



CITY AND BOROUGH OF SITKA

A COAST GUARD CITY

Planning and Community Development Department

AGENDA ITEM

Case No: CUP 26-02
Proposal: Marijuana Retail Facility
Applicant: Michelle Jones (dba The Joint)
Owner: Edward and Joyce Martin Joint Living Trust
Location: 327 Seward Street
Legal: Lot Two-B (2-B), Block Two (2), Swan Creek Subdivision
Zone: CBD Central Business District
Size: 25,330 square feet
Parcel ID: 1-0901-000
Existing Use: Commercial
Adjacent Use: Residential, Commercial
Utilities: Existing
Access: Seward Street, Lake Street

KEY POINTS AND CONCERNS

- Proposed retail marijuana facility
- Located in the CBD central business district
- AMCO permit pending

ATTACHMENTS

Attachment A: Aerial
Attachment B: Plat
Attachment C: As-built
Attachment D: Floor Plan
Attachment E: Site/Parking Plan
Attachment F: Photos
Attachment G: AMCO Application
Attachment H: Applicant Materials

BACKGROUND/PROJECT DESCRIPTION

The applicant has proposed a marijuana retail facility located at 327 Seward Street in the CBD central business district. The proposal is for 183 square foot (SF) retail space to contain an entrance area, a sales counter, display cabinet, office space, bathroom, and a drive-through window with a drive-through that varies in width from 15-22' located on the west side of the building. Local approval through such processes as conditional use permits is a prerequisite for AMCO licensing/endorsements. The parcel is 25,330 SF; existing uses include two cafes, three restaurants, and an office space. All uses are located within the same building, which has a footprint of 11,203 SF.

ANALYSIS

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

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

An increase in traffic is to be expected by adding retail operations on the property. However, the retail space to be used has previously served as a retail store. Further, the lot is located in the CBD where moderate to high traffic is expected.

b. Amount of noise to be generated and its impacts on surrounding land use: Retail marijuana operations do not appear to create any more noise impacts than any other retail uses. Moderate levels of noise are expected in the CBD.

c. Odors to be generated by the use and their impacts: Odor is a concern with marijuana uses. Retail sales, while not as impactful as cultivations, can still have odors associated with them. Of greater concern regarding odor would be use of products purchased at this facility once customers have left; customers (particularly cruise visitors to Sitka who do not have a private location to consume purchased products) may consume purchased products in open and/or public spaces near the site. Staff have added a condition of approval for the applicant to place signage inside the facility to instruct clients on local and state regulations regarding legal areas for consumption.

If the commission wished to see additional conditions to mitigate this concern, an (albeit strict/stringent) option could be to prohibit the sale of packaged flower or pre-rolled joints during daytime hours in the visitor season. If the commission wishes to impose this condition, staff recommends setting particular hours for this limitation of sale, and potentially to consider it be based on the number of cruise passengers in town on a given day.

d. Hours of operation: Proposed hours of operation are 8am to 9pm, seven days a week.

¹ § 22.25.010.E

e. Location along a major or collector street: Access is from Seward Street, a collector street, as well as from Lake Street through 209 Lake Street.

f. Potential for users or clients to access the site through residential areas or substandard street creating a cut-through traffic scenario: There are multiple ways to access Seward Street. Most users will access via Lake Street, a major arterial street but users could access via Lincon Street or Marine Street to Seward Street all of which are collector streets.

g. Effects on vehicular and pedestrian safety: Minimal to moderate increases in vehicular and pedestrian traffic are expected — area is commercial in nature, and heavy traffic is expected. There is no pedestrian sidewalk leading to the proposed storefront, but pedestrian traffic is currently accommodated to the café on the same side of the building (Highliner Coffee) via the drive-thru from Lake Street, or by a sidewalk on the north side of the building connecting to the parking lot on Seward Street. Of particular concern are visitors wishing to access the retail facility who may come in significant numbers and will not be familiar with the uniqueness of the building's orientation and access points; Staff have added a condition of approval to place directional signage in the Seward Street parking lot to direct pedestrians to the north sidewalk, and that the applicant work with (or at least demonstrate best efforts to work with) Google Maps to identify the Seward Street parking lot and north sidewalk as the designated pedestrian route to access the retail facility. Please see additional considerations under "Logic of the internal traffic layout" regarding the proposed drive-thru window.

