

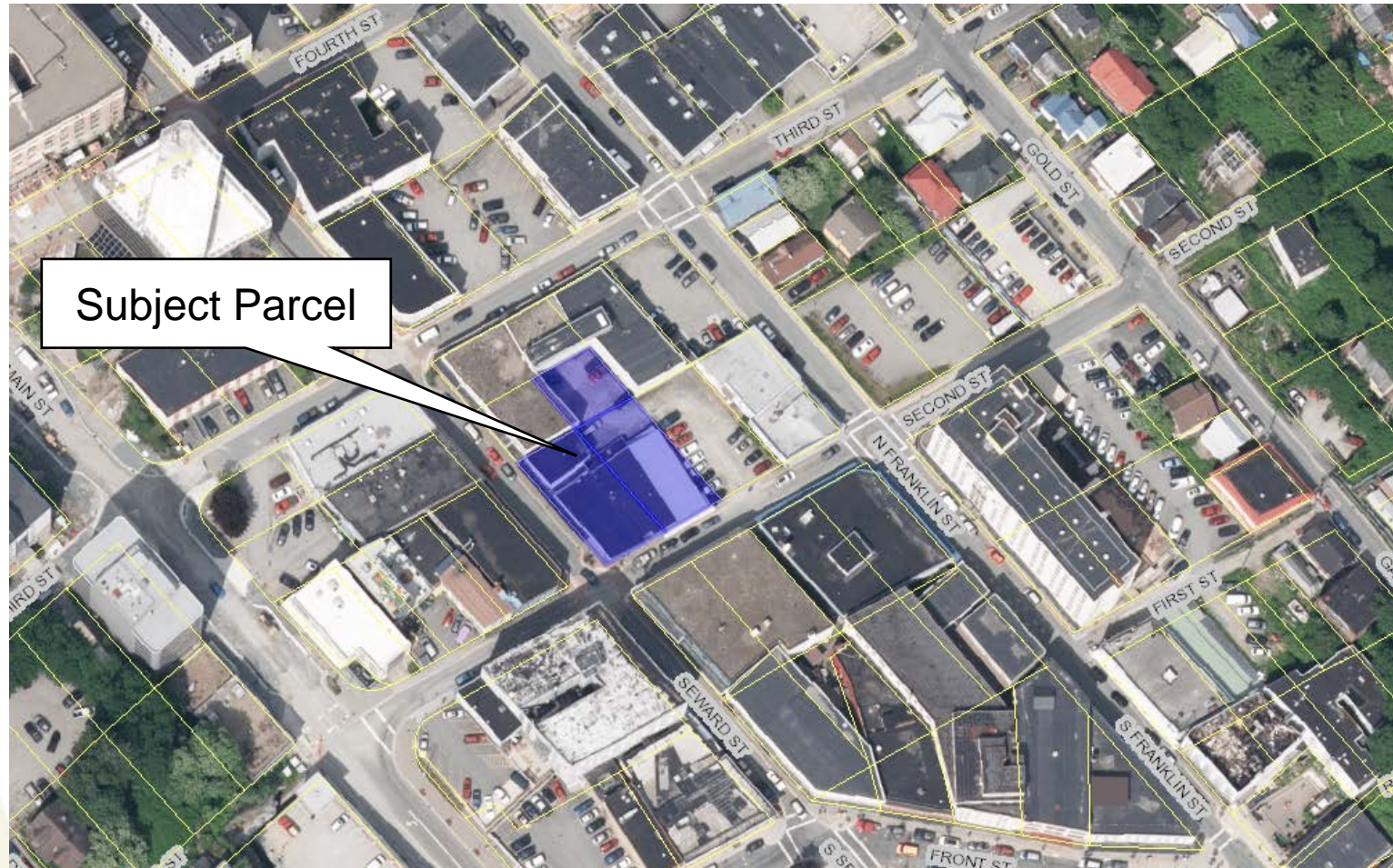
USE2020 0016

Modification of a Special Use Permit (USE2016 0006) to include on-site consumption of edible marijuana products

Planning Commission Hearing August 11, 2020

Staff recommends approval with conditions

Vicinity Map



Background Information

GENERAL INFORMATION	
Property Owner	Goldstein Improvement Company
Applicant	Rainforest Farms, LLC
Property Address	201 Seward Street / 216 2 nd Street
CBJ Marijuana License	Active – held by Rainforest Farms, LLC
State Marijuana License	Active – held by Rainforest Farms, LLC
State Endorsement for On-site Consumption	Initiated according to the AMCO website license information page
Zoning	Mixed Use (MU)
Associated Applications	USE2016 0006 – approved in 2016

SUMMARY OF KEY CONSIDERATIONS:

- No on-site smoking of marijuana is proposed
- No changes to the footprint of the building
- Addition of on-site edible consumption is not anticipated to have significant impacts on neighboring properties
- This permit does not modify conditions of USE2016 0006; those conditions remain
- The original USE permit was approved in 2016 and will need to be reviewed in 2021 (USE2016 0006). This approval (USE2020 0016) does not void/restart the 5 year review requirement.



