

**IN THE MATTER OF THE CONDITIONAL USE PERMIT )  
APPLICATION OF ERIC VANVEEN )  
FOR A MARIJUANA CULTIVATION FACILITY )  
AT LOT 6 SMITH STREET INDUSTRIAL SUBDIVISION )**

*Findings of Fact and Decision* - Page 1 of 3

Colvin/Windsor moved to adopt staff's finding in the written report and find 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.

Colvin/Windsor moved to approve the conditional use permit for a marijuana cultivation facility at 224 Smith Street in the Industrial zoning district. The property is also known as Lot 6 Smith Street Industrial Subdivision. The request is filed by Eric VanVeen. The owners of record are George and Steven Skannes.

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 number of required parking and loading spaces to be approved by the Planning Director. Spaces shall include 3 parking space for employees and one loading zone for the cultivation use, and one space for every 400 square feet of industrial use (outboard).
9. The applicant must provide more detail for an Odor Control Plan to be submitted and approved by the Planning Director prior to issuance of any occupancy permit.
  - a. Odor Control shall include reasonable best means that include, but are not limited to inline carbon filters within HVAC, inline carbon filters for any heat and odor exhaust systems, to limit and mitigate odor impacts to surrounding uses and industrial park employees. The project must comply with the submitted odor control plan and odor control features. 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.
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 and security plan submitted by applicant.

14. The use shall comply with all applicable deed reservations, conditions, restrictions, limitations or exceptions.

Motion passed 4-0.

- b. Adversely affect the established character of the surrounding vicinity specifically, the Central Business District is an area designated for a wide range of commerce; 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, specifically, waste products will be handled in accordance with municipal utility programs;
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, specifically, conforms to Comprehensive Plan Section 2.2.1 which emphasizes supporting “economic activities which contribute to a stable, long-term, local economic base” by allowing for an economic enterprise that simultaneously provides workforce development.
3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced, specifically that the Planning Commission may review the permit at any time upon receipt of meritorious complaint.

Motion passed 4-0.

Hughey/Windsor moved to approve the conditional use permit application for a food truck/outdoor restaurant at 331 Lincoln Street. The property is also known as a fractional portion of Tract J US Survey 404 subject to the attached conditions of approval. The request is filed by Youth Advocates of Sitka. The owner of record is Christopher Bowen.

Conditions of Approval:

1. All required permits, including but not limited to DEC Food Safety and Sanitation, shall
2. Operations shall not obstruct safe access to the theater entrance and shall not obstruct sidewalk passage.
3. The facility shall be operated consistent with the application, narrative, and plans that were submitted with the request.
4. The Planning Commission, at its discretion and upon receipt of meritorious complaint, may schedule a public hearing at any time for the purpose of resolving issues with the request and mitigating adverse impacts on nearby properties.
5. The Planning Commission authorizes greater flexibility for hours of operation beyond the hours outlined in the application.

Motion passed 4-0.

**H**

**CUP 18-05**

Public hearing and consideration of a conditional use permit for a marijuana cultivation facility at 224 Smith Street in the I Industrial District. The property is also known as Lot 6 Smith Street Industrial Subdivision. The request is filed by Eric VanVeen. The owners of record are George and Steven Skannes.

Scarcelli described the request and project site. The granted setback variance creates difficulty for establishing adequate parking. Scarcelli discussed the definition of “recreational uses” and the commission’s role in determining a sensitive use. In this case, that the ‘recreational uses’ in the vicinity did not equate to state protected “sensitive uses” and therefore not subject to the state 500 foot buffer; however, the Commission could decide that such recreation uses are not compatible with the proposed use and rule against the proposed use based upon disharmony of uses and impacts to public health safety and welfare. The property is zoned industrial. Scarcelli showed interior and exterior photos and floor plans. Scarcelli stated that conditions of approval require additional information regarding odor, waste, and security. Windsor stated that the parking pads shown in the photos aren’t actually parking pads but

access into the building.

