



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

May 24, 2018

Green Leaf, Inc.  
Aaron Bean, CEO  
PO Box 464  
Sitka, AK 99835

RE: Notice of Alleged Violations of Restrictions or Conditions

Dear Mr. Bean,

As Chief Executive Officer for Greenleaf, Incorporated as applicant for the conditional use permits, the Planning and Community Development Department is contacting you regarding the following conditional use permits (CUP) issued to Green Leaf, Inc. and Connor and Valorie Nelson as owners of the land, pursuant to Article VII of Title 22 (Sitka General Code, Section 22.30.250 - attached)

- CUP 16-14 – Marijuana Cultivation at 4614 Halibut Point Road (HPR)
- CUP 16-31 – Marijuana Retail at 4612 HPR
- CUP 17-12 – Expansion of Marijuana Cultivation at 4614 HPR
- A copy of the conditions of approval for the above mentioned CUPs are attached

The Department has received complaints that the operations listed above are in violation of the conditional use permit conditions of approval, particularly those conditions pertaining to parking requirements, waste-water, and odor control as follows:

- May 15, 2018 complaint regarding parking at 4612 HPR
- May 17, 2018 complaint regarding odor at 4614 HPR
- May 21, 2018 complaint regarding odor at 4614 HPR
- In addition, there have been general complaints that waste-water is being released directly into the driveway instead of into the sewer system.

The attached conditions of approval give the specific language the permit holder(s) must comply with. Please note the following is only meant as a summary to assist you in meeting the conditions of approval:

- The applicant shall provide a parking plan that complies with Section 22.20.100 for all uses present and proposed at the current property including striped parking spaces where practical.
- Odor control shall include charcoal filters and other best means to limit and mitigate odor impacts to surrounding uses. Should a meritorious odor complaint be received the

Planning Commission may require additional odor control measures to mitigate any actual negative impacts.

- The Planning Commission or Planning Director may, at its discretion and upon receiving meritorious evidence of negative impacts to public, health, safety, and welfare, schedule a review to address issues of concern and pursue mitigation through additional conditions if necessary.
  - Waste-water shall be emptied into the sewer system and not deposited directly into the street or driveway

Please respond with a written response to these concerns within no less than ten (10) and no more than thirty (30) days, a report stating what measures have been taken, or are proposed to be taken, to correct or control the conditions outlined in the notice. Feel free to contact the Department at 747-1815 if you have questions.

Additionally, the Planning Director is requesting to inspect the operations and property on June 4<sup>th</sup>, 2018 at 3:00pm.

Thank you,



Michael Scarcelli, Director  
Planning and Community Development Department

Attachments:

1. Planning Commission Minutes – May 17, 2016, November 16, 2016, and April 18, 2017
2. Sitka General Code 22.30.250
3. Parking Plan

CC: Connor and Valorie Nelson, Owners and CUP Holders  
Paul and Lamoyne Smith  
Keith Brady, Municipal Administrator  
Brian Hanson, Municipal Attorney  
Chair Spivey, Planning Commission





# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

May 24, 2018

Connor and Valorie Nelson  
PO Box 2094  
Sitka, AK 99835

RE: Notice of Alleged Violations of Restrictions or Conditions

Dear Mr. and Mrs. Nelson,

As owners of the land and signatory on the conditional use permits, the Planning and Community Development Department is contacting you regarding the following conditional use permits (CUP) issued to Green Leaf, Inc. and Connor and Valorie Nelson as owners of the land, pursuant to Article VII of Title 22 (Sitka General Code, Section 22.30.250 - attached)

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- **The applicant shall provide a parking plan that complies with Section 22.20.100 for all uses present and proposed at the current property including striped parking spaces where practical.**
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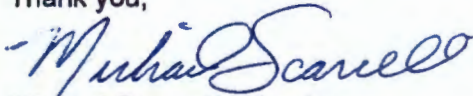
Planning Commission may require additional odor control measures to mitigate any actual negative impacts.

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Additionally, the Planning Director is requesting to inspect the operations and property on June 4<sup>th</sup>, 2018 at 3:00pm.

