




City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

MEMORANDUM

To: Mayor Hunter and Members of the Assembly
Keith Brady, Municipal Administrator

From: Michael Scarcelli, Planning and Community Development Department Director 

CC: Department Directors

Subject: Consideration of State License for a Marijuana Cultivation Facility at 120 Jarvis Street, Unit C for Fiberflite

Date: January 12, 2018

Background: On September 19, 2017, the Planning Commission unanimously approved (4-0) the conditional use permit for a marijuana cultivation facility at 120 Jarvis Street, Unit C, which is in an Industrial zoning district (minutes attached). The approval included 7 standard conditions that incorporate a variety of state and local regulations and protections. In addition, it included 7 additional conditions of approval that require specific annual reporting, a review should there be any meritorious complaints, and more detailed review of security plans.

This specific request is from the state inquiring of whether CBS supports the applicant's request for a state license. Due to the fact that the municipality has regulated this use and the applicant is currently complying with all regulations and conditions of approval, the Planning Department has no objections and recommends support for the state license.

Staff will continue to monitor all conditions of approval and any meritorious complaints.

Fiscal Impact: Such business requires staff time to review, which has a cost. Current planning fees do not cover the cost of review; however, from annual reports of other like businesses, the positive contributions of these businesses to job creation, sales tax, and electrical usage are quite positive and far outweighs any increased costs to administer.

Recommendation: Support the applicant's state license for a marijuana cultivation facility at 120 Jarvis Street, Unit C.



CITY AND BOROUGH OF SITKA

Minutes - Final

Planning Commission

Chris Spivey, Chair
Darrell Windsor, Vice Chair
Randy Hughey
Richard Parmelee
Taylor Colvin

Tuesday, September 19, 2017

7:00 PM

Harrigan Centennial Hall

I. CALL TO ORDER AND ROLL CALL

Acting Chair Windsor called the meeting to order at 7:00 PM.

Present: Darrell Windsor (Vice Chair), Dick Parmelee, Randy Hughey, Taylor Colvin, Michael Scarcelli (Planning & Community Development Director & *ex-officio*)

Absent: Chris Spivey (Chair, excused), Kevin Knox (Assembly Liaison, excused)

Members of the Public: Darren Phillips and Matt Phillips

II. CONSIDERATION OF THE AGENDA

Director Michael Scarcelli indicated that item C was pulled from the agenda. Scarcelli briefly reviewed the reasons for the zoning map amendment, and the Historic Preservation Commission's recent recommendation to postpone to allow further discussion with property owners including the Russian Orthodox and Lutheran Churches as well as the decedent's descendants, the tribe and native community, and any interested parties. Scarcelli indicated staff would work on this at bring it back at a later time.

III. CONSIDERATION OF THE MINUTES

A PM-31 Approval of the September 5, 2017 meeting minutes.

Parmelee/Hughey moved to APPROVE the September 5, 2017 meeting minutes. Motion PASSED 4-0.

IV. PERSONS TO BE HEARD

No public comment.

V. PLANNING DIRECTOR'S REPORT

MISC 17-28

Director's Report - September 19.

Scarcelli reviewed the attached short-term rental (STR) quarterly report and also discussed the past economic trends of rising rents and decreasing vacancies. The quarterly report showed specific quantified increases in STR.

VI. THE EVENING BUSINESS**C** ZA 17-02

PULLED - Public hearing and consideration of a zoning map amendment request for 215 Marine Street and 207 Princess Way, currently zoned R-1 single-family and duplex residential district. The properties are also known as Lot 1A Russian Orthodox Cemetery - Mathews Lot Line Adjustment and Lot 1 Lutheran Cemetery Lot Line Adjustment. The request is filed by City and Borough of Sitka Community Affairs Department. The owners of record are Diocese of Sitka and Alaska, Orthodox Church in America and Lutheran Church Corporation of Sitka, Alaska.

D CUP 17-20

Public hearing and consideration of a conditional use permit request for a marijuana cultivation facility at 120 C Jarvis Street, zoned Industrial. The property is also known as Lot 2A Sitka Projects Subdivision Lot 1 and Lot 2 Lot Line Adjustment. The request is filed by Darren Phillips for Fiberflite. The owner of record is Baranof Investments LLC.

STAFF REPORT: Scarcelli introduced a summary of the key issues, concerns, and topics for discussion including the conditional use of a marijuana cultivation business in the industrial zone, the impacts of odor and the need for an odor control plan, security concerns and the need for the Sitka Police Department to review security plans, an amended waste water disposal plan, and a code compliant parking plan.