h. Ability of the police, fire, and EMS personnel to respond to emergency calls on the site: Site is accessible by police, fire, and EMS response. Security system will be installed as required by AMCO.

i. Logic of the internal traffic layout: No parking is required in the CBD. Staff counted 21 parking spaces in the Seward Street parking lot including one handicap spot, and 7 parking spaces in the west (via Lake Street driveway) lot. There is a pedestrian pathway (sidewalk) located between the building and 203 Lake Street. The driveway from Lake Street serves as Highliner's drive-thru and access to the west parking lot.

The applicant has proposed a drive-thru window located on the southwest corner of the building, utilizing the Lake Street driveway. The driveway is approximately 17' wide; staff have observed the use of the two driving lanes striped in the driveway – the inner lane is used by vehicles queuing for the Highliner drive-thru window, and the outer lane is used for passing vehicles accessing the parking lot. The driveway is very narrow for two driving lanes; passing vehicles can get by queued vehicles (if the latter are close enough to the fence that runs along 203 Lake Street – recent striping of the driveway appears to be largely effective in encouraging these drivers do so) but must do so slowly and often must fold-in sideview mirrors. This arrangement presents collision risks between vehicles using the parking lane, and those backing out of parking spaces (particularly the first parking spot immediately available from the driveway).

The introduction of another drive-thru window along the driveway for this facility poses challenges; vehicle queues for the existing Highliner window, at peak times, can extend to (and sometimes over) the Lake Street sidewalk. It is likely that many drivers wishing to use this facility's drive-thru window would use the passing lane to then realign in the parking lot to get to the proposed window; given the frequency of this occurrence already, this may be a workable/acceptable arrangement. Further, this would also likely occur even if there wasn't a drive-thru window for this facility, as some vehicles would use it to get to the parking lot. However, planning staff have concerns about the safety of vehicles leaving the parking lot or Highliner drive-thru passing vehicles at, or queued for, this facility's drive-thru window. With vehicles at or queued for this window, parked vehicles will have approximately 15' of space (past the parking spot) to reverse and turn left to use the driveway's exit route that runs along the south side of the building; this is inadequate for larger vehicles (passenger trucks generally range from approx. 16-20' in length, and SUVs generally range from approx.. 15-18' in length) to egress parking spaces without a multiple-point turn. Larger commercial vehicles, such as those that deliver supplies to Highliner, may not be able to pass vehicles at this drive-thru window if there are vehicles parked in the last spot in the row. These potential issues regarding vehicle passing and egress, coupled with potentially high pedestrian use in the summer months, leave planning staff with significant safety concerns with the proposed drive-thru window.

In her pre-application meeting with planning staff, the applicant indicated that the drive-thru window would be a valuable, but not critical, component of the proposal. Staff recommends either not approving this part of the proposal, or allowing it subject to approval by the CBS Engineering division. It is possible that with a combination of signage, limitations on vehicle queuing numbers, and/or elimination of parking spaces, that a safe drive-thru could be designed (though compliance with the former two provisions would be difficult to monitor/enforce).

j. Effects of signage on nearby uses: Signage is subject to AMCO limitations. The applicant has proposed exterior signage with the business name/logo and required AMCO regulatory signage.

k. Presence of existing or proposed buffers on the site or immediately adjacent the site: Site has a steep grade change, vegetation, and a fence adjacent to 325 and 319 Seward Street, and chain link fencing separating it from 209 and 203 Lake Street. No additional buffers are proposed.

l. Relationship if the proposed conditional use is in a specific location to the goals, policies, and objectives of the comprehensive plan: This proposal conforms to the chapter of Economic Development that supports local businesses, attracts new sustainable businesses, supports tourism, and supports effort and enterprises that keep residents' money "local". It also supports Economic Development Action ED 6.7: *Support growth of manufacturing businesses that add value to sustainably developed natural resources*; by providing a retail outlet for locally manufactured (or those produced within the State).

m. Other criteria that surface through public comments or planning commission review:
None.

