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503-588-6173*

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO.: CU18-02

APPLICATION NO. : 18-106603-ZO

NOTICE OF DECISION DATE: MAY 11, 2018

SUMMARY: A conditional use application to add a recreational marijuana growing operation to an existing medical marijuana grow operation.

REQUEST: A conditional use application to add a recreational marijuana growing operation to an existing medical marijuana grow operation in the IC (Industrial Commercial) zone and located at 2465 Salem Dallas Highway NW - 97304 (Polk County Assessor Map and Tax Lot 073W29DB 03000).

APPLICANT: James Smith

LOCATION: 2465 Salem Dallas Highway NW / 97304

CRITERIA: Salem Revised Code (SRC) Chapter 240.005(d)

FINDINGS: The findings are in the attached Order dated May 11, 2018.

DECISION: The Hearings Officer **APPROVED** Conditional Use CU18-01 subject to the following conditions of approval:

Condition 1: Marijuana production shall be conducted indoors.

Condition 2: The marijuana production facility shall utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

The rights granted by the attached decision must be exercised, or an extension granted, by **May 30, 2020**, or this approval shall be null and void.

Application Deemed Complete:	<u>March 28, 2018</u>
Public Hearing Date:	<u>April 25, 2018</u>
Notice of Decision Mailing Date:	<u>May 11, 2018</u>
Decision Effective Date:	<u>May 30, 2018</u>
State Mandate Date:	<u>July 26, 2018</u>

Case Manager: Britany Randall, brandall@cityofsalem.net; 503.540.2304

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., Tuesday, May 29, 2018.**

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005

CITY OF Salem
AT YOUR SERVICE

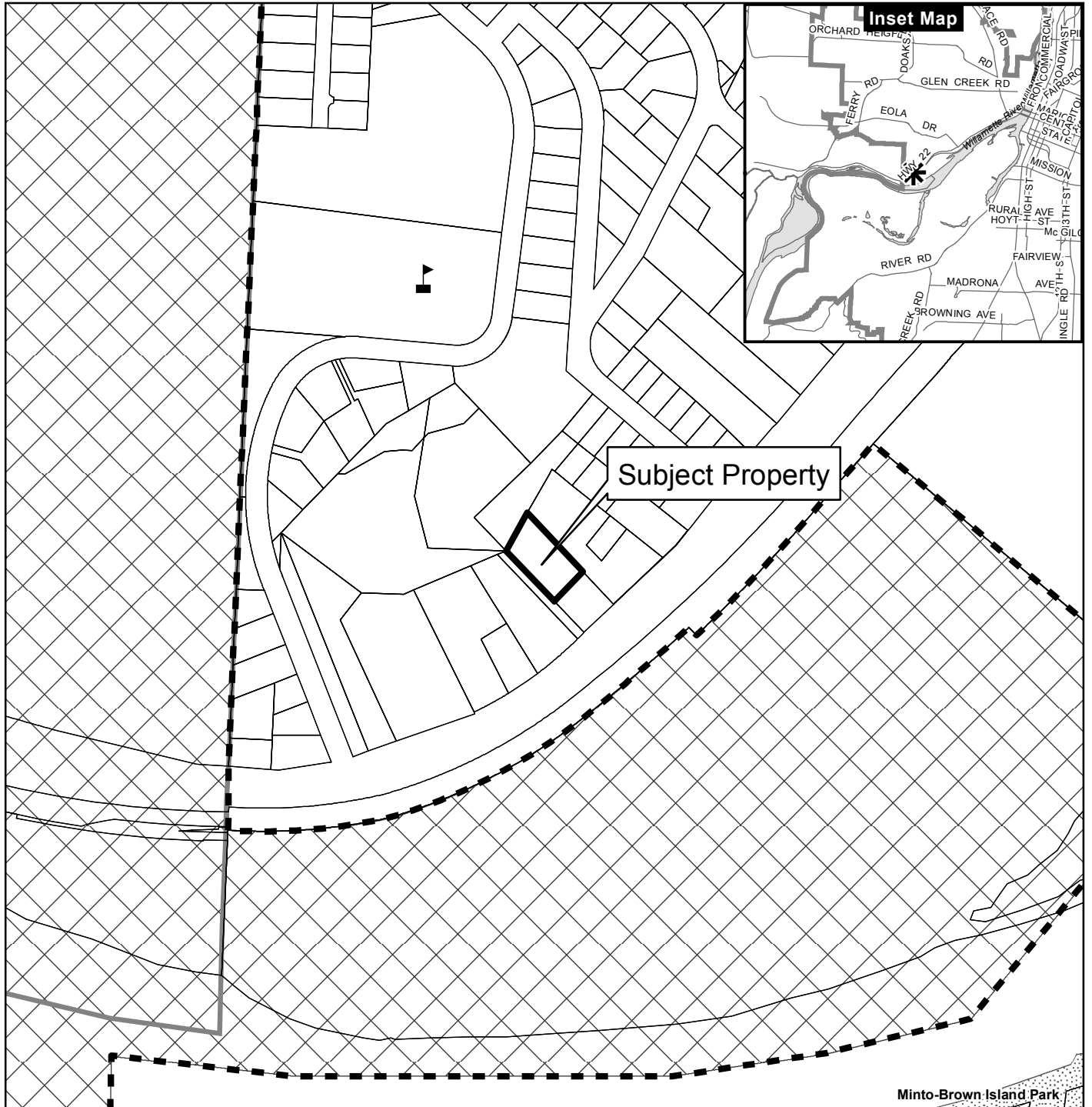
Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapter 240. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

