

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
May 22, 2018

I. ROLL CALL

Ben Haight, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:02 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Nathaniel Dye, Dan Miller, Percy Frisby, Dan Hickok, Carl Greene

Commissioners absent: Andrew Campbell, Michael LeVine

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Laura Boyce, Senior Planner; Tim Felstead, Planner II; Allison Eddins, Planner II; Amy Liu, Planner I; Laurel Bruggemen, Planner I; Robert Palmer, Deputy Municipal Attorney

Assembly members: Loren Jones, Beth Weldon

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - None

III. APPROVAL OF MINUTES

A. April 24, 2018 Draft Minutes - Regular Planning Commission Meeting

MOTION: *by Mr. Dye, to approve the Planning Commission, April 24, 2018, regular meeting minutes with any minor alterations by staff or Commission member.*

The motion passed with no objection.

IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

V. ITEMS FOR RECONSIDERATION - None

VI. CONSENT AGENDA

USE2018 0005: A Conditional Use Permit for an accessory apartment on an under-sized (non-conforming) lot
Applicant: Alan Wilson and Sydney Mitchel
Location: 504 E Street, Douglas

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of an accessory apartment on an under-sized lot in a D5 zoning district.

The approval is subject to the following conditions:

1. Staff recommends as an advisory condition that the applicant be aware of CBJ 42.20.095 regulation regarding noise restrictions.

ADP2018 0001: Alternative Development permit for reduced street side and setback to accommodate workshop space over an existing rear single-story garage.

MOTION: *By Mr. Miller, to approve the revised Consent Agenda and to accept the staff's findings, analysis and recommendations.*

The motion passed with no objection

VII. UNFINISHED BUSINESS - None

VIII. REGULAR AGENDA

AME2018 0002: To rezone the property from D-3 to D-15
Applicant: Hank Martin
Location: 4535 N. Douglas Hwy

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and **APPROVE** the zone change for the subject lots from D-3 to D-15 by adopting the D-15 zoning of the adjacent lot.

Mr. Felstead told the Commission that the two lots are on the uphill side of the North Douglas Highway just before the Mike Hatch car dealership. The two lots are adjacent to a D-15 zoning district, which is the zoning they would like for their property, said Mr. Felstead.

The land use designation is Medium Density Residential, said Mr. Felstead. It was previously designated ULDR(T)MDR in the 2008 Comprehensive Plan. The intent was to change the designation to Medium Density Residential once sewer was installed, which took place in 2011, he noted.

Medium Density Residential is defined as five to 20 units per acre. This rezone request fits into that description, said Mr. Felstead, with the lots together measuring 1.6 acres. One lot currently has a single family residence on it, he added.

This request meets the rezone requirements, said Mr. Felstead, with a rezone request being for land of at least two acres, or an expansion of an existing zone. Some consideration should be given to the level of service on roads affected by the rezone, he said. The guidance is that they should not lessen the level of service to below LOS D. Isolated development of the lots would likely not generate the necessity of a Traffic Impact Analysis since it would not be more than 250 trips per day from the 25 possible dwelling units said Mr. Felstead.

One comment was received regarding access to the bench road and its connection to one of the lots, said Mr. Felstead. The time to review that connection is if and when development occurs, said Mr. Felstead. If rezoned to D-15, up to 25 dwelling units would be allowed. The proposed rezone would allow for some commercial uses, most of which would require a Conditional Use Permit, said Mr. Felstead. More than eight dwelling units would also require a Conditional Use Permit, he added. At the time the lots were developed would be a good time to review whether common access could be provided, said Mr. Felstead.

Currently the two lots combined could have three single-family dwellings and up to three 1,000 square foot accessory apartments, said Mr. Felstead. The staff finds that the rezone substantially conforms to the maps of the Comprehensive Plan, said Mr. Felstead.

Commission Comments and Questions

Mr. Miller asked if the Planning Commission would move for recommendation of this rezone to the Assembly or if it would approve or deny the rezone directly.

Mr. Felstead said that now the Planning Commission would move for recommendation of the rezone to the Assembly, where previously it would approve or deny the rezone directly.

Mr. Voelckers asked if there were public comments from adjoining neighbors on the proposed rezone request.

They conducted a neighborhood meeting in mid-April and one member of the public had concerns about the rezone related to increasing the traffic on the North Douglas Highway, said Mr. Felstead. The other public comment was related to access to the bench road, he added.

Applicant

Applicant Hank Martin said he had no additional comments to the staff report. He said he would like to rezone his land to D-15 since they were already adjacent to D-15 zoning, and that they could construct some affordable housing for Juneau.

