of Bottom Floor=779'; Lowest elevation of machinery or equipment=779.2' (NAVD88)

Parcel(s)  Project Address:
0227463  TL-3103 SECTION 31 T2N-R1E   2283 OLD ELLIOTT HWY

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

i. Outer boundaries of school buildings, including outdoor school facilities where students are regularly found;

ii. Outer boundaries of playgrounds;

iii. The lot line of a lot in a residential zone; or

iv. 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.

4. Outdoor Storage. No outdoor storage of marijuana, marijuana products or hazardous substances shall be allowed.

5. In all zones in which marijuana establishments, with the exception of a marijuana testing facility, are a permitted or conditional use, the applicant shall include an area map drawn to scale indicating all land uses on complete parcels within a 500-foot proximity of the lot upon which the applicant is seeking a zoning permit or conditional use permit.

6. Marijuana establishments other than marijuana cultivation facilities, indoor small and marijuana testing facilities located in GU-1 or GU-5 zoning and adjacent to a lot upon which a principal building used as a dwelling is located are a conditional use subject to the requirements of this title.

B. Cultivation Facility Standards.

1. Yard Setbacks. Outdoor marijuana cultivation facilities, including all land planted with marijuana, shall be located at least 50 feet from a lot line.

2. Height Limitations.

   a. The maximum height for a marijuana cultivation facility, indoor small shall be 35 feet.

   b. The maximum height for a marijuana cultivation facility, indoor large shall be 75 feet.
PUBLIC NOTICE SIGN POSTING AFFIDAVIT

STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

I, _______________________, being first duly sworn, depose and state that:

1. I have submitted an application identified as _______ C.U 2018-010 _______

2. I have posted and will maintain public notice sign # H in accordance with the following provisions:
   a. Sign is posted on the property on which my request for rezone, conditional use or variance has been made.
   b. Sign is clearly visible from streets and roads.
   c. Sign will be maintained free of snow or other materials which impede readability.
   d. Sign is posted between an elevation of 2' and 8' above ground level and no further than 50' from the edge of the road to further ensure readability from streets.
   e. Sign was posted on _____4, Jan, 2013____ (date) and complies with posting requirements of 20 days prior to the public hearing date.
   f. I shall return the sign to the FNSB Department of Community Planning within 10 days following the final public hearing.

3. I understand a refund check of $200.00 (the amount I have deposited for said sign) will be issued 7-10 days following return of the sign providing that sign is returned in usable condition. I further understand I may receive only partial refund if the sign is damaged when returned to the Borough.

4. This document is null and void when necessary action has been completed as provided in Item #2 f.

______________________________
Signature

______________________________
Notary Public

______________________________
Notary Public in and for Alaska

SUBSCRIBED AND SWORN TO BEFORE ME on this _____ 16th ____ day of February, 2018

______________________________
Notary Public in and for Alaska

Exhibit 3

Instructions to comply with F1
1. Post the sign(s) in accordance with #2 below.
2. Take a photograph of the posted sign.
3. Return this affidavit and the photograph to the Department of Community Planning at least 20 days prior to the Planning Commission meeting (see the 'Post By' date). If these items are not received by the 'Post By' date, your application may be postponed to a future meeting.
4. This affidavit must be notarized. The Borough has notaries on staff or you may use your own notary.
Signage posting for Fox Creek LLC at 2203 old Elliot

Grant Anderson <grant@blackrapidsak.com>


Sent: Thu 1/4/2018 11:47 AM
To: Manish Singh

highway.

V/R
Grant Anderson
Owner
Black Rapids LLC
253-310-5127

Comm. Planning Dept
JAN 04 2018
RECEIVED
Elliott Hwy, looking north

Driveway access from Elliott Hwy
Front gate

Looking west on the driveway from Elliot Hwy
Subject building for Conditional Use

Existing Residence on the subject property
Existing accessory structure on the subject property

Subject building, looking west from the driveway
Looking at the neighboring property to the north (also owned by KGM, LLC)

Existing Residence on the east side of Elliott Hwy
Agency Comments

CU2018-010
### SAFETY

- State Fire Marshal
- Fire Service Area (see attachment)
  - Specify: Cheese Vol. Fire GA
- City of Fairbanks
  - Chief of Staff
  - Fire Department
  - Police Department
  - Building Department
- City of North Pole
  - City Clerk – Mayor
  - Fire Department
  - Police Department
  - Building Department
- Alaska State Troopers

### OTHER AGENCIES

#### STATE

- Alaska Department of Environmental Conservation (ADEC)
- Alaska Department of Natural Resources (ADNR)
- Alaska Department of Fish and Game (ADF&G)
- Alaska Railroad (ARR)

#### FEDERAL

- U.S. Department of the Interior
  - Bureau of Land Management (BLM)
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency (EPA) Region 10
- U.S. Department of Agriculture (USDA)
  - Natural Resources Conservation Service
- Fort Wainwright Army Base
- Eielson Air Force Base
- Federal Emergency Management Agency (FEMA) Region 10
UTILITIES

ENERGY

☐ Fairbanks Natural Gas
☒ Golden Valley Electric Association (GVEA)
☐ Interior Gas Utility
☐ Alyeska Pipeline Services Co.
☐ Aurora Energy
☐ Other __________________

WATER/SEWER

☐ Utility Services of Alaska
☐ Valley Water, INC.
☐ City of North Pole Public Works
☐ College Utilities
☐ Golden Heart Utilities
☐ Other __________________

TELECOMMUNICATION

☐ Alaska Communications
☐ GCI FCC (Fiber Optic Cable)
☐ Alaska Wireless Network, LLC (GCI)
☐ AT&T Alascom
☐ AlasConnect
☐ Summit Telephone
☐ Verizon Wireless
☐ Other __________________

Comments to be returned by: Jan 18, 2018 (2 weeks)

I have sent the application materials for File # UW2018-010 to all of the agencies checked above on Jan 4, 2018

Date Sent

Name of Planner (PRINTED) ___________________________ Date Signed 01/4/2018
State of Alaska Department of Public Safety, Division of Fire and Life Safety
David Tyler, Alaska State Fire Marshal/Director David.tyler@alaska.gov
David Aden, Building Plans Examiner 1 David.aden@alaska.gov

Jillian Roberts jillian.roberts@alaska.gov
Lloyd Nakano lloyd.nakano@alaska.gov

Steese Vol. Fire Department
Mitch Flynn, Fire Chief mitch.flynn@steesefire.org
info@steesefire.org

State Troopers
Dps.ast.directors.office@alaska.gov

Alaska Department of Transportation
Randi Motsko randi.motsko@alaska.gov
Pete Eagan pete.eagan@alaska.gov

FNSB Floodplain Administrator
Nancy Durham NDurham@fnsb.us

FNSB Addressing
Bill Witte BWitte@fnsb.us

Alaska Department of Natural Resources
George Horton George.horton@alaska.gov

Alaska Department of Environmental Conservation
Tonya Bear Tonya.bear@alaska.gov
Doug Buteyn Doug.buteyn@alaska.gov

Alaska Dept. of Fish and Game
James Durst - james.durst@alaska.gov

Army Core of Engineers
POA.ExecutiveOffice@usace.army.mil

GVEA
Julie Karl JLKarl@gvea.com
Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering "CU2018-010", a request for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone, located at 2304 Old Elliott Highway (on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 18, 2018. For more information about this case, please email msirgh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Hello Manish,
I am familiar with the location and structure. There is adequate emergency access to the facility as proposed. I did witness severe overflow that surrounded this building a number of year ago, so I know it's prone to flooding from winter overflow. Also, Mr. Anderson incorrectly states that Chena Goldstream Fire & Rescue is the responding fire department. The Steese Volunteer Fire Department provides fire and emergency medical services to this property. The property has no hydrants but is served with water shuttle tenders for water supply operations in the event of a fire. If you need any further information, please feel free to contact my office.

Mitch Flynn, Fire Chief
Steese VFD
800 William C. Leary Lane
Fairbanks, AK 99712
907-457-1519 office
907-347-7685 cell
mitch.flynn@steesefire.org

On Thu, Jan 4, 2018 at 9:30 AM, Manish Singh <M Singh@fnsb.us> wrote:

Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering CU2018-010, a request for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone, located at 2304 Old Elliott Highway (on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 18, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

Manish Singh, AICP

Planner II

Department of Community Planning

907-459-1225 / msingh@fnsb.us

Fairbanks North Star Borough

907 Terminal Street

Fairbanks, AK 99701
Manish Singh

From: Durst, James D (DFG) <james.durst@alaska.gov>
Sent: Thursday, January 04, 2018 10:40 AM
To: Manish Singh
Cc: Brase, Audra L (DFG)
Subject: RE: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)

Manish:

Please send requests for ADF&G comments to
Audra Brase, Regional Supervisor
Alaska Department of Fish & Game
Division of Habitat
907-459-7282
audra.brase@alaska.gov

From: Manish Singh [mailto:MSingh@fnsb.us]
Sent: Thursday, January 04, 2018 9:30 AM
To: Tyler, David L (DPS); Aden, David G (DPS); Roberts, Jillian T (DPS); Nakano, Lloyd M (DPS); Mitch Flynn; info@steeefore.org; AST Directors Office, DPS (DPS sponsored); Motsko, Randi Lynn (DOT); Eagan, Pete (DOT); Nancy Durham; Bill Witte; Horton, George C (DNR); Bear, Tonya (DEC); Buteyn, Douglas J (DEC); Durst, James D (DFG); POA.ExecutiveOffice@usace.army.mil; JLKarl@gvea.com
Subject: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)

Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering CU2018-010, a request for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone, located at 2304 Old Elliott Highway (on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 18, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Ma’am,

Please ensure owners submit plans reviews in accordance with 13 Alaska Administrative Code 50.027.

13 AAC 50.027. Non-structural plan review and approval; stop work orders
(a) Before beginning the construction, alteration, repair, or changing the occupancy of a building, a substantial land structure, or structure regulated by the state division of fire and life safety, plans and specifications regarding that building’s or structure’s location on the property, area, height, number of stories, occupancy, type of construction, fire-resistant construction, interior finish, exit facilities, electrical systems, mechanical systems, flammable or combustible liquid and gas storage tanks and their appurtenances, automatic fire-extinguishing systems, and fire alarm systems must be submitted by the owner or the owner’s representative to the state division of fire and life safety for examination and approval. This review does not address structural considerations or mechanical or electrical review beyond that necessary to confirm compliance with fire or life safety requirements. A copy of the approval must be posted as required in 13 AAC 55.100.

Thank you.

v/r

Lloyd M Nakano
Assistant State Fire Marshal
Division of Fire and Life Safety
5700 E. Tudor Road
Anchorage, AK 99507
Phone: 907-269-5491

From: Manish Singh [mailto:MSingh@fnsb.us]
Sent: Thursday, January 4, 2018 9:30 AM
To: Tyler, David L (DPS) <david.tyler@alaska.gov>; Aden, David G (DPS) <david.aden@alaska.gov>; Roberts, Jillian T (DPS) <jillian.roberts@alaska.gov>; Nakano, Lloyd M (DPS) <lloyd.nakano@alaska.gov>; Mitch Flynn <mitch.flynn@steesefire.org>; info@steesefire.org; AST Directors Office, DPS (DPS sponsored) <DPS.AST.DIRECTORS.OFFICE@alaska.gov>; Motsko, Randi Lynn (DOT) <randi.motsko@alaska.gov>; Eagan, Pete (DOT) <pete.eagan@alaska.gov>; Nancy Durham <NDurham@fnsb.us>; Bill Witte <BWitte@fnsb.us>; Horton, George C (DNR) <george.horton@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>; Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>; Durst, James D (DFG) <james.durst@alaska.gov>; POA.ExecutiveOffice@usace.army.mil; JIKarl@gvea.com
Subject: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)

Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering CU2018-010, a request for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone, located at 2304 Old Elliott

Planning Commission Meeting

February 27, 2018
Highway (on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 18, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Hi Manish:

I reviewed this proposal relative to the solid waste regulations and the marijuana industry regulations and have two comments.

1. I was contacted by and had a brief discussion with the applicant about what permits might be required for managing marijuana plant waste. The applicant stated that his plan was to compost the plant waste and I stated that no permit was needed for a compost pile. However, the narrative in the proposal states that, after grinding and mixing with topsoil, the marijuana plant waste “will be stored/composted on site.” This is different than what was described to me on the phone and is worrisome because if storage occurs instead of composting, the possibility exists for an ever-growing pile of waste material on the property. A stockpile that is not composted or reused constitutes disposal and could require a solid waste permit. If this is not what the applicant intends, it would be helpful to have a more detailed description of what “stored/composted on the site” will include. If composting is the goal, this should include information about how the composting will be achieved and how the finished compost will be used. If storage will occur, information is needed as to how much and for how long marijuana waste will be stored and what will eventually be done with the stored material.

2. The site map shows a private easement crossing the property that is not mentioned or explained in the narrative. It isn’t clear what the easement if for but, if anyone has unrestricted access to the property via that easement, that seems like a potential site security issue that should be addressed in the narrative.

Thank you for the opportunity to review this proposal. Let me know if you have any questions.

Douglas Butryn
Northern/Southeastern Regional Program Manager
ADEC Solid Waste Program
610 University Avenue
Fairbanks, AK 99709
Phone: 907-451-2135
Fax: 907-451-2188
Email: doug.butryn@alaska.gov
<george.horton@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>; Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>; Durst, James D (DFG) <james.durst@alaska.gov>; POA.ExecutiveOffice@usace.army.mil; JLKarl@gvea.com

Subject: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)

Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering **CU2018-010**, a request for conditional use approval of a *marijuana cultivation facility, indoor large* in the General Use 1 (GU-1) zone, located at **2304 Old Elliott Highway** (on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 18, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

*Manish Singh, AICP*

Planer II
Department of Community Planning
907-459-1225 / msingh@fnsb.us

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Manish,  

The proposed facility (existing building), existing parking, additional parking, and compose area are located in Flood Zone A. There are no Floodplain Permits for this property. This property is currently in violation of FNSBC Title 15 Floodplain Management Regulations. Floodplain Permits are required for all development on property located in the Special Flood Hazard Area.

Once the Borough receives the Floodplain Permit Application and the “finished construction” Elevation Certificates, we can determine if the structures are in compliance with FNSBC Title 15. If the structures are not in compliance with FNSBC Title 15, they will need to be brought into compliance. If the structures are in compliance with FNSBC Title 15, they will receive a Certificate of Compliance.

Sincerely,

Nancy Durham, MURP, CFM  
Flood Plain Administrator  
FNSB Community Planning  
n Durham@fn sb.us  
(907) 459-1263

**Any property can flood even if it is not in a moderate to high risk Special Flood Hazard Area. Flood insurance is recommended.

FYI: The new Fee Schedule from July 1, 2017 to June 30, 2018: Floodplain Permits will remain “No Charge”. Hard copies of Title 15 Floodplain Management Regulations will remain $10.00. All formal Flood Determination Letters on letterhead which include flood zones, base flood elevations, conversion letters, community determined letters, etc. will have a $50.00 fee.

From: Manish Singh  
Sent: Thursday, January 04, 2018 9:30 AM  
To: David.tyler@alaska.gov; David.aden@alaska.gov; jillian.roberts@alaska.gov; lloyd.nakano@alaska.gov; Mitch Flynn; info@steesefire.org; Dps.ast.directors.office@alaska.gov; randi.motsko@alaska.gov; pete.eagan@alaska.gov; Nancy Durham; Bill Witte; George.horton@alaska.gov; Tonya.bear@alaska.gov; Doug.buteyn@alaska.gov; James.durst@alaska.gov; POA.ExecutiveOffice@usace.army.mil; JLKarl@gvea.com  
Subject: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)

Dear Sir/Ma’am
The Fairbanks North Star Borough Planning Commission is considering **CU201a-010**, a request for conditional use approval of a **marijuana cultivation facility, indoor large** in the General Use 1 (GU-1) zone, located at **2304 Old Elliott Highway** (on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 18, 2018. For more information about this case, please email msinh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

**Manish Singh, AICP**
Planner II
Department of Community Planning
907-459-1225 / msinh@fnsb.us

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Manish Singh

From: Brase, Audra L (DFG) <audra.brase@alaska.gov>
Sent: Friday, January 05, 2018 11:43 AM
To: Manish Singh
Subject: FW: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)
Attachments: CU2018-010_Anderson_AppPkt_2018_0103.pdf

ADF&G has no objection or comments regarding this application.