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Michael Scarcelli, Director  
Planning and Community Development Department

Attachments:

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3. Parking Plan

CC: Aaron Bean, CEO, Greenleaf, Inc.  
Paul and Lamoyne Smith  
Keith Brady, Municipal Administrator  
Brian Hanson, Municipal Attorney  
Chair Spivey, Planning Commission



Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit

8. Applicant shall provide a Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including striped parking spaces where feasible (i.e. concrete or asphalt areas).

9. Odor Control shall include charcoal filters and other best means to limit and mitigate odor impacts to surrounding uses. Should a meritorious odor complaint be received the Planning Commission may require additional odor control measures to mitigate any actual negative impacts.

10. The proposed cultivation site shall not be located within 500 feet of any school grounds, recreation or youth center, religious service building, or correctional facility that was legally established prior to approval of this conditional use permit as intended by licensing restriction and regulations of the state in 3 AAC Chapter 306.

11. This permit only conditionally approved the use of cultivation; however, at the same time, all legally vested uses operating within Units O and P must comply with all pertinent state and local regulations, licenses, and permits to remain valid.

12. The Planning Commission may, at its discretion and upon receiving meritorious evidence of negative impacts to public health, safety, and welfare, schedule a review to address issues of concern and pursue mitigation through additional conditions if necessary.

Motion PASSED 5-0.

L

Public hearing and consideration of a conditional use permit request for marijuana cultivation at 4614 Halibut Point Road, in the C-2 general commercial and mobile home zone. The property is also known as Lot 3 of Carlson Resubdivision. The request is filed by Green Leaf, Inc. The owners of record are Connor K. Nelson and Valerie L. Nelson.

Scarcelli explained the request for a cultivation facility. The applicant has worked with staff to mitigate staff concerns. Cultivation tends to have lower traffic than other manufacturing uses. Staff have received public comment about noise from the fans; however, the property is commercially zoned. The applicant has proposed extensive ventilation. Staff recommends approval.

Aaron Bean asked that the application be amended to list Green Leaf, Inc. as the applicant. Spivey asked if the applicant plans to do retail in the future. Bean stated that he hopes to eventually do retail on a different lot at the same site. Spivey thanked the applicant for the thorough application.

Hughey/Pohlman moved to APPROVE the required findings.

Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of the proposed conditional use permit will not:
  - a. Be detrimental to the public health, safety, and general welfare;
  - b. Adversely affect the established character of the surrounding vicinity; nor
  - c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives, and policies of the comprehensive plan and any implementing regulation.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.
4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety, and welfare of the community from such hazard.
5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.
6. Burden of Proof. The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

The city may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest. The general approval criteria are as follows:

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

**Specific Guidance from 22.24 on Findings for Marijuana Uses**

Findings of Fact: Upon review and considerations of the required criteria, the Planning Commission shall determine whether the proposed use(s) at the proposed project location are found to not present a negative impact to the public's health, safety, and welfare.

1. If such a finding can be made, then the proposed use shall be approved with standard regulations, dimensions, and setbacks.



2. In the alternative, where the Planning Commission finds negative impacts are present, the Planning Commission shall only approve conditional use permits where the negative impacts can be adequately mitigated by conditions of approval that preserve the public's health, safety, and welfare. These conditions of approval shall be case by case specific and in addition to the standard regulations.

3. If negative impacts to the public's health, safety, and welfare cannot be mitigated through conditions of approval then the Planning Commission shall so find and deny the proposed conditional use permit.

Motion PASSED 5-0.

Hughey/Parker Song moved to APPROVE approve the conditional use permit request filed by Green Leaf, Inc. for marijuana cultivation at 4614 Halibut Point Road, in the C 2 General Commercial and Mobile Home zone, subject to conditions of approval. The property is also known as Lot 3 of Carlson Resubdivision. The owners of record are Connor K. Nelson and Valerie L. Nelson.

