

TO: HEARINGS OFFICER

FROM: LISA ANDERSON-OGILVIE, AICP, DEPUTY COMMUNITY
DEVELOPMENT DIRECTOR AND PLANNING
ADMINISTRATOR

SUBJECT: **CONDITIONAL USE CASE NO. 18-02; 2465 SALEM DALLAS
HIGHWAY NW; AMANDA NO. 18-106603-ZO**

REQUEST

Summary: A conditional use application to add a recreational marijuana growing operation to an existing medical marijuana growing 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) (**Attachment A**).

APPLICANT: James Smith

OWNER: KSTS Properties, LLC (Tom Dalke)

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, staff recommends that the Hearings Officer **APPROVE** 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.

BACKGROUND

On March 19, 2018, the applicant, James Smith, submitted a conditional use permit application to use the existing industrial building on the subject site for the production of recreational marijuana. The application was deemed complete for processing on March 28, 2018.

The subject property is developed with a single-story industrial building. The existing building footprint is approximately 6,170 square feet and is currently used for the production of medical marijuana.

The public hearing before the City of Salem Hearings Officer is scheduled for April 25, 2018, at 5:30 p.m. in the Community Development Department Civic Center, Room 305, located at 555 Liberty Street SE. Staff mailed notice of public hearing to surrounding property owners pursuant to Salem Revised Code (SRC) requirements on April 5, 2018. The applicant posted public hearing notice on the property pursuant to SRC requirements.

PROPOSAL

The applicant is requesting to use the interior of the existing building, an area of approximately 6,170 square feet, for the production of recreational marijuana where a medical marijuana production currently exists. The production process includes indoor planting, growing, and harvesting of marijuana plants. The applicant has provided a written statement addressing the approval criteria for a conditional use. The commercial production of recreational marijuana would also require licensing the facility with the Oregon Liquor Control Commission (OLCC), and complying with the regulations established by that agency for recreational marijuana production facilities.

APPLICANT'S STATEMENT

The applicant's statement addressing the applicable approval criteria for the conditional use permit request is included as **Attachment B**.

FACTS AND FINDINGS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Industrial Commercial." 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. 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. We are immediate neighbors to this operation and they have created no problems or issues. They are good neighbors.

Staff Response: Staff will enter the comments received into the record for consideration before the Hearings Officer as **Attachment C**.

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.

Staff Response: Staff would like to note that the building and parking are existing and 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.

Finding: SRC 551.005, Table 551-1, provides that Marijuana Production is allowed in the IC (Industrial Commercial) zone with a conditional use permit. Staff finds that the proposal meets this criterion.

Criterion 2:

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

Applicant's Statement: We are applying for a conditional use permit for our current medical marijuana grow site so that we may license with the OLCC as a recreational producer. We are not proposing any change to our site, building, or employee count. Our proposal will not likely impact the immediate neighborhood, and will have minimal impact on the livability and appropriate development of surrounding property, as we will not be making any changes and currently operate within the laws and ordinances regarding our business and trade.

Finding: At the time of writing this staff report, two comments were received from surrounding property owners. Both comments indicated the current medical marijuana production is conducted professionally and does not cause a disturbance to neighboring property. Additionally, the applicant indicated in their written statement that they do not propose any changes to their site or the manner in which they operate their business. No concerns regarding the impacts of this conditional use permit have been raised by neighboring property owners or the West Salem Neighborhood Association.

State law requires facilities used for the commercial production of recreational marijuana to obtain a license from the OLCC and 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.

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 the following conditions be placed 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.

Staff finds that the proposal meets this criterion as conditioned.

Criterion 3:

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

Finding: 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 proposal meets this criterion.

RECOMMENDATION

Based upon the Facts and Findings contained in this staff report, staff recommends that the Hearings Officer APPROVE 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.