Public Comment

North Douglas resident Philip Gray told the Commission that he has lived in this area for about 35 years. He said his main concern with the rezone is its possible negative effect on the traffic on North Douglas Highway. He said someone has been killed on the road just down the road from his residence, and a horse, deer and dogs have been hit by cars, and that often the traffic is so voluminous that he has to wait for long periods of time to back his vehicle out of his driveway.

Mr. Dye requested that the sentence in the staff report recommending that the Commission approve the rezone, be changed that the Commission recommends approval of the rezone to the Assembly.

MOTION: *By Mr. Dye, to recommend to the Assembly that they approve the rezone for AME2018 0002.*

Speaking in support of the motion, Mr. Voelckers said he felt this was the right thing to do. North Douglas Highway is getting more traffic, and he said he feels there will be a point when the traffic volume needs to be addressed. He said it makes sense to develop a property more densely when there is the infrastructure to support it, but that Mr. Gray is right and that they are approaching the capacity of the road to handle further development.

Speaking in favor of his motion, Mr. Dye said that he agreed with the comments of Mr. Voelckers, and that he recognized that major development of this lot could trigger a Conditional Use Permit or Traffic Impact Analysis and that there could not be too much more development without the requirement for another layer of review.

The motion passed with no objection.

USE2018 0003:	A Conditional Use Permit for a year-round bed and breakfast
Applicant:	Gretchen Powers
Location:	10497 Fox Farm Trail

Staff Recommendation

The application is complete, meets code requirements and would not decrease value of property in surrounding area. Two conditions exist which are the same as the previous permit.

Ms. Liu told the Commission that the applicant requests a Conditional Use Permit for a year-round bed and breakfast. This project had been approved in January, 2015. The applicant is required to come back as they did not submit house rules prior to the expiration date. Now they have submitted the house rules, said Ms. Liu, and are ready to move forward.

The home is located in Fox Farm estates on Otter Way. It is zoned D-1 for single family and duplex development, said Ms. Liu. All setback requirements for the home are met, she added.

There have been public comments expressed about trespassing and on-street parking, as well as possible noise generated from the bed and breakfast, and increased foot traffic along the waterfront, said Ms. Liu.

The beach along the waterfront remains state land and open for public use, noted Ms. Liu. The single family residence can support six off-street parking spaces, said Ms. Liu. A Traffic Impact Analysis is not required, she noted, with an estimate of about 22 average daily trips.

The single-family residence is about 3,000 square feet with four bedrooms and three bathrooms, said Ms. Liu. The upper floor has the bedroom for the owner and caretaker with three bedrooms located on the bottom floor which would be used for the bed and breakfast, said Ms. Liu.

Spruce Point Estates has no covenants regarding bed and breakfasts. House rules are to establish the anticipated behavior for the guests, said Ms. Liu. The house rules are intended to maintain neighborhood harmony, she said. For example there are rules explicitly prohibiting street parking, excessive noise, and trespassing on neighboring property, she said. Smoking, pets and children under 12 years old are also prohibited, she said.

The Comprehensive Plan identifies the need to promote independent and overnight travelers, and promote development that supports year-round visitor service and activities, said Ms. Liu.

The staff recommends approval of the project with two conditions, said Ms. Liu:

1. The bed and breakfast shall not exceed a maximum occupancy of eight guests and two owners/caretakers.
2. Outdoor events shall be limited to 10 p.m. Monday through Thursday and midnight Friday and Saturday.

Commission Comments and Questions

Mr. Voelckers remarked that technically the permit expired a few years ago. He asked if the property has ever been operated as a B&B.

The property has never been operated as a B&B, said Ms. Liu.

Mr. Voelckers asked who reviews and approves the house rules.

The CDD (Community Development Department) evaluates the house rules and ascertains they are in compliance with the code, said Ms. Liu.

Mr. Voelckers asked who would make a decision if it was reported that noise from the B&B was too noisy.

The public file formal complaints to the enforcement officer, said Ms. Liu. They would refer to the house rules which are in place, she said.

Mr. Dye asked if the house rules could still be evaluated by the CBJ since they were no longer part of the conditions.

The house rules are part of the application itself, said Ms. McKibben.

Mr. Dye asked how the times outlined within the house rules were selected. He added that midnight seemed pretty late to him.

Ms. Liu said the Planning Commission can amend or change the times as they see fit.

Mr. Hickok asked for clarification on the number of owners and caretakers that can be present on the property.