Conditions of Approval:

1. Owners, operators, and staff of conditional uses shall comply with all state and municipal licensing regulations.
2. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal Building Official.
3. All licensed manufacturing and cultivation uses shall provide a fire safety plan, material handling plan, and comply with all fire safety regulations that satisfies the Fire Marshal or their designee and the Building Official.
4. All licensed facilities and/or uses shall provide screening from public view of any marijuana related commercial, retail, cultivation, or manufacturing use.
5. All licensed facilities and/or uses shall establish an active sales account and business registration with the Municipality and shall comply with all standard & required accounting practices.
6. It shall be a standard regulation that all conditional uses comply with all applicable state regulations and licensing laws or it shall be deemed to abandon and extinguish and associated municipal license or conditional use permit.
7. All approved Conditional use permits shall comply with all Sitka General Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit
8. Applicant shall provide a Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including striped parking spaces where practical.
9. Odor Control shall include charcoal filters and other best means to limit and mitigate odor impacts to surrounding uses. Should a meritorious odor complaint be received the Planning Commission may require additional odor control measures to mitigate any actual negative impacts.
10. The proposed cultivation site shall not be located within 500 feet of any school grounds, recreation or youth center, religious service building, or correctional facility that was legally established prior to approval of this conditional use permit as intended by licensing restriction and regulations of the state in 3 AAC Chapter 306.
11. The Planning Commission may, at its discretion and upon receiving

meritorious evidence of negative impacts to public health, safety, and welfare, schedule a review to address issues of concern and pursue mitigation through additional conditions if necessary.

**Motion PASSED 5-0.**

**M**

Public hearing and consideration of a conditional use permit request for marijuana retail at 205 Harbor Drive, in the central business district. The property is also known as Lot 1 Van Winkle Subdivision. The request is filed by Mary Magnuson. The owners of record are Frank and Mary Magnuson.

Scarcelli reviewed the request. The ultimate decision about possible buffer zone issues would be determined by the state AMCO office. Staff recommends that the commission postpone the request to a later meeting so more information can be provided. Windsor asked if a postponement would "foul up" the process for the applicant. Scarcelli stated that he understands that the state is postponing some of their previously advertised dates. Spivey asked if staff have reached out to request additional information, and Scarcelli stated that he and Pierson had both been in touch with the applicant, requested additional information, and the applicant indicated that she would provide more information. Pohlman stated concern for proximity to the Lutheran Church.

Mary Magnuson stated that operations will be according to state regulations. Magnuson stated that she has difficulty luring her potential tenant before a permit is granted. The property has been retail in the past, and will be some sort of retail in the future. Magnuson stated that she believes her application is adequate. The building is already sprinkled and fire alarmed, has "tremendous" ventilation, and will have approximately 16 security cameras. Magnuson stated that she does not see the need to delay the request. Windsor asked if the applicant had plans for a smoking room, and Magnuson said no.

Margie Esquiro stated concern for the proximity to sensitive uses, and the city can be more stringent than the state.

Joe D'Arienzo stated that this is one of the only available sites in the central business district due to sensitive uses.

Scarcelli read a letter from Susan Jensen, in opposition to the proposal.

Windsor asked what would happen if the conditional use permit was granted but the state license was denied. Scarcelli stated that until a state license is granted, the conditional use permit is not activated. Hughey asked what would be required for staff to view the application as complete. Scarcelli stated that the ordinance pulls state regulations into municipal requirements, so the city can enforce issues as they arise; therefore, the planning department would like to receive the same information that is submitted to the state, including security, diversion, floor plan, and overall detailed plans. Parker Song asked if another retail would be analyzed to this extent. Bosak stated that uses that are conditional are analyzed by the framework in code.

Pohlman stated that community concerns have been raised, so she would like to see the lessee and his/her plans in full detail. Spivey stated that a conditional use requires detailed plans.



wasting. Residential and undeveloped properties are adjacent. Windsor asked if there are plans for further development of Davidoff Street. Bosak stated that there are no such plans at this time. Staff recommend postponement until a geotechnical analysis can be conducted. Hughey stated that a vacation of the street could result in a safer placement for the proposed house. Spivey asked if the vacation is feasible. Scarcelli stated that he does not want to speculate, but the applicant could pursue the process if he wishes.

