

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.

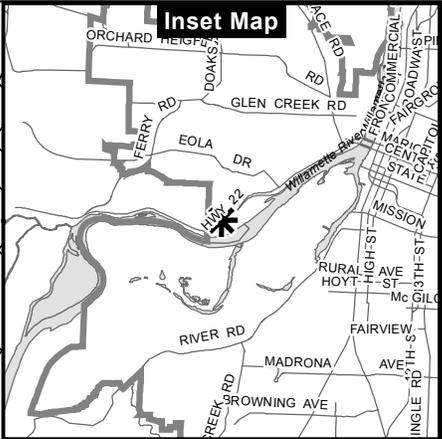
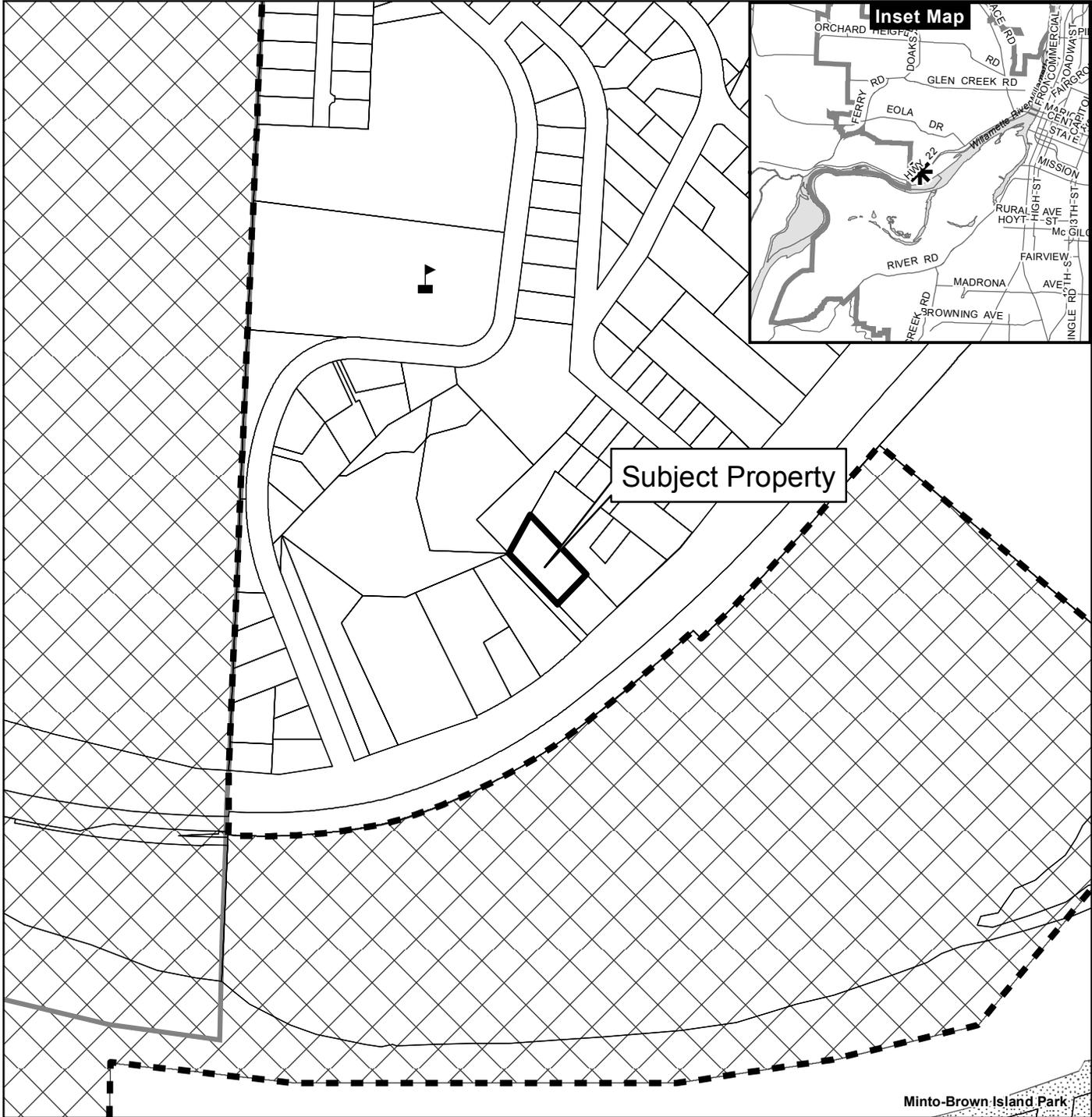
Prepared by Britany Randall, Planner II

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



Subject Property

Minto-Brown Island Park

Legend

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

CITY OF Salem
AT YOUR SERVICE
 Community Development Dept.



