

CITY OF BAINBRIDGE ISLAND CITY COUNCIL AGENDA BILL



PROCESS INFORMATION

Subject: Ordinance 2014-06, Establishing Zoning Regulations for Recreational Marijuana Processing, Retailing, and Production (Growing) Businesses.	Date: April 28, 2014
Agenda Item: Unfinished Business	Bill No.: 13-136
Proposed By: Special Project Planner Jennifer Sutton & Planning Director Kathy Cook	

BUDGET INFORMATION

Depart/Fund:		
Expenditure Req:	Budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No	Budget Amend. Req? <input type="checkbox"/> Yes <input type="checkbox"/> No

REFERRALS/REVIEW

Study Session: April 7, 2014	Recommendation: Schedule Public Hearing for 5/12/14.
City Manager <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Legal <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No N/A
Finance <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	

DESCRIPTION/SUMMARY

Action Item: Discuss Draft Ordinance 2014-06, Establishing Zoning Regulations for Recreational Marijuana Processing, Retailing, and Production (Growing) Businesses. Consider scheduling second reading/ Public Hearing on May 12, 2014.

Background:

During the 6-months that the interim marijuana regulations are in effect (Ordinance 2013-32 expires on May 25, 2014), permanent regulations must be taken through the standard Planning Commission and City Council review process. The City must decide how it wants to regulate the three different types of recreational marijuana businesses- production (growing), processing, and retailing, and whether to “zone” for collective gardens- which fall under the State’s medical marijuana rules (Chapter 69.51A RCW). Draft Ordinance 2014-06 adopts the State’s recreational marijuana rules (Chapter 314-55 WAC) and integrates the Planning Commission recommendation to “zone” for these marijuana related uses as summarized below.

- **Collective Gardens:** The Planning Commission recommended banning collective gardens Citywide.
- **Marijuana Retail:** The Planning Commission recommended allowing recreational marijuana retail where general retail is already allowed- the Mixed Use Town Center, High School Road, and Neighborhood Service Center zoning districts. The City will only be granted 1 marijuana retail business license by the Liquor Control Board.
- **Marijuana Processing:** The Planning Commission recommended allowing recreational marijuana processing in the Business/ Industrial district.
- **Marijuana Production (Growing):** The Planning Commission recommended allowing recreational marijuana production (outdoor or greenhouse growing ONLY) in the R-0.4 zoning district subject to several conditions (see Ordinance 2014-06)

RECOMMENDED ACTION

Motion:

I move to schedule to second reading/ public hearing for Ordinance 2014-06 on May 12, 2014.

City of Bainbridge Island
PLANNING & COMMUNITY DEVELOPMENT



MEMORANDUM

TO: City Council
City Manager Doug Schulze

FROM: Jennifer Sutton, AICP
Special Project Planner

DATE: April 28, 2014

RE: Ordinance 2014-06
Zoning Regulations for Marijuana-Related Uses and Businesses

During the 6-months that the interim marijuana regulations are in effect (Ordinance 2013-32 expires on May 25, 2014), permanent regulations must be taken through the standard Planning Commission and City Council review process. The City must decide how it wants to regulate the three different types of recreational marijuana businesses- production (growing), processing, and retailing, and whether to “zone” for collective gardens- which fall under the State’s medical marijuana rules (Chapter 69.51A RCW). Draft Ordinance 2014-06 (Attachment A) integrates the Planning Commission recommendation to “zone” for these marijuana related uses.

The City Council held a study session and first reading on April 7th. The discussion was wide ranging, and the City Council requested additional information from staff regarding collective gardens, Colorado’s experience with recreational marijuana, and potential marijuana production (growing) issues including odor, lighting, and energy and water usage. Those topics are explored further below. Written public comment received since April 8th is included as Attachment B.

The Washington State Liquor Control Board (LCB) developed LCB recreational marijuana rules and regulations to implement I-502, and is the agency responsible for state recreational marijuana licensing. The LCB began accepting marijuana on November 18, 2013 for the first application round, which lasted 30-days. The LCB had not planned any other application windows at this time. The LCB updates their list of applicants weekly, as persons with insufficient applications are weeded out. A map showing the most recent information Bainbridge Island marijuana business applicants is Attachment C.

Rules are codified in Chapter 314-55 Washington Administrative Code (WAC, see link). <http://apps.leg.wa.gov/wac/default.aspx?cite=314-55> The LCB rules are comprehensive, with separate regulations for producers, processors, and retailers. The LCB rules also have specific requirements regarding:

- Security
- Transportation
- Reporting
- Insurance
- Marijuana serving size and packaging
- Qualifications and background checks for marijuana business owners, employees, and financiers.
- Tracking and testing
- Taxing and fees
- State residency and ownership requirements
- Waste Disposal
- Pesticide/ Fungicide/ Herbicide Use

The list above is an example of what topics the LCB rules cover, but is not an inclusive list. The LCB rules are thorough regarding each topic. For instance, security requirements are outlined in WAC 314-55-083 and include requirements for identification badges, controlled access, traceability of marijuana plants and products, limits on the maximum amount of plants/ products/ inventory allowed on-site at any one time, and alarm and surveillance systems specific to marijuana producers, processors, and retailers. Outdoor production must also be fully enclosed by a screening fence at least 8 feet high.

Bainbridge Island was allocated one retail license, and the LCB is holding retail license lotteries the week of April 21st. The LCB did not release a list of which applicants had submitted enough information to qualify for lottery participation, but expects to release information regarding lottery winners on May 2nd.

Colorado Recreational Marijuana

Colorado also approved legalizing recreational marijuana through the initiative process in 2012. Colorado law refers the recreational market as the “retail marijuana” market, and it is already operating. At the state level, the Colorado Department of Revenue is the licensing agency, and their regulations are codified in 1 CCR 212-2. The Colorado recreational marijuana system is different from the Washington state system in many ways. This begins with the fact that the Colorado Medical Marijuana regulations were comprehensive, and have required licensing over the years it was in effect. Other differences that make it difficult to compare the Washington and Colorado systems include:

- Currently, only existing medical marijuana license holders may apply for any type of “retail marijuana” licenses. In October 2014, Colorado will open up their retail marijuana licensing to other applicants.
- Colorado requires vertical integration for marijuana businesses, which means that cultivators (growers), processors and retailers must have joint ownership between the types of businesses. Washington State does not require vertical integration, and in fact explicitly prohibits recreational marijuana retail license holders from holding processing or production (growing) licenses.
- Unlike Washington, Colorado has no limit on the size of growing operations or any maximum number of marijuana businesses.
- Colorado only applies sensitive use buffers to marijuana retail businesses, not growing or processing businesses
- Local zoning may ban “retail marijuana” businesses, and some have.

- According to the Colorado State Department of Revenue, almost all marijuana being grown in the state is growing indoors, in warehouse style buildings. There is some outdoor growing, mostly in the rural Southeast part of the state. Boulder County limited growing to indoors, in Commercial and Industrial zones, and requires renewable energy offsets for the energy used by growers.

Marijuana Production/ Growing Issues

Much of the April 7th City Council discussion focused on the potential impacts of the Planning Commission's recommendation to allow Tier One marijuana production (outdoors or greenhouse only) in the R-0.4 zone, with a minimum lot size of 1 acre, in addition to other conditions outlined in Draft Ordinance 2014-06. Potential impacts to neighbors could odor or light trespass and traffic, issues that could be reviewed and analyzed during the Site Plan and Design review process. Potential impacts of marijuana production to the public at large include the amount of energy or water required to operate a marijuana production business. Attachment D is a map that shows potential marijuana production properties given the Planning Commission's recommendation- properties within the R-0.4 zone that are 1 acre or greater in size. Attachment E shows properties in the R-0.4 zone that are 2 ½ acres or greater in size. The 1,000 foot State sensitive uses buffer is shown on both maps.

The Planning Commission recommended limiting growing to small operations outdoors or in a greenhouse for two overarching reasons:

1. Outdoor growing and greenhouses don't conflict with the character or landscape of the R-0.4 zone; and
2. Outdoor growing and greenhouses would use natural light, which would cut back on energy consumption for a marijuana business.

King County, in allowing Tier One marijuana production in their Agricultural and Rural Area zones (zones ranging in residential density from one to twenty acres per unit), limited operations to outdoors, greenhouse, or in existing buildings (non-residences). A new "marijuana greenhouse" definition was created to ensure that the building uses transparent/ translucent materials. The City Attorney recommends integrating the transparency requirement for marijuana greenhouse into the *Use Specific Standards* section of Ordinance 2014-06 (see Attachment A, ordinance pages 2-4) as opposed to creating a new "marijuana greenhouse" definition.

Lighting Impacts

City of Bainbridge Island Regulations

Outdoor lighting regulations are outlined on BIMC Section 18.15.040, and generally apply to outdoor lighting, requiring that it be downcast and not generate light trespass onto other properties. There are not any separate or additional lighting regulations that apply to agricultural operations. Larger developments must submit lighting plans as part of their building permit applications. Interior lighting (such as lighting from within a greenhouse) can fall under Section 18.15.040(B) if:

"...it is determined by the director that any interior lighting emitting light outside of the building or structure in which it is located, creates a light trespass, the interior lighting shall be subject to the requirements of this chapter".

The major lighting concern related to marijuana businesses is that greenhouse growing/ production operations likely have lots of windows or opaque materials, and could be "operating"

through the night. The City could create separate interior lighting performance standards that apply to these uses, and require the use of shades, or some other barrier to limit the amount of interior light visible from a business that may be operating overnight. Some light would be necessary to be installed in a greenhouse, if only a minimum of task lighting that would be needed in the winter when it is dark at 4:30 p.m. The City's Code Enforcement Officer enforces the City's outdoor lighting regulations.

Washington State LCB

Recreational marijuana business security requirements are outlined in Section 314-55-083 WAC. All licensed businesses must have an alarm system on all perimeter entry points and windows. A surveillance system is required for all businesses for all controlled access areas. The rules allow for a motion detection lighting system to illuminate areas in low light conditions. The state security rules do not require additional outdoor lighting.

Colorado Marijuana Rules

Colorado state rules do not regulate lighting requirements for marijuana businesses to a greater extent than requiring building permits. Local jurisdictions may have their own outdoor lighting requirements,

Odor Impacts

Marijuana odor has been a major point of discuss at both the Planning Commission and City Council. City staff is unaware of any medical marijuana growing operations, and there has been testimony that medical marijuana has been growing all over the Island for the past decade without any odor complaints. That said, the statewide experience shows that the filters used by indoor (or greenhouse) growing operations are effective at eliminating outdoor odor problems. The odor generated by outdoor growing is less understood, and varies depending on plant species, and the lifecycle of the plant- it smells more when blooming, and wind is the primary variable.

Puget Sound Clean Air Agency (PSCAA)

In this region, outdoor odor problems are handled by the Puget Sound Clean Air Agency (in addition to any relevant local government requirements). The PSCAA is empowered with enforcing the State's Clean Air Act (Chapter 70.94 RCW), and would be the agency called upon to determine if an odor qualifies as a nuisance under the Clean Air Act provisions, and could write tickets for such violations. The PSCAA requires "air permits" for some types of businesses to open, and may require "air permits" for some types of marijuana businesses. Some agricultural odors (operations larger than 5 acres) are exempt from the state's Clean Air Act; however the state is unlikely to classify marijuana production under that exemption. The PSCAA indicated that they will proactively contact those applicants who obtain a recreational business license from the LCB, but that retail is not as much a concern as processing and production.

City of Bainbridge Island Regulations

The Planning Commission recommended that marijuana retail be allowed where retail is otherwise allowed (Mixed Use Town Center, High School Road, and Neighborhood Service Center) and that marijuana processing be allowed in the Business/ Industrial district. Both those uses and districts are required to meet the Air Quality Emissions performance standards described in BIMC 18.06.030.B.2 (see below).

B.2 Air Quality Emissions. No use in this district shall produce emissions of smoke, dust and/or odors beyond the property boundary that may unreasonably interfere with any other property owners' use and enjoyment of his/her property. In addition, all sources and emission units are required to meet the emission and the ambient air quality standards specified in Chapter [173-400](#) WAC, and administered by the Puget Sound Air Pollution Control Authority (PSAPCA), and shall apply to all air contaminants listed in that regulation.

Staff recommends that Ordinance 2014-06 be amended to include a cross reference to the Air Quality Emissions section above for all three types of marijuana businesses. The ordinance could also be amended to clearly require that City staff will forward the preapplication conference (required for a Site Plan and Design Review permit) materials for proposed marijuana processing and production to the PSCAA for comment.

Washington State LCB

Other than referring to the Occupational Safety and Hazard Act (OSHA), and state agriculture best management practice regulations for herbicide, pesticide, fungicide and fertilizer application, the LCB does not otherwise regulate outdoor odor. The LCB requires an 8 foot high fully screening fence around outdoor growing operations, but it is uncertain how effective the fence would be at containing odor. Wind would be a factor.

Colorado Marijuana Rules

The Colorado Retail Marijuana rules do not regulate outdoor odor. The Department of Revenue indicated that almost all marijuana growing in Colorado is being done indoors, where filters can be used.

Energy and Water Use

The LCB commissioned a white paper *Environmental Risks and Opportunities in Cannabis Cultivation* by the BOTEC Analysis Corporation to inform the LCB State Environmental Policy Act (SEPA) Analysis. The white paper can be viewed and downloaded from the LCB I-502 website (see link below)

http://lcb.wa.gov/publications/Marijuana/SEPA/5d_Environmental_Risks_and_Opportunities_in_Cannabis_Cultivation.pdf

The first sentence of the energy section of the white paper reads, "The most significant environmental effect of cannabis production, and the one that varies the most with different production practices is energy consumption, especially fossil energy use with climate effects from the release of greenhouse gas." The paper is far too comprehensive and detailed to excerpt into this memo. The researchers estimated how much energy marijuana production would use per kilogram of product in Washington State. The take home message is that outdoor production uses little to no energy, greenhouse production a little more, and indoor production without natural light uses dramatically more energy per kilogram of product. The message is comparable for different production methods and water use. Hydroponic systems use the most water.

As mentioned above, Boulder County limited growing to indoor facilities in commercial and industrial zones. Since that growing method uses the most energy, the county also requires that cultivation facilities must offset electricity, propane and natural gas consumption through participation in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the County. The offset requirements are progressive: 50% consumption offset by

October 2014, and 100% consumption offset by October 2015 (Article 8.5.g of Boulder County Marijuana Licensing Regulations).