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Vicinity Map 2465 Salem Dallas Highway



Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools

- Parks

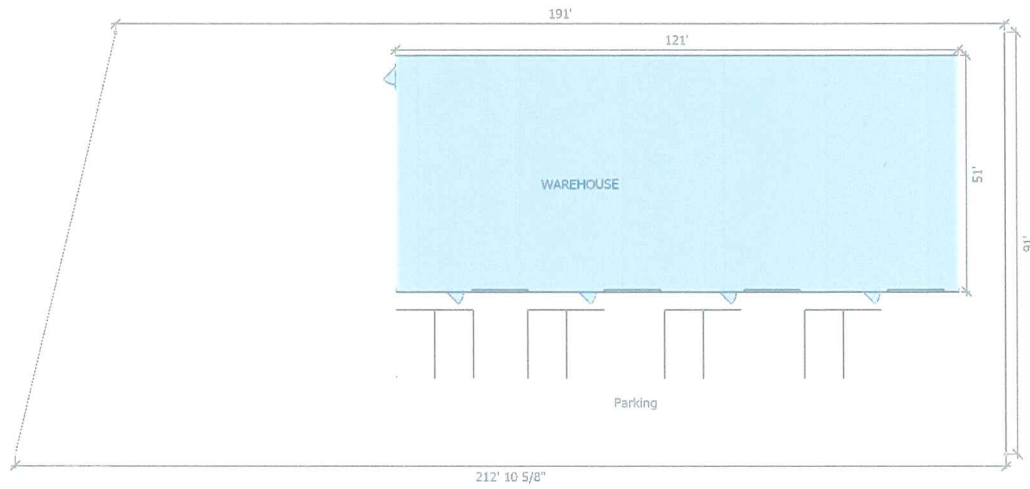
CITY OF Salem
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Community Development Dept.