Thanks,
Audra

Audra Brase
Regional Supervisor
ADF&G Division of Habitat
Region III - Fairbanks
907-459-7282

From: Durst, James D (DFG)
Sent: Thursday, January 04, 2018 10:20 AM
To: Brase, Audra L (DFG)
Subject: FW: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)

From: Manish Singh [mailto:MSingh@fnsb.us]
Sent: Thursday, January 04, 2018 9:30 AM
To: Tyler, David L (DPS); Aden, David G (DPS); Roberts, Jillian T (DPS); Nakano, Lloyd M (DPS); Mitch Flynn; info@steesefire.org; AST Directors Office, DPS (DPS sponsored); Motsko, Randi Lynn (DOT); Eagan, Pete (DOT); Nancy Durham; Bill Witte; Horton, George C (DNR); Bear, Tonya (DEC); Buteyn, Douglas J (DEC); Durst, James D (DFG); POA_ExecutiveOffice@usace.army.mil; JLKarl@gvea.com
Subject: CU2018-010: Requesting Comments for Marijuana Cultivation App. (2304 Old Elliott Highway)

Dear Sir/Ma'am

The Fairbanks North Star Borough Planning Commission is considering CU2018-010, a request for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone, located at 2304 Old Elliott Highway (on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 18, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish
Hello,

Please find the comment letter for the Marijuana Facility Condition Use Permit CU2018-010.

Thanks,
Randi

From: nrg-dot-planning@alaska.gov [mailto:nrg-dot-planning@alaska.gov]
Sent: Friday, January 05, 2018 11:10 AM
To: Motsko, Randi Lynn (DOT) <randi.motsko@alaska.gov>
Subject: Attached Image
January 5, 2018

Manish Singh
Planner
Department of Community Planning
msingh@fnb.state.ak.us
907-459-1225

Property Owner/Developer: KGM, LLC

Type of Request: Marijuana Facility Conditional Use Permit- CU2018-010

Property Location: 2304 Old Elliott Highway, TL 3103, Section 31, T.2N., R.1E., Fairbanks Meridian, Alaska; Fairbanks Recording District.

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

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. The ADOT&PF permitting website can be found at: http://www.dot.state.ak.us/permits/index.shtml

Thank you.

Sincerely,

Randi Motsko
Fairbanks Area Transportation Planner
(907) 451-2386

cc: George Stefan, FNSB
    Angela Parker, FNSB
    Dan Welch, FNSB

"Keep Alaska Moving through service and infrastructure."
October 3, 2017

Alcohol and Marijuana Control Office
550 W 7th AVE, STE 1600
Anchorage, AK 99501

Re: Marijuana Cultivation Facility License #14477

To whom it may concern:

Fairbanks Soil and Water Conservation District promotes sustainable land development and serves the natural resource needs and concerns of the greater Fairbanks area, encompassing over 30 million acres. Our mission is to provide technical assistance, education and outreach to all landowners independent of outside interests.

It has come to the attention of FSWCD that there is a potential resource concern associated with the natural spring located in the town of Fox, Alaska. FSWCD has been working with the group Friends of Fox Spring to ensure the continued use and protection of this unique water resource, which many landowners are dependent on as their sole source of drinking water. A recent development in the ensured protection of this natural spring, is that of a marijuana cultivation facility application, that if approved, would be established on adjoining land to that of Fox Spring. Due to the potential discharge of effluent onto the nearby property, and the unknown details of wastewater treatment, we recommend the consideration of several options further outlined below. One; that the marijuana facility operator installs a monitoring well to ensure the well water quality is not compromised. Two; current wastewater treatment plans be made available to the public, and if not already established, further development of mitigation strategies be considered such as on-site wastewater treatment prior to discharge, or off-site disposal of wastewater.

Sincerely,

Randy Scharfenberg
Chairman of the Board
FSWCD
Hi Joni,

I have attached the Fox Creek LLC’s application with this email. Please let me know (by Feb. 02, 2018) if you have any additional comments.

I share my marijuana conditional use permit application with the following individuals at ADEC:

**Douglas Buteyn**
Northern/Southeastern Regional Program Manager  
ADEC Solid Waste Program  
610 University Avenue  
Fairbanks, AK 99709  
Phone: 907-451-2135  
Fax: 907-451-2188  
Email: doug.buteyn@alaska.gov

**Tonya Bear, P.E.**
Engineer I  
Department of Environmental Conservation  
Division of Water, Wastewater Discharge  
Engineering Support & Plan Review Section  
610 University Avenue, Fairbanks, AK 99709  
Email: tonya.bear@alaska.gov  
Office: 907-451-2177

I hope they can help you understand what state regulations DEC has for regulating solid waste and wastewater. Additionally, more contact information and resources/regulations could be accessed on https://dec.alaska.gov/Commish/marijuana.aspx

I hope you’d find this information helpful. Let me know if you have any questions for FNSB marijuana zoning regulations.

Thanks,
Manish

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

Fairbanks North Star Borough
Hi Pete,

I just left you a voicemail. I am working on three marijuana establishment conditional use cases that will go to public hearing in February. I wanted to check with you if these properties have DOT approved driveways and if you find them adequate for commercial marijuana establishments.

**CU2018-008**: A request by Amber Carr, DBA The Great Alaskan Growery, on behalf of Richard Carr, for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 2, Carr Subdivision (located at 11161 Richardson Highway, on the west side of Richardson Highway, near milepost 315). I emailed the application to you on Dec. 29, 2017.

**CU2018-010**: A request by Grant Anderson DBA Fox Creek LLC, on behalf of KGM LLC, for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on TL-3103, Section 31, T2N-R1E, F.M. (located at 2304 Old Elliott Highway, on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). I emailed the application to you on Jan. 4, 2018.

**CU2018-011**: A request by Gary Evans DBA Grass Station 49, on behalf of David Lanning and Morgan Evans, for conditional use approval of a retail marijuana store in the General Use 1 (GU-1) zone on TL-221, Section 2, T1S-R2W, F.M. (located at 2502 Parks Highway, on the north side of Parks Highway, on the west side of Java Lane). I emailed the application to you on Jan. 17, 2018.

I would appreciate any help in these cases. Let me know if you have any questions for me.

Thanks,
Manish

---

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

Fairbanks North Star Borough  
907 Terminal Street  
Fairbanks, AK 99701
January 25, 2018  2:25 PM

Phone call conversation with

Benjamin N. Soiseth
Supervisor, Fairbanks Regulatory Field Office
US Army Corps of Engineers
2175 University Avenue, Suite #201E, Fairbanks, Alaska 99709
Phone: 907-474-2166, Email: Benjamin.n.soiseth@usace.army.mil

Manish Singh, FNSB Planner, asked if USACE has a review process for applicants who are proposing structures/activity outside the wetlands. Mr. Soiseth stated that the Borough 2014 GIS layer is a good starting point; however, it is not an official wetland determination.

He recommended the applicant to contact his office at University Ave and go through a site plan review process. If the applicant is not needed any army corps permits, the army corps will provide that in writing.

Manish Singh, FNSB Community Planner
Application Material Received on
January 3, 2018

CU2018-010
MARIJUANA FACILITY
CONDITIONAL USE PERMIT APPLICATION
File No. CU 2018-010

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

Applicant:
Contact Name: Grant Anderson
Business Name: Fox Creek LLC
Mailing Address: 609 Old Airport Highway Ste 1303
City, State Zip: Fairbanks, AK 99701
Phone: 253-310-5127
E-mail: grant@blackrosetoes.com

Property Owner:
Name: K6 M LLC
Mailing Address: 609 Old Airport Highway Ste 1303
City, State Zip: Fairbanks, AK 99701
Phone: 253-310-5127
E-mail: grant@blackrosetoes.com

Property Information:
Property Description: T3N R1303 section 31 TAN-RIE
Street Address: 7301 Old Eielson Highway
Lot Size: 4.65 Acres
Parcel Account Numbers (PAN): 287463
Zoning District: 601
Existing Use(s): Residential

Conditional Use Request Information:
Proposed Use(s):
Standard marijuana cultivation facility, Indoor Large

Request Description and Reasons for the Request:
Request use of Warehouse on the property for use as
a standard Marijuana cultivation facility

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: 3.5.2018

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).
6-10 Full Time Employees will be employed at this location at any given time.

Deliveries of product will be daily, either outgoing or incoming. Vendor deliveries will be two to three times a week and these will include delivery of plant nutrients and packaging material deliveries. Deliveries will be from the Elliot Highway access point and will be scheduled for hours in which they will not be disruptive to the area or its neighbors.

Hours of operation will be 0700-1900 daily.

Activities at this location will include the cultivation of cannabis plants including the cloning, transplanting, feeding, pruning, harvesting, trimming, packaging, and shipping of marijuana plants and finished products.

All improvements to the property will be reviewed for code compliance by the State Fire Marshal's Plan Review Bureau and a permit issued prior to construction.

Odors will be controlled with the use of a ventilation system and commercial grade carbon filters which will render cannabis odors inert. Noise will be minimal as all functions are enclosed in the building. Access to the property is from the Elliot highway so traffic impacts on neighbors will be minimal to non-existent. Outdoor Lighting will be on motion detectors or aimed in such a way so as not to pollute the area with light. Lighting will be soft-light and non-polluting with respect to neighbors as a priority in placement and aiming of lights.

Basic Cleaning supplies (Simple Green, Bleach, etc.) Basic Plant Nutrients (Flora Bloom, Grow, Plus, Cloning Gel, Etc) NO Pesticides are to be used at this facility.

Plant waste will be ground to smaller then 1cmx1cm and be rendered with an inert material at a 1 to 1 ratio. (topsoil) and will be stored/composted on site. ADEC Solid waste program Has been consulted and has informed Fox Creek that its current plan is in compliance.

GVEA 600-amp, three phase service brought from existing-adjacent infrastructure power lines. All electrical work will be engineer designed and will be in compliance with the State Fire Marshal's Office requirements and codes.

Water source is an on-site water well.

An existing Commercial septic system will service sewage and wastewater. This system is engineer designed and will meet all of the DEC division of wastewater and wastewater discharge policies. Any wastewater deemed unfit to be discharged into the septic system will be held in onsite wastewater tanks and be transferred via commercial carrier to the wastewater treatment plant.
Alaska State Troopers will be notified in the event of a threat to life, limb or property as a result of malicious third-party activity. Chena/Goldstream Fire Department is the servicing fire station and will conduct an access review as is required by the State Fire Marshals review process.

Security at the facility will be serviced with a suite of motion detectors, hardened doors at access points, door strikes, motion detecting flood lights, panic buttons, control rooms, and a complete camera system with servers and storage for 40 days of backup that is AMCO compliant along with third party monitoring.

The ownership team of Fox Creek has operated other Legal cannabis operations in the Fairbanks North Star Bureau for almost two years. These two operations are Black Rapids LLC and Rebel Roots LLC. Both operations have remained models of compliance with all local ordinances as well as State and AMCO requirements. Both operations have passed all inspections with flying colors. Black Rapids is one of the longest running cannabis operations in the state and has provided steady employment for 3 employees as well as several contractors and has provided local investment and construction spending as well. Our track record of success, compliance, and a positive community impact is well documented.

All plans are to be reviewed by AMCO examiners and the AMCO board as well as DEC engineers and the State Fire Marshals Office to ensure compliance before construction will begin. The safety, health, and welfare of neighbors and the general public is of utmost importance. All potential negative impacts on local human and natural systems will be mitigated per the respective overseeing regulatory bodies direction. This facility is in an “outskirt area” and meets the desired use for such areas and zoning (GU1) as an agricultural facility. It also keeps cannabis operations out of high density residential neighborhoods which has been a concern for some members of the FNSB assembly. This location was selected for use as a cannabis facility because of its ease of access (20ft wide asphalt over compacted gravel driveway, large parking, loading, and unloading area) its remoteness, (low impact) and its infrastructure (adjacent 3 phase power, Water well, commercial septic. Existing structure, etc)

Grant Anderson
Fox Creek LLC
Department of Commerce, Community, and Economic Development
Division of Corporations, Business and Professional Licensing

NAME(S)
Type
Legal Name

ENTITY DETAILS
Entity Type: Limited Liability Company
Entity #: 10063437
Status: Good Standing
AK Formed Date: 7/11/2017
Duration/Expiration: Perpetual
Home State: ALASKA
Next Biennial Report Due: 1/2/2019
Entity Mailing Address: 302 COWLES ST, 302 COWLES ST, FAIRBANKS, AK 99701
Entity Physical Address: 302 COWLES ST, 302 COWLES ST, NORTH POLE, AK 99705

REGISTERED AGENT
Agent Name: Grant Anderson
Registered Mailing Address: 302 COWLES ST, 302 COWLES ST, NORTH POLE, AK 99701
Registered Physical Address: 302 COWLES ST, 302 COWLES ST, NORTH POLE, AK 99701

OFFICIALS
AK Entity #
Name
Grant Anderson
Kyle Weidler
Miguel Espinosa

Titles
Member
Member
Member

Owned
34
33
33

FILED DOCUMENTS
Date Filed
Type
Filing
Certificate
7/11/2017
Creation Filing
Click to View
Click to View
7/11/2017
Initial Report
Click to View

Juneau Mailing Address
P.O. Box 11000
Juneau, AK 99811-1000
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

State of Alaska © 2017
STATUTORY WARRANTY DEED

THE GRANTOR: Patrick N. Kohls and Thu Thi Kohls, husband and wife, as to Parcel I
and Pewter, LLC, as to Parcel II
whose mailing address is: 2283 Elliot Highway, Fairbanks, AK, 99712
for and in consideration of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION in
hand paid, conveys and warrants to
THE GRANTEE(s): KGM LLC
whose mailing address is: 607 Old Steese Highway, Suite B #303, Fairbanks, AK, 99701
the following described real estate:

PARCEL I:

That portion of the Northwest ¼ of the Northeast ¼, Section 31, Township 2 North,
Range 1 East, Fairbanks Meridian; Records of the Fairbanks Recording District, Fourth
Judicial District, State of Alaska, more particularly described as follows:

BEGINNING at a point on the center line of the Elliott Highway at Alaska State Highway Project S-0680, east 825.58 feet to a point on the center line of the Elliott Highway at Alaska State Highway Project S-0680, center line survey station 14 + 57.6, on curve; Thence northeasterly along 2° curve to the left (radius 2864.91 feet) through an arc of 5°42' for a distance of 284.89 feet to center line survey station 11 + 71.7, on curve; Thence South 37°04'30" East, a distance of 446.38 feet to a point on the south boundary of the Northwest ¼ of the Northeast ¼ Section 31; Thence North 89°59' West 484.14 feet to the initial point and place of beginning.

PARCEL II:

A portion of the North ¼ of Section 31, Township 2 North, Range 1 East, Fairbanks
Meridian, Records of the Fairbanks Recording District, Fourth Judicial District, State of
Alaska, more particularly described as follows:

BEGINNING at the Southwest corner of the Northwest ¼ of the Northeast ¼ of said
Section; THENCE North 44°55'15" East on a line running towards the Northeast corner
of the Northwest ¼ of the Northeast ¼ of said Section, a distance of 726.56 feet to a point
on the curved Westerly right-of-way line of the Elliott Highway, Alaska Project S-
0680 (12); THENCE Northwesterly along said right-of-way line on a curve to the right of
radius 2964.79 feet an arc length of 457.37 feet to a point (the chord bears North
29°33'56" West 456.92 feet); THENCE South 73°08' West 114.88 feet to a point of
curvature; THENCE along a curve to the left of radius 2860.00 feet an arc length of
239.93 feet to a point of tangency; THENCE South 04°15' West 90 feet to a point of
curvature; THENCE along a curve to the right of radius 350 feet an arc length of 454.88
feet (the chord bears South 41°28'56" West 423.53 feet); THENCE South 11°17'09" East
a distance of 593.01 feet to a point which lies South 37°27' West from the POINT OF
BEGINNING; THENCE North 37°27' East a distance of 250 feet to the POINT OF
BEGINNING.

SUBJECT TO property taxes; reservations and exceptions as contained in the U.S. Patent; easements of record;
and covenants, conditions and restrictions of record, if any.

Dated this 8th day of August, 2017.
As to Parcel I:

Patrick N. Kohls

Thu Thi Kohls

As to Parcel II:

Pewter, LLC

By: Patrick Kohls, Manager

By: Thu Thi Kohls, Manager

STATE OF ALASKA
JUDICIAL DISTRICT OR COUNTY: FOURTH

THIS IS TO CERTIFY that on this 5th day of August, 2017, before me the undersigned Notary Public, personally appeared Patrick N. Kohls and Thu Thi Kohls, individually and as Managers of Pewter, LLC known to me and to me known to be the individual(s) described in and who executed the foregoing instrument and acknowledged to me that he/she/they signed the same freely and voluntarily for the uses and purposes therein set forth.

