

CUP09-00097 & CVA09-00048 / EDWARDS GREENHOUSE, INC

Location: 4106 W. Sand Creek Street

REQUESTS APPROVAL OF A CONDITIONAL USE PERMIT FOR THE EXPANSION OF A NON-CONFORMING USE ON ± 8.13 ACRES LOCATED IN AN R-1C ZONE. THE EXPANSION INCLUDES A FARMER'S MARKET AND SOCIAL/EVENT CENTER WITH MUSIC. A VARIANCE FROM THE FRONT SETBACK FOR PARKING IS INCLUDED IN THIS REQUEST.

Cody Riddle (Staff) – Presented the staff report with the recommendation of partial approval based on the findings of fact, conclusions of law and subject to the conditions of approval.

Garnett Edwards (Applicant) – I am the owner of Edwards Greenhouse. I want to briefly go through the history of the greenhouse. It has been there since 1930. We are considered the first geothermal greenhouse in the United States and have been an active grower of annuals, perennials and vegetable starts for over 80 years. We sit on about eight acres and the garden was added in 2005 to commemorate our 75th anniversary and to be a memorial to my father who passed away in 2001. The history of events came as a result of putting the garden in. The garden was to be a demonstration garden, but we had so many people ask us to use it for other purposes that this is what led into the memorial services. They actually started out as being events that were purely employee related. I just want to quickly say thank you to the City for being so easy to work with and helping us through the process in making it less daunting. This process has helped define the parameters which we are committed to doing and how to work better with our neighborhood. I want to thank you very much.

Trina Leishman (Applicant Team) – I work at Edwards Greenhouse and will be speaking on behalf of them this evening. Gayle, who is our events coordinator, is handing out some possible revisions to the conditions of approval that Cody has set forth in the staff report. First, I want to say good evening and thank you for allowing me to present. While I will be the main presenter this evening, Gayle Keaty, our events coordinator, and Betsy Roberts, a neighbor friend and engineer who has been assisting us. She may also assist in answering various questions that come up this evening. I hope to show you how flexible and open we have been in regards to this particular request. We do recognize that we are in a neighborhood and we would like to remain a positive influence for these neighbors. With that in mind I will move onto the topics. In the handout you just received I have noted what staff laid out as possible conditions of approval. I have outlined the top area for the events and the bottom section is for the farmer's market. I will be addressing the events first and then the farmer's market later. I have added, or changed the verbiage in light of staff's report and also some of the neighbors concerns. In first discussing the events, before I go into Condition #1 what I would like to note is Condition #6. It is noted on the sheet you just received but also on page 11 under the note section. We are lowering the number of attendees to 150 people which we believe helps mitigate some of the parking, traffic and noise concerns right off the bat.

Moving onto Condition #1, we would like to change the maximum number of events that can occur outside of the farmers market to eight per month. Please bear in mind that many of these events will likely be low key gatherings such as retirement parties or birthday parties for individuals. Those are usually small events and quite possibly happening during business hours. That would be a minimal impact to any of the surrounding neighborhood.

