



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Planning and Community Development Department

AGENDA ITEM J: Conditional Use Permit for Marijuana Cultivation Facility at 1210 Beardslee Way

Case No: CU 17-08
Proposal: Marijuana Product Manufacturing Facility and MJ Product Mfg. Fac., Extract only
Applicant: Justin Brown for AKO Farms, LLC
Owner: Martin Enterprises, Inc.
Location: 1210 Beardslee Way
Legal Desc.: Lot 1B Mick's Resubdivision
Zone: I – Industrial District
Size: Lot approx. 17,957 s.f.; Proposed Building: 7,500 s.f.
Parcel ID: 30360000
Existing Use: Industrial and Marijuana Cultivation CUP
Adjacent Use: Industrial and Heavy Commercial
Utilities: Available
Access: Price Street and Smith Street to Beardslee. Direct access off of Beardslee

KEY POINTS AND CONCERNS:

- Odor: impacts from odor due to location are less of concern. Carbon filters, negative pressure system, and masking agents will be used to mitigate impacts as conditions of approval. Site visit in June 2018 observed little to no smell emanating from exhaust vents on peak of roof. Excellent odor control at this facility by design.
- Security: the security includes the state tracking system (METRC), alarms, motion detectors, surveillance, and other means to minimize diversion, theft, crime, and other impacts as conditions of approval.
- Waste management is in accord with state license and also local regulations and procedures.
- On site traffic circulation and parking is not a concern due to existing access and parking areas.
- No known sensitive uses within 500 feet.
- Existing building was built to spec for cultivation and is state-of-the-art.
- Any concerns that come in during operation may be revisited through discretionary review.
- Annual report required.
- No other concerns about location or use outside of standard conditions.

RECOMMENDATION: Approve the conditional use permit subject to the attached conditions of approval.

ATTACHMENTS

- A. Application
- B. Vicinity Map
- C. Floor Plan (both floors)

BACKGROUND/PROJECT DESCRIPTION

The proposal is for a “marijuana product manufacturing facility” and a “marijuana product manufacturing facility, extract only”¹ in an Industrial Zoning District (I) located at 1210 Beardslee Way. Therefore, the proposed use is subject to receiving a conditional use permit (CUP) to be able to operate subject to section 22.24.026. There is already an approved CUP for the property for cultivation (CUP 17-08) and that also received a state license as well. That CUP appears to be in full compliance with local and state law. The existing CUP and proposed CUP uses will be looked at holistically. Recommended conditions of approval will incorporate past approval and add specific conditions that address manufacturing. Note: our code defines, per state definition, the following two distinct manufacturing uses: 1) marijuana product manufacturing facility; and 2) marijuana product manufacturing facility, extract only. This recommendation treats them the same. The applicant’s prime use will be for concentrates.

The grow operation is located on two floors and the structure is 50 feet by 75 feet for a total gross floor area of approx. 7,500 s.f.. On the first floor there are external stairs/landing; 4 enclosed rooms for budding; 2 bathrooms; mechanical room; and the proposed concentrate room for the proposed manufacturing CUP; on the second floor there is one large veg room; bathroom, dressing/locker room; process area; ante room; office; secured area; 4 separate drying rooms; 5 separate lung rooms; and cloning room.

ANALYSIS

1. CRITERIA TO BE USED IN DETERMINING THE IMPACT OF CONDITIONAL USES.²

a. Amount of vehicular traffic to be generated and impacts of the traffic on nearby land uses:

Using a study from Boulder, Colorado, for marijuana cultivation, the average trip rate for cultivation was about 6.97 trips per 1,000 square feet per day. Average peak parking was about 6 spaces in the highest hour and day. There was correlation between square footage and trip rates for cultivation. Manufacturing would be comparative in parking and traffic demands.

Staff believes the traffic that will be generated will be able to be handled by the existing road ways, access, and property layout. In addition, Cultivation and manufacturing do not appear to create high traffic peak demand per hour nor per day that exceeds the existing road system and layout.

¹ § 22.08.587 C

² § 22.24.010.E

b. Amount of noise to be generated and its impacts on surrounding land use:

There is no objective analysis regarding noise. Subjectively, cultivation and manufacturing processes for marijuana products would not appear to create any noise impacts to an industrial area. In reviewing other planning analysis of such marijuana cultivation uses, staff found no concerns about noise impacts in commercial zones.

c. Odors to be generated by the use and their impacts: Odors are a concern, but in this case have been

There is difficulty ascertaining the quantitative, objective impact of marijuana odor. Subjectively, some may like the odor – whether as an odor alone or compared to other noxious odors that may be found in commercial and industrial areas. State regulations identify under section 3 AAC 306.420 (F) Odor Control under the operating plan that each applicant must submit to the state Alcohol and Marijuana Control Office (AMCO). In addition, Section 3 AAC 306.430 (C)(2) states, “Does not emit an odor that is detectable by the public from outside the marijuana cultivation facility except as allowed by a local government conditional use permit process.”[Staff has highlighted for emphasis].

Therefore, it appears prudent to condition a high level of odor control, but recognize absolute elimination may not be feasible, practical, or necessary depending upon surrounding land use. State regulations give the locality the option to regulate odor accordingly.

