

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: April 28, 2014

AGENDA ITEM: I-502 Recreational Marijuana - PC Recommendation and Development Standards	AGENDA SECTION: New Business	
PREPARED BY: Chris Holland, Planning Manager	APPROVED BY:	
ATTACHMENTS: 1. Ordinance – Prohibiting the Production, Growth, Manufacturing, Processing, Accepting of Donations, Giving Away or Selling of Recreational Marijuana or Marijuana Infused Products 2. I-502 Committee Meeting Minutes (11.05.13, 11.19.13) 3. PC Public Meeting Minutes (11.26.13) 4. PC Public Hearing Minutes (01.14.14) 5. PC Public Meeting Minutes (02.25.14, 03.11.14, 03.25.14) 6. I-502 Development Standards 7. Retail Boundary Alternatives Maps 8. 1,000' Buffer Map	MAYOR	CAO

DESCRIPTION:

On November 26, 2013 the Planning Commission (PC) held a public workshop to discuss recreational marijuana development standards and alternatives presented by the I-502 Committee. On January 14, 2014 the PC held a public hearing to discuss recreational marijuana development standards and the alternatives presented by the I-502 committee, and to consider public testimony. At the public hearing the PC unanimously recommended prohibiting marijuana facilities within the City.

Several House Bills related to recreational marijuana were being considered by the State Legislature this session. House Bill 2322, if approved, would have prohibited cities from impeding the creation or operation of commercial marijuana facilities. The Legislature did not take action on HB 2322. However, based on the potential of HB 2322 being passed by the Legislature, the PC reviewed and considered recreational marijuana development standards at public meetings held on February 25, 2014, March 11, 2014 and March 25, 2014.

The PC is still recommending City Council prohibit marijuana facilities, however, if the Legislature were to adopt regulations prohibiting cities from impeding the creation or operation of commercial marijuana facilities the PC recommends City Council hold a public hearing and consider adopting the attached recreational marijuana development standards.

RECOMMENDED ACTION:

1. Approve the ordinance prohibiting the production, growth, manufacturing, processing, accepting of donations, giving away or selling of recreational marijuana or marijuana infused products.
2. Schedule a public hearing to consider adoption of recreational marijuana development standards.

COUNCIL ACTION:

CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING PORTIONS OF THE MARYSVILLE MUNICIPAL CODE (MMC) SECTION 22A.020.040 ENTITLED “C” DEFINITIONS; SECTION 22A.020.140 ENTITLED “M” DEFINITIONS; SECTION 22A.020.190 ENTITLED “R” DEFINITIONS; SECTION 22A.020.220 ENTITLED “U” DEFINITIONS; SECTION 22C.010.060 TABLE ENTITLED “PERMITTED USES” ADDING NEW PROVISIONS TO THE TABLE; SECTION 22C.010.070 ENTITLED “PERMITTED USES-DEVELOPMENT CONDITIONS’ TO ADD A NEW FOOTNOTE (48); SECTION 22C.020.060 TABLE ENTITLED “PERMITTED USES” ADDING NEW PROVISIONS TO THE TABLE; SECTION 22C.020.070 ENTITLED “PERMITTED USES-DEVELOPMENT CONDITIONS TO ADD A NEW FOOTNOTE (69) - RELATING TO PROHIBITING THE PRODUCTION, GROWTH, MANUFACTURING, PROCESSING, ACCEPTING OF DONATIONS, GIVING AWAY OR SELLING OF RECREATIONAL MARIJUANA OR MARIJUANA INFUSED PRODUCTS WITHIN THE CITY; TERMINATING THE EFFECTIVENESS OF MARYSVILLE ORDINANCE NO 2936 UPON THIS ORDINANCE BECOMING EFFECTIVE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AND EFFECTIVE DATE.