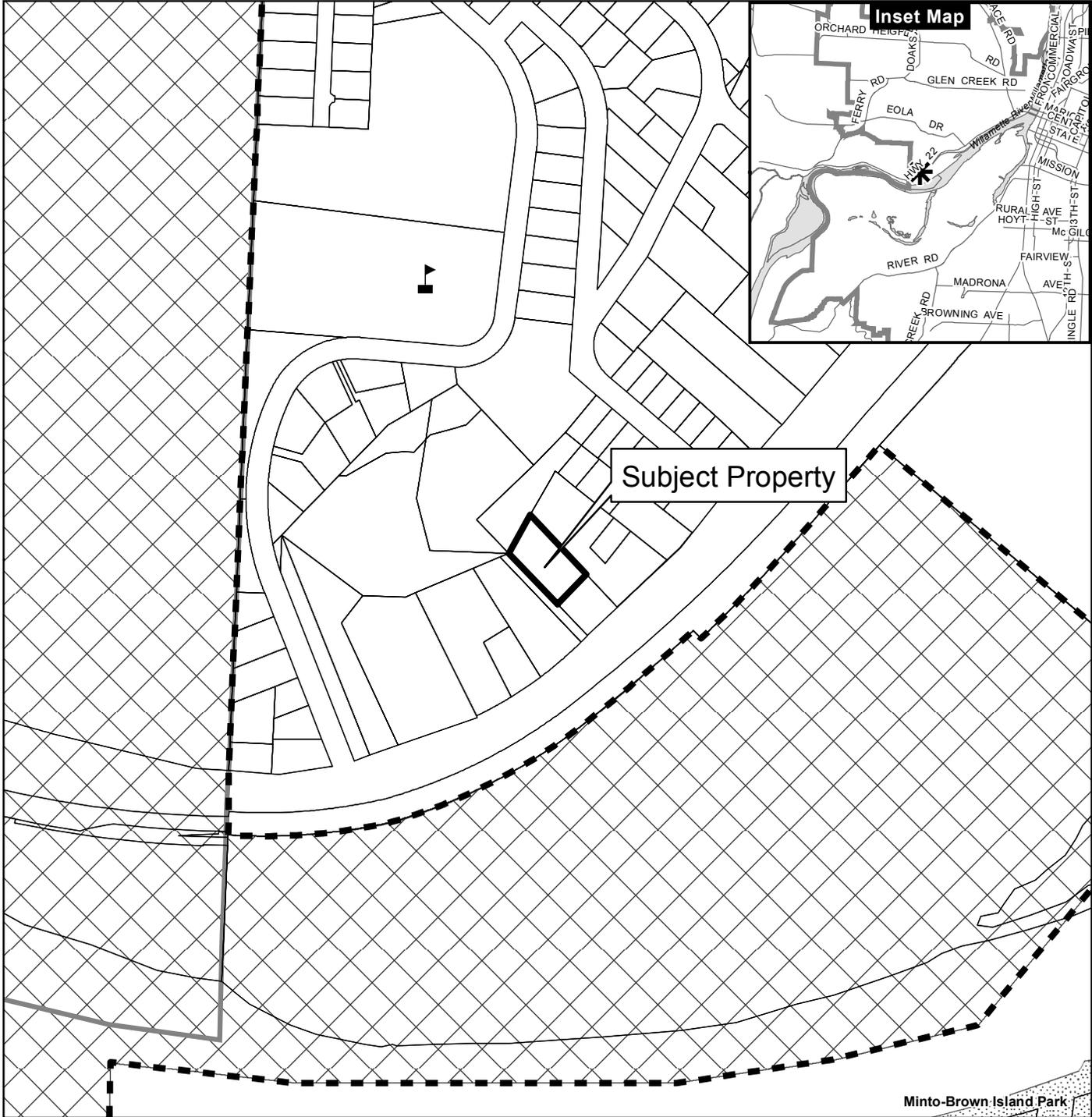
Prepared by Britany Randall, Planner II

Application Deemed Complete Date: March 28, 2018
State Mandated Decision Date: July 27, 2018

- Attachments: A. Vicinity Map
B. Applicant's Statement
C. Comments Received
D. Existing Site Plan

G:\CD\PLANNING\CASE APPLICATION Files 2011-On\CONDITIONAL USE + SCU\2018\Staff Reports\CU18-02
BNR.docx

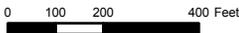
Vicinity Map 2465 Salem Dallas Highway



Legend

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

 Parks



This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

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

We are applying for a conditional use permit for our current medical marijuana grow site, so that we may license with the OLCC as a recreational producer.