STATE OF ALASKA
NOTARY PUBLIC

Jenny McCarthy

My Commission Expires October 14, 2020

Notary Public in and for ALASKA
My commission expires: 10/14/20
GRANT OF EASEMENT

The grantors, Owen B. Stockbridge and Joyce A. Stockbridge [2245 Old Elliott Highway, Fairbanks, Alaska 99712], husband and wife, for valuable consideration in hand paid and in resolution of the action entitled Kohls v. Stockbridge, Case No. 4FA-06-1359 CL, Fourth Judicial District, State of Alaska, grant to

Patrick N. Kohls and Thu Thi Kohls [2275 Old Elliott Highway, Fairbanks, Alaska 99712], husband and wife, grantees, an easement thirty feet (30') wide over real property (servient estate) described as follows:

Government Lot 12, Section 31, Township 2 North, Range 1 East, Fairbanks Meridian, Fairbanks Recording District, Fourth Judicial District, State of Alaska,

Except the portion conveyed to Esko Helenius and Juhani Koskinen by deed recorded June 9, 1977 in Book 73 at Page 459 as purportedly corrected by instrument recorded September 24, 1987 in Book 544 at Page 98.

The centerline of the easement is described as follows:

Beginning on the south boundary line of said Government Lot 12 at a point 50 feet from the east end of said south line; thence northeasterly to the north line of said Government Lot 12 at a point 137 feet from the east end of said north line.

The purpose of the easement is to provide ingress to and egress from real property (dominant estate) described as follows:

That portion of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4), Section 31, Township 2 North, Range 1 East, Fairbanks Meridian, Fairbanks Recording District, Fourth Judicial District, State of Alaska, described as follows:

Beginning at the southwest corner of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of said Section 31; thence North 44°29' East a distance of 825.58 feet to a point on the centerline of the Elliott Highway at Alaska State Highway Project S-0680 centerline survey station 14 + 57.6 point on curve;
thence southeasterly along a 2 degree curve to the left (radius 2864.93 feet) through an arc of 5°42' a distance of 284.89 feet to the centerline survey station 11 + 71.7 point on curve;
thence South 37°04'31" East a distance of 446.38 feet to a point on the south boundary of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of said Section 31;
thence North 89°59' West a distance of 484.14 feet to the point of beginning.

The easement shall run with the land.

The parties intend that the easement align with the Old Elliott Highway at the south boundary line of the servient estate so as to accommodate vehicular traffic to and from the dominant estate. Should the easement fail in this regard, then the easement shall be realigned accordingly.

The easement shall be subject to the utility easement in favor of Golden Valley Electric Association, Inc., recorded August 26, 1983 in Book 324 at Page 553.

Dated this 27 day of February, 2007.

Owen B. Stockbridge – Grantor
Joyce A. Stockbridge – Grantor

Subscribed and acknowledged before me by Owen B. Stockbridge and Joyce A. Stockbridge in Fairbanks, Fourth Judicial District, State of Alaska, this 27 day of February, 2007.

Doris Callaway
Notary public, Alaska
My commission expires 6-20-07

Return to Barry Donnellan, PO Box 73795, Fairbanks, Alaska 99707.
Application Material Received on
January 4, 2018

CU2018-010
I authorize Grant Anderson to apply for a conditional use permit for a Marijuana cultivation facility, large indoor and sign for KGM on all required documents.

Kyle Wendler (Owner)

1st of January 2018

I authorize Grant Anderson to apply for a conditional use permit for a Marijuana Cultivation facility, large indoor and sign for KGM on all required documents.

Miguel Espinosa (Owner)

Miguel Espinosa

1/4/18

Comm. Planning Dept
JAN 04 2018
RECEIVED
Application Material Received on
January 16, 2018

CU2018-010
The following is in response to FNSB and State agency concerns regarding the conditional use permit at 2304 Old Elliot Highway for Fox Creek LLC.

0 In response to Mrs. Nancy Dunham Fox Creek LLC has completed a survey of the property and is in possession of an elevation certificate. Fox Creek LLC is actively pursuing a flood permit and understands that obtaining said certificate is a condition of approval.

0 In response to MR. Douglas Buteyn of ADEC Solid Waste Program. (a) Composted materiel will be utilized either by the marijuana cultivation facility (Fox Creek LLC) at the site or it will be donated to community gardens or spread on the barley field on the adjacent property (which shares an owner group with Fox Creek LLC). Additionally, Composted waste material may be used for general landscaping and as topsoil in future real property development and the development of adjoining lots also owner by the Fox Creek LLC Owners group. Waste disposal will not exceed 15-20 pounds per week as plant materiel must be thoroughly dried before it can be ground to the required size. As a rule, compost piles will not be kept on site for more then one year before they are utilized/removed. Waste piles should not exceed 15x15 and will be housed in a fabricated and leak-proofed “bed” (b) The building and all of its functions are self-contained and any amount of traffic around the facility does not constitute a security issue. However, the easement in question is not currently in use by anyone other then the property owners.

0 In response to Mr. Lloyd Nakano of the State Fire Marshalls Office, Fox Creek LLC is aware that any and all alterations to the property and/or changes of occupancy must go through the plans review process and be approved by the State Fire Marshalls Plan Review Borough. This must be achieved before AMCO will issue a Marijuana Cultivation License as well. The owners group of Fox Creek LLC currently holds two other marijuana licenses and has met or exceeded all state requirements for the operation of said licenses to date including Fire Marshals Approval before starting construction.

0 In response to Mr. Mitch Flynn Fox Creek LLC acknowledges the mistake in the original application and recognizes the Steese Volunteer Fire Department as its servicing fire, emergency, and medical provider.

[Signature]

Grant Anderson
MEMBER
Fox Creek LLC
Application Material Received on January 18, 2018

CU2018-010
Mr. Singh, Attached is the corrected site plan with adjusted parking. I moved the composting pile as well, to behind the proposed building.

In relation to FCWCD and our wastewater program; we have reached out to Friends of Fox Water and plan to discuss our plans with them as well as post at conspicuous locations our plans for wastewater management and our commitment to protecting the community resource that Fox Springs has been for decades. We are working closely with DEC on an engineered septic system and additionally will hold any wastewater that may pose (per DEC) a threat to Fox Springs or other water resources in a 2000 gallon holding tank placed in secondary containment which will be hauled away via commercial carrier. We will continue to work with interested parties and are leaving the door open for more proactive measures should the need arise.

--
V/R
Grant Anderson
OWNER
Black Rapids LLC
253-310-5127
DEAR PROPERTY OWNER
“INTERESTED PERSONS”

CU2018-010
USMS 811, LOT: 01&  
Alder John B  
Alder Ella M  
PO BOX 71728  
Fairbanks, AK 99707

USMS 1756, LOT: 01&  
Boster Dalton C  
PO BOX 70646  
Fairbanks, AK 99707

USMS 1769, LOT: 07&  
Coe Jeffrey C  
Coe Michelle K  
PO BOX 10678  
Fairbanks, AK 99710

USMS 1932, LOT: 01&  
Earl Theodore  
Earl Patricia A  
PO BOX 10783  
Fairbanks, AK 99710

USMS 1771, LOT: 01&  
Fox Lions Club Et Al  
Attn Mehner Denny Pres  
2285 Steese Hwy  
Fairbanks, AK 99712

BACH, LOT: 02-A  
Grimes Ricky L  
Grimes Crystal S  
2150 Old Steese Hwy  
Fairbanks, AK 99712

USMS 1755, LOT: 06&  
Helmericks Jay  
Helmericks Amy  
1329 Heldiver St  
Fairbanks, AK 99709

2N 1E, SEC: 31, TAXLOT: 3192  
Acs of The Northland Inc  
C/o Tax Department  
600 Telephone Ave Ms 8  
Anchorage, AK 99503

2N 1E, SEC: 31, TAXLOT: 3194  
Alaska State of Dotpf  
2301 Peger Rd  
Fairbanks, AK 99709

2N 1E, SEC: 31, TAXLOT: 3012  
Blankensop Lorena E Est Of  
C/o Magoffin Elrita J  
PO BOX 80322  
Fairbanks, AK 99708

USMS 811, LOT: 01&  
Alder John B  
Alder Ella M  
PO BOX 71728  
Fairbanks, AK 99707

USMS 1756, LOT: 01&  
Boster Dalton C  
PO BOX 70646  
Fairbanks, AK 99707

USMS 1769, LOT: 07&  
Coe Jeffrey C  
Coe Michelle K  
PO BOX 10678  
Fairbanks, AK 99710

USMS 1932, LOT: 01&  
Earl Theodore  
Earl Patricia A  
PO BOX 10783  
Fairbanks, AK 99710

USMS 1771, LOT: 01&  
Fox Lions Club Et Al  
Attn Mehner Denny Pres  
2285 Steese Hwy  
Fairbanks, AK 99712

BACH, LOT: 02-A  
Grimes Ricky L  
Grimes Crystal S  
2150 Old Steese Hwy  
Fairbanks, AK 99712

USMS 1755, LOT: 06&  
Helmericks Jay  
Helmericks Amy  
1329 Heldiver St  
Fairbanks, AK 99709

2N 1E, SEC: 31, TAXLOT: 3028  
Jeffrey Bruce E  
Jeffrey Renee L  
292 Thunder Rd  
Fairbanks, AK 99712

USMS 1783, LOT: 11&  
Kallberg Teresa  
Kallberg Gary  
2207 Old Elliott Hwy  
Fairbanks, AK 99712

USMS 1783, LOT: 06&  
Globe Creek Mining Inc  
1180 Chena Pump Rd  
Fairbanks, AK 99709

USMS 1932, LOT: 06&  
Globe Creek Mining Inc  
1180 Chena Pump Rd  
Fairbanks, AK 99709

USMS 1836, LOT: 02&  
Crouse Larry J  
Crouse Eileen  
2398 Elliott Hwy  
Fairbanks, AK 99712

USMS 1838, LOT: 12&  
Fairbanks North Star Borough  
C/o Land Management  
PO BOX 71267  
Fairbanks, AK 99707

USMS 1932, LOT: 03&  
Holmgren Peter V  
2281 Old Elliott Hwy  
Fairbanks, AK 99712

USMS 1755, LOT: 06&  
Helmericks Jay  
Helmericks Amy  
1329 Heldiver St  
Fairbanks, AK 99709

2N 1E, SEC: 31, TAXLOT: 3044  
Hannah Brenda R  
PO BOX 61117  
Fairbanks, AK 99706

USMS 1783, LOT: 11&  
Kallberg Teresa  
Kallberg Gary  
2207 Old Elliott Hwy  
Fairbanks, AK 99712

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Fairbanks, AK 99709

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1180 Chena Pump Rd  
Fairbanks, AK 99709
STAFF REPORT

CU2018-011
DEPARTMENT OF COMMUNITY PLANNING
STAFF REPORT

CU2018-011
February 27, 2018 Planning Commission Meeting

TO: Fairbanks North Star Borough Planning Commission
FROM: Manish Singh, AICP, Planner II
DATE: February 15, 2018
RE: CU2018-011: A request by Gary Evans DBA Grass Station 49, on behalf of David Lanning and Morgan Evans, for conditional use approval of a retail marijuana store in the General Use 1 (GU-1) zone on TL-221, Section 2, T1S-R2W, F.M. (located at 2502 Parks Highway, on the north side of Parks Highway, on the west side of Java Lane).

I. EXECUTIVE SUMMARY

The Community Planning Department recommends APPROVAL of the conditional use request with three (3) conditions and three (3) Findings of Fact in support of approval. The staff analysis finds that the retail marijuana store, 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. The proposed retail store requires a conditional use permit in the GU-1 zone because there are 12 dwelling units on two adjacent properties [FNSBC 18.96.240(A)(6)] (see Figure 2 & 3).

Figure 1: Location Map (the location of the retail facility is shown as red star)
Figure 2: Aerial Image (2017)

Figure 3: Nearby Structures (2012)
II. GENERAL INFORMATION

A. Purpose To request a retail marijuana store in the GU-1 zone.

B. Location 2502 Parks Highway, on the north side of Parks Highway, on the west side of Java Lane

C. Access Parks Highway

D. Size/PAN

<table>
<thead>
<tr>
<th>Area</th>
<th>PAN (Lot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>18105 sq.ft.</td>
<td>0274313 (TL-221)</td>
</tr>
</tbody>
</table>

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

F. Existing Land Use Vacant Building

G. Surrounding Land Use/Zoning

North/East: Zoning: GU-1
Land Use: Residential with 11 dwelling units (cabins), nearest dwelling unit located approximately 55 feet north from the proposed retail store

South: Zoning: GU-1 (across Parks Hwy)
Land Use: Residential across Parks Hwy with nearest dwelling unit located approximately 350 feet away from the proposed retail store

West: Zoning: RR
Land Use: Residential with one dwelling unit (located approximately 800 feet away from the proposed retail store)

H. Community Facilities Electricity: GVEA, Water: Private well, Sewer: Existing commercial septic system and/or 2,000 gallon wastewater tank

I. Code Violations None on file

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

K. Zoning History Zoning changed from UU to GU-1 through Ordinance No. 88-010, effective April 25, 1988

L. Ownership Morgan Evans and David Lanning
PO Box 470
Ester, AK 99725
III. PROPERTY DEVELOPMENT HISTORY

The application states that the subject parcel contains an existing building (approximately 32’ X 96’) (see proposed site plan in Figure 4 & a current photograph in Figure 5). The FNSB Assessor’s Records reflect that the existing building was constructed between 1980 and 1982. This building was previously used as auto repair businesses (Everything Auto & Detail, Cripple Creek Tire & Auto, see a photograph from 2003 in Figure 6). This building is located in the GU-1 zone where zoning permits are not required for most commercial uses.

The subject lot, TL-221, Section 2, T1S-R2W, F.M. does not meet the current minimum lot size requirement of 40,000 sq.ft. in the GU-1 zone. The FNSB Department of Community Planning issued an affirmative recognition of legal nonconforming lot status (grandfather rights) on October 13, 2017 (GR2018-064, Exhibit 1).

Figure 4: Proposed Site Plan
The retail marijuana store is shown in green
Figure 5: Existing building (proposed retail marijuana store)

Figure 6: Existing building in 2003 (used as an auto repair business)
IV. PROPOSED USE AND PROJECT INFO

The applicant has requested a conditional use permit to use the existing building as a retail marijuana store. The total sales area of the proposed retail store would be 1,092 sq.ft. The retail marijuana store is proposed to have packaging and storage room (approximately 1,850 sq.ft.), an office, a mechanical room and a restroom (see proposed floor plan in Figure 7 and proposed building elevations in Figure 8).

Figure 7: Proposed Floor Plan

Figure 8: Proposed Building Elevations
A retail marijuana store is defined as “a legally licensed commercial retail marijuana store as defined by state law. A retail marijuana store may sell marijuana accessories as defined by state law [FNSBC 18.04.010].”

The proposed retail store requires a conditional use permit in the GU-1 zone because there are 12 dwelling units on the two adjacent properties [FNSBC 18.96.240(A)(6)] (see Figure 2 & 3). The applicant estimates having maximum eight (8) retail employees in two shifts (4 employees per shift) and having maximum six (6) packaging employees. The applicant has stated that the facility will operate daily from 9 am to midnight.

The subject property is currently zoned GU-1 and is surrounded by GU-1 zoning on north, south and east sides. The subject property has Rural Residential (RR) zoning on the adjacent property to the west (see zoning map Figure 9). The adjacent property to the north and east is developed residentially with 11 dwelling units (cabins) with the nearest dwelling unit located approximately 55 feet north from the proposed retail store. The adjacent property to the west is developed residentially with one dwelling unit located approximately 800 feet northwest from the proposed retail store. The properties to the south across Parks Hwy are also developed residentially with nearest dwelling unit located approximately 350 feet away from the proposed retail store (see nearby structures in Figure 3). The Comprehensive Plan Land Use Map characterizes the area as ‘Outskirt Area’.

**Figure 6: Zoning 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 113 dear property owner notices and did not receive any inquiry about this case. Additionally, the applicant posted a public notice sign meeting the “Notice by Applicant” requirements listed in FNSBC 18.104.010 (Exhibit 3).

VII. **AGENCY COMMENTS**

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

a. State Fire Marshal  
b. Ester Fire Service Area  
c. Alaska State Troopers  
d. FNSB E-911 Addressing  
e. Alaska Department of Transportation and Public Facilities (ADOT&PF)  
f. Alaska Department of Environmental Conservation (ADEC)  
g. Alaska Department of Natural Resources (ADNR)  
h. U.S Army Corps of Engineers  
i. Golden Valley Electric Association (GVEA)

Lloyd M Nakano, the Assistant State Fire Marshal, commented on this application and required “plan reviews in accordance with 13 Alaska Administrative Code 50.027.”