Collective Gardens (Medical Marijuana, Chapter 69.51A RCW)

In 1998, Washington state voters passed Initiative 692 approving medical marijuana. Medical Cannabis (Marijuana) rules are currently codified in Chapter 69.51A Revised Code of Washington (RCW, see <http://apps.leg.wa.gov/rcw>). Chapter 69.51A RCW is not comprehensive like the new recreational marijuana rules in Ch. 314-55 WAC, and does not currently tie into any land use or licensing requirements. Under the Washington State medical marijuana law, a qualifying patient or designated provider may possess up to 15 cannabis plants (Section 69.51A.040 RCW). Another way that a qualifying patient may obtain cannabis/ marijuana is through collective gardens, described in Section 69.51A.085 RCW as the following:

(1) Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to the following conditions:

- (a) No more than 10 qualifying patients may participate in a collective garden at any time;
- (b) A collective garden may contain no more than 15 plants per patient up to a total of 45 plants;
- (c) A collective garden is limited to 24 ounces of usable cannabis per patient up to a total of 72 ounces of useable cannabis;
- (d) Collective gardens must maintain a record on site of each qualifying patient's valid documentation/ prescription.
- (e) No usable cannabis from the collective garden is delivered to anyone other than one of the collective gardens' members.

(2) The creation of a "collective garden" means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

(3) A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections of this chapter.

A vision of a community garden or pea patch comes to mind, but according to the City Attorney, the collective garden provisions are also used to open and operate medical marijuana dispensaries. In December 2013, the LCB and State Departments of Health and Revenue finalized recommendations to the Washington State legislature to align medical marijuana regulations more closely with the new recreational marijuana rules, including a recommendation to eliminate collective gardens. The Washington State legislature reviewed the medical marijuana recommendations during the 2014 legislative session, but did not approve legislation to modify medical marijuana rules. The LCB anticipates that revisions to the State's medical marijuana regulations would be taken up again during the 2015 legislative session.

Interim Regulations Ordinance 2013-32

Prior to Ordinance 2013-32, City regulations were silent on medical marijuana uses. The City's interim marijuana regulations, allowed indoor collective gardens in the Business/ Industrial

district, respecting the 1000 foot sensitive uses buffer that applies to recreational marijuana businesses, and requiring that collective gardens be at least 500 feet from each other. City staff is unaware of any existing collective gardens.

Planning Commission Recommendation

The Planning Commission unanimously recommended banning collective gardens Citywide. That recommendation has been integrated into Draft Ordinance 2014-06 (see Ordinance Exhibit A).

Cannabis Action Coalition v. City of Kent

The Planning Commission recommendation was bolstered by the recent decision issued by the Washington State Court of Appeals, Division I in the case *Cannabis Action Coalition v. City of Kent*, published on March 31, 2014. Specifically, the court upheld the City of Kent's prohibition on collective gardens and further held that collective gardens are illegal uses. The court's reasoning was that nothing in the state's Medical Use of Cannabis Act specifically legalizes collective gardens and that all the law does is provide a defense from criminal prosecution for those whose collective gardens meet the definition of collective garden set forth in the statute. Because of this ruling, a city's authority to allow collective gardens as a permitted or licensed land use is questionable, as collective gardens remain an illegal use under both state and federal law.

Next Steps

After discussing Ordinance 2014-06 at the study session on April 28th, the City Council will determine if a public hearing/ 2nd Reading can be scheduled for May 12th. The 6-month interim marijuana regulations, Ordinance 2013-32 expire on May 25th.

Attachments

- A. Draft Ordinance 2014-06
- B. New written public comment (received since April 8th)
- C. Map of Recreational Marijuana Business Applicants to the LCB
- D. Map of R-0.4 Zone Potential Marijuana Production Areas under Ord. 2014-06
- E. Map of R-0.4 Zone: Properties 2 ½ Acres or Greater in Size

ORDINANCE NO. 2014-06

AN ORDINANCE of the City of Bainbridge Island, Washington, establishing zoning regulations relating to marijuana processing, producing/growing, retailing and collective gardens; repealing interim zoning regulations adopted under Ordinance No. 2013-32; amending Bainbridge Island Municipal Code Sections 5.04.055, 18.09.020, 18.09.030, and 18.36.030; and providing for severability and an effective date.

WHEREAS, in 2012 Washington voters approved Initiative 502 which authorizes certain production, processing and retailing of marijuana, codified in relevant part at RCW 69.50.325, *et seq.*, and directed the State Liquor Control Board to develop rules and regulations to:

1. Determine the number of retailers of marijuana by county and city;
2. Develop licensing and other regulatory measures;
3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative's distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and
4. Establish a process for municipalities to comment prior to the issuance of such licenses; and

WHEREAS, the State Liquor Control Board adopted such regulations promulgated at chapter 314-55 of the Washington Administrative Code effective November 21, 2013; and

WHEREAS, while the production, processing, and retailing of marijuana remains in violation of the federal Controlled Substances Act, the City Council wishes to acknowledge the will of Bainbridge Island voters and the authority exercised by the state of Washington and the State Liquor Control Board to license such facilities; and

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998 and codified as chapter 69.51A RCW, created an affirmative defense for "qualifying patients" to the charge of possession of marijuana (cannabis); and

WHEREAS, in April 2011 the Washington State Legislature passed a bill (E2SSB 5073) to provide qualifying patients with a new means of access to medical marijuana, authorizing "collective gardens" which would allow qualifying patients the ability to produce, grow, process, transport and deliver marijuana for medical use, and that provision was approved by Governor Gregoire, effective on July 22, 2011 and codified at RCW 69.51A.085; and

WHEREAS, on March 31, 2014, the Court of Appeals, Division 1, in *Cannabis Action Coalition v. City of Kent*, held that despite the authorizing language in RCW 69.51A.085, collective gardens are illegal uses; and

WHEREAS, the Planning Commission conducted study sessions on January 9 and 23 and February 13 and 27, 2014, and

WHEREAS, the Planning Commission conducted a public hearing on March 13, 2014 and forwarded their recommendation to the City Council; and

WHEREAS, the City Council conducted a public hearing on recreational and medical marijuana related uses on _____, 2014; and

WHEREAS, notice was given on March 14, 2014 to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106;

WHEREAS, nothing in this ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law; now, therefore,

THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The interim zoning regulations and moratorium adopted under Ordinance No. 2013-32 are hereby repealed in their entirety.

Section 2. Section 5.04.055 of the Bainbridge Island Municipal Code relating to conduct associated with business licenses is amended as follows:

5.04.055 Standards of conduct.

Every licensee under this chapter shall:

A. Permit reasonable inspections of the business premises by governmental authorities for the purpose of enforcing the provisions of this chapter;

B. Comply with all ~~federal~~, state and city statutes, laws, ordinances and regulations relating to the business premises and the conduct of the business thereon;

Section 3. Section 18.09.020 of the Bainbridge Island Municipal Code is amended to add marijuana related uses as shown in Exhibit A.

Section 4. Section 18.09.030 of the Bainbridge Island Municipal Code, Use Specific Standards, is amended to add the following subsection:

K. Marijuana Related Uses

1. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Bainbridge Island is an authorization to circumvent federal law or to provide permission to any person or entity to violate federal law. Only

Washington State licensed marijuana producers, processors, and marijuana retailers may locate in the City of Bainbridge Island and then only pursuant to a license issued by the State of Washington. The purposes of these provisions is solely to acknowledge the enactment by Washington voters of Initiative 502 and state licensing procedures to permit, but only to the extent required by state law, marijuana processors, marijuana producers and marijuana retailers to operate in designated zones of the city.

2. In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance *per se*, and may be abated by the city attorney under the applicable provisions of this code or state law, including but not limited to the provisions of Chapter 1.24 BIMC, Chapter 1.26 BIMC and Chapter 9.40 BIMC.

3. No marijuana processor, marijuana producer or marijuana retailer shall locate within 1000 feet, measured in the manner set forth in WAC 314-55-050(10), from any of the following existing uses as defined in Section 314-55-010 WAC:

- a. Elementary or secondary school;
- b. Playground;
- c. Recreation center or facility;
- d. Childcare center;
- e. Public park;
- f. Public transit center;
- g. Library; or
- h. Game arcade.

4. Marijuana Retailer: Marijuana retailing is a permitted use in the Mixed Use Town Center, High School Road, and Neighborhood Service Center zoning districts. A Site Plan and Design Review permit may be required, pursuant to Section 2.16.040.B, Site Plans and Design Review *Applicability*.

5. Marijuana Processors: Marijuana processing is a permitted use in the Business/ Industrial zoning district. A Site Plan and Design Review permit is required and must be approved prior to any City approval of business licenses or other required permits.

6. Marijuana Producers: Marijuana production (growing) outdoors or in a greenhouse is a permitted use in the R-0.4 zoning district subject to the following conditions:

- a. A Minor Site Plan and Design Review permit is required and must be approved prior to any City approval of business licenses or other required permits;
- b. Minimum lot area of 1 acre required;
- c. Only Tier 1 (less than 2,000 sq. ft. of plant canopy) marijuana production businesses are allowed, as described by the Washington

State recreational marijuana licensing rules, Section 314-55-075(6) WAC;

- d. Minimum 25 foot setback for marijuana related buildings, uses, or outdoor planting areas.
- e. A 25 foot full screen perimeter landscaping buffer to other properties, meeting the planting requirements of BIMC Section 18.15.010.D.4.a is required; and
- f. A 25 foot partial screen roadside buffer to streets or planned right-of-way meeting the planting requirements of BIMC Section 18.15.010.D.4.b is required.

7. No marijuana-related uses are allowed on City-owned property.

Section 5. Section 18.36.030 of the Bainbridge Island Municipal Code is amended to add the following definitions in alphabetical order in the section and re-number the existing definitions:

50. "Collective Gardens" means a type of medical marijuana use described in RCW 69.51A.085.

149. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

150. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

151. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

152. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

153. "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

254. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

Section 6. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this ____ day of _____, 2014.

APPROVED BY THE MAYOR this ____ day of _____, 2014.

Anne S. Blair, Mayor

ATTEST/AUTHENTICATED:

Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK: April 4, 2014
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 2014-06

Table 18.09.020 Use Table

“P” = Permitted Use
 “C” = Conditional Use
 Blank = Prohibited Use
 “CA” = Conditional Accessory Use
 “T” = Temporary Use

“A” = Accessory Use

Additional Use restrictions for BIMC 16.12 and 16.20 may apply to shoreline or critical area properties

ZONING DISTRICT USE CATEGORY/ TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR 1 & 2	NSC	B/I	WD-I	USE SPECIFIC STANDARDS 18.09.030
											CC	MA	EA	GATE	FRY					
MARIJUANA RELATED USES																				
<u>Marijuana Retailer</u>											<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>K</u>
<u>Marijuana Processor</u>																		<u>P</u>		<u>K</u>
<u>Marijuana Producer</u>	<u>P</u>																			<u>K</u>
<u>Collective Garden</u>																				

Jennifer Sutton

From: Theresa Rice on behalf of PCD
Sent: Wednesday, April 23, 2014 3:56 PM
To: Jennifer Sutton; Roz Lassoff
Subject: FW: No to marijuana production in residential areas

Theresa C. Rice, CAP
Administrative Secretary
206.780.3758 (direct)

-----Original Message-----

From: Mimi Personal [<mailto:mimistewartellis@gmail.com>]
Sent: Wednesday, April 23, 2014 3:30 PM
To: PCD
Subject: No to marijuana production in residential areas

I'm am very concerned that the city would allow marijuana production in a Residential, R-0.4, areas. I sell real estate for a 300 Broker Seattle Brokerage and was asked to do two market analysis last week, whereby Sellers adjacent to an R-0.4 zone want to move away. My managing brokers and myself are of the opinion that any marijuana production, processing or sales location should be disclosed on Form 17, Seller Disclosure, because it's considered a material fact by the Sellers. It is their reason for moving. All potential buyers and selling brokers have access to form 17. Housing prices and sale ability in and around R-0.4 zones will certainly be adversely affected. Conversely, for Buyers who want assurance that they don't purchase a home near a marijuana production facility or farm, how can we direct them to "drug free" zones if the zoning is enacted? Bainbridge Island should follow the same path as Kitsap County and restrict marijuana growing to commercial areas.

Sent from my iPhone

Attachment B

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Wednesday, April 23, 2014 9:42 AM
To: Kathy Cook; Jennifer Sutton; PCD
Subject: FW: Marijuana regulations

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Gloria Saylor [<mailto:gloriasaylor@ymail.com>]
Sent: Wednesday, April 23, 2014 9:41 AM
To: PCD
Cc: CityAdmin; Council
Subject: Marijuana regulations

I am writing to comment on the proposed marijuana regulations. There are many aspects of the Planning Commission's recommendations that I support.

However my major area of disagreement and concern is that of marijuana growing in residential zones. In this area I support the recommendations and concerns of the minority report.

I look at this from a variety of perspectives:

- 1) As an Islander in a residential neighborhood, I am aware of the impact an admittedly illegal grow operation had on our neighborhood. Just because something is legal doesn't make it less attractive to criminals, or to those seeking access to pot that they can't get legally (adolescents).
- 2) As a health professional with 35 years experience, I agree that marijuana can have some beneficial effects for some patients, but it can have a very deleterious affect on adolescent development. My concern is that any endeavor that makes it easier for adolescents to access marijuana needs to be managed very carefully. Several studies cite the very negative impact on intellectual and emotional functioning: [Learn About Marijuana: Factsheets: Marijuana and Adolescents](#)



Learn About Marijuana: Factsheets:
Marijuana and...
Adolescents and Marijuana

Marijuana Use Takes Toll On Adolescent Brain Function, Research Finds



Marijuana Use Takes Toll On Adolescent Brain Function, ...

Brain imaging shows that the brains of teens that use marijuana are working harder than the brains of their peers who abstain from the drug.

View on www.sciencedaily.com

Preview
by
Yahoo

- 3) As far as I know commercial brewing and distilling doesn't happen in residential neighborhoods. I would suggest that the island begin by only allowing marijuana to be grown in industrial zoned land on an interim basis. When data can be gathered - for 12-24 months- on the impact of that/those operation(s), then the zoning may be expanded depending on the results.
- 4) We are already struggling with the impact of larger farming businesses in largely residential neighborhoods. Since we are an Island, it is harder to create buffers between agricultural businesses and residential areas, so expanding that problem in this way seems counterproductive, until we have a better solution to the issues we are already trying to manage.

Sincerely,
Gloria Sayler
Agate Pass Rd NE

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Wednesday, April 23, 2014 8:03 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze; PCD
Subject: FW: I-502 Implementation on Bainbridge Island

From: Ingrid Billies [<mailto:iebillies@yahoo.com>]

Sent: Tuesday, April 22, 2014 7:53 PM

To: Anne Blair; Wayne Roth; Sarah Blossom; Steve Bonkowski; Roger Townsend; Val Tollefson; David Ward; Council
Subject: Fw: I-502 Implementation on Bainbridge Island

Mayor Blair, City Council Members -

Pursuant to our letter to you on 9 April regarding the implementation of I-502 on Bainbridge Island, below is professional opinion regarding the impact to property values if grow operations are permitted to proceed in residential areas. There is clear consensus with other realtors on the Island expressing a similar opinion, many of whom will likely attend the 28 April and 12 May open sessions.