Scarcelli then went through the application and supporting materials. The maps were first reviewed to identify location, zone, surrounding land uses, and access. The site plan and parking plan were presented and shown as presently inadequate due to substandard size. The as-built was presented to show the access and the minimal issue of cut-through traffic. The floor plans and side perspectives depicted the floor area and nature of the interior structure within unit C. Plats were also briefly reviewed, showing the easements and lot sizes. Extensive pictures of the entire building and also the interior of the unit and internal structure were reviewed. The Alaska Marijuana Control Board application was cited and summarized. The HVAC details were reviewed, and Scarcelli noted that this level of HVAC detail and design will most likely alleviate odor issues, but more detail in the form of an Odor Control Plan is needed and recommended conditions of approval require this. The plan should include how they will monitor odor, will they have extra filters, what will be their maintenance schedule, how they will address power outages, and whatever specific steps they will take to reduce odor impacts and also prevent similar odor issues that have occurred at other locations.

Notice at state and local level was reviewed.

The wiring and electrical consumption was presented. Annual electrical costs are estimated to be approximately \$74,000.

Scarcelli reviewed staff's analysis from the staff report. It was noted that the staff report contained an error in regards to parking requirements, which the applicant will have to meet. The report stated, "1 space was required per employee", and should have stated "per 3 employees." Scarcelli also indicated the parking plan would have to be revised and include the proper number of spaces, a loading zone, and the correct dimensions of 9' x 18' that shall include the uses and parking of the entire building, not just unit C.

Scarcelli responded to Commissioner Hughey's concern regarding compatibility between industrial and adjacent residential uses. Scarcelli discussed noise and odor impacts. It was noted that note 3 of the industrial use tables limits "noxious" impacts, but what is noxious in a residential zone is different than what is noxious in an industrial zone. Regardless, noise was not likely an impact, but odor could be and as such approval was conditioned upon odor control mitigation features and submission of a revised odor control plan.

Staff identified the very limited potential for cut-through via the access easements between Jarvis and Smith Streets.

Traffic impacts on the lot was identified as a potential negative impact. However, Scarcelli indicated a revised and code compliant parking plan would mitigate those concerns.

EMS, Fire, and Police response was discussed. The location was within 1.16 miles of the Fire and Police Department. In addition, as a condition of approval requires that the SPD review the applicant's security plan.

The southern residential uses were discussed. The buffer of trees and distance between structures would aid in mitigating noise and odor concerns.

Staff read the findings of the written staff report verbatim.

Staff made the formal recommendations of approval and the proposed conditions of approval as found in the written staff report, with one exception: Scarcelli noted a slight edit to a condition number 9 that needed to add "in any heat."

APPLICANT: Darren Phillips indicated he would correct the odor plan and address how to respond to a power outage and other staff concerns regarding parking, odor, security, and wastewater. Phillips mentioned he had spoken with Tony Bird of the electrical department indicating upgrades have occurred and the system is adequate and more upgrades to the electrical system are planned.

COMMISSIONER DELIBERATION: Commissioners discussed the potential impacts between the proposed industrial uses and adjacent residential uses,

discussed odor impacts, asked questions on the electrical system, and gave input that wastewater could be emptied into sewer. The commissioners agreed that the odor issues would be adequately addressed in an amended odor control plan, and that the additional conditions for a SPD reviewed security plan, amended parking plan, and revised wastewater disposal plan would be sufficient to address those associated impacts.

PUBLIC COMMENT: None.

COMMISSIONER DELIBERATION: None.

FINDINGS: Scarcelli read the recommended findings verbatim from the written staff report.

Hughey/Parmelee 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 marijuana cultivation conditional use. Motion **PASSED 4-0**.

Hughey/Parmelee moved to **APPROVE** the conditional use permit request for a marijuana cultivation facility at 120 Jarvis Street Unit C in an Industrial zone subject to the attached conditions of approval. The property is also known as Lot 2A Sitka Projects Subdivision Lot 1 and Lot 2 Lot Line Adjustment. The request is filed by Darren Phillips. The owner of record is Baranof Investments. Motion **PASSED 4-0**.

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 revised Parking Plan that complies with Section 22.20.100 for all uses present and proposed at the current property including number of required parking and loading spaces to be approved by the Planning Director.
9. Odor Control shall include reasonable best means that include, but are not limited to inline carbon filters within HVAC, inline carbon filters in any heat and odor exhaust systems, to limit and mitigate odor impacts to surrounding

uses and industrial park employees. Should a meritorious odor complaint be received, the Planning Commission may require additional odor control measures to mitigate any actual negative impacts, such as additional advanced odor filtration systems. Applicant shall provide an amended and detailed odor mitigation plan that includes, but is not limited to type of filters, plan for detecting and mitigating odors, plan for identifying impacts to residents and mitigations measures, location, schedule or maintenance, and other odor control measures.

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, electrical consumption, number of employees, hours of operation, 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.

13. Prior to operation, the Sitka Police Department shall approve the security features as being reasonable security measures as outlined in the proposed operating plan submitted by applicant.

14. The applicant shall provide a revised plan for the disposal of waste and wastewater, excess solution, and chemical fertilizers, and other chemicals used.

VII. ADJOURNMENT

Acting Chair Windsor moved to ADJOURN at 7:30 PM. Motion PASSED 4-0.

ATTEST: _____
Michael Scarcelli, Acting Secretary