Ms. McKibben clarified that there could be no more than two owners or caretakers present on the property.

Mr. Hickok asked the applicant if more than one party could stay in the B&B at one time.

Applicant

The applicant said that there are three separate bedrooms that are rented out so that three separate parties could feasibly stay in the B&B at the same time.

Mr. Dye asked the applicant how they came up with the times listed within the house rules.

Ms. Powers said they picked those times because they seemed like reasonable hours. They will not be catering to people that are partygoers, she said, and they will be strict about enforcing the house rules, she added.

Mr. Dye asked if having earlier quiet hours in the evening would negatively affect their business model, such as instead having quiet enforced from 9 p.m. on weekdays and until 11 p.m. on weekends.

Ms. Powers said she felt the hours listed in the house rules are reasonable.

Mr. Voelckers said that personally he felt that midnight as a time to conclude noise on a weekend night was reasonable. He asked how the house rules would be enforced if there was a problem with noise from the guests.

Ms. Powers explained that the rules will be in writing and will be part of the reservation when it is made. They would also tell guests verbally to keep the noise down if it became a problem, she said. If guests could not comply with the house rules then they would be asked to leave, said Ms. Powers.

Public Comment

Air B&B owner and Juneau resident Erin Laughlin told the Commission she was in favor of the approval of the B&B, and that she knew that Ms. Powers would do a good job with the operation. She said that Ms. Powers has also mentioned that there is the possibility she would like to open up her home for people recovering from cancer, and that she felt this would be a great addition to the community.

Mr. Dye asked Ms. Laughlin if she had noise restrictions for her Air B&B.

They do have noise restrictions in their house rules, she said, and she added they have never had a problem with noisy guests. Their rules are no noise after 10 p.m., seven days a week, said Ms. Laughlin.

MOTION: *By Mr. Voelckers, to approve USE2018 0003, a Conditional Use Permit for a Bed and Breakfast, including staff's two conditions.*

Speaking in favor of the motion, Mr. Voelckers said there is a little apprehension in the neighborhood about potential noise, but he feels that it has been adequately addressed by the applicant.

Mr. Hickok said he is also in support of the motion. He added that he does have a neighbor who sold his B&B which was now resulting in traffic and parties, and that it could become a problem if not run adequately.

Mr. Dye said he would like to offer a friendly amendment to the motion: that the hours be limited to 11 p.m. on the weekend and 9 p.m. during the week, Monday – Thursday. Mr. Dye said he did not think the change in the hours would be burdensome, since the applicant has already stated that noise would not be an issue.

Mr. Voelckers said he did not accept the friendly amendment. He said he could easily foresee scenarios where B&B guests would like to be out on the beach in the summer in front of a fire, quietly socializing until midnight.

Speaking against the amendment, Mr. Miller said that he could understand people socializing in front of a fire until midnight. He said this offered a great opportunity to share the Juneau lifestyle with others who come to visit the community.

Speaking against the amendment, Mr. Frisby said that he agreed with the comments of Mr. Miller. He said he felt that the house rules adequately established the expected behavior of the guests.

Mr. Dye withdrew his amendment.

Mr. Steedle noted that the assistant municipal attorney has noted a slight defect in the recommended conditions. Sunday should also be included in the house rules, with noise ending at 10 p.m., said Mr. Steedle.

The motion was amended to outdoor events limited to 10 p.m. Sunday through Thursday, and until midnight on Friday and Saturday, said Mr. Haight.

The amended motion (by Mr. Voelckers, to approve USE2018 0003, a Conditional Use Permit for a Bed and Breakfast, including staff's two conditions with the second condition amended to outdoor events limited to 10 p.m. Sunday through Thursday, and until midnight on Friday and Saturday.)

The motion passed with no objection.

USE2017 0006:	A Conditional Use Permit for a Marijuana Cultivation Facility
Applicant:	Taku Horticulture Company LLC
Location:	1758 Anka Street

Mr. Miller said that one of the applicants is employed by him, that he has discussed this with the city attorneys and that they did not deem this to be an issue. He is bringing this item up

before the Commission and the public in case anyone felt that this would prevent Mr. Miller from being nonbiased in his role on the Planning Commission.

No objection by the Commission or the public was expressed.

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow the development of an 8,996 square foot marijuana cultivation facility in the Industrial zone.