We would most strongly recommend that the City Council solicit the opinion of these professionals to understand both the short and long term implications of this decision on property values, particularly in residentially-zoned areas. We continue to struggle with the logic of why the community would consider such a risk and look forward to your response(s).

Regards,
Eric & Ingrid Billies
6070 Old Mill Road
Bainbridge Island, WA

Hello Ingrid,

I polled my office: A very concerned and passionate, 100% yes vote that a grow operation in any neighborhood on the island will dramatically impact property values for the entire neighborhood. Even the "possibility" of such an operation being permitted in close proximity to any home on the island will negatively impact property values not only for that home and it's neighborhood, but for communities in close proximity to that neighborhood.

This scenario will have a chilling effect on buyers considering your home for purchase. Perception is everything in real estate. Even the "possibility" of such an operation existing in your neighborhood will turn buyers away from your property. It is unlikely that you will see a buyer write an offer when that buyer will have the choice to live in a neighborhood that is not burdened with environmental and security concerns as yours will be. Only price will compensate and you would need to dramatically reduce your price. We cannot quantify the impact on values but we do have examples on the island where sellers have struggled to sell their properties due to unattractive neighboring properties or commercial enterprises that are unable to contain noise, smells, traffic etc... Price was always the solution.

Best,
Arthur Mortell
Coldwell Banker McKenzie

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 22, 2014 8:03 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Please consider growing marijuana on Bainbridge Island

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Gunda Lunde [<mailto:gunda@hoodlight.com>]
Sent: Tuesday, April 22, 2014 1:12 AM
To: Council
Subject: Please consider growing marijuana on Bainbridge Island

Council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island

Gunda Lunde

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 22, 2014 8:03 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Dear Bainbridge Island Council members,

-----Original Message-----

From: Luba Fetterman [<mailto:lubafetterman@icloud.com>]
Sent: Monday, April 21, 2014 5:36 PM
To: Council
Subject: Dear Bainbridge Island Council members,

Dear Bainbridge Island Council members,

I would like to express my concerns about the possibility of Cannabis production facilities in the residential areas of our island.

As a parent and a long-time resident of the island, I care deeply both for our children's well-being, as well as the preservation of quality of life here.

By allowing the growing of Cannabis in residential zones, I believe:

- * Children will be more likely to be exposed to this controlled substance while visiting homes where recreational Cannabis production is allowed. The parents in our community value our children's well-being above anything, and I believe they would want to avoid their exposure to a drug.
- * Criminal activity in our neighborhoods will increase, changing our relatively peaceful way of life. As long as Cannabis is an illegal substance in most of the states in this nation, it is a very profitable commodity and will be exported illegally to the rest of the country.
- * Growing in greenhouses does not provide much protection from theft, and I worry that besides criminals, kids will try to get their hands on the drug and get hurt once the producers start guarding their product. Will they use fire arms? The whole community will foot the bill for increased police surveillance.
- * The resale value of neighboring properties will most likely drop
- * 8 foot fencing is not the norm here. A high fence will be a flag to the presence of a production facility.
- * The unpleasant odor that many people complain about will stretch over a longer period if succession planting is used, which I assume would be the case. Bringing in a single crop would not make economic sense, and I expect the growers will do what they can to maximize profit by growing several crops per year.
- * Cannabis is still a cash crop which poses security issues.
- * Fertilizer runoff will be harmful to our waterways

The facilities would be easily protected if they were in a business/industrial zone and if they were built of sturdy materials. Not allowing them in residential neighborhoods would protect children from contact with the substance, as well as keeping our neighborhoods safe. Perhaps the regulations can be eased once experience has shown that there are no problems resulting from presence of Cannabis production facilities in communities, but I believe it is unfair to force this upon us while so much is unknown.

Thank you for your time,
Luba Fetterman
Bainbridge Island

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 22, 2014 8:02 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Medical Cannabis

-----Original Message-----

From: Paul Teske-Subotic [<mailto:malakaaljinn@gmail.com>]
Sent: Monday, April 21, 2014 4:37 PM
To: Council
Subject: Medical Cannabis

Greetings Councilors,

My Name is Paul Teske-Subotic and I'm a resident of Bainbridge Island for several years now and all of my wife's family live and have home on the Island. I am the Husband of and caregiver for Christine. The subject of the Medical benefits and uses of Cannabis is close to us primarily due to its effectiveness at treating and stopping Trigeminal Neuralgia which is a extremely painful and debilitating condition also known as (the Suicide disease).

For those who live on and call Bainbridge Island home and have a serious medical condition that is helped by Cannabis, not allowing a dispensary on the Island for more than fifteen years is telling them, (the Elderly, sick, dying, veterans, and others) that Bainbridge City Council wants them off the island so that only the healthy, young, tax paying people remain. There are no valid reasons extant shown as to why it is in the best interest of Bainbridge Island residents to forbid Dispensaries on the island. Please tell the Planning commission to make space for at least one. Some people who need it can't even leave their homes not to mention the island to buy some in Silverdale or Seattle.

It is extreme cruelty to not even have one here.

The outright ban on collective farming here on the island is also a repugnant idea by those who need to have other people grow their plants for them. People who are sick and dying, or who live in apartments or retirement homes really cannot grow it themselves, Collective farms are a necessity.

According to the fed Cannabis is a crop. So let it be grown on the island by those who have the space and who choose to do so. Offering such a tiny space as proposed by the Planning Commission is unacceptable. Please expand the areas that can grow Medical Cannabis, growing it outside in the open is problematical here because of the wet seasons.

Thank you for taking the time to read this Councilor, those who are affected by your will and choices thank you.

Paul Teske-Subotic

Jennifer Sutton

From: Jennifer Sutton
Sent: Wednesday, April 23, 2014 2:28 PM
To: 'Christine Teske-Subotic'
Cc: PCD
Subject: RE: Why ban medical?

Hi Christine,

The Planning Commission made a recommendation to the City Council to ban collective gardens. The City Council hasn't made a decision on collective gardens or any other marijuana related use yet. You may know that the Council 1st discussed the issue on April 7th. They will discuss the issue at another study session next Monday, April 28th. The meeting begins at 7pm, but I don't know yet where on the agenda this item (ordinance 2014-06) is. You could check the City website Thursday afternoon to look at the agenda and materials prepared for the meeting. The City Council will likely hold their public hearing and make a decision on the ordinance on May 12th, we will know for sure after the April 28th meeting.

In the meantime, I will forward your comment to them, and feel free to call me if you have additional questions.

Jennifer Sutton, AICP
Special Project Planner
Department of Planning & Community Development City of Bainbridge Island
(206) 780-3772

P Please consider the environment before printing this email and any attachment. Thank you.

-----Original Message-----

From: Christine Teske-Subotic [<mailto:cteske65@gmail.com>]
Sent: Monday, April 21, 2014 11:54 PM
To: Jennifer Sutton
Subject: Why ban medical?

Jennifer,

I believe we spoke briefly at the planning commission meeting where recommendations were made regarding implementing the will of the voters on Bainbridge.

I am curious as to why the both the planning committee and the city council have decided to ban collective gardens? Under Washington law, collective gardens were deemed to be legal and compassionate, as those who are injured or sick enough to require the use of cannabis, simply do not have the physical ability to garden. This is also why voters and the state also allowed for the creation of "dispensaries", so that those who live in apartments etc.. can still get high-quality locally grown cannabis.

Yet for 15 years, there has been a moratorium on such basic human decency on this island.

I was just wondering why the island discriminates against its most vulnerable populations?

Thank you,
Christine Teske-Subotic

Jennifer Sutton

From: Theresa Rice on behalf of PCD
Sent: Monday, April 21, 2014 11:00 AM
To: Jennifer Sutton
Subject: FW: Marijuana zoning

Theresa C. Rice, CAP
Administrative Secretary
206.780.3758 (direct)

From: Ingrid Blohm-Hyde [<mailto:ingrid2005@hotmail.com>]
Sent: Sunday, April 20, 2014 11:51 AM
To: PCD
Subject: Marijuana zoning

Hello,

As a 20 year resident of Bainbridge Island I am very concerned about a possible zoning allowing Marijuana farming in residential areas. I am against pot farms on the island. Bainbridge Island is a family oriented island and we do not want any pot farms in our residential neighbourhoods. I am against pot farming anywhere on the island; however, if there is no other way around, I ask that it please be restricted to Industrial / Commercial zones, NEVER in residential areas. We have too many kids on this island to allow this kind of farming in our neighbourhoods. (I don't care who smokes pot, just please do no do it t in my backyard)

With kind regards,
Ingrid Blohm-Hyde

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Sunday, April 20, 2014 2:18 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Marijuana Issue

From: Ingrid Blohm-Hyde [<mailto:ingrid2005@hotmail.com>]
Sent: Sunday, April 20, 2014 11:39 AM
To: Council
Subject: Marijuana Issue

Hello,

I have lived here on Bainbridge island for 20 years and am VERY concerned that Marijuana will be permitted to be cultivated in residential areas. There are just too many kids living here and in general this island is a "Family oriented" island where there is no place for pot farms. I am against Pot being cultivated on the island, period; However, if there is no way around it, I ask that it please be restricted to industrial/commercial zones, as pot farms turn out to be as bad as most of us expect it to be, zoning will not be able to be changed later. Better safe then sorry.

Thanks,
Ingrid Blohm-Hyde

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Sunday, April 20, 2014 2:17 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Marijuana growing on Old Mill Rd

From: Libby James [<mailto:lbyjms@gmail.com>]
Sent: Sunday, April 20, 2014 11:38 AM
To: Council
Subject: Marijuana growing on Old Mill Rd

In regard to all the outrage about the proposed marijuana growing facility on Old Mill Rd, I just want to let you know that there are many of us in this neighborhood who have no issue with this. If the folks up my road can make a go of this, then my hat is off to them, and I wish them all the best. This is turning into a very emotional issue with some people and I believe that needs to be put aside. I don't believe that property values will go down, nor do I believe that we will need to buy guns to protect ourselves from the marauding weed thieves that will be invading our quiet domain.

These are good people who are applying for this permit.

Thank you,
Libby James
6204 Old Mill Rd NE
Bainbridge Is, WA
206-842-1095

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Sunday, April 20, 2014 2:17 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Marijuana

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

-----Original Message-----

From: Chuck Beek [<mailto:beeksonbikes@msn.com>]
Sent: Saturday, April 19, 2014 9:43 AM
To: Council
Subject: Marijuana

Dear Council Members,

It seems strange to be writing you with the subject title "marijuana" , but like it or not and the majority apparently do, marijuana legalization is a reality. Along with this fact comes the reality of providing the product for the citizens who voted for legalization and that means cultivation. The planning commission has set forth recommendations for growing marijuana which I support and I would like to encourage you to do the same.

Thank you for your time,
Charles Beek
4400 Old Mill Rd.
BI
206-779-4505

Sent from my iPad

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Sunday, April 20, 2014 2:17 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Marijuana producing sites

From: Sharon Ruzumna [<mailto:sruzumna@earthlink.net>]
Sent: Friday, April 18, 2014 7:22 PM
To: Council
Subject: Marijuana producing sites

Dear Council Members,

I was very disappointed in your discussion about the sites that might be licensed to grow marijuana. You seem to be skirting the issue that this is a **zoning** matter; that is the long and short of it. To bring into the discussion the specious argument that the island voted to legalize marijuana is absolutely irrelevant. The vote cannot and should not be interpreted as giving the council permission to ignore zoning requirements for businesses. The vote was to de-criminalize the growing and consumption of this plant. Some of you are showing an absolute disregard for the people whose neighborhoods would be affected by allowing grow houses in their midst. They will be losing their established property values, and are being asked to sacrifice their comfort and feeling of safety in their own homes. I daresay, if a grow operation were to open across the street or next door to any member of the council, the discussion and vote would be different – an open and shut case.

Someone on the Planning Commission even asserted that this would be a good lesson for our kids – to see the “real world” in action. I could hardly believe my ears – in what way are we helping children by having them subjected to the smells and other noxious aspects of this business, including the potential for crime (this is a cash business, as banks are rejecting accounts for these operations), traffic, ugly high fences, and so forth? I feel as though Council and Planning Commission members are not giving the proper thought to these votes, and are riding roughshod over citizens who (like you) do not want these operations in their neighborhoods. Furthermore, in trying to be politically correct, you are ignoring the real issues – the main one being zoning. That is what our zoning laws are for – to keep businesses and residential areas separate. You cannot and should not lose sight of this overarching issue.

Another argument from Council which stunned me was the there is no room for a new business on the Day Road business sites. Really? Do we change zoning laws because a business cannot find a place to operate? If I want to produce widgets in my home, and carry on the retail business in my neighborhood, can I appeal a zoning requirement because I can't find a place to operate? This is totally absurd, and I am shocked that anyone would put forth such an argument.

You have admitted that there is a lot you don't know yet about marijuana processing, growing and retail. I suggest you educate yourselves. Once this can of worms is opened, there will be no going back. And, I daresay you have not grasped the illogic of allowing these operations in residential areas.

I am beyond disappointed that my city government operates on such flimsy argument and evidence, ignoring vital concerns of the residents of Bainbridge. Why not take a vote on this if you want convincing that residents

would reject the notion that residential neighborhoods should be disrupted by a business operation? I can assure you the vote would be "No".

Respectfully,
Sharon Ruzumna
sruzumna@earthlink.net

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Sunday, April 20, 2014 2:16 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Growing Marijuana in the Rural Zone

-----Original Message-----

From: Bonoff, Mike [<mailto:Mike.Bonoff@seattle.gov>]
Sent: Friday, April 18, 2014 2:03 PM
To: Council
Subject: Growing Marijuana in the Rural Zone

Dear City Council Members,

As you begin your deliberations on where marijuana can be grown on the island, please weigh heavily the recommendation of the Planning Commission. I attended their public sessions and believe they and the public presented all sides of the issue.

I support allowing marijuana to be grown in the R2.5 zone. This additional activity supports the Comprehensive Plan Rural and Agricultural policies

Specifically, I support the application of Alexander Scott to grow in a 500 square foot greenhouse. This activity will be compatible with other existing rural agricultural uses and home based businesses in our neighborhood. I have lived here since 1977 and have known the Scott family for the past 25 + years.

Thank you for your consideration.

Mike Bonoff, Libby Anderson
5711 Old Mill Road

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Friday, April 18, 2014 1:55 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Initiative 502

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: ELIZABETH FREI [<mailto:libfrei@msn.com>]
Sent: Friday, April 18, 2014 1:12 PM
To: Council
Subject: Initiative 502

I would like to propose that instead of the City Council making a decision about allowing Marijuana growers into the residential neighborhoods why not put this on the ballot and allow the citizens of Bainbridge to make the decision. The State of WA made that decision so why not allow us that right if we want it here on the island or not, I am totally against Bainbridge opening it's door to this. I would like to know how to go about getting this on an up-and-coming ballot.