We are not proposing any change to our site, building, or employee count.

Our proposal will not likely impact the immediate neighborhood, and will have minimal impact on the livability and appropriate development of surrounding property, as we will not be making any changes and currently operate within the laws and ordinances regarding our business and trade.

REQUEST FOR COMMENTS

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173

CASE NO: CU18-02

AMANDA APPLICATION NO.: 18-106603-ZO

ADDRESS: 2465 SALEM DALLAS HW NW

ZIPCODE: 97304

HEARD BY: HEARINGS OFFICER

CASE MANAGER: BRITANY RANDALL

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).

Attached is a copy of the proposal and any related maps for an upcoming case. A report with a recommendation relating to this property will be prepared by the planning staff from information available to the staff. You are invited to respond with information relating to this property and this request. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners, residents, and jurisdictional agencies.

COMMENTS NEED TO BE RECEIVED BY 5 P.M., April 11, 2018 to be included in the development of the Staff Report and its recommendations. **Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail or hand deliver your comments to the case manager listed below.**

Send comments and any questions to: Britany Randall, Planner II; City of Salem Planning Division; 555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503 540-2304; Fax: 503-588-6005
E-Mail: brandall@cityofsalem.net; <http://www.cityofsalem.net/planning>

PLEASE CHECK THE FOLLOWING ITEMS THAT APPLY:

1. We have reviewed the proposal and have no comments.
 2. We have reviewed the proposal and have the following comments:

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 were making this change would affect or change their current operations with neighboring properties.

Name: Ken Dalke
Address: 3695 Eola Dr N.W. Salem, OR
Agency: N/A 97304
Phone No.: 503-982-4074
Date: 4/5/18

APR - 6 2018

REQUEST FOR COMMENTS COMMUNITY DEVELOPMENT

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173

CASE NO: CU18-02

AMANDA APPLICATION NO.: 18-106603-ZO

ADDRESS: 2465 SALEM DALLAS HW NW

ZIPCODE: 97304

HEARD BY: HEARINGS OFFICER

CASE MANAGER: BRITANY RANDALL

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).

Attached is a copy of the proposal and any related maps for an upcoming case. A report with a recommendation relating to this property will be prepared by the planning staff from information available to the staff. You are invited to respond with information relating to this property and this request. We are interested in receiving pertinent, factual information such as neighborhood association recommendations and comments of affected property owners, residents, and jurisdictional agencies.

COMMENTS NEED TO BE RECEIVED BY 5 P.M., April 11, 2018 to be included in the development of the Staff Report and its recommendations. Mailed comments can take up to 7 calendar days to arrive at our office. To ensure that your comments are received by the deadline, we recommend that you e-mail or hand deliver your comments to the case manager listed below.

Send comments and any questions to: Britany Randall, Planner II; City of Salem Planning Division; 555 Liberty St SE, Room 305, Salem, OR 97301; Phone: 503 540-2304; Fax: 503-588-6005 E-Mail: brandall@cityofsalem.net; http://www.cityofsalem.net/planning

PLEASE CHECK THE FOLLOWING ITEMS THAT APPLY:

1. We have reviewed the proposal and have no comments.

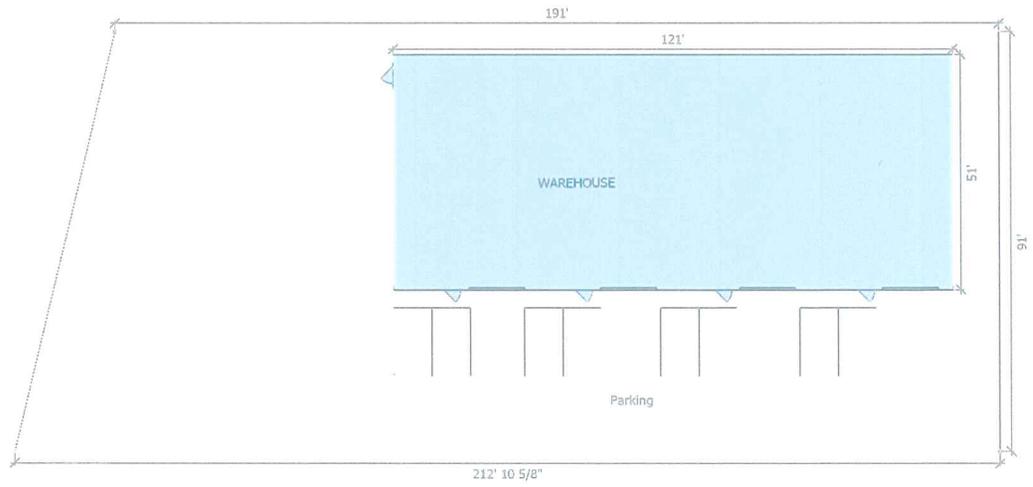
X 2. We have reviewed the proposal and have the following comments:

