

FAIRBANKS NORTH STAR BOROUGH
Planning Commission
September 28, 2021
6:50 p.m.

A regular meeting of the Planning Commission was held Tuesday, September 28, 2021, in the Mona Lisa Drexler Assembly Chambers of the Juanita Helms Administration Center, 907 Terminal Street, Fairbanks, Alaska.

ROLL CALL

There were present appearing telephonically and in person:

Shane Koester	Kerynn Fisher
Savannah Fletcher	Chris Guinn
Mike Kenna	Sandra Mota
Jason McComas-Roe	Eric Muehling, Vice-Chairperson
John Perreault, Chairperson	

Comprising a quorum of the Commission, and

Sharon Wittenkeller, Administrative Assistant III, Clerk
Kellen Spillman, Acting Community Planning Director
Melissa Kellner, Acting Community Planning Deputy Director
Donnie Hayes, Parks and Recreation Director
Sarah Bingham, Planner III
Jill Dolan, Borough Attorney

Absent & Excused

Doug Sims

MESSAGES

C.1 Communications to the Planning Commission

Kellen Spillman, Acting Community Planning Director, pointed out the Borough Community Research Quarterly published last week, and focused on the housing section. Mr. Spillman continued with status updates on the Comprehensive Roads Plan, Alaska Department of Transportation and Public Facilities (DOT&PF) projects, Daycare and Duplicate Appeals Ordinances, Community Planning staffing and vacancies, and future upcoming Planning Commission agenda items. Mr. Spillman finished with a Public Service Announcement (PSA): if you are constructing or planning to construct check with the

MESSAGES – continued

FNSB Community Planning Department or some of the department’s online tools available to check your zoning requirements and obtain a zoning permit if necessary.

Commissioner’s questioned Mr. Spillman on the plowing and winter maintenance of the Growden Pathway, digital copy of Ordinance No. 2021-37, and status updates on the Downtown Plan.

C.2.a. Citizen’s Comments on agenda items not scheduled for public hearing.

NONE

C.2.b. Citizen’s Comments on items other than those appearing on the agenda.

NONE

C.3. Disclosure & Statement of Conflict of Interest

Clerks Notes: Conflicts were determined, see CU2022-001 and CU2022-002.

APPROVAL OF AGENDA AND CONSENT AGENDA

KOESTER, moved to approve the agenda and consent
Seconded by KENNA agenda as read.

VOTE ON MOTION TO APPROVE THE AGENDA AND CONSENT AGENDA AS READ.

Yeses: Muehling, McComas-Roe, Fisher, Guinn,
Koester, Kenna, Fletcher, Mota, Perreault

Noes: None

MOTION CARRIED 9 Yeses, 0 Noes

APPROVAL OF MINUTES

1. *Planning Commission Meeting Minutes from August 10, 2021.

Without objection this measure was read by title and approved under the consent agenda.

QUASI-JUDICIAL HEARING

1. CU2022-001

A request by Haley Essig for conditional use approval of a Marijuana Product Manufacturing Facility, Unlimited, in the General Use (GU-1) zoning district on Lot 31A, Derby Tract, located at 899 Old Steese Highway, Fairbanks, AK.

Chair Perreault inquired if any commissioners had a conflict of interest or ex Parte communication to disclose.

Commissioner McComas-Roe declared a conflict, he noted the applicant is suing a member of his family.

Chair Perreault determined it was a conflict and Commissioner McComas-Roe stepped down from the dais.

Sarah Bingham, Planner III, presented the staff report. Based on the staff analysis, the Department of Community Planning recommended approval.

Commissioners questioned and discussed with staff the following:

- Explanation of the 500-foot buffer distance requirement; it was answered the facility is required to be 500 feet from a residential zone and the Steese Highway is a controlled access facility, which prevents the buffer from going further. Further details citing code were referenced in the staff report.
- Safety concerns of the two driveway access points on the property, one driveway is directly off Trainor Gate Road, a few feet away from the intersection. It was answered comments were solicited from DOT&PF on the two proposed driveways, who responded without objection. The Department of Community Planning discussed in depth the request and a brief traffic analysis was completed during the application process for the conditional use. Due to the fact the conditional use request is for a manufacturing facility only, it generates very few employees, and because it is a narrow conditional use permit for the manufacturing component only, they did condition the permit.
- What were the conditional uses with the retail facility, whether there were restrictions that impacted the traffic, or any restrictions that would mitigate the concerns expressed for traffic safety. It was answered unless there is a section in code about a potential condition(s), or more clarification they need, they don't typically condition or can't condition zoning permits as they are permitted uses. The GU-1 zone allows a wide variety of activities and does not require parking regulations.