WHEREAS, since 1970, federal law has prohibited the manufacture, delivery and possession of marijuana as a Schedule I drug, based on the federal government’s categorization of marijuana as having a “high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment.” *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

WHEREAS, MMC Section 5.02.080 prevents the City from issuing business licenses to any person “who uses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance of the city or the statutes of the state of Washington or any other applicable law or regulation. The granting of a business license shall not authorize any person to engage in any activity prohibited by a federal, state or local law or regulation.” and

WHEREAS, MMC 5.02.110 (2) (c) grants the City Hearing Examiner authority to revoke any city business license whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city law or ordinance; and

WHEREAS, MMC 22A.010.040 (3) requires all land uses within the City to comply with all applicable federal, state, regional and city laws; and

WHEREAS, because all manufacturing and delivery of marijuana is strictly illegal under federal law, MMC Sections 5.02.080, 5.02.110 and 22A.010.040 (3), effectively prohibit any business operation or land use that involves manufacturing or delivering marijuana; and

WHEREAS, the City Council finds that there are likely harmful secondary effects associated with marijuana production, processing, distribution and retail sales which include but are not limited to the increased risk of invasion of marijuana business facilities for purposes of theft, burglary, and robbery resulting from the cash and marijuana maintained on production, processing, distribution and retail sales sites; and

WHEREAS, in addition to concerns regarding land use compatibility, the City Council is also concerned about secondary impacts from the establishment of facilities for the growth, production, and processing of marijuana including, but not limited to, negative health, safety, learning and life outcomes for the residents of the City of Marysville; and

WHEREAS, Marijuana use is on the rise. According to the U.S. Department of Health and Human Services 2012 National Survey on Drug Use and Health (NSDUH), 12-to-17 year old marijuana use for boys and girls combined was relatively unchanged since 2011, but there was a 20 percent increase in marijuana smoking among girls aged 12-17 since 2007, a 50 percent increase in the number of daily marijuana smokers among those aged 12 and up, a 12 percent increase in marijuana use among 18-25 year olds since 2007, and a 25 percent increase in marijuana use among the general population. (Substance Abuse and Mental Health Services Administration, Results from the 2012 National Survey on Drug Use and Health: Summary of

National Findings, NSDUH Series H-46, HHS Publication No. (SMA) 13-4795. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2013).

WHEREAS, increased access and availability of supply through storefront/dispensaries will increase the use of marijuana in the City of Marysville:

1. There has been an increase in drug-related referrals for high school students testing positive for marijuana following de facto legalization in Colorado and the expansion of accessible retail marijuana storefronts/dispensaries and the accompanying growth in the marijuana market. During 2007-2009, an average of 5.6 students tested positive for marijuana. During 2010-2012, the average number of students who tested positive for marijuana increased to 17.3 students per year. In 2007, tests positive for marijuana made up 33 percent of the total drug screenings; by 2012 that number increased to 57 percent. A member of the Colorado Taskforce charged to regulate marijuana who also works for a drug testing company commented to the press that: "A typical kid (is) between 50 and 100 nanograms. Now we're seeing these up in the over 500, 700, 800, climbing." (Rocky Mountain HIDTA. (August 2013). The Legalization of Marijuana in Colorado: The Impact, Preliminary Report (volume 1); See Conspire! Drug Testing Results and "Drug Testing Company Sees Spike in Children Using Marijuana" found at <http://denver.cbslocal.com/2013/03/06/drug-testing-company-sees-spike-in-children-using-marijuana/>);

2. In Colorado during the expansion period for marijuana storefronts/dispensaries, though traffic fatalities fell 16 percent between 2006 and 2011 (consistent with national trends), fatalities involving drivers testing positive for marijuana rose 112 percent. (Colorado Department of Transportation Drugged Driving Statistics 2006-2011, Retrieved: <http://www.coloradodot.info/programs/alcohol-and-impaired-driving/druggeddriving/drugged-drivingstatistics.html>).

WHEREAS, increased use of marijuana resulting from increased access and availability of supply through storefront/dispensaries will have significant negative health, safety, learning and life outcome effects for the residents of the City of Marysville.

1. Scientists from the American Medical Association, American Academy of Pediatrics, American Psychological Association, and American Society of Addiction Medicine state that marijuana use is harmful for young people. (American Medical Association. (2009). Report 3 on the Council of Science and Public Health: Use of Cannabis for Medicinal Purposes; Joffe, E. & Yancy, W.S. (2004). Legalization of Marijuana: Potential impact on youth. Pediatrics: Official Journal of the American Academy of Pediatrics, 113(6); American Psychological Association. (2009). Position Statement on Adolescent Substance Abuse; California Society of Addiction Medicine. (2009). Impact of Marijuana on Children and Adolescents; American Society of Addiction Medicine Statement Retrieved here: <http://www.asam.org/advocacy/find-a-policystatement/view-policy-statement/public-policy-statements/2012/07/30/state-level-proposals-to-legalizemarijuana>);