You've heard from many people why not to allow it but has anyone brought up the most recent study about brain abnormalities and "recreational use", http://www.huffingtonpost.com/2014/04/16/marijuana-smoking-brain-abnormalities-young-adults_n_5158855.html. I saw first hand what it did to my nephew and the last thing I want to worry about is my child having easy access to the drug because we grow it here. We already have a problem with our youth and drugs, so why put more out there for them.

Sincerely,
L. Frei

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Friday, April 18, 2014 9:49 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Marijuana Grow Operations....

-----Original Message-----

From: Laurel Shelton [mailto:le_shelton@msn.com]
Sent: Friday, April 18, 2014 9:23 AM
To: Council
Subject: Marijuana Grow Operations....

We recently moved from Seattle to Bainbridge for quality of life reasons. We sought the quiet life of a safe area filled with the beauty of birds and and natural growing plant life. Come to find out, three doors up our quiet family inhabited road there is to be a marijuana production site. The whole issue of legalized marijuana is very new. We're stunned that the city council of such a wonderful place to live is not giving consideration to ramifications of the growing of this known to be mind altering drug. The growth of this substance should not be experimented with in neighborhoods zoned for families and children. Please reconsider your actions, and restrict these operations to areas zoned for business and industry. The list of restrictions.... ie security cameras, alarms, and warning signage ought to speak abundant volumes as to how inappropriate these operations are to neighborhoods. Please consider your actions thoughtfully.

Laurel and Jon Shelton

Sent from my iPad

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Friday, April 18, 2014 7:54 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Please support

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

-----Original Message-----

From: Johnson, B.Sue [<mailto:B.Sue.Johnson@ed.gov>]
Sent: Thursday, April 17, 2014 4:11 PM
To: Council
Subject: Please support

Council members--

I want you to know that I support and encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Sincerely,

B.Sue Johnson
206.842.8242

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Thursday, April 17, 2014 3:48 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Marijuana Policy on Bainbridge Island

From: Lillian Schneider [<mailto:lillylillyschneider@gmail.com>]
Sent: Thursday, April 17, 2014 3:44 PM
To: Council
Subject: Marijuana Policy on Bainbridge Island

To the City Council:

I am writing to express my support of small scale marijuana agriculture and the normalization of marijuana policy on Bainbridge Island, a subject I understand you will be discussing on April 21. Keep our community strong by keeping the peace with peaceful agricultural practice, rather than weakening and dividing it by vilifying and/or persecuting productive citizens cultivating legal plants on private property. As a 20 year island resident I wish to remain proud of the open-mindedness and community-minded efforts of the City of Bainbridge Island.

Sincerely,
Lilly Schneider
Madrona Dr, NE

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Thursday, April 17, 2014 8:00 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Concern regarding marijuana producers in residential neighborhoods

From: Teresa [mailto:teresamuzzi@gmail.com]
Sent: Wednesday, April 16, 2014 9:43 PM
To: PCD; Anne Blair; Council
Subject: Concern regarding marijuana producers in residential neighborhoods

Dear Bainbridge Island City Council & Planning Department-

We are homeowners on Old Mill Road, adjacent to the proposed Marijuana producer located at 5973 Old Mill Road NE. We are extremely concerned with the repercussions of allowing this producer to grow marijuana in our residential area.

Marijuana producers should NOT be allowed to grow marijuana in a residential neighborhood, this is an industry that should only be allowed (if allowed at all) in a business industrial zone.

It is absurd to allow a marijuana producer to operate a grow facility in a residential neighborhood near adjacent homes and families. If grow operations / producers are allowed on Bainbridge Island at all, they should be located in the business industrial zone where they can be closely regulated. Similar to what other neighboring towns and cities are currently proposing, such as Poulsbo. Why is Bainbridge Island not following Kitsap county rules for Marijuana producers? Kitsap county states. Kitsap County 17.465.030 Marijuana Producer Location Requirements are outlined below for marijuana producers. Kitsap County is NOT allowing marijuana to be grown in residential zones:

Kitsap County 17.465.030 Marijuana Producer Location Requirements

Marijuana Producers are subject to the requirements of this chapter, marijuana producers may be located as follows. Further, such facility and uses may only b located at designated sites licensed by the stat of Washington and fully conforming to stat law and chapter 17.465 KCC

- 1. Tier 1, 2 and 3 marijuana producers may be located in urban industrial (IND), Rural Employment Center (REC), and 12 Trees Employment Center (TEC) zones*
- 2. Tier 1 and 2 marijuana producers may be located in the Business Park (BP) zone.*
- 3. Tier 2 and 3 marijuana producers may be located in the Business Center (BC) zone*
- 4. Tier 1 and 2 marijuana producers may be located in the Rural Industrial (RI) zone*

Our main reasons and concerns for making sure that marijuana producers are not allowed to set up their grow operations in residential areas are as follows:

1) Crime – crime is a very real possibility as a result of this decision – even on Bainbridge Island.

2) Depreciation of Property Resale and Rental values

3) Odor – Air quality permits need to be in place & structures need to be odor free (structures need to be solid, non-transparent, fully enclosed & ventilated. Marijuana should NOT be allowed to grow outdoors – where it is impossible to regulate odor and other pollution)

4) Pollution - Environmental permits need to be in place and the SEPA review process should be followed by all producers applying for permits on Bainbridge Island (potential pollution includes use of pesticide & herbicide which can damage the environment & water supply & light pollution)

5) Right to quiet enjoyment of property will be violated

Crime –

The Washington state law requires that marijuana producers have 8 foot walls, security cameras, signage, etc. around their grow facilities. This implies that crime is a very strong possibility. This is not surprising considering that illegal farms in adjacent states are often guarded by armed guards, guard dogs, cyclone fences, etc.

Bainbridge Island is not immune to crime, it is very “naive” to think that crime cannot happen on Bainbridge Island just because marijuana is now “legal”...when it is not legal and may never be legal outside of our area. There is still a strong black market for marijuana both in and outside of Washington State.

What monitoring systems and regulations will be in effect?

Police should have the ability to continuously monitor producers and should have access to the security cameras on and around the producer’s property

The grow facilities / producers need to be regularly monitored and have scheduled and unscheduled “checks” similar to the food safety checks required for commercial farms

Any complaints need to be followed up upon immediately. Bainbridge Island citizens need recourse, and a defined path of escalation for problems that may arise.

Children catch the school bus on our street adjacent to the proposed marijuana grow facility. What precautions will be put in place to protect the children waiting for the bus and the children on the bus passing by the grow facility. Will a safer route be put in place? Hyla Middle school is located very near Blakely (which is at the back of the proposed farm on Old Mill Road) only approximately ½ mile away (less if you measure from the back of the proposed producer’s property. The budding marijuana, if not ventilated properly will most likely be smelled at Hyla Middle School.

Whole sale regulations & delivery - the producer should be required to deliver the product. As “reputable” as a marijuana wholesalers and potential marijuana wholesale customers may be... there should be regulation in place where no customer should visit the grow facility / producer to conduct a drug deal.

Depreciation of Property Resale and Rental values –

Many people, especially families, would be hesitant to purchase or rent a home next to a marijuana producer (with 8 foot walls, security cameras and signage). This is just common sense.

It is obviously unknown how much our property values would possibly depreciate (and how difficult adjacent properties would be to rent). We could potentially lose hundreds of thousands of dollars if this producer is allowed to operate in a residential area near our property. Who will compensate us?

It has been brought to our attention that renters (ie. non-owners) have signed a letter created by the proposed marijuana producer on Old Mill Road. Most of the adjacent neighbors, nearest to the proposed marijuana grow operation at 5973 Old Mill Road NE were not presented with this letter, I never had the chance to read this letter. I have heard that many renters (temporary residents) may have signed this letter. I understand that renters have rights as residents but they should not legally be allowed to make decisions regarding proposals that can adversely affect the homeowners future property value. Renters are inherently "temporary residents" and can choose to move at any time (within the parameters of a lease). I hope the city council will take this into consideration and tally up renters vs. owners on the letter seeking approval created by the proposed marijuana producer

Odor –

Strict regulation of structures & ventilation systems needs to be put in place along with Air Quality Permit requirements

Air Quality Permits need to be in place – Air quality permits regulate releases from industry that could contribute to an increase in air pollution and are issued by Ecology or a local clean air agency, depending on location. In addition, clean air agencies have the authority to regulate odors that "may unreasonably interfere with another property owner's use or enjoyment of his property"

Glass greenhouses or fabric / polycarbonate "hoop tent" type "Greenhouses" should NOT be permitted for marijuana grow operations. Producers should NOT be permitted to use typical greenhouses or "hoop tents". These structures will not retain the odor within the premises. The structures need to be rigid, non-transparent buildings (so lights cannot be seen outside the structure) with firm walls and efficient ventilation and odor control

Marijuana should never be permitted to grow outdoors on Bainbridge Island, besides being a very polluting crop, it is impossible to regulate the odor.

Marijuana should only be grown in completely enclosed and ventilated buildings. Marijuana has a pungent odor (similar to the smell of a skunk when the plant is maturing and budding, similar to a strong skunk smell. Some strains can be smelled for miles without a stringent form of odor control and ventilation.

It has been brought to my attention that the City Council has already consulted professional Marijuana Growers who have said exactly this (that marijuana must be grown in fully enclosed buildings with proper ventilation and odor prevention in place) but their advice seems to have been ignored. I'm not sure why "experts" were brought in if their advice was not heeded...

Ventilation and odor reducing systems need to be required and strictly regulated. There are many types of ventilation and odor control systems: Negative Ion Generators, Ozone Generators, Active Carbon Filtration and Odor Neutralizing and Masking agents. These need to be used in completely enclosed structures.

What strains of marijuana will producers be allowed to grow, as stated above, some strains have a much stronger odor and are much more intrusive than others. How many plants (not just size of canopy) will be allowed and how will this be regulated?

Who will regulate the greenhouses, ventilation systems, odor control systems, water usage, electricity usage, pollution from pesticide and herbicide?

How often will the regulation and checks take effect? Will there be “advanced warning”. There should be scheduled and unscheduled monitoring

What is the escalation path if nearby properties need to report odor, pollution, etc.? What are the repercussions? Is there a path of escalation with monetary fines for each violation?

Pollution -

Water, Air & Light Pollution (Water & Air Pollution due to Pesticide / Herbicide use and Light Pollution – SEPA review process should be required

(Use of pesticide & herbicide can damage the environment & local water supply. The proposed property on Old Mill Road is very close to a water supply that feeds into a wetlands area.

The City Council needs to define what types of herbicides and pesticides will be used on the marijuana grow facilities and these grow operations need to be strictly regulated (and surrounding water and air quality needs to be regularly tested)

What is the water source, how will pollution be contained from entering adjacent creeks and water sources

What type of pesticide and herbicide will be used and how often will the farm be tested. Will this be “public record” and will pesticide and herbicide usage be regulated and tested regularly to protect adjacent properties from toxic exposure?

Will there be regular water testing to ensure water has not been contaminated / polluted?

Light and energy pollution – In addition to extensive water, marijuana producers will require a lot of power to run (lights, ventilations systems, odor prevention, etc.). There have been reports of brown outs in properties adjacent to grow facilities. How will this be prevented?

What lighting will be required to run the required security cameras around the property? Will this violate the current Bainbridge ordinance?

Water Quality Permits – water quality permits address wastewater or stormwater discharged. Indoor marijuana producers may need water quality permits if they discharge wastewater from their growing operations, such as water containing excess fertilizers or if they construct a new facility. Wastewater discharge permits can be issued by either the state Department of Ecology (Ecology) or a local jurisdiction, such as King County. Construction stormwater permits are issued by Ecology and might be needed for construction of a new facility. They are required for land-disturbing activities that disturb one or more acres of land and that discharge stormwater into surface waters of the state. Smaller sites may also need a permit if they are part of a larger development that will disturb one acre or more.

Chemigation and Fertigation Regulations need to be in place – Chemigation or fertigation refers to the application of fertilizers and/or pesticides through an irrigation water system. Chemigation and fertigation systems must be installed according to state regulations, WAC 16-202-1001 and WAC 16-202-2002. The Department of Agriculture has a technical assistance program to assist individuals who chemigate and fertigate in protecting human health and the environment from the potential hazard of improper fertilizer and pesticide use. For more information see:

Air Quality Permits (as stated above under Odor) – Air quality permits regulate releases from industry that could contribute to an increase in air pollution and are issued by Ecology or a local clean air agency, depending on location. If a facility uses a boiler in its operations, such as for heating or CO2 generation, that boiler could need a permit. In addition, clean air agencies have the authority to regulate odors that “may unreasonably interfere with another property owner’s use or enjoyment of his property

Bainbridge Island should require that permit applicants / producers should be required to follow the SEPA environmental review process, SEPA is not a permit; it is an environmental review process which helps governments make decisions about permits and other actions where project applicants must complete a checklist describing the possible environmental impacts of their project. Processes such as wastewater and solid waste disposal, CO2 use in the growing cycle, odors, etc. as part of the State Environmental Policy Act (SEPA)

Right to quiet enjoyment of property will be violated -

As property owners on Bainbridge Island, we have the right to quiet enjoyment of our property. The current proposal to put a marijuana producer in residential neighborhoods violates this right and we are strongly considering taking legal action if necessary to regain this right.

In summary, I would like to ask, what are you smoking?! There are still so many open questions and issues that have not yet been answered by the City Planning Department and the Bainbridge Island City Council. The last city council meeting we attended was very unsettling. Nobody on the council or planning department could even describe what “constituted a greenhouse” and nobody could answer any questions regarding “ventilation and odor control” within the proposed structures. This is a FUNDAMENTAL part of the decisions process, especially when you are considering putting these grow operations in residential neighborhoods.

The City Planning Department and the City Council do not seem to have the necessary expertise to make decisions about producing marijuana on Bainbridge Island. I respect that you are trying to do your best but it appears that A LOT more research and homework needs to be done, and real experts need to be brought in before any further decisions are made. Environmental experts need to be brought in to answer many of the open questions and concerns regarding air, water and light pollution.

It should be very obvious that a residential neighborhood is NOT the place to grow marijuana, but for some reason that is apparent to everyone but the Bainbridge Island City Council and the City Planning Department. Many residents on Bainbridge Island are not even aware this decision is being made, we are trying to spread the word now. Please listen to the residents of Bainbridge Island, especially those that will most adversely be affected by your decision.