The approval is subject to the following conditions:

1. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
2. Prior to approval of a CBJ marijuana license, a revised surveillance camera plan shall be submitted to ensure the room has adequate surveillance coverage.
3. Prior to approval of a CBJ marijuana license, it shall be demonstrated that surveillance cameras have an unobstructed view of each doorway in the building.
4. Prior to approval of a CBJ marijuana license, it shall be demonstrated that security cameras have an unobstructed view of areas of regular activity without sight blockage from lighting hoods, plants, fixtures, or other equipment in the building.
5. Vegetative cover totaling 1,096 square feet shall be shown on a site plan, reviewed and approved by CBJ staff, and installed prior to issuance of a CBJ marijuana license. The vegetative cover areas shown on the plans shall be maintained with live vegetative cover.
6. Prior to approval of a CBJ marijuana license, a revised site plan illustrating the required parking and loading spaces shall be submitted and approved by staff.

Ms. Boyce said this item was before the Commission a year ago and was approved. It was subsequently appealed, and part of the agreement was that this item would come back before the Commission again for review.

The initial request is for almost a 3,800 square foot marijuana cultivation facility on the second floor of a two story building for Taku Horticulture located on Anka Street in an Industrial zoned district, said Ms. Boyce.

Analysis for this project includes a possible expansion to the first floor of the building for an additional 5,888 square feet of space. Land is zoned Industrial on one side of the facility, and General Commercial on another side, said Ms. Boyce. A cultivation facility is allowed with the approval of a Conditional Use Permit and can also be allowed in a Rural Reserve, and General Commercial and in D-1 zones with a Conditional Use Permit, said Ms. Boyce.

There are already 17 parking spaces on site, and only ten spaces are needed, explained Ms. Boyce. The caretakers unit would still remain on the premises, she added. There will be six rooms for vegetation, drying, trimming and packaging, with a secure lobby entry area, said Ms. Boyce.

There will be a CO2 monitoring system, with three Mission air filtration systems and four stand-alone charcoal filters in the bloom room, said Ms. Boyce. There are cameras and a security system on every door to the building, she explained.

This business will not require a traffic analysis. There will be about six employees with minimal traffic, and with minimal noise on the inside. Full cut-off lighting is required. No light will be allowed to shine offsite, said Ms. Boyce. There is a condition that more detailed security plans with more expansive camera views be supplied, said Ms. Boyce.

This project is in conformance with the Comprehensive Plan, and there are many policies which support uses such as this, said Ms. Boyce, such as:

- ✿ Policy 5.1; to develop and sustain a diverse economy
- ✿ Policy 5.11; to encourage the location and growth of locally-based basic sector industries that provide year-round, full-time employment and provide tax revenues that support public facilities
- ✿ Policy 5.18; to encourage and support entrepreneurship and innovation in the economy of Juneau and Southeast Alaska

Findings

The application is complete, the use is appropriate according to the Table of Permissible Uses, and the development as proposed will comply with the other requirements of the chapter, said Ms. Boyce.

Commission Comments and Questions

Mr. Frisby asked if they are being asked to approve the proposed expansion to the first floor at this time as well.

Ms. Boyce said that they are being asked to approve the proposed expansion at this time as well.

Mr. Miller asked if planter boxes could be used for the vegetative cover requirement or if the applicant would have to dig up asphalt to install greenery.

Planter boxes have been used to fulfill vegetative cover requirements in the past, said Ms. Boyce.

Mr. Dye asked how the Bureau of Vital Statistics got aligned as being most similar to a post office.

In 2002 the Planning Commission looked at specific uses for this structure and determined that it would be most similar to a post office, said Ms. Boyce, as both ventures participated in the storage and filing of documents (TXT2002-00002). It was specifically determined that it was not an office use, said Ms. Boyce. When the structure is no longer used for its current purpose, it would need to be used for something very similar to a post office, or it would need to revert to an Industrial type of use, said Ms. Boyce. Offices are not allowed in the Industrial zoned district, she added.

Mr. Dye asked if there was a specific Conditional Use Permit pertaining to the Bureau of Vital Statistics.

Ms. Boyce said she was not sure if a specific Conditional Use Permit for the current use of that structure existed or not.

Mr. Voelckers asked if the only access to the second floor corridor would be shared by the first floor occupants as well as the grow operation on the second floor.

The stairs to the second floor stem out from the first floor corridor. Credentials are required to enter the secure lobby area, said Ms. Boyce.

Mr. Voelckers said it appeared that both the first floor and second floor occupants would be sharing the first floor corridor. He said it seemed there should be more separation of space. He asked if a separate set of stairs would be added to avoid this type of conflict or how the separation of uses would work.