2. According to the National Institutes of Health, one out of every six adolescents who use marijuana will become addicted. (Anthony, J.C., Warner, L.A., Kessler, R.C. (1994). Comparative epidemiology of dependence on tobacco, alcohol, controlled substances, and inhalants: Basic findings from the National Comorbidity Survey. *Experiential and Clinical Psychopharmacology*, 2);

3. There are approximately 400,000 emergency room admissions for marijuana every year – related to acute panic attacks and psychotic episodes. (Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. (2011). Drug abuse warning network, 2008: National estimates of drug-related emergency department visits. HHS Publication No. SMA 11-4618. Rockville, MD);

4. Marijuana is the most cited drug for teens entering treatment. (Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. Treatment Episode Data Set (TEDS): 2000-2010. National Admissions to Substance Abuse Treatment Services. DASIS Series S-61, HHS Publication No. (SMA) 12-4701. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2012);

5. Marijuana use, especially among young people, is significantly associated with reduction in IQ. (See Meier, M.H.; Caspi, A.; Ambler, A.; Harrington, H.; Houts, R.; Keefe, R.S.E.; McDonald, K.; Ward, A.; Poulton, R.; and Moffitt, T. Persistent cannabis

users show neuropsychological decline from childhood to midlife. Proceedings of the National Academy of Sciences 109(40):E2657-E2664, 2012. Also Moffitt, T.E.; Meier, M.H.; Caspi, A.; and Poulton, R. Reply to Rogeberg and Daly: No evidence that socioeconomic status or personality differences confound the association between cannabis use and IQ decline. Proceeding of the National Academy of Sciences 110(11): E980-E982, 2013);

6. Marijuana use, especially among young people, is significantly associated with mental illness. (See for example: Andréasson S., et al. (1987). Cannabis and Schizophrenia: A longitudinal study of Swedish conscripts. *Lancet*, (8574); Moore, T.H., et al. (2007). Cannabis use and risk of psychotic or affective mental health outcomes: a systematic review. *Lancet*, 370(9584); Large M., et al. (2011). Cannabis Use and Earlier Onset of Psychosis: A Systematic Meta-analysis. *Archives of General Psychiatry*, 68(6); Harley, M., et al. (2010). Cannabis use and childhood trauma interact additively to increase risk of psychotic symptoms in adolescences. *Psychological Medicine*, 40(10); Lynch, M.J., et al. (2012). The Cannabis- Psychosis Link. *Psychiatric Times*);

7. Marijuana use, especially among young people, is significantly associated with poor learning outcomes. (Yucel, M., et al. (2008). Regional brain abnormalities associated with long-term heavy cannabis use. *Archives of General Psychiatry*, 65(6));

8. Marijuana use, especially among young people, is significantly associated with lung damage. See for example: American Lung Association. (2012, November 27). Health Hazards of Smoking Marijuana. Retrieved from: <http://www.lung.org/stop-smoking/about-smoking/health-effects/marijuanasmoke.html>; Tashkin, D.P., et al. (2002). Respiratory and immunologic consequences of smoking marijuana. *Journal of Clinical Pharmacology*, 4(11); Moore, B.A., et al. (2005). Respiratory effects of marijuana and tobacco use in a U.S. sample. *Journal of General Internal Medicine*, 20(1); Tetrault, J.M., et al. (2007). Effects of marijuana smoking on pulmonary structure, function and symptoms. *Thorax*, 62(12); Tan, W.C., et al. (2009). Marijuana and chronic obstructive lung disease);

9. Marijuana use, especially among young people, is significantly associated with addiction. (See for example: Anthony, J.C., Warner, L.A., Kessler, R.C. (1994). Comparative epidemiology of dependence on tobacco, alcohol, controlled substances,

and inhalants: Basic findings from the National Comorbidity Survey. *Experiential and Clinical Psychopharmacology*, 2; Budney, A.J., et al. (2008). Comparison of cannabis and tobacco withdrawal: Severity and contributions to relapse. *Journal of Substance Abuse Treatment*, 35(4); Tanda, G., et al. (2003). Cannabinoids: Reward, dependence, and underlying neurochemical mechanisms – A recent preclinical data. *Psychopharmacology*, 169(2));