Pete Eagan, Right-of-Way agent from ADOT&PF, commented on this application and stated that “the history of use of this property (TL-221) is that our ROW being taken over for the exclusive use of the business operator. It has usually been quite a mess (cars, junk, storage, etc.), and we have received a number of complaints over the year...The operator needs to make things work without the use of our ROW…”

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

VIII. **STAFF ANALYSIS**

A. **Transportation & Parking**

The subject property is accessible from Parks Highway. Parks Highway is maintained by the Alaska Department of Transportation & Public Facilities (ADOT & PF). It is classified as an interstate type roadway. Average Daily Traffic (ADT) counts on Parks Highway in the immediate area were 6,094 vehicles per day in 2015. It is difficult to determine the exact trip generation rate for a retail marijuana store conditional use due to the lack of observed case studies nationwide and no clear equivalent in the Institute of Transportation Engineers (ITE) Trip Generation Manual. The closest related land use in

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1 This section of this staff report includes comments from Donald Galligan, FNSB Transportation Planner  
2 Statewide Functional Classification GIS Map, Alaska DOT&PF Transportation Data Programs  
3 2015 Annual Average Daily Traffic (AADT) GIS Map, Alaska DOT&PF Transportation Data Programs
the ITE Trip Generation Manual would be ‘Specialty Retail Center’. With this aforementioned assumption, Community Planning estimates approximately 131 trip ends would be generated per weekday by this proposed retail marijuana store, based on the 2,942 sq.ft. GLA (Table 1). The Parks Highway could accommodate these trip ends generated by the proposed retail store.

Table 1: Trip Generation Summary

<table>
<thead>
<tr>
<th>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>Retail Marijuana Store</td>
<td>2,942 sq.ft. GLA</td>
<td>Specialty Retail Center (ITE 826)</td>
<td>44.32 trip ends/ 1,000 sq.ft. GLA</td>
<td>130.4 trip ends</td>
</tr>
</tbody>
</table>

The applicant intends to use the existing 35’ wide driveway for this conditional use permit. For conditional uses having direct access from state maintained roads, Community Planning Department has previously relied on a driveway permit from ADOT&PF to check adequacy of the existing driveways for proposed conditional uses. Therefore, Community Planning recommends a condition that the applicant shall obtain a formal plan review by the ADOT & PF for the existing driveway and shall comply with all recommendations and/or requirements resulting from this review or provide documentation that a review for the driveway is not required.

The proposed facility is located in GU-1 zoning where FNSB parking standards do not apply. However, Community Planning has analyzed the off-street parking provided on site using FNSB parking standard requirement of a parking space for every 200 sq.ft. of sales area [FNSBC 18.96.060(C)]. The site plan provided by the applicant shows six parking spaces that are adequate for the 1,092 sq.ft. sales area (see in Figure 3). The site plan shows the gravel traffic circulation and loading area with adequate backing, turning and maneuvering space.

Pete Eagan, Right-of-Way agent from ADOT&PF, has expressed concerns about the potential use of the ROW for parking because they have had complaints with the previous auto repair businesses. The parking plan needs to be revised if there are any changes to the existing driveway after a review from the ADOT & PF or if there are any changes to the existing driveway as a result of an ADOT & PF project on Parks Highway. However, if the parking plan is revised in a manner that does allow adequate turning and maneuvering space, the conditional use will no longer have “adequate transportation facilities”. Therefore, Community Planning recommends a condition that all parking, turning and maneuvering area shall be located entirely within the subject property of the conditional use being served.

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4 Specialty retail centers are defined as small strip shopping centers that contain a variety of retail shops and specialize in quality apparel, hard goods and services, such as real estate offices, dance studios, florists and small restaurants.

B. 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 owner has provided written consent to the proposed retail marijuana store.

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 applicant’s submittals include an area map drawn to scale indicating all land uses within a 500-foot proximity of the subject lot (Exhibit 4). This map demonstrates that the retail marijuana store has only one sensitive use within 500 feet, the Rural Residential (RR) zone to the west. FNSBC 18.96.240(A)(3)(c) requires a 100 foot buffer from the residential zones (such as the RR zone). FNSBC 18.96.240(A)(3)(d) states that buffer distances shall be measured from the nearest public entrance of a commercial marijuana establishment to the lot line of a lot in a residential zone. The site plan provided by the applicant shows that the nearest public entrance of the retail marijuana store is at least 100 feet away from the lot line of the RR zoned lot to the west.

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 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 4).

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 applicant has applied for a conditional use permit for the proposed retail store on the subject property in the GU-1 zone because there are 12 dwelling units on two adjacent properties.
C. 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 ‘Outskirt Area’. Outskirt Area is “area generally within a 20 to 30 minute travel time of urban destinations, and which contains primarily open space, mining and residential uses; variable densities are encouraged provided they are compatible with the surrounding community, sensitive to natural systems and have adequate water and sewer facilities. Other uses include agriculture, and supporting commercial uses.”

The proposed conditional use is consistent with the ‘Outskirt Area’ designation because the subject property is located within 20 to 30 minute travel time from the urban density. This retail marijuana store use is consistent with the ‘supporting commercial’ uses allowed under ‘Outskirt Area’. With the conditions imposed, the retail marijuana store use will be compatible with the surrounding community and will be sensitive to natural systems adequate water and sewer facilities.

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 retail marijuana store in the Borough. Commercial marijuana is a new industry and this conditional use would serve the market by selling products available from other marijuana cultivation and product manufacturing establishments in the Borough.

**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 retail marijuana store would support 14 full-time 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 within clearly defined local zoning regulations. This proposal is to use the property as a retail marijuana store which requires a conditional use permit in GU-1 zone because there are 12 dwelling units on two adjacent properties. The public notification, public hearing procedures and approval criteria for conditional uses help protect the property rights of the surrounding property owners.

The subject property is accessible from Parks Highway via an existing driveway. Parks Highway is maintained by the Alaska Department of Transportation & Public Facilities (ADOT & PF). It is classified as an interstate type roadway. The Parks Highway can accommodate the trip ends generated by the proposed retail store. With the condition to require a plan review for the existing driveway from ADOT&PF, the conditional use has adequate transportation facilities.

The proposed conditional use promotes economic development and the growth of private enterprise because it would support 14 full-time jobs in the area and would help diversify the commercial activity in the Fairbanks North Star Borough.

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 retail marijuana store 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 and Wastewater/Sewage: The applicant has proposed to use a 500 gallon freshwater holding tank and to contract an ADEC approved water delivery service to meet the water supply needs for the retail marijuana store. In addition to this, the applicant has proposed to use another 500 gallon wastewater holding tank and to contract an ADEC approved septic hauling company to meet the wastewater supply needs for the retail marijuana store. The applicant has proposed a restroom for employees.

ADEC Division of Water, Wastewater Discharge regulates wastewater holding tanks and treats wastewater produced from the marijuana or marijuana product handling as non-domestic wastewater (18 AAC 72, Wastewater Disposal Regulations). Therefore, Community Planning recommends a condition requiring a formal plan review by ADEC Division of Water, Wastewater Discharge for the proposed wastewater storage tank; and recommends compliance with all recommendations and/or requirements resulting from the plan review as a condition to ensure that there is adequate wastewater/sewage
capacity for the conditional use. With this condition imposed, the property will have adequate wastewater/sewage capacity for the proposed conditional use.

**Emergency Fire Response:** The proposed conditional use has adequate fire services because the property is served by Ester Volunteer Fire Department.

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

**Police:** The proposed conditional use is served by Alaska State Troopers for law enforcement.

**Transportation:** The subject property is accessible from Parks Highway. Parks Highway is maintained by the Alaska Department of Transportation & Public Facilities (ADOT & PF). It is classified as an interstate type roadway. Parks Highway could accommodate the trip ends generated by the proposed retail marijuana store. With the condition to require a plan review for the existing driveway from ADOT&PF, the conditional use will have adequate transportation facilities. The applicant has provided six 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 applicant has stated that in addition to this conditional use, his company, Grass Station 49, has one operating retail marijuana store on 1326 Cushman Street and another proposed on 665 Rainbow Drive. The proposed retail marijuana store meets the standards required by FNSBC 18.96.240 and the operating plan is intended to minimize and mitigate adverse impacts to surrounding properties. The applicant has a detailed plan for site security, fire safety, building elevations, and employee health to help address public health, safety, and welfare concerns.

Site security, marijuana waste, outdoor lighting, signs, noise, odor and hours of operation could be potential concerns for surrounding properties with a commercial retail marijuana store operation but the applicant has addressed these issues in a way that mitigates the public health, safety and welfare concerns.

**Site Security and Marijuana Waste Disposal:** The applicant intends to comply with the state security regulations for a retail marijuana store. The applicant has stated that these security provisions would include video surveillance on both interior and exterior of the building without leaving any blind spots.

The applicant's proposal for the marijuana plant waste management intends to meet the regulations set forth by Alaska Department of Environmental Conservation and Marijuana Control Board. The applicant expects the marijuana waste to be minimal in the marijuana packaging process. Grass Station 49 has a Standard Operating Procedure (SOP) which helps minimize the marijuana waste in the packaging process. The applicant has stated that at his existing retail marijuana store on Cushman Street, a total of 265 pounds of marijuana was packaged over the course of 6.5 months generating only 1.5 pounds of waste. The applicant plans to grind marijuana waste and
render it unusable by mixing it with compostable material in equal amounts. The applicant plans to dispose of this unusable marijuana waste at the FNSB landfill. The applicant has stated that the State’s Marijuana Enforcement Tracking Reporting & Compliance system (METRC) and Grass Station 49’s point of sale system (BioTrackTHC) account for all marijuana down to 1/10th of a gram.

The state licensing and 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 retail marijuana store cannot legally operate without obtaining a state issued license [FNSBC18.04.010]. Compliance with state regulations related to security, waste disposal, health and safety would help ensure employees’ health and safety. Therefore, Community Planning recommends a condition requiring the site to meet all licensing requirements for a commercial retail marijuana store.

**Odor:** The applicant does not expect any marijuana odor because the conditional use only includes retail sales and packaging. Nevertheless, the applicant intends to mitigate odor by carbon filters if it ever becomes an issue.

**Noise:** The conditional use is not expected to generate significant noise from retail sales and packaging because it would be completely indoors. The retail store has direct access from Parks Highway, which is an interstate type roadway and experiences 24-hour traffic.

**Outdoor Lighting:** The applicant has proposed a total of 12 exterior lights (three bright LED white lights on each building face) for improving security. FNSBC 18.96.140 states that “lighting, glare and general illumination shall not be directed towards residentially zoned properties other than that property from which the lighting, glare and general illumination originates.” The subject property is adjacent to a residential zone only to the west. The nearest dwelling unit located on the adjacent residentially zoned property to the west is at least 800 feet from the proposed retail marijuana store. Moreover, there is at least 400 feet wide area with vegetation between the dwelling unit to the west and the retail store, which will help mitigate any negative impacts from the outdoor lighting.

The dwelling units located to the north, west and south are located in the GU-1 zone, which is not a residential zone, therefore, FNSBC 18.96.140 doesn’t apply. However, the applicant has stated that the lights will face down and will not interfere with the neighboring properties. Therefore, Community Planning believes that the outdoor lighting does not negatively impact the public health, safety and welfare of the surrounding properties.

**Signs:** The applicant has proposed a maximum of three wall mounted signs (flat against the building). The maximum size of each sign will be 4,800 sq. inch (8’ x 4’) and will include the name of the business and the company logo. The building elevation proposed by the applicant shows one of these signs toward the Parks Highway and the second toward the Java Lane. The applicant intends to put the third sign in his second phase and has stated that the third sign will either face Parks Highway or Java Lane, and will not face the north or west sides. The applicant has not proposed any pylon signs or other free standing signs as part of this conditional use permit.
The subject property is located in the GU-1 zone where only the general regulations of the FNSB sign standards apply (FNSBC 18.96.070.A). Moreover, any number of signs flat against the building and not extending beyond the building are allowed in the GU-1 zone (FNSBC 18.96.070.C.2.d & 18.96.070.C.3). Therefore, the signs proposed by the applicant meet the FNSB sign standards.

Signage on retail marijuana stores is also regulated by the State (3AAC 306.360). The State allows “not more than three signs, visible to the general public from the public right-of-way, that identify the retail marijuana store by its business name. A sign may be placed in the retail marijuana store’s window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 sq.inch.” The applicant has stated that they intend to comply with the state signage regulations. Community Planning has recommended a condition requiring the site to meet all licensing requirements for a commercial retail marijuana store. With the condition to meet state licensing requirements, the proposed signs do not negatively impact the health, safety and welfare of the nearby resident.

Hours of Operation: The subject property is located in GU-1 zoning where there are no restrictions on hours of operation. The applicant has stated that the hours of operation would be 9 am – midnight, daily. The retail store has direct access from Parks Highway, which is an interstate type roadway and experiences 24-hour traffic. The property to the north has eleven (11) dwelling units and the property to the east across Java Lane has seven (7) dwelling units. These two multiple-family properties experience a higher level of activity compared to the single-family property to the west. The adjacent single-family property to the west has the dwelling unit located approximately 800 feet northwest from the proposed retail store and has vegetation in between. Moreover, there are other land uses in the proximity of the marijuana retail store that have comparable impacts on the residential properties. The Ester Transfer Site is located on the south side across the Parks Highway and is open 24X7. Additionally, a marijuana cultivation facility (Great Alaskan Bud) is located on Maria Street, across Parks Highway, and does not have any restrictions on the hours of operation. Therefore, Community Planning believes that the proposed hours of operation will not negatively impact the neighborhood’s public health, safety and welfare.

Fire Safety: Fire and rescue services for this operation are available through the Ester Volunteer Fire Department. Any lack in ensuring necessary fire safety provisions for a retail marijuana store could result in a fire or an employee/customer safety issue. Therefore, Community Planning recommends a formal plan review by the Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) 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.

The applicant's submittals indicate that the applicant plans to go to other agencies such as the Marijuana Control Board (MCB), ADEC and Fire Marshall for plan reviews and approvals. Because this conditional use approval is for a specific use, a change in the site plan or operation method may result in increased impacts or trigger a public health, safety and welfare concern which has not been analyzed. Therefore, Community Planning recommends a condition that the applicant file final site and floor plans with Community Planning to ensure compliance with Planning Commission approved site plan, floor plan and conditions. If any modifications are made to the approved
documents or operations characteristics, 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 retail marijuana store in the GU-1 zone with three (3) conditions.

X. CONDITIONS

1. Prior to the commencement of retail marijuana store operation, 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 retail marijuana store.
   
   b. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) 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 formal plan review by the State of Alaska Department of Environmental Conservation for the proposed wastewater storage tank; and shall comply with all recommendations and/or requirements resulting from the plan review.
   
   d. The applicant or holder of this conditional use permit shall obtain a formal plan review by the Alaska Department of Transportation and Public Facilities (ADOT&PF) for the existing driveway and shall comply with all recommendations and/or requirements resulting from the plan review or provide documentation that a review for the existing driveway is not required.

2. All parking, turning and maneuvering area shall be located entirely within the subject property of the conditional use being served.

3. If any modifications are made to the site plan, floor plans, or other FNSB required documents or operational characteristics, 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 ‘Outskirt Area’ comprehensive plan land use designation. The Comprehensive Plan Land Use Goal 3 and Economic Development Goal 2 are being enhanced with the development of this site as a retail marijuana store.

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 retail marijuana store 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 facility will have a 500 gallon freshwater tank to meet the water supply.

b. The facility will have a 500 gallon wastewater storage tank for the non-domestic wastewater. With the conditions imposed, the facility will dispose of the wastewater according to the state regulations.

c. The facility is served by the Ester Volunteer Fire Department for emergency fire response.

d. The facility is served by Alaska State Troopers for law enforcement.

e. The facility is currently connected to the GVEA grid which will provide sufficient energy supply.

f. Six (6) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed conditional use.

g. With the conditions imposed, the retail store will have an adequate driveway.

h. The subject property is accessible from Parks Highway, which is an interstate type roadway. Parks Highway can accommodate the trip ends generated by the proposed retail store.

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 (FNSBC 18.84) and Standards for Commercial Marijuana Establishments (FNSBC 18.96.240) as well as state requirements for a commercial retail marijuana store.

a. With the conditions imposed, security systems, alarms, cameras and lighting will meet state regulations required to obtain a commercial retail marijuana license.

b. With the conditions imposed, any solid or liquid waste including marijuana plant waste will be disposed of in accordance with state and local regulations.

c. All marijuana and marijuana products will be secured inside the building to ensure the general public does not have access to them.

d. The noise generated from this retail operation would be minimal and it would not negatively impact the neighboring residential property owners because the operation is completely indoors.

e. The outdoor lighting will not point toward neighboring properties and therefore, will not negatively impact the neighborhood or residential zone.

f. The proposed signage will meet the FNSB sign standards.
g. The facility is located in GU-1 zoning where there are no restrictions on hours of operation. There are other land uses in the proximity of the marijuana retail store that have comparable impacts on the residential properties

DRAFT PLANNING COMMISSION MOTION:

I move to approve the Conditional Use Permit for a commercial retail marijuana store, indoor large with three (3) conditions, and adopting the staff report and three (3) Findings of Fact in support of the approval.
October 13, 2017

Gregory Rhines
289 Ester Drive
Fairbanks, AK 99709-2361

Property Description: Tax Lot 221, Section 2, T1S, R2W, FM, AK
Property Address: 2502 Parks Highway
PAN: 274313
Issue: Request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for Tax Lot 221, Section 2, T1S, R2W, FM, AK in the General Use (GU-1) zone

Determination: Affirmed (approved)

On October 13, 2017, the Fairbanks North Star Borough Department of Community Planning AFFIRMED (approved) your request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for Tax Lot 221, Section 2, T1S, R2W, FM, AK in the General Use (GU-1) zone. The Fairbanks North Star Borough Department of Community Planning adopted the following Findings of Fact in support of this determination:

1. Tax Lot 221, Section 2, T1S, R2W, FM, AK is 18,105 square feet and zoned General Use (GU-1). The lot does not comply with GU-1 zoning because it does not meet the current minimum lot size requirement of 40,000 square feet.