Regarding Condition #2, I would like to change that to read the outdoor events will end at 9:00 pm, or at sunset, whichever is earlier. The indoor events will end at 10:00 pm, instead of 11:00 pm. With regard to indoor events, please note that the greenhouse is more centrally located on the property. Clearly, the additional space provides a noise buffer to the surrounding neighbors. Therefore, ending at 10:00 pm for indoor events should minimally impact the neighborhood. Regarding amplified music in Condition #3, this is an area we would like to discuss with a little more detail. Basically, there are a couple of things I would like to address here. In light of the economic situation we believe this venue does actually provide a low cost alternative to other event centers. During the week it's even a lower cost for people that are going to have events. However, if amplified music were not allowed then the renter would need to hire a musician if they want to have any music at our events. In fact we actually had several weddings last summer during the week for the cost advantage. With the advent of iPods and the total mobility of amplified music, it really creates a unique situation. Basically, if you are planning to have a small wedding, gathering, or even a birthday or retirement party, if we are not allowed to have amplified music people cannot even bring a CD player, or iPod to play music which could be basically background music at these events. What I would like to do now is refer to the map Cody has up. What I would like to point out is the gazebo which is right here. We do recognize that the neighbors who are the most impacted are the ones to the north of our property line. The gazebo, as you'll note here, and even in some of the photos is an open air structure. However, in looking at it, especially from above it does appear to be like an enclosed structure because there are a lot of wood slats on the top of that structure. With that in mind, that wood does actually absorb some of the music so it's a little bit more difficult to get the music out into the garden area which is on the side of this gazebo. That is where some of the attendees may be for some of these events. Also, having the musicians on the north side of the gazebo facing south will allow the majority of the music to be going out in this direction. Please note that all of the areas circled, or outlined with red is Edwards Greenhouse property. Therefore, the majority of the music will actually be absorbed by the greenhouses and the property to the south of this area. I do want to reiterate our biggest concern is that there are neighbors that are directly impacted by the music and most specifically the ones to the north side of the gazebo. I know some of them are present this evening to discuss the matter. We believe there are other ways we may be able to mitigate some of those noise concerns. As noted in Condition #7, we could add a wood fence along the northern property line as per staff's recommended conditions of approval. That would mitigate some of the noise concerns. I even added that we could plant trees as an additional buffer that would be taller than the fence that is constructed.

We recognize that a solid six-foot wood fence may not be the end all/be all to providing a buffer, so maybe adding thicker wood or something like that to the fence might be an additional option.

One of the other things to point out is right in this area is the children's play area. What we are looking at doing is moving it down into this area here. The reason that presents a large issue is because what happens is during some of these events children may be playing in this area and then what occurs is these individuals have some dogs who bark at the children, which is a normal thing for dogs to do. Then what happens is the patrons of these events tend to speak louder because they are trying to speak over the dogs that are barking and the children playing. So, by moving the children's play area to a more centrally and southern location, we believe that will help mitigate the noise issues.

Among other things we will be doing is making sure there is a staff member present at all times to help monitor those noise levels. Events will also end earlier. At this point we are suggesting 9 pm or sunset, whichever is earlier. We are also lowering the number of attendees as previously mentioned and pre-screening the music at these events. As noted by staff in the note section and paragraph two, and also by his verbal testimony we have been working very closely with the neighbors and plan to continue to do so. The neighbors on the northeast side of the gazebo in this area here, we have met with individually and we have addressed some of their concerns by adding some of these conditions of approval. The individuals on the northwest side have indicated different needs. Their needs don't appear to be as significant as the other ones on the northeast side, so what we would like to do is make sure each neighbor is addressed individually. Specifically in these two homes because they are most impacted. The majority of the remaining neighbors have expressed their support. In the neighborhood meeting we held several people indicated concern about the noise and music late into the evening. Once we indicated these events would end by 9:30 pm a majority of those individuals were very much in support of this particular CUP (Condition Use Permit). We've in fact have changed that time to 9 pm for these social events. Conditions #4 and #5 are agreeable. Condition #6, as previously noted, we can change that to 150 individuals and then Condition #7, we are adding trees to this condition to help buffer any noise. We would also like to add two conditions. If you can actually refer to the sales trend chart on page eight. I didn't bring an actual copy in front of me and I think Cody might be able to bring it up. What I would like to point out is that obviously, the times that are of the biggest concern for traffic and parking is going to be in the April and May timeframe. Obviously, that is our peak season for sales. Through the remaining times of the year the sales obviously drop off pretty significantly. With that in mind the traffic and the parking will be less of an issue during those times. What we would like to propose as a possible new condition of approval is that we could have all events that are in April and May happen outside of normal business hours so as to not impact the parking and the traffic during those times. Condition # 9 is to add verbiage in the rental contract that all guests and personnel associated with the event will park only in the event parking areas and Edwards Greenhouse will be responsible for creating and putting the signs up designating where those areas are.