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 DalkeAddress: 3695 Eola Dr N.W. Salem, ORAgency: N/A 97304Phone No.: 503-932-4074Date: 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.

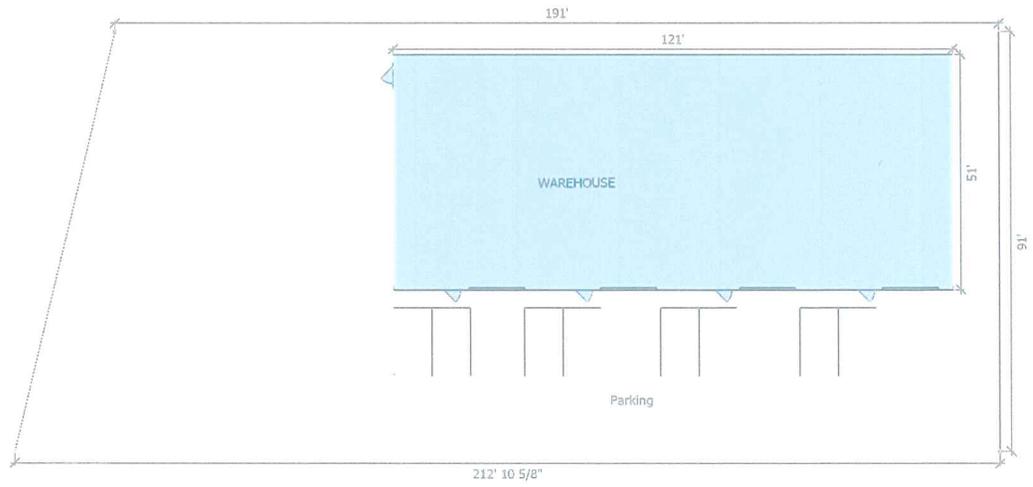
X 2. We have reviewed the proposal and have the following comments:

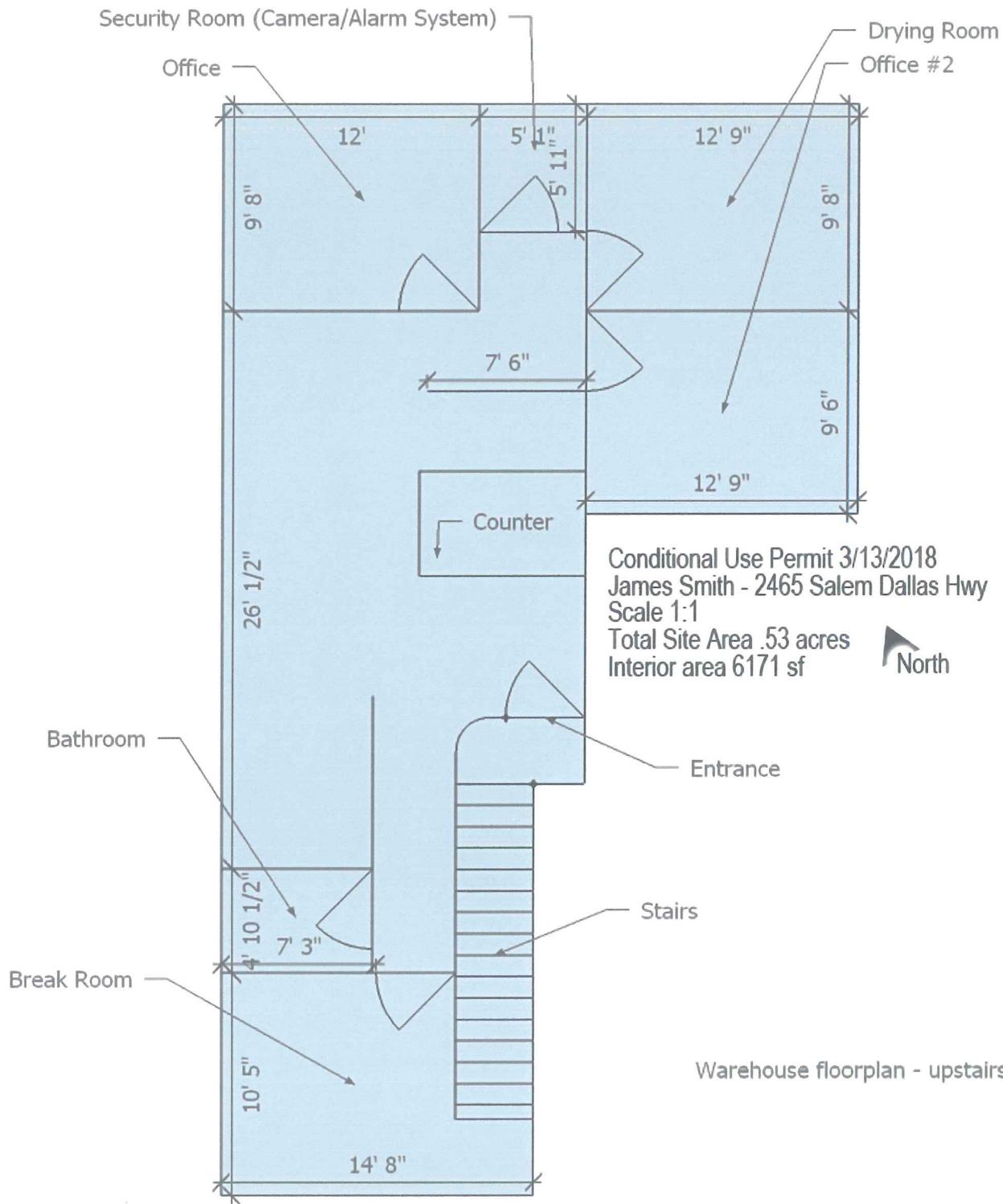
We are immediate neighbors to this operation and they have created no problems or issues. They are good neighbors.