Mr. Frisby said he had a problem with issuing a Conditional Use Permit for both the first and second floor operations since only the second floor operation would initially transpire. He asked if there would be a problem for the applicants to come back at a later date for the first floor Conditional Use Permit when it was time for them to expand.

The Conditional Use Permit to evaluate the full impacts of the complete buildout is because if they only issued a permit for the first portion of the project, it could be considered “phasing”, which is not something that they do, said Ms. McKibben.

They would also have to apply for a building permit to do the internal work which would also have to be reviewed at the time, said Ms. Boyce.

Applicant

David Turner of the Taku Horticulture Company described the filtration system they have for their grow operation, which should result in no discernible odor outside the building. They have added vapor barrier to all of the walls and ceilings and caulked all the electrical boxes, he explained. He said the staircase has been added so there are now two exits from the building.

The way the downstairs corridor is constructed, the occupants from each of the two floors will not pass each other or ever see each other in that corridor, said Mr. Turner.

Commission Comments and Questions

Mr. Voelckers asked if they plan on adding the exterior stairs shown in the building plans.

The stairs have already been installed, said Mr. Turner. Those stairs will be used both for emergencies and to remove the product from the building, said Mr. Turner. He added there are also cameras in the downstairs corridor facing each end of the hallway.

Public Comment

Todd Araujo of Simpson, Tillinghast, Sorensen and Sheehan, P.C., spoke on behalf of Granite Mountain Properties, the owners of the vital statistics building located near the proposed grow operation. He said they appeared before the Planning Commission almost a year ago today to protest this grow operation. The Bureau of Vital Statistics houses critical documents, said Mr. Araujo.

One potential basis for the denial of a Conditional Use Permit is if there is substantial diminution of the land value of neighboring properties, said Mr. Araujo. The Planning Commission's decision must be supported by substantial evidence, said Mr. Araujo. The staff memorandum on this application states that there is no evidence to suggest that the use will have a negative impact on property value, he said. They do not agree with this assessment which was based solely upon the City Assessor's valuation, said Mr. Araujo.

No further information has been provided on this Conditional Use Permit request than was provided a year ago by the assessor, said Mr. Araujo. He said he felt something more than a five or 10 minute Internet search on property values would be required to satisfy that substantial evidence standard. The properties valued by the assessor deal with the value of properties in more traditional industrial neighborhoods, he said. The area in question is a mixed-use area inlaid with commercial businesses, said Mr. Araujo.

None of the literature referenced or included in the record speaks to land valuation of neighboring commercial properties and the effect on those properties, said Mr. Araujo. Given the unique nature of the use of the vital statistics building they had a particular concern in that regard, he said. In their view the Planning Commission and the staff have not met the burdens that its decision in this regard relative to this particular item regarding diminution in land value is supported by substantial evidence, he added. This has not changed since the last time this

issue was before the Planning Commission a year ago, said Mr. Araujo. The only change they had seen is some response to Mr. Wold's report, he said.

Mr. Kim Wold, Appraiser, Integrity Realty Resources

On behalf of the owner of Granite Mountain Properties, Mr. Wold told the Commission that he does appraisals in Washington and Alaska. He said he has over 40 years of experience appraising properties, and 35 years appraising property in Juneau. He said he did a controlled appraisal of the property as it currently exists, and the damages to the value of the property after the cultivation facility would open for business. The result of his appraisal was that there is a substantial loss in value of the Granite Mountain property and that the value loss ranged from 31 percent to 45 percent. The loss in dollars would be \$780,000 to \$1.125 million.

It is very disingenuous to say that the vital statistics building is a post office-like property, said Mr. Wold. The RFP for the property specifically stated that the state was searching for office space with the vault. The building is about 60 percent office and 30 percent vault, said Mr. Wold.

Mr. Wold said there is evidence that odors emanate from cultivation facilities. The city assessor refers to cultivation facilities helping blighted properties and bringing up the value of neighborhoods, Mr. Wold. He said that is not the case in Juneau. The assessor's report also does not address at all the effect to adjoining properties, said Mr. Wold. While extra security is required for the building that does not deal with the added risk to the neighborhood, said Mr. Wold. He mentioned a cultivation facility in Alaska, but not in Juneau, which was robbed of money and another in which marijuana was stolen.

According to Mr. Wold, there is documentation in other jurisdictions that cultivation facilities do not prevent all odor from escaping the facility. He said perhaps cultivation facilities are usually located in low income neighborhoods because of the stinky nature of the business. He said he saw no evidence on what the applicant would do in the event of a power outage to prevent odors from escaping the facility. He said the assessor concedes that there could be some risk of explosions or flooding from the facility. This raises a risk to adjoining properties, said Mr. Wold.