I would also like to very briefly address the criteria or findings from the staff report. Section 11-06-04.13; page 6 of staff's report subsection A, the term event center. I know that is a term that needs to be used for this particular CUP, but it really makes it sound like we are adding some large buildings similar to the Powerhouse Center, or the Linen Building downtown. Really, all we are looking to do is provide a quiet and beautiful venue for small social gatherings for the community. With the possible conditions of approval like lowering the number of attendees and changing the hours we believe this CUP does create compatibility within the neighborhood. Subsection B is agreeable and then subsection C, as previously noted, April and May are the biggest concerns of overlap parking due to the impact of the retail business as those are the highest sales months of the year. With those events only being held outside of the normal business hours we believe that limits the impact on the parking. Also, with this request the events can not begin occurring until at least half of the parking is completed. Bear in mind that the number of employees on site at any given time in the off-season is only 30 individuals, with five to ten percent of those people using alternative transportation to work. With those things we do believe that the parking is more than enough for these events and retail.

Subsection D: The previous conditions of approval regarding April and May and the hours of events will mitigate the staff and neighbors concerns. The majority of neighbors in the Collister Neighborhood Association do support the initial proposal and we have made significant changes on it to help mitigate some of those concerns. We are working with and will continue to work with the two neighbors just to the north that are most effected by this CUP. Other things we are looking at doing is working with ACHD to see if we can possibly put up signs in their right-of-way. As people are leaving and even entering the area, down towards the greenhouses with possibly signs that would state *this is a neighborhood. Please respect the neighbors and drive slowly.* So, we are working with ACHD to see if we can have approval to put similar signs up in their right-of-way.

Subsection E, Policy 3.3.2.4- Conditions and self imposed restrictions will assist in mitigating noise levels and the hours concerned as addressed by staff. Goal 7.2-We believe this CUP supports Policy 7.2 as we are bringing in a service that all neighbors can utilize. Imagine having your 50th birthday and 60th birthday and even your child's wedding who grew up in the area in your own backyard that you didn't have to plan, plant, or maintain to make beautiful. We currently provide space to allow local garden clubs to hold meetings in this area and the Collister Neighborhood Association would be able to hold meetings here at any time, or possibly other events.

Objective 7.2.3-*Enjoying small events in a near by garden that is open to the neighbors at all times creates character in this neighborhood.* As previously noted, the majority of the neighbors are in support of this CUP.

I would like to move onto the farmer's market. I really only have a couple of items to address here. First, let me talk a little bit about what the farmer's market is like. It's a wonderful way to spend a perfect summer evening, enjoying a picnic with family and friends by listening to a local musician in a park-like setting. Your children are playing with their friends on the play equipment, or possibly getting their face painted by a local artist. Then you are able to purchase locally grown, organic produce and maybe a handmade gift for your sister while you are at it. The farmer's market definitely adds a wonderful sense of community. There are only a couple of items. The recommended conditions of approval on page 12 as noted in the handout provided to you; Item 2 a-1, we would really like to change the verbiage to add that we would be able to bring the events indoors as the weather adjusts. Obviously, we know there are some really crazy summer storms that happen in the Boise area. Item 2 a-2, we are agreeable with, and Item 2 a-3, we would like to be able to have the amplified music. As noted previously the gazebo does absorb the sound and if we add buffer for the neighbors we believe the music will minimally impact the neighbors. Moving that play area we think will make a huge difference. Music at these events will be prescreened and sound levels will be heavily monitored. The music does allow people to stay longer creating a sense of community and they will possibly purchase more which will help the local economy.

Item 2 a-4 through 2 d-we are very much in agreement with in regard to staff's criteria and findings regarding the farmer's market. On section 11-06-06.11 Subsection B on page 8 of staff's report. Staff has indicated that the farmer's market is an extension of retail and the retail has been supported by the current parking. Therefore the phasing should not impact this at all, especially, since the market would be starting after peak season and occurs on a slow retail night to begin with. It's on Tuesday evenings. Subsection C; we are comfortable with and then Subsection D has been previously addressed with some of the earlier comments. All in all, we truly believe that with the items noted we have addressed many of staff's and neighbor's concerns with regard to the CUP request. We have been flexible and will continue to be as we want to maintain a positive influence both in the community and in our immediate neighborhood. Our hope is that we are able to share a beautiful garden and gazebo area for wonderful life events.