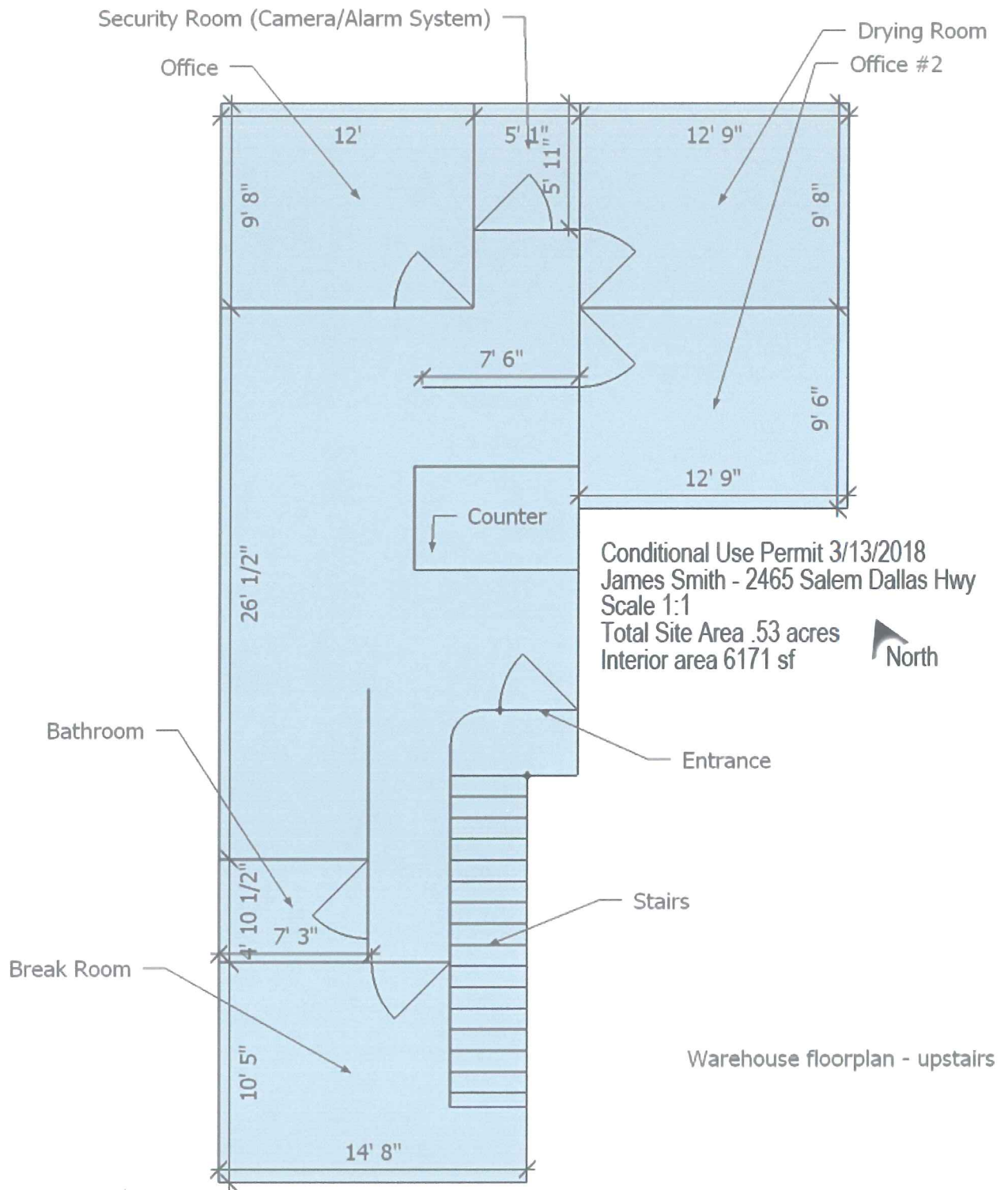
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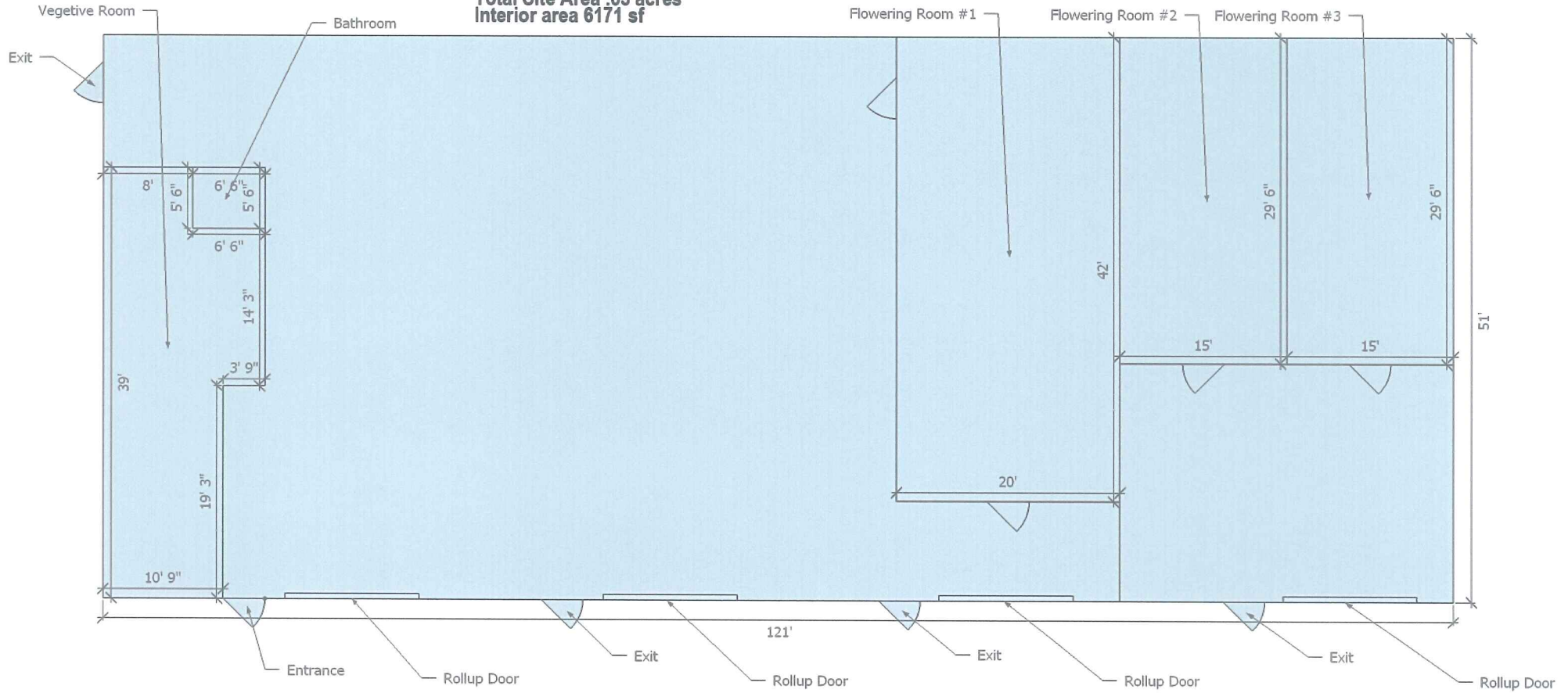
Conditional Use Permit 3/13/2018
James Smith - 2465 Salem Dallas Hwy
Scale 1:1
Total Site Area .53 acres
Interior Area 6171sf





