

MINUTES
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Nicole Grewe, Chair

February 9, 2016

I. ROLL CALL

Nicole Grewe, Chair, 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 7:33 p.m.

Commissioners present: Nicole Grewe, Chair; Ben Haight, Vice Chair; Bill Peters, Michael LeVine, Percy Frisby, Nathaniel Dye, Matthew Bell, Carl Greene

Commissioners absent: Paul Voelckers, *(attempted to attend the meeting telephonically and was prevented from doing so due to technical problems outside of his control)*

Staff present: Rob Steedle, CDD Director; Beth McKibben, Planning Manager; Jill Maclean, Senior Planner; Chrissy McNally, Planner II; Jonathan Lange, Planner II

II. APPROVAL OF MINUTES

- January 12, 2016 – Regular Planning Commission Minutes

MOTION: *by Mr. Peters, to approve the January 12, 2016 minutes with any minor modifications by Commission members or staff, and asked for unanimous consent.*

The motion passed by unanimous consent.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

Shawn Bethers spoke to the Commission about what he termed the “new interpretation of the Land Use Code by the Law Department”. He said this has left the Planning Department unable to grant streamside setback variances. He said this new rule has essentially left his new home and any future development on his lot in limbo. He said that he and his two siblings had received a two acre lot to be divided into three equal lots in his grandfather’s will four years

ago. He was to receive the main home until the property was subdivided. They had conceptual plans drawn up for a three lot subdivision using the existing driveway with panhandle access down the middle property line, said Mr. Bethers. He said the CBJ planning department verbally accepted this concept.

For the past three years the Planning Department has been telling Mr. Bethers the streamside setback could be easily obtained, he said. This would be needed for the best use of lot one, he said. The subdivision was finally approved, said Mr. Bethers, with the understanding that Lot One would need a streamside setback variance, to build pretty much anywhere on the lot.

Mr. Bethers said he went to the planning Department two weeks ago to fill out a variance application. He said he filled out his application with the assistance of a few planners within the department, and submitted it. He received a call two days later informing him that the department no longer accepts streamside variance requests due to a change from the Law Department. He asked the Planning Department what his options were to build within the 50 foot setback. He said he was told by CDD staff that he would have to wait for the law Department to rescind its new ruling.

Mr. Bethers said he was informed that the new interpretation was issued in November. He said he submitted his application and early January, and that the planning Department was still accepting applications for streamside setback variances.

Mr. Bethers said the existing fill on the land which encroaches within 30 feet of the stream has existed since the late 1950's. He said that he requested that the commission grant him a streamside setback variance to within 30 to 35 feet on Lot 1 in the Bergman subdivision. He told the commission he felt that he should be granted the variance because they have been repeatedly told by the Planning Department that such a variance would be possible, up to January 25, 2016. He said they accepted the final plat based upon the assumption that Lot 1 would be granted a variance, and could be developed to its maximum potential with a variance. He said that building a home on the existing fill that is 30 to 35 feet from the stream would cause less disturbance than building on new fill further away from the stream.

IV. PLANNING COMMISSION LIAISON REPORT

None

V. RECONSIDERATION OF THE FOLLOWING ITEMS - None

VI. CONSENT AGENDA

USE2015 0011:	Construction of a chapel, cabins and bathhouse at Echo Ranch Bible Camp
Applicant:	Echo Ranch Bible Camp
Location:	44000 Glacier Highway

Staff Recommendations

It is recommended that the Planning Commission adopt the Director's analysis and findings and approve the requested Conditional Use permit. The permit would allow the development of a new chapel, two 2-bedroom cabins, and a bathhouse with 5 individual restrooms.

Advisory Condition

Staff recommends that if approved, the Conditional Use Permit include the following advisory condition:

1. If any historic, prehistoric, or archeological sites, locations, remains, or objects are discovered during development activity, all work in the area must cease, and the applicant/permittee/whomever must immediately notify the State Historic Preservation Officer at the Department of Natural Resources within two working days (see Attachment E - Human Remains Discovery Guide).

Mr. LeVine said that he did not want the this item pulled from the Consent Agenda, but that he wanted to note that there was a blue folder item noting a few changes in the advisory condition at the end which he felt were laudable.

MOTION: *by Mr. Peters, to approve the Consent Agenda with the staff's analysis and findings, and moved for unanimous consent.*

The motion was approved by unanimous consent.

VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS - None

VIII. UNFINISHED BUSINESS - None

IX. REGULAR AGENDA

CSP2015 0018, A City Project Review for installation of new bus stops on Yandukin Drive and Davis Avenue, was subsequently withdrawn from the agenda and will be heard at a Planning Commission meeting in the near future.

AME2016 0003:	Title 49 amendments related to marijuana uses
Applicant:	City and Borough of Juneau
Location:	Borough-wide

No recommendation – included in the packet is a memorandum from CBJ Law Department and a Draft Ordinance, 2015-38 PC v2

The following portion of this meeting regarding AME2016 0003, Title 49 amendments to marijuana uses, and review of Ordinance 2015-38 (PC v.2), is a verbatim transcript.

Chair Grewe:

Marijuana has been a long road for the Planning Commission and also for the Assembly. So here we are again tonight and for the new members who are kind of joining us halfway through the table of permissible uses was amended and adopted by the assembly. The Assembly moved on another ordinance last night in a nutshell it's a trying to prohibit the use of hazardous materials in personal use manufacturing across all zones without a permit. And so the ordinance that's before us tonight is kind of the last in a series of ordinances that have been heard by the Planning Commission and the Assembly. So tonight's ordinance is actually located in the "Nuisance" part of the "Code"; just give me a moment here; it is number 2015 – 38 Version 2 Marijuana Special Use chapter. So, I'll just say this code has generally been referred to as kind of a licensing code, I think we have - Bill Peters sat on the Marijuana Committee. Are you the only one from the Commission, Bill?

Bill Peters

Correct.

Chair Grewe

Yeah. So it has been referred to as the licensing you know crossing your t's dotting your i's. I happen to think there is some important provisions in here, important for the public. And anyway, this is our last round of ordinances, hopefully, on marijuana, for quite some time. And I actually; did you have a staff report, Chrissy? For...

Chrissy McNally

I didn't have a staff report, I didn't have a presentation because the memo from the City Attorney step-by-step goes through the changes that were requested at the last meeting.

Chair Grewe

OK.

Chrissy McNally

So I can, go through this if you'd like and if it gets too legal the City Attorney is here to answer.

Chair Grewe

You know I think I actually have a couple of opening comments here, that I think we need to discuss even before we go to the ordinance. Let me see, so if you guys are paying attention to the online agenda item this item wasn't going to come up for another week. We swapped out - there is a Conditional Use Permit on the table as well as this ordinance for us to move on and I requested a schedule change which, CDD was able to accommodate. I am very grateful for that and I am also grateful for some, guidance from the Department of law today or maybe that was yesterday, but some of my underlying questions before we pick up the ordinance is - goes back to public notice so, I sent in the correction to the abutters notice on the permit and, thought we

were all square on the agendas, corrections were made and I woke up this morning to a radio report that tonight was the permit and not the ordinance on public radio. Anyway, and I don't think this is necessarily, should stop this hearing -

I just want to make sure, like, the correct avenues were followed up on when we made - when I made that request for the schedule change. It just seems like there were a couple of snafus afterwards where perhaps things weren't updated and posted appropriately.

Beth McKibben

Well, it is my understanding that, things were noticed correctly, that when you saw that it hadn't been added to the website there was a mistake in adding it to the website, not that it wasn't noticed. It is my understanding that it was noticed correctly in the newspaper.

Chair Grewe

OK.

Beth McKibben

And that a corrected - new abutters notices were sent with the new date and time.

Chair Grewe

Yeah. So I just want to acknowledge you know the schedule shift did create a few snafus and I have just been double-checking to make sure that it was just a minor error on the radio today which isn't part of our public notice ordinance, I'm sure, but nonetheless... OK, another point of clarification for staff before we pick up the ordinance, and it's related to the general topic of when is the appropriate - I mean, we know we're going to have marijuana permits coming at us here very soon. And this ordinance has not made it through this body. It still needs to go to the Assembly and be adopted at that level. But my concern is that we are going to start hearing permits before the ordinances are adopted and, I know we are under a tight timeline because of lots of things, but I kind of ask the question if it was possible to put that upcoming permit in abeyance until we get this through this body and through the Assembly and I didn't really get a firm answer until yesterday from the Department of Law and Robert Palmer, which actually contradicts something that, Mr. Steedle sent out an email that - I read it and it was basically even if the ordinance is not adopted that we will apply everything that is in this ordinance to every permit that comes before us as if it's a law which as a planner made me squirm. Not a citizen planner but just a professional planner and so I just want to know from professional expertise here, I mean where are we at with this because I don't want this body to have undue pressure to move this because we have permits looming, if we have discretionary authority with those permits.

Rob Steedle

So are you asking about this ordinance or about the Conditional Use Permit?

Chair Grewe

Well I think they are interlinked is a possible to, ah... I guess is it possible to delay the hearing of permits until this ordinance is adopted by the Assembly?

Rob Steedle

The Commission could do that. As the CDD Director, I'm not willing to hold a legally applied for permit back. So if this body chooses delay it for whatever reason, that is your prerogative.

Chair Grewe

You just don't advise it.

Rob Steedle

I don't advise it for the same reason that I am not going to hold back.

Chair Grewe

OK. Commissioner LeVine, did I see your hand? No? OK. All right. I think that is all I had, so, I just wanted to know if that was within our discretion at all because it impacts how I move forward on this ordinance so anyway...

Michael LeVine

I do have a couple of other short procedural questions if you are done with that one.

Chair Grewe

Go ahead, Mr. LeVine.

Michael LeVine

Thank you. The first is I was sitting here noodling through my email because I see some emailed comments to us that aren't printed out. I just wanted to make sure that I'm right in that. Right? I'm not missing something - there are a couple of public comments that were emailed to the Commissioners that didn't make it in to printed - that aren't printed here? Is that right? Does everybody have them? OK. You don't know? That's fine.

Chrissy McNally

I don't know because I know that a few came to my inbox after 4:30 which means that our administrative staff that prints and puts those in...

Michael LeVine

OK.

Chrissy McNally

It was quite late.

Michael LeVine

So I would like to flag that for folks that there are a couple of public comments that you may not have in front of you that are sitting in your inbox; maybe the folks that are here who submitted them? And the second is a question which is, I see and very much appreciate the red lines that are in the draft that we have here but I also note that there are some changes made that weren't redlined and I presume that they are mostly grammatical very small sort of edits - is that right? I remember in particular because I had a small discussion with Rob about the use of the word to do and action and that got changed which I totally appreciate but it's not marked in red line so I just am wondering I just want to – make sure what version we are looking at here.

Amy Mead

So you are looking at the correct version. I tried to catch them all; normally I highlight those for the Assembly and I tried to do the same for you and I might've forgotten one. There were two changes that I made that were not requested changes that are in the footnote on Page One.

Michael LeVine

I saw those. Ok. So any – any - any changes that I noticed that aren't marked in red line are just minor wording type things and were just an oversight.

Amy Mead

Yes.

Michael LeVine

Thank you.

Chair Grewe

Thank you, so just so we're clear here, let's do our due diligence tonight and do our best work on this ordinance, but don't feel any undue pressure because we do have some discretion here. Anyway, so the staff report is basically the memo from the Department of Law which talks about the changes they made since we heard the ordinance on January 26, and the Committee of the Whole. I was trying to think about how to proceed in this in an efficient manner, so Chrissy you have nothing to add; you are just here for questioning, then?

Chrissy McNally

Yeah, I'm here to address any questions that you have because there are still some policy decisions that need to be made that are outlined in the memo, and so we just decided it would be most efficient just to go point by point.

Chair Grewe

OK. So you had nothing in addition to the memo. OK. All right. I think we open it up for public hearing first. Yes? Before Commission work? Or public hearing after Commission work. OK. Before, yeah. Thank you. OK, so with that I am going to open it up for public hearing, don't be shy, I provided testimony last night. I got buzzed by the Assembly, it was a new experience for me. Perhaps you all heard it on the radio, it was embarrassing. Anyway, so we don't have a sign-up sheet here, how many by a raise of hands want to provide testimony? OK. So, we don't ordinarily buzz or put time limits on things unless the meeting is going to go super late. So it doesn't look like we have that much comment. So I am not going to put a time limit on it. I will call the first person who stepped forward during the, for the non-agenda item? Yes. And, then the rest of you can just come up one at a time as soon as he is finished. And we'll take public comment.

Public Comment

James Barrett

I apologize for going up out of turn earlier. James Barrett, 327 Distin Avenue. So I just wanted to touch base upon one amendment, and that is the five year Conditional Use Permit issued to marijuana establishments shall expire five years from the date of issuance. I just see that as a really big burden to businesses to have to reapply every five years. Especially we have the public notice process that would happen, it's tough to plan for a business when you don't know in five years what's going to happen. I know how things work in small towns, we have politics we have neighbors, we have people who like to get in each other's business and that public notice part could really be a burden and I don't think that's fair, especially when we don't have other businesses that have to go through that same process. I could be mistaken about that. But when I look into it I don't see that. We already have, I believe it is section, 65.1140 §B. (49.65.1140 (b)); it says that marijuana establishments will be inspected on an annual basis and they have an inspection so if they fail inspection - well isn't that kind of the same as having a Conditional Use Permit five-year sunset clause. Because it seems like the intent is to - if someone is not being a good participant in the industry not paying taxes or whatever that there's grounds there to not let them operate anymore. But there is already like avenues and ways to do that whether it be reporting the bad players to the State they can pull the license we have a license fee, we have an annual inspection, on top of that, the director can come on your premises and look at anything that you have any time anyway. So, I think that - and one more thing is that - let's say that there are 50 businesses in town, and every five years the City has to go through 50 of those Conditional Use Permits, that's a lot of time on staff and it might just be unnecessary. So for all of those reasons I feel like we should just pull that "(b)" out and we already have as a City ways to just kind of regulate the industry still, and I don't think that would really make that big of an effect on it. There are conditions and uses that change in different zones. However, I kind of feel like if someone is doing good business then we should let them do that not have to be subject to public testimony every five years. So, that's all I have to say, if anyone has any questions?

Commission Comments and Questions

Mr. LeVine

Thank you. I appreciate your comments and I appreciate your time. So, one of the issues we're trying to address as a Commission and I think as a community is how - what conditions go on these kinds of businesses, and absent a provision like that there is no way for the Commission or anyone else to change those conditions, either make them more lax or more stringent. Do you have a suggestion absent a five-year sunset clause of the way that we could retain the ability to change those conditions should we discover in two, or five, or 10 years that something that we think now is going to be good for the community ought to be changed in one direction or another because as it sits right now with the Conditional Use Permit process it does not allow us to do that.

James Barrett

I don't think that it is the CBJ's place to dictate the way that a business should run in the future by preemptively giving and imposing conditions upon the business. So, we say, this mining company comes to town but who knows they could have some crazy and environmental disaster, you know. There is always an "if". There is always businesses that can do harm to the community. So, with cannabis yes there is risk but they are already addressed on so many levels whether it is the City or the State. I feel like there is already enough there. That is the best that I can answer that question.

Chair Grewe

I have a question. I have thought long and hard about this provision. I can't remember if it started with me or maybe Commissioner LeVine, but it was definitely somewhere in there, but I have been thinking about it because I understand the burden. When it matter to you - I mean there is four licenses you know whether you are growing, processing, or growing, manufacturing, testing, selling - and can you see that provision apply to certain sectors of the industry and not others? Or perhaps more specific to certain zones? And not others? Or do you just disagree altogether?

Public Comment

James Barrett

Well if it's a matter of public safety if that's the concern. The overall concern, I mean we're growing plants so ecologically I don't see too much harm, so really were concerned about how does this affect the public... So I think that definitely the lab shouldn't be subject to this so that would be one licensee if it's about public safety I don't see the lab ever becoming a threat to the public.

Chair Grewe

You don't have to have the right answer or an answer, I'm just - for me intellectually I've been thinking about that this week.

James Barrett

It is a burden if you have three licenses that you have to apply for Conditional Use Permits. Not only is that one every five years that is three every five years. If there are 25 businesses with three licenses that's 75 Conditional Use Permits to go through every five years with the City. If you stagger that it's a never-ending process. That's a lot of time in this room, as well.

Chair Grewe

Thank you. Next for public testimony?