10. Drivers who test positive for marijuana or self-report using marijuana are more than twice as likely as other drivers to be involved in motor vehicle crashes. (Mu-Chen Li, Joanne E. Brady, Charles J. DiMaggio, Arielle R. Lusardi, Keane Y. Tzong, and Guohua Li. (2011). "Marijuana Use and Motor Vehicle Crashes." *Epidemiologic Reviews*); and

WHEREAS, creating barriers to the use of marijuana is an important tool for promoting public health. Due to federal, state and local efforts to control the distribution of marijuana, its use is lower than the use of legal drugs. About 52 percent of Americans regularly drink, 27 percent use tobacco products, and yet only 8 percent currently use marijuana. (Substance Abuse and Mental Health Services Administration, Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings, NSDUH Series H-46, HHS Publication No. (SMA) 13-4795. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2013).

WHEREAS, such secondary effects could unnecessarily place Marysville residents and others in danger of bodily harm, increase police enforcement risks and costs, and generally create undesirable liability exposure for the City; and

WHEREAS, in November 2012, Washington voters passed Initiative Measure No. 502, which has since been codified within Chapters 46.04, 46.20, 46.61, and 69.50 of the Revised Code of Washington;

WHEREAS, Initiative Measure No. 502 contemplates a system by which the State Liquor Control Board will issue licenses to marijuana producers, processors, and retailers; and

WHEREAS, Initiative Measure No. 502 directs the State Liquor Control Board to develop rules and regulations to:

1. Determine the number of producers, processors and retailers of marijuana by county;
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, day cares, public parks, libraries, and other designated facilities; and
4. Establish a process for cities to comment prior to the issuance of such licenses; and

WHEREAS, the State Liquor Control Board adopted marijuana licensing rules and accepted license applications between November 18, 2013 and December 20, 2013; and

WHEREAS, because any production, processing, distribution or retail sales of marijuana remain strictly illegal under federal law, Initiative Measure No. 502's licensing scheme may be legally preempted by the federal CSA; and

WHEREAS, issuance of licenses that authorize businesses to engage in business activities that violate the federal CSA, could subject the City and/or its employees to criminal penalties under the federal CSA; and

WHEREAS, even the Governor's veto of ESSB 5073 referenced the position of the United States Department of Justice and multiple United States Attorneys that state employees who license or assist marijuana operations in becoming licensed would not be immune from federal criminal liability for assisting the applicants or conspiring to assist the applicants violate federal law; and

WHEREAS, while the United States Department of Justice ("DOJ") issued a letter on August 29, 2013, indicating that enforcement of marijuana related regulations in Washington should primarily rest with state and local law enforcement agencies, the DOJ also stated that if robust measures were ineffective to guard against certain identified harms or in the event of reluctance on the part of the state to ensure against the occurrence of identified harms, the federal government reserved the right to enforce federal laws despite the state's regulatory structure, and to challenge the state licensing structure itself. In a letter dated August 30, 2013, and in response

to the letter from the DOJ, the National Sheriff's Association, the International Association of Chiefs of Police, the National Narcotic Officers Associations' Coalition, the Major Cities Chiefs Police Association, and the Association of State Criminal Investigative Agencies expressed extreme disappointment in the position of the DOJ; and

WHEREAS, On January 16, 2013 , the Washington State Attorney General's Office issued a formal opinion concluding that Initiative 502 does not preempt counties, cities, and towns from banning recreational marijuana businesses – producers, processors, and retailers – within their jurisdictions. The opinion states:

“Under Washington law, there is a strong presumption against finding that state law preempts local ordinances. Although Initiative 502 establishes a licensing and regulatory system for marijuana producers, processors, and retailers in Washington State, it includes no clear indication that it was intended to preempt local authority to regulate such businesses. We therefore conclude that I-502 left in place the normal powers of local governments to regulate within their jurisdictions.”