Julie Klocke (President of the Collister Neighborhood Association) – I have a brief statement. The Collister Neighborhood Association did meet on December 9th and we discussed the issues as Trina talked about. Everyone at the meeting was in favor of the application. We had no one speak against it. We do send out our agenda by e-mail and it is published in the Idaho Statesman. So we hope that the conditions can be worked out so Edwards can go forward on their application.

PUBLIC TESTIMONY

Commissioner Wilson – For the record I have received copies of the presentation.

Thomas Hast – I have lived in my current home for 32 years. My house is paid off and I have no intention of moving. On October 30, 2009 I was informed by mail by Edwards Greenhouse of their intention to apply for a Conditional Use Permit to hold outdoor weddings, other parties and a farmer's market on their property which is completely surrounded by a residential neighborhood. They also intend to allow live music and the serving of alcohol beverages at this location. I believe I received this notice because my property is located within 300 feet of Edwards Greenhouse property.

On November 9th I responded to an invitation to a neighborhood meeting at Edwards Greenhouse to learn more about their intentions. It was then that I discovered they had already been violating zoning laws by holding such events in the past which explains the noise I've heard coming from that direction. I have also learned that at least one other neighbor had been disturbed by these events and was unable to contact anyone at Edwards Greenhouse to voice a complaint while an event was in progress. For many years Edwards Greenhouse has been a good neighbor and their business has fit in well with the quiet neighborhood. Now they want to change the nature of their business to something that is not compatible. Allowing Edwards Greenhouse to continue to hold such events will result in noise, littering, vandalism and put impaired drivers on our residential streets thereby destroying the peace and safety in the neighborhood. There are plenty of other venues for such events in Boise which are either not in the middle of a residential neighborhood or provide soundproof indoor facilities. The Edwards Greenhouse property falls short on both counts. I call upon the Planning and Zoning Commission to deny this application for a Conditional Use Permit and preserve the quality of life I have enjoyed in my home for over 30 years.

Ranae Hardy – We are the family in the northeast corner with the dogs. We are the ones who are probably most effected by this. We love living there. We built our house there 20 years ago. We have had no problems with Edwards Greenhouse until these events started happening. Once the events started happening it was unreal to see all the people coming over, which the people don't really bother us. It's the noise. It's the amplified music. Where the bands and that set up around that gazebo, it's about 30 - 50 feet max from our house. I would invite anybody to come and sit and listen to that music. It's so loud and we have to resort to the inside of our house, shut the doors, put down the windows, turn the TV up and you could still hear the music as if you were sitting in the front row of a concert. I don't like that. It wasn't there before. I don't want it.

The other problem we have. Yes, we have dogs that run up and down the fence line because kids come along there and play. We have big trees put up and there is vegetation all along there now, but the kids irritate the dogs. When the events started happening the first year we had visits from the employees of the greenhouse who came over to talk to us. They told us that when these events were to take place we were to not be out in our backyard. The second thing they told us is we were not to let our dogs out because they bark and run the fence. The third thing they told us is we could not barbeque out in our backyard because the smoke interfered with the events.

The last thing they told us is you can't cut your grass because your lawnmower is too loud when these events are taking place. I don't think that's right. I don't think we should have to put up with that. We have been told they will put up a six-foot wooden fence. As close as we are to where the music and that is taking place a six-foot wooden fence isn't going to do anything. I would invite you to come over and sit in our backyard and listen to this. After working all day, I don't want to come home at night and listen to that. The farmer's market, I don't mind the people coming over for it, it's nice, but I don't like the live music. Again, it's the live music. That's the whole thing. Once everything is done up and put away for the night during the farmer's market I can go out and pick up wine and beer bottles out of my flower beds. I don't like that. We put up a vinyl fence across the front of our yard to keep them from driving into our yard and they have damaged our fence to where we've had to repair it.

Commissioner Wilson – For the record I have received a copy of the testimony.

Commissioner Fadness – I would like to ask a question. How long have these events been going on that you started to notice the music?

Ranae Hardy – About three years now.