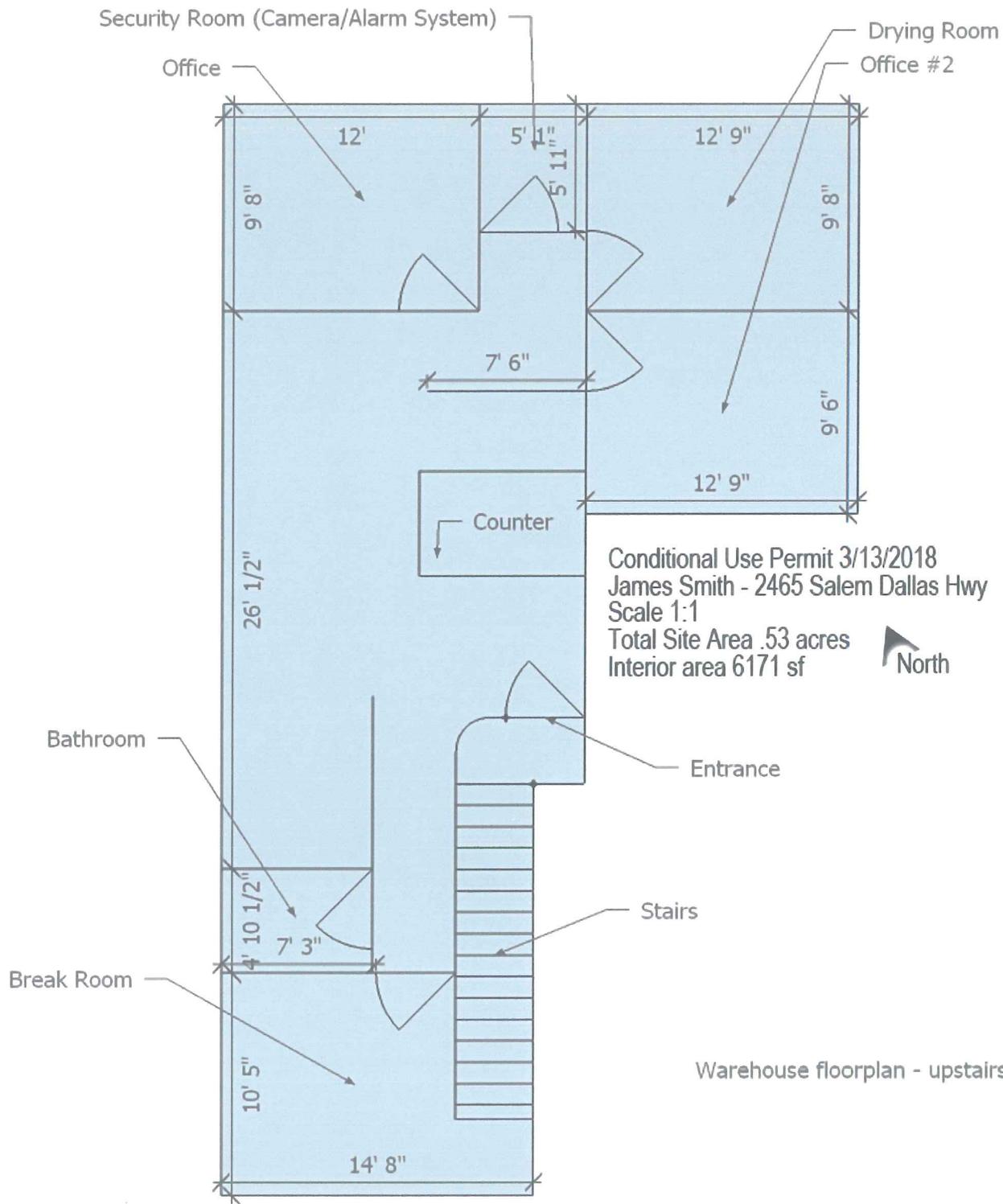
We are immediate neighbors to this operation and they have created no problems or issues. They are good neighbors.