WHEREAS, Initiative Measure No. 502 does not curtail cities' legal authority to regulate business licenses and land uses within the City. Further, , the State Liquor Control Board's licensing rules do not include any process for determining whether state license applicants' proposed uses comply with local zoning or business license requirements; and

WHEREAS, as a result of the current rules' silence as to local zoning and business license requirements, there is a risk that businesses will obtain state licenses to engage in marijuana related businesses within the City of Marysville without regard for whether such businesses comply with City zoning and business licenses requirements; and

WHEREAS, although the City's zoning and business license requirements will continue to apply regardless of the existence of the state issued license, the conflicting state licenses could cause confusion and unnecessary expense if the City's laws do not explicitly address marijuana uses; and

WHEREAS, for the City to permit and/or license marijuana businesses to operate within the City while such activities violate federal law, the City would need to amend the Municipal Code in order to allow licensing and permitting of activities that violate federal law; and

WHEREAS, issuance of a City license or permit authorizing activities that violate the federal CSA could be deemed by the federal government to be violations of the federal CSA and potentially subject the City and/or its employees to liability, arrest, and/or federal prosecution; and

WHEREAS, On September 9, 2013 , the City Council passed Ordinance 2936 establishing a moratorium on acceptance and processing of applications or approvals for building and land use permits and/or business licenses associated with marijuana businesses/activities, including but not limited to, marijuana production, processing and distribution within the City of Marysville to allow time for City staff to work with a specially appointed committee and the Marysville Planning Commission in a public process to prepare amendments to the development code relative to the City's approach to regulating marijuana-based businesses; and

WHEREAS, in 2005, in *Gonzales v. Raich*, 545 U.S. 1 (2005), the United States Supreme Court determined that intrastate regulation of marijuana by the federal government is a valid exercise of the power of Congress and that in the event of a conflict between a state law that permits marijuana production, processing, distribution and possession and the federal CSA, the federal CSA will be deemed supreme. Therefore, it is unlikely that a court will determine that a state law can require a city to permit a land use or license a business that constitutes a federal crime under the federal CSA; and

WHEREAS, as a non-charter code city, Marysville has specific authority to determine the appropriate uses of land through its zoning authority. Initiative Measure No. 502 contained no language specifically limiting the authority of cities to determine whether to permit marijuana land uses within city boundaries. In addition, the Liquor Control Board rules provide that the issuance of a state license shall not be construed as a license for, or an approval of, any violations

of local rules or ordinances including, but not limited to, building and fire codes, zoning ordinances, and business licensing requirements; and

WHEREAS, the production, processing, and retail sale of marijuana, which remains illegal under federal law, has only recently become a permitted activity under Washington state law. Colorado is the only other state that permits the retail production, processing and sale of marijuana. Thus, the land use impacts associated with state licensed production, processing and retail sale of marijuana have not been established and are not understood. However, medical marijuana businesses in this state and others have commonly been associated with increased crime, objectionable odors, and increased exposure to marijuana by children; and

WHEREAS, on March 31, 2014 Division I of the Washington State Court of Appeals issued a published opinion in the case of Cannabis Action Coalition v. City of Kent No. 7039-0-I which addressed the City of Kent's authority to ban medical marijuana collective gardens through enactment of zoning regulations, and

WHEREAS, while the above referenced decision by the State Court of Appeals may still be reconsidered or appealed, at the time of adoption of of this ordinance, the Court has ruled in favor of Kent, has declared that the plain language of ESSSB 5073, the medical marijuana statute, does not legalize medical marijuana or collective gardens and upheld Kent's zoning authority to ban collective gardens and found that the State Medical Use of Cannabis Act, Chapter 69.51A RCW does not pre-empt cities from enacting zoning ordinances to regulate or exclude collective gardens, and in fact expressly authorizes such regulations or exclusionary zoning; and

WHEREAS, it is unknown whether the state of Washington's regulatory scheme for recreational marijuana will sufficiently protect the federal government's enforcement priorities so as to continue avoiding federal enforcement of the federal CSA against marijuana businesses and/or the state's regulatory scheme; and

WHEREAS, the City of Marysville is primarily residential in character, with a focus on creating pedestrian and child friendly areas in which businesses locate. With the land use impacts of allowing marijuana land uses largely unknown, it is not in the best interest of the City to allow marijuana businesses that could potentially disrupt the City's character and serve as a nuisance to City residents; and

WHEREAS, although MMC Sections 5.02.080, 5.02.110 and 22A.010.040 (3) effectively prohibit any business operation or land use that involves manufacturing or delivering marijuana, to avoid any room for differing interpretations, it is in the best interest of the City to explicitly prohibit all marijuana related land uses and businesses within the City; and