Eric VanVeen stated he can do further work on the parking plan. VanVeen stated that he will have five employees. VanVeen stated that his engineer will have more odor plan details available soon. Hughey asked about the growing tension of growing development and federal intervention. VanVeen stated that it's dangerous but it's a booming business and he doesn't believe the federal government will intervene.

John McGraw stated that he lives 300 feet away from this building and is concerned for odor. McGraw stated that other operations are causing odors and he's concerned for concentrating these businesses in one area. Scarcelli stated that applicants must keep a log book of daily odor checks and he encourages applicants exceed the minimum filtration. McGraw stated concern for parking, and Scarcelli clarified that parking is a condition of approval. Hughey stated that the commission wants to hear input from neighbors, as this is a new industry. Spivey stated that the applicant has to prove that they can handle the responsibility of the conditional use permit.

Michelle Cleaver stated that she owns Weed Dudes. Cleaver stated that Alaska's Attorney General has vowed to protect legal marijuana enterprises and go after black market marijuana.

Spivey stated that it's a good idea to note the location and density of marijuana enterprises. Spivey stated that there have been times that he's detected odors in the neighborhood. Windsor asked what happens with the conditional use permit is revoked. Scarcelli stated that it is important to explore the reasons behind condition violations and offer an opportunity to correct prior to permit revocation if possible.

**Colvin/Windsor moved to adopt staff's finding in the written report and find 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.**

**Colvin/Windsor moved to approve the conditional use permit for a marijuana cultivation facility at 224 Smith Street in the Industrial zoning district. The property is also known as Lot 6 Smith Street Industrial Subdivision. The request is filed by Eric VanVeen. The owners of record are George and Steven Skannes.**

**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 number of required parking and loading spaces to be approved by the Planning Director. Spaces shall include 3 parking space for employees and one loading zone for the cultivation use, and one space for every 400 square feet of industrial use (outboard).

9. The applicant must provide more detail for an Odor Control Plan to be submitted and approved by the Planning Director prior to issuance of any occupancy permit.

a. Odor Control shall include reasonable best means that include, but are not limited to inline carbon filters within HVAC, inline carbon filters for any heat and odor exhaust systems, to limit and mitigate odor impacts to surrounding uses and industrial park employees. The project must comply with the submitted odor control plan and odor control features. 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.

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 and security plan submitted by applicant.

14. The use shall comply with all applicable deed reservations, conditions, restrictions, limitations or exceptions.

Motion passed 4-0.

BREAK 8:15 - 8:23

I [CUP 17-25](#)

Public hearing and consideration of a conditional use permit for a marijuana cultivation facility at 202 Smith Street for RTW, LLC in the C-2 General Commercial Mobile Home District. The property is also known as Lot 8 Sitka Projects Subdivision. The request is filed by Ronald T. Waldron. The owner of record is RTW, LLC.



# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

## Planning and Community Development Department

Case No: CU 18-05  
Proposal: Marijuana Cultivation Facility  
Applicant: Eric VanVeen  
Owner: George and Steven Skannes  
Location: 224 Smith Street, Units D&E  
Legal Desc.: Lot 6 Smith Street Industrial Subdivision  
Zone: Industrial zoning district (I)  
Size: approx. 15,723 square feet  
Parcel ID: 3-0350-006  
Existing Use: Industrial/Commercial – Outboard Motors  
Adjacent Use: Industrial, Commercial  
Utilities: Existing  
Access: Via Smith Street and Beardslee Way

### **KEY POINTS AND CONCERNS:**

- Setbacks: existing building and site received a variance to reduce Smith Street setback to 10 feet in 2004. This creates potential parking impact. Parking Plan will need to be amended to meet code. While a challenge, not a problem to overcome it.
- Odor: a more detailed Odor Control Plan is needed (this can be a condition subsequent).
- Security: security will be checked by police prior to occupancy.
- Waste: a waste plan has been provided that is adequate.
- Recreational uses within 500 feet do not meet state definition to be considered a protected “sensitive use.”