Gioni Barrett

My name is Gianni Barrett, and I live at 327 Distin Avenue. James really touched on everything I would like to talk about and put it really eloquently, I just think it's a huge burden for us to apply - James and I are business partners, I just want to support what James said and let the Planning Commission know that this is a lot of work already to plan for these things and you know, it does scare some people away. It is a lot of work and the idea is to try to get our cannabis community involved and, you know, things like this can really scare people away, maybe that's not the biggest issue here, James really hit on some of the bigger issues but something to look at as well is it makes running a small business really difficult, and so I guess thank you for letting me speak.

Chair Grewe

Any questions? Thank you.

Sean Purvis

Hi, Sean Purvis, 4208 Taku Boulevard. The main things that I wanted to address like Mr. Barrett brought up I really don't know if any other industries or businesses are subjected to this five-year sunset clause. We are a fledgling industry. We are trying to do great things for the community here, with contributing our part with tax revenues and above and beyond. It just seems like these are arbitrary and capricious measures that are put on an industry that is - that's not applied to anyone else. Just on those two terms alone is kind of the only thing that I really had to say. It does seem very arbitrary to make us try to reapply for a Conditional Use Permit every five years. For no other reason really, well I've got a lot of reasons but, this is a small town, this is going to be business. There is going to be competition, there is going to be a lot of people that are not going to play fair. You know, they can easily rally public testimony against any one of our establishments. And close it. This is a small town. We are going to have a significant investment in this. You know, our return on investment schedule is probably going to be at least seven years, for anyone investing with us. It doesn't give them a whole lot of security with their investments that they want to make and again, I have been a resident of this town for 40 years. You know, I have nothing but this town's best interest at heart and you know we are talking about trying to move this out of the black market, let me just be real frank that is what we are trying to do. We are trying to generate revenue for the City and Borough of

Juneau and the least restrictive measures that we can really have - I understand we need our controls but Mr. Barrett did eloquently State that we have got regulation from the Marijuana Control Board at the State level, we have the Marijuana Control Board here - all of you folks are doing a great job, everyone is doing what they have to do, we understand the timelines we understand the schedules. To me it is important that we get out of the gate right as opposed to first. And, one of those things that I want to be able to do is be sure that significant investments that my partners and I make will not be subject to capricious business practices. And that's really all that I have to say. But it's really I mean beyond - you guys are really our last line of defense for that sort of thing. I don't know if you've considered these sorts of things in your measures of thinking but you know, it's very real, for businesses in this town that are very competitive.

Chair Grewe

Any questions? Mr. LeVine.

Commission Comments and Questions

Michael LeVine

Thank you Mr. Purvis. I have a variant I suppose of the question I asked Mr. Barrett which is would it matter to you if rather than the whole Conditional Use Permit being subject to a sunset provision that it's the conditions in the permit that are subject to review? We are trying to find a way as a commission to be able to review the conditions that apply to the business, not to strike down the business but given that it's a new business and that this ordinance is new to all of us I think that we are searching around for a way that would give ourselves the ability to look at the conditions under which all of the businesses operate without giving an indefinite right for operation. Would it make any difference to you in your comments if it was solely the conditions as opposed to the threat that the permit itself was going to go away?

Sean Purvis

I honestly think that if we were going to talk about any regulation that's probably an area that would be best handled by the marijuana control board. The local CBJ board here if we were going to apply any of those sorts of conditions upon our business. It seems like their realm. I don't think it's really a Planning Commission issue. Again if you know if we were sun- setting the brewery for example - if we were sunseting - again if we pushed this industry to be regulated like alcohol that was the initiative behind in Ballot Measure Two. That was the whole purpose of this. You know, I think it's fair to say whatever you do to the Alaskan Brewery is probably fair to do to us.

Michael LeVine

OK. Thanks.

Sean Purvis

You are welcome.

Chair Grewe

I will just make one comment there - it isn't the only time that we have a sunset; I believe gravel extraction - and I see Beth paging through Title 49. I don't know if she's looking for other uses but it's not unheard of. But I understand your concern.

Sean Purvis

I'm sorry. What is it for?

Chair Grewe

Gravel extraction is what comes to mind but there could be others.

Sean Purvis

OK. I'm okay with that. Gotta leave some gravel in the ground I guess. Anybody else? Thank you.

Chair Grewe

Thank you. Next?

Kaya Brix

Good evening Madame Chair my name is Kaya Brix. I attended the CBJ Assembly Meeting last night to comment on the use of flammables in personal use production of marijuana. I'm concerned however that this is part of a much bigger picture. I'm glad to hear that the gentleman who spoke before me that he wants to get out of the gate right. I think we are all here to do that. And we all have a commitment to the public process and doing that right. And I guess I was quite surprised to hear from City staff that we might go ahead with a Conditional Use Permit without the ordinances in place that govern the conditional uses of this industry. I work in the public process and I can't imagine that that is good public policy. It seems to me that we are getting the proverbial cart before the horse. There are many issues which still need consideration; both perhaps the ordinance itself and for Conditional Use Permits. Issues such as density in a neighborhood, quality of the neighborhood, value in the neighborhood, security, safety, transportation, access. Many of these issues are not ones at least I've heard being discussed in detail. It seems to me that we need to get those in place before we consider what Conditional Use Permits might look like. I'm sure you'll hear more about these details from other people commenting tonight, but for now I would like to request that you postpone the February 23, public hearing on the Conditional Use Permit until after all ordinances have been clearly, and thoroughly discussed, debated, and passed by the Assembly. We are all responsible for good decision-making. Let's do this right as the gentleman said. Together, and for the benefit of our whole community. Thank you.

Chair Grewe

Are there any questions? Yeah, please sign in with your name and address, thank you.

Robin Dale

Do you need my address too, or just my name?

Chair Grewe

Yes, please.

Robin Dale

My name is Robin Dale and I live at 9060 North Douglas Highway. I would like to thank you for the opportunity to speak tonight. I was also at the Assembly meeting last night and didn't feel like I had the opportunity to give testimony last night. And I will touch a little bit on the same concerns that I would've expressed last night tonight. I want to start out with, I understand that this is about the 2015-38 ordinance, and some of my concerns go beyond that I do want to start out by saying that I am not opposed to marijuana use, I think I voted to legalize it during the last election, however I am very opposed to marijuana cultivation in residential areas. And I have tried to express these concerns from the moment that I found out that the City was actually considering that. I've heard a lot of complaints from Assembly members and City planners and some of you commissioners that some of us are coming to the table late in this process? And that might be true but I think it's cuz it wasn't well, it just wasn't out there; I think a lot of people in this community weren't aware that the City was actually considering allowing this kind of activity in residential areas. You know I've - I read the paper every day, I check legal ads every day in conjunction to my work and I just was never aware even though I read about the Marijuana Board and you know, things that other communities around the State were doing in this process you know, of vetting this new industry that we're faced with and I just honestly never knew that it was going to be allowed in residential areas and not one person that I have talked to since I found out really understood that either. So, there has been some sort of breakdown in the public notification process about this? And I'll use my Parks and Rec analogy again. I signed my daughter up for Parks and Rec soccer a couple of years ago and I get letters in the mail, I get postcards I get emails, I see it on Facebook; Parks and Rec is getting information out all over the place about the opportunities to sign your kid up for soccer, basketball, or whatever. I never saw anything about this, you know it's pretty easy for the City to pull a mailing list and send D-1 and Rural Reserve residents a notice of this kind of activity, this is not a you know, a benign vegetable garden issue, this is a new industry; there are risks involved that not everybody understands yet including the very people who are charged with getting these ordinances in place and I just think that we need to make sure we know what we are faced with in these areas. As soon as I found out that this use was being contemplated in residential areas I did write two different letters, one to the Planning Commission and one to the City Assembly last fall. I was out of town for the hearings and could not attend them, but I did write the letters and frankly I never got any kind of confirmation that they were received or considered. So I think that's another failing, not pointing to any one of you in particular but there is some sort of breakdown in this public process I think. So another thing I just wanted to

point out, you know particularly in the last few weeks every email I sent I've gotten some you know, misinformation or inaccurate information or confusing information back from City planners or Commissioners or whatever. And so I'd just like to point out, a little bit of that, for instance, I looked at the official minutes from the November 9, 2015 meeting, at least one Assembly member appeared to rely on §14.2 of the Table of Permissible Uses, to State that §14.2 of the TPU already allows commercial agricultural operations in the D-1 zone. That's true, but it also allows that in all of the other residential areas either. At that same meeting they voted to disallow, commercial marijuana cultivation in D-1 and Rural Reserve areas. So why were we singled out and treated differently than other residential areas. When that same permissible use applies to all residential areas. So that is something I think was evident that even the Assembly members were clear - clear on that at the time that this was voted in. The same Assembly member indicated that D-1 was the least dense residential zone. And you know I don't know if that's true or not either but I think there is some misconception about the density in some D-1 areas. For example I think there are at least eight different residences within 200 yards of my house on North Douglas Highway. There's four within 50 yards probably. You know our kids are walking the highway selling raffle tickets, walking the dog, doing everything kids in the other residential areas (sic) doing. Are doing, they are just doing it along the highway, but there are still a lot more residences than most people are aware of out there. We are a neighborhood just like any other neighborhood and I think we deserve the same protections. There also appears to be a belief in the as some members of the Assembly, the City planners, and some Commission members that this is a done deal. In fact I had one planner expressly State to me that the Assembly voted to allow commercial marijuana in the D-1 district. Well that's not entirely true. The zoning ordinance voted on last fall is to allow commercial marijuana cultivation only with a Conditional Use Permit. My understanding of a Conditional Use Permit is that it is not a use allowed outright in a particular zone but one that can be permitted if conditions attached to the permit can reduce or mitigate adverse effects. Sufficient to make the activity compatible with surrounding, allowable uses. So just because it is now allowed in a D-1 or a Rural Reserve, zone, that doesn't mean that it's outright allowed. There is still the conditional use process and you guys do have a say, you do have power over that process. So with that in mind I want you to - remind - to remind everybody why residential areas including D-1 and Rural Reserve were established. And this is straight out of Title 49: "The following districts are established to provide a healthy, safe and pleasant environment for residential living protected from incompatible and disruptive activities." So keep that in mind when you are faced with Conditional Use Permits; just keep that in mind as you are forming ordinances that are going to govern what goes into those permits is that you do have a right and an obligation to consider whether that activity that you are reviewing is compatible with our residential living. Finally, there has been some misinformation being shared about so-called balancing that must take place. And in an email to me from one of the City planners he Stated that CBJ must balance the rights of prospective business owners with the rights of other residents. I disagree and am actually quite offended by this Statement. If I purchase property in a mixed use some or next to an Industrial or commercial area this type of balancing might be appropriate and I would be okay with it. But I bought my property and built my home in a

residential area. I never expected to have to compete against business interests in my residential area. So I'd like the City commission (sic) to keep that in mind too. So regards to this specific ordinance, I do have specific comments that I would like to see built into the ordinance that you are considering tonight. But I don't want the fact that I am commenting on the ordinance to negate the fact that I am strongly opposed to any type of commercial cultivation in a residential area regardless of the density. So I did submit a letter, I asked for confirmation and I didn't get confirmation back from anybody whether it was received, and I didn't intend to read the whole letter - can I ask if you did receive it?

Chair Grewe
I received it.

Robin Dale
So two of nine?

Chair Grewe
I think - was it included in the blue folder?

Robin Dale
Like I said when I submitted my comments last November, I never got any confirmation that they were received or considered either. So, I sent it directly to each of the Planning Commission members and also sent it to the - pce_ whatever that email was. So, I would appreciate it if all public comments from me and others, make it to you before you make any decisions. With specifically to the ordinance, I do think there should be licensing requirements, to make sure that the City has enforcement procedures in place and could take appropriate action if businesses fail to comply with them. I believe the licensing fee can and should be increased to help pay for this enforcement. And that the license and Conditional Use Permit should be divorced from the land and include a sunset provision to allow for continued oversight. I guess I'm not super familiar with different businesses? I am familiar with, land and resource management planning. I have reviewed, for instance, mining operating plans over the years and sometimes we have operating plans that are submitted to us annually that we have to review and improve (sic) annually. And these are mines, you know there's permits from all sorts of different federal agencies involved in this and so they are doing business - there's process in place to review their business and make sure that you know, that laws are being complied with and that they're not having undue effect, or unforeseen effects on the environment, on the people around them, so it is a - I understand that might be a burden to business but sometimes that burden is worth it to make sure that appropriate safeguards are in place and that you can make changes to the business to the Conditional Use Permit if needed. In the absence of, of, you know limits on time or sunset provisions or whatever then maybe you need to step back and, and, revisit where you allow that use. Because if you're allowing that use in residential areas now and there's a problem and you can't revisit, what goes into that permit, then you could have unforeseen effects on your residents, and have no way of changing

that use. So maybe it's time to step back and say well why don't we take a look at this Industrial area first and see what those effects look like down the road. I did attend the meeting last night and hope to give testimony on the use of hazardous and volatile materials I know that some of these materials are used in the cultivation of marijuana, and I just would urge you to consider the same protections for cultivation operations in residential areas that the Assembly passed for personal use manufacturing last night. And then finally, I'd just like to repeat that residential districts were established to provide a healthy, safe and pleasant environment for resident - for residential living protected from incompatible and destructive activities. And so as you're reviewing your ordinance tonight just I urge you to make sure you understand all of the potential effects that you - that residents are faced with and to make sure that there is (sic) appropriate protections in place. And I go into more detail on to what those might look like in my comment letter. So as was Stated before I urge you to postpone action on the one CUP I believe you have before you until these ordinances are all in place and have been passed by the Assembly. Thank you.

Chair Grewe

Any questions? Commissioner LeVine.

Michael LeVine

Thanks. This isn't a question. I really appreciate the depth of your comments and how much thought you've put into them. I did read your letter as a general matter, if you - and I'm one who appreciates the written comments. I like the public ones too, but the written ones are particularly helpful for me. If you get them in a week or so before the hearing they get printed in our packet and we'll get a week to digest them. And if you get them in a day or two ahead of time staff will print them and we'll have them here so it's fine to email them to us but it's generally really just - as a general matter probably not the best way to depend on all nine of us getting them. So, thank you though, I really do appreciate your letter and your testimony.

Chair Grewe

Any other questions? Thank you. So, I did read Robin's email, so those of you who have not I can pass mine your way. You can sit on it and read it over break. I just happened to be working late at the office tonight so... I checked my email before I came in. All right, next?

Todd Boris

Good evening, you guys hanging with us OK? It's getting a little - a lot of public testimony tonight. My name is Todd Boris, I live at 8317 North Douglas Highway. Let me sign in here. It's been 13 years since the last time that I have actually given testimony in front of the Planning Commission. So, if I happen to break protocol or anything, let me know. Is it appropriate to ask questions? There is a lot of information about the marijuana regulations from both the State and local CBJ and quite honestly I'm not sure if I have seen them all yet. If I am even aware of some of the laws. Is it appropriate that I just ask planning staff questions?

Chair Grewe

Sure, if they are willing to entertain. I mean, you can ask.

Todd Boris

It should be short. I promise I won't bite. The State says that cultivation can occur outdoors. Unless there is local government restrictions on it. Do we have something in place about marijuana cultivation occurring outdoors?

Chrissy McNally

There is no restriction on it occurring outdoors. I believe it's listed in the Table of Permissible Uses under "greenhouses".

Todd Boris

So if someone wanted to put in an application for open air outdoor cultivation in a residential area, that would be permitted.

Chrissy McNally

The only commercial marijuana cultivation allowed in a residential area is in a D-1 zoning district out of the urban service boundary and is limited to 500 square feet. There are significant restrictions on odor mitigation, and I believe the State has a requirement that it needs to be either fenced in or that there needs to be permeable walls. But there are some pretty tight restrictions on - as far as the accessibility of a greenhouse, it has also been my understanding that we do not have a climate that would accommodate commercial marijuana cultivation outdoors.

Todd Boris

OK. So –

Chrissy McNally

If I can find that, I can reference you – just a moment.

Todd Boris

So when I read through this chapter and it implies that it is supposed to be indoors, there is like a floor plan and stuff. It only implies I didn't know if there is actually something that - someone could actually just go and plant a garden of stuff and I know the State law says that you gotta have it behind a visible shield and stuff but there's no –

Chrissy McNally

Especially, because of the odor mitigation requirements it's unlikely that you would have a situation where something would be completely exposed.

Todd Boris

One more question, but it's kind of two, actually. Do we have regulations on light emission and noise? For marijuana cultivation.

Chrissy McNally

Does the CBJ?

Todd Boris

Yeah.

Chrissy McNally

They are not listed in the ordinance.