WHEREAS, the City Council is charged with the responsibility of amending Marysville Municipal Code (MMC) land use and development regulations as set forth in RCW Chapter 35A.63 and MMC Title 22 entitled "UNIFIED DEVELOPMENT CODE" (MMC Title 22A-22J); and

WHEREAS, the Growth Management Act, RCW Chapter 36.70A (GMA), specifically RCW 36.70A.040 and RCW 36.70A.120, requires the City to adopt development and zoning regulations to implement the City's Comprehensive Plan; and

WHEREAS, the City Council, Planning Commission and City staff have the authority under MMC Title 22 to initiate amendments to MMC Title 22 (MMC Title 22A-22J); and

WHEREAS, the proposed amendment is subject to the provisions of the State Environmental Policy Act, RCW Chapter 43.21C and MMC Chapter 22E.030 (collectively "SEPA"); and

WHEREAS, the City engaged in an extensive public notice and participation process with multiple opportunities for public participation, input and comment.

1. On August 12, 2013, the City issued a SEPA threshold Determination of Non-Significance for the proposed amendment to the development code; and

2. On August 26, 2013, the comment period for the Determination of Non-Significance expired and no comments were received; and

3. On August 12, 2013, the proposed amendment was submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106. On August 28, 2013, notice was received from the Department of Commerce that the City of Marysville had met the Growth Management Act notice to state agency requirements; and

4. On January 14, 2014, the Planning Commission held a public hearing on several alternatives which would result in potential amendments to the development code; and

5. On March 6, 2014, the City re-issued a SEPA threshold Determination of Non-Significance for the proposed amendment to the development code; and

6. On March 20, 2014 the new comment period for the Determination of Non-Significance expired and no comments were received; and

7. On March 5, 2014 the proposed amendment was submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106. On March 24, 2014, notice was received from the Department of Commerce that the City of Marysville had met the Growth Management Act notice to state agency requirements; and

WHEREAS, the Planning Commission has considered public testimony, the staff recommendation and presentation, and the several alternative measures that would result in amendment to the MMC and found that the preferred alternative and recommendation to the City Council should be one that results in an amendment prohibiting the establishment of marijuana related businesses; and

WHEREAS, during a regular meeting on February 3, 2014, staff presented the Planning Commission recommendation to the City Council; and

WHEREAS, the City Council finds that the amendments set forth in this ordinance are consistent with the City's Comprehensive Plan, the Growth Management Act, Title 22 of the

MMC, and other applicable state and federal law, will implement the Comprehensive Plan, and will benefit the public health, safety, and welfare of the citizens of Marysville;

WHEREAS, the City Council reviewed the materials described above and, after review and consideration, concurs with and adopts the recommendations of the Planning Commission and

WHEREAS, this Ordinance is not intended to address or affect existing City, state and federal laws that apply to personal use and possession of marijuana;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. MMC Section 22A.020.040 entitled “C” definitions “Cannabis” is hereby amended to read as follows (All other definitions in MMC 22A.020.040 remain in effect and unchanged):

“Cannabis or Marijuana” means all parts of the plant cannabis, whether growing or not; 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. For the purposes of this definition, “cannabis” 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. The term “cannabis” includes cannabis products and usable cannabis.

Section 2. MMC Section 22A.020.140 entitled “M” definitions is hereby amended to add the following definitions (All other provisions of MMC 22A.020.140 remain in effect and unchanged):

“Marijuana Use” includes a store, agency, organization, dispensary, cooperative, network consultation, operation, or other business entity, group or person, no matter how described or defined, including any associated premises and equipment which has for its purpose or which is used to grow, select, measure, process, package, label, deliver, dispense, sell or otherwise transfer for consideration, or otherwise, marijuana in any form.

“Marijuana processor” means a person licensed by the State Liquor Control Board to process marijuana unto useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

“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.

“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.

“Marijuana retailer” means a person licensed by the State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet.

Section 3. MMC Section 22A.020.190 entitled “R” definitions is hereby amended to add the following definition (All other provisions of MMC 22A.020.190 remain in effect and unchanged):

“Retail outlet” means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

Section 4. MMC Section 22A.020.220 entitled “U” definitions is hereby amended to add the following definition (All other provisions of MMC 22A.020.220 remain in effect and unchanged):

“Useable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana-infused products.