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

### ATTACHMENTS:

- |                          |                         |
|--------------------------|-------------------------|
| I. Staff Material        | b. AMCO Application     |
| a. Maps                  | c. Narrative and Plans  |
| b. Comments              | d. Site Plan            |
| II. Applicant’s Material | e. Floor Plan           |
| a. CBS Application       | f. Other Detailed Plans |
|                          | g. Pictures             |

## **BACKGROUND/PROJECT DESCRIPTION**

The proposal is for a conditional use permit for a marijuana cultivation facility located at 224 Smith Street, Units D & E, which is in an Industrial Zoning District (I). This zone requires a conditional use permit<sup>1</sup> pursuant to SGC 22.24.026 for a marijuana cultivation facility in an I zone.<sup>2</sup>

The request is to utilize an existing building that is used for light to medium level commercial use (Outboard Motors). The proposal would occupy a 40' x 50' portion of a 125' x 50' existing building. The proposal is for 2 floors for total net floor area of approximately 2,784 s.f. The first floor would occupy approximately 1,920 s.f. and the second floor would occupy approximately 864 s.f. The first floor would contain a flower room, two work rooms, storage, stairs, and restrooms; and the second floor would contain a veg room and stairs.

The area is primarily heavy commercial and industrial in nature. Though there are residential uses approximately 407 feet from the proposed location. In addition, a recreation (sports) use is within about 500 linear feet.

## **STAFF ANALYSIS**

All review shall include standard application requirements as other conditional use permits. Review shall use specific criteria that are applicable to determine impact analysis, whether conditions of approval can mitigate negative impacts, and if there are remaining impacts that have not been mitigated by the proposed conditions. The criteria for analysis shall include all criteria in SGC 22.24.010(E)(1) and any impact or criteria that surfaces through public comment, planning staff review, or planning commission review.<sup>3</sup>

Findings of fact shall also be made in compliance with SGC.<sup>4</sup> If approved, standard conditions as well as any additional conditions required to mitigate adverse impacts shall be required.

### **ANALYSIS (The following analysis via the criteria is required by code)**

#### **1. CRITERIA TO BE USED IN DETERMINING THE IMPACT OF CONDITIONAL USES<sup>5</sup>.**

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

Using observation and modeling, 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

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<sup>1</sup> SGC Table 22.16.015-5 CUP required for Industrial zone for Marijuana cultivation facility.

<sup>2</sup> SGC 22.08.587(C): "Marijuana cultivation facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers."

<sup>3</sup> SGC 22.24.026(D)[staff note: Criteria for Review].

<sup>4</sup> Findings of Fact for Marijuana conditional use permits at SGC 22.24.026.E. (and in general 22.30.160.C.).

<sup>5</sup> Criteria for Analysis prescribed by code at SGC 22.24.026.D



correlation between square footage and trip rates for cultivation. The proposed space is approximately 2,784 square feet. The applicant proposed up to 5 full time employees.

In addition, cultivation does not appear to create high traffic peak demand per hour nor per day that exceeds the existing road system and layout. Parking will need a revised updated parking plan that meets SGC 22.20.100.G.13.

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

There is no objective analysis regarding noise. Subjectively, cultivation use would not appear to create any noise impacts any more than other industrial or commercial uses. Moreover, cultivation is not a major noise generator. The proposed interior self-contained unit will eliminate much of the noise related to fans and exhaust. Odor mitigating conditions, such as a sealed HVAC or air scrubbing system will also help eliminate any noise issues via sealing of vents, etc.

**c. Odors to be generated by the use and their impacts:** Odors are a major concern. State regulations and City conditions of approval require odor mitigation via high-grade commercial filtration such as inline carbon filtration within any HVAC and inline carbon filters for any heat and air exhaust systems (air scrubbing outside of HVAC system). Additional HEPA filtration systems may be required if carbon filtration is not effective. Some odors may be expected in an industrial and heavy commercial zone. However, according to note 3 of Table 22.16.015-5, “no industrial use shall be of a nature, which is noxious or injurious to nearby properties by reason.