Todd Boris

OK, now I will get on to my comments. I submitted written comments this afternoon I think I sent them by email to you guys so I got an auto reply from the planning staff saying it's supposed to be turned in two Tuesdays before yada yada yada. So did you guys happen to get my written comments?

Michael LeVine

We have got them, yes.

Chrissy McNally

If I could just follow up on the noise and the light, we put in the ordinance things that are specific to marijuana and noise and light are things that we generally address in a Conditional Use Permit application. And so, it was recommended by the Marijuana Committee not to add things that we would already be addressing on a standard permit.

Todd Boris

Well I guess to kind of preface my comments, I'm here tonight I guess to speak for the 2015 – 38, I support the work that's done and here for licensing, part of my letter, talked about the sunset clause as an amendment but it's already in here and I think the five year limitation on conditional uses is appropriate. Especially given marijuana cultivation in a residential area. This is a new industry in Juneau and in Alaska too, but gives the public an opportunity to weigh in, in case they discover this isn't compatible with their neighborhood. I think when you're talking a business enterprise occurring in a residential area the primary use of the residential area is residents. And affording those residents an opportunity to weigh in every five years I think is an appropriate and prudent thing to do. Compared to the commercial benefits that others will receive by their use in a residential zone. Plus, land-use codes, zoning maps, ordinances changed directly by Assembly action or directly by code like CBJ Title 49.45.210, D-1 classifications change to higher density upon sewer. It's happened in North Douglas already. That would be an appropriate time to say the zone changed, then we can come back and look to see if that conditional use is still applicable to the zone. And then finally, just to be honest, CBJ struggles with enforcement of conditional uses. My neighbor has a Conditional Use Permit and he's in violation of it and the City has done nothing about it. So, requiring a sunset of a conditional use helps

the applicant self-regulate and enforce compliance by taking the burden off of CBJ and on the applicant itself. I fully support the licensing requirement. I think asking marijuana establishments to apply for a City license empowers compliance with the CBJ regulations. Furthermore the fees associated with obtaining a license should be commensurate with the cost of the City's enforcement. Why should the taxpayers pay for the cost to enforce a commercial business operation? That ordinance just makes sense. So in my letter I proposed five additional amendments and these are mostly specific towards marijuana cultivation in the D-1 residential zone, so kind of keep that in mind as I kind of go through this. Before I get to that, though, how we got here, when the City amended the Table of Permissible uses on November 9, to allow commercial marijuana grow operations in D-1, and only in D-1, even though they did recognize that commercial agricultural activities are allowed in all residential zones, by excluding all other residential zones they recognize that commercial marijuana grow operations are in fact incompatible with residential zones. Only by conditions can it be made compatible. I, too, just like Robin Dale, received emails from planning staff. One email says prospective marijuana businesses need their Conditional Use Permits. It implies that it's a birthright for the applicant to receive that conditional use. I think there's an attitude that this is a done deal. And, like others have said, conditional use is not allowed outright in a particular zone. But that it could be permitted if conditions attached to the approval make the activity compatible with surrounding, allowed uses. I would like you to keep that in mind when we are discussing conditions. So the first amendment that I would like the Planning Commission to take up relates to what was discussed last night at the Assembly meeting. Hazardous combustible prohibitions. If you have a copy of my letter there is actually quite an extensive amount of information that I presented here. Marijuana grow operations need use CO2 to promote faster plant growth. To do that they burn propane natural gas – combustible, compressible, combustible materials. In other States where marijuana has been legalized to grow they have discovered that legal marijuana grow operations have had fires, explosions and even death related to combustible substances being used in the grow operation. So in my letter I have given you five headlines from various spots. It's still occurring. January 21, this year a home was destroyed by fire in Larkspur Colorado. January 13, marijuana grow explosions started in a house critically injuring the man. January 13, 2016, Grand Rapids Michigan. This is occurring. Really don't want to see this happen in the residential zone I live in. I think I can safely say that that commercial use in a residential zone is incompatible. I won't go through each one of these unless you really want me to. So my recommendation the impacts of commercial marijuana grow operations using methods solely for the economic benefit of the enterprise are incompatible with public health, safety and welfare within the D-1 residential zone is unacceptable and inconsistent with CBJ 49.25.210. Establishing conditions, commercial marijuana operations are incompatible with residential use. Therefore, I respectfully ask the Planning Commission to prohibit commercial marijuana grow operation's use of volatile chemicals such as butane, propane, acetone, isobutene and natural gas. In the D-1 residential zone. The second amendment, it's actually amendment number three in my letter, marijuana growing density restriction. When the Assembly passed the ordinance 2015-39 allowing marijuana grow operations in D-1, Debbie White and I quote, "these types of industries are already in residential areas. We want to be able to regulate them." Marijuana grow operations are occurring throughout the Borough, they are not exclusive to D-1 locations. I don't think it was the intent of the Assembly to consolidate and magnify the density of the growing operations in the D-1 residential zone. I think that's just a side effect of allowing this in only one residential zone. The thought process that they had was let's just make legal what has been illegal. So you can deduct from that we don't want to increase the density of these operations but I think it's an inevitable occurrence of what's going to happen. I live on nearly two acres of land on North Douglas. Conceivably people have in mind that I would be limited to a 500 square foot

grow operation. But when I talk to people I don't think the thought has occurred to them that I could subdivide that land and put two, 500 square foot grow operations on my one lot. I don't think people thought that I would have a 1,000 square foot grow operation on my property. Granted, it would have to be conditioned by you guys. And, I think it was Robin Dale who also said some parts of our district in the D-1 zone have the same density as the D-1 zone within the urban service boundary. And perhaps D-3, too. So the question that I have is at what residential density are the impacts and the commercial use compatible? My next door neighbor is 13 feet away from my property. If I were to put in a marijuana grow operation, it could be under 30 feet away from his residence. I think that would be too close. People with bigger lots can have a much bigger area, grow if they wanted, so I respectfully request that the Planning Commission adopt an ordinance to meet the intent of the Assembly and to protect the character of our neighborhoods by limiting the density of marijuana grow operations in the D-1 residential zone which is currently in existence, or to one operation to within a five mile radius, whichever is less. My third amendment that I would like to present, setbacks in sensitive area restrictions. At the November 9, Assembly meeting Mr. Kiehl characterized the D-1 residential zone as the least dense residential zone. While portions of the D-1 residential zone are certainly low density, that's such a broad charac - such a broad generalization that it is misleading. In point of fact the separation distance from my neighbor is 13 feet. If I were to build a 1,000 square feet of grow operation 28 feet away from my neighbor's residence I think that's probably too close. By setbacks you can mitigate some of those impacts. At its June 23, regular meeting the Planning Commission amended Title 49 to expand childcare uses in residential zones. A child care center of 13 or more children can now be approved in D-1 in the D-1 residential zone without a Conditional Use Permit. I reviewed State regulations which become effective February 21. Correct me if I'm wrong but I could not find State regulations restricting a marijuana establishment's proximity to sensitive areas such as a child care center. I think it goes without saying that there should be some sort of restrictions in there about the proximity of marijuana grow operations from certain sensitive areas. So I respectfully request the Planning Commission adopt an ordinance revision establishing a 200 foot minimum front yard setback, a 150 foot rear yard setback, and a 100 foot minimum side yard setback for marijuana grow operations in the D-1 residential zone. And I also respectfully request the Planning Commission adopt an ordinance establishing prohibitions for marijuana grow operations within 500 feet of a child care, day care school. And then my last amendment that I would like to propose, property disclosure requirements. If you have read about what marijuana cultivation facilities have done to the homes down South, or even illegal operations, they are known to have dangerously high mold levels that can destroy the inside of a home. Because a resident like me can go get a commercial business license you wouldn't know, when I go to sell my home how I used it, unless I were to disclose it to you. There is no - the information is not recorded. Unless I am honest, and if I am not you wouldn't know. Because it's commercial use, if commercial businesses are not disclosing past practices done at a residence it will make other, potential future buyers looking for homes in the D-1 residential zone question whether - how do I know if that home that I'm looking at wasn't a marijuana grow operation, and what kind of problems am I going to be buying into? Maybe they just covered up the mold with some paint. Not having that certainty of what people are buying would lower the home values in my residential area. So I respectfully request the Planning Commission adopt an ordinance establishing a commercial use disclosure requirement. I'm not entirely sure how to do this through ordinance but I feel compelled that some sort of home value protection should be established to make marijuana grow operations compatible within the D-1 zone. And in conclusion, thank you for considering my comments and proposed amendments. With multiple competing interests vying for your consideration I certainly can empathize with the tough decisions currently before you. I respectfully ask the Planning Commission to remember conditional use is not a

use allowed outright in a particular zone. The reason for zoning is to separate incompatible land uses and is established to reduce conflicts, hazards and impacts between dissimilar uses. The first and primary purpose of residential zones is to protect residential use from other incompatible and sometimes competing interests. I think you will find my proposed amendments are consistent with these principles. And finally I respectfully request the Planning Commission postpone action on any Conditional Use Permit applications for commercial marijuana cultivation in the D-1 residential and Rural Reserve areas, until all the potential effects are fully understood and considered and all marijuana ordinances are adopted by the Assembly. Moving forward with any permit before the public has had adequate opportunity to review and understand potential effects of commercial marijuana cultivation on public health and safety, neighborhood harmony, surrounding property values, environmental effects, etc. is irresponsible and not fair to the public, especially for the residents in the D-1 residential zone. And Rural Reserve. Thank you.

Chair Grewe

Any questions, commissioners? Thank you, and if you didn't see Todd's comments that came in late today, I can pass my copy around. Everybody's got it? Next comment, please? Please State your name and sign in for the record.

Wayne Carnes

Hello, my name is Wayne Carnes, I live at 8170 North Douglas Highway. And I don't know if you have received my comments unfortunately I was working and got off the ship last night and just arrived in Juneau this morning so I kind of quickly created some comments so if you have received them that I won't go into excruciating detail on them. I am just going to read parts of this and then be done. In my profession work as a captain on a U.S. flag the passenger ship. Prior to a voyage we conduct a detailed study of the route, hazards, weather, tides, currents, etc. before letting the lines go. A safe voyage depends on proper risk management. What we as a City are doing with regards to marijuana cultivation and processing regulations is setting sail on an industry without adequately addressing the hazards and risks to all citizens. And my concerns are not for cultivation in Industrial areas but specifically in residential, D-1, RR areas. My wife and I own four adjacent acres out on North Douglas.

If we carefully subdivide the property we can essentially create a 1,999 square foot marijuana grow facility. We can also use toxic and volatile compounds to enhance growth and process the crop. And, it can be located adjacent to my neighbor's house. I don't think my neighbor Walter Majoris would be too pleased about that. I am opposed to commercial cultivation of marijuana in any residential district. It is unfair to the residents in D-1 and RR to be treated differently than the residents in other residential areas. My comments are similar to what Todd Boris has so I won't go into that. But I will conclude that I encourage you to consider these and any additional protections for D-1 and RR areas in our community and I request the opportunity to review and comment on those protections as they are considered, before any decisions are made to approve operations in these areas. Limiting commercial cultivation in these areas to 500 square feet is a step in the right direction. But will not mitigate the negative effects on residents in D-1 and RR. I request that you postpone any action on Conditional Use Permits for marijuana cultivation and/or processing facilities in D-1 and RR until all of the potential effects are fully understood and considered and until all marijuana ordinances are adopted. Proper risk

management is not easy. If we do not do the hard work now, we are asking for unintended consequences that threaten our community and citizens. Thank you.

Chair Grewe

Thank you. Any questions for Mr. Carnes? Did you all receive his comments or I can pass mine around? OK. Thank you. Next please.

Mary Ellefson

My name is Mary Ellefson, and I also live at 8170 North Douglas. I'm the one he's going to subdivide our property with. That's a joke. OK. So last night – did you get my comments?

Chair Grewe

I did. I have the written comments. I can share them at the break.

Mary Ellefson

So I am not going to go into all of the details on those either, I'll just pick some highlights on that. Last night I also attended the Assembly meeting to support the revised ordinance which ensured that personal cultivation was food or water based. I asked the Assembly to extend this measure to the D-1 and RR zones so that all CBJ residents are equally and safely protected. However, the ordinance was amended to alcohol an extraction method that was even deemed flammable by our police chief at that meeting. So tonight I am more concerned than I was last night about safety and process. I am requesting that you postpone the February 23, public hearing on the CUP until after all related marijuana ordinances are studied, discussed publicly, and passed. I am also opposed to commercial cultivation in any residential district and I do not believe the full effects of marijuana cultivation have been considered and disclosed in CBJ's deliberations so far. I do know this is our issue as a Borough to manage and own every single step of the way. And while the State may have regulations and oversights we are in charge of where and how we deal with the levels - all levels of marijuana processing. It seems the CBJ has passed the "where" with very little emphasis on the "how". I am not gonna go into all the details I have for looking at the ordinances because, Robin Dale and Todd Boris have talked at length to those. And I do want to say that have talked to my neighbors June and Paul who have the first CUP coming up and while I may trust them and will also attend their open house coming up, I want to more ordinances in place and protections that include food safety measures from myself and all of my neighbors. So I'm just going to go over a few things that didn't come up so far. In the licensing I do think the license and Conditional Use Permit should be divorced from the land and include the sunset provision. I think this is the only way to ensure that businesses are good neighbors in our residential areas. In terms of public health and safety I would ask that the hazardous materials, volatile materials should be prohibited and I would also ask that any applicant must live on the premises for security and oversight and just neighbor-like purposes. My big concern is just neighborhood interests and I don't think I have to read this again but residential districts were established to provide a healthy, safe and pleasant environment for residential living protected from incompatible and disruptive

activities. So that talks about protections in place so I know that Todd talked about this much more eloquently but in density which must be considered our neighborhoods are going to become Industrialized agricultural zones I want to request one cultivation facility every 13 miles in our district. I know you come on board and you care, you come on board and you learn, and I think Robin pointed to the fact, I can't apologize for caring deeply right now and sharing these with you. I can say that I want you to think about your home and your neighborhoods and why you choose to live there if you have that privilege to choose which I did over 20 years ago on North Douglas. I do not want a marijuana grow facility next door and across the street. I don't want to learn that the Peony farm in my backyard has also become one. I don't want my neighbors to have to worry if they are going to have a similar cannabis cultivation facility within 50 feet from their house, across the street, or kitty corner from their child's treehouse. I don't want to run or bike or lead my cross country past a series of commercial cultivations. This agricultural activity is in complete disregard of the reason I chose to buy and live in a residential area. It doesn't cultivate crops but it undermines neighborhood harmony. So thank you.

Chair Grewe

Thank you. Any questions? Thank you very much.

Fred Hiltner

Good evening. Ladies and gentlemen of the Juneau Planning Commission, my name is Fred Hiltner and I live at 9601 North Douglas Highway. I thank you for the opportunity to comment on the issues on the needs of Juneau's neighborhoods regarding commercial marijuana regulations. My greatest concern at this point is not just mine but shared by many in our community. There has not been a reasonable public process that has allowed the community to fully provide input in the decision-making of this point. The speedy pace the Assembly and Planning Commission have been using has created this situation where Juneau's citizens have not been reasonably notified of Assembly meetings that would greatly affect their lives and their neighborhoods. For example, I attended the November meeting of the Juneau Assembly and was shocked to watch the Juneau Assembly vote to allow commercial growing of marijuana in neighborhoods zoned as D-1. All that I talked to at the meeting and afterwards had not been aware that such a pivotal decision would be made without proper notification and allowances for testimony at that time. It's not that hard to notify neighborhoods, an email to the neighborhood Association would have let us all know that ahead of time. I would like to think the Assembly would encourage testimony from affected parties so that they can understand the needs and perspectives of their constituents because of their comments and concerns make a decision that takes those concerns into account. It would be very detrimental to the sensitive and controversial process of how Juneau transitions to a marijuana growing and selling community if the public feels like they have been left out of the process. I recommend that the process that has allowed commercial growing in D-1 neighborhoods will be formally reconsidered by the assembly and that future regulation deliberations will be done in a more timely, inclusive, transparent process. Juneau citizens deserve that. I also encourage the Planning Commission to continue the ordinance and keep it open as long as is necessary to

allow greater public participation because there are many matters that deserve great scrutiny and careful decision-making. And, who knows, maybe somebody in the Juneau public might know something and be able to contribute to the great problem-solving and decision-making that has to occur. In order to allow and encourage full public participation and transparency, it is important that no Conditional Use Permit hearings are allowed until all ordinances are adopted by the Assembly. To allow Conditional Use Permit hearings before that and here I share Wayne's analogy of a boat, being out on boats. To allow Conditional Use Permit hearings before that would be like the Coast Guard allowing boats to be used for passengers. Boats that had not been fully designed, viewed, and certified by naval engineers. And they don't allow that. Please be a strong voice for not allowing any hazardous materials to be used anywhere in Juneau for commercial or private use marijuana growing. Throughout this process let's keep safety first. While this process of so many regulations of marijuana must be tiring for Assembly and Commission members, especially considering so many other issues are demanding attention. This process demands allowing more time and energy so that Juneau ends up with a truly great process rather than one that has been sped through and leaves problems in its wake. Regarding the five year application I really would like to encourage that to be kept in as a regulatory procedure that can be there so that problems that might happen -unforeseen problems in the next five years say, can be dealt with at least every five years, if not sooner. Otherwise I think there is little chance of reconsidering and improving those. There is a reason many of us don't live in Industrial areas, commercial growing of marijuana is an industry and as an industry it should be allowed only in Industrial areas. I also imagined our property in North Douglas a commercial marijuana warehouse growing system on each side of our lot. You know, I imagine the lights at night, the security cameras, the noise of the fans and the pollution that goes on down into Gastineau Channel. Where we have a lot of salmon running down there. Last night I also talked about the noise which is something that really concerns me too. This week, as I mentioned last night we have owls coming through our - you know hearing owls at night , great horned owls, screech owls and I don't expect that I would hear those if there were fans going all night next to our property line. I want to thank you for your time and considerations and again encourage you to encourage an inclusive and transparent process with the support of Juneau citizens.