Section 5. MMC Section 22C.010.060 table entitled “Permitted uses” in Residential Zones is hereby amended to add new provisions to the table as follows (All other provisions of MMC 22C.010.060 table entitled “Permitted uses” remain unchanged and in effect):

				<u>WR</u>				<u>WR</u>	
				<u>R-4-</u>				<u>R-6-</u>	<u>R-</u>
<u>Specific Land Use</u>	<u>R-4.5</u>	<u>R-6.5</u>	<u>R-8</u>	<u>8</u>	<u>R-12</u>	<u>R-18</u>	<u>R-28</u>	<u>18</u>	<u>MHP</u>
<u>Government/Business Service Land Uses</u>									
<u>State-Licensed Marijuana Facilities:</u>									
<u>Marijuana Processing Facility – Indoor Only (48)</u>									
<u>Marijuana Production Facility – Indoor Only (48)</u>									
<u>Marijuana Retail Facility (48)</u>									

Section 6. MMC Section 22C.010.070 entitled “Permitted uses – Development conditions” is hereby amended to add a new footnote (48) which shall read as follows (All other provisions of MMC 22C.010.070 remain in effect and unchanged):

(48) No person or entity may produce, grow, manufacture, process, accept donations for, give away or sell marijuana or marijuana infused products within Residential zones in the City.

Section 7. MMC Section 22C.020.060 table entitled “Permitted uses” in Commercial, Industrial, Recreation and Public Institutional Zones is hereby amended to add new provisions to the table as follows (All other provisions of MMC 22C.020.060 table entitled “Permitted uses” remain unchanged and in effect):

		<u>CB</u>			<u>MU</u>					
<u>Specific Land Use</u>	<u>NB</u>	<u>(63)</u>	<u>GC</u>	<u>DC</u>	<u>(63)</u>	<u>BP</u>	<u>LI</u>	<u>GI</u>	<u>REC</u>	<u>P/I</u>
<u>Government/Business Service Land Uses</u>										
State-Licensed Marijuana Facilities:										
<u>Marijuana Processing Facility – Indoor Only (69)</u>										
<u>Marijuana Production Facility – Indoor Only (69)</u>										
<u>Marijuana Retail Facility (69)</u>										

Section 8. MMC Section 22C.020.070 entitled “Permitted uses – Development conditions” is hereby amended to add a new footnote 69 which shall read as follows (All other provisions of MMC 22C.020.070 remain in effect and unchanged):

(69) No person or entity may produce, grow, manufacture, process, accept donations for, give away, or sell marijuana or marijuana infused products within Commercial, Industrial, Recreation and Public Institutional zones in the City.

Section 9. The moratorium established in Ordinance No. 2936 shall terminate upon this Ordinance taking effect.

Section 10. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 11. Effective Date.

This Ordinance shall become affective five (5) days following passage and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2014.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By: _____
GRANT K. WEED, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

I-502 Committee Meeting Minutes

November 5, 2013

6:00 p.m.

Council – Meeting Room

Committee Members: Bruce Paquette, citizen
Cate Mighell, business owner
Steve Muller, City Council
Kelly Richards, Planning Commission

Staff in Attendance: Gloria Hirashima, CAO/CD Director
Chris Holland, Planning
Lt. Mark Thomas, Police

Absent: None

I-502 Committee Meeting No. 1:

- . Introductions and background of the committee members
- . Staff gave a general overview of packet materials including:
 - Marysville Police Position Paper
 - I-502 Fact Sheet
 - FAQs on I-502
 - I-502 Official Timeline
 - Chapter 314-55 WAC
 - I-502 Draft Rule Summary
 - I-502 Proposed Rules FAQ
 - I-502 Retail Store Locations Spreadsheet
 - Marysville 1,000' buffer map
 - Surrounding City Allowances Spreadsheet
 - Surrounding City's Interim Regulations
 - Surrounding City's Permanent Regulations
- . The committee had a discussion regarding the smells a producing plant would have on surrounding properties. Committee member Mighell pointed out the specific DRAFT Rules from the Washington State Liquor Control Board (WSLCB) prohibiting smells outside of a producing plant.
- . The committee had a discussion about the health effects and benefits of marijuana.
- . Lt. Thomas stated that the Marysville Police Department has concerns regarding crime impacts marijuana producers, processors and retailers will have in Marysville and the surrounding community.
- . The committee had a discussion regarding the fire implications a producing plant may have.