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

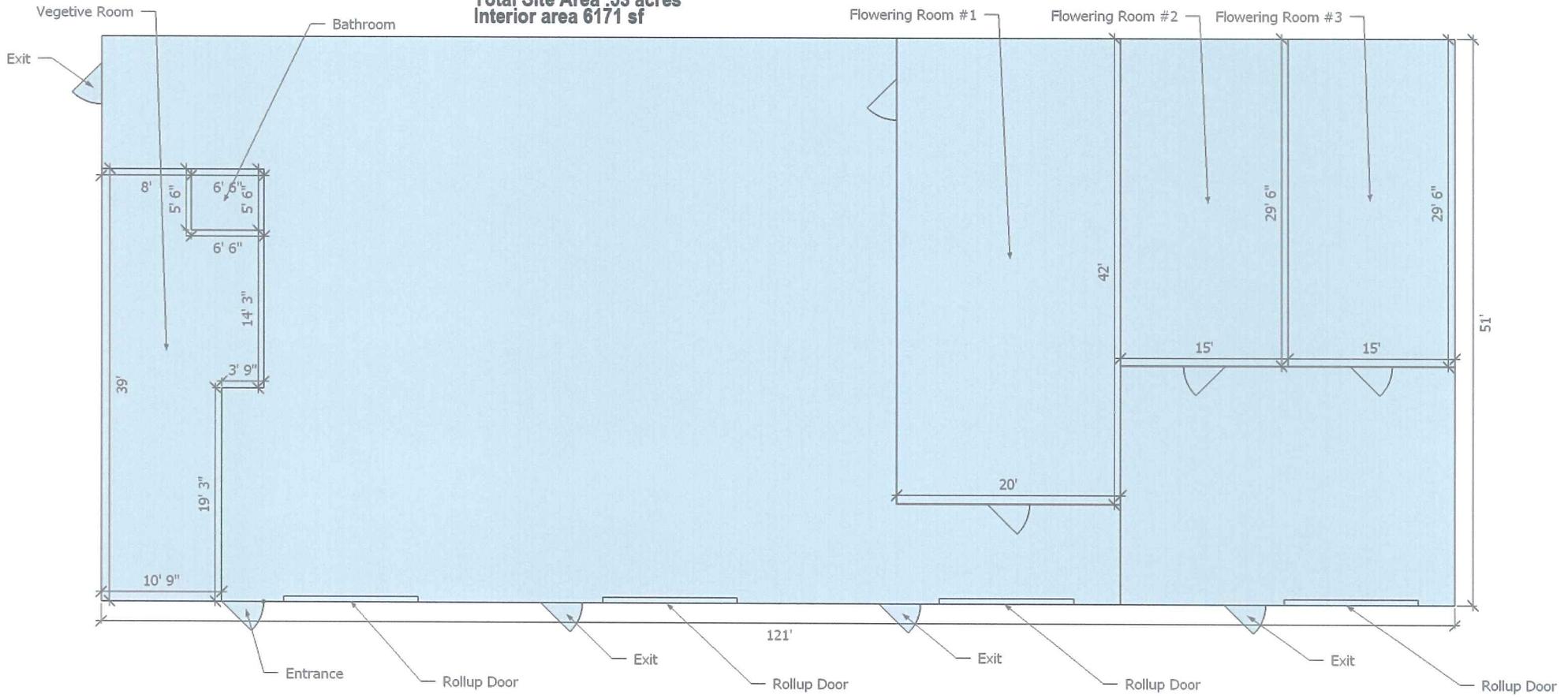
Conditional Use Permit 3/13/2018
James Smith - 2455 Salem Dallas Hwy
Scale 1:1
Total Site Area .53 acres
Interior Area 6171sf