Christine Dahl – I am one of the neighbors directly impacted by this proposal. I'm sorry I don't have a really nice letter written. I've been taking care of a son who has just been put into a wheelchair, which is no excuse but I wanted to be soft and fuzzy too. I also am one of the few impacted by this who attended what we call back east, a simple neighborhood meeting, where we were informed as to what the people at Edwards Nursery were planning on doing. At that time we were allowed to ask question and voice our concerns; traffic, parking and noise. Basically, everything that was going to come into our community including safety. I've met lots of people in this town who know the nursery but they have no idea there are two cul-de-sacs there. I live alone and safety is an issue. I don't want the vandalism. I don't want to have to put in an alarm system. It has kind of been stated that the people at that meeting gave an approval for this event center. Not one person said that. That is untrue. Also, they were given addresses, e-mails by some of us and I don't know anyone that was given an e-mail, or a written notice that the Collister Neighborhood Association was going to have some kind of meeting and ask for approval. I would imagine the people on Tamarack, Edwards, W. Samara and Castlebar aren't a part of this Neighborhood Association. I would have been at that meeting if I had found someone to sit with my son. So, for them to say they have a resounding approval by the community, well not from people who are living there. There are people in my cul-de-sac who work at the nursery and they approve of it but it's because they work at the nursery. You need to take into consideration that there's a whole immediate three neighborhoods, because each street is really considered a neighborhood that are basically cut out of the loop in this approval. I don't appreciate it. I ask questions. We want the traffic taken care of and the parking issues. I've had a catering business. I've worked for large caterings and if you bring in 150 people you are going to get from 85 to 95 cars. That's how it works.

The issue of the alcohol, okay, somebody drinks at a wedding, a fellow comes through my neighborhood, sideswipes a car. Who's responsible? Apparently, it's the caterer, but actually, it should be the company who is renting the property. So, you have that gray area and who is going to be responsible if a child is run over, a car is damaged, someone breaks into my house? There are a lot of concerns here. I think if anything you need to sit down and postpone this until it can all be ironed out because we are going to have a lot of angry people.

Lorraine Byerly – I thank you for the opportunity to be heard and I know you all are tired and so are we as neighbors being the last on the list. Can I get a picture of Samara Court up if possible? The one thing these maps don't show, they are flat. Edwards Nursery, I'm not a scientist but I assume one reason why the plants grow so well is the way it is constructed. It's a little pocket. It's down hill. That doesn't show on the map. It's in a little pocket bowl and when you leave our area it is always much warmer than it is anywhere else in Boise. That also acts as a natural amplifier. I am down midway on Samara Court. I am in the same position as this lady who I don't know, but I know her yard. I walk by it sometimes and I cannot hear when the music is on. I have to turn on my air conditioning which I don't run because I can't afford to run it. We have to close our window and turn up our TV because we cannot hear. The police have been called and other things have happened so there's been a lot of controversy over the noise on this. I submitted two letters to you and I won't go into everything that is said in my letter. The main reason I came tonight is to state what Christine said and that is the neighbors are not behind this. I can't speak for the Collister Neighborhood Association. I looked up the addresses of all the officers and none of them are in that area. It is kind of a conflict of interest; they are getting free rent from Edwards.

The Boise Comprehensive Plan requires expanded commercial users demonstrate their customers will not cause unacceptable noise impacts on adjacent noise sensitive users, and that the hours of operation and other matters should be included to mitigate noise impacts. A fence will not work. First of all, none of the music this summer or the last three years has been in that little gazebo when they have had special events. It is on the side and it's been live music and amplified music and it is very loud. My concerns, I have a four year old that lives with us. We have had problems with fights, drag racing and alcohol is being served at these late at night. They were drag racing up and down Samara Court. To finish up I would like to say to the Edwards response to the alcohol is that most events are catered in which the vendor will also be monitoring the serving of alcohol to guests, or patrons. I think liquor law speaks to the liability they have to that. I do hope our concerns are taken seriously. I also have paid off my home and plan to retire there.

Karen Ellis – I am the manager of the Capitol City Public Market downtown and also the co-manager of the Edwards Market. All I would like to add is that the market and Edwards is all working together to try to make things pleasant for everyone in the neighborhood and the farmers market vendors. I can't speak for the events, but we are willing to do what we need to do to help the music situation.

Most of the people who come to the farmer's market are neighbors. There is not a lot of extra traffic and there is always someone on site. In most cases there are two people on site in case there are problems. I just wanted to say that we are all trying to work hard together to make things better for everyone.