- . Committee member Mighell stated that marijuana producers and retailers are currently operating illegally in Marysville and that I-502 would make these operations legal and more predictable than the illegal operations currently occurring.
- . The committee had discussions regarding the DRAFT WSLCB Rules related to specific security and processing requirements. Committee member Mighell stated that the DRAFT WSLCB Rules provide adequate security provisions.
- . Lt. Thomas voiced his concerns regarding the fact that the WSLCB is underfunded and under staffed and stressed the Marysville Police Department's concerns regarding inspections and compliance with the rules that are ultimately adopted.
- . A question was asked whether or not the Marysville Police Department would be allowed to inspect the production, processing and retail establishments. Currently, it is unclear whether or not the WSLCB would allow local jurisdictions to inspect these establishments.
- . Committee member Paquette stressed that we should wait to see what, if any, types of problems other jurisdictions that allow production, processing and retail establishments will have before allowing in Marysville.
- . Councilmember Muller stated that he has real concerns regarding what effects I-502 will have on our youth.
- . The Committee had a discussion regarding whether or not the City would see any tax revenue from the producers, processors or retailers. Planning Manager Holland stated that it is estimated that Marysville would receive approximately \$30,000 in annual tax revenues per retail outlet (3 total allowed by WSLCB). No tax revenue would be received at the producer/processor level.
- . Committee member Mighell stated that tax revenues would increase from job creation related to producers, processors and retailers.
- . Committee member Mighell stated that allowing producers and processors in the community would create living wage jobs.
- . The committee discussed an article related to the gross revenues that the producers, processors and retailers would generate.
- . Councilmember Muller stated that it would be beneficial to have the Council review the DRAFT I-502 Rules and provide direction to the committee, prior to making a recommendation to the Planning Commission.
- . The committee discussed the differences between medical and recreational marijuana regulations and the fact that Marysville City Council has prohibited medical marijuana and collective gardens in Marysville.
- . The committee discussed a recent article related to the City of Spokane's interim regulations adopted in advance of the FINAL WSLCB rules.
- . Committee member Paquette again stated that Marysville should wait to see what, if any, impacts I-502 will have on our Junior High and High School kids, and what kind of crime and policy activity occurs in other jurisdictions that allow production, processing and retail establishments.
- . Committee member Mighell stated that it's clear that the voters have approved I-502 and that they want these businesses in the community.
- . The committee had discussions regarding the fact that banking institutions are not allowed to get involved with marijuana money, as it is an illegal narcotic per federal regulations.

and banks are federally backed. Lt. Thomas stated that these cash transactions have huge implications for increased risk of organized crime. Committee member Mighell stated Bank of America recently issued a statement that they would work with the producers, processors and retailers in Washington State.

- . Staff agreed to bring back some alternatives for the committee to consider at our next meeting.
- . Lt. Thomas will provide any information regarding what, if any, impacts the City of Mukilteo Police Department has had with allowing medical marijuana and collective gardens in Mukilteo.
- . A second meeting was scheduled for November 19, 2013 5:30PM in the Council - Meeting Room
- . ADJOURNED


Chris Holland, Planning Manager

11/19/13
Date



COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX

I-502 Committee Meeting Minutes

November 19, 2013

5:30 p.m.

Council – Meeting Room

Committee Members: Bruce Paquette, citizen
Cate Mighell, business owner
Steve Muller, City Council
Kelly Richards, Planning Commission

Staff in Attendance: Gloria Hirashima, CAO/CD Director
Chris Holland, Planning
Lt. Mark Thomas, Police
Commander Jeffrey Goldman, Police

Absent: None

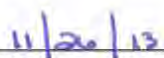
I-502 Committee Meeting No. 2:

- . Committee meeting minutes from November 5, 2013 approved unanimously.
- . Staff gave a brief overview of materials provided to the committee, including:
 - I-502 Information provided by Committee Member Mighell
 - Staff prepared I-502 Alternatives
 - Staff prepared I-502 Zoning Map
- . Committee Member Mighell provided a broader overview of the I-502 information she provided including crime statistics, indicating crime has not increased, and in some cases has decreased, in areas where marijuana