3. Other:

Name: Skip Liebertz
Address: 2485 Dallas Hwy, N.W, Salem
Agency: Touch of Milk
Phone No.: 503 399-8181
Date: April 3, 2018

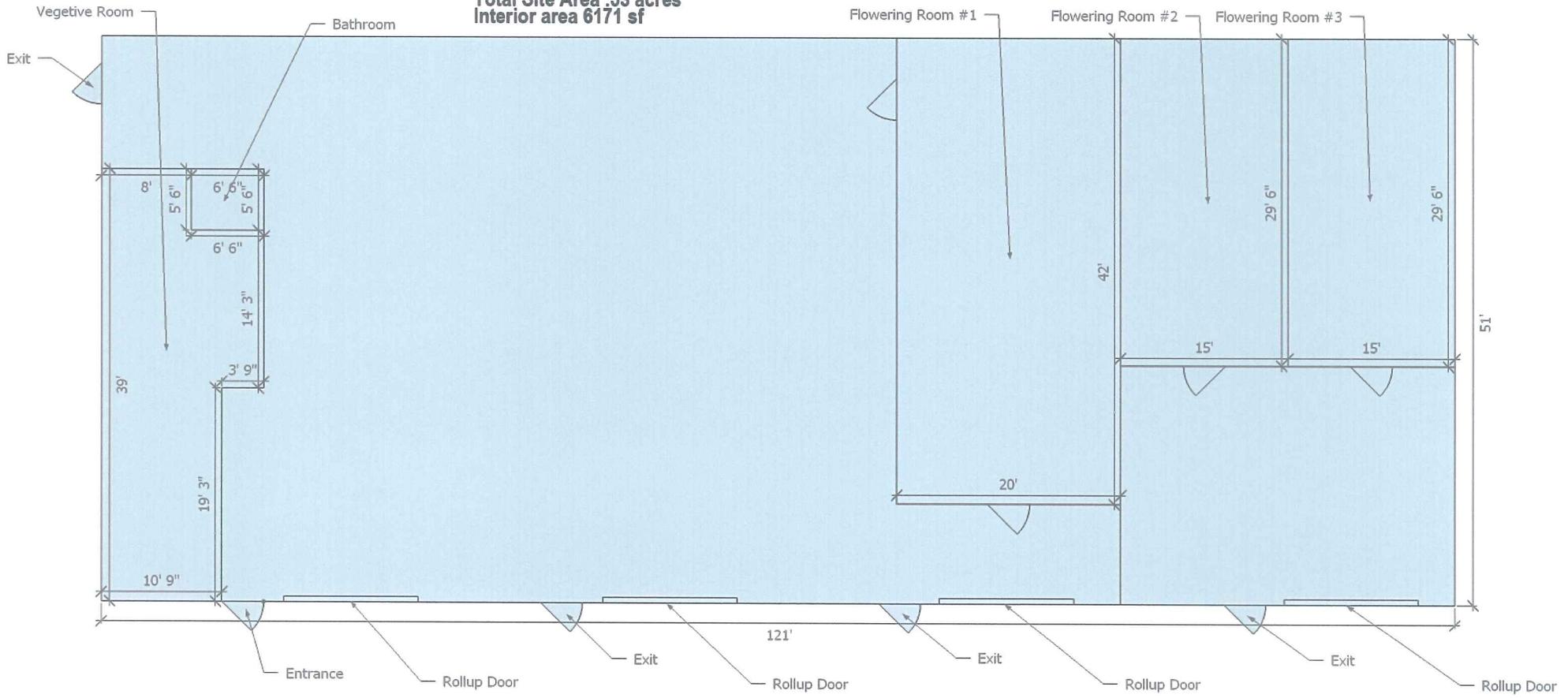
Conditional Use Permit 3/13/2018
James Smith - 2465 Salem Dallas Hwy
Scale 1:1
Total Site Area .53 acres
Interior Area 6171sf