In this case, odor has been handled extremely well and does not appear to be a issue at all. Conditions of approval will require exhaust filtration.

d. Hours of operation: Staff views a grow operation as a 24 hour non-stop operation. Plants and their respective grow systems do not stop operating when people leave the building. Monitoring systems continue to run, plants grow, pumps and fans operate, etc.

e. Location along a major or collector street: Located between Price and Smith Street with direct access off of Beardslee Way.

f. Potential for users or clients to access the site through residential areas or substandard street creating a cut through traffic scenario: not a concern.

g. Effects on vehicular and pedestrian safety: Due to industrial nature, access, parking, and traffic circulation (e.g. entrance, exit) shall be clearly marked to avoid impacts to vehicular and pedestrian safety.

h. Ability of the police, fire, and EMS personnel to respond to emergency calls on the site: Part of the operating plan will include emergency access and lock box for EMS use. Due to operating plan and regulations, emergency access may be better than average use. Positive impact only.

i. Logic of the internal traffic layout: Property has proper layout; however, parking, access, and traffic patterns shall be clearly marked.

j. Effects of signage on nearby uses: None anticipated.

k. Presence of existing or proposed buffers on the site or immediately adjacent the site: not of concern.

l. Relationship if the proposed conditional use is in a specific location to the goals, policies, and objectives of the comprehensive plan: In the economic chapter, the goal is to support local business, attract new sustainable businesses, and supporting efforts that keep resident's money local. This proposal would be a new type of business. No other a marijuana manufacturing occurs in the locality though such products are sold here. Therefore, this proposal would help keep more spent money local. In addition, this proposal would meet the economic chapter's objective to leverage natural and municipal assets through utilizing local renewable energy, creating a new industry, and supporting existing and growing businesses. Furthermore, as a manufacturing business, this proposal would be in line with the action item to support growth of manufacturing businesses.

m. Other criteria that surface through public comments or planning commission review

1. Any impact or criteria that surfaces through public comment, planning staff review, or planning commission review.³

Safety: Building Safety is being reviewed by the Building Department and shall be governed by Conditions of Approval:

Parking: Per section 22.20.100, the applicant shall provide parking in compliance with code. Staff has analyzed the use and parking studies done in Boulder, Colorado using industry standard traffic engineering calculations, observations, and models and concluded that peak parking demand would not exceed 6 spaces within an hour. Staff has applied Section 22.20.100(G)(13) for industrial and manufacturing uses, which staff believes is most similar to cultivation. This section has a formula and options. Due to the nature of the establishment, staff will apply the portion of subsection (G)(13) that requires one parking space per 3 employees.

- Though applicant can meet parking requirements, a condition will require the applicant to provide an updated parking and traffic circulation plan as well as clearly mark entrance, exit, parking, and loading areas.
- It is concluded that the parking as shown on the applicant's site plan of 9 parking spaces and one loading area is sufficient to fulfill requirements.

Marijuana 500 Foot Buffers

The state requires a 500 foot buffer from sensitive uses that include educational facilities, recreational centers, youth centers, churches, or correctional facilities. This is measured in different ways. Educational, recreation center, and youth center type uses are measured from the public entrance of the marijuana establishment to the outer boundary of the sensitive use by the shortest pedestrian route (determined by

³ §22.24.026(D)(2)

State AMCO Board); or 2) from the public entrance of the marijuana establishment to the main public entrance of the religious or correctional facility measured by the shortest pedestrian route (determined by State AMCO Board).

- There are no state regulated sensitive uses that staff is aware of per site visit. However, this is conditioned to comply with state buffers and burden is upon applicant.

C. 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: ⁴

Sitka General Code Section 22.30.160.C lays out the necessary findings, criteria for analysis, and example of mitigation conditions of approval. To sum, it must be found that as conditioned or modified that there are not any material negative impacts to public health, safety, welfare that includes things such as impacts to infrastructure or adjacent structures or uses and that the approval complies with all applicable code and comprehensive plan policies and rules. Further, marijuana uses have specific findings they must meet. In essence, the required findings are the same type of factual determination with simplified language.

Specific Guidance from 22.24 on Findings for Marijuana Uses⁵

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.

RECOMMENDATION

It is recommended that the Planning Commission adopt the staff's analysis and required findings as found in the staff report and approve the conditional use permit subject to the attached conditions of approval.

⁴ § 22.30.160.C – Required Findings for Conditional Use Permits

⁵ §22.24.026(E)

Recommended Motions: (two motions - read and voted upon separately)

- 1) I move to find that there are no negative impacts present that have not been adequately mitigated by the attached conditions of approval (supports approval).
- 2) I move to approve the conditional use permit request filed by Justin Brown for AKO Farms, LLC for a “marijuana product manufacturing facility” and a “marijuana product manufacturing facility, extract only” at 1210 Beardslee Way, in the Industrial zoning district subject to the 13 attached conditions of approval. The property is also known as Lot 1B Mick’s Resubdivision. The owner of record is Martin Enterprises, Inc.

Required Standard Conditions of Approval:⁶

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

Additional Recommended Conditions

8. **Applicant shall provide a Parking and traffic circulation plan.**
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 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**

⁶ §22.24.026(C)

intended by licensing restriction and regulations of the state in 3 AAC Chapter 306. The burden of complying with this condition is upon the applicant.

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.
13. All concentrate extraction shall use a fume hood or other vacuum control and filtration feature to make all extraction processes and work areas free from any solvent, medium, fluid, or exhaust that would be noxious to workers or the general public. In addition, safety monitoring sensors, such as propane/butane sensors or other applicable sensors, shall be utilized in and around the extraction room to warn if there is a leak or rise in noxious exhaust/fumes.