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



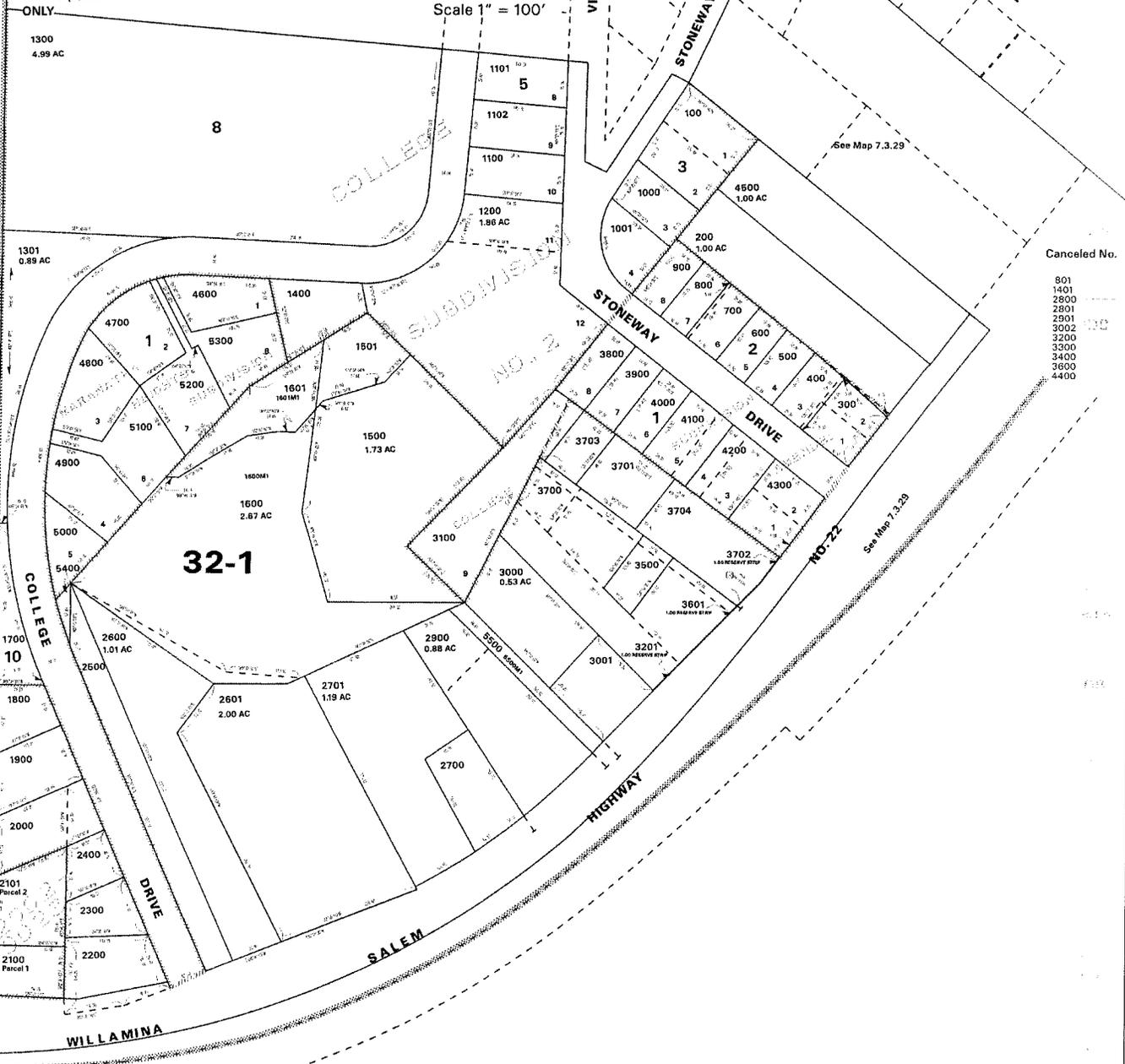
IMPORTANT
This Map for Assessment
and Taxation Purposes

See Map 7.3.29AC

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

Scale 1" = 100'

7.3.29DB



- Canceled No.
- 501
 - 1401
 - 2800
 - 2801
 - 2901
 - 3002
 - 3200
 - 3300
 - 3400
 - 3600
 - 4400

01/03/18

See Map 7.3.29

7.3.29DB

#3000 .53acre
7.3.29 DB
KSTS Properties LLC