Chair Grewe

Thank you. Any questions from commissioners? OK. If you don't have the written comment I do, and you are free to ask me. Is there anybody else who would like to provide public comment on this ordinance? Is there anybody new who would like to provide public comment? OK.

Zane Luther

My name is Zane Luther and I live at 11457 Joann Way. I own Southeast Extracts.

Chair Grewe

Excuse me, what was your name again? I didn't catch it.

Zane Luther. Kenneth Zane Luther, actually. Kenny Luther, from when I was a kid. I wanted to talk about the sunset clause, I'm nervous this is the first time I spoke before the board publicly for over a year, I guess. What I'm seeing tonight is a lot of disapproval of the proposal from the residential areas. So, what Mr. LeVine had proposed earlier and talked about was that the sunset clause was mainly to have some sort of way to have some reins on this thing when I – when it - when it comes to be. So maybe there is - it might be that there needs to be a sunset clause in the residential area and not in the Industrial areas. I haven't heard any concerns voiced about the Industrial locations or other business locations that would be affected by a sunset clause. It does seem to be a bit discriminatory to have that five-year clause when you already have a one-year renewal as well as - I am not sure if residential grow operations have to publicly post what their intentions are and what allowed neighbors to then say no, just say no to it. That's not either here or there I guess. But my main concern is that the sunset clause I don't think is appropriate for areas that are zoned for business. Any questions?

Chair Grewe

Thank you. So any other new public comment? All right. I think with that I am going to close public comment and - because I don't want to get into the back and forth between those who have already provided comment. And, let's also take a 10 minute break. So, we will convene again at 9:20.

Chair Grewe

All right. Thanks for being patient with the break and just a quick update here so we are going to continue CSP 2015 0018 a City project review for installation of new bus stops on Yandukin drive and Davis Avenue until the next meeting when the Planning Director can get it scheduled.

Bill Peters

We are moving Item Two to a future meeting?

Chair Grewe

Yes. The second item on the regular agenda tonight. So, apologies to that group who have waited around for so long but we figured the deliberations on the ordinance would keep them too late. So. Thanks for your flexibility. OK. So I'm thinking about - I think we should handle this the way that we talked our way through it when we heard this ordinance at the Committee of the Whole where we kind of moved from conceptual issues, overarching issues, questions you need answers, to, and then we were just kind of move through it section by section. Does that sound amenable? Mr. Peters.

Bill Peters

Thank you Chair Grewe, before we jump into the memo I just want on the record to raise a couple of issues. And while I appreciate much of the public testimony this evening, my concern

is in terms of what we have before us tonight is the ordinance, and much of the public testimony that we are hearing this evening is speaking to two issues. One, is the TPU which has been before this body and has been moved on to the Assembly. And, I have some level of frustration in that there has been much public testimony related to lack of public comment opportunity for the TPU. Having served on the Marijuana Commission with two other members of this Commission for I think roughly a year I think that has been ample opportunity for public testimony and I feel like this is coming in at the eleventh hour. That said, I also want to raise the issue just in terms of orders of the day in your role in keeping us on task and what you are allowing to occur in terms of public testimony. And also, that I heard some comment with regard to a CUP that is going to be before us on 2/23 which I believe there is some level of conflict there for you? I want that on record that there may be a conflict of interest that was not raised as a part of this process. So I just want to raise that issue. And I'm happy to walk through the ordinance. Thank you.

Chair Grewe

Sure. Thank you. All right. So, let's move ahead with the ordinance. Does anybody have any overarching questions, issues, clarifications you need before we get into the guts of it? Commissioner Haight.

Ben Haight

I think I would just like to kick this off a little bit, I think most of the discussion that we have had tonight has been revolving around the concern of application in residential areas. And based on this whole concept that the TPU is already accepted for cultivation within residential areas I think we have to proceed on this ordinance with that in mind. I think that there are some aspects that some well Stated points here have been brought up. The point of the sunset provision, and I think that a lot of this has - is really reaching across the whole board of the four different types of establishments and the zoning that they are applied to. I think that we have to keep that in mind as we further our considerations on this particular topic. That it not only applies to residential but it applies to all types of establishments. I think there is another element here a point has been brought up and that is risk. And I think that we have to keep that as an element in mind, we have risk to the business owners when we talk about licensing and sunset provisions, but we also have risk to the neighborhood. Particularly when we are delving into residential areas. So I think we have to put that into perspective. A couple of other issues that have surfaced that are not really drawn out well in our ordinance that I see, that we probably should put some discussion to. And that is the application of hazardous materials and which zoning we would like to control that in. Is it something that we want to control in the residential areas? And make it appropriate to the commercial or the Industrial areas, I think that is a topic that we should pursue a little bit further. The other one - the last topic that has come to my mind, and that involves safety and security. I think that when we are talking about these types of establishments there are some concerns and definitely some valid concerns about what these kinds of establishments bring to that particular neighborhood. And if it's a residential neighborhood then do we need to put something into our ordinance to address that

as well. Those are the topics that have surfaced in my mind through our discussions tonight and I think we should address all of them.

Chair Grewe

Thank you. Any further comments? I think I have a couple of overarching issues here that I would just like to discuss quickly. Mr. Peters raises an issue about the Table of Permissible Uses already being adopted and that is true, the Assembly pretty much answered the zoning question, the where question. I kind of feel like tonight we are here more because of the how? So how are we going to do this? Ben has done a great job of kind of summarizing and pulling out of public testimony things that we can actually take up tonight. And one of my kind of questions or issues I would like to just discuss before we delve into the guts of the ordinance is just kind of the mechanics of this. So, I'm familiar with the TPU, I know what the ordinance looks like; the 2015 – 39, and I actually did a little cheat sheet today of just marijuana and the zones, so I could see it on one piece of paper altogether from grow to sell and as I went through the ordinance it struck me just as Ben spoke as I spoke to one of our public commenters that it seems to be that what may be is a concern for our residential use or residential zone may not be a concern for an Industrial zone. And, so I am just kind of wondering how we can deal with that now because Bill is correct, the TPU has been amended, we heard a lot of concern tonight about commercial cultivation in D-1, it's in the writings as well, Rural Reserve however you want to communicate that, but, you know, at the same time the Assembly has adopted the TPU, they put a 500 - you know less than 500 square feet in D-1, I'm sure imagining a smaller operation, I mean the actual discussion is very short in their minutes. So here we are, we've been told where, we've heard concerns, so now I'm kind of like is there any opportunity to customize this ordinance and bring in a little bit of that flavor. I would like to see more permissive in the Industrial zone on some of this, and more restrictive in the residential areas. I mean is there even room to discuss that?

Amy Mead

So the concept that the Commission worked under, and Mr. Peters is going to correct me if I am wrong, is that originally the ordinance that was brought before the Marijuana Committee to consider was much more specific as far as the conditions - the regulations that would be imposed. So there were a number of items that the Committee wanted addressed in the special use chapter. Things like odor, and security and waste and signage; a long laundry list of things they want to consider.

Chair Grewe

In the special use chapter, which is this one.

Amy Mead

Correct.

Chair Grewe

OK.

Amy Mead

Originally, the special use chapter was drafted to address all of those pieces individually, and to set standards for those. The Committee decided instead that it wanted to utilize the Conditional Use Permit process as much as possible. So the idea was to go about it in the same way as they did with the cell towers. So the way the cell towers worked is you expanded upon the Conditional Use Permit process for that particular industry. The special use chapter also includes some very specific provisions of general applicability. But by doing it that way it gave you the ability to tailor the permit more directly to the specific site that was at issue. So this special use chapter with respect to marijuana is designed to expand upon your normal Conditional Use Permit process by requiring additional pieces of information; additional submittals for you to consider such as lighting, and odor mitigation and security, waste disposal, those things. And there are a few pieces of general applicability so when you are doing your Conditional Use Permit application reviews you get to tailor the conditions dependent upon the site and where the establishment is going to be, which is the whole purpose of the Conditional Use Permit.

Chair Grewe

Yeah, so I get that, you know I have been through many Conditional Use Permits. But then we have this chapter and it seems to me, especially with the Conditional Use Permit section here, it seems like we're kind of saying that there are some things that are so important that we are going to codify them in this special use chapter. In addition to the Conditional Use Permit. I mean is that what's really happening here?

Amy Mead

There are additional things that you want from this industry that you don't require from general Conditional Use Permit applicants. If there are additional things that you want to include that you think are important, you can do that.

Chair Grewe

OK. That's the crux of what I am getting at. And I had the opportunity to read the comment that came in late today because they worked late until I came here, so I'm trying to figure out what's applicable, and if we want to deal with it; where's the best place. And I didn't have the benefit of sitting on the Marijuana Committee and thinking about this for months and months.

Amy Mead

So there – which comment?

Chair Grewe

No, I think you've answered my question. Let me see. Oh, I guess my second question, that I probably drew attention away from - but is there a way to put specificity into this ordinance?

Regarding the applicability to different zones. What might be applicable to D-1 or Rural Reserve may not be applicable to Industrial. I mean any time marijuana happens in this community the way the TPU is today, is all by Conditional Use Permit. But I'm less interested in the Industrial zone by the very definition of that zone versus commercial, I mean I'm mixing and matching also from cultivation to selling and then the zones, right? I mean we have heard a lot of comment tonight about residential zones. Is there any freedom with this ordinance to specify one provision for one zone only?

Amy Mead

I don't think so in the way that you're thinking. I mean, I think the purpose of the Conditional Use Permit as you know, is so that you can tailor the conditions that you think are important to that specific - to mitigate the impacts to that specific site. So, for example, the odor mitigation that you might require of a cultivator in an Industrial zone might be different to the odor mitigation of someone who is going to be close to residential areas. There might be different units, or filters something that you require - you have the freedom to do that. I don't think that you could build into the ordinance more limiting regulations than the TPU already envisions.

Michael LeVine

I'm sorry, just to build on that same question; does that mean that for example we couldn't change the setback requirement for some of these things in particular zoning areas? So if, for example, I think it was suggested in one of the comments if we wanted to have specific setbacks for cultivation in D-1 ; is that something that we're not allowed to do?

Amy Mead

Whatever you decide to do you have to have a basis for doing it. So, I find it difficult to envision a scenario where that could be justified. I am not saying that it couldn't be; it depends on the facts that are before you and what you are relying on. So, right now, in Rural Reserve areas, cultivation facilities are not allowed in Rural Reserve areas if they are within 1,000 feet of a neighborhood association. There could have been and that is what the Assembly did in order to protect the neighborhoods in the Rural Reserve area. What their intention was - actually the - in order to impose specific setback requirements for example, in one particular zone. And the reason is because you want to create more space between the houses. You would have to articulate why that is only applicable in that one zone, and by the same situation wouldn't apply in a different zone. The facts would be difficult to - the basis for it are going to be difficult to come up with.

Michael LeVine

If we could, if - we can come up for a basis for specific conditions that apply only in Rural Reserve and D-1, then we could impose them.

Amy Mead

Yes.

Michael LeVine

Thank you.

Amy Mead

I should have just said that in the beginning.

Chair Grewe

I think that was my question. Thank you Mr. LeVine. Mr. Peters.

Bill Peters

Just to follow up on that point but the applicable place for that would be through the TPU or the CUP process, not within this ordinance.

Amy Mead

No, it would be within this ordinance.

Bill Peters

OK. Thank you.

Chair Grewe

Mr. Greene. Please.

Carl Greene

It would also apply to any type of business, right? Whether cultivating, selling, right? The generic -

Amy Mead

So it would depend on what you were trying to get at. And the reason why you are imposing the additional____? And I don't think I - I can't remember off the top of my head but I don't think any other types of establishments are allowed in D-1 except for cultivators, so - retail stores are not allowed in D-1, nothing else is.

Chair Grewe

I think part of my dilemma just to wrap up this, is that I can see the Assembly's intent, even though there was not a whole lot of discussion in regards to the Rural Reserve and D-1. I just think there is more that could have been done to bring that to fruition and they could have incentivized the establishment of all - the continuum of marijuana businesses and other zones. And made that very business-friendly. I was trying to figure out if we have totally missed that ship. Now. I guess the Assembly has not.

Amy Mead
So the Assembly is not -

Chair Grewe
Well they're going to hear this eventually.

Amy Mead
They will hear the special use ordinance, yes.

Chair Grewe
OK. Thank you. Any further questions? Or overarching issues? Otherwise we'll move into the ordinance. OK. Apologies for the delay. I don't have my three ring binder with me that keeps everything organized. Instead I have paperclips. And too many pages. OK. Here we go. So let's take this section by section and we can circle back again if needed. So, 49.65.1100 Purpose. Any questions, any concerns? I have one question and it is in the word "promotes". "It is the purpose of this article to establish reasonable regulations that allow for the operation of marijuana establishments within the City and Borough in a manner that promotes public health, safety, and general welfare". In the City and Borough in a manner that promotes so it is the purpose to promote public health, safety and welfare. Is that the right word, there?

Amy Mead
It is duplicative of the same language somewhere else in the code, and you are welcome to change it if you would like a different word.

Chair Grewe
No, I was just wondering if that was a decision point, thank you. All right. 49.65.1105 License Required. Any questions? Comments? I guess it could be just me tonight. In these beginning ones. Can we - what is the definition of "premise"? So it would be line like 8.5? "...as the licensed premise". So we have removed "geographic location". And we went to "premise".

Amy Mead
So this line was taken specifically from identical language used in the State regulation. Which is where I pulled that from. Because I understood the desire was not to cite a geographic location, but we needed to be careful that we caught in all of the different establishments that were in the same area, since there can be more than one license and one or more establishment in the same area.

Chair Grewe
OK. All right. So premise is like - it is a location but is not necessarily - I mean we use premise throughout this ordinance so I'm kind of raising the issue now but today I was looking at this ordinance yet again and I'm like we've got the structure? Is that the property lines? Is that like the general location? The entity operates at?

Amy Mead

The licensed premise is going to be whatever the license - whatever the spot is where the establishment is going to exist. So if it's a greenhouse it's that greenhouse, if it's a retail store, it's that retail store. That's what the intention was.

Chair Grewe

It's the spot.

Amy Mead

It's the spot.

Chair Grewe

I had a question about your memo. As long as nobody else has raised their hand. It's the issue of what comes first the CBJ license or the State license.

Amy Mead

So the intent was not to hold the CBJ license until someone had a State license in hand. That was a decision by the Marijuana Committee, which is why we don't require the State license in hand before someone gets a Conditional Use Permit or a City license.

Chair Grewe

So, we're going to move forward with the State license which is - that's our general operating –

Amy Mead

So we can move forward, however someone cannot begin, they cannot open, they cannot begin operating until they have the State license. The State license is required in order to operate in the City and Borough as a marijuana establishment.

Chair Grewe

OK. So they will be coming in and getting their permits and have to submit those to the State for a State license, I mean it's like the chicken and egg, but I just noticed in your memo that you said that it could be rewritten if intended, and I was thinking well, I don't feel like I really know the intentions of - I mean, so - is there any disadvantage - I mean which way should it be, I guess. And maybe Bill can enlighten us from the Marijuana Committee.