Sincerely,

Ferdinando Muzzi, Commercial Farmer

Marcia Muzzi, Property Manager

Teresa Muzzi, Marketing Manager

Owners of 6132 Old Mill Road NE, Bainbridge Island WA

Resources cited:

http://www.kitsapgov.com/dcd/community_plan/i502/Ord%20-%20I%20502%20-%20Final%2012-9-13.pdf

http://www.seattle.gov/DPD/cs/groups/pan/@pan/documents/web_informational/dpdd017676.pdf

http://ideas.blogs.nytimes.com/2010/05/28/marijuana-pollution/?_php=true&_type=blogs&_r=0

<http://wasavp.org/marijuana-education-toolkit/>

<http://www.sequimgazette.com/news/251290871.html>

<http://www.huffingtonpost.com/tag/marijuana-environmental-impact>

http://www.huffingtonpost.com/2013/08/01/marijuana-pollution_n_3686627.html

<http://www.pressdemocrat.com/article/20140412/articles/140419825#page=0>

<http://m.huffpost.com/us/entry/3686627/>

<http://co.humboldt.ca.us/board/agenda/questys/mg218885/as218921/ai224352/do224464/bosagendaitem.pdf>

<http://www.columbian.com/news/2014/jan/08/county-no-pot-until-feds-legalize-it/>

<http://business.time.com/2013/01/08/187000-pounds-of-marijuana-annually-legal-pot-business-to-bloom-in-washington/>

<http://usnews.nbcnews.com/news/2014/01/16/22328799-washington-state-attorney-general-cities-and-counties-dont-have-to-allow-legal-marijuana>

<http://www.kval.com/news/local/Residents-riled-up-by-smell-of-skunky-marijuana-patch-169029146.html?mobile=y>

neighbors complain they were feeling sick living next door to a marijuana grow facility is harmful to your health

<http://www.komonews.com/news/local/Ore-couple-says-smell-from-pot-grow-is-making-them-sick-200726371.html?mobile=y>

<http://www.theguardian.com/society/shortcuts/2013/oct/15/spot-if-cannabis-farm-next-door>

Marijuana growing skunk smell can spread for blocks, Denver is grappling with this problem, ion ventilation systems is a completely enclosed facility sound like the best way to avoid odor issues.

<http://kdvr.com/2013/11/13/nasal-ranger-patrols-for-pot-smells-in-denver/>

<http://www.insidebainbridge.com/2014/02/20/a-pot-farm-could-be-your-new-neighbor/>

<http://www.bainbridgereview.com/news/255030571.html>

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Wednesday, April 16, 2014 8:14 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Implementation of I-502/Ordinance 2014-06

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Theona Jundanian [<mailto:theonaj@gmail.com>]
Sent: Saturday, April 12, 2014 10:47 PM
To: Anne Blair; Steve Bonkowski; Sarah Blossom; Wayne Roth; Val Tollefson; Roger Townsend; David Ward; Council
Subject: Implementation of I-502/Ordinance 2014-06

To: Hon Anne Blair, Mayor & Bainbridge Island City Council

I am writing to express my concern as a Bainbridge Island residence with regard to I-502. While I voted for the decriminalization of marijuana, I oppose allowing it to be grown and/or processed on residentially-zoned property. My main reason for opposing such zoning includes but is not limited to the following:

I agree with the City Council's March 18, 2014 minority opinion that recommends that BIMC 18.36.030.23 definition of "Agriculture, Crop" be amended to exclude marijuana. Marijuana is not a fruit, vegetable or ornamental. Not only does its growth present a nuisance in terms of odors it is still a regulated substance illegal under federal law.

A marijuana grow and production operation is a business that produces a controlled substance. It is not congruous with planned and zoned residential areas. By condoning grow operations on R-.04 zoning, any property that meets minimum requirements may grow this controlled substance without further action from the City.

More importantly, I request the Council to look at some of the mandatory requirements such a grow operation must follow and ask if it makes sense to allow it to occur in one of the island's most protected zones.

- 24 hour surveillance/security cameras
- conspicuous signage
- documented transportation
- custody chain requirements

- potential pesticide applications
- waste and waste water management

With such requirements, it is impossible to have an discreet legal grow operation. It puts personal and neighborhood safety at risk with a cash-only operation.

The state has deemed it necessary to impose 1000-foot buffers to separate places where a child may congregate from the production of this controlled substance. Yet, all bets are off once this same child enters his or her neighborhood with marijuana being grown down the street. Would you want this for your family?

Commercial production of marijuana belongs in business and industrial zones. Not in our neighborhoods. Please consider the seriousness of allowing it in our neighborhoods and the implications for your citizenry. Don't make Bainbridge a haven for marijuana grow operations.

Respectfully,

Theona R. Jundanian, Esquire

Jennifer Sutton

From: Roz Lassoﬀ on behalf of Council
Sent: Wednesday, April 16, 2014 8:13 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: BI marijuana

Roz Lassoﬀ
Rosalind D. Lassoﬀ, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Kathy and Kirk Godtfredsen [<mailto:kkhe@icloud.com>]
Sent: Wednesday, April 16, 2014 5:58 AM
To: Council
Subject: BI marijuana

Council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Kirk Godtfredsen
10515 NE Morning Lane
206-780-0959

Sent via iPhone....

Jennifer Sutton

From: GARTH EDWARDS [garth_edwards@msn.com]
Sent: Tuesday, April 15, 2014 11:40 AM
To: Council
Subject: RE: Growing Pot

I support the Planning Commision's recomendation for growing marijuana on the island

Garth Edwards
Island resident

Garth Edwards 206 919 4682

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Wednesday, April 16, 2014 8:14 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Pot sales and businesses

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

-----Original Message-----

From: Mimi Work [<mailto:mimistewarthomes@gmail.com>]
Sent: Sunday, April 13, 2014 10:53 AM
To: Council
Subject: Pot sales and businesses

should be zoned

And restricted to commercial areas. Everyone's property values will suffer if it is not. I tell people in other states about the proposed lack of use zoning and they can't believe it and say they would never choose to move to Bainbridge Island. Keep in mind that pot use is not legal in most states and many buyers and sellers would not be happy with pot sales and growing operations being set up next door. Maybe this zoning issue should be voted on by all residents.

Sent from my iPhone

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Wednesday, April 16, 2014 8:12 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: support of the Planning Commissions recommendations

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: amy pfeffer [<mailto:fumezmarais@yahoo.com>]
Sent: Tuesday, April 15, 2014 7:42 PM
To: Council
Subject: support of the Planning Commissions recommendations

Council members,
I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Sincerely,
Amy Pfeffer
503-332-0540

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 15, 2014 1:03 PM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Marijuana legalized...time to grow

From: Georgene Scott [<mailto:georgene2000@hotmail.com>]
Sent: Tuesday, April 15, 2014 11:48 AM
To: Council
Subject: Marijuana legalized...time to grow

Too much misinformation has been written recently regarding the legal growing of marijuana. Those who have obtained licenses to grow on their property have done so in a lawful and thoughtful way and should not be penalized by those who are misinformed and deal with issues from a place of fear as opposed to a place of knowledge.

Therefore, council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Thank you for your consideration.

*georgene scott
234 wood ave sw #201
Bainbridge, WA*

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 15, 2014 11:33 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Island Farming

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: john [<mailto:wotius@gmail.com>]
Sent: Tuesday, April 15, 2014 11:30 AM
To: Council
Subject: Island Farming

Council Members,
I encourage you to support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Regards,
John Fossett
9512 NE Lovgreen Rd
BI, WA 98110

--
John Fossett
<http://hangingwiththedog.blogspot.com/>

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 15, 2014 11:33 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW:

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Wes McClain [<mailto:wesmcclain@gmail.com>]
Sent: Tuesday, April 15, 2014 11:18 AM
To: Council
Subject:

Council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Wes McClain
206 819 7014

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 15, 2014 11:33 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Growing Marijuana on BI

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Stephen Romein [<mailto:steve@romein.com>]
Sent: Tuesday, April 15, 2014 9:55 AM
To: Council
Subject: Growing Marijuana on BI

I encourage the city council to support the recommendations of the Planning Commission on the growing of marijuana on Bainbridge Island. I see it as part of the whole movement on the island supporting farming and bringing businesses to the Island.

Yours truly,
Steve Romein
206-818-3198

Council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 15, 2014 8:34 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Marijuana growing areas

From: Chris Heinlein [<mailto:admin@foxglovefiber.com>]
Sent: Tuesday, April 15, 2014 8:30 AM
To: Council
Subject: Marijuana growing areas

Hi -

Council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

For all the reasons that others supporting this position have already stated, please allow our neighbors to exercise their farming rights.

Just like the debate over traffic circles a few years ago, after this is passed it will become a non issue.

Thank you

*Chris Heinlein
10950 Olallie Ln*

206-849-0609

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 15, 2014 8:00 AM
To: Kathy Cook; Jennifer Sutton
Subject: FW: Marijuana farming on Bainbridge

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: balcampeau@aol.com [mailto:balcampeau@aol.com]
Sent: Monday, April 14, 2014 11:20 PM
To: Council
Subject: Marijuana farming on Bainbridge

Council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

Sincerely,

Ballan Campeau
10268 NE Garibaldi Loop
Bainbridge Island

206-450-2436

Sent from my iPad

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 15, 2014 8:00 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: council meeting

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Susan Beek [<mailto:beekonbike@gmail.com>]
Sent: Tuesday, April 15, 2014 5:03 AM
To: Council
Subject: council meeting

Council members, I want you to know that I support and I encourage you to also support the Planning Commissions recommendations on growing marijuana on Bainbridge Island.

--
Susie Bee
k

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Monday, April 14, 2014 10:12 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: POT-YE\$, KIDS-NO?

From: Joan Piper [mailto:joan@piperpiper.com]
Sent: Monday, April 14, 2014 10:04 AM
To: Council
Subject: POT-YE\$, KIDS-NO?

To the Bainbridge Island City Council
From: Joan Piper, Bainbridge Island

I don't want drug dealers in my neighborhood. Retail or wholesale. It's not necessary to have them anywhere on the Island. Do you know the City of Bainbridge Island can ban marijuana sales?

The state Attorney General states in a formal opinion that I-502 passed at the state level does not prevent local governments from regulating or banning marijuana businesses in their jurisdictions. We don't have to issue these licenses. Pierce County and the city of Yakima have opted out. Pierce County points out that none of the taxes levied on marijuana sales goes to local entities. The Affiliated Tribes of Northwest Indians passed a resolution opposing legalization of marijuana at any level of government.

Their reasons are the same as cited in Swedish Hospitals's HealthWatch newsletter you got in the mail and confirmed by the National Institute of Health:

- Today's marijuana times more potent than marijuana of previous decades and is thus a threat to the health and safety of all ..., especially our youth; and
- marijuana has been proven to be associated with a reduction in IQ, mental illness, poor learning outcomes, drugged driving, lung damage, addiction and emergency room mentions related to acute panic attacks and psychotic episodes, and treatment entry;
- teens are more likely to become addicted than adults
- and, a massive marijuana lobby advertising and promoting abuse has emerged in light of the legalization of the drug in Colorado and Washington.

This community usually values education and healthy neighborhoods for kids above all else. We recently passed a school levy. We build ball fields and new schools. We sacrifice to prepare our kids for college. Yet enabling drug dealers by licensing them sends a message to kids there's no risk. "Softening attitudes about marijuana often precede an increase in marijuana use rates among youth." (Washington Association for Substance Abuse and Violence Prevention)

Is that what we want for our kids? Sure, some will do drugs no matter what. But let's support the kids who want to stay drug-free. Let's stand up to Big Marijuana and say Not In My Back Yard. Maybe we need Mothers Against Drug Dealers.

Sorry to be uncool, but I hate to see my school levy taxes go up in smoke.

Joan Piper

Bainbridge Island

References:

Seattle P-I January 16, 2014

| By Jake Ellison

Washington AG: Cities and counties can ban marijuana businesses

<http://blog.seattlepi.com/marijuana/2014/01/16/washington-ag-can-cities-and-counties-ban-marijuana-businesses/#18853101=0&18413103=0>

Washington Association for Substance Abuse and Violence Prevention
Position Statement on Marijuana

<http://origin.library.constantcontact.com/download/get/file/1102598948519-65/WASAVP+POSITION+STATEMENT+ON+MARIJUANA.pdf>

Yakama Nation fighting marijuana in 10 counties

Top of Form
Bottom of Form

January 13, 2014 3:30 pm • The Daily News and AP

http://tdn.com/news/local/yakama-nation-fighting-marijuana-in-counties/article_a28a8802-7caa-11e3-a22a-001a4bcf887a.html

National Institute of Health

National Institute on Drug Abuse

"Marijuana: Facts for Teens"

<http://www.drugabuse.gov/publications/marijuana-facts-teens>

Swedish Health Watch, Spring 2014

Swedish Health Services

Seattle WA

Joan Piper

PO Box 10633

Bainbridge Island WA 98110

(206) 780-0121

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Monday, April 14, 2014 8:27 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: Marijuana Ordinance
Attachments: 41314 letter.docx

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

-----Original Message-----

From: garynsue2@juno.com [<mailto:garynsue2@juno.com>]
Sent: Sunday, April 13, 2014 9:00 PM
To: Council
Cc: garynsue2@juno.com
Subject: Marijuana Ordinance

Hello. I have attached my letter as public comment on the proposed marijuana ordinance.
Thanks.

Gary Wilmot.

GARY WILMOT

6112 OLD MILL ROAD

BAINBRIDGE ISLAND WA 98110

04/13/14

Dear Bainbridge Island City Council members:

I attended the recent city council meeting at which the zoning of marijuana businesses was discussed. I have strong reservations about the placement of these businesses in residential neighborhoods on Bainbridge Island.

A few of the comments made by some of the council members are cause for concern.

1) Councilman Roth's comments stated that nobody really has any idea of consequences if COBI implements the proposal from the planning commission. Furthermore, he seemed to be saying, we should go ahead and implement it anyway. This reasoning seems reckless in my mind. Please do not let this devolve into a free-for-all. Maintain control. It seems to me that it would be a more sensible and reasonable approach for COBI to take a cautious path in placing this new industry. Why would the council enact laws without having full knowledge of what kinds of effects such laws will have on both the city and the residents?

2) Another comment that I heard from one of the council members was that COBI would realize little tax revenue of any consequence from this venture if it were to be implemented. Only the sales tax from the retail portion would be allocated to us. Revenue generated from tax the producers and processors pay would **NOT** end up in COBI treasuries. Instead, any such revenues would go to the State Of Washington. We will have all of the burden with none of the profit. Why should we change our Municipal Code to cater to a new type of business that offers no public benefit?

3) My third and final comment relates to the illicit nature of the drug. This product is still federally illegal. I believe that it would stretch our resources of COBI law enforcement personnel too thin in the administration of any laws related to legalization of marijuana. We need to be honest on this point. We are not immune here on our Island. There will be an increase in crime connected to legalization—whether it be break-ins at cash-laden (or perceived

to be cash-laden) marijuana facilities, under-age use, DUIs, overdoses, etc. This can be alleviated by properly siting the businesses.

I ask that you, the Bainbridge Island City Council members, take a cautious, measured, and sensible approach to the issue. Please don't allow our idyllic hometown Bainbridge Island to become the Weed Island Of Puget Sound. Restrict marijuana operations, including production and processing of the plant, to the business/industrial sector of the island. It is not appropriate or fair to place this burden on residential family neighborhoods.