QUASI-JUDICIAL HEARING – continued

- Whether the properties located within the buffer zone were contacted or whether signs posted on the property were relied on solely for informing property owners. It was answered, public notices were sent out to every property owner within a 1,000-foot buffer, plus an additional 500 feet.
- Whether there were any responses from the public. It was answered there were a couple of responses, one was concerned that there was a marijuana establishment in the area.
- Concerns of the driveway at Trainor Gate; whether blocking the driveway off is within the purview of the conditional use permit. It was answered, that it is the opinion of the department, that there was not an essential nexus between the traffic generated from the facility and the scope of their ability to condition it.

Haley Essig, Applicant, provided the following information:

- They have constructed an ADA compliance sidewalk around the entrance of the building.
- The facility is a small 300-foot manufacturing facility.
- They will be using butane.
- They have submitted their final drawings to the building department and are awaiting comments.
- They will be submitting a plan review to the state Fire Marshal as required by the Alcohol and Marijuana Control Office (AMCO).
- They are also concerned about the thru traffic off of Trainor Gate Road, and would like to put up a no thru-traffic sign and are currently looking into.

Commissioners questions and discussed with Ms. Essig and representatives the following:

- Whether there are more hazardous substances other than butane; it was answered, they are also using ethanol, per the architect's plan review, it is not really considered a hazardous substance. Butane and propane are the two gases that would be used onsite.
- Whether staff have training in handling the substances; it was answered, not currently, they have not opened yet. They do have their main employee, who is currently working in another manufacturing facility, and he does have training with handling substances.
- Whether there is room on the property to have the option to create a driveway for employees only, that brings them from the public entrance, around the building, to some back parking, and close the access to Trainor Gate Road; it was answered, it could be possible, but they would like to maintain the Trainor Gate Road access.

QUASI-JUDICIAL HEARING – continued

- The amount of manufacturing and inventory that will be created in regard to butane use and how much pollution will be emitted; it was answered, it will vary based on when they start, they will only be running about 4-pound cylinders once a day.
- How big do they strive to be; it was answered, to run it about 4 times a day, in an eight-hour shift.
- What type of emissions they are hoping to curb with the filters; it was answered, they are using a closed loop system, they will be reclaiming over 90 percent of the butane that goes into the system, the rest will go through the fume hood, and anything that is lost in the vacuum oven process is such a small amount. At the height of production, they could be going through a 24-pound tank of butane, which would last a couple of weeks.
- The giant rocks placed at the entrance of Trainor Gate may not deter everyone from using that access site, it was suggested to place signs up to prevent drivers from cutting through the driveway; the response was, the driveway is one way in and one way out to the right, so people won't cross the road to turn left, coming out, and to keep that in mind when it comes to safety concerns. They also created an island, coming out from the sidewalk, consisting of rocks and trees, to deter people from driving through the parking lot. They are also looking to place a sign that states, no thru way traffic. As they are under construction, the entrance is currently blocked off with boulders.

Chair Perreault opened and closed public comment as there were no citizens to provide comment.

MUEHLING,
Seconded by KOESTER

moved to approve Conditional Use Permit CU2022-001 for a Marijuana Product Manufacturing Facility, Unlimited, on Lot 31A, Derby Tract Subdivision, with two (2) conditions, and adopting the staff report and three (3) findings of fact in support of the approval.

Commissioner Muehling noted there is adequate sewer and water, it has emergency fire response, law enforcement is available, it is a job creator as, it is an economic development boom, it diversifies our economy, which is economic development goal number 2. He expressed serious safety concerns over the driveway that is going to be allowing employees only, in and off Trainor Gate Road, but it is not something they can condition, and it looks like a poor placement for a driveway.

Commissioner Guinn echoed Commissioner Muehling on the safety concerns of the driveway, it is bothersome, and he believes it is unsafe.

QUASI-JUDICIAL HEARING – continued

VOTE ON MOTION TO APPROVE CONDITIONAL USE PERMIT CU2022-001 FOR A MARIJUANA PRODUCT MANUFACTURING FACILITY, UNLIMITED, ON LOT 31A, DERBY TRACT SUBDIVISION, WITH TWO (2) CONDITIONS, AND ADOPTING THE STAFF REPORT AND THREE (3) FINDINGS OF FACT IN SUPPORT OF THE APPROVAL.

Yeses: Fisher, Koester, Mota, Muehling, Kenna, Fletcher, Guinn, Perreault

Noes: None

MOTION CARRIED 8 Yeses, 0 Noes

CU2022-001 CONDITIONS OF APPROVAL

1. Prior to the commencement of a Marijuana Product Manufacturing Facility, Unlimited, 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.
 - b. The applicant or holder of this conditional use permit shall obtain the necessary permits and inspections by the City of Fairbanks Building and Fire Departments and shall comply with all recommendations and/or requirements resulting from the plan review.
2. If any modifications are made to the site plan, floor plans, narrative or other FNSB required documents or operational characteristics which were submitted on July 19, 2021, the applicant or holder of this conditional use permit shall submit revised documents to the FNSB Community Planning Department. If substantial modifications are made to the conditional use, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050(D).