Bill Peters

Thank you, and I believe the point was something I raised at the last meeting with regard to where that Statement should live. And, my understanding based on reading the memo is that they are going to get the City license, but they cannot have a City license unless they have already been licensed by the State. But the license from the State is not going to hold up the CUP process. Correct?

Amy Mead

Close. They need the Conditional Use Permit before they go get their State license because the State is going to require them to show proof that they can operate. Where ever it is that they are proposing the licensed premise to be. They get their State license, at the same time they could get their City license, they could get their City license with the Conditional Use Permit. But they need all three things to actually open their door and begin operating. The order that they get them is not really relevant except for they need all three except with respect to the Conditional Use Permit, but they need all three before they can operate.

Chair Grewe

All right. Prohibited Acts. 49.65.1110. Any questions? Any discussion. Application for License 49.65.1115. Mr. LeVine?

Michael LeVine

Thank you, I have a question about this. I understand your answer here Ms. Mead, and this was an issue I think that was raised at the last time about the deed and the possibility that there would be comments, and I guess it sounds to me as if applicants are free to redact information pursuant to other rules, it would be, I think, useful to notify people that they can do that so this isn't something that inhibits their application. And I don't know if that needs to live in this ordinance or just is something that goes along with their "hey, how do I apply for a marijuana license" fact sheet if there is such a thing. But I flagged that - I suppose we could amend the ordinance to say "with confidential information redacted" if we felt that was important. But I just want to raise that as an issue. I wouldn't want this to prevent people from applying for a license if they wanted to do it.

Chair Grewe

Yes, Mr. Dye.

Nathaniel Dye

I had a follow-up on that. I raised this issue the last time. But we are expecting the person who leases the property to know what to redact out of their lease. So the person who owns the property - so I guess when I read your memo that was my concern again, is that if you lease space to somebody they have to decide what they are not supposed to disclose about their lease when you're expecting they might not disclose much.

Amy Mead

So, oftentimes leases are recorded which makes them public information. I think the concern was that if someone was concerned about putting their personal address or the least amount, or something like that if they were concerned, that CDD can allow them to redact the lease as long as there is enough information left in the unredacted portion that allows CDD to verify that someone has use of the property.

Nathaniel Dye

Right, so I guess some of my concern was on lease rates and if the person leasing the property that would not necessarily be - would want competitors to know about. From the person who owns the land not the lessee.

Amy Mead

And I think CDD has broad discretion to allow people to redact as much as they would like as long as CDD can still ascertain legal use of the property.

Nathaniel Dye

Right, but we are still expecting the person who is leasing to make sure that they know what their landlord does not want them to disclose.

Amy Mead

Well, it's not, I think it would be the lessee who is bringing the lease forward who would have the interest in redacting.

Chair Grewe

Further questions? I had a couple. For application of license. "Buffer requirements according to the Alaska Administrative Code." Does somebody know offhand what that is?

Amy Mead

Five hundred feet.

Chair Grewe

So that is the 500 foot – OK. From sensitive sites?

Amy Mead

It is from school grounds, recreation use centers, buildings where religious services are conducted and correctional facilities.

Chair Grewe

Great. Just wanted to confirm. 49.65.1120 Term of license: renewal. Questions? Comments? Mr. Peters?

Bill Peters

This is with regard to lines 10 through 12, In terms of inspection required. Is this again going to be tied into part of the CUP? Or is this something separate and apart from the CUP?

Amy Mead

So there was a comment at the last meeting about a desire to have annual inspections. This was the cleanest place to put it.

Bill Peters

Thank you.

Chair Grewe

Additional Questions. Comments? Concerns?

Nathaniel Dye

Just a quick question from the testimony. So the license can't be sold or transferred, it is just for who applied?

Amy Mead

Yes.

Chair Grewe

I have a question about item (b). So lines five through seven. "Licenses are valid only as long as the applicant holds a current license from the State and is in compliance with the applicable Conditional Use Permit". It occurred to me whether it was appropriate to add a provision regarding you know, is a delinquent tax remitted to the Borough - you know, things like that. Where would we put something like that? You know?

Amy Mead

There has been much discussion about that. That cannot live in this land use chapter. We cannot use the specific business license in order to get at delinquent sales tax payers. Because that would be treating this business differently than we treat other businesses in the CBJ. There was discussion at some point, and I think there is still discussion happening about whether there might eventually be a general CBJ business license. But the Assembly has not made that determination.

Chair Grewe

Thank you. 49.65.1125 Corrective orders. Questions or comments? I have one comment, and it is line 22, the added language, "issued to the marijuana establishment"? There was some public comment tonight, and it's in regards to - I think we may have even discussed it at the Commission at some point. Conditional Use Permit, so - would that - it would go to the business entity. Correct?

Amy Mead

So –

Chair Grewe
If it's a commercial –

Amy Mead

I know that's a - there was discussion of whether it would be specific to the person or the business. Instead of saying "to" we could say "for". That would make it specific for the establishment. It would be irrelevant who it was actually issued to.

Chair Grewe

I think I am just trying to avoid the case where you might have one business that is a poor behaving business, and they close out one license, you know, do not renew their business license, and they come back as another entity. But it's the same human being involved. I mean do we have any protections for that kind of situation in here? That thought occurred to me in multiple places in this ordinance. And how could we deal with that? I know, it's hard. And it's getting late. And it's just tough.

Amy Mead

I am trying to think if you have - if you have the right to prohibit someone from the applying for a Conditional Use Permit. We have the authority to require compliance with Conditional Use Permit requirements, we have this license that's being contemplated, or you have the authority and discretion to terminate or revoke someone's license, if they fail to comply. But if they came back and wanted to apply again, they would be in the same standing as anyone else where –

Chair Grewe

I know.

Amy Mead

Yeah. And I don't know if the State regulations contain a provision similar to the provision contained in the regulations that are applicable to liquor licenses. With liquor licenses if someone is a repeated bad actor or we have some reason that we want to protest we can do that. I don't know if there is something similar for the marijuana establishments. I don't know.

Chair Grewe

OK.

Amy Mead

There may be a process with State law that I can't tell you about right now.

Chair Grewe

That is a point of concern for me. It's the bad actor issue. And ways to get around the system and come in as a new entity. If it's the same bad actor. Maybe a new partner.

Amy Mead

Well I know that the State regulations - a person can't get a State regulation if they have violated the law with respect to the marijuana regulations in the past. For example, I think that it was imposed specifically to get at the marijuana clubs that were opening illegally. So if someone opened a marijuana club and was cited for doing that they cannot now calm and get a license under the State regulations. So, your bad actors, I think are prohibited from applying under State law if they have violations on the record.

Chair Grewe

OK. Let me see. So we are still on Corrective orders 49.65.1125. On page five, I have no further comments. Does anybody about this section? OK. 49.65.1130 License suspension or revocation. Comments or questions? I have one issue here, I don't know if this is a viable idea but we speak to suspending and revoking licenses. And it kind of goes back to this bad actor and if somebody - you know, I was trying to come up you know, going from idea - final language tonight I couldn't do it but it's that idea that if you have multiple licenses under one establishment you know you're growing, processing, manufacturing, whatever - you're selling, you know, and one actor has a couple of violations - like if you get so many violations or corrective orders let me use the ordinance language, right? If you get so many corrective orders in a calendar year there should be a point where your local license gets pulled and you're not allowed to apply for two years. And do we have that in this ordinance anywhere? And could we add it?

Amy Mead

We don't have anything in the ordinance - in this ordinance. We do have a similar concept with respect to the procurement code. Where someone can be barred from competing for CBJ bids if they are a bad actor, so to speak, and they go on the Manager's naughty list. There is a specific term for it and I can't remember from off the top of my head what it is but they go on the Manager's barred list for a period of time. And they cannot reapply. While you could build a similar concept which would probably live right in this suspension or revocation. If someone is revoked, or suspended - if someone is revoked they could be suspended or barred from reapplying for a Conditional Use Permit for that type of establishment for a period of time.

Chair Grewe

Yeah, I mean these things that I am mentioning I would want to pursue that. An amendment to this, but I am going to mention them now and we can circle back to it as the commission when we have the full context of the ordinance. Commissioner LeVine?

Michael LeVine

If we are going to open this up, there is something that I didn't talk about last time. I was curious to know whether we have other examples of standards for when suspension is appropriate as opposed to when revocation would be appropriate? I know this is now going to be at the Director's discretion as it lives now, and I think that I decided two weeks ago that was fine with me, but I now figure that I should ask. Is there a parallel anywhere that we could use?

Amy Mead

No, actually, there's not.

Michael LeVine

That's fine.

Chair Grewe

I don't think I understand that comment. I'll take the bullet for the group, maybe?

Michael LeVine

Well you can imagine a situation in which certain kinds of deviance is from the CUP or the license required resulted in suspension. And some resulted in revocation. And some number of suspensions resulted in revocation. You would have to go through a whole table of it and I - my personal bias here is that the Director's discretion is better than trying to figure that out. Unless there was a parallel. So I was asking Ms. Mead if there was something that we could lift from somewhere else and stick it here, then that would be a good thing to do. If we are going to have to do it from scratch, I would prefer to leave it with the Director's discretion.

Chair Grewe

Any further comments or questions regarding this section? No? How about 49.65.1135 Appeal. Two lines. Questions, comments? I have one, so we added "assembly" to the second line of this sentence. So, "the denial, revocation, or suspension of a marijuana establishment license is appealable to the assembly in accordance with CBJ 01.50". Could somebody please remind me why did we choose the Assembly on this?

Amy Mead

There was direction that you did not want it to go to the Planning Commission.

Chair Grewe

I just couldn't remember, could somebody refresh my memory on that?

Bill Peters

I just recall the discussion. I don't recall the why.

Chair Grewe

Did we do that? I have no problem with it going to the Assembly, but is this, I mean, I am trying to think – are other Director’s decisions – are Planning Director decisions usually appealable to the Planning Commission or the Assembly, or is it a mix of both in code?

Amy Mead

So, they are appealable to the Planning Commission normally, but you can move them directly to the Assembly. I believe the discussion, and I heard it second hand because I was not here at your last meeting; but my understanding was the comments were that this is not really a land use ordinance piece, that this is an enforcement tool. And so you didn’t want to use - your expertise is with the land use code, and this was not directly applicable. Was the understanding that I got from the discussion.

Chair Grewe

OK, I think that I would like to reconsider that. I didn’t fully understand the ramifications of that. I think it is also equally justifiable that it go to the Planning Commission. We are going to be the ones letting the Conditional Use Permits. We are going to be the ones seeing the actors good and bad in here. And, I’ll let you chew on that one for awhile. No hurt feelings either way. 49.65.1140 Inspection of premises. Mr. Peters.

Bill Peters

Thank you. Just a question directed to staff on section (b) 11 – 13. Do we currently have someone on staff that is going to handle this inspection? Or is this a new position requirement?

Rob Steedle

It is not necessarily a new position. We could potentially - depending on the number of establishments, be absorbed in the existing workload.

Michael LeVine

I wonder about the purpose of the inspection and whether it might not be useful to specify what the purposes of the inspections are here? “Marijuana establishments shall be inspected on an annual basis to ensure compliance with the CUP”, or something to that effect so that - otherwise it’s sort of an open ended inspection um, so. That’s not something that we’re not doing on purpose, is it? Ms. Mead.

Amy Mead

Actually it was something that we did on purpose and here’s why. The marijuana regulations that were issued by the State were - gave a very broad powers for inspections. But limited it to police officers, representatives of the State. Some of the marijuana regulations they gave direct powers to municipalities to do things. They gave direct power to municipalities to protest a license, the issuance of a new license or a renewal of a license for violations of either State or local law. Figuring that we would have the best ability to provide the oversight. But they didn’t

give us the tool that we could then use to get the oversight. So, copying the inspection language from the State regulation was one way for us to take for ourselves the same discretion of authority that the State enjoys to ensure compliance with State regulations, local laws, it gives us the ability to protest both on the State license and to take local action if we find one of Ms. Grewe's bad actors.

Chair Grewe

I have a couple of technical edits. I think you meant on line 9, "cultivating, processing, testing..." It is just that the "ing" is missing on processing. And I'm wondering if you meant to include manufacturing in that sentence as well.

Amy Mead

Processing was the manufacturing but we can - I can't remember which word comes first we should use if the manufacturing comes first we should use the manufacturing and then processing.

Chair Grewe

Yeah, I kind of caught myself today um, wondering what the difference is and then realizing that they mean the same things. It's just - anyway. 49.65.1145 Marijuana establishment Conditional Use Permits.

Michael LeVine

One overarching question, and I appreciate Mr. Palmer's endeavoring to address my concern with the numbering and lettering from two weeks ago but I am wondering whether (6), (7), (8), (9) should be (b), (c), (d) and (e) because grammatically they don't follow from the introduction at (a) and whether there is a reason that they are not like that.

Amy Mead

So (a) is the statement that says in addition to anything that you have to provide as part of the normal Conditional Use Permit process for marijuana establishments you also must provide these additional things. So, (6), (7) and (8) are additional things that marijuana establishments have to provide - submit with their applications, they are only applicable to these types of establishments but they still - if I culled these out and put them in a separate section I would have to repeat the language that is in subsection (a). Saying okay, these are the things that everyone has to apply over and above a Conditional Use Permit. And then I would have to say again in addition to whatever else you provide with your Conditional Use Permit then these things would have to be provided by new marijuana establishments in particular. These specific types.

Michael LeVine

it seems to me you would have to repeat “in addition to the permit application the supporting materials required by CBJ49.15.330 (c) , “ and then it would begin, “marijuana cultivation facility license applicants must provide” etc. You would have to repeat that part of it, right?

Amy Mead

You would, but this was just a way to not have to repeat that language again.

Michael LeVine

I’m going to ask you the question that I think I asked Mr. Purvis earlier. Is it possible for us to review the conditions. Now on the next page we get into the sunset provision. Is it possible for us to review the conditions on a Conditional Use Permit? Without having the entire permit sunset, and then the applicant would not have to go through the process of reapplying again.

Amy Mead

Yes.

Michael LeVine

Would it be possible for us to - now merging into the question that I asked you earlier - if we were able to justify it - would we be able to have the permits sunset in certain areas and only have the conditions be revisited in others?

Amy Mead

So I was thinking about that earlier and it occurred to me, I think you could do something similar to what the Assembly did on the TPU with respect to Rural Reserve. Where they allowed certain establishments within so many feet. So I think you could do something similar where um, you tie it to something like that. The purpose of that was to take a different approach with establishments that are going to be closer to residential areas than they’re taking in other areas. I think you could do that, there would definitely be a way to do that.

Michael LeVine

Related to that there’s a fee for reapplying for a Conditional Use Permit that runs to several hundred dollars or it could, and so, as I understand the concerns we heard earlier I think that the concern with the sunset provision is largely that you risk losing your whole business, although I don’t think we are necessarily in the business of wanting to charge people several hundred or a thousand dollars to reapply for something so that we can revisit the conditions. If we were to create a provision in which the conditions in the Conditional Use Permit were revisited, would there automatically be a fee associated with that um, is there something like that that exists? How would that work?

Amy Mead

I don’t know if there is a fee for something like that already that is something that you could create, as are thinking through doing this um, one thing that I think would be very helpful

would be to have this in its own section and have it be a, um, have a specific purpose section about what you're looking for with the renewal or the review.

Ben Haight

I'm not too familiar with the State statutes, but paragraph number two in the section is referencing the security plan and the compliance imposed by State law. Can you tell us what that is?

Amy Mead

The Marijuana Committee's direction when this ordinance was being drafted was not to duplicate anything that is required by State law.

So the State requires the security plan – I can't tell you what the regulations require off the top of my head, because the regulation on the security plan and the waste plan is quite long. But it's very involved, we can provide you with a copy of that so that you can see what is required. We just wanted to be sure that the applicant had to give us the same thing that they are going to give the State so we had a chance to review it directly.

Chair Grewe

Item five, page seven of 12, line six, item five, I guess we added it last time about the private septic system? It struck me today that they were asking for an establishment to be served by a private – if it is served by a private septic, certification from a registered, qualified engineer licensed by the State – you know that the system has adequate capacity for the proposed use, or will with improvements. And it struck me that we don't put a sunset on that. You know, like, if your system is not deemed capable of handling this operation – and I think we need to add something there, like within six months of license issuance date.