Respectfully, Gary Wilmot

Letter to City Planning Commission and Council Members

Bainbridge Island

APR 11 2014

**Dept. of Planning &
Community Development**

April 11th. 2014

To whom it should concern..!

My name is Ernesto Duran and I live at 6087 Old Mill Rd. I purchased this little piece of heaven.... 1.8 acre of land in May of 94. My children and the children of several other neighbors have grow here...! and we all love our quiet.. friendly ... peaceful neighborhood.

This is the very sweet heart of America...! and I really and honestly do not need a drug dealer and grower..! of a powerful mind altering substance...! only a few feet from my property..!

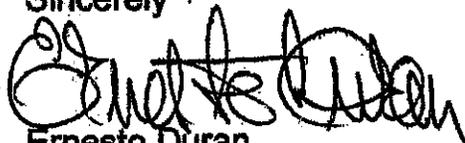
I was never asked my opinion... or participated in any decision making process ... until a neighbor alarmed me with this situation out of control.

I am very respectfully requesting to all of the present members of the City Of Bainbridge Planning Commission and City Council Members to please seriously re consider allowing this tragedy to happen.

There are multiple obvious reasons why this should no be allowed in our family neighborhood...!!

I am happy to meet with every one of you.. personally..; and further prove my point at your convenience.

Sincerely


Ernesto Duran

**Notary Public
State of Washington
JENNIFER CARRILLO
My Appointment Expires Aug 25, 2016**



WASHINGTON SHORT-FORM INDIVIDUAL ACKNOWLEDGMENT (ROW 42.44.100)

State of Washington }
County of Kitsap } ss.

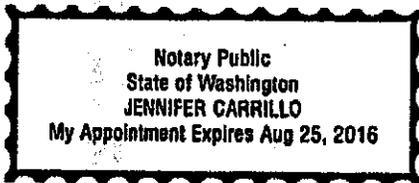
I certify that I know or have satisfactory evidence that Ernesto Duran
Name of Signer

is the person who appeared before me, and said
person acknowledged that he/she signed this
instrument and acknowledged it to be his/her free
and voluntary act for the uses and purposes
mentioned in the instrument.

Dated: 4/12/2014
Month/Day/Year

Jennifer Carrillo
Signature of Notarizing Officer

Notary Public
Title (Such as "Notary Public")



Place Notary Seal Above

My appointment expires
Aug 25, 2016
Month/Day/Year of Appointment Expiration

OPTIONAL

Although the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: letter to City Planning Commission

Document Date: 4/11/14 Number of Pages: _____

Signer(s) Other Than Named Above: _____

Right Thumbprint of Signer
Top of thumb here

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Thursday, April 10, 2014 4:36 PM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW: I-502 Implementation on Bainbridge Island
Attachments: Letter to City Council_April 2014.docx

From: Ingrid Billies [<mailto:iebillies@yahoo.com>]
Sent: Wednesday, April 09, 2014 9:22 PM
To: Anne Blair; Steve Bonkowski; Sarah Blossom; Wayne Roth; Val Tollefson; Roger Townsend; David Ward; Council
Cc: iebillies@yahoo.com; Eric Billies
Subject: I-502 Implementation on Bainbridge Island

Mayor Blair, Members of the City Council -

Thank you for welcoming comments and information regarding implementation of I-502 on Bainbridge Island. We have attached a letter that we would be grateful for you to consider as part of your decision-making on this important issue for the community. If you have any questions, we would be happy to address them. Thank you!

Sincerely,
Eric & Ingrid Billies
6070 Old Mill Road
Bainbridge Island, WA 98110
(206) 201-3220

From: Eric & Ingrid Billies

To: Hon. Anne Blair, Mayor, Bainbridge Island
Bainbridge Island City Council

Subject: Implementation of I-502/Ordinance 2014-06 on Bainbridge Island

Pursuant to City Council meeting on 7 April and the five separate Planning Committee meetings on the above subject, we as residents on Bainbridge Island strongly oppose growing/production operations in Bainbridge Island, but most especially in ALL residential areas to include R-.04.

By way of introduction, we relocated to the Pacific Northwest just last June from southern California and specifically chose Bainbridge Island to make this our new home. BI offered a small town, safe, family-oriented community for our two school-age daughters and offered values similar to our own. While keeping an open mind regarding the state implementation of I-502, we were very surprised that BI would consider opening up marijuana production/grow operations to include residential-zoned areas. We have participated in all of the Planning Committee sessions and have become well-versed on the I-502 law as well as the many zoning permutations and "if-thens" as it might be implemented in BI. Quite frankly, this decision would introduce unnecessary and precedent-setting risk to our neighborhoods and provides no redeeming value to the Bainbridge community at large.

While many of the below risks/issues have been identified by both the minority members of the Planning Committee (and acknowledged by the majority of the Planning Committee) as well as several of BI's residents, I would like to highlight many of those and put them in a residential, yet very personal perspective:

- **Marijuana and Historic Bainbridge Farming Operations** – As we understand it, Bainbridge agricultural history is about being more self-sustained based on island-grown food production. During the initial PC discussion meeting, the members present all agreed that there was a clear distinction between traditional "crop agriculture" (i.e., fruits and vegetables) and marijuana growing. However, the majority's final opinion seems to disregard this earlier decision, blending marijuana growing with traditional "crop agriculture." What is most troubling when reading the PC's majority opinion for advocating marijuana grow operations in certain residential areas, their argument is based on the premise that BI's Comprehensive Plan (last amended in 2004) assumes marijuana is considered a "crop agriculture" similar to fruits and vegetables. To wit, the majority report "picks and chooses" selective portions of the Comprehensive Plan (CP) to - at best - loosely rationalize an argument for marijuana grow operations. Additionally, they later contradict themselves by softly acknowledging that "this type of farming is different from fruit and vegetable production which has occurred on the island."¹ Moreover, upon closer review of the CP, there are several relevant sections which could likely provide a compelling argument *against* island marijuana grow operations. Some of these sections – not highlighted by the minority's report - include:

¹ Summary of Bainbridge Island Planning Commission Discussion (Marijuana Retailing, Processing and Producing on the Island), prepared by Vice Chair Kate Kelly, March 15, 2004, page 3

- One of the five **overriding principles** of the CP include: “**consider costs and benefits to property owners when making land use decisions.**”²
- In the Agricultural Lands section, the PC’s majority opinion glosses over Goals 1 and 2 and skips ahead to loosely links marijuana grow operations to Goal 3. However, Goals 1 and 2 specifically highlight the intent to minimize conflicts between residents and farming operations:
 - Under Goal 1, AG 1.2, “the City should examine whether identifying specific areas on the Island as appropriate for future agricultural operations...Discussion: Creating a specific area or areas for future agricultural operations **aims to limit conflicts with residential uses...**”³
 - Goal 2 intends to, “**minimize conflict between agricultural and non-agricultural uses.**”⁴
- Under the Atmospheric conditions section, Goal 1 is to, “**protect and promote clean air. Discussion: Clean air is necessary for healthful living.**” As part of this goal, the City aims to, “**consider the impacts of new development on air quality as part of the environmental review process and require mitigating when appropriate.**” Goal 4 of this section is to, “**preserve and enhance the view of the dark sky by controlling glare and light trespass.**” (e.g., not allow all night lights in support of grow operations).⁵

The bottom line, is that the CP does not support nor defend marijuana grow operation at all. Using only select provisions of it – and interpreting them to fit a specific argument in favor of grow operations in residential areas - is not accurate and is misleading.

- **Marijuana Grow/Production Operations is a *Business Producing a Controlled Substance*.** Front and center in this issue is the very nature of the operation itself: i.e., this endeavor requires a *business plan and business license* which is incongruous with the very nature and purpose of a planned, zoned residential area. This includes proper infrastructure customized for business operations (e.g., lights, heat, ventilation, water and space) that is not in harmony with residential areas with family and children. Further, the transferability of these licenses necessarily means that if BI allows marijuana grow operations in R-.04 residential areas, we will be introducing Class 1 drug production for the foreseeable future in these areas. Per a recent discussion with the Liquor Control Board, it was verified that licensees outside of Bainbridge Island (as well as on Island outside of R-.04) may move here and can transfer their grow production license to the Island as long as their properties meet local zoning requirements.⁶ Conceivably, every R-.04 property that meets minimum requirements may have a marijuana grow operation without further consent from the city. The City Council should carefully assess this precedent and the impact on those residents and the community at large.

² Bainbridge Island Comprehensive Plan (2004), Overriding Principles

³ Ibid, Environmental Element, Agricultural Lands section, Goal 1 AG 1.2, page 20

⁴ Ibid, Goal 2, page 21

⁵ Ibid, Atmospheric Conditions section, pages 11-12

⁶ Telephone conversation between Ingrid Billies and Mr. Frank O’Dell (WA State Liquor Control Board), April 9, 2014

- Personal Safety/Risk** – While legalized in the state of Washington, marijuana, grown for recreational purposes, is still a Class 1 controlled substance. The very fact that state law requires 24X7 security camera surveillance, conspicuous signage and documented transportation and custody chain requirements clearly indicates there is a recognized, significant degree of risk. This could be risk in the form of theft and/or other criminal element, especially since this is still an all-cash business. Having this near or even close to children makes absolutely no sense and the methods of enforcement (e.g. local law enforcement and WA State Liquor Control Board), would offer minimal, real time mitigation of this risk. One of the most compelling – and personal – items of the Minority Report from the Planning Committee sums up the impact of this safety issue to many residents including us: *“the state has deemed it necessary to impose 1000-ft buffers to separate places where children congregate (schools, parks, playgrounds, etc.) from the production of the controlled substance and industrial business of marijuana, yet these children are not offered this same protection in their neighborhoods where they play. For many families, one of the main reasons to move to Bainbridge Island was so that their children could play, unsupervised, in safe residential neighborhoods.”*⁷
- Quality of Life** – Both in the near term and especially over time, this business will adversely impact residents, especially those that are adjacent to grow operations. As discussed at the initial City Council meeting as well as at several of the Planning Committee meetings, it is acknowledged that flowering operations will exhaust a noxious smell and allergen, and will drive residents indoors during these periods unless these operations are conducted in a hardened, closed building vice a transparent greenhouse. It will also require continuous/near continuous light. Residents of BI should not be burdened by this type of operation – both the smell and the light (especially at night in a transparent greenhouse). As acknowledged by the City Council, business viability for production operation will most likely require year round crop grow – by extension, this becomes a year round burden on neighboring residents.
- Property Values** – Let’s be perfectly honest: living next to or near marijuana grow operations WILL detrimentally affect residential property values in those impacted areas. It is only a matter of time before home close documents will require disclosure of proximate production operations for those that choose to either sell or rent. Rightly or wrongly, this will significantly narrow the potential buyer base and drive down property values. Many of us have invested significant life savings to live in this special community. It does not make sense to drive down property values for our residents and the tax base of our community for the convenience of a select few marijuana production/process applicants in any residential-zoned area.

We appreciate the time of the Planning Committee and the City Council to both research and discuss this important issue as it applies to the community. And we would be happy to address this personally in front of the Council if necessary.

⁷ Memorandum from Planning Committee members Julie Kriegh, John Thomas and Maradel Gale, Re: Marijuana Ordinance, March 18, 2014, paragraph 5.

But this is a very personal one for us who would be most impacted by a decision to allow grow operations of a Class 1 controlled substance throughout our neighborhood. The City already decided to prohibit any marijuana-related uses on city-owned property which includes roughly 60 acres of agricultural land managed by Friends of the Farms and subleased to farmers. Yet, we are considering placing the risks, burdens and consequences of a marijuana grow operation on selective residents. I would ask members of the Council to put yourselves in our shoes and our homes and ask yourself how comfortable you would feel with a marijuana grow operation essentially in your front yard.

Sincerely,

Eric & Ingrid Billies

6070 Old Mill Road NE

Bainbridge Island, WA 98110

(206) 201-3220

Jennifer Sutton

From: Kathy Cook
Sent: Wednesday, April 09, 2014 3:51 PM
To: CityCouncil
Cc: Doug Schulze; 'James E. Haney'; Jennifer Sutton; Roz Lassoff
Subject: FW: Marijuana

City Council,

Please see public comment below.

Kathy Cook
Director, Planning and Community Development
City of Bainbridge Island
280 Madison Avenue No.
Bainbridge Island, WA. 98110
206-842-2552

From: Jim Shore [<mailto:jimonisland@msn.com>]
Sent: Wednesday, April 09, 2014 3:48 PM
To: Kathy Cook
Subject: Marijuana

Hi Kathy,

This email is unrelated to other issues we have been working on.

As you may know, I am nationally known for my work representing companies with regard to marijuana issues and their workforces. I am confused by the proposed COBI marijuana ordinance. How can COBI possibly rationalize placing something that is highly illegal for all purposes under federal law into residential neighborhoods, let alone under the purported protection of agricultural laws that are already creating serious issues? Whether one agrees with its designation or not, marijuana remains a Schedule I banned drug under the federal Controlled Substances Act. Eric Holder's "policy" probably won't hold up against another administration (definitely not a Republican one), or the U.S. Supreme Court's *Gonzalez v. Raich* decision. Can the City table this until the federal laws are officially loosened (if they ever are)? I'm not saying marijuana is good or bad. I'm just stating the fact - it is highly illegal, for all purposes, under federal law.

Thanks for listening.

Jim

Theresa Rice

From: Jennifer Sutton
Sent: Wednesday, April 23, 2014 2:28 PM
To: 'Christine Teske-Subotic'
Cc: PCD
Subject: RE: Why ban medical?

Hi Christine,

The Planning Commission made a recommendation to the City Council to ban collective gardens. The City Council hasn't made a decision on collective gardens or any other marijuana related use yet. You may know that the Council 1st discussed the issue on April 7th. They will discuss the issue at another study session next Monday, April 28th. The meeting begins at 7pm, but I don't know yet where on the agenda this item (ordinance 2014-06) is. You could check the City website Thursday afternoon to look at the agenda and materials prepared for the meeting. The City Council will likely hold their public hearing and make a decision on the ordinance on May 12th, we will know for sure after the April 28th meeting.

In the meantime, I will forward your comment to them, and feel free to call me if you have additional questions.

Jennifer Sutton, AICP
Special Project Planner
Department of Planning & Community Development City of Bainbridge Island
(206) 780-3772

P Please consider the environment before printing this email and any attachment. Thank you.

-----Original Message-----

From: Christine Teske-Subotic [<mailto:cteske65@gmail.com>]
Sent: Monday, April 21, 2014 11:54 PM
To: Jennifer Sutton
Subject: Why ban medical?

Jennifer,

I believe we spoke briefly at the planning commission meeting where recommendations were made regarding implementing the will of the voters on Bainbridge.

I am curious as to why the both the planning committee and the city council have decided to ban collective gardens? Under Washington law, collective gardens were deemed to be legal and compassionate, as those who are injured or sick enough to require the use of cannabis, simply do not have the physical ability to garden. This is also why voters and the state also allowed for the creation of "dispensaries", so that those who live in apartments etc.. can still get high-quality locally grown cannabis.