Sam Smith stated that this is one of the last few undeveloped view lots in town. Smith stated that test holes have been dug. Smith stated that he is pursuing quotes for geotechnical analysis. Smith stated that he believes the geotechnical analysis is in the purview of the Building Department, and if he built within the setbacks he would not be going through the Planning Commission process. Parmelee asked about the engineer, and Smith stated that he is working with Ryan Wilson. Parmelee stated confidence in Wilson's work. Smith stated that he plans to buy the lot and build on it for himself. Hughey asked if Smith is interested in vacating the right of way, and Smith stated that he didn't believe the adjacent owner would be interested. Hughey asked about the time frame. Smith stated that he would like to develop in the spring. Smith stated that he would work on attaining the geotechnical analysis. Scarcelli stated that the Building Department will require a geotechnical analysis regardless of the variance process.

Conner Nelson stated that the landslide was not a natural slide, so he does not believe a geotechnical analysis will help.

Spivey stated that geotechnical is under Building's purview, but would help in making the variance decision. Parmelee stated his preference to approve with the condition of approval that the geotechnical analysis meets Building's requirements. Spivey asked if the commissioners believe that they have enough information to make a decision. Parmelee stated that no neighbors have submitted comments. Windsor asked if Hughey has a conflict of interest with the Sitka Community Land Trust because of the organization's property. Hughey stated that he does not believe he has a direct conflict of interest. Bosak stated that it is the board's job to consider public health, safety, and welfare.

Hughey/Parmelee moved to POSTPONE until geotechnical analysis is completed and submitted.

Motion PASSED 4-0.

Public hearing and consideration of a conditional use permit request for marijuana retail at 4612 Halibut Point Road, in the C-2 general commercial and mobile home zone. The property is also known as Lot 1 of Wyatt-Cox Resubdivision #2. The request is filed by Aaron Bean for Green Leaf, Inc. The owners of record are Connor K. Nelson and Valerie L. Nelson.

Scarcelli clarified the applicant and address for the record. The commission granted a permit for marijuana cultivation at 4614 Halibut Point Road. The proposed retail would be in an under-construction structure at 4612 Halibut Point Road. The property is not within 500 feet of sensitive uses. This new industry can be expected to bring revenue to the community. Staff recommend approval. Spivey clarified if staff support approval without a parking plan.

Scarcelli stated that he believes the property will have enough parking, and a plan is a condition of approval. Parmelee stated that he has not known there to be parking issues in the vicinity.

Eric Van Cise and Conner Nelson represented the application. Nelson stated that there is a lot of parking on site. Nelson stated interest in buying some of the state right-of-way for parking in the future. Spivey stated that the packet is thorough. Parmelee asked about parking. Nelson and Scarcelli stated that parking seems to be available. Windsor asked about on-site consumption. Van Cise stated that there is a consumption area indicated on the second story with retail on the first story.

Spivey asked to clarify if parking can be a condition of approval. Scarcelli stated yes. Windsor stated that he believes it's a good idea.

Windsor/Hughey moved to APPROVE findings that there are no negative impacts present that have not been adequately mitigated by the attached conditions of approval.

Motion PASSED 4-0.

Windsor/Hughey moved to APPROVE the conditional use permit request filed by Green Leaf, Inc. for marijuana retail at 4612 Halibut Point Road, in the C 2 General Commercial and Mobile Home zone subject to the attached conditions of approval. The property is also known as Lot 1 of Wyatt-Cox Resubdivision #2. The owners of record are Connor K. Nelson and Valerie L. Nelson.

Conditions of Approval:

1. Owners, operators, and staff of conditional uses shall comply with all state and municipal licensing regulations.
2. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal building official.
3. All licensed manufacturing and cultivation uses shall provide a fire safety plan, material handling plan, and comply with all fire safety regulations that satisfy the fire marshal or their designee and the building official.
4. All licensed facilities and/or uses shall provide screening from public view of any marijuana related commercial, retail, cultivation, or manufacturing use.
5. All licensed facilities and/or uses shall establish an active sales account and business registration with the municipality and shall comply with all standard and required accounting practices.
6. It shall be a standard regulation that all conditional uses comply with all applicable state regulations and licensing laws or it shall be deemed to abandon and extinguish any associated municipal license or conditional use permit.
7. All approved conditional use permits shall comply with all of the Sitka General Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit.
8. Applicant shall provide a Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including striped parking spaces where practical.
9. Odor Control shall include charcoal filters and other best means to limit and mitigate odor impacts to surrounding uses. Should a meritorious odor complaint be received the Planning Commission may require additional odor control measures to mitigate any actual negative impacts.
10. The proposed retail site shall not be located within 500 feet of any school