Background Information

2015

Land Use Code Amended

- Ord. 2015-39(am) modified the table of permissible uses to include Marijuana Retail Facilities.

2019

Title 36, “Health and Sanitation,” and Title 42, “Penal Code”) Amended

- CBJ Title 36 was amended to allow smoking of marijuana products in an *establishment licensed under AS17.38 if the smoking is only outdoors*.
- CBJ Title 42 was amended to allow consumption of marijuana in *establishments licensed under AS17.38 if the consumption is only edibles inside*
- CBJ Title 49 does not require amendment

2020

Application for modification to CUP to include on-site consumption

- On-site consumption of edibles only is proposed
- Per CBJ 49.65.1245(b) PC must review the modification request. Conditions may be imposed to ensure compliance with T49. The original conditions of the CUP may not be modified.
- The applicant must receive an endorsement for on-site consumption from the State of Alaska Alcohol and Marijuana Control Office.

Project Site & Design

- No changes to building footprint proposed
- The on-site consumption area will be separated from the retail area with a door and a wall.
- The on-site consumption area includes a sales counter, product display, prep area, and seating and tables.
- Floor plans are found in packet page 386

Project Site & Design

- Security cameras have been added to the consumption area (packet page 386)
- Within the consumption area, there are exterior doors that lead to a patio area; consumption outside of the building is not being proposed or permitted with this use permit.
- Security cameras are not placed in front of this door.
- Condition: Prior to commencement of the proposed use, the applicant must make the doors to the patio emergency only exists and post emergency exit signage.

- No parking is required
 - PD1 parking district
- No TIA was required in 2016
- Significant additional traffic is not anticipated
- No change of use (retail) is occurring, no TIA is required



Specified Use Review – CBJ 49.65 Article XI – Marijuana Establishments

- With conditions, all specified use review criteria are met.
- Condition: All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.
 - This condition was not added to the original CUP
 - Waste may be increased if patrons do not finish consuming products and they are left for disposal.

Agency and Public Comments

- No Agency comments were received.
- (2) Public comments:
 - Concerns about impacts of marijuana edibles and public safety, amounts that can be consumed, allowance for carry-out options, and disposal of unused product.
 - Concerns about reduction in neighboring property values and neighborhood harmony.



Findings

1. *Is the application for the requested special use permit complete?*

Analysis: Not Applicable.

Finding: Yes. The application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.65.1245.

2. *Is the proposed use appropriate according to the Table of Permissible Uses?*

Analysis: The application is for marijuana retail with on-site consumption. The use, marijuana retail, is listed at CBJ 49.25.300, 2.300 for the Mixed Use zoning district.

Finding: Yes. The requested permit is appropriate according to the Table of Permissible Uses.

3. *Will the proposed development comply with the other requirements of this chapter?*

Analysis: The proposed site design complies with standards for Marijuana Establishments.

Finding: Yes. With the recommended conditions, the proposed development will comply with Title 49 Marijuana Establishment requirements found in CBJ 49.65.1245.

Findings

4. *Will the proposed development materially endanger the public health or safety?*

Analysis: The marijuana retail facility is an established use. The facility has a thorough security camera system and protocols. The addition of on-site consumption is not anticipated to materially endanger the public health or safety.

Finding: No. There is no evidence to suggest that with appropriate conditions, the subsequent building permit review process, and CBJ License process, that the proposed marijuana retail with on-site consumption will materially endanger the public health or safety.

5. *Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?*

Analysis: The site is an established retail facility within a mixed use area.

Finding: No. There is no evidence to suggest that with appropriate conditions, the subsequent building permit review process, and CBJ License process, the requested marijuana retail with on-site consumption will substantially decrease the value or be out of harmony with the property in the neighboring area.

6. *Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?*

Analysis: Comprehensive Plan policies supports a diverse, innovative, local economy. Additionally, the MU zoning district complies with the land use designation for the parcel, Traditional Town Center, and the use is permissible in the MU zoning district.

Finding: Yes. The proposed marijuana retail with on-site consumption with the recommended conditions, will be in general conformity with the 2013 Comprehensive Plan.

Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings and APPROVE WITH CONDITIONS the requested Special Use Permit. The permit would allow the modification of a Use Permit (USE2016 0006) to include on-site consumption of Marijuana products with the following condition:

1. Prior to commencement of the proposed use, the applicant must make the doors to the patio emergency only exits and post emergency exit signage.
2. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.

The approval is also subject to conditions listed in the Notice of Decision for USE2016 0006 (Attachment D).

Alternative Actions:

1. **Amend:** require additional conditions, or delete or modify the recommended conditions.
2. **Deny:** deny the permit and adopt new findings for items 1-6 that support the denial.
3. **Continue:** to a future meeting date if determined that additional information or analysis is needed to make a decision, or if additional testimony is warranted.