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 State AMCO Board); or 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 are aware of in the 500-foot buffer area when measured during our site visit. However, this is conditioned to comply with State's determined buffers and burden rests upon the applicant.

RECOMMENDATION

Staff recommends approval of the conditional use permit request for a marijuana retail facility at 327 Seward Street, less inclusion of the drive-thru window, subject to the conditions of approval.

CONDITIONS OF APPROVAL

1. The facility shall be operated consistent with the plans submitted and described by the applicant.
2. Signage inside the facility instructing clients on local and state regulations regarding legal areas for consumption shall be provided during all times of operation.
3. Prior to permit activation, the applicant shall install signage in the building's Seward Street parking lot visible from the Seward Street sidewalk directing pedestrians to use the building's north sidewalk to access the facility. Further, the applicant shall also work with, or demonstrate best efforts to work with, Google Maps to identify the Seward Street parking lot and north sidewalk as the designated pedestrian route to the facility.
4. The applicant shall comply at all times with all state and municipal regulations pertaining to licensing, zoning, other permitting, construction, and fire/life/safety.
5. The applicant shall provide screening from public view of activities inside the facility.
6. The applicant, or their employees/agents, shall establish an active sales account and business registration with the municipality and shall comply with all standard and required accounting, reporting, and tax remission practices.
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. The Planning Commission or Planning Department can, at any time, schedule a hearing to

resolve issues or impacts; add or change conditions of approval; or revoke the permit upon receipt of meritorious complaint or compliance issues raised and documented by state or municipal staff.

9. Failure to comply with any conditions of approval may result in permit revocation.

Motions in favor of approval

1. **“I move to approve the conditional use permit for a marijuana retail facility at 327 Seward Street in the CBD central business district subject to the attached conditions of approval. The property is also known as Lot Two-B (2-B), Block Two (2), Swan Creek Subdivision. The request is filed by Michelle Jones. The owner of record is the Edward and Joyce Martin Joint Living Trust.”**
2. **“I move to adopt and approve the required findings for conditional use permits as listed in the staff report.”**
 1. The granting of the proposed conditional use permit will not:
 - a. Be detrimental to the public health, safety, and general welfare *because the application is compliant with local and state regulations regarding the protection of public health, safety, and welfare including restriction of minors from entering the site, installation/operation of a security system, appropriate signage in/on the building and product packaging, and screening of the retail area from public view;*
 - b. Adversely affect the established character of the surrounding vicinity *because the proposed commercial use is consistent with the use and character of the neighboring properties and the intent of the zoning district in which the property is located;* 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; *because the property will be heavily monitored and regulated to ensure that the use does not negatively impact surrounding properties. The proposed hours of operation are reasonable to prevent late evening and early morning disturbances in the surrounding vicinity.*
 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 *because it promotes economic development by providing an opportunity for entrepreneurship, supports local business, and supports sustainable local manufacturing; particularly ED 6.7.*
 3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced *because the property will be monitored to ensure that there are no resulting negative impacts, especially through required state licensing and reporting, and through opportunities for redress to the Planning Department and/or Planning Commission if reports of negative impacts arise.*
 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 *due to the intensive local and state regulatory requirements related to marijuana establishments that allow for strict application and enforcement of mitigations.*

5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services as the property is adequately served by a serviceable right-of-way, is accessible by emergency services, and utility infrastructure in the area can support the conditional use as determined through applicable municipal permitting; *there are adequate public facilities such as utilities and streets in the area that can support the additional use.*
6. The applicant has met their burden of proof that the use meets all of the evaluation criteria for conditional uses. *The applicant has met the burden of proof to demonstrate that the use is appropriate for the zoning district, fits with the character of the surrounding area, and not hazardous or detrimental to the surrounding area through submission of their conditional use permit application, AMCO license applications, and additional supporting documentation.*