CU2022-001 FINDINGS OF FACT IN SUPPORT OF THE APPROVAL

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes because:
 - a. The proposed use meets the regulations for commercial marijuana establishments per FNSBC 18.96.240.
 - b. The proposed conditional use is consistent with the 'Urban Area' comprehensive plan land use designation because it is served by community water and sewer within a dense commercial area.
 - c. Land Use Goal 1, Strategy 2 supports this proposal to “work for community end goals with a minimum impact and disruption of individual private property rights” by using carbon filters within the manufacturing area so no odor is detected from outside of the existing structure, and none of the sensitive uses mentioned in FNSBC 18.96.240 are within the established buffer requirements.
 - d. Economic Development Goal 1 supports this proposal to “strengthen and expand the existing economy” by assisting an existing business in diversifying and creating value-added products.
 - e. Economic Development Goal 2 supports this proposal “diversify the economy” by developing three separate commercial and industrial uses on the subject lot that has community water and sewer connections.
 - f. Land Use Goal 4 supports this proposal to “enhance development opportunities while minimizing land use conflicts” by using the Steese Highway to buffer residential uses and zones from the proposed use.
 - g. As conditioned, the proposed use is subject to all applicable land use related laws.
2. There are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use:
 - a. The subject property is served by Golden Heart Utilities.
 - b. The subject property is served by the City of Fairbanks Fire Department for emergency fire response.
 - c. The subject property has adequate power supply because it is served by the GVEA grid.

CU2022-001 FINDINGS OF FACT IN SUPPORT OF THE APPROVAL – continued

- d. The subject property is served by the City of Fairbanks Police Department for law enforcement.
 - e. There are 21 parking spaces shown on the site plan which exceeds the number of employees.
3. The proposed conditional use protects public health, safety, and welfare because the property complies with Title 18 standards for the GU-1 zone (FNSBC 18.84) and commercial marijuana establishments (FNSBC 18.96.240) as well as with other applicable land use related laws.
- a. Odor and noise from the proposed use is not expected to increase, since the manufacturing area will utilize carbon filters and operate from 7am to 7pm Monday through Saturday.
 - b. Trainor Gate Rd and Old Steese Hwy are arterial roads that are maintained by the City of Fairbanks.
 - c. The amount of traffic to this facility will be minimal, since the manufacturing area will have a maximum of four employees.

2. CU2022-002

A request by Kyle Wendler for conditional use approval to expand the existing Marijuana Cultivation Facility, Indoor Large, in the General Use (GU-1) zoning district on Lot 1, Fox Creek Subdivision, located at 2304 Old Elliott Highway, Fairbanks, AK.

Commissioner Mota declared a potential conflict, noting she is the realty specialist for the eastern field office with Bureau of Land Management. Her office received a public notice related to CU2022-002, in her position it would fall to her to provide comments, although there are no comments, she requested to be excused.

Chair Perreault concurred and Commissioner Mota stepped down from the virtual dais.

Sarah Bingham, Planner III, presented the staff report. Based on the staff analysis, the Department of Community Planning recommended approval.

Commissioner Koester inquired if there were any complaints in response to the public notices that were sent out to the surrounding property owners, or if there were any code

QUASI-JUDICIAL HEARING – continued

enforcement complaints filed. It was answered; there were no comments received in response to public notices nor code enforcement complaints filed.

Kyle Wendler, Applicant, explained their wastewater will increase, but it still qualifies for approval under the Department of Environmental Conservation (DEC) regulations for a septic system. He also explained, the nice house pictured in the presentation, is owned by a goldminer, who also has a man camp to the right of it, they have quite a bit of traffic at odd hours, even though it is residential it is being used more commercially.

Commissioner Muehling inquired if there was any processing taking place on site; it was answered, they are not doing any manufacturing.

Commissioner Muehling inquired how they dispose of waste; it was answered, they grind it and mix it with a 50/50 compostable material, follow AMCO's regulations, and discard it in the dumpster, which is then taken to the landfill.

Kellen Spillman, Acting Community Planning Director, inquired about the filtration system; it was answered, they use the big can carbon filters, which are hooked up to 12-inch fans, ensuring the air exiting the building goes through the carbon filters, and maintain a negative pressure in the building, so that air is pulled in, rather than odor forced out.

Chair Perreault opened and closed public testimony as there were no individuals to provide public comment.