2. The property was zoned Unrestricted Use (UU) with the adoption of Ordinance No. 67-34 on March 28, 1968 (Exhibit 1). There was no minimum lot size requirement for the UU zone.

3. Tax Lot 221 is described by deed recorded in Book 260, pages 650 & 651 on June 13, 1982 (Exhibit 2), which qualified as a lot of record as defined by FNSB Title 49 in place at that time. Section 49.15.020(o) defined "Lot of Record" as "a plot of land, the description of which has been recorded in the office of the District Magistrate" (Exhibit 1).

4. The property was rezoned from UU to General Use (GU-1) with the adoption of Ordinance No 88-010 on April 19, 1988. The GU-1 zone established a minimum lot size requirement of 40,000 square feet (Exhibit 3).

5. Tax Lot 221 has not been altered since it was created in 1982.

Because Tax Lot 221 was created prior to establishment of a minimum lot size requirement for the subject property, Tax Lot 221, Section 2, T1S, R2W, FM, AK has an affirmative recognition of legal non-conforming lot status (grandfather rights) as it pertains to lot size in the General Use (GU-1) zone under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes.
The issuance of this notice is an administrative decision and is appealable within fifteen (15) days from the date of this notice to the Fairbanks North Star Borough Planning Commission. An appeal application may be filed with the Community Planning Department office.

Sincerely,

[Signature]

D. Christine Nelson, AICP
Community Planning Director

DCN/ap
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, MFC).
d. Buffer distances shall be measured from the nearest public entrance of a commercial marijuana establishment to:

i. Outer boundaries of school buildings, including outdoor school facilities where students are regularly found;

ii. Outer boundaries of playgrounds;

iii. The lot line of a lot in a residential zone; or

iv. 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.

4. Outdoor Storage. No outdoor storage of marijuana, marijuana products or hazardous substances shall be allowed.

5. In all zones in which marijuana establishments, with the exception of a marijuana testing facility, are a permitted or conditional use, the applicant shall include an area map drawn to scale indicating all land uses on complete parcels within a 500-foot proximity of the lot upon which the applicant is seeking a zoning permit or conditional use permit.

6. Marijuana establishments other than marijuana cultivation facilities, indoor small and marijuana testing facilities located in GU-1 or GU-5 zoning and adjacent to a lot upon which a principal building used as a dwelling is located are a conditional use subject to the requirements of this title.

B. Cultivation Facility Standards.

1. Yard Setbacks. Outdoor marijuana cultivation facilities, including all land planted with marijuana, shall be located at least 50 feet from a lot line.

2. Height Limitations.

   a. The maximum height for a marijuana cultivation facility, indoor small shall be 35 feet.

   b. The maximum height for a marijuana cultivation facility, indoor large shall be 75 feet.
PUBLIC NOTICE SIGN POSTING AFFIDAVIT

STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

1. Gary Evans, being first duly sworn, deposes and state that:

   1. I have submitted an application identified as 112018-01
   2. I have posted and will maintain public notice sign # X in accordance with the following provisions:

      a. Sign is posted on the property on which my request for rezone, conditional use or variance has been made.
      b. Sign is clearly visible from streets and roads.
      c. Sign will be maintained free of snow or other materials which impede readability.
      d. Sign is posted between an elevation of 2' and 8' above ground level and no further than 50' from the edge of the road to further ensure readability from streets.
      e. Sign was posted on 01-30-2018 (date) and complies with posting requirements of 20 days prior to the public hearing date.
      f. I shall return the sign to the FNSB Department of Community Planning within 10 days following the final public hearing.

3. I understand a refund check of $200.00 (the amount I have deposited for said sign) will be issued 7-10 days following return of the sign providing that sign is returned in usable condition. I further understand I may receive only partial refund if the sign is damaged when returned to the Borough.

4. This document is null and void when necessary action has been completed as provided in Item #2 f.

Signature

Gary S. Evans

1251 Kenneth St.
Fairbanks, AK 99701

(Print Name and Address of Affiant)

SUBSCRIBED AND SWORN TO BEFORE ME on this 20th day of January, 2018

Notary Public in and for Alaska

Commission Expires

Fairbanks North Star Borough is subject to the Alaska Public Records Act, AS 40.25 et seq. and this document may be subject to public disclosure under state law.

Planning Commission Meeting

2019

125
Mr. Singh,

Attached you will find pictures of the “Public Hearing” sign affixed to the 2502 Parks Highway building for the proposed conditional use permit CU2018-011. Please let me know if you need anything else, or better pictures.

Thank you,
-Gary Evans
Grass Station 49
907-460-0398
Driveway, looking north

Subject Building
Bike path, looking east

Vegetation on the west side of the property
Parking area, looking east

Proposed public entrance
Cabins behind the property, looking north

Parking area, looking west
Vegetation, on the south side of Parks Highway, looking south from the parking area
Agency Comments

CU2018-011
Agency Notifications

SAFETY

- State Fire Marshal
- Fire Service Area (see attachment)
  Specify: Ester
- City of Fairbanks
  - Chief of Staff
  - Fire Department
  - Police Department
  - Building Department
- City of North Pole
  - City Clerk – Mayor
  - Fire Department
  - Police Department
  - Building Department
- Alaska State Troopers

ROADS AGENCIES

- Alaska Department of Transportation and Public Facilities (AK DOT & PF)
- FNSB Rural Services
- Road Service Area (see attachment)
  Specify: 

OTHER AGENCIES

STATE

- Alaska Department of Environmental Conservation (ADEC)
- Alaska Department of Natural Resources (ADNR)
- Alaska Department of Fish and Game (ADF&G)
- Alaska Railroad (ARR)

FEDERAL

- U.S. Department of the Interior Bureau of Land Management (BLM)
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency (EPA) Region 10
- U.S. Department of Agriculture (USDA)
  - Natural Resources Conservation Service
- Fort Wainwright Army Base
- Eielson Air Force Base
- Federal Emergency Management Agency (FEMA) Region 10
UTILITIES

ENERGY

☐ Fairbanks Natural Gas
☒ Golden Valley Electric Association (GVEA)
☐ Interior Gas Utility
☐ Alyeska Pipeline Services Co.
☐ Aurora Energy
☐ Other ________________

WATER/SEWER

☐ Utility Services of Alaska
☐ Valley Water, INC.
☐ City of North Pole Public Works
☐ College Utilities
☐ Golden Heart Utilities
☐ Other ________________

TELECOMMUNICATION

☐ Alaska Communications
☐ GCI FCC (Fiber Optic Cable)
☐ Alaska Wireless Network, LLC (GCI)
☐ AT&T Alascom
☐ AlasConnect
☐ Summit Telephone
☐ Verizon Wireless
☐ Other ________________

Comments to be returned by: 01/21/2018 (2 weeks)

I have sent the application materials for File # U2018-011 to all of the agencies checked above on 01/17/2018

Date Sent

Marish Singh
Name of Planner (PRINTED)

01/17/2018
Date Signed
Case No. CU2018-011

State Fire Marshall

David Tyler, Alaska State Fire Marshal/Director
David.tyler@alaska.gov

David Aden, Building Plans Examiner 1
David.aden@alaska.gov

Jillian Roberts, Deputy Fire Marshal
jillian.roberts@alaska.gov

Lloyd Nakano, Assistant State Fire Marshal
lloyd.nakano@alaska.gov

Ester Fire Service Area

Chief Tori Clyde
Chief@esterfire.org

Station Duty Officer, Zach Johnson
zjohnson@esterfire.org

Station Duty Officer, Dalton Gregg
dgregg@esterfire.org

Station Duty Officer, Shyanna Rich
srich@esterfire.org

State Troopers

AST Directors Office
dps.ast.directors.office@alaska.gov

FNSB Departments

Bill Witte, FNSB E-911 Addressing
BWitte@fnsb.us
Alaska Department of Transportation (ADOT)

Randi Motsko, Transportation Planner I
randi.motsko@alaska.gov

Pete Eagan, Right-Of-Way Agent IV
pete.eagan@alaska.gov

Alaska Department of Environmental Conservation (ADEC)

Tonya Bear, Division of Water, Wastewater Discharge
Tonya.bear@alaska.gov

Doug Buteyn, ADEC Solid Waste Program
Doug.buteyn@alaska.gov

Alaska Department of Natural Resources (ADNR)

George Horton, Land Surveyor
George.horton@alaska.gov

Army Core of Engineers

Executive Office
POA.ExecutiveOffice@usace.army.mil

GVEA

Julie Karl, Land Management Supervisor
JLKarl@gvea.com

Richard Possenti, Lead Construction Field Representative
RJPossenti@gvea.com
Dear Sir/Ma’am

The Fairbanks North Star Borough Planning Commission is considering **CU2018-011**, a request for conditional use approval of a retail marijuana store in the General Use 1 (GU-1) zone, located at **2502 Parks Highway** (on the north side of Parks Highway, on the west side of Java Lane). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 31, 2018. For more information about this case, please email mmsingh@fnsh.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsh.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

---

Manish Singh, AICP
Planner II
Department of Community Planning
907-459-1225 / mmsingh@fnsh.us

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Ma'am,
Please insure owners submit plans reviews in accordance with 13 Alaska Administrative Code 50.027.

13 AAC 50.027. Non-structural plan review and approval; stop work orders
(a) Before beginning the construction, alteration, repair, or changing the occupancy of a building, a substantial land structure, or structure regulated by the state division of fire and life safety, plans and specifications regarding that building's or structure's location on the property, area, height, number of stories, occupancy, type of construction, fire-resistant construction, interior finish, exit facilities, electrical systems, mechanical systems, flammable or combustible liquid and gas storage tanks and their appurtenances, automatic fire-extinguishing systems, and fire alarm systems must be submitted by the owner or the owner's representative to the state division of fire and life safety for examination and approval. This review does not address structural considerations or mechanical or electrical review beyond that necessary to confirm compliance with fire or life safety requirements. A copy of the approval must be posted as required in 13 AAC 55.100.

Thank you.

v/r
Lloyd M Nakano
Assistant State Fire Marshal
Division of Fire and Life Safety
5700 E. Tudor Road
Anchorage, AK 99507
Phone: 907-269-5491

From: Manish Singh [mailto:MSingh@fnsb.us]
Sent: Wednesday, January 17, 2018 2:34 PM
To: Tyler, David L (DPS) <david.tyler@alaska.gov>; Aden, David G (DPS) <david.aden@alaska.gov>; Roberts, Jillian T (DPS) <jillian.roberts@alaska.gov>; Nakano, Lloyd M (DPS) <lloyd.nakano@alaska.gov>; Chief@esterfire.org; zjohnson@esterfire.org; dgregg@esterfire.org; srich@esterfire.org; AST Directors Office, DPS (DPS Sponsored) <DPS.AST.DIRECTORS.OFFICE@alaska.gov>; Bill Witte <BWitte@fnsb.us>; Motsko, Randi Lynn (DOT) <randi.motsko@alaska.gov>; Eagan, Pete (DOT) <pete.eagan@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>; Butyn, Douglas J (DEC) <doug.butyn@alaska.gov>; Horton, George C (DNR) <george.horton@alaska.gov>; POA.ExecutiveOffice@usace.army.mil; JKLarl@gvea.com; RJPossenti@gvea.com
Subject: CU2018-011: Requesting Comments for Marijuana Retail App. (2502 Parks Highway)

Dear Sir/Ma'am

The Fairbanks North Star Borough Planning Commission is considering CU2018-011, a request for conditional use approval of a retail marijuana store in the General Use 1 (GU-1) zone, located at 2502 Parks Highway (on the north side of Parks Highway, on the west side of Java Lane). This case is scheduled for the Planning Commission meeting on February 27, 2018.
I have attached the application with this email. The department requests you to send us your comments for this proposal by January 31, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at www.fnsb.us/Boards/Pages/Planning-Commission.aspx at least five days before the hearing.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Hi Pete,

I just left you a voicemail. I am working on three marijuana establishment conditional use cases that will go to public hearing in February. I wanted to check with you if these properties have DOT approved driveways and if you find them adequate for commercial marijuana establishments.

**CU2018-008**: A request by Amber Carr, DBA The Great Alaskan Growery, on behalf of Richard Carr, for conditional use approval of a **marijuana cultivation facility**, indoor large in the General Use 1 (GU-1) zone on Lot 2, Carr Subdivision (located at 11161 Richardson Highway, on the west side of Richardson Highway, near milepost 315). I emailed the application to you on Dec. 29, 2017.

**CU2018-010**: A request by Grant Anderson DBA Fox Creek LLC, on behalf of KGM LLC, for conditional use approval of a **marijuana cultivation facility**, indoor large in the General Use 1 (GU-1) zone on TL-3103, Section 31, T2N-R1E, F.M. (located at 2304 Old Elliott Highway, on the west side of Elliott Highway, between Old Chatanika Trail and Old Steese Highway N). I emailed the application to you on Jan. 4, 2018.

**CU2018-011**: A request by Gary Evans DBA Grass Station 49, on behalf of David Lanning and Morgan Evans, for conditional use approval of a **retail marijuana store** in the General Use 1 (GU-1) zone on TL-221, Section 2, T1S-R2W, F.M. (located at 2502 Parks Highway, on the north side of Parks Highway, on the west side of Java Lane). I emailed the application to you on Jan. 17, 2018.

I would appreciate any help in these cases. Let me know if you have any questions for me.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701
Hi Everyone –

The history of use of this property (TL 221) is that of our ROW being taken over for the exclusive use of the business operator. It has usually been quite a mess (cars, junk, storage, etc.), and we’ve received a number of complaints over the years. We’ve attempted to get compliance from several operators, with little success. This property may be grandfathered-in regarding lot size, but the lot is too small and poorly configured to work well on its own, so our ROW usually gets pulled into service. We do not want this to continue with yet another operator. We need to hold firm and regain control of our ROW.

Is there a minimum number of parking spaces that this business must have? What is that number? Our stance is that all parking, and parking and backing maneuvers, must be accomplished outside of the ROW. Please show us how that will be possible.

The frontage driveway will likely be taken out with the next project. Meanwhile, we might take steps to discourage the business use of our ROW (e.g., with shallow ditching or berming). This operator needs to make things work without the use of our ROW.

On Sheet C2, a note on the drawing within the flagstem of the adjacent lot says – “40’ flagstem driveway signed as Java Way (E) – No legal access for TL 221. I haven’t researched the deeds to form an opinion on this yet. However, if the flagstem is not available, TL 221 could still use the same approach to the highway and then Y off to the left to clear the flagstem and get into the easterly end of the lot. See red on attached sketch. The drawing also seems to show, beyond the bikepath, defined driveways with an island in between. However, on the ground it is flat and nearly undefined. It would be easy to Y a driveway in here, and I encourage them to do so.

That’s it for now. Pete 451-5401

---

Hi Pam –

I’ll call you in a few minutes to discuss this. Pete
From: Motsko, Randi Lynn (DOT)
Sent: Monday, February 05, 2018 11:38 AM
To: Eagan, Pete (DOT) <pete.eagan@alaska.gov>
Cc: Golden, Pamela K (DOT) <pamela.golden@alaska.gov>; Schacher, Daniel L (DOT) <daniel.schacher@alaska.gov>; Ciampa, David N (DOT) <david.ciampa@alaska.gov>; Gardner, Debora G (DOT) <gail.gardner@alaska.gov>; Woster, Timothy J (DOT) <tim.woster@alaska.gov>; Hooper, Barry L (DOT) <barry.hooper@alaska.gov>
Subject: RE: CU2018-011: Requesting Comments for Marijuana Retail App. (2502 Parks Highway)
Importance: Low

Pete,

Can you provide additional information on Pam’s comment below? I would like to get a letter sent out sooner than later if possible.

Please send any other additional comments or concerns my way.

Thanks.