Applicant proposes to strategically use climate control, air filtration, ventilation, and exhaust. Staff will require a more detailed Odor Control Plan as a conditions of approval.

**d. Hours of operation:** Shall be allowed to fullest extent allowable by zoning. Due to the character of the commercial area and the characteristics of a cultivation operation, staff does not see hours of operation generating an adverse impact.

**e. Location along a major or collector street:** Smith street is accessed off of Sawmill Creek Road. The site has direct access from Smith Street. In addition, the location can also be accessed via Beardslee Way. No anticipated adverse impacts due to low trip volumes of proposed use and adequacy of surrounding road, driveway, access, and parking features.

**f. Potential for users or clients to access the site through residential areas or substandard street creating a cut through traffic scenario:** Proposed use is in an existing building. The use itself will not create or alter any access.

**g. Effects on vehicular and pedestrian safety:** Use, parking, and existing roads and access appear adequate;

**h. Ability of the police, fire, and EMS personnel to respond to emergency calls on the site:** The site is located off of Sawmill Creek Road and Smith Street, which is approximately 1.44 miles away from the fire department and police department. Part of the operating plan will include emergency access. Due to operating plan and regulations, emergency access may be better than average use. In addition, attached security and electronic monitoring system will reduce emergency notification time for emergencies. Positive impact only.

**i. Logic of the internal traffic layout:** Property has extensive space and traffic areas. Parking plan has been submitted that shows 4 dedicated spaces, which exceed code requirements.

**j. Effects of signage on nearby uses:** Any signs will need to comply with Sitka General Code and State of Alaska requirements.

**k. Presence of existing or proposed buffers on the site or immediately adjacent the site:** The site has substandard setbacks and was granted a variance in 2004 reducing the Smith Street front setback to 10 feet. This can be problematic in regards to parking. Parking would not be able to technically fit on-site without encroaching into the Smith Street ROW. Therefore, the lot is constrained from providing parking in the front of the building without trespassing or violating existing parking code, unless angled or parallel parking was utilized.

**l. Relationship of the proposed conditional use to the goals, policies, and objectives of the comprehensive plan:** There are many goals, policies, and objectives that this proposal could fall under, these include but are not limited to: 2.1.2 economic growth, 2.1.3 foster quality family life (condition to protect these), 2.1.10 diverse and vital local job base, 2.1.13 diversified industry and utilizing Sitka's resources for best return on investment (renewable electricity), 2.2.1 economic base, 2.2.3 produce high quality goods, 2.2.5 protect health and welfare of community (through conditions), 2.2.10 respect social and community values (70% support recreational marijuana), 2.3.6 focus on waste water and watershed protection (through conditions and operating plan), 2.4.1 orderly use, 2.4.4 resolve conflicts of use through public process, and 2.6.2 commercial development without substantial negative impacts (through conditions and regulations). Overall, the conditional approval with appropriate conditions and default state regulations appears to offer the best economic development by providing jobs, tax revenue, utilizations of electricity that has extra supply, comports with existing community values, and creates harmony of use for the area.

Some of the positive impacts include increasing jobs directly and indirectly through on-site employees, contractors for building and business design, sale tax revenue, tourism incentives, and sale of electricity. Potential negative impacts are adequately mitigated through stringent state regulations incorporated into the municipal conditional use permit via security protocols, tracking system, diversion protocols, camera and security features, odor control, other means.

**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.**

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

1. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal Building Official.
2. 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.

Planning staff do have a security concern and it is conditioned that the Sitka Police Department opine whether they feel the security features and final building improvements adequately present reasonable security for the intended use as a condition of approval.

In addition, all public, health and safety has been adequately addressed, as conditioned, with the operating plan and proposed conditions regarding security, odor control, waste management, and other conditions. Emergency access, security, and diversion programs have all addressed any other potential safety concerns.