grounds, recreation or youth center, religious service building, or correctional facility that was legally established prior to approval of this conditional use permit as intended by licensing restriction and regulations of the state in 3 AAC Chapter 306.

11. The applicant shall provide the Planning Commission with a report after one year of operation.

12. The Planning Commission or Planning Department shall be able to schedule a hearing to resolve any issues, impacts, or review conditions of approval related to meritorious issues connected to the Public's health, safety, and welfare.

13. Hours of Operation shall comply with the submitted application.

**Motion PASSED 4-0.**

**J**

Public hearing and consideration of a variance request for 503 Shennet Street. The request is for the reduction of the front setback from 20 feet to 5 feet and substandard parking for the construction of a house. The property is also known as Lot 3 Block A Sirstad Addition No. 2. The request is filed by Justin Olbrych. The owner of record is Jonathan Kreiss-Tomkins.

Pierson explained the request. The applicant seeks to construct a home on this undeveloped parcel. The parcel is wetlands. Shennet Street is not fully developed, and only 503 and 504 Shennet Street use this street for access. The applicant seeks a 5 foot front setback and to provide no parking on the lot. The applicant proposes to park on an undeveloped portion of the street, and intends to seek an encroachment permit from the municipal Public Works Department. The variances would help to preserve the wetlands environment by reducing required fill on the lot. Staff recommend approval.

Jonathan Kreiss-Tomkins stated that Shennet Street is 40 feet wide. The road is built toward the 504 Shennet Street side. The driveway shown in packet photos is all on the city's property. The intent is to park on the undeveloped city property rather than filling in the wetlands. Kreiss-Tomkins clarified that the structure would be approximately 30 feet from the actual street. Hughey asked if there are other access points to the BIHA property at the end of Shennet Street. Kreiss-Tomkins states that he believes there are several access points to the large parcel. Hughey asked if parking could be developed if Shennet is fully developed. Kreiss-Tomkins stated that it is possible to dump gravel in, and he is willing to take appropriate steps if any encroachment permits are revoked.

Spivey stated that he would not necessarily classify Shennet Street as a street. Spivey stated that he is typically uncomfortable with 5 foot setbacks. Scarcelli clarified that BIHA owns the large parcel. Bosak and Hughey stated that the lot has multiple access points. Hughey stated that he wishes he could see the whole plan for the property. Bosak stated that the variance could be approved apart from the conditional use permit for the accessory dwelling unit. Spivey stated that he is not convinced that a setback variance is needed.

Kreiss-Tomkins apologized for the quality of the drawings. He stated that he can kayak the property after a rain event, and the entire parcel is considered wetlands. The house will be built on piers. Kreiss-Tomkins stated that the placement with the requested variance would provide space between an existing structure to the rear. Windsor stated that it seems the structure could

Michelle Cleaver for Weed Dudes. The owner of record is Eagle Bay Inn, LLC.

Scarcelli described the location and tenants of the structure. Marijuana retail was approved for the site and is currently operating. The request is for a marijuana consumption lounge. The state regulating board continues to postpone approval of guidelines for consumption lounges. Tourist season is near and tourists may not otherwise have a legal place to consume marijuana. Scarcelli stated that he has not heard back from the Municipal Attorney. Scarcelli stated that he does not recommend moving forward until he can discuss the matter with the Municipal Attorney. Scarcelli recommends to postpone the item to the next meeting.