From: Golden, Pamela K (DOT)
Sent: Thursday, January 18, 2018 10:14 AM
To: Motsko, Randi Lynn (DOT) <randi.motsko@alaska.gov>; Schacher, Daniel L (DOT) <daniel.schacher@alaska.gov>; Eagan, Pete (DOT) <pete.eagan@alaska.gov>; Ciampa, David N (DOT) <david.ciampa@alaska.gov>; Gardner, Debora G (DOT) <gail.gardner@alaska.gov>; Woster, Timothy J (DOT) <tim.woster@alaska.gov>; Hooper, Barry L (DOT) <barry.hooper@alaska.gov>
Subject: RE: CU2018-011: Requesting Comments for Marijuana Retail App. (2502 Parks Highway)

Pete will have to chime in on this, but I thought when they came to talk to him that there was some discussion about eliminating the driveway and just using the Java Lane access? Maybe that second driveway was never permitted? My memory isn’t totally clear on what we talked about.

My understanding is the previous owner habitually encroached into DOT ROW for parking – I don’t recall how much beyond the multi-use path is ours, but we probably need some assurances that all of the parking they are accounting for is outside our ROW– this includes parking maneuvers (i.e. backing out of spaces)

Pam Golden, P.E.
Northern Region Traffic and Safety Engineer
Alaska DOT&PF
2301 Peger Road
Fairbanks, AK 99709
(907) 451-2283

From: Motsko, Randi Lynn (DOT)
Sent: Thursday, January 18, 2018 8:08 AM
To: Schacher, Daniel L (DOT) <daniel.schacher@alaska.gov>; Golden, Pamela K (DOT) <pamela.golden@alaska.gov>; Eagan, Pete (DOT) <pete.eagan@alaska.gov>; Ciampa, David N (DOT) <david.ciampa@alaska.gov>; Gardner, Debora G (DOT) <gail.gardner@alaska.gov>; Woster, Timothy J (DOT) <tim.woster@alaska.gov>; Hooper, Barry L (DOT) <barry.hooper@alaska.gov>
Subject: FW: CU2018-011: Requesting Comments for Marijuana Retail App. (2502 Parks Highway)

Good morning,
Please review and provide comments for the conditional use approval of a retail marijuana store located at 2502 Parks Highway.

Thanks.

From: Manish Singh [mailto:MSingh@fnsb.us]  
Sent: Wednesday, January 17, 2018 2:34 PM  
To: Tyler, David L (DPS) <david.tyler@alaska.gov>; Aden, David G (DPS) <david.aden@alaska.gov>; Roberts, Jillian T (DPS) <jillian.roberts@alaska.gov>; Nakano, Lloyd M (DPS) <lloyd.nakano@alaska.gov>; Chief@esterfire.org; zjohnson@esterfire.org; dgregg@esterfire.org; srich@esterfire.org; AST Directors Office, DPS (DPS sponsored) <DPS_AST.DIRECTORS.OFFICE@alaska.gov>; Bill Witte <BWitte@fnsb.us>; Motsko, Randi Lynn (DOT) <randi.motsko@alaska.gov>; Eagan, Pete (DOT) <pete.eagan@alaska.gov>; Bear, Tonya (DEC) <tonya.bear@alaska.gov>; Buteyn, Douglas J (DEC) <doug.buteyn@alaska.gov>; Horton, George C (DNR) <george.horton@alaska.gov>; POA.ExecutiveOffice@usace.army.mil; JLKarl@gvea.com; RJPossenti@gvea.com  
Subject: CU2018-011: Requesting Comments for Marijuana Retail App. (2502 Parks Highway)

Dear Sir/Ma’am  

The Fairbanks North Star Borough Planning Commission is considering **CU2018-011**, a request for conditional use approval of a retail marijuana store in the General Use 1 (GU-1) zone, located at **2502 Parks Highway** (on the north side of Parks Highway, on the west side of Java Lane). This case is scheduled for the Planning Commission meeting on February 27, 2018.

I have attached the application with this email. The department requests you to send us your comments for this proposal by January 31, 2018. For more information about this case, please email msingh@fnsb.us or contact Manish Singh at (907) 459-1225. The staff report to the commission will be available online at [www.fnsb.us/Boards/Pages/Planning-Commission.aspx](http://www.fnsb.us/Boards/Pages/Planning-Commission.aspx) at least five days before the hearing.

Thanks,

Manish

---

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

Fairbanks North Star Borough  
907 Terminal Street  
Fairbanks, AK 99701
NOTICE OF DECISION RE: GR2018-064

October 13, 2017

Gregory Rhines
289 Ester Drive
Fairbanks, AK 99709-2361

Property Description: Tax Lot 221, Section 2, T1S, R2W, FM, AK
Property Address: 2502 Parks Highway
PAN: 274313
Issue: Request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for Tax Lot 221, Section 2, T1S, R2W, FM, AK in the General Use (GU-1) zone

Determination: Affirmed (approved)

On October 13, 2017, the Fairbanks North Star Borough Department of Community Planning AFFIRMED (approved) your request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for Tax Lot 221, Section 2, T1S, R2W, FM, AK in the General Use (GU-1) zone. The Fairbanks North Star Borough Department of Community Planning adopted the following Findings of Fact in support of this determination:

1. Tax Lot 221, Section 2, T1S, R2W, FM, AK is 18,105 square feet and zoned General Use (GU-1). The lot does not comply with GU-1 zoning because it does not meet the current minimum lot size requirement of 40,000 square feet.

2. The property was zoned Unrestricted Use (UU) with the adoption of Ordinance No. 67-34 on March 28, 1968 (Exhibit 1). There was no minimum lot size requirement for the UU zone.

3. Tax Lot 221 is described by deed recorded in Book 260, pages 650 & 651 on June 13, 1982 (Exhibit 2), which qualified as a lot of record as defined by FNSB Title 49 in place at that time. Section 49.15.020(o) defined "Lot of Record" as "a plot of land, the description of which has been recorded in the office of the District Magistrate" (Exhibit 1).

4. The property was rezoned from UU to General Use (GU-1) with the adoption of Ordinance No 88-010 on April 19, 1988. The GU-1 zone established a minimum lot size requirement of 40,000 square feet (Exhibit 3).

5. Tax Lot 221 has not been altered since it was created in 1982.

Because Tax Lot 221 was created prior to establishment of a minimum lot size requirement for the subject property, Tax Lot 221, Section 2, T1S, R2W, FM, AK has an affirmative recognition of legal non-conforming lot status (grandfather rights) as it pertains to lot size in the General Use (GU-1) zone under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes.
Hi Pete,

Thank you for your email. This proposed retail store is located in the General Use 1 (GU-1) zone where FNSB parking standards do not apply. Nevertheless, the FNSB Planning Commission has to make a finding that the proposed retail store has "adequate transportation facilities" which includes having legally permitted access, adequate parking spaces and backing/maneuvering area. The Community Planning Department has recommended the applicant to have 6 off-street parking spaces which is consistent with our parking requirement for retail stores in other zones (one space per 200 sq.ft. of sales area).

The applicant has provided a site plan (sheet C2, see attached) showing six parking spaces and no legal access from Java Lane flag-stem. For more information, I will recommend the applicant to contact you directly for a review of their driveway access. For conditional uses having direct access from State maintained roads, Community Planning Department has previously relied on a driveway permit from ADOT&PF to check adequacy of the existing driveways for proposed conditional uses.

I hope you would find this information helpful. Please do not hesitate to contact me if you have additional questions.

Thanks,
Manish

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

Fairbanks North Star Borough
907 Terminal Street
Fairbanks, AK 99701

Hi Everyone —

The history of use of this property (TL 221) is that of our ROW being taken over for the exclusive use of the business operator. It has usually been quite a mess (cars, junk, storage, etc.), and we've received a number of complaints over
Application Material Received on January 10, 2018

CU2018-011
MARIJUANA FACILITY
CONDITIONAL USE PERMIT APPLICATION

File No. C-2018-01

FEES: $900 conditional use permit application
$250 verification of sensitive use buffers
$200 sign deposit (check or cash only)

Applicant:
Contact Name: GARY EVANS
Business Name: GRASS STATION 49
Mailing Address: 814 Goldminer Trail
City, State Zip: Fairbanks, AK 99712
Phone: 907-460-0388
E-mail: skinner.m@gmx.com

Property Owner:
Name: DAVID C. LANNING B
Mailing Address: PO Box 470
City, State Zip: ESTER, AK 99725
Phone: 907-460-1557
E-mail: lanning.k@acs.alaska.net

Property Information:
Property Description: Block 21, Lot 222 (T2122S, R151E)
Street Address: 2502 Parks Highway
Lot Size: 18,105 square feet
Parcel Account Numbers (PAN): 0274313
Zoning District: Fairbanks GU-1
Existing Use(s): Vacant Building

Conditional Use Request Information:
Proposed Use(s): Retail Marijuana Store

Request Description and Reasons for the Request:
To open and run a safe and successful retail marijuana store. (SEE NARRATIVE)

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: [Signature] DATE: 1-4-2018

OWNER SIGNATURE (if different): [Signature] DATE: 1-4-2018

If the applicant is not the sole property owner, written consent of all property owners must be provided pursuant to FNSBC 18.104.050(6).
Letter of Authorization

We, Morgan Evans and David Lanning, authorize Gary Evans and Mason Evans, Owners of The Grass Station, LLC to use our property, located at 2502 Parks Highway, Fairbanks, Alaska 99709, Previously assessed as block 2; lot 221 (PAN 0274313) General Use-1 Zoned, for use as a Commercial Retail Marijuana Facility (retail store), that with all the laws of the State of Alaska and the Fairbanks North Star Borough.

Property Owner: _______________ Date: 01/04/2018
Morgan Evans

Property Owner: _______________ Date: 01/04/2018
David Lanning
Grass Station 49 Narrative

Proposed Uses: Marijuana Retail Store “The Grass Station, LLC” DBA “Grass Station 49”

Goal: To establish and maintain a safe Marijuana Retail Store (21+) on the outskirts of Fairbanks by complying with all required laws, rules, and regulations of The Fairbanks North Star Borough and The State of Alaska.

Narrative Topics:
1: (A) Property Description and (B) Development
2: General Operations
3: Public Safety and Welfare

1. (A) Property Description and (B) Development

A. Property Description
   1. Tax lot 221, Section 2, T1S, R2W, FM, AK
      2502 Parks Highway
      PAN: 274313
   3. ADEC environmental ground contaminant clean-up and disposal
      Affirmed 01/31/2014
   4. Existing Power Source – GVEA

B. Development (Not in Order)
   1. Potable water/waste water to be made compliant with the Alaska Department of Environmental Conservation sanitation and plumbing code standards. Holding tanks located inside the building and above the floor slab and used for potable water and waste water that will be pumped by a licensed commercial septic removal company.
   2. Interior Demolition.
   3. Interior build-out/remodel of proposed floor plan.
   4. Exterior remodel. Appealing corrugated metal siding to match color scheme of other retails.
   5. FNSB Transfer Site dumpster to be on site to comply with commercial Transfer site laws.

2. General Operations

A. Employees (total)
   1. Retail Sales: approx. 12
   2. Packaging: estimate max. 15

B. Deliveries and Transport Frequency
   1. Incoming – 1-2 deliveries weekly
   2. Outgoing – 1 delivery every day

C. Hours of Operation
   1. 9:00 a.m. – midnight

D. Activities
   1. DAILY packaging/labeling of marijuana products, retail sales.
   2. DAILY outgoing deliveries to other retail stores.
   3. WEEKLY incoming deliveries from wholesalers.

3. Public Safety and Welfare

A. FNSB dumpster will be placed on site to comply with commercial waste laws of the FNSB.

B. Potable water and waste water will be holding tank style. Fresh water will be delivered via ADEC Certified water hauling company. Holding tanks located inside the building and above the floor slab and used for potable water and waste water that will be pumped by a licensed commercial septic removal entity.

C. Being right on the highway, the Alaska State Troopers should be able to respond quickly to any disturbance.
D. The Ester Volunteer Fire Department is not far away should fire ever occur. The Fire Chief of Ester, Tori Clyde, seems to be okay with this building being brought back into commercial operations.

E. Alaska Department of Transportation is fine with the proposed use of the facility. The parking lot has enough space for safe, adequate parking. Also, the entrance/exit from this lot has good visibility in both directions on the highway, minimizing the risk of any vehicle accidents when going to and from the facility.

F. Communications will most likely be ran by GCI or ACS, supplying the facility with phone lines and high-speed internet.

G. The marijuana waste generated by this facility will be minimal, and all waste will be handled in compliance with AMCO Regulation. i.e. Ground up, and made unusable by mixing the plant waste 50/50 with compostable material. To give an idea on waste yields at our Cushman Street Retail there was 265 pounds of marijuana packaged over the course of 6.5 months, and only had 1.5 pounds of plant waste.

H. Because packaging and retail is all that will be happening at this location, there will be no smell exiting the building and effecting the nearby residences.

I. The SECURITY system will be state compliant with absolutely no blind spots anywhere on the interior or exterior of the building, along with bright lights on the building exterior clear around the building to provide a safe, and clear access to the establishment in the dark winter months.

In short, 2502 Parks highway is one of the first buildings Alaskans and other tourists see when they enter Fairbanks, and for years it has been an eyesore. Similar to our Cushman Street store, we would come in and entirely remodel this building inside and out, and open a safe retail establishment that provides jobs, sales tax, increases property value and land tax. Because of this new emerging industry and the history and previous stigma of the industry, we pride ourselves on maintaining a safe business model with safe operating procedures in place to protect our employees, our consumers, and our neighbors. With bright exterior lighting and a full no-blind spot security system, these will potentially ward off any (or even all) potential dangers. My brother, Mason Evans, and I were both born and raised in Fairbanks, as are so many other people rolling the dice to enter this industry, and will do everything in our power to keep it clean, keep it safe, and find ways to continuously give back to our Golden Heart Community.
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 nearest public entrance of a commercial marijuana establishment to:

i. Outer boundaries of school buildings, including outdoor school facilities where students are regularly found;

ii. Outer boundaries of playgrounds;

iii. The lot line of a lot in a residential zone; or

iv. 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.

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. (Ord. 2017-14 § 2, 2017; Ord. 2015-41 § 19, 2015. 2004 Code § 18.50.300.)
October 13, 2017

Gregory Rhines
289 Ester Drive
Fairbanks, AK 99709-2361

Property Description: Tax Lot 221, Section 2, T1S, R2W, FM, AK
Property Address: 2502 Parks Highway
PAN: 274313
Issue: Request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for Tax Lot 221, Section 2, T1S, R2W, FM, AK in the General Use (GU-1) zone

Determination: Affirmed (approved)

On October 13, 2017, the Fairbanks North Star Borough Department of Community Planning AFFIRMED (approved) your request for affirmative recognition of legal nonconforming lot size status (grandfather rights) for Tax Lot 221, Section 2, T1S, R2W, FM, AK in the General Use (GU-1) zone. The Fairbanks North Star Borough Department of Community Planning adopted the following Findings of Fact in support of this determination:

1. Tax Lot 221, Section 2, T1S, R2W, FM, AK is 18,105 square feet and zoned General Use (GU-1). The lot does not comply with GU-1 zoning because it does not meet the current minimum lot size requirement of 40,000 square feet.

2. The property was zoned Unrestricted Use (UU) with the adoption of Ordinance No. 67-34 on March 28, 1968 (Exhibit 1). There was no minimum lot size requirement for the UU zone.

3. Tax Lot 221 is described by deed recorded in Book 260, pages 650 & 651 on June 13, 1982 (Exhibit 2), which qualified as a lot of record as defined by FNSB Title 49 in place at that time. Section 49.15.020(o) defined "Lot of Record" as "a plot of land, the description of which has been recorded in the office of the District Magistrate" (Exhibit 1).

4. The property was rezoned from UU to General Use (GU-1) with the adoption of Ordinance No 88-010 on April 19, 1988. The GU-1 zone established a minimum lot size requirement of 40,000 square feet (Exhibit 3).

5. Tax Lot 221 has not been altered since it was created in 1982.

Because Tax Lot 221 was created prior to establishment of a minimum lot size requirement for the subject property, Tax Lot 221, Section 2, T1S, R2W, FM, AK has an affirmative recognition of legal non-conforming lot status (grandfather rights) as it pertains to lot size in the General Use (GU-1) zone under Chapter 18.108, Nonconforming (Grandfathered) Uses and Lots.

This decision does not grant or provide any variances or exceptions to any other Fairbanks North Star Borough or state regulations, building codes, ordinances or statutes.
The issuance of this notice is an administrative decision and is appealable within fifteen (15) days from the date of this notice to the Fairbanks North Star Borough Planning Commission. An appeal application may be filed with the Community Planning Department office.