Yet for 15 years, there has been a moratorium on such basic human decency on this island.

I was just wondering why the island discriminates against its most vulnerable populations?

Thank you,
Christine Teske-Subotic

Jennifer Sutton

From: Theresa Rice on behalf of PCD
Sent: Wednesday, April 09, 2014 10:18 AM
To: Jennifer Sutton; Kathy Cook
Subject: FW: Ord 2014-16, Effect of Medical Marijuana Laws on Crime

Theresa C. Rice, CAP
Administrative Secretary
206.780.3758 (direct)

-----Original Message-----

From: Alexander Scott [<mailto:ajs@quincefarm.net>]
Sent: Sunday, April 06, 2014 10:36 AM
To: Council; PCD
Cc: CityAdmin
Subject: Ord 2014-16, Effect of Medical Marijuana Laws on Crime

Council, Planning, City Admin --

I wanted to pass along this recent study about crime rates in states which have legalized medical marijuana in case you have not seen it yet.

The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006
<http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0092816>

Alexander

Jennifer Sutton

From: Theresa Rice on behalf of PCD
Sent: Wednesday, April 09, 2014 10:15 AM
To: Council
Cc: Jennifer Sutton; Kathy Cook
Subject: FW: Ord 2014-16, Comments on the Planning Commission Minority Opinion
Attachments: commentsonpcminorityopinion.pdf

Theresa C. Rice, CAP
Administrative Secretary
206.780.3758 (direct)

-----Original Message-----

From: Alexander Scott [<mailto:ajs@quincefarm.net>]
Sent: Monday, April 07, 2014 3:00 PM
To: Council
Cc: PCD
Subject: Ord 2014-16, Comments on the Planning Commission Minority Opinion

Council, Planning --

I put together some comments on the Planning Commission minority opinion (attached as a pdf).

Alexander

Regarding Proposed Prohibition of Marijuana Agriculture on Bainbridge Island

Alexander Scott

April 7, 2014

Regarding the Planning Commission Minority Opinion

While reading through the recommendation of the Planning Commission members who voted to disallow cultivation of marijuana in areas of the island currently zoned for agriculture, I realized that I had been remiss in correcting misinformation that had been presented to the Planning Commission. So, I went through the dissenting recommendation and pulled out some things that stood out to me for comment or correction.

(My comments are in a sans-serif font)

Minority Opinion

To: Members of Bainbridge Island City Council
From: Planning Commission members Julie Kreigh, John Thomas and Maradel Gale
Re: Marijuana ordinance

March 18, 2014

The Planning Commission vote on March 13, 2014 was divided, 9-3, on the matter of allowing marijuana to be grown in a residentially-zoned area. The final vote was 4-3 when the Planning Commission chair cast his vote to break the tie. Over a period of five meetings, the PC discussed several matters:

What the vote to legalize marijuana meant on Bainbridge Island

1. Definitions of marijuana and various aspects of marijuana cultivation and processing
2. Where a retail marijuana license could be granted
3. Where marijuana could be processed on the island
4. Where marijuana could be grown (produced) on the island

What did the I-502 vote mean?

The most divisive discussion centered around the meaning of the vote on I-502 on Bainbridge Island. It was often stated that the $\pm 70\%$ in favor of legalization vote meant that Bainbridge Islanders wanted pot to be available and grown on the island. This was disputed by those who felt that the I-502 vote was simply about decriminalizing the possession and use of pot, and had nothing to do with the zoning regulations in our community. The issue was nicely articulated by one citizen who commented that if the I-502 ballot measure had stated that

the issue was whether marijuana could be grown and/or processed on our residential land, the vote most likely would have been the opposite of what occurred with the question of legalization.

Of course, we voted on an initiative that did more than decriminalizing possession. But in order to not have to speculate about people's thoughts on marijuana agriculture, I polled nearly every residence along the road where I have proposed growing marijuana in a small greenhouse. I did it twice. The first time to gauge people's thoughts about my proposal for myself and the second, to collect signatures to give to the City since it was clear that the majority of my neighbors did not object to my plans.

I believe I mentioned twice to the Planning Commission that the silent majority on my street is largely assenting (in line with Bainbridge's I-502 vote) – once in submitted written comment, and once during the March 13 public hearing.

Definitions of Marijuana

Early in the discussion, the PC voted to define marijuana through a separate set of definitions, as opposed to merely lumping the crop in with other crop agriculture on the island. The reasons for this were to recognize the state-regulated status of the crop and conform the BIMC to the definitions included in the state WAC. Unfortunately, the application of this distinction was not recognized by the majority who argued that our code exalts agriculture and that in order to "remain true to the Comprehensive Plan goals associated with encouraging open space and agriculture on the island" we should allow marijuana growing in the R 0.4 zoning district. The elements of the Comprehensive Plan that were cited to support this recommendation are those which in fact are important to our community. However, the entire discussion at the time these elements were included in the Comprehensive Plan was focused on food production, and marijuana was never explicitly or implicitly included in that discussion.

What the community wanted at the time of the Comprehensive Plan adoption, and most likely would still be widely supported is the opportunity to produce locally on the island as much of our food as possible.

It may be apt to govern growing marijuana as a subset of other crop agriculture. The municipal code treats pigs slightly differently than other livestock. There are special rules for roosters. The Municipal Code includes cultivation of non-food crops in the scope of permitted agriculture.

Minority Recommendation:

To deal with this confusion, it is recommended that the City Council amend BIMC 18.36.030.23, "Agriculture, Crop" to state that mar-

ijuana is excluded from this definition. That will remove marijuana growing operations from the crop agriculture protections under the BI Municipal Code. In addition, an amendment to BIMC 16.26.020 B, should add the words "but excluding marijuana" after the words "ornamental crops." These amendments recognize the fact that marijuana is very different from the types of crops which are afforded a measure of heightened protection under our municipal code, and that marijuana is a crop that will not be sold in Town and Country nor at the Farmers Market, that can be a nuisance in terms of odors from the flowering plant, and that it is a regulated substance which is still illegal under federal law.

Retail Sales of Marijuana

The retail issue was discussed over the course of a two-hour session, and the final determination was that it should be sold in our areas zoned for commercial use, overlaid by the state restrictions related to distances from such uses as schools, playgrounds, parks, transit centers, day care centers, arcades, etc. This recommendation received unanimous support from the Planning Commission.

Marijuana Processing

At one point, a majority of the Planning Commission recommended that all marijuana production (growing) and processing be limited to the Business/Industrial Zoning District on the island. However, it was believed that doing so would effectively preclude any growing and processing on Bainbridge, since the amount of land so zoned is limited, and there may not be property owners with land zoned B/I who are willing to sell or lease land or buildings for marijuana production or processing. In the final recommendation, given the industrial nature of some forms of processing (chemical as opposed to mechanical), the recommendation by the Planning Commission was unanimous to limit marijuana processing to the Business/Industrial Zone.

I believe that this should be revisited as it would create problems (having to do with packaging) for producers located outside of the BI zone.

Growing/Production of Marijuana

The split in the commission was on the issue of growing marijuana. The minority believes it is not appropriate to allow growing in residential areas for the following reasons:

1. Residential zoning is our most protected zone, and the incursion of what can best be described as industrial growing is inappropriate in these neighborhoods. The reasons for concluding that this is akin to an industrial operation as opposed to growing something like spinach include:

Growing a plant (for its flower) in a greenhouse/hoophouse is unambiguously normal agriculture.

- (a) The strict regulations established by the state for growing include such requirements as 24/7 complete video surveillance systems (WAC 314-55-083 (3), controlled access and entrances and exits with fixed camera coverage in addition to alarm systems (WAC 314-55-083 (2). A 24-hour "quarantine" area for crops being transported from the grow operation to the marijuana processor or retailer must be maintained. (WAC 314-55-083 (3)(f))
- (b) Conspicuous signage is required to be posted on the premises (WAC 314-55-086)

This is a neatly written sign by the entry points to the licensed operation (door of greenhouse, gate of outdoor grow) that says "Persons under twenty-one years of age not permitted on these premises."

- (c) There are mandatory requirements for training and identification of employees
- (d) Extensive records of each daily application of pesticides applied to the marijuana plants or growing medium must be recorded and maintained. (WAC 314-55-087 (1))
Mandated record keeping for pesticide application is normal.
- (e) Recordkeeping requirements as detailed in WAC 314-55-087 are required for the grow operation from seed to final product.
- (f) Issues of waste and waste water management are detailed in WAC 314-55-097. This is not a simple composting operation

Actually, you are allowed to do simple composting. You just have to shred the plant and mix it with something else, which is useful for composting anyway. You are also allowed to till marijuana crop residue in normally.

- (g) Quality assurance regulations for products moving to direct use such as marijuana flowers are detailed in WAC 314-55-102
Labeling food/herbs is standard and you can only label how much active ingredient there is in an herb if you do testing. Mandated QA testing is also standard where there are potential issues, for example, testing peanuts for aflatoxin.
- (h) A producer must have an operating plan which includes the above plus the qualifications and training plan for employees.

You must demonstrate to the state that you are qualified to operate this business responsibly. This is fairly normal. For example, on Bainbridge, if you want to run a large number of livestock you must demonstrate to the city that you have a plan for doing so appropriately.

2. The majority recommendation contains no restrictions on the number of employees involved with the grow operation, nor the impacts on the neighborhood and its roads of the added traffic attendant to employees, transportation of materials utilized in the grow operation, transportation of product from the operation, parking for employees. Even our major and minor home operations have strict standards in these areas.

This is the same issue with all farming on Bainbridge. The major difference is that a viable marijuana farm can be smaller, generate less traffic, have less employees, and move less volume of product and supplies. Indeed, my

operation, which has no employees, would generate less traffic than if I commuted to work everyday. Nonetheless, the majority recommendation includes a required Site Plan Review, which I tentatively understood to address those concerns. I recall hearing that some city staff were interested at one point in mandating SPRs to all new agriculture, though.

3. *Personal and neighborhood safety may become an issue due to the fact that this is still a cash-only operation as the banking industry has not yet been assured by the federal government that they can legally handle marijuana-related money.*

Two things: 1. There is no reason to store cash in a greenhouse and there is no reason for transactions to happen in the place of cultivation. 2. The federal government issued guidelines to banks, permitting them to service regulated and otherwise lawful marijuana businesses. Guidelines by the DOJ (instead of legislation) are likely inadequate for most banks but there are reports from Colorado that certain banks are working with new regulated businesses.

4. *Even with property-line setbacks, on a one-acre parcel of property which is the minimum size on which marijuana cultivation would be allowed, it will be difficult to actually conceal the fact that a marijuana grow operation is on the property. There is a very real question about the property valuation impacts of such an activity on neighboring properties. The state also requires signs to be prominently placed on the property.*

I am surprised if the intent of the setbacks was concealment. The LCB publishes lists of proposed business locations and invites comment on them from the public and from local jurisdictions. There is a very real question about property rights and prejudicially denying community members a livelihood. The state does not require signs to be prominently placed on the property.

5. *The State has deemed it necessary to impose 1000-foot buffers to separate places where children congregate (schools, parks, playgrounds, etc.) from the production of the controlled substance and industrial business of marijuana, yet these children are not offered this same protection in their neighborhoods where they play. For many families, one of the main reasons to move to Bainbridge Island was so that their children could play, unsupervised, in safe residential neighborhoods.*

Some of the I-502 rules including the 1000-foot buffers were written into the initiative itself. Although the Liquor Control Board was tasked with determining certain details they were forbidden from substantially changing anything explicitly given in the initiative. In fact, the LCB tried to soften that provision somewhat (by changing how 1000 feet was measured) until the federal government protested. Cannabis growing in a greenhouse is not harmful to nearby children anymore than hops growing on a

trellis are harmful to children. Cars, on the other hand, are certainly dangerous to children. Perhaps we could focus energy on reducing speed limits on the island instead.

6. *The city has a mechanism to expand and change zoning on the island. This occurs through the comprehensive plan update, due in 2016, or a plan amendment process which occurs every three years. If the island does not currently have enough land zoned for business/industrial use, these are the mechanisms to change land uses to meet changing needs. To circumvent this established process and allow the production of marijuana in residential neighborhoods just because we currently do not have much land in the B/I zone establishes a dangerous precedent.*

Or we could let agriculture happen in places zoned for agriculture!

7. *This legislative designation, to allow marijuana to be grown in one of our residential zones, is really for the financial gain of a very few people who will be able to take advantage of this zoning amendment. State law has strictly limited the number of producer and processor licenses on Bainbridge. Therefore, while this recommended action is not spot zoning per se, as it amends the zoning code for an entire residential zone (R 0.4), in fact it is zoning done for the benefit of only a very few people - those who have applied for and have an interest in obtaining a marijuana producer license and who ultimately meet the state standards to receive a producer license. Unlike legitimate zoning, there is no public benefit for all of the rest of the people who will potentially be negatively affected by this action.*

Producer and processor licenses are not limited by number. In the absence of solid evidence for negative effects, it seems unnecessary to me to prevent something because some people in our community may benefit. In a small community such as ours, zoning for any particular thing may only apply to a handful. The general principle of zoning based on evidence and community good and individual freedom applies to everyone.

8. *Since this type of agriculture is not for the production of products that can be widely sold to, used and enjoyed by the citizens of this community, the real motive for commercial marijuana production is speculative financial gain. And that is one purpose of the Business/Industrial zone, which is where this activity should take place.*

I am offering to produce an organically and sustainably and locally grown medicinal herb that can be legally consumed by every person over 21 years on the Island all while paying considerable taxes that support, among other things, education and drug abuse prevention.

9. *The Planning Commission majority, apparently in consideration of the extraordinarily high energy usage associated with the*

growing of marijuana, suggested that marijuana growing be allowed only "outdoors or in greenhouses." However, "greenhouse" as defined in BIMC 18.36.030.101 states it is "an establishment where flowers, shrubs, vegetables, trees and other horticultural and floricultural products are grown, both in open and enclosed buildings." This definition does specify any sort of percentage of natural light penetration into the building, and in fact means a totally enclosed warehouse-type operation meets the current definition of greenhouse.

This is not a reason to disallow cannabis farming. The ordinance can be written in a way that captures the intended meaning.

The minority of three Planning Commission members strongly urges the City Council to respect the intent of the Bainbridge Island zoning code, and limit the production and processing of marijuana to the Business/Industrial zone, and not allow any incursion into our residential zones.

Jennifer Sutton

From: Theresa Rice on behalf of PCD
Sent: Wednesday, April 09, 2014 10:03 AM
To: Jennifer Sutton; Kathy Cook
Subject: FW: Marijuana Zoning Ordinance

Theresa C. Rice, CAP
Administrative Secretary
206.780.3758 (direct)

From: Sue Willmot [<mailto:ufcwsue@yahoo.com>]
Sent: Tuesday, April 08, 2014 10:54 AM
To: PCD; Anne Blair; Steve Bonkowski; Sarah Blossom; Wayne Roth; Val Tollefson; Roger Townsend; David Ward; garynsue2@juno.com
Subject: Marijuana Zoning Ordinance

Dear City Council and Planning Commission Members,

I would like to thank the City Council and Planning Commission and Planning Department for the meeting last night, and for my opportunity to participate in the discussion of marijuana business zoning.