He said the cultivation business is uninsurable because it has to be regulated by federal law, and that marijuana cultivation is still against federal law. This all raises risk which in his opinion result in the value of the nearby properties being substantially diminished, said Mr. Wold.

Commission Comments and Questions

Mr. Hickok asked if most of these issues do not belong in front of the Marijuana Licensing Board. He said it appears the applicant has done everything the Marijuana Licensing Board has asked them to do.

Mr. Wold disagreed with Mr. Hickok. He said the issuance of the Conditional Use Permit for the cultivation facility creates a situation where there is a devaluation of the value of the vital statistics building. The loss of value would not be compensable at the state level, he said; it would be at the local level. The Lemon Creek area is no longer an Industrial area, he said. There has been intrusion by commercial uses, he said. Industrial uses have now been displaced, said Mr. Wold. He said not to regard the zoning. He said the fact of the matter is that the area is now primarily commercial in nature.

Mr. Hickok asked if Mr. Wold has been involved in any sales or purchases of land related to marijuana issues.

Mr. Wold said that he has not.

Mr. Hickok said then there is no documentation the Commission can review to ascertain if there is actually a diminution in adjacent property values as the result of a cultivation facility.

There is anecdotal information from other jurisdictions, said Mr. Wold. In Washington, Oregon and Colorado cultivation facilities have been allowed in agricultural and industrial areas, said Mr. Wold. Those industrial areas do not have commercial intrusion, he said. From the reports and studies he has read, grow operations are in blighted areas, said Mr. Wold.

Mr. Dye said he felt that the Lemon Creek area is rather industrial with hazardous waste disposal facilities, and car crushing. He said he would be happy to ignore the Industrial designation and consider it Light or General Commercial, because the cultivation facility would also be allowed in those areas with a Conditional Use Permit.

Mr. Wold said that Costco, Home Depot and car washes were commercial activities in an industrial area.

Mr. Dye repeated that the issue was not whether the area was primarily industrial or commercial, since the facility could have a Conditional Use Permit in either zone.

Mr. Wold said it was his understanding that it was restricted solely to industrial uses. He said that Juneau was truly an outlier regarding legislation.

Mr. Voelckers said that Juneau has been quite aggressive in its odor control requirements. *Title 49 (49.65.1260)*. He said those requirements may be less stringent in states where marijuana growing facilities are located in agricultural or highly industrial areas.

Mr. Voelckers asked if Mr. Wold could summarize some of the hypothetical drivers of the loss he predicts for the Granite Mountain property should the cultivation facility become viable.

Mr. Wold said besides odors there are a number of other factors. He is said there is the perception of risk of ownership or of buying property in that area. There is the risk of resale of the property should it be purchased, he said. Property is purchased for the income stream and for the increase in the value of the property over the term of ownership, said Mr. Wold. He said in this case there is the extreme risk that the state would vacate the building at the end of their lease term. They could possibly declare default and vacate before the lease was up, said Mr. Wold.

Mr. Voelckers asked what evidence Mr. Wold had that the state viewed that this particular lease may be in jeopardy.

Mr. Wold said there is documented evidence in Juneau. He said the state threatened to terminate its occupancy of the Bill Ray Center because of diesel fumes. The Department of Transportation building required a rebuild due to mold in the building. He said there is a building off of Ninth Street that had to totally rebuild the building due to odor issues.

There are specific items in state leases which allow them to discontinue the lease if a condition was found to be detrimental to its employees or its records, said Mr. Wold.

Mr. Voelckers said it appeared that it is not the marijuana grow operation per se which would jeopardize the value of a property, but that there may be an unintended negative consequence of a grow operation on neighboring properties.

Mr. Wold said it may not just be odor but a robbery next door, a flood or an explosion could also cause the state to vacate a property. An investor would either choose not to buy the property in the first place or buy it at a lower price because of perceived risk, said Mr. Wold. If the state did vacate the property and it could not be sold for office space, then the owner could experience a great loss, said Mr. Wold.

Mr. Miller said that Mr. Wold just stated that the vital statistics building requires fresh circulating air six times every hour. It must have some kind of filtration system just to deal with the odors from the landfill and the brewery, said Mr. Miller. He asked if Mr. Wold knew how the building dealt with those odors.

The director did indicate there were occasions that they could smell the brewery or the landfill, said Mr. Wold. He said he was not clear if those odors could be detected inside or outside of the building.

Mr. Frisby asked how many employees occupy the vital statistics building.