Sincerely,

D. Christine Nelson, AICP
Community Planning Director

DCN/ap
LOT INFORMATION

1. NO PROPERTY LINE INFORMATION IS IMPLIED.
2. BASE MAP BY FAIRBANKS NORTH STAR BOROUGH MAP/DIS WEBSITE.

LEGEND

- THIS PROJECT
- TAX LOT 221
- RESIDENTIAL DWELLING ON LOT
- PUBLIC RIGHT OF WAY OR VACANT
- FNGB TRANSFER STATION
Application Material Received on
January 16, 2018

CU2018-011
Grass Station 49 Narrative

Proposed Uses: Marijuana Retail Store “The Grass Station, LLC” DBA “Grass Station 49”

Goal: The goal of our proposed “2502 Parks Highway” location is to ensure that Grass Station 49 can employ as many Fairbanks residents as possible to help boost our economy in the interior, as well as give a local building that is currently not so easy on the eyes a major facelift due to our proposed renovations to both the inside and outside of the building. This building is also one of the first structures that tourists and other people visiting the Fairbanks area see as soon as they come from Anchorage. With that being said, if people look at the other Two Grass Station 49 locations (665 Rainbow Drive and 1326 Cushman Street), we are sure they will be pleased with the buildings over all looks and presentation to the public. All Grass Station 49 locations will mirror themselves to help carry that professional look and stigma that Fairbanks strives for. Grass station 49 estimates that the 2502 Parks Highway location will employ close to 14 people, not to mention the 17 we currently have at (1326 Cushman Street) and the 8 more we intend to add with our second location (665 Rainbow Drive) which is set to open in March if licensing goes according to plan. Grass Station 49 strives, daily, to ensure that a safe, regulated and affordable product is provided to individuals 21 and over in the Fairbanks area with the help of our three convenient locations which will be extremely beneficial in the cold winter months. Another valuable concept we believe will be applied with our multiple store’s, due to their convenient locations, are the hopes of reducing impaired driving. The three strategically placed locations are close enough to the vast majority of Fairbanks residents that they do not need to drive far for their product. A short drive means less reason to indulge while on the road. All three locations are in-fact walking distance from many very well populated areas. Many other marijuana retail locations are out of the way and less convenient meaning many consumers will be tempted to consume while traveling. Grass Station 49 follows all rules and regulations in place by the City and borough of Fairbanks as well as compliant with all rules and regulations put in place by the state of Alaska (AMCO). We have a very healthy, honest and reliable relationship with AMCO enforcement and we talk to them daily to help shape and mold safe business practices and work place SOP’s.

Narrative Topics:
1: (A) Property Description and (B) Development
2: General Operations
3: Public Safety and Welfare

1. (A) Property Description
   A. Property Description
      1. Tax lot 221, Section 2, T1S, R2W, FM, AK
         2502 Parks Highway
         PAN: 274313
      3. ADEC environmental ground contaminant(fuel) from previous gas stations/auto shops, cleaned and disposed Affirmed 01/31/2014.
      4. Existing Power Source - GVEA
   B. Development (Not in Order)
      1. Potable water/waste water to be made compliant with the Alaska Department of Environmental Conservation sanitation and plumbing code standards. Holding tanks located inside the building and above the floor slab and used for potable water and waste water that will be pumped by a licensed commercial septic removal company.
      2. Interior Demolition.
      3. Interior build-out/remodel of proposed floor plan.
      4. Exterior remodel. Appealing corrugated metal siding to match color scheme of other retails.
      5. FNSB Transfer Site dumpster to be on site to comply with commercial Transfer site laws.
2. General Operations
   A. Employees (total)
      1. Retail Sales: approx. 8 (split shifts)
      2. Packaging: estimate max. 6
   B. Deliveries and Transport Frequency
      1. Incoming- 1-2 deliveries weekly
      2. Outgoing- 1 delivery every day
   C. Hours of Operation
      1. 9:00 a.m. - midnight
   D. Activities
      1. DAILY packaging/labeling of marijuana products and retail sales. Which is allowed under our Marijuana retail license.
      2. DAILY outgoing deliveries to other retail stores.
      3. WEEKLY/DAILY incoming deliveries from wholesalers.
      4. All loading and unloading will take place through the exit man-door on the southwest side of the building (the door facing towards Ester).

3. Public Safety and Welfare
   A. FNSB dumpster will be placed on site to comply with commercial waste laws of the FNSB, and will only be filled with non-marijuana waste. Meaning boxes, unusable office supplies, employee food for breaks and other basic waste material as to be expected from any business.
   B. Potable water and waste water will be holding tank style. Fresh water will be delivered via ADRC Certified (Alaska Department of Environmental Conservation) water hauling company. Holding tanks located inside the building and above the floor slab and used for potable water and waste water that will be pumped by a licensed commercial septic removal entity.
   C. Being right on the highway, the Alaska State Troopers should be able to respond quickly to any disturbance.
   D. The Ester Volunteer Fire Department is not far away should fire ever occur. The Fire Chief of Ester is fine with this building being brought back into commercial operations.
   E. Alaska Department of Transportation is fine with the proposed use of the facility.
   F. The parking lot has enough space for safe, adequate parking. Also, the entrance/exit from this lot has good visibility in both directions on the highway, minimizing the risk of any vehicle accidents when going to and from the facility.
   G. Communications will most likely be ran by GCI or ACS, supplying the facility with phone lines and high-speed internet.
   H. The marijuana waste generated by this facility will be minimal, and all waste will be handled in compliance with AMCO Regulation. i.e. Ground up, and made unusable by mixing the plant waste 50/50 with compostable material. To give an idea on waste yields... at our Cushman Street Retail there was 265 pounds of marijuana packaged over the course of 6.5 months, and only had 1.5 pounds of plant waste. After being mixed and destroyed, the marijuana waste will be taken to the FNSB landfill by an authorized person of Grass Station 49. Not to mention that due to Grass Station 49’s SOP’s (Standard operating procedures) we in-fact sell most, if not all, our marijuana waste because consumers can use it to cook with. Marijuana waste meaning the stems, leaves and dust bi-product created when packaging, which again is extremely minimal and everything down to the 1/10 of a gram is accounted for, documented and tracked by both the state (MSTR) and our point of sales systems (Bio-Track THC).
   I. Because packaging and retail is all that will be happening at this location, we expect no marijuana odor exiting the building and effecting the nearby residences. Packaging at a marijuana retail is permitted by "AAC 306.345 Packaging and Labeling". If smell becomes an issue, we will mitigate it by using an HVAC system and carbon filters.
   J. The SECURITY system will be state compliant with absolutely no blind spots anywhere on the interior or exterior of the building and a 40-day video back-
up, along with bright LED white lights on the building exterior (facing down, as to not interfere with neighbors) clear around the building to provide a safe, and clear access to the establishment in the dark winter months. Estimate number of exterior lights will be 3 on each long side of the building, and one on each end. There are tree-lines between the proposed establishment and most of it neighbors, so the light pollution will be minimal.

K. Signage will be compliant with state law, which limits us to 3 signs with our name or logo that can be no larger than 4800 square inches each. Any signs or marijuana emblems must be on, or attached to the building. We foresee one sign being on the retail portion facing the Parks highway straight on, a second sign facing towards Java Lane on the east side of the building, and a third sign if need be somewhere else on the retail portion of the building.

L. With an estimate of 14 employees (only 10 employees on shift at a time), the lot should provide adequate parking spaces, and we will seek additional parking space as needed.

M. The public entrance to the facility will be outside of the 100ft Residential Buffer Zone (FNSB Zoning requirement), along with the retail portion being entirely outside of the 100ft buffer zone. The packaging, labeling, and storage of the marijuana products will be kept in the portion of the building that is within the 100ft buffer, where no retail sales will be conducted.

In short, 2502 Parks highway is one of the first buildings Alaskans and other tourists see when they enter Fairbanks, and for years it has been an eye sore. Like our 1326 Cushman Street store, we would come in and entirely remodel this building inside and out, and open a safe retail establishment that provides jobs, sales tax, increases property value and land tax. Because of this new emerging industry and the history and previous stigma of the industry, we pride ourselves on maintaining a safe business model with safe operating procedures in place to protect our employees, our consumers, and our neighbors. With bright exterior lighting and a full no-blind spot security system, these will potentially ward off any (or even all) potential dangers.

We, Gary Evans and brother, Mason Evans, were both born and raised in Fairbanks, as are so many other people rolling the dice to enter this industry, and will do everything in our power to keep it clean, keep it safe, and find ways to continuously give back to our Golden Heart Community. This town is our home, we too are raising our kids here and plan to leave our roots here for years to come. My brother and I strive to be upstanding citizens that give back to the community regularly and plan to do so if Fairbanks will have us. Help us give back to the community and ensure this Golden Heart City shines bright by allowing us to operate a safe, professional, HEAVILY regulated and attractive Marijuana retail.

Thank you for all your time and consideration.

Sincerely,

Gary Evans

Mason Evans
DEAR PROPERTY OWNER

“INTERESTED PERSONS”

CU2018-011
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<td>1S 2W, SEC: 02, TAXLOT: 211</td>
<td>Alaskas 7 Ventures Inc</td>
<td>PO BOX 80488, Fairbanks, AK 99708</td>
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<td>1S 2W, SEC: 02, TAXLOT: 240</td>
<td>Ardahill Trust</td>
<td>PO BOX 80772, Fairbanks, AK 99708</td>
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<td>DAKOTA ESTATES, BLOCK: A, LOT: 13</td>
<td>Asbury Margaret A</td>
<td>PO BOX 148, Ester, AK 99725</td>
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<td>DAKOTA ESTATES, BLOCK: B, LOT: 03</td>
<td>Baldwin Charles D</td>
<td>3305 Holden Rd, Fairbanks, AK 99709</td>
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<td>Blake Jonathan W</td>
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<td>Bolt Carol S</td>
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<td>Chumbley James B</td>
<td>223 Charles St, Fairbanks, AK 99701</td>
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<td>Danielson Jessica A</td>
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<td>Clautice Katherine J</td>
<td>Pmb # 123, 3875 Geist Rd Ste E, Fairbanks, AK 99709</td>
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<td>ELRAY, BLOCK: 02, LOT: 02</td>
<td>Double G Investments Llc</td>
<td>PO BOX 10690, Fairbanks, AK 99707</td>
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<td>HUNT, LOT: 02</td>
<td>Eubank William Gregory Et Al</td>
<td>3240 Penland Park # 225, Anchorage, AK 99508</td>
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<td>Gentemann Paul C</td>
<td>2495 Goldhill Rd, Fairbanks, AK 99709</td>
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<td>Gillespie Jessie W</td>
<td>Gillespie Sheila N</td>
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<td>CAMPUS ACRES, LOT: 09</td>
<td>Gilmore Carl N Jr</td>
<td>PO BOX 82614, Fairbanks, AK 99708</td>
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**Planning Commission Meeting**

February 27, 2018

179
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<th>Street Address</th>
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<td>Scott Caryn L 2460 Maria St</td>
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<td>Fairbanks, AK</td>
<td>99708</td>
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<tr>
<td>Woolery Richard G &amp; Susan M Family Trust 1089 Jonathan Dr Yuba City, CA 95993</td>
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<td>Woolery Richard G Woolery Susan M 1089 Johnathan Dr Yuba City, CA 95993</td>
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ORDINANCE 2018-06
MEMORANDUM

TO: Fairbanks North Star Borough Planning Commission

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

DATE: February 27, 2018

SUBJECT: ORDINANCE NO. 2018-06: AN ORDINANCE AMENDING CHAPTER 18.104 FNSBC REGARDING NOTIFICATION OF REZONING, CONDITIONAL USES, AND VARIANCE AND AMENDING PROCEDURES FOR REZONING AND CONDITIONAL USE PERMITS

Purpose and Intent

The attached ordinance was referred by the FNSB Assembly to the Planning Commission for recommendation. The proposed ordinance is sponsored by Assemblyman Lance Roberts. This ordinance addresses the differences in processing time for a conditional use permit (CUP) and a rezone by instituting a stay to the processing and hearing of a conditional use permit request to allow an application for rezone to be submitted and a decision made on the rezone prior to any action being taken on the conditional use.

Background

This ordinance has resulted from property owners’ concerns about marijuana establishments being located in their GU-zoned neighborhoods. One neighborhood organized to attempt prevent a proposed marijuana facility from being located in their neighborhood by initiating a rezone, but discovered that the rezone process takes 30-60 days longer than the conditional use process, even if complete applications for a conditional use and a rezone are filed on the same day. This time difference is due to the requirement that a rezone be approved by the Assembly, thereby adding two Assembly meeting dates and a Committee of the Whole meeting to the timeline, for introduction of the ordinance, a work session and the public hearing before a decision on a rezone can be made.

The proposed ordinance would require that when any conditional use permit application is filed, property owners within 500 feet in city limits and with 1,000 feet outside incorporated cities be notified of the pending conditional use permit application (Lines 48-59) and places a 30-day “stay” on the conditional use permit application to allow anyone, not just property owners receiving a DPO to file a “notice of intent to rezone” (Lines 100-107). If a complete rezone application is received within the 30 days, the stay is extended until the rezone application process is completed, in 4-5 months. The intent of the 30-day stay is to allow time to collect the signatures necessary to file a rezone application and prepare a complete application for rezone. The intent of extension of the stay is to allow the longer rezone application process to be completed before the conditional use permit application review and processing begins (Line 157). The effect of this provision in the proposed ordinance is that all conditional use permit applications have the...
potential that processing of the conditional use permit application could take 2-3 times longer than it currently does. With a 1 month initial stay and 4-5 months to process a rezone application, it could be up to 6 months before a conditional use permit can begin to be reviewed and processed, resulting in timeline as long as 9 months instead of the current 3 month timeline. Nothing in the proposed ordinance requires that the rezone request be viable, approvable or even legal to extend the stay. A rezone request could be made that constitutes an illegal spot zone and cannot be supported by Community Planning, Planning Commission or the Assembly, and yet the stay remains and delays another property owner from obtaining a decision on their application. All conditional uses will be delayed 30 days but this ordinance would likely have a disproportionate impact on “controversial” commercial land uses such as marijuana establishments, outdoor shooting ranges, daycare facilities, industrial uses, and gravel extraction operations, landfills, dog kennels, communications towers, large scale development, schools, etc. There is a higher likelihood that a rezone may result from these “controversial” types of proposed uses than a conditional use permit request for a residential guest house, neighborhood community garden, or domestic livestock.

The proposed ordinance would also reduce the normal public notice distance for all variances, conditional uses, rezones, and other quasi-judicial hearing from the current 1,000 feet to 500 feet in city limits and from the current 2,000 to 1,000 feet outside incorporated cities (Lines 63-66). This change would return the public notice distance back to the previous distances in existence before they were doubled in March 2016 to address the concerns of surrounding property owners who wished to testify but were not considered interested persons since if they were not within the public notice distance so did not receive a DPO notice.

Consistency with the FNSB Regional Comprehensive Plan

Land Use Goal #1 recognizes the importance of private property rights and emphasizes the retention and maintenance of those rights. It does not however, establish that certain property rights are more important than others, nor does it establish which private property rights should have priority over others.

LAND USE GOAL 1: To recognize that the foremost aspect of land use involving private property is the retention and maintenance of private property rights

Strategy 1: Work for decisions by commissioners and the Assembly that protects individual private property rights to the maximum extent possible.

Strategy 2: Work for community end goals with a minimum impact and disruption of individual private property rights.

Strategy 3: To work to reduce to the fullest extent possible the natural conflict that develops between private property right and community needs and interests.

Instead, Land Use Strategies 1-3 (under Goal 1) focus on minimizing the impacts on private property rights while balancing them with community goals, needs and interests. The FNSB Regional Comprehensive Plan outlines many of those community goals and interests that must be balanced with private property rights, including economic development goals to strengthen, expand and diversify the economy as articulated in Economic Development Goals 1 and 2, and including several strategies and actions. Marijuana businesses, large scale developments, gravel extraction operations and other potentially incompatible commercial and industrial uses all help
diversify and strengthen the local economy, and all of which are conditional uses in most zones and would be subject to the proposed ordinance.

**ECONOMIC DEVELOPMENT GOAL 1: To strengthen and expand the existing economy**

**Strategy 1: Establish the Borough as the center of economic activity for Interior Alaska.**

**Action D: Continue efforts to Foster and retain local entrepreneurs.**

**Action E: Expand existing and create new economic ventures with Interior and Northern Alaska communities**

**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.**

Community Planning does not believe Ordinance 2018-06 is consistent with FNSB Regional Comprehensive Plan because the proposed ordinance gives preference to the private property rights of neighboring property owners over the rights of others, namely any applicant for a legal conditional use permit. Community Planning believes that there are other ways that Title 18 can be amended to address neighborhood compatibility concerns. The issue is determining which methods can most effectively address neighborhood concerns of incompatibility, reduce the natural conflicts between private property rights and community needs and interests, and balance the private property rights between all the property owners in a neighborhood. Community Planning believes that these alternate methods of addressing potential incompatibility, land use conflicts and the balance of private property rights are already supported by the comp plan.