Laurie Anderson – I have lived here with my husband and family for a little over 20 years. We do have our house paid off and intend to be there for along time more. I would like to speak on the benefit of having Edwards as a neighbor and why I support the approval of this Conditional Use Permit. I believe Edwards is the epitome of a good neighbor. They have always supported the neighborhood economically, aesthetically and socially. They support the schools and many other neighborhood events. As you can imagine with having a commercial use in a residential area they do have to be good neighbors and it does sound like they have tried to work a lot with the neighbors around about this issue.

They used to have you-dig pansy fields in the place where the gazebo and all the gardens are. When they took those out they replaced it with beautiful gardens, a lawn, a fountain, a sitting area and a children's play structure. They essentially provided our neighborhood and the entire neighborhood around there with a park. No tax dollars, no fee to use it, no signs that say no trespassing, you may not use this area. It's a free park to go use.

When they started the farmer's market we were very excited to have this opportunity within walking distance in our neighborhood. It really makes it more of a true neighborhood feel. This is something we can walk to. When they added the live music we have taken every advantage to be able to go listen to the music. We are south of the greenhouses so we have some buildings as a buffer, but quite frankly I would say we get much more noise from the grade school that is three blocks away than I have ever heard from Edwards Greenhouse. We don't ever use air conditioning and our windows are always open so that has not been a source of great noise for us. We are not as close as some of the other people, but even when we have attended the events the music tends to be directed towards the south, so we haven't noticed any issues that way. Being the social event center that it has it provides an economic stimulus for the vendors who come there for the farmer's market. It also provides a very important neighborhood gathering place. Many of the people who use this are from the neighborhood. There are a lot of cars there, but there is nothing close to the number there when they have their semi-annual sales which are during the normal business hours.

It also provides the neighborhood with an economic advantage. I can say for certain that having this business and this Conditional Use for social events really improves our property values. When our children are grown, and we do go to move, I can definitely say that to us in an era where it's hard to sell your home, something like this is a real boon. To be able to say there is a commercial use business that is as good of a neighbor there is. I support this use for a Conditional Use Permit.

Shirlene Elledge – I am the neighbor across the fence on the northwest. I just wanted to be here tonight; first of all I would like to say that I did receive two notices indicating there would be a neighborhood discussion about what Edwards wants to do. When I went to vote in November I was asked by people at the poles if I had received my notice in the mail, so I know that notices went out to the neighborhood. I was also at the meeting on December 8th and my husband and I voiced our support of the project and there were several neighbors who were also in support of the project. It wasn't unanimous, but there were neighbors who were okay with this.

My issues are different than my neighbors across the back of my fence. My issues are more towards privacy issues and Edwards has been really good to work with us on addressing those. They have planted a lot of vegetation. I'll just say that the park they put in is a huge improvement to our neighborhood and I think it's a huge gift. I'm in favor of small gatherings. I was happy to hear that they have reduced the number of people they would allow at the gatherings. My husband loves the music so personally we have not been bothered by the music. I have also not particularly been bothered by the events there. Maybe there have been a handful of events that felt too large and I think that is part of what has brought about good discussion between us and Edwards. As a result they have changed their parameters and wanting to keep the events smaller. I personally would hate to lose the option of being able to have a small gathering right over in the walking part under the gazebo, if and when I wanted to do that with my extended family because the city has declined to let Edwards use their property for that reason. We thoroughly enjoy the farmers market and I understand it has been suggested that is not a problem, but I hate to lose it for small gatherings also for our neighborhood.

I think Edwards are the kind of neighbors that are very much interested in working with the neighbors to make sure the concerns are addressed and to keep the neighbors happy. I've been there for 20 years and have found them to be very conscientious of their neighbors.

Commissioner Fadness – Of the two properties immediately to the north, you are one of them?

Shirlene Elledge – Yes.

Commissioner Fadness – Did staff from Edwards ever come to you and say we would like you not to mow when we are having events or barbeque? They didn't want you to be in your backyard, did they ask you any of that?