Mr. Wold said he did not know. He said he thought the state typically allotted approximately 150 square feet per employee.

Mr. Dye asked if there would be any way to quantify what particular odors would drive the state to vacate that building; such as odor from the brewery, the dump or the cultivation facility.

Mr. Wold said he could not answer that question.

Mr. Dye said no one compelled the owner to construct that building in that particular location other than himself. He asked if some of that risk was not inherent to the initial decision to construct a building in the Industrial zone.

Mr. Wold said they did not construct the building until they had the proper permit from the CBJ. He said the state would occupy the building for at least 20 years of the initial lease and hopefully for a lease after that, said Mr. Wold.

Mr. Dye said his point is that the applicant chose that zone in that location for his building which he constructed, with the inherent risks which that entailed.

Mr. Wold said he is sure that the applicant was comfortable with the return on his investment.

He did construct a building in an Industrial area, so any number types of industrial uses could be constructed near the applicant's property, said Mr. Dye.

Mr. Wold said the applicant would have assumed that the CBJ would not approve a use that was detrimental to his building's use, said Mr. Wold. That is why a substantial diminution in value is a reason for denying a Conditional Use Permit for a cultivation operation, said Mr. Wold.

Mr. Dye asked Mr. Wold now that he is aware of the post office designation for the subject property, how it affects the percentage of the hypothetical loss to the building.

Mr. Wold said he does not think it affects the hypothetical loss to the building at all. He said if anything the loss becomes greater if the Conditional Use Permit is granted.

Mr. Frisby asked that aside from any speculation on what the state may do as a result of the operation of the cultivation facility, if Mr. Wold had any hard evidence that the state may vacate the vital statistics building because of the cultivation facility.

Mr. Wold said there was an email from the director that indicated that a prospective buyer doing their due diligence should investigate the tenancy and what the likelihood of subsequent lease renewals would be.

This is the Department (*sic*) of Vital Statistics through the Department of Administration, said Mr. Wold.

Applicant

Mr. Turner said they have done everything they possibly could to make this odor issue go away.

He said the owner of the Granite Mountain property has no problem with the cultivation facility located next to his other property in the area also located on Anka Street.

Mr. Voelckers asked if the building is sprinklered.

Mr. Turner said it was not. He said they had fire extinguishers every 70 feet or so within the building. They followed the fire marshal guidelines, he said.

Mr. Voelckers asked if they would be using any flammable materials or processes.

The CO2 burners would be the only item that could be any potential problem, said Mr. Turner.

Mr. Voelckers asked what would happen to the facility during a power outage.

They have a generator, said Mr. Turner. He said they have solid security systems. He said obviously they do not want to lose their product to thieves. He said that a fence around the entire property with barbed wire on top of the fence and the entrance will be gained only by key card. They will just have a regular business design, not a big lighted sign, said Mr. Turner.

Mr. Dye asked if the carbon filters are passive or active filters.

Mr. Turner said they have gone above and beyond the quality of the filters they are using. It is a closed loop system with no air inside the building escaping outside the building, he said. They have done everything they can possibly do to seal the building to address the concern of odors, said Mr. Turner.

MOTION: *by Mr. Voelckers, to approve USC2017 0006 with the six staff conditions.*

Speaking in favor of his motion, Mr. Voelckers said both parties have done a good job of putting forth the issues both pro and con of the issuance of the Conditional Use Permit. However, said Mr. Voelckers, a key point was raised by Mr. Dye that it does not matter whether the land was zoned Industrial or Commercial, the cultivation facility could still be constructed with a Conditional Use Permit. He said it is the Commission's job to assess if there is a meaningful risk of negative impact to adjoining properties when considering the permit. He said he feels the Commission has heard good testimony both this year and the year before that this applicant has done their due diligence and it appears they have more than met their burden in terms of

satisfying the conditions for the permit. He said they understand it is legitimate for adjoining properties to raise their concerns. Those concerns have not been shown to be legitimate or to amount to the scale of the economic impact foreseen by the adjoining property owner.

Juneau has good evidence at this point that there has been no negative impact on adjoining properties by the existing cultivation facilities, said Mr. Voelckers. He said he would not be surprised if the applicants' property caused the least odor of others within the immediate area when considering the dump and the brewery.

Speaking in favor of the motion, Mr. Dye said that when considering 49.65.1260 when considering the odor section of the marijuana ordinance, that if there are odor problems the business loses the possibility of retaining its marijuana license. He said he feels there are adequate safeties in check both within the ordinance and judging by the work the applicant has put into their facility. They spent almost two years working on the ordinance to ensure that other properties would not be put in danger by fire or explosions, said Mr. Dye.