**Analysis**

This proposed ordinance enables one set of private property owners’ rights to automatically supersede another set of property owners’ rights. FNSBC 18.104.020(B) would notice neighboring property owners to allow them to file an “intent to rezone”. However, this ordinance as proposed would allow anyone, even if they are not a property owner or even a borough resident, to file such a notice and subsequently a rezone application within 30 days provided they can obtain the required property owners’ signatures. Such a “notice of intent” will halt the processing of a conditional use permit application for 30 days while a decision whether to pursue a rezone is made and to collect the required signatures (Lines 100-107). Further, if a complete rezone application is filed, the processing of a conditional use permit application could be postponed for up to 5 additional months, whether or not the rezone could be approved or not. A request to rezone that could not be supported by the Community Planning Department and/or the Planning Commission, or which could constitute an illegal spot zone, would still stay the conditional use permit approval process regardless of its viability or potential for approval. There is a high potential for abuse of this proposed process to simply stymie, slow down or discourage uses that property owners may not like, whether the request meets the approval criteria or not. The theory of “staying” a conditional use application to allow a potential rezone to be filed is reactionary and not consistent with predictable planning practices. A certain level of predictability is intended and expected for those uses listed in the zoning code as “conditional”. Listing a use as conditional in a particular zoning district means that an analysis has been made, hearings held
in which the public can make their opinions heard, and was adopted by the Assembly as appropriate for a specific zone under certain criteria and possibly specific conditions. Eliminating that level of predictability undermines basic planning principles and deprives applicants of their rights under the adopted zoning code. If a use is no longer appropriate for an area or a zone, that issue should be addressed via a proactive rezone of the area or a code amendment removing that use from the list of allowed uses for that zoning district.

Further, this ordinance will slow down the approval process for all conditional uses, not just the “controversial” ones. All conditional uses will be subject to the 30-day stay provision to allow neighboring property owners to file intent to rezone. Notification of public hearing (DPOs) are currently required to be mailed to surrounding property owners no more than 21 calendar days after the application deadline. If those DPOs can't be mailed for 30 days, the conditional use permit application would be required to be dumped at least one meeting date. Staff reports for quasi-judicial hearings are expected to be complete and posted on line for the public 35 days after the application submittal deadline. These timelines would be impossible to meet while waiting out a 30-day stay, and would result in postponing the hearing date for all conditional uses likely 30 days (or 2 meeting dates) in order to meet already extremely tight public hearing timelines based on existing staff resources. Certainty of the process by which land use decisions are made and the expected timeline for those decisions is a basic tenant of effective economic development practices and a consistently articulated need of business. The ordinance brings a high level of uncertainty to the conditional use process for a wide variety of commercial and industrial uses.

**Alternate ways to address neighborhood incompatibility concerns**

Community Planning believes that there are other ways to address neighborhood concerns about controversial and potentially incompatible land uses, which would not automatically place one group of private property owners’ rights above others’ rights. The first method is the proactive rezoning of residentially developed GU-zoned neighborhoods, or other inappropriately zoned areas, to an appropriate residential zone. This action will protect property owners from many potentially incompatible uses as they are not allowed as either a permitted or conditional use in most residential zones. Unfortunately, although the FNSB Administration and Community Planning Department have worked consistently and diligently to promote neighborhood initiated proactive rezoning of GU-zoned property, property owners have expressed little interest in rezoning their neighborhoods. Even after the Assembly waived the fee for these rezones from GU to an appropriate residential zone, only one neighborhood has taken advantage of this free service in the last two years.

Rather than placing a stay on all conditional uses, supplemental regulations for uses that may be potentially incompatible with residential neighborhoods is another method to further regulate only those specific controversial uses. These supplemental standards focus on the issues that can create the incompatibility for each type of use, whether it is a dog kennel, marijuana establishment, daycare facility, school, or landfill. These supplemental regulations would provide the Planning Commission with specific criteria to decide if a proposed conditional use is compatible with the specific neighborhood in which it is requested to be located. Examples of supplemental regulations to address issues of potential incompatibility include minimum lot size for a use, additional buffer distances from property lines or neighboring dwellings, access, limits on the hours of operation and/or the size of the use or number of clients/employees, lighting, fencing and/or vegetative buffers, etc.

A third method is to amend the existing conditional use criteria to specifically address the compatibility of a proposed use with the existing character of the surrounding neighborhood. The
current conditional use criteria are very broad in general concepts but do not sufficiently address some compatibility issues such as environmental impacts, suitability to the site and within the surrounding neighborhood, adequacy of infrastructure into the future, and other concerns expressed by neighbors in a variety of conditional use permit hearings over the last several years. By adding more specific conditional use criteria focused on ensuring compatibility with the neighborhood, potential conflicts can be required to be mitigated in ways acceptable to the general community or the conditional use could be denied based on the criteria. More specific criteria enable the analysis of the operational characteristics of the use, the site plan and other relevant factors in relation to the surrounding development of the neighborhood.

Another potential method to address on-going incompatibility issues is to reevaluate which zones are appropriate for certain uses, even as a conditional use. Zoning is a policy decision made by elected officials with input from the entire community about how property should be used now and in the future. Specific uses are determined to be appropriate for a specific zone based on a variety of factors and specific zones are determined to be appropriate for specific locations. However, these determinations can change over time as community needs and desires change or if development changes the nature of an area. A comprehensive zoning review of specific controversial uses such as dog kennels, marijuana establishments, schools or daycare facilities, or landfills would allow the entire borough community to weigh in on the appropriate zone for these uses, as permitted or conditional uses, in a more holistic approach.

All of these options, separately, or even more effectively in some combination, can address neighborhood concerns about incompatible uses through the conditional use permit process and protects their private property rights, while not negatively impacting the property rights of applicants. These alternate methods are in compliance with the FNSB Regional Comprehensive Plan and supported by a number of goals and strategies which promote compatibility via additional development requirements.

The proactive rezoning of GU-zoned land, or other inappropriately zoned land, is supported by Land Use Goal 3 and Strategy 7 to designate appropriate residential areas in the comprehensive plan and zone them appropriately. This method is also supported by Land Use Goal 4 and Strategy 10, Action A to rezone new subdivisions to appropriate land use designations.

LAND USE GOAL 3 To have a variety of land uses that fit the diverse needs of the community

Strategy 7: Provide a variety of residential land use opportunities.

Action A: Designate residential areas on the Comprehensive Plan map.

LAND USE GOAL 4: To enhance development opportunities while minimizing land use conflicts

Strategy 10: Attract and support development that is compatible with and enhances existing land use.

Action A: Support innovative land development and compatible land use that addresses special area needs, site constraints, energy, or design objectives.

• Rezone new subdivisions to appropriate land use designations concurrent with the platting process.
Action B: Develop a pattern of compatible land uses and either separate, transition or buffer incompatible land uses.

- Separate commercial and industrial uses from residential or incompatible land uses by methods such as screening, buffering, and/or alleys.
  - Develop land use buffering guidelines to reduce impacts on established residential areas.
- Encourage agricultural development that is compatible with surrounding land uses and densities.

Land Use Goal 3, Strategy 6 and Land Use Goal 4, Strategy 10 support the creation of supplemental development standards to mitigate potential conflicts and increase the compatibility of certain high impact uses with the neighborhood in which they may be located. These goals, strategies, and actions also support the more specific conditional use criteria to allow the Planning Commission to make findings on more specific compatibility issues.

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 B: Allow commercial facilities outside preferred commercial areas after considering if:

- A need is served that cannot be met elsewhere in the preferred commercial areas.
- Traffic flow and safety impacts are addressed.
- Use is compatible with other development and sensitive to natural systems in the area.
- Adequate landscaping and buffering is provided to minimize adverse impacts on surrounding land uses.
- Adequate parking space is available.
- Adequate fire protection/suppression and hazardous materials response is available.
- Public transit is available.

OR in non-urban areas if, in addition to the above:

- Area lighting is shielded from residential and undeveloped areas.
- The use expands an existing commercial node or is sufficiently separated from existing commercial nodes to avoid strip development.
- A legal commitment is made to provide alternative water and wastewater facilities.
- Greenbelts and open spaces are maintained.

A multi-pronged approach to code amendments that reduce potential land use conflicts and address potential incompatibility concerns achieves several very important objectives, including preserving certainty and predictability in the application process and expected timelines, giving a greater voice to surrounding property owners by virtue of amended conditional use criteria that better address compatibility issues, and the balancing of the private property rights of all parties. Community Planning believes that amending the conditional use criteria to include more specific criteria to address a broader range of impacts combined with creating supplemental standards for certain uses that are considered to be more problematic in residential neighborhoods is the best approach.
approach while still continuing to promote and support proactive property owner-initiated neighborhood rezones. An ordinance to amend the conditional use criteria has already been identified by Community Planning and FNSB Administration as one of the “top 10” priorities for 2018 and project research has begun. Finally, reevaluating the appropriateness of certain uses in the various residential zones is another preemptive step and Community Planning is already beginning this review for dog kennels. Proposed ordinance 2018-06 increases uncertainty in the conditional use permit process, radically increases time lines to reach a decision on a conditional use permit request, and places the private property rights of one group of land owners over all others.

**Recommendation**

FNSB Community Planning staff recommends that the Planning Commission make a recommendation that the Assembly should not approve Ordinance No. 2018-06.

**Proposed Draft Motion:**

I move that the Planning Commission recommends that the FNSB Assembly should not approve Ordinance No. 2018-06.

**Attachments**

Attachment A: Draft Ordinance No. 2018-06
FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2018- 06

AN ORDINANCE AMENDING CHAPTER 18.104 FNSBC REGARDING
NOTIFICATION OF REZONING, CONDITIONAL USES, AND VARIANCES AND
AMENDING PROCEDURES FOR REZONING AND CONDITIONAL USE PERMITS

WHEREAS, During the conditional use permit process there is
occasionally interest in a rezone in the area in order to address perceived incompatible
uses; and

WHEREAS, Due to timing of the processes, and that both Planning
Commission and Assembly approval are required for a rezone, it is generally not
possible for a rezone to be completed prior to a conditional use permit begin acted
upon; and

WHEREAS, Adding requirements to notify property owners of conditional
use permit applications, and implementing a stay of those applications if a notice of
intent to initiate a rezone is filed, will allow the rezone process to move to conclusion
before a conditional use permit is acted upon; and

WHEREAS, The notification areas for mailing notification of quasi-judicial
proceedings are larger than necessary, and the distance areas should be reduced.

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

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
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Section 1. Classification. This ordinance is of a general and permanent nature and shall be codified.

Section 2. FNSBC 18.104.010(C), General procedures for rezoning, conditional uses and variances, is hereby amended as follows:

C. Public Notification. Rezonings shall become effective only after a public hearing has been held at which all interested persons and/or citizens shall have an opportunity to be heard, and approval has been granted by the borough assembly. Conditional uses and variances shall become effective only after a quasi-judicial hearing has been held and approval granted by the planning commission.

1. Publication of Notice. Notice of the time and place of the public or quasi-judicial hearing shall be published at least 10 days prior to the date of the hearing in a newspaper with general circulation in the jurisdiction of the planning commission and borough assembly.

2. Mailing of Notice by the Department of Community Planning.

   a. Notice of an application for a conditional use permit shall be mailed to all owners, as shown by the records of the borough assessor, of property in the area to be considered for a conditional use as soon as practicable after a completed application is received by the department. Notice shall be sent to owners of lots or land either within an area measured 500 feet in all directions from the boundaries of the area being considered if the request is of land within the incorporated areas of the cities of Fairbanks and North Pole, or within an area measured 1,000 feet in all directions from the boundaries of the area being considered if the request is of land outside of the incorporated areas of the cities of Fairbanks and North Pole. In either instance at least 10 owners of lots or land outside of the area being considered shall be notified by mail, whereby these distance requirements shall be increased.

   b. Notice of the public or quasi-judicial hearing shall be mailed to all owners, as shown by the records of the borough assessor, of property in the area to be considered for a rezoning, conditional use or variance. Notice shall be sent to owners of lots or land either within an area measured [1,000]500 feet in all directions from the

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boundaries of the area being considered if the request is of land within the incorporated
areas of the cities of Fairbanks and North Pole, or within an area measured
[2,000] feet in all directions from the boundaries of the area being considered if the
request is of land outside of the incorporated areas of the cities of Fairbanks and North
Pole. In either instance at least 10 owners of lots or land outside of the area being
considered shall be notified by mail, whereby these distance requirements shall be
increased.

3. Notice by Applicant. The applicant shall provide notice of the public or
quasi-judicial hearing by posting the land subject to the application for a rezone,
conditional use or variance with notice clearly legible from each improved street
adjacent to the land, or as determined by the community planning director or his
designee. All posted notices shall be in the standardized form provided by the
department of community planning and shall be posted at least 20 calendar days prior
to the date of the public or quasi-judicial hearing and remain until final action has been
taken on the matter. Twenty days before the public or quasi-judicial hearing, the
applicant shall submit to the department of community planning a signed affidavit that
the notice was posted as required by this subsection and photographs of all posted
notices. If a site inspection is conducted, staff will note in the staff report the presence or
absence of the posted notice. The applicant shall remove the sign within 10 days
following the final public or quasi-judicial hearing.

Section 2. FNSBC 18.104.020, Procedures for rezoning, is hereby
amended as follows:
A. Initiation. The borough assembly may, from time to time, change the zoning of
parcels of land within the borough. These changes in zoning classification shall be for
the purpose of meeting the land use needs of the residents of the borough in
conformance with the comprehensive plan. A change in zoning classification may be
initiated by:

1. Any member of the borough assembly or the mayor;

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2. Any person or persons; provided, that an application for rezoning is accompanied by a petition favoring the proposed rezoning signed by the owner or owners of at least 51 percent of the property within the area proposed to be rezoned. If any individual property owner owns more than 25 percent of the land area proposed to be rezoned, then the petition shall contain such property owner's signature. Land owned by the state of Alaska or by the United States of America shall not be included in these computations.

B. Notice of Intent to Initiate a Rezone. Any person or persons who wish to initiate a rezone may file a Notice of Intent to Initiate a Rezone prior to submitting a complete application. Any conditional use permit proceeding in the rezone area will be stayed upon the filing of a notice of intent to initiate a rezone if it is filed within 30 days of the mailing of the notice of application to owners within the area. This stay will be automatically terminated if a complete rezone application is not submitted within 30 days of the notice of intent to initiate or upon a final decision on the rezone request, whichever first occurs.

[C]. Application for a Rezoning. Any member of the borough assembly or the mayor may initiate a rezone by preparation of a suitable ordinance and introduction of same to the borough assembly in accordance with assembly procedures. The planning commission, however, shall not consider a rezone initiated by a member of the borough assembly or the mayor unless the assembly votes to refer the ordinance to the planning commission. Any other person or persons who wish to initiate a rezone shall complete and submit the application forms provided by the department of community planning along with all requested information. The written consent of the owner of the interest in the property to be rezoned, or an authorized representative having power of attorney, shall accompany all applications. The written consent of a holder of a security interest in the property does not need to be obtained. The application shall also include the following information:

1. The legal and common description of the property to be rezoned;
2. The property's present and proposed zoning classification;

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3. The recommendation for use of the property by the borough’s comprehensive plan;

4. The reasons for requesting the rezoning.

[C][D] Hearing and Recommendation by the Planning Commission. The planning commission shall review, hear and recommend whether or not a request for rezoning should be approved. The planning commission shall also consider and adopt findings of fact demonstrating whether or not the proposed rezoning conforms to the comprehensive plan and to the public health, safety and welfare.

The planning commission shall recommend to the assembly one of the following actions:

1. Approve the rezoning request as submitted;

2. Approve the rezoning with special limitations;

3. Recommend an amendment to the request to a more appropriate zoning district; or

4. Disapprove the rezoning request.

[D][E] Submission to the Borough Assembly. Unless the ordinance is not legally approved by the borough attorney, a report of said recommendation together with an ordinance shall be submitted within 30 days of the planning commission’s recommendation to the borough assembly. If a rezone is not submitted to the borough assembly because it is not legally approved by the borough attorney, a written report including the reason will be submitted to the planning department and borough assembly within 10 business days to complete the file.

[E][F] Hearing and Determination by the Borough Assembly. The borough assembly shall review, hear and decide whether or not a request for rezoning shall be approved.

1. The assembly may approve a rezoning as submitted, or with special limitations approved by a majority of the votes cast by the planning commission members who voted on the rezone, or amend the request to a more appropriate zoning district.

2. The assembly may disapprove the rezoning or remand the request to the planning commission with instructions for its reconsideration.

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Section 4. FNSBC 18.104.050(C), Hearing and Decision by the Planning Commission, shall be amended as follows:

C. Hearing and Decision by the Planning Commission. The planning commission shall review, hear and decide whether or not to approve a request for a conditional use only after a stay, if any, has been terminated. The planning commission shall also consider and adopt findings in each of the following:

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, time limits for commencing or ceasing use.

Section 5. 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 ________, 2018.

Kathryn Dodge
Presiding Officer