Warehouse floorplan - downstairs

Conditional Use Permit 3/13/2018
James Smith - 2465 Salem Dallas Hwy
Scale 1:1
Total Site Area .53 acres
Interior area 6171 sf



**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST TO ADD A RECREATIONAL MARIJUANA GROWING OPERATION TO AN EXISTING MEDICAL MARIJUANA GROW OPERATION IN THE IC (INDUSTRIAL COMMERCIAL) ZONE AND LOCATED AT 2465 SALEM DALLAS HIGHWAY NW - 97304	} CU18-02 } } FINDINGS OF FACT, CONCLUSIONS, AND } DECISION
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DATE AND PLACE OF HEARING:

April 25, 2018, Salem Community Development Department, Room 305, Civic Center, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Britany Randall, Planner II
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	James Smith, applicant. Ken Dalke (written comment) Skip Liebertz (written comment)
<u>Opponents:</u>	None

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on April 25, 2018, regarding a proposal to add a recreational marijuana growing operation to an existing medical marijuana grow operation in the IC (Industrial Commercial) zone. No oral testimony was provided by any party other than the applicant; written comments were provided by the applicant and Ken Dalke and Skip Liebertz. Prior to the close of the public hearing, the applicant waived the additional 7-day period for additional testimony.

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Industrial." The subject property is within the Urban Growth Boundary and the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned IC (Industrial Commercial). The zoning and uses of surrounding properties include:

North: RM2 (Multi Family Residential 2)
South: IC (Industrial Commercial)
East: IC (Industrial Commercial)
West: IC (Industrial Commercial)

3. Site Analysis

The subject property is approximately 23,109 square feet in size. The subject property abuts a tract of land which includes an easement for ingress and egress, providing access to Salem Dallas Highway to the south, which is designated as a freeway within the Salem TSP (Transportation System Plan).