Amy Mead

The concept - this was this is the same language that comes from the accessory apartment, the same concept that came from the accessory apartment ordinance. The idea was that this would become a condition in the Conditional Use Permit where you would require the improvements by a specific time period. We didn't want to put in a time period if it's a minor fix, that is going to get it ready that is not going to not cost a lot of money, you might want that done quickly if it's something big – if they can operate in a limited capacity for a period of time, it just gives you more flexibility.

Chair Grewe

My interest is that if the system is not capable of whatever is being proposed we need to have an end date on improving it. I'm not as familiar with the industry as some, but there is a ton of literature about substandard septic systems and the implications for groundwater contamination and all sorts of stuff and I've read enough and know enough about enforcement problems with CUP that I would like to see something here, unless you consider it not advisable.

Amy Mead

Not advisable here, but you could put it in another section because this is the section on what someone has to submit with an application. If you want an enforceable standard, then you will need to add that to one of the sections in the beginning of this ordinance.

Chrissy McNally

A situation like this would also be governed by the building permit process and once any of these uses go through the Conditional Use Permitting process, they will all have to go through a building permit process. They wouldn't get a CO issued until something like this was rectified. But if you still want the timetable that's fine, I just wanted you to be aware of that.

Chair Grewe

I'm worried about the "Ah, I couldn't get to it this year," there is delays in engineering, pretty soon there are delays in contract, then winter comes... In the meantime, we have a substandard system, we have substandard systems on the highway of which we can smell from time to time. And I'm just trying to avoid that scenario. Or at least put some teeth to it so that we know it is going to be dealt with at some point. I had a question about line 13 on page seven of 12. "If carbon dioxide will be used by applicant, the plan should identify the storage area for the gas". I thought that was kind of curious, so it's like they are going to identify OK our carbon dioxide is in that corner. I mean what are we really asking here? Is it necessary? Is it important? If it's important, is there something else that should be there?

Chrissy McNally

The carbon dioxide is produced from another gas, so if for instance they're storing propane – even on a building permit plan we would – and in any other residential use we would want that identified. There are some separation requirements, I am not exactly sure what they are from the residence for a propane tank, for instance There are some requirements that the Fire Department and the building inspectors would want to look at.

Chair Grewe

OK. So, we will know where stuff is being stored, but we are not really concerned about where it's being stored, necessarily. We will know where it is, we will know where the dangerous stuff is. Is that what the point of this is?

Chrissy McNally

Correct. It's a concern for the Fire Department and it is something that they would review in any standard building permit. So whatever standards will apply, they will take a look at.

Chair Grewe

All right. Thank you. Just bear with me I had a couple of other things underlined here.

Amy Mead

I do have an answer for you on your issue. I think that you could add a line if you did want to make it specific. You could add a line to subparagraph five that requires – any improvement – that the, um, a timeline or a deadline for any improvements to be included as a condition of the Conditional Use Permit. So specify that. Because 49.65.1125 Corrective orders then gives the Director the discretion to then issue a corrective order when someone is not complying with any condition of the Conditional Use Permit which allows more immediate action than is currently authorized under the Conditional Use Permit process.

Chair Grewe

OK. I am very interested in that. Thank you, for that fix.

Michael LeVine

Is there a reason that – so I am trying to find a way to accommodate some of the concerns that we have heard from the folks who live in the D-1 area. I am wondering if there isn't a reason that we couldn't enhance the screening plan obligation to include visibility from the ground floor of somebody's house? I understand why it's there and what the legal provision is for but is there any reason we couldn't do that?

Chrissy McNally

I would just say that screening is a standard condition that we can apply to any Conditional Use Permit. And so, you may want to leave the flexibility consider it on a case-by-case basis.

Michael LeVine

Well as it's written now, it only applies to screening for public rights-of-way. It doesn't apply to screening for private residences, and one of the concerns we heard was people not wanting to look out their windows and see big cultivation operations, and so I just wanted to know whether there isn't some reason why we couldn't expand that screening obligation to include screening from other residences because that is something we have heard that people want. I am not sure that we would want to do it, but the thought occurred to me. I mean this is so specifically written to public rights-of-way that there might be some reason why we couldn't do that.

Amy Mead

It's specifically written to public rights-of-way because that comports with State law.

Chair Grewe

OK so I had one more comment on page seven, above nine. I think it's related to number 8 here An inventory of all hazardous materials on site, do we cover that somewhere?

Amy Mead

So, a different way to get at that if you're trying to address – if you're trying to expand the concept behind the ordinance passed last night, or to get at more tighter controls, for those situations might be to amend paragraph 7., and to require all the establishments not just the manufacturing and, well, not retail stores obviously, but add cultivation facilities here and require applicants to specify all means used for growing, extracting, heating, washing or otherwise changing the form. I think if you expand that concept then you will get – if it is because you want find out the methodology that's going to be used for cultivating then you might want to impose specific controls to get at whatever methodology used – that would be the section that would require them to disclose that. That is one way to go.

Chair Grewe

I think that makes sense. I am very interested in that, I think it is something the Commission may be interested in when they hear CUP's. I think I got it from another municipality but I also believe there was some sort of similar conversation at the Assembly meeting last night. Moving on to page eight, I have one more comment, on this section, I would like to consider a provision (e). While we take up sunseting, above, at five years, although I would be very interested in discussing that by zone, perhaps eliminating it for some zones and reducing it for three years for others, but then the last provision that kind of goes with that is to divorce the CUP from the land. I think Mike LeVine gave me that language. But I'm troubled by the idea, and not in all zones, that CUP's run with the land from one landowner to the next. And, while, some people go into business and do certain activities via CUP, when they sell that property you know, I just don't see any benefit to the community at large in allowing that CUP to be passed to the next landowner. And I know this is a little nontraditional, at the last meeting Mike LeVine even raised the issue that may be nontraditional, but couldn't we consider it. I would like to see a provision added regarding that. I don't know how the language would read, but that concept of divorcing the CUP from the land is what I'm trying to get at.

Michael LeVine

Are you suggesting that the CUP – it sunsets at five years now. It could also expire upon transfer of the land. I mean, that would be another – that would be a way to address that. Is that what you're suggesting?

Chair Grewe

I like the sunset idea, I like the divorce idea, divorcing it from the land, I think we can employ both of those. Another third related issue is the rezoning of land. What do we do, with those we have given CUP's to, and then we rezone the land at a later date. What happens to those CUP's and that was actually in public comment somewhere. . That once land is rezoned that it brings that CUP back. And I know this is different in how we have handled CUP's before, . but I think it might be warranted in certain zones. Does that make sense? .

Amy Mead

Well, I don't know how you did it in the past, but if someone has a valid Conditional Use Permit and the land is rezoned, they have a grandfathered use. So, we can't revoke their Conditional Use Permit because we rezone the land. I don't know how it has been handled in the past.

Chair Grewe

No, I think it must be grandfathered, right? So, is there any way to eliminate that grandfathering under a rezone? The sunset, the divorce from the land to me is a no-brainer, I just want to explore the idea of what happens in the case of a rezone. I am specifically concerned about all those in the Rural Reserve. I mean part of this whole process with D-1 and Rural Reserve is that it's highlighted that there has been substantial housing development in Rural Reserve and we haven't really considered the zoning map. If Margo Waring were here tonight she has provided that comment to us over and over.

Amy Mead

I don't think there is a way to revoke a CUP without there being a taking, so I don't think that is something that is possible.

Chair Grewe

OK. I'm concerned about that as well, so that is it for me. 49.65.1150 Hours of operation. Any questions?

Carl Greene

That only applies to retail stores. How about the cultivation or processing? Do we want to limit hours for that type of use?

Chair Grewe

And is it dependent on zone? Do you have any input, Commissioners?
Was there any discussion at the Marijuana Committee regarding that issue?

Bill Peters

Thank you. The discussion I recall was just really "Why are we going with 8:00 a.m. – 11:00 p.m. just in terms of hours. It wasn't specific to any zone or any purpose.

Michael LeVine

But it seems to me that it would be very difficult to limit a cultivation operation, right? I mean, it would be pretty limited, pretty difficult to limit a testing facility so the only thing you are really talking about is processing. I mean that would be the one you could conceivably imagine some limits to. I am not sure I see a value in limiting it, but it's a good question, for sure.

Carl Greene

Would the noise ordinance kick in if they were making too much noise ...

Ben Haight

I think that noise ordinance really takes care of that by itself -the noise ordinance limits the number of hours in which you can make noise in particular zones. So, I don't think we need to duplicate that.

Bill Peters

Just to follow up with regard to retail sale hours, I know there was some question raised at our last meeting as to if we really wanted to restrict it to 8:00 a.m. and 11:00 p.m., and I know staff noted at the bottom of page two of the memo that the hours that are tied to alcohol. And I'm just curious for discussion purposes as to whether or not want to remove hours and allow these hours for retail operations, seeing as to how they are asking that it be regulated like alcohol.

Michael LeVine

Could I make a suggestion, I was actually going to flag this and this and flag just exactly the same conversation that Commissioner Peters flagged to say that when it comes time to discuss or make motions on the agenda I will support going exactly as it is with the liquor license. I can't see why we would do anything different.

Chair Grewe

OK. 49.65.1155 Documents to be displayed. Any comment or questions? All right. 49.65.1160 Odor. Any comments or questions? OK. So I have a comment, and it goes back to the premises. In my first reading of this I read premise as basically, there should be no odor detectable by a reasonable person from outside the structure. In this context premise to me is structure.

Amy Mead

Only the licensed part of the structure. If it's an apartment, it wouldn't be the apartment building but if there is a retail store downstairs and a person living in an apartment upstairs, we don't want this person to be bothered by the odor coming from the establishment downstairs. So we couldn't talk about a structure, or a parcel, or a lot, it would have to be by a licensed premise, so that the person living in the same structure has the same rights.

Bill Peters

Just as a point of order I wanted to note the time, it is currently 10:29 ish? And according to our rules we need to have a motion to continue, in order to continue the business of the Planning Commission so I would move that we continue until 11:00.

Chair Grewe

Is there any objection? We'll continue. To me the application of the odor ordinance is going to be basically no noxious odors outside the structure, but I understand the specificity of "premise", and as long as we understand that, OK. Any further comments on 49.65.1160? I have one question for the Commission. Before we go to the next section. Are we assuming

the noise ordinance will deal with the noise? If you read literature about other municipalities some of the major struggles here are with noise and odor. So how are we resolving noise?

Ben Haight

My take on the discussion is that the noise ordinance takes care of noise, and we don't need to supplement that with anything within this particular ordinance.

Chair Grewe

I would like to revisit the noise ordinance, and think about it in application of commercial activities, especially in neighborhoods and, you know I just don't know enough about marijuana – how loud this can be from the generators and the ventilation systems? It's one thing if it's a residential use, and another residential use, but now that we are introducing commercial residential, I think, you know, that you should be able to hear the owls if you want to hear the owls. Without a generator, running, for commercial purposes. And I don't know if our noise ordinance gets at that or if there is any liberty to add something here.

Amy Mead

I don't know if the noise ordinance is specific enough to get at that. There are specific provisions in the noise ordinance that talk about permitted activities. The intent was to get at things like construction. So I need to revisit the noise ordinance to see if that language about "permitted activities" would be enough to get at these types of permitted establishments. But, if it is not, that is something that you could add and you would want to be specific as to – I don't know enough about the different types of – the industry to be able to say, "well it's the fans, it's the generator", those don't need to be on for 24 hours, you can require them to be off at this particular – at this amount of time. That's not going to impact their ability to run their business versus protecting the residents' right to hear owls. I just don't know enough to be able to tell you that.

Chair Grewe

I'm pretty firm on considering noise in this ordinance because we are mixing uses that are not always compatible. My concern is the residential areas, not the Industrial zone.

Amy Mead

So we will check the noise ordinance and we will come back to you.

Chair Grewe

OK, great. I think if we can resolve the odor and the noise, it's huge. Section 49.65.1170 Penalty. Any comments or questions?

Michael LeVine

Um, we had a very brief discussion of this at our last meeting. I think we decided that we have to decide what the penalties are going to be, and you appear to have given us a good start

hereAs I remember the sign ordinance penalties, we elevated those penalties substantially from \$25 to \$500 I think. Is that the most parallel example? The reason I raise it is because part of the reason we suggested raising the fine for the sign ordinances was because we knew there were chronic disobeyers of the ordinance. And we don't know that about marijuana, \$500 a day per violation is a substantial fine if you are in violation for even a day. And so I am wondering, is there another parallel or is this the most alike thing that you found.

Amy Mead

It is the most alike only that it is the only - signs are the only Title 49 provisions that are in the civil violation code. So that is the only one that you have; it does not mean you should base it off signs. Just like you said, it is the starting point that I put in there, but you - you can amend that. You have the freedom to do that.

Michael LeVine

You just stuck in \$500 and made no independent judgment about the idea that failing to display the sign is as bad as failing to abide the odor, you just put \$500 in and left it to us to figure out what we wanted to.

Amy Mead

That is correct.

Chair Grewe

So, that kind of brings us to page 11, where you see these fees listed off that Commissioner LeVine just referred to. Um, so the Generally section, 49.85.100. And then followed beneath by section 5, Amendment of Table. So, if commissioners want to discuss fines and values tonight or throw some numbers out there, or, advocate for the way it's written –

Michael LeVine

Wouldn't we do that when we were considering a motion? Not when we're asking the staff questions?

Chair Grewe

Yes.

Nathaniel Dye

Just from earlier when we were talking about improvements to septic systems; did conditions require in the Conditional Use Permit - are they required to be met before the City license is given?

Amy Mead

That's up to you, when you are issuing the Conditional Use Permit.

Nathaniel Dye

So that would be part of the Conditional Use Permit that they can't get a license until everything is met? That would be part of the license in the beginning?

Amy Mead

Well I think it depends on what the condition is tied to. So as Chrissy was explaining earlier that might be a condition that's part of the building permit process. Which means that someone couldn't operate without it being done. If it's something that is tied to a different permit that might implicitly require it to be done before someone's operating. But there might be something else in the Conditional Use Permit that is something that is ongoing, or something that needs to be done if another condition is met. They don't necessarily have to be complied with initially. So, you have a lot of discretion there.

Percy Frisby

Now we have been talking about the storage of combustible and hazardous waste or whatever - not waste, but hazardous materials. Does the Fire Department have regulations on how you can store all of that, and where you should store it. In other words, you don't just put it all in one corner. You've got to separate some of this. So, we're sitting here trying to figure out what goes where, and how it goes there; I think we should be looking at what the fire codes are before we start throwing all of these restrictions in, because we might be duplicating our codes.

Amy Mead

So I think the process that would be used, is the plan that is submitted, since the plan that is submitted is reviewed by the Fire Department. For exactly that purpose, to ensure that there's compliance with the fire code.

Chair Grewe

We have made it through the ordinance. I'll just open it up if there are any other issues related to the ordinance that you have.

Carl Greene

If during inspection they fail the inspection, it's \$500, and if one of the items is because they didn't display the documents properly, is that another \$500? Or is there some redundancy there?

Amy Mead

The citation is issued that would be - we have the authority and the discretion to issue a citation each and every day a penalty is ongoing.

Carl Greene

OK. So is it important to have the inspection premises there as a penalty and also some of the other ones that would fall under inspection?

Amy Mead

Yes, and the inspection of premises provision - so, it might be that this is just not artfully written but the way that our code of enforcement is written paraphrases the title sometimes where it sites to what the act is that is subject to the violation. In this case, it was paraphrased in the title so the only part that provision that someone would be subject to be cited for is only the part that is in their discretion, or within their ability to accomplish so, I think that is the asking for the inspection, not getting the inspection done because that's a CDD part, but it's the - they have to actually call and schedule it. If they fail to schedule it, meaning they are not complying with that part of the regulations they are subject to a violation.

Michael LeVine

Building on this inspection; do we have any idea where this is going - I mean as to what the fee is for what the license should be? Just so you know what I'm trying to figure out; do we have any idea how long this inspection might take for staff? A couple of hours?

Chrissy McNally

That's kind of tough, because it may depend on the facility. The size of the facility, the extent of the conditions. You know, thinking of building inspectors doing a building final, that can take several hours at a time. A smaller, maybe illuminated cultivation facility might take an hour. So I think it just depends.

Michael LeVine

Maybe you're talking about another hour or so to process the license? Potentially? So, we might be able to build some reasonable justification for a fee based upon the amount of staff time that it's going to take to inspect and process the license? Are there other things staff is doing to administer this ordinance, as we are trying to figure out what the fee ought to be for it?