KOESTER,
Seconded by KENNA

moved to approve the conditional use permit CU2022-002 to expand the Marijuana Cultivation Facility, Indoor Large, on Lot 1 Fox Creek Subdivision, with three (3) conditions and adopting the staff report and three (3) amended findings of fact in support of the approval.

Clerk's Note: Finding of Fact 2.a. was amended by staff to note "three times" a week, removing "twice".

Commissioner Koester noted the site, as testified, originally had a conditional use previously, it met all those conditions, there were no code enforcement complaints or public notice response complaints, the expanded area will not be accessible to the public, it is zoned GU-1, and it will continue to meet all health, safety and welfare requirements and he supported the motion.

QUASI-JUDICIAL HEARING – continued

Commissioner Muehling noted the site has no windows, no signs, no odors, or complaints in response to the public notice letters, the operation is discrete, they are adequately handling the compost, and jobs are created.

VOTE ON MOTION TO APPROVE THE CONDITIONAL USE PERMIT CU2022-002 TO EXPAND THE MARIJUANA CULTIVATION FACILITY, INDOOR LARGE, ON LOT 1 FOX CREEK SUBDIVISION, WITH THREE (3) CONDITIONS AND ADOPTING THE STAFF REPORT AND THREE (3) AMENDED FINDINGS OF FACT IN SUPPORT OF THE APPROVAL.

Yeses: Guinn, McComas-Roe, Fletcher, Fisher, Muehling, Koester, Kenna, Perreault

Noes: None

MOTION CARRIED 8 Yeses, 0 Noes

CU2022-002 CONDITIONS OF APPROVAL

1. Prior to the commencement of a Marijuana Cultivation Facility, Indoor Large, 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 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.
2. The vehicle circulation area as shown in Attachment 1 shall remain unobstructed to ensure that emergency vehicles have adequate access to the facility.
3. If any modifications are made to the site plan, floor plans, narrative or other FNSB required documents or operational characteristics which were submitted on July 7, 2021, the applicant or holder of this conditional use permit shall submit revised documents to the FNSB Community Planning Department. If

CU2022-002 CONDITIONS OF APPROVAL – continued

substantial modifications are made to the conditional use, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050(D).

CU2022-002 FINDINGS OF FACT IN SUPPORT OF THE APPROVAL

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes because:
 - a. The proposed use meets the regulations for commercial marijuana establishments per FNSBC 18.96.240.
 - b. The proposed conditional use is consistent with the 'Outskirt Area' comprehensive plan land use designation because the closest single-family residence to the existing structure is more than 200 feet away and will occur in a building where the cultivation activities are obscured from public view.
 - c. Land Use Goal 1, Strategy 2 supports this proposal to “work for community end goals with a minimum impact and disruption of individual private property rights” by expanding the existing enclosed structure which obscures cultivation activities instead of adding another type of structure that is more visible to the public.
 - d. Economic Development Goal 1 supports this proposal to “strengthen and expand the existing economy” by increasing the marijuana cultivation production will add three additional employees to the existing cultivation facility.
 - e. Land Use Goal 4 supports this proposal to “enhance development opportunities while minimizing land use conflicts” by only increasing the number of vehicular traffic for the three additional employees and one additional water delivery each week.
2. There are adequate existing sewage capacities, transportation facilities, energy and water supplies, and other public services to serve the proposed conditional use:
 - a. The subject property will have water delivered to the site three times a week.
 - b. The subject property is served by the Steese Fire Department for emergency fire response.
 - c. The subject property has adequate power supply because it is served by the GVEA grid.

CU2022-002 FINDINGS OF FACT IN SUPPORT OF THE APPROVAL – continued

- d. The subject property is served by the Alaska State Troopers for law enforcement.
 - e. There are 12 parking spaces shown on the site plan which is enough for the employees.
3. The proposed conditional use protects public health, safety, and welfare because the property complies with Title 18 standards for the GU-1 zone (FNSBC 18.84) and commercial marijuana establishments (FNSBC 18.96.240) as well as with other applicable land use related laws.
- a. Odor from the proposed use is not expected be noticeable from outside of the facility, since the structure will utilize carbon filters, which will be regularly replaced to ensure odor control.
 - b. The Elliott Highway is a major arterial that is maintained by the Alaska Department of Transportation.
 - c. On June 4, 2019, the Steese Fire Department inspected the site and determined that there was adequate access for their emergency apparatus.

EXCUSE FUTURE ABSENCES

Commissioner Muehling is excused for the October 12, 2021 meeting and Commissioner Fletcher may have possible future absences.

COMMISSIONER'S COMMENTS/COMMUNICATIONS

Commissioner Fletcher reminded everyone to get out and vote.

Chair Perreault encouraged the Commission to feel free to speak up when it is time to make a motion.

ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:10 p.m.

APPROVED: October 26, 2021