Michelle Cleaver stated that she is trying to do the responsible thing and mitigate marijuana nuisances. Cleaver stated that Seattle is currently experiencing problems with people smoking in public, and she is concerned that tourists will smoke in our parks and on our sidewalks. Cleaver stated that the draft state regulations identify the maximum amount that people can consume on-site. Cleaver stated that a bud tender will monitor consumption levels, and she is considering a shuttle back to town. Scarcelli stated appreciation for Mrs. Cleaver's proactive approach to addressing on-site consumption issues. Scarcelli stated that in his correspondence with the state regulatory office, he has critiqued the slow process. Scarcelli stated he is willing to approve the applicant's building permit prior to conditional use permit approval if she is willing to accept the risk.

Scarcelli read a letter from Gary Smith, who was concerned for exhaust and impacts on the neighborhood.

Windsor/Pohlman moved to POSTPONE this request until the state promulgates rules.

Motion PASSED 5-0.

BREAK 8:08-8:15

J CUP 17-12

Public hearing and consideration of a major amendment to a conditional use permit for marijuana cultivation at 4614 Halibut Point Road. The property is also known as Lot 3 Carlson Resubdivision. The request is filed by Aaron Bean for Green Leaf, Inc. The owners of record are Connor and Valorie Nelson.

Spivey stated that he has a business relationship with the property owner but receives no financial gain.

Scarcelli stated that this is a major amendment to an approved marijuana cultivation facility in order to add additional floor space for cultivation. The property has access via easement. Scarcelli stated that staff are not aware of any sensitive uses in the buffer area. Scarcelli stated that staff have not observed odor to be an issue. Green Leaf has two separate conditional use permits, one for cultivation and one for retail. Any future amendment to the retail conditional use permit, such as for on-site consumption, would require Planning Commission approval. Further, any addition to the cultivation conditional use permit would require Planning Commission approval. Staff



recommend approval of the major amendment.

Aaron Bean, owner of Green Leaf, came forward. Bean stated that the additional square footage would be 1000 square feet.

No public comment.

Hughey/Windsor moved to APPROVE findings that the zoning code has been followed, that the comprehensive plan has consulted, and that there are no negative impacts present that have not been adequately mitigated by the attached conditions of approval for the proposed major amendment to the existing marijuana cultivation conditional use.

Motion PASSED 5-0.

Hughey/Windsor moved to APPROVE the major amendment to the existing marijuana cultivation conditional use permit request filed by Aaron Bean at 4614 Halibut Point Road, in the C-2 General Commercial and Mobile Home zone. The property is also known as Lot 3 of Carlson Resubdivision. The owners of record are Connor K. Nelson and Valorie L. Nelson.

Conditions of Approval:

1. Owners, operators, and staff of conditional uses shall comply with all state and municipal licensing regulations.
2. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal Building Official.
3. All licensed manufacturing and cultivation uses shall provide a fire safety plan, material handling plan, and comply with all fire safety regulations that satisfies the Fire Marshal or their designee and the Building Official.
4. All licensed facilities and/or uses shall provide screening from public view of any marijuana related commercial, retail, cultivation, or manufacturing use.
5. All licensed facilities and/or uses shall establish an active sales account and business registration with the Municipality and shall comply with all standard & required accounting practices.
6. It shall be a standard regulation that all conditional uses comply with all applicable state regulations and licensing laws or it shall be deemed to abandon and extinguish and associated municipal license or conditional use permit.
7. All approved conditional use permits shall comply with all Sitka General Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit
8. Applicant shall provide a Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including striped parking spaces where feasible (i.e. concrete or asphalt areas).
9. Odor Control shall include reasonable best means (such as high quality Commercial HEPA filter or HVAC systems) to limit and mitigate odor impacts to surrounding uses. Should a meritorious odor complaint be received, the Planning Commission may require additional odor control measures to mitigate any actual negative impacts.
10. The proposed cultivation site shall not be located within 500 feet of any school grounds, recreation or youth center, religious service building, or correctional facility that was legally established prior to approval of this conditional use permit as intended by licensing restriction and regulations of the state in 3 AAC Chapter 306.

11. The permittee shall report, annually, to the planning commission on gross sales, sales tax amounts, complaints, police or other law or regulation enforcement activity, and summary of operations.