Amy Mead

So this is - also, staff's recommendation was to use the already in place Conditional Use Permit fee. So that's in addition to this \$50 fee.

Michael LeVine

Yes. I was excluding the processing of the fee for the Conditional Use Permit, although it should, although I am sure that it doesn't, pay for the staff's time and energy and effort going into processing the Conditional Use Permit. But, separate from that, just for the license, those would be the main functions of the license; inspect and process the license. And we could come up with some estimate, you know, \$750 an hour which is what I would pay you to do all that stuff. OK. Thank you.

Chair Grewe

I have one additional comment and it's more of a conceptual problem, and it's related to some of the comment that we have heard tonight. The density question. I don't necessarily think this is the right ordinance. Who raised that question? Is it Mr. LeVine? Did we come to the conclusion of that? That we are not going to deal with density in this ordinance? I mean I think some really good questions are raised by the public about density. Is there any room for that in this ordinance at all?

Amy Mead

Are you talking about revisiting the Table of Permissible Uses?

Chair Grewe

I don't want to revisit that table. I might make a request later. As a member of the public.

Amy Mead

I'm not sure how you could approach that issue in any way other than the Table of Permissible Uses.

Chair Grewe

OK.

Amy Mead

You could not amend that within the context of this ordinance.

Chair Grewe

OK. That's big clarity.

Amy Mead

There is a process in 49.75 by which you recommend amendments.

Chair Grewe

OK.

Amy Mead

I might be off by five in the chapters.

Chair Grewe

That's OK. I'm pretty good with Title 49. Any further comments, questions, concerns?

Carl Greene

I have a question. As a new commissioner I am trying to understand some of these things. When someone comes and tries to apply for the CUP, we would then look at all the details of

where it's located, the proximity to other dwellings, and we would consider those factors. Right? Individually.

Chair Grewe

Yes, there are criteria. I would encourage you to read the section in Title 49 specific to Conditional Use Permits, in addition to the staff report. The staff reports are always kind of the same. The short answer is yes. It is a quarter to 11; I am doing a time check here -, what is the will of the Commission?

Michael LeVine

I would propose we spend the next minute or two figuring out how to move forward. My suggestion is that beginning to take up a motion or a series of motions at 10:45 is not a good idea. I don't have a better suggestion on how we should proceed, but I suggest that we spend the remaining time to figure that out.

Bill Peters

So, to follow up that note, I would like to make a motion that we continue until 11:30. Again, recognizing that there is no motion on the table, in order for us to address new business. And then, to follow that, I would perhaps recommend that we move this ordinance by section. That way we can speak to amendments by section. There was a lot of discussion with regard to amendments in specific sections.

Chair Grewe

I'm wondering if we need to continue this item or not? That's my bottom line. And, if you feel like you need another meeting I've given a lot - I mean I've thrown every - I think I have covered my entire list here, did you cover your entire list? Can we make motions with the language from start to finish in here, is it better that we - we greet two things in concept again and send it back to law and have them craft language and come back to us? I'm open to input.

Percy Frisby

I think we need to take the time as we sit here, and decide what is our next step, and which way we are going. I mean we can beat the horse to death but we have to figure out where to bury it.

Chair Grewe

I'll have to think about how to apply that analogy.

Bill Peters

As a point of order I just want to make sure that there is no objection to my motion. We did not take a vote on that.

Michael LeVine

Do I have to object in order to ask a question? I think I might. I would like to ask staff a question, or Ms. Mead a question which is: you have been part of this meeting now for the past

several hours. For the things – to answer the question that Commissioner Grewe answered, for the things that I would be ready to make motions on; the things that I have identified as issues and, but, from your standpoint - from where you sit over there do you feel comfortable that you have provided us with all of the information that we need to move forward, and that you're ready to help us work through specific language here as we debate motions on the individual sections?

Amy Mead

I think that what would be really helpful – yes, I think that for almost everything that you've raised tonight, it's specific enough that we could probably get language, except for the noise question. That is the only one that I would need to come back to you on.

Chair Grewe

So we have a motion on the table. Could you restate the motion again, Mr. Peters?

Bill Peters

To continue until 11:30 to address this ordinance, and then move the ordinance by section.

Chair Grewe

Am I allowed to, as the chair, object to the motion?

Bill Peters

You might want to call for the question.

Chair Grewe

Call for the question? Can we speak to the motion? No?

Bill Peters

Yes, you can ask for comments.

Chair Grewe

Comments, and then I can comment on my own objection?

Bill Peters

Yes.

Chair Grewe

OK. I'm going to object. I think that we need to continue this, if we can conquer the odor, and the noise, and I think I've given Law a lot to think about, and it is ten to 11. I don't think I can craft language on-the-fly. Perhaps some of your motions are simple, mine are not. And I would like to take a look at the ordinance and move it in its whole. Because there are some interworking parts here.

Amy Mead

Almost everyone has made comments and suggestions on specific sections. So I don't expect everyone to sit and hammer out language right now. But what would be very helpful is to have consensus on which sections you do want amended. I can easily take what your direction is, as I do for the Assembly and bring back to the language that I think meets your expectation. Otherwise I might be changing things that you mentioned in a comment but that the rest of the commission might not want changed.

Chair Grewe

It was my intent to object. I think we need to continue it in concept and between now and 11:30 I was thinking that we would walk through these and see - do as we did - take the poll of where we agree or disagree by majority.

Bill Peters

So again I call for the question. On my motion. That we continue until 11:30, and that we move the ordinance by section. Will you call for a roll call vote.

Chair Grewe

Yes. Roll call - would anybody else like to speak to the motion? I don't want to ignore others.
No. Call for the vote, please.

Roll Call Vote:

Mr. Bell: Yes
Mr. Dye: Yes
Mr. Haight: Yes
Mr. LeVine: Yes
Mr. Frisby: Yes
Mr. Peters: Yes
Mr. Greene: Yes
Chair Grewe: No

The motion carries.

Chair Grewe

So by section? Mr. Peters.

Bill Peters

So I would like to move on page 1, lines 1 through 22. Taking us through § 49.65.1100.

Chair Grewe

Is there any discussion of the motion? Is there any objection?

Michael LeVine

I have a procedural question. Since were not moving the whole thing at a time, by moving those sections we are putting them in a placeholder for when we get the whole thing approved. And we will not be revisiting these.

Bill Peters

Correct.

Michael LeVine

Excellent. Thank you.

*(No objections were made. One assumes the motion was approved by **unanimous consent**).*

Chair Grewe

OK. Do I have a motion on the next section? Any changes?

Bill Peters

So with regard to License required I am going to put a motion on the table which may be defeated. §49.65.1105 deleting this section and not requiring a license for marijuana facilities.

Michael LeVine

I expected you to ask if there was an objection, in which case I would have said 'yes'. Um, we have taken a poll of the Commission, and I think there is majority support for keeping the licenses as a means of local enforcement and I support having a licensing provision, and I will oppose the motion.

Chair Grewe

Would anybody else like to speak to the motion?

Matthew Bell

Madame Chair, I would vote against the motion.

Chair Grewe

Roll call vote please?

Roll Call Vote:

Mr. Bell: No

Mr. Dye: No

Mr. Haight: No

Mr. LeVine: No
Mr. Frisby: No
Mr. Peters: Yes
Mr. Greene: I object to it. (no)
Chair Grewe: No

Motion fails.

Chair Grewe
The next section, 49.65.1115.

Michael LeVine
Point of order. I would make a motion that we move section 49.65.1105 in its entirety.

Percy Frisby
Call for the question, Madame Chair.

Chair Grewe
OK. Roll. Anybody want to comment on the motion. Call the roll.

Roll Call Vote:

Mr. Bell: Yes
Mr. Dye: Yes
Mr. Haight: Yes
Mr. LeVine: Yes
Mr. Frisby: Yes
Mr. Peters: No
Mr. Greene: Yes
Chair Grewe: Yes

The motion carries.

Chair Grewe
Mr. Peters

Bill Peters
I would move section 49.65.1110 as presented.

Chair Grewe
Is there any objection to the motion?

Motion passes with no objection.

Chair Grewe

The next section. 49.65.1115.

Bill Peters

I would move to accept that section as written.

Chair Grewe

Is there any objection? Motion passes.

The motion passes with no objection.

10:54

Chair Grewe

Next section 49.65.1120 Term of license; renewal. Let me just take a read of this, quick here.

Michael LeVine

I move 49.65.1120 in its entirety and I would like to speak to the motion.

Chair Grewe

Is there any objection to the motion? Motion passes.

Motion passes with no objection.

Michael LeVine

May I make the motion I intended to make last time?

Chair Grewe

Please, Mr. LeVine.

Michael LeVine

Now I would like to move section 49.65.1125 and I would like to speak to the motion.

Chair Grewe

Please do.

Michael LeVine

And I would like to speak to it with a question which I should have asked before. So I apologize. Do the penalties that are identified at the end apply during the term for which a corrective order - CDD issues a corrective order and provide some time to correct the situation. Do

penalties apply then? I know they generally don't during - for signs for example, is the intent that it wouldn't apply when a corrective order was issued or that they would?

Amy Mead

The intent is that they wouldn't apply. But they could. I mean it is really discretionary with the chair. The tools can be used in conjunction with each other for the enforcement. But really the idea was that if the person was committing multiple violations or the violations are such that they're easily identifiable in the correction order is going to facilitate voluntary compliance. This is the tool that we are going to use. It's not going to be the \$500 or some odd fee.

Michael LeVine

And I have a follow-up. If we wanted to make that more specific about when and whether the penalties apply would you recommend amending this part, "Corrective orders", or amending the part about penalties to say that they may not apply during the term of the corrective order.

Amy Mead

You would probably want to amend the penalty section, if that's the one that is not going to apply except for in specific circumstances. That seems most logical to me. If that's what you wanted to do.

Michael LeVine

My thought - my intent would be to allow - to specify the discretion. That the director in his discretion may have the penalties apply during the term of a corrective order or not, I think that would be the best. Here it is sort of - it's unclear. It seems like we could specify the clarity. Do you recommend doing that in the penalty section?

Amy Mead

Yes.

Michael LeVine

Then I stick with my motion. Thank you.

Chair Grewe

Is there any objection to the motion? The motion passes.

The motion passes with no objection.

Amy Mead

Chair? I am going to make that one um, the change from "to" to "for". On line 22. "Issued 'for' the establishment" rather than issue "to".

Chair Grewe

OK.

Bill Peters

I would move §49.65.1130 as presented, with an amendment to insert a line at the direction of City Attorney to speak to the bad actor provision for review when it comes back to us.

Chair Grewe

So if you're moving it and we vote on it, we're done. So if we want to review that language it seems like we would want to continue that section. Is that what you are going to say?

Amy Mead

No. What I understood is that whatever you move, I don't have to touch. If you move it with an amendment, you are going to want to see it again. You are going to want to see the ordinance again with any changes you make tonight, I assumed. So I knew where Mr. Peters was going if everyone else did.

Bill Peters

Again, just as a point of order, we are moving each section, we are recommending amendments and then at the end we will move all motion in its entirety, with a review.

Chair Grewe

Yes, the bad actor provision so you included that in your motion. And she will craft some language.

Bill Peters

Correct.

Chair Grewe

Any objection to the motion?

The motion passed with no objection.

Chair Grewe

Next section Appeal, 49.65.1135.

Chair Grewe

Is there a motion? Would somebody like to make a motion?

Percy Frisby

So moved Madame Chair.

Chair Grewe

Can I make a friendly amendment to the motion? To move this item I would like to replace "Assembly" with "Planning Commission".

Percy Frisby
Yes.

Chair Grewe
Mr. LeVine.

Michael LeVine
I would not support that amendment.

Chair Grewe
OK. Is there discussion? What's your rationale, I'm curious?

Michael LeVine
The same we had the last time. That this is not really a land use issue, and the appeals will be in an enforcement nature, they are not really within our purview as a Planning Commission or Board of Adjustment, and I would think this can go straight to the Assembly for review without having to come to us as an intermediate step.

Chair Grewe
Mr. Frisby?

Percy Frisby
Madame Chair is it my understanding that we approve all of the permits?

Chair Grewe
Conditional Use Permits, we do.

Percy Frisby
So if we - it would seem that if someone needed to do an appeal they would come to the committee as approved. Being new here I'm still trying to figure out how this all works.

Chair Grewe
Commissioner Haight?

Ben Haight
So my understanding is that there is an appeal process that's already established for Conditional Use Permits. This is addressing licenses. Specifically. Conditional Use Permit appeals are already addressed within code.

Chair Grewe

OK. So I offered a friendly amendment. He accepted it.

Bill Peters

I call for the question on your amendment.

Chair Grewe

Sure. Roll call vote.

Roll Call Vote:

Mr. Bell: No

Mr. Dye: No

Mr. Haight: No

Mr. LeVine: No

Mr. Frisby: Yes

Mr. Peters: No

Mr. Greene: No

Chair Grewe: Yes

The amendment to the motion fails.

Bill Peters

As a point of order, if you could call the question on the main motion.

Chair Grewe

Yes. OK. So. Back to the main motion, which is 49.651135 Appeal, as it is currently crafted. Is there any objection to the motion? The motion passes.

The motion passes with no objection.

Chair Grewe

Moving on to 49.65.1140 Inspection of premises. Commissioner Peters.

Bill Peters

Thank you Chair Grewe. I move §49.65.1140 with the noted comment that you made earlier on line 9. With regard to processing or manufacturing. That we just address that issue. Is there any objection to the motion?

The motion passes with no objection.

Chair Grewe

All right. So that brings us to marijuana establishment Conditional Use Permits. 49.65.1145. So we had quite a bit of discussion through this section.

Michael LeVine

A question, I suppose. Is the best way to move the section and then discuss amendments to it? I can make that motion. I move 49.65.1145 subject to amendments and we should open the floor to amendments to it, because I have a couple, and I'm not sure of the best way of the order is to address them.

Bill Peters

So as a point of order I would like to accept lines 15 on page six of 12, through 25. In addition to lines two through 25 on page seven.

Chair Grewe

So you're moving all of those lines.

Bill Peters

Right. So, no amendments to those sections. But when we get to (b) which is not a line on page seven of 12, "If a licensee desires to modify the licensed premises" ... Excuse me. That section is correct. It's (d), line eight.

Michael LeVine

Could I make a friendly amendment.

Bill Peters

Sure.

Michael LeVine

Could you stop at line 22 on page seven, please? So that we can talk about number nine?

Bill Peters

Sure. So as a friendly amendment I'm asking that we accept §49.65.1145 lines 16 on page six, through line 22 on page seven.

Chair Grewe

So I had conceptual things throughout this section, of the lines you just stated. This is where I'm kind of getting tired and I'm like so what are we doing? We're moving things forward, but we're still going to get it back for final review, and I asked for some consult from Law under a couple of issues. Do you want me to just mention them, Bill?

Bill Peters

Yeah, that would be great.

Chair Grewe

OK. Private septic system. I would like to explore how we can put a time limitation on that, to firm that up.

Amy Mead

My recommendation is that you add language to subsection (5) that requires there be a deadline imposed in the Conditional Use Permit. The corrective order gives the Director the authority to enforce that deadline through the corrective order process.

Carl Greene

I have a question for clarification on this. So septic systems go over time. So does this mean every five years when the sunset provision expires they need to get it reinspected? Am I reading into this, or is this?

Chair Grewe

I don't think you are necessarily.

Carl Greene

So - originally I thought about this and it's probably not going to be easy to assess if that septic system is adequate. But now if we do it every five years that's going to make it pretty tough.

Bill Peters

I would concur with Commissioner Green that section 5 is an issue that is going to be part of the five year review. Because if the septic system piece was a part of the CUP we're going to be recertifying that every five years, as a part of our review process. Because we're looking at the whole CUP. At this point not just the conditions of the CUP.

Chair Grewe

Can you say it one more time?

Bill Peters

So, currently as drafted further in language we are saying Conditional Use Permits issued will be - will expire every five years. So, as a part of that five-year review unless there is an amendment to section (d) on page eight, the septic system piece would be a part of that review every five years when it expires. So, just concurring.

Michael LeVine

So just back to the question you asked at the beginning, is the understanding, Ms. Mead, that you're going to add some language here that says something to the effect of "the system has adequate capacity for proposed use or will with improvements made by a date specified in the permit" or something like that? That's the kind of language that you're thinking about adding?

Amy Mead

The language I was thinking of adding was a requirement that there be a deadline for the improvements must be completed by the deadline proposed in the Conditional Use Permit.

Michael LeVine

Exactly. That's what's coming in. OK, thank you.