The footprint of the existing building is approximately 6,170 square feet in size. The remainder of the site appears to be used for parking and some equipment storage. The building maintains a setback of approximately 86 feet from the property line to the north abutting the RM2 zone.

4. Neighborhood and Citizen Comments

The comment period closed on April 11, 2018 at 5:00 pm. The subject property is located within the West Salem Neighborhood Association. Notice was provided to the West Salem Neighborhood Association and surrounding property owners within 250 feet of the subject property. No comments were received from the Neighborhood Association.

The following two comments were received from surrounding property owners:

1. Ken Dalke wrote: As one of James and Sean Smith's landlords, they have been very good tenants. They are very professional in the way they run their business. I feel the conditional use should be granted to allow them to grow

recreational marijuana. I don't see where making this change would affect or change their current operations with neighboring properties.

2. Skip Liebertz, with Touch of Mink, wrote: We are immediate neighbors to this operation and they have created no problems or issues. They are good neighbors.

The Hearings Officer notes that these comments were received and were entered into record.

5. City Department and Public Agency Comments

The Building and Safety Division has reviewed the proposal and noted that there are no apparent site issues.

The Public Works Department identified no issues with the request.

The Fire Department has reviewed the proposal and indicated they have no concerns with the applicant's request. Fire will address issues such as fire department access and water supply at the time of building permit plan review.

The Hearings Officer notes that the building and parking are existing and that no alterations are proposed at this time.

6. Analysis of Conditional Use Criteria

SRC Chapter 240.005(a)(1) provides that:

No building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:

Criterion 1:

The proposed use is allowed as a conditional use in the zone.

The Hearings Officer notes that SRC 551.005, Table 551-1, provides that Marijuana Production is allowed in the IC (Industrial Commercial) zone with a conditional use permit. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 2:

The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

The Hearings Officer notes that at the time of writing the staff report, two comments in support of the application were received from surrounding property owners. Both comments indicate the current medical marijuana production is conducted professionally and does not cause a disturbance to neighboring property. Additionally, the applicant did not propose any changes to the site or the manner in which the business is operated. No concerns regarding the impacts of this conditional use permit have been raised by neighboring property owners or the West Salem Neighborhood Association.

The Hearings Officer notes that state law requires facilities used for the commercial production of recreational marijuana to obtain a license from the OLCC and to meet specific standards for site security, record keeping, waste disposal, inventory control, access control, and other operational requirements which address potential site impacts at a greater level of detail than the land use process for granting a conditional use permit.

The Hearings Officer notes that marijuana production facilities in industrial zones are subject to special use standards which reflect concern for visual and odor impacts. These standards, which mandate that marijuana production in these zones take place indoors, with an air filtration system to mitigate odors, provide the basis for conditions to minimize any potential impacts in the IC zone. The site is currently being used for medical marijuana production and these mitigation measures are already in place. However, to ensure that visual and odor impacts from facility operations are minimized, staff recommends, and the Hearings Officer agrees to impose the following conditions on the conditional use permit:

Condition 1: Marijuana production shall be conducted indoors.

Condition 2: The marijuana production facility shall utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

The Hearings Officer finds that with these conditions, the proposal satisfies this criterion.

Criterion 3:

The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

The Hearings Officer notes the subject property has been developed as an industrial building that is currently being used for the production of medical marijuana. The site is surrounded on three sides by IC zoned property and maintains a setback of approximately 86 feet from the RM2 zoned property to the north. The proposed recreational marijuana production facility would be located within the existing building. The proposal will not significantly change the appearance of the property or significantly increase traffic. The Hearings Officer finds that the proposal meets this criterion.

DECISION

The Hearings Officer APPROVES the request for a conditional use permit to allow a recreational marijuana production facility within an existing building on property located at 2465 Salem Dallas Highway NW, subject to the following conditions of approval:

Condition 1: Marijuana production shall be conducted indoors.

Condition 2: The marijuana production facility shall utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

DATED: May 11, 2018.


James K. Brewer, Hearings Officer