**Parking:** Per section 22.20.100(G)(13), the applicant shall provide parking in compliance with code of one space per every 3 employees. In addition, a specific loading area shall be designated and marked. Though applicant can meet parking requirements, a condition will require the applicant to provide an updated parking plan showing existing parking that is one site and within the lots dimensions. All uses, including the outboard and cultivation use would have to provide the required parking (1 space per 400 sf of floor area for outboard use aka industrial). Staff believe this can be easily accomplished with a revised parking plan.

Waste Water – Staff have consulted with industry experts for cultivation and waste water and there are no anticipated impacts to the current wastewater treatment facility. Applicant has provided an operational plan that addresses this topic.

### **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. The state defines a “recreation of youth center” as meaning a building, structure, athletic playing field or playground (A) run or created by a municipality or the state to provide athletic, recreational, or leisure activities for minors; or (B) operated by a public or private organization licensed to provide shelter, training, or guidance for minors.<sup>6</sup> It is conditioned that the project comply with state buffers and the burden is upon applicant.

The distance is measured in 2 different ways depending on type of use. 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 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)<sup>7</sup>.

In this case, there are no “sensitive” uses that fall within these protections. In addition, the closest non-protected recreational use is almost 500 linear feet away at 311 Price Street.

The state, per Cynthia Franklin, the prior Director of the Alcohol and Marijuana Control Office, stated June 16, 2016 in a call to staff that great deference to local decisions regarding sensitive uses and interpretation of land use regulations will be given. Ultimately, these decisions are up to the Marijuana Control Board of the State, but as stated, the municipality can influence that process.

Staff does not view the private recreational uses as state protected sensitive uses, especially considering the decision in CUP 16-13 that approved a cultivation facility adjacent to a state park and recreation site. However, the Planning Commission potentially could make a determination that the adjacent recreational/sport uses are a type that should be protected from a marijuana cultivation facility.

### **Findings of Fact for Marijuana Uses<sup>8</sup>**

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.

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<sup>6</sup> § AS 17.71.900 (20) Definition of Recreation or Youth Center

<sup>7</sup> § 3 AAC 306.010 (a) License Restrictions

<sup>8</sup> SGC 22.24.026(E) Findings of Fact.

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 than the Planning Commission shall so find and deny the proposed conditional use permit.

### **Staff's Suggested Findings**

Staff did find the potential for adverse impacts from parking, traffic, odor, and public safety/security/safety as well as other public health, safety, and welfare issues. However, the standard conditions of approval coupled with the additional suggested conditions of approval adequately mitigate any potential negative impacts. Specifically, with an approved parking plan and loading area potential impacts to traffic will be mitigated. Odor impacts have been reasonably mitigated through requirement for best means of filtration including inline carbon filters and the ability to further regulate odor control. Public safety and security impacts will be mitigated through the proposed security plan and the additional review by the SPD. Therefore, it can be found 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 permit.

### **RECOMMENDATION**

It is recommended that the Planning Commission adopt the staff analysis and findings as found in the staff report. And move to approve the proposal subject to the attached conditions of approval.

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

- 1) I move to adopt staff's finding in the written report and find 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.

2)I move to approve the conditional use permit for a marijuana cultivation facility at 224 Smith Street in the Industrial zoning district. The property is also known as Lot 6 Smith Street Industrial Subdivision. The request is filed by Eric VanVeen. The owners of record are George and Steven Skannes.

**Required Standard Conditions of Approval:<sup>9</sup>**

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 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. Spaces shall include 3 parking space for employees and one loading zone for the cultivation use, and one space for every 400 square feet of industrial use (outboard).**

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<sup>9</sup> §22.24.026(C)

- 9. The applicant must provide more detail for an Odor Control Plan to be submitted and approved by the Planning Director prior to issuance of any occupancy permit.
  - a. Odor Control shall include reasonable best means that include, but are not limited to inline carbon filters within HVAC, inline carbon filters for any heat and odor exhaust systems, to limit and mitigate odor impacts to surrounding uses and industrial park employees. The project must comply with the submitted odor control plan and odor control features. 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.****
- 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 and security plan submitted by applicant.**
- 14. The use shall comply with all applicable deed reservations, conditions, restrictions, limitations or exceptions.**