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



IMPORTANT
This Map for Assessment
and Taxation Purposes

See Map 7.3.29AC

NW1/4 SE1/4 SEC.29 T7S R3W WM
POLK COUNTY

Scale 1" = 100'

7.3.29DB

ONLY

1300
4.99 AC

8

1301
0.89 AC

1101
5

1102
6

1100
7

1200
1.86 AC

1100
10

1100
11

1100
12

1100
13

1100
14

1100
15

1100
16

1100
17

1100
18

1100
19

1100
20

1100
21

1100
22

1100
23

1100
24

1100
25

1100
26

1100
27

1100
28

1100
29

1100
30

1100
31

1100
32

1100
33

1100
34

1100
35

1100
36

1100
37

1100
38

1100
39

1100
40

1100
41

1100
42

1100
43

1100
44

1100
45

1100
46

1100
47

1100
48

1100
49

1100
50

1100
51

1100
52

1100
53

1100
54

1100
55

1100
56

1100
57

1100
58

1100
59

1100
60

1100
61

1100
62

1100
63

1100
64

1100
65

1100
66

1100
67

1100
68

1100
69

1100
70

1100
71

1100
72

1100
73

1100
74

1100
75

1100
76

1100
77

1100
78

1100
79

1100
80

1100
81

1100
82

1100
83

1100
84

1100
85

1100
86

1100
87

1100
88

1100
89

1100
90

1100
91

1100
92

1100
93

1100
94

1100
95

1100
96

1100
97

1100
98

1100
99

1100
100

1100
101

1100
102

1100
103

1100
104

1100
105

1100
106

1100
107

1100
108

1100
109

1100
110

1100
111

1100
112

1100
113

1100
114

1100
115

1100
116

1100
117

1100
118

1100
119

1100
120

1100
121

1100
122

1100
123

1100
124

1100
125

1100
126

1100
127

1100
128

1100
129

1100
130

1100
131

1100
132

1100
133

1100
134

1100
135

1100
136

1100
137

1100
138

1100
139

1100
140

1100
141

1100
142

1100
143

1100
144

1100
145

1100
146

1100
147

1100
148

1100
149

1100
150

1100
151

1100
152

1100
153

1100
154

1100
155

1100
156

1100
157

1100
158

1100
159

1100
160

1100
161

1100
162

1100
163

1100
164

1100
165

1100
166

1100
167

1100
168

1100
169

1100
170

1100
171

1100
172

1100
173

1100
174

1100
175

1100
176

1100
177

1100
178

1100
179

1100
180

1100
181

1100
182

1100
183

1100
184

1100
185

1100
186

1100
187

1100
188

1100
189

1100
190

1100
191

1100
192

1100
193

1100
194

1100
195

1100
196

1100
197

1100
198

1100
199

1100
200

1100
201

1100
202

1100
203

1100
204

1100
205

1100
206

1100
207

1100
208

1100
209

1100
210

1100
211

1100
212

1100
213

1100
214

1100
215

1100
216

1100
217

1100
218

1100
219

1100
220

1100
221

1100
222

1100
223

1100
224

1100
225

1100
226

1100
227

1100
228

1100
229

1100
230

1100
231

1100
232

1100
233

1100
234

1100
235

1100
236

1100
237

1100
238

1100
239

1100
240

1100
241

1100
242

1100
243

1100
244

1100
245

1100
246

1100
247

1100
248

1100
249

1100
250

1100
251

1100
252

1100
253

1100
254

1100
255

1100
256

1100
257

1100
258

1100
259

1100
260

1100
261

1100
262

1100
263

1100
264

1100
265

1100
266

1100
267

1100
268

1100
269

1100
270

1100
271

1100
272

1100
273

1100
274

1100
275

1100
276

1100
277

1100
278

1100
279

1100
280

1100
281