As a citizen who will be directly affected by the outcome of this decision, I am trying to step back and look at this in a practical manner. I am relying on my experience of serving as a UFCW Local 21 Union Negotiator and Executive Board Member and what I have learned from it. It is a difficult position to be in and I deeply understand the burden of making a decision that will impact the lives of many. Our local, by the way, has over 40,000 members and of course we in the union always had the option of a taking a vote at any time. So, if you don't mind, I will share my experience with you.

- 1.) A cautious approach is best when dealing with unknown outcomes.
I heard many comments and questions from Council members about how much is not known. There were some very pertinent and intelligent questions. You will not get all the answers and that is uncomfortable. This is an experimental, new industry in our state and we will not know all of the ramifications until its implementation.
- 2.) When the outcome is not clear, if you project or imagine the best and worst case outcomes of the choices, you can make your best decision from there. I see the two separate recommendations of the planning commission as the choices.

Here is my take on the worst case/best case scenarios as to the production category of the industry:

Best case scenario with the Majority opinion of four Commissioners: Tier 1 production facilities are allowed in residential areas. It goes off without any impact on neighborhoods and the licensees make a profit.

Best case scenario with the Minority opinion of three Commissioners: Tier 1 production facilities are allowed in business/industrial areas. It goes off without any impact on neighborhoods and the licensees make a profit. We will have time and be able to see what happens in other jurisdictions to gage if we want to expand it to other areas of the Island.

Worst case scenario with the Majority opinion of four Commissioners: Tier 1 production facilities are allowed in residential areas: They create security and crime problems and nuisances foreseen and unforeseen in neighborhoods on the Island. They cost the city money. They impact property values. Once the zoning is in place, other licensees transfer operation to the community and multiply the issues. (Licensees are allowed to change location with permission from the WSLCB.) Like the Visconsi development, it will be difficult to curtail with the zoning already in place.

Worst case scenario with the minority opinion of three commissioners: Production is allowed in only the business/industrial zones. They create security and crime problems and nuisances foreseen and unforeseen in neighborhoods on the Island. They cost the city money. They impact property values. Once the zoning is in place, other licensees transfer operation to the community and multiply the issues. (Licensees are allowed to change location with permission from the WSLCB.) Like the Visconsi development, it will be difficult to curtail with the zoning already in place.

Or, conversely, there is not an available property in the zone and there will not be not a production facility at this time on the Island. We will have time and be able to see what happens in other jurisdictions to gage if we want to expand it to other areas of the Island.

To me, the choice is clear. This is truly an unknown. Start with the most cautious approach with the least possible negative impacts on the least possible number of people. Not the most possible negative impacts on the most possible number of people.

Thank you again.

Sincerely,
Susan Wilmot

Jennifer Sutton

From: Theresa Rice on behalf of PCD
Sent: Wednesday, April 09, 2014 10:00 AM
To: Anne Blair; Bob Scales; David Ward; Debbi Lester; Kirsten Hytopoulos; Sarah Blossom; Steve Bonkowski
Cc: Jennifer Sutton; Kathy Cook
Subject: FW: Ord 2014-16, Public Comments

Theresa C. Rice, CAP
Administrative Secretary
206.780.3758 (direct)

-----Original Message-----

From: Alexander Scott [<mailto:ajs@quincefarm.net>]
Sent: Tuesday, April 08, 2014 1:40 PM
To: Council
Cc: PCD
Subject: Ord 2014-16, Public Comments

Hello Council, Planning --

I have some more snippets of information that I would like to relay to you.

This time I wanted to address some ungrounded claims about marijuana and I-502 regulations made by citizens recently.

1. It has been suggested that the trend in surrounding jurisdictions has been to ban or heavily restrict to industrial zones I-502 marijuana production.

It has been glossed over that production in greenhouses/outdoors is permitted in Mason and Jefferson in places where agriculture would otherwise be allowed. It is also permitted in ag zones in King county. I do not see a strong trend in either direction. It is awkward to compare to cities where agriculture is not normally allowed.

2. The thing about I-502 being cash only keeps being repeated.

The DOJ said that they would permit banks to service regulated and otherwise lawful marijuana businesses provided that they followed certain guidelines. Although DOJ guidelines instead of legislation is not ideal, there are reports from CO that some banks are stepping up. There are no reports that I am aware of of the DOJ renegeing on their promise and confiscating assets from these new businesses.

There is no reason to store cash in or remotely near the place of cultivation anyway.

3. Insurance for I-502 businesses/properties is not difficult to get.

4. Crime. Evidence for increase in property (or violent) crime in and around marijuana businesses is lacking despite over a decade of experience with medical marijuana. The merits of stealing a small quantity of robust and fast growing plants that could have been grown secretly with legal cover from medical marijuana laws seems doubtful to me.

I have suspected that the security requirements are just as much about protecting the state from fraud and tax evasion by licensees as it is about protecting the licensees from

criminals; the LCB needs to be able to say that the marijuana sold under its system was produced under its system.

For the public record, people trying to sabotage this venture by making false, misleading, and unsubstantiated statements is getting a little bit tiresome.

Alexander

Jennifer Sutton

From: Roz Lassoff on behalf of Council
Sent: Tuesday, April 08, 2014 9:27 AM
To: Kathy Cook; Jennifer Sutton; Doug Schulze
Subject: FW:

-----Original Message-----

From: Alexander Scott [<mailto:ajs@guincefarm.net>]
Sent: Tuesday, April 08, 2014 12:41 AM
To: Council
Subject:

Council,

There was a question during the April 7 Council discussion about the ways that people can grow/obtain medical marijuana. Growing your own and collective gardens were listed but there is a third way which is for someone with a qualifying condition and a doctor's note to designate someone else as their personal cannabis gardener.

Under Washington State law, marijuana can be grown and processed in every household on Bainbridge. It has been this way for 14 years.

Alexander

Implementation of I-502
 Port Pending State Marijuana Business
 Madison Applications & Sensitive Use
 Buffers



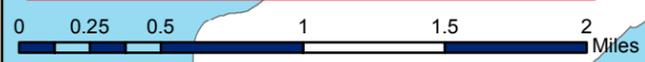
Legend

State Application Type

- Producer (Tier # in Application)
- Producer, Processor
- Retail
- State Sensitive Uses Buffer

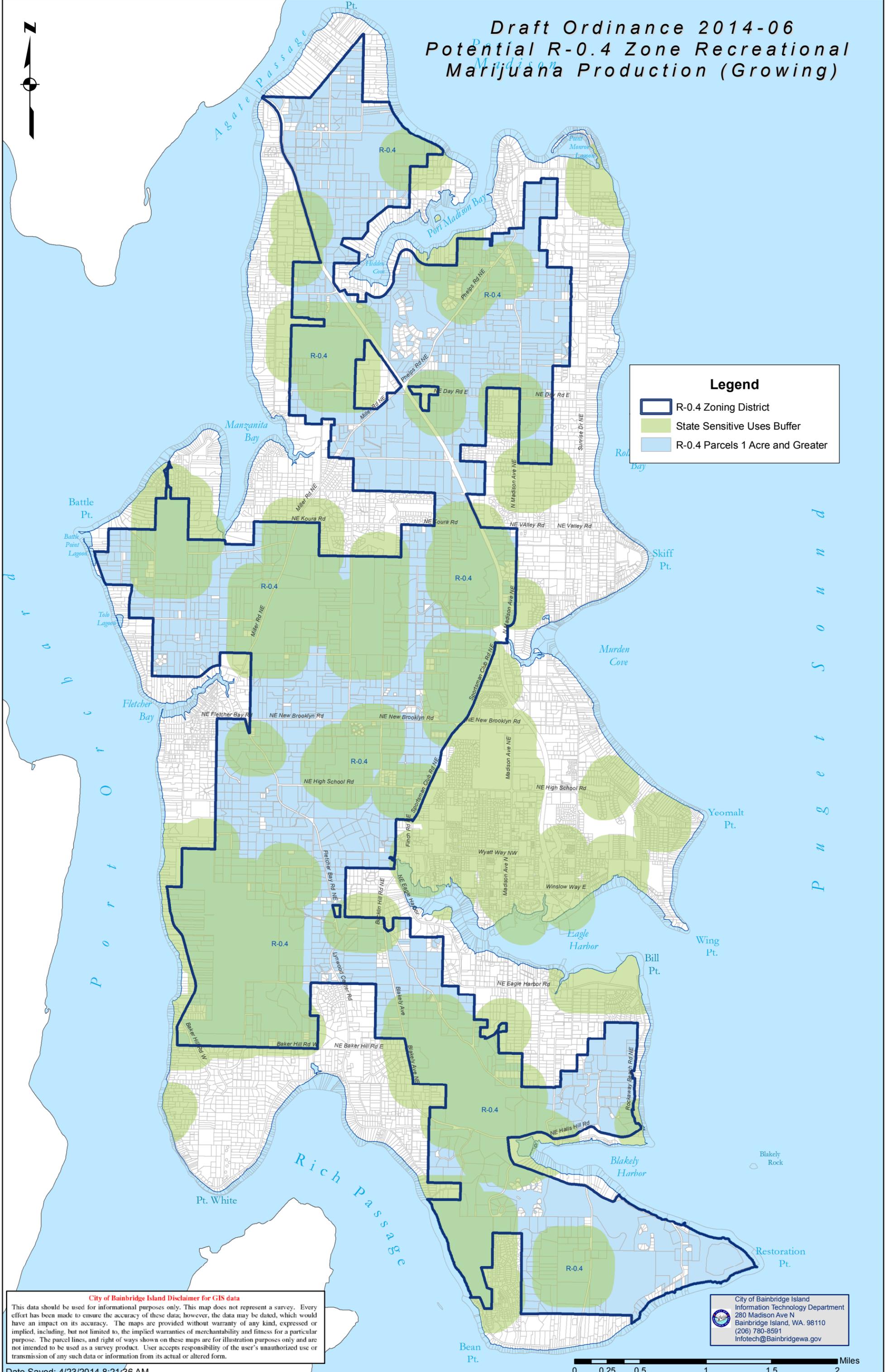


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 280 Madison Ave
 Bainbridge Island, WA 98110
 (206) 780-8591
 Infotech@Bainbridgewa.gov

Draft Ordinance 2014-06 Potential R-0.4 Zone Recreational Marijuana Production (Growing)



Legend

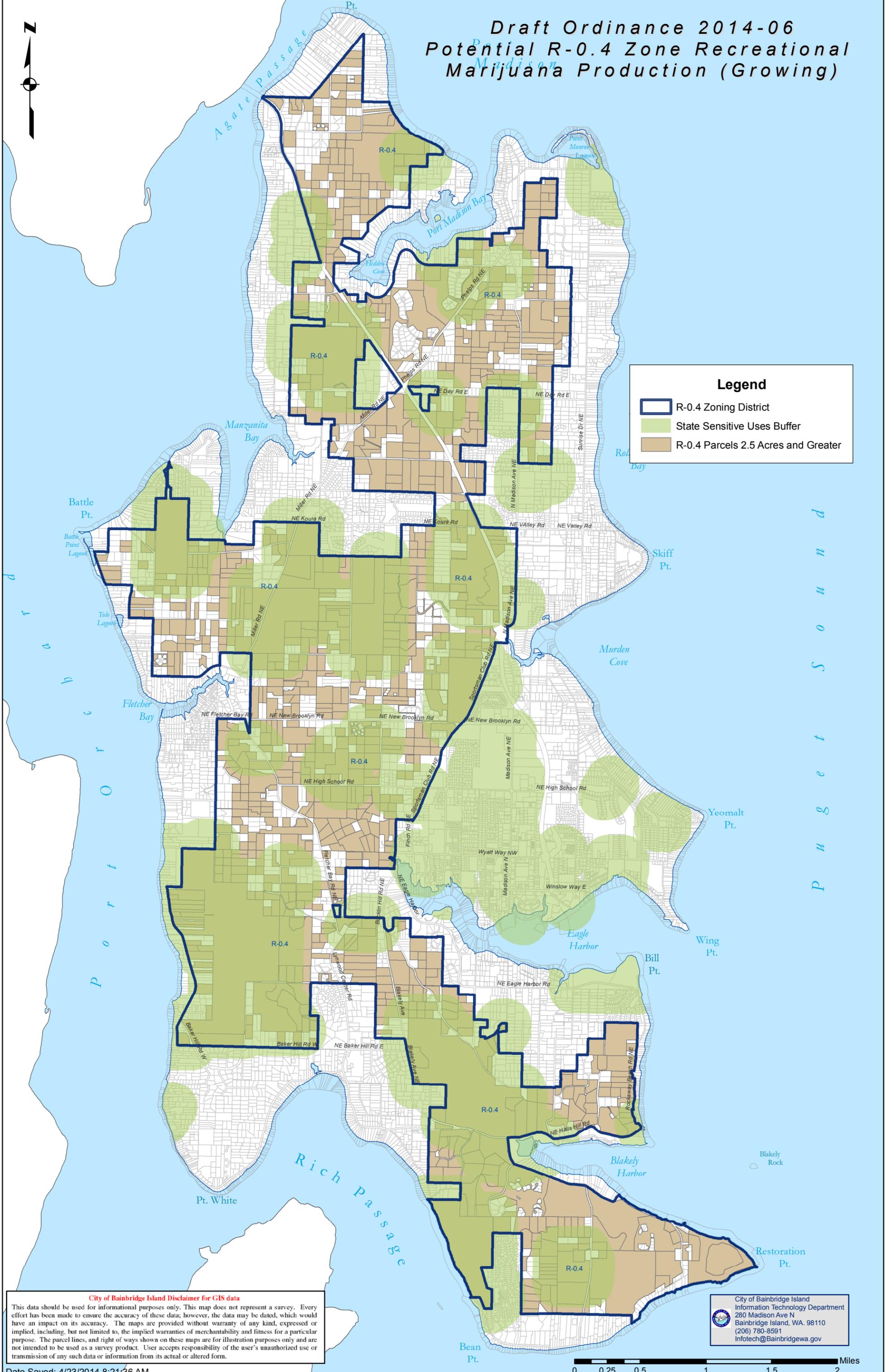
- R-0.4 Zoning District
- State Sensitive Uses Buffer
- R-0.4 Parcels 1 Acre and Greater

P u b l i c S o u n d

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Draft Ordinance 2014-06 Potential R-0.4 Zone Recreational Marijuana Production (Growing)



Legend

- R-0.4 Zoning District
- State Sensitive Uses Buffer
- R-0.4 Parcels 2.5 Acres and Greater

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