Shirlene Elledge – No, they offered to remove an eyesore from our garden. My garden is right across from the gazebo and we have a basketball court back there and they offered to remove the tall basketball hoop and we could appreciate that because it was an eyesore. They came over and offered to do that if we were open to do it.

The only request I have ever had is someone who was going to be getting married came and asked me if I would keep my dog in that day, but Edwards have never done that. I did make the request for them to let me know when there is an event so we can plan to mow our yard at a different time because we don't want to disturb events that are happening. You know, I think maybe there has been a little bit of lack of communication in the beginning when all of this started and I think that Edwards recognizes that and we've improved and increased the communication.

NO CLOSING COMMENTS BY STAFF

Commissioner Fadness – One of the conditions you are proposing, staff has said no more than two events in addition to the farmers market. You say no more than eight and you justify that by saying that most of your events are smaller in scope. Yet, when the condition says no more than eight events could that not in essence be six large events? You don't know what you are going to get every month.

Trina Leishman – Correct, we do not know what we are going to get, however, we are in control of what we schedule and if that is a major concern then we would be happy to make sure some of those events are certainly smaller than some of the other events in making sure we don't have eight events that are 150 individuals, recognizing that would impact the neighborhood negatively.

Commissioner Fadness – Do you, or will you have some sort of process if people in the neighborhood were to complain about music levels? You say you think you keep it to minimum but maybe the neighbors feel it is still too loud. Is there an immediate way they can contact someone at the event? Is there a direct phone line even in the evening where they can say we think the music is too loud?

Trina Leishman – Yes, as a matter of fact I believe in the conditions of approval recommended by staff they have indicated that there should be a contact phone number of our events coordinator on the web site and we are in agreement to doing that. We have already provided that phone number with the neighbors directly to the northeast of the garden and gazebo area because they have the greatest concerns. So those people or any of the immediate neighbors certainly can contact our event coordinator, or staff while the event is occurring. Our coordinator will have her cell phone available at all times.

Commissioner Fadness – I guess I would like to hear your response. To me I was quite surprised to hear the lady say that someone from staff would come and say you can't mow your lawn and we would prefer you to not barbeque or be in your backyard. Could you respond to that?

Trina Leishman – Yes. They had mentioned that at the neighborhood meeting and that was not something I had been aware of. Neither we nor anyone else at Edwards Greenhouse had been aware of this happening. Since I am the Human Resources, manager, it would be of great concern to me and Edwards Greenhouse. So the only response I have is that it is not our understanding that has occurred. None of our employees have indicated they have made a comment like that, and I would like to think we hire the kind of employees that if they have concerns they would come to me, or the owner in regard to the neighbors prior to addressing them directly.

REBUTTAL

Trina Leishman – I just have a couple of quick comments. What I would like to point out and you as Commissioners are quite aware of, you heard from four very disgruntled neighbors. We sent out this neighborhood letter to over a hundred individuals. So while this is important because they are very close in proximity to the Edwards Greenhouse, they really are a small percentage of the neighbors that are not in support of this particular CUP. One of the items presented of concern is with regard to alcohol content and people drinking on-site and then driving away. I will state that our events coordinator will approach the contracting party if there are any concerns with regards to excessive alcohol. In fact, there was an event where we had a slight concern about one individual and our event coordinator approached the contracting party at that time. The contracting party had already arranged for a cab for that individual. We definitely consider that as an area of concern and we have in place our staff coordinator to go ahead and address those types of concerns on site. The third item I had was actually addressed by Commissioner Fadness's questions.

PUBLIC HEARING CLOSED

Commissioner Fadness – We had an application and I believe it was for a dance school in the North End in the last few months. Did we not condition that application that there had to be a yearly report filed on how that was going and if neighbors were complaining?

Commissioner McLean – Yes, I made that motion and that was something I have been thinking about tonight. We did require a report because they had offered something similar along those lines and within that we asked them to review noise, traffic and other issues like that with the neighbors and then present that to the City.

Commissioner Fadness – Do you recall if it was determined through that reporting process that simply if it wasn't working and too many neighbors were complaining that they would have their event revoked, or could have it revoked?

Commissioner McLean – I don't remember what we put in there as far as follow-up, but there was a requirement. We didn't do any enforcement pieces within that report, but that we would take that and reconsider some things if needed.