12. The permit is subject to review should there be a meritorious complaint, impact to public health safety or welfare, or violation of a condition of approval. The review may occur at the discretion of the Planning Director or by motion of the Planning Commission to address meritorious issues or complaints that may arise. During this review, based on the evidence provided, existing code and conditions of approval, the permit may be amended or revoked to address impacts to public health, safety, and welfare.

Motion PASSED 5-0.

K CUP 17-07

Public hearing and consideration of a conditional use permit request for a short-term rental at 112 Toivo Circle. The property is also known as Lot 7 Fleming Subdivision. The request is filed by John and Alison Dunlap. The owners of record are John and Alison Dunlap.

Pierson described the request. The applicants' intent is to rent out their 3 bedroom 3 bathroom single-family house until it is sold, although conditional use permits run with the land. Neighbors have raised concerns for bears, parking, and neighborhood impacts. Pierson stated that these concerns can be mitigated with conditions of approval, and staff recommend approval. Scarcelli stated that conditional uses are to be approved if there are not impacts or if impacts can be mitigated. Scarcelli stated that concerns for parking and bears have been brought up before for other properties and staff have created more strict conditions of approval in response. Scarcelli stated that if the conditions of approval are violated, staff would revoke the permit or issue warning when appropriate. Pohlman and Windsor asked about placing a condition of approval that the permit will expire when the property is sold. Scarcelli stated that staff are looking into sunset clauses, but it appears that Alaska errs on the side of private property rights.

John and Alison Dunlap came forward to represent their request. They have lived in the home since 2001 and are selling it since they are empty nesters and now live on a boat. John stated that the house has been on the market for 9 months and they would like to get some income until the house is sold. Alison stated that they intend to use VRBO and will have an outside housecleaner. Alison stated that it will be much quieter with a renter versus their large family.

Bruce White and Suzanne Shea stated that they live across from the applicant and have concerns. White stated that when they bought the house that the neighborhood could include vacation rentals. White stated that the neighborhood is a small area, and someone recently blocked him in his driveway. White has concerns for the neighborhood, dust, and congestion. White stated concerns for enforcement of conditions and management of trash. White stated he is here for the long-term but the short-term rental could impact resale of his house. Shea is concerned for the precedent for converting a residential property to commercial. Shea stated that she bought her house with the understanding that it is in a residential neighborhood.

Pierson read a letter of support from John Hardwick.

Morrison stated that he lives next door at 114 Toivo and stated that he shares some of the same concerns as Bruce White. Three other houses are not



• **22.30.250 Violation of restrictions or conditions.**

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A. When it is determined by the planning department (department) that a person is violating or is about to violate a provision of a permit, or a term or condition of a permit issued by the municipality under this section, the department will notify the person of its determination by personal service or certified mail.

B. The recipient of the determination must file with the department, no less than ten days and no more than thirty days, a report stating what measures have been and are being taken, or are proposed to be taken, to correct or control the conditions outlined in the notice.

C. After the report is filed under subsection B of this section or the time period specified for it has elapsed, the department will issue a compliance order or a report. A copy of the compliance order shall be served personally or sent by certified mail to the person affected. A compliance order is effective upon receipt.

D. Within ten days after receipt the recipient may request a hearing before the assembly to review the compliance order. Failure to request a hearing within ten days after the receipt of a compliance order constitutes a waiver of the recipient's right of review.

E. The assembly may hold a hearing within forty-five days after receipt of a request under subsection D of this section. The assembly shall rescind, modify or affirm the compliance order. If the compliance order is modified or affirmed, it shall take effect at the time determined by the assembly. Any appeal shall be filed in superior court within thirty days, and there shall not be any stays in effect during the interim.

F. The city attorney may seek enforcement of a compliance order.

(Ord. 03-1746 § 4 (part), 2003; Ord. 02-1683 § 4 (part), 2002.)

[illegible]

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JUL 25 2005  
CBS BLDG DEPT

OFF-STREET PARKING		1	10	STANDARD PARKING SPACES
		1	10	SPACES
		1	10	STANDARD PARKING SPACES
		1	10	SPACES
TOTAL OFF-STREET PARKING SPACES		13	11	
ON STREET PARKING SPACES		1	0	