Mr. Miller also spoke in favor of the motion for many of the reasons already mentioned. Other communities outside of Juneau have the privilege of having industrial land that is just industrial land, said Mr. Miller. In Juneau there is a land shortage and therefore there can be the encroachment of one type of use over another, he said. Just because there is a mixture of uses does not mean that the land is not still industrial land, said Mr. Miller. If marijuana odors are discovered outside of the building, the applicant runs the risk of losing their license, said Mr. Miller. That is a serious consequence, he said, when this kind of investment has been made in a business. He said he feels there are adequate safeguards in place.

Roll Call Vote:

Yeas: Dye, Frisby, Voelckers, Greene, Hickok, Miller, Haight

Nays:

The motion passed by unanimous vote.

IX. BOARD OF ADJUSTMENT - None

X. OTHER BUSINESS - None

XI. STAFF REPORTS

New planner Laurel Bruggeman was introduced to the Planning Commission by Mr. Steedle.

The CDD Assessment Center for the new Planning Director takes place on Thursday, May 24,

(2018) at about 8:30 in the Chamber, said Mr. Steedle. It will run until about 3:00 p.m., he said. Mr. Dye will be one of the evaluators for the three candidates, said Mr. Steedle.

Ms. McKibben reported that Juneau has received about a \$250,000 grant for hazard mapping so they will be able to update their hazard maps, she said. She said Teri Camery and Tom Matisse worked very hard to receive that funding.

They are currently working on phase 2 of the Historical, Cultural and Preservation Plan. One of the planners will provide the Commission with a short update on the current status of the plan at an upcoming meeting, said Ms. McKibben.

They are also working with FEMA (Federal Emergency Management Agency) to update the flood maps, said Ms. McKibben. They will have a presentation on this at the next Planning Commission meeting, said Ms. McKibben.

They have also received an appeal for a building permit for Capital Brew, said Ms. McKibben. At the next Planning Commission meeting the Commission will be asked to accept or not accept that appeal, she said.

There is a Comprehensive Plan ad hoc committee meeting next Tuesday at 6:00 p.m., said Ms. McKibben.

Mr. Voelckers asked if the hazard assessment money was from FEMA.

They are not asking for a study, said Ms. McKibben, but to update the hazard maps.

Mr. Voelckers asked how they would update a map without an assessment of risk.

They will be assessing risk but they will also be utilizing information from previously accomplished studies as well, said Ms. McKibben.

The Commission had asked for guidance on the CIP list when potentially construction-related commissioners can later bid on a project, said Mr. Palmer. Anyone can participate in the CIP process as a Commissioner, said Mr. Palmer. Anyone who participates in that process can bid on a subsequent project as long as there is some competitive solicitation, he said. If there is not a competitive solicitation and a Commissioner wishes to place a bid on an item they should first confer with the municipal attorneys, said Mr. Palmer.

XII. COMMITTEE REPORTS

Title 49 Committee

Mr. Dye reported that at the Title 49 committee meeting they talked about sub-streets and common wall developments.

Auke Bay Committee Meeting

Mr. Miller reported that at the Auke Bay committee meeting they took testimony regarding the hub area in Auke Bay. They want to continue to meet in a regularly scheduled manner, he said.

Sustainability Session

A sustainability session was held on the proposed new Juneau Arts and Cultural Center, said Ms. McKibben. The next meeting will be the second Wednesday of the month which would be June 13, 2018.

XIII. LIAISON REPORTS

Ms. Weldon reported that the Lands Committee talked about whether the City should take over one or all of the cemeteries in Douglas. They spoke about a land trade on Fritz Cove and had a very brief discussion on Indian Point, she said. They looked at two options for recycling and they are looking to contract with Waste Management to do it on their land, she said. The Assembly awarded the bid for Project Playground to Carver Construction, she said. They passed the ordinance amending the land use code regarding variances, she said. They did not approve the ordinance for the LID for the river bank stabilization project on the Mendenhall River, she said. They accepted the decision of the hearing officer on the Southeast Land Trust which allowed community property exemption, she said. They also extended the Eagle Rock venture planning process for 30 days on the Second and Franklin lot, she said.

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

XV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Voelckers asked Ms. Weldon if there was a substantive change made to the amendment of the land use code regarding variances.

She said there was not.

XVI. EXECUTIVE SESSION - None

XVII. ADJOURNMENT - None

The meeting was adjourned at 9:41 PM.