Commissioner Cooper – I kind of remember there was a requirement that this yearly reporting be done with the participation of City Planning and that any information that will require some action would go to Code Enforcement.

Commissioner Wilson – For this specific question I think we can go ahead and ask Cody. You worked on this application, correct?

Cody Riddle – Yes. I don't have the exact language in front of me. It required annual review and it wasn't before the Commission. It was with City staff, the applicant and the Neighborhood Association. In that case there were two or three specific neighbors and if I remember right if there were issues that couldn't be resolved among those parties we would bring it back to the Commission. We wouldn't revoke the entitlement. We don't have that authority.

Commissioner McLean – And with that proposal we did put some limitation on the number of events that could occur and the number of people that could come to them. They had actually offered some parking requirements, but we looked at that further to ensure the parking was happening where it was supposed to.

Commissioner Ellsworth – I guess the difference between this application and that application, there are a lot of differences but it's this outside noise issue with amplified noise and to me it's not whether it's acoustic or amplified, it's the decibel level and where it's aimed. If we could somehow get a handle on that I mean it's hard to have an event without some music, so if we are not going to have events and not have music maybe we shouldn't have the event part of it and just focus on the farmers market. It is a bit tricky for us to allow live music in an area like this.

Commissioner Wilson – I agree. That was a pretty stark difference between that application and this one because that one was taking place inside a building they were going to sound proof anyway because they wanted to separate internal uses within the building. I just don't see a way that could happen at this site. I would be in support of what staff has proposed and that we allow the farmers market, but not the events because even as conditioned as they are, I just can't envision a way where that's going to work on these narrow streets and with the noise issues.

Commissioner Ellsworth – That's on one hand. On the other hand it's a great idea I think in a general sense to have these local areas that people can walk to and buy their vegetables, meet, gather and socialize. There is always some tradeoff, so that's really what we are discussing.

Commissioner Wilson – I think what you have just described with the farmers market is spot on. I just can't find it in my heart to expand events of 150 people. That's a lot.

Commissioner Fadness – Regarding the music issue, I guess to me that is the big sticking point as well. I'm just throwing out for consideration, although, I wonder now with this being conditioned in an application whereas before this kind of went on unregulated. Would there be more attention to the decibel levels of the music and it wouldn't be as big of an issue as it has been in the past? That is one thing I am rolling around in my head where as there were no limits with this before and maybe not as much concern on the music level. Now, there certainly would have to be.

Commissioner Cooper – I keep coming back to the issue of what amounts to putting an assembly use in an R-1C zone in the middle of a single-family residential neighborhood with neighbors within feet away. With all the conditions you put on it and if we could make this work I think it would be great. I just don't think we can make it work. We use Edwards Greenhouse all the time. It's a great organization, but I just can't get past this one. This use in this area and the applicant mentioned there are only four disgruntled neighbors; well those four are some of the closest people. I think we have to pay attention to that.

COMMISSIONER COOPER MOVED TO APPROVE THE FARMERS MARKET USE BUT DENY THE EVENTS CENTER. THE ONLY COMMENT I WOULD MAKE ABOUT CONDITIONS IS ABOUT THE USE OF THE GRAVEL PAVE. I DISAGREE WITH STAFF ABOUT THAT. I HAVE USED IT ON RESIDENTIAL USES AND IT IS A VERY GOOD PRODUCT AND I THINK IT WOULD BE APPROPRIATE FOR PARKING AND INFILTRATING WATER ON SITE, WHICH IS WHAT IT DOES.

COMMISSIONER ELLSWORTH SECONDED THE MOTION.

Commissioner Fadness – I just want to make sure I understand. Then Commissioner Cooper, you are basically supporting what staff has recommended, approving the Farmers Market and not approving the events portion of it with your added condition regarding the gravel?

Commissioner Cooper – Correct.

ROLL CALL VOTE

COMMISSIONER COOPER	AYE
COMMISSIONER ELLSWORTH	AYE
COMMISSIONER MCLEAN	AYE
COMMISSIONER FADNESS	AYE
COMMISSIONER WILSON	AYE

ALL IN FAVOR NONE OPPOSED, MOTION CARRIES.