Nathaniel Dye(?) Carl Greene(?)

I'm not an engineer, but from what I understand, either a septic passes or fails. And if it fails it's a major replacement. It's not going to be modified and be OK for a while. So. Either it passes and they can go forward with it or it fails and you can't open up shop. That's it, right? So really do we need to put a timeline in there? You can't open up a shop until you have a CUP. And part of that is having your septic system operating properly. The other part of this, I don't know much about the industry, but how do they know right now for what it's going to take - what an adequate septic system is right now. For the hemp operation. How is a qualified engineer going to be able to figure out OK, this one is adequate, versus it's not adequate.

Chair Grewe

I think that's an important question, and, I'm not sure, but I do know it's a problem in other places. A significant problem.

Nathaniel Dye? Carl Greene?

In industries that have been operating for a while. And this is a brand-new industry so who really knows?

Chair Grewe

it's a problem with this industry and other states that legalize marijuana. That's what I was trying to get at.

Matthew Bell

Madame Chair, I'm going to try something here. Would it be possible for us to push this forward on the premise that we allow staff time to review this particular section. In particular, the building permitting process. To evaluate, and staff come back to us? To give us a more defined, critical path here?

Bill Peters

I accept your friendly amendment which is being repeated by Commissioner Bell. So, I guess I would drop us back to the question. Are there other suggestions or changes through line 22 on

page seven? If not, I would accept that friendly amendment and call for the question on that motion.

Carl Greene

And the friendly amendment is that we are going to revisit item number five?

Bill Peters

Correct. We are simply looking for direction from staff of what the deadline will be imposed. We are not going to be able to define what that septic system should be required. I'm in concurrence. It is either pass or fail. But, as a part of the CUP process that will be addressed.

Matthew Bell

Very good.

Chair Grewe

I have one more friendly amendment. I think it could maybe be line 23, I'm not sure. It was the inventory of all combustibles on the premise. Or how I said that before, all hazardous materials. And combustibles. And I thought you had found a place for that, Ms. Mead.

Peter Bell

I believe it was on line 12. Where it spoke to the carbon dioxide?

Amy Mead

It was in subsection seven. It was expanding subsection seven to include cultivation, and by requiring identification of all processes used.

Peter Bell

And I would accept that friendly amendment.

Chair Grewe

So through line 22. Do we have any objection to the motion? The motion carries.

The motion passed with no objection.

Chair Grewe

Commissioner LeVine.

Michael LeVine

With regard to subsection nine, it seems like this might be a place to address some of the neighborhood concerns that we've heard raised for the residential areas. I would suggest making it explicit at the end, and adding something – exactly - to say – with - if Ms. Mead will accept this to say “or approved with conditions um, designed to ensure neighborhood

harmony". Or at least to try to get the idea that the Commission is going to be focused on neighborhood harmony when they are reviewing it and this is a catchall provision to cull that out someplace.

Amy Mead

So similar to the catchall provision in the general Conditional Use Permit.

Michael LeVine

It uses the phrase neighborhood harmony if I remember right – yes, then that.

Chair Grewe

Neighborhood harmony. When I hear you talk I almost feel like you're starting to repeat Conditional Use Permit ordinance language. Let neighborhood character and harmony. If you want to adopt those words or just leave it generally Stated? I just want to point that out.

Michael LeVine

Yeah. I'm not married to any language. I was looking for a way to identify and very specifically that those concerns should be elevated. In those areas.

Chair Grewe

Mr. Peters.

Bill Peters

Thank you. So just to speak to that with regard to neighborhood harmony that is going to be captured in the general CUP process? Do we need to be redundant and speak to that again in section nine. Is that really necessary. Because we are already going to cover that as part of CUP process.

Michael LeVine

I would leave it out there, my idea is trying to give it voice and emphasize it, in particular with the Commission recognizing that it may be duplicative, but what is the saying, no one ever went to hell for redundancy.

Chair Grewe

I would agree with Commissioner LeVine on that. Commissioner Peters.

Bill Peters

So in an effort to put a motion on the floor, and section nine, we would add "neighborhood harmony" and then carry through on page eight of 12, I believe this is where it will get tricky. In section (d) , I would like to address the fact that we have discussed conditional use conditions issued to marijuana establishments shall be reviewed and or amended every five years rather than the permit itself expiring.

Carl Greene?

So a question with that is do they have a certain amount of time then to comply with the new conditions? And if they don't, then do we need to put some meat to it?

Chair Grewe

Are you just opening this up for discussion?

Chair Grewe

I don't know how to answer that right now.

Carl Greene?

But if we change the conditions. Now they have to comply with them. Do they have a certain amount of time? Or what if they cannot for some material reason or –

Chair Grewe

Commissioner Peters?

Bill Peters

Thank you. Just as a follow-up the way I'm reading the language it would be reviewed and or amended from the date of new issuance or the date of review? So on line nine we say date of issuance it would be date of review. So, specifying a time frame in there in which they have to comply to either conditions as presented or amended?

Carl Greene?

With no grandfather clauses.

Bill Peters

Correct. I'm speaking to the concern raised earlier with regard to ensuring that we are reviewing - because this is a new industry we are looking back at a specified period of time to say something has evolved here in this condition that we had on here now needs to look like Y instead of X. And you never have so much time in which to comply with that change.

Chair Grewe

Commissioner LeVine.

Michael LeVine

I would like to address this in something that you raised earlier. I think generally I am supportive of having the conditions reviewed rather than have the Conditional Use Permit itself expire. I would also try to merge the two ideas. I think it's possible that we could create a situation in which the CUP expires when the land is transferred. Land or business is transferred? It might be a way to get at some of these concerns. And so we could craft a provision here in

which the conditions on the Conditional Use Permit are reviewed subject to amendment every three or five years, and the CUP itself expires upon transfer of the business or property. In that way a new property owner or business owner would have to reapply for the CUP which would have the effect of preventing it from running with the land forever, and allow us to revisit the conditions, or if Ms. Mead doesn't see a problem, that would be my preference about the way to handle it after thinking about it for most of the meeting.

Chair Grewe

I have a point of discussion. This is one that has occupied my mind as well. I think the CUP needs to expire - a firm expiration date. I would even go with three years. In D-1. But I would even question if that was needed in the Industrial zone or general commercial. You know, this is something that we have this provision and here and we are applying it equally across all the zones and we're really trying to get at - I mean for me, it's about how do we really encourage that neighborly relations, I guess. And so for me the concern is about you know, Rural Reserve and D-1. The others, you know, I could see eliminating. This sunset provision would get at some of the comments we heard tonight from the industry. But the cultivation in D-1 in particular I think that those people that live in that zone and the neighborhood areas of Rural Reserve which do exist, I think that because this is a new industry, it is important that we have this expiration provision in there for those zones, so that in three years that business owner has to come back before us and the neighborhood has another chance to provide comment and if we weren't able to mitigate the impacts the first time around, that we would be making the decision again afresh. And those are my thoughts on that. And see that is where we get down to like a lot of my thoughts about this it is really applicable to one zone but not so much the other and trying to come up with a strong purpose Statement like Amy recommended a couple of different times. I think I heard you say that we could creatively consider some of these things with good rationale. And I think this is one of those places. And it also wraps back to what I said early in the meeting I don't know if you caught it but I feel like we haven't done enough to incentivize this this development in certain places within our community that would be good for tourism, would be good for industry, good for the neighborhoods, and you know, it's kind of funny and we've taken this big brush to the zones in the four areas of activity in marijuana and I didn't think about it really as an economic opportunity either. It's just more reaction. Anyway, that is little more than I wanted to say. But those are my thoughts and I think it's important for those two zones in particular. So where does that leave us?

Rob Steedle

Madame Chair? Not to derail, but this is a time check.

Chair Grewe

You gave me the opportunity to do that.

Rob Steedle

So do you want to extend?

Chair Grewe
Extend until?

Michael LeVine
We are extended until 11:30. I think we're fine.

Chair Grewe
We are almost there. So Mr. Peters?

Bill Peters
Suggest to clarify the motion on line 23 page seven carrying through line nine on page eight of 12 moving with - and I am hearing two things one being that it's the conditions that will be reviewed not expired? But then I'm also hearing perhaps expiring in certain zones but not in other zones.

Chair Grewe
I think the whole permit is to expire in certain places. And I'm willing to discuss that further with the Commission. I don't think we can get it in by 11:30. I think you put the motion on the table, Mike had some discussion, I have some discussion. I think the attorneys hear my issue.

Bill Peters
So I guess to the City Attorney; do you need more clarity? In terms of what zones expiring when?

Amy Mead
Just so I understand there is consensus that the Conditional Use Permit is going to expire in Rural Reserve and D-1.

Michael LeVine
No. Can I make a suggestion? Can we take three issues, one by one by one, to see if we have consensus on them? They may not be the right three issues but I think they are. One is dealing with review of the conditions. One is dealing with expiration of the CUP as a whole, in certain zones, and one is dealing with expiration on transfer. Those are the three issues of which two I have raised, so I should know what two of them are. And I would suggest that we take up the two conditions that I raised first so in that regard what I would suggest is that the conditions applicable to the CUP are subject to review and or amendment every five years. Across all zones.

Bill Peters
So I would call for the question on that amendment.

Carl Greene

would there be different conditions for the different zones?

Michael LeVine

There could be. It would be the review of the conditions in your individual CUP.

Bill Peters

Each individual CUP is going to come before us. Those conditions outlined in that CUP if approved, would carry forward for five years. Those conditions would then be reviewed and or amended every five years, regardless of what zone we issue that CUP in.

Chair Grewe

Commissioner Frisby?

Percy Frisby

Are we going to have different sunsets?

Michael LeVine

Yeah, we're taking them one at a time we'll get to sunsets next:)

Percy Frisby

_____? every five years for everybody.

Chair Grewe

I honestly think I want to continue this because we can devise it something that incentivizes placement in certain zones.

Ben Haight

I agree, I think we can continue this particular section to the next meeting when we finish it.

Chair Grewe

Yeah. Yes. So those three things we will pick up at the next meeting? OK. I do have one addition to this section before we go to the next. And I should have mentioned it in my first run through and I have to say I have been studying the municipality of Anchorage so I have borrowed this idea from their community and it's the idea of requiring two meetings – so OK - when you are doing a commercial activity in a residential district or let's say Rural Reserve is so many feet that the commercial entity needs to conduct two neighborhood meetings. And the idea is that you are putting businesses and residents together, getting to know each other, I know, you guys don't smile like that, they like it in Anchorage. They think it's, you know, a good idea to communicate before it hits our forum. Neighbors can express their interests. So the provision would be to require prior evidence from the applicant that they conducted two neighborhood meetings. Two open houses, whatever you want to - you know, we can borrow

the language from Anchorage. And, this is in concept only, subject you know, to the discretion of the Commission. And that for me would be zone specific as well. With focus on D-1 and Rural Reserve. If you do a commercial activity in the neighborhood, hold a couple of open houses.

Carl Greene(?)

And do you have to put parameters on what an open house would constitute?

Chair Grewe

No, I think you just put - people get creative. Mr. Haight?

Ben Haight

So I think we pick that up in our continuance.

Chair Grewe

OK. So we are four minutes out. Mr. Peters.

Bill Peters

I would like to move §45.65.1150 and adopt hours as addressed in staff's memo I think it's at the bottom of page three of three. The top of page three of three. So the hours are consistent with what is being presented in terms of retail liquor establishments.

Carl Greene

Question. I didn't read that earlier, I know I read it a couple of days ago. But the hours - that's for an establishment. We are talking about a retail store for like a liquor store but not an establishment which is selling or people are sitting around consuming? Marijuana? So it's different, right? So we are not saying that they can be open until 2:00 a.m. having a place where people are using. Or is that just selling it?

Chair Grewe

Mr. Peters.

Bill Peters

So just as a point of clarification as I understand it from the work that I have done on the Commission we have not addressed the issue of establishments for consuming. We've only addressed the issue of retail stores for sale. So at this point "consuming" is not on the table. So this is product sale only.

Carl Greene

So if they were going to open up a bar, to consume it, they wouldn't go through the CUP process. This is not applicable to a bar. Or a café.

Amy Mead

That's actually prohibited under State law at this point. So until and unless there is a change, there was talk about allowing an endorsement but I don't think they actually did that. So it's not allowed at this point.

Carl Greene

I didn't know that. I didn't understand that. Thanks.

Chair Grewe

So where are we at with time? Mr. Haight.

Ben Haight

I move that we continue until 11:35.

Bill Peters

Just calling for the question regarding retail hours.

Chair Grewe

Is there any objection?

Amy Mead

Chair, may I ask - are you looking at the three to eight and not the one to eight?

Michael LeVine

Can't they be just exactly the same? Isn't it date specific? Or do I disremember?

Amy Mead

They apply in different - so there is subsection one, and that applies to certain things; subsection 2, that applies to - that is like going to the bar. Subsection one I believe it is like going to a liquor store.

Bill Peters

It would be subsection one as I understand it.

Chair Grewe

We have, yes, Mr. Peters.

Bill Peters

Oh, just calling for the question.

Chair Grewe

We are still on the hours - we just passed the hours. Didn't we? No?

Bill Peters
I think you asked for any objections.

Chair Grewe
OK. Ok. So you made a motion. There any objections? All right.

The motion passed with no objection.

Chair Grewe
Next. 49.65.1155 Documents to be displayed.

Bill Peters
I would move that as presented.

Chair Grewe
Any objection?

The motion passed with no objection.

Chair Grewe
49.65.1160. Mr. Peters.

Bill Peters
I would move that as presented.

Chair Grewe
Is there any objection? So this is the point where I ask for noise, noise work to be done and studied. Do you think we need to add something here for noise? *(no comment, no action)* Now we are on to 49.65.1170.

Michael LeVine
I would move 49.65.1170 if an amendment that specifies that civil penalties may apply the term that a corrective order - which a corrective order is issued at the Director's discretion.

Chair Grewe
Is there any objection? Motion passes.

The motion passed with no objection.

Michael LeVine

Would it be now that we would have to address the amount of these penalties? Sorry. That's going to come on the next page.

Chair Grewe

Actually, I am worried, I think we need to get to a decision about the, um, anyway - I would like to have some conversation about the upcoming permit. before the meeting ends. And the timing.

Bill Peters

I would like to move sections three, four and five, under the premise that we will discuss it at our next meeting, what the actual fine amounts may be.

Michael LeVine

And license fees. Because I would like to change the license fees.

Bill Peters

And license fees.

Carl Greene

Can you repeat that last comment about the fees?

Bill Peters

So, moving sections three, four and five with the premise that we will discuss the actual fees and license fee at our next meeting.

Matthew Bell

Madame Chair. I would support that.

Chair Grewe

Is there any objection to the motion? OK. So I think we made it through.

The motion carried up with no objection.

Chair Grewe

Mr. Peters?

Bill Peters

So, at this point I think we need to move the full ordinance 2015 – 38. I would move that as amended, at tonight's meeting. With a final review at the next meeting of the Planning Commission.

Chair Grewe

Is there an objection to the motion? The motion passes.

The motion carried with no objection.

Chair Grewe

All right. We are down to like three minutes. Nothing on the Board of Adjustment, nothing on other business, nothing on Director's report. Nothing on regular and special committees. The only thing I would raise here is that we did have a lot of discussion tonight about not hearing marijuana permits until we have adopted ordinances. So, ah, anyway. Mr. Peters.

Bill Peters

Just a comment on that issue. I think as that comes before us - I think that's a discussion for that time. As to whether or not we want to table that or carry it over.

Chair Grewe

So OK. So that's my question. And that is a little bit of my naiveté. I would feel like if we had a permit applicant come in just for us to continue it - it's like they have prepared and come before us, we know this ordinance will not be adopted for probably another month. So we have the discretion to direct the Director to hold all permit applications for whatever time period we set and we have a good rationale. Mr. LeVine.

Michael LeVine

I am sympathetic to this idea but I think that not only can we not take it up but that we are not allowed to take up any new business at this point, and anything we would direct them to do would constitute new business. So I'm afraid that we are totally hamstrung and that we can't actually do anything now. About that. Much as I would probably like to agree to do it, we can't.

Bill Peters

I would move that we adjourn.

Chair Grewe

Move to adjourn.

X. **BOARD OF ADJUSTMENT** - None

XI. **OTHER BUSINESS** - None

XII. **DIRECTOR'S REPORT** - None

XIII. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

XIV. **PLANNING COMMISSION COMMENTS AND QUESTIONS** - None

XV. ADJOURNMENT

The meeting was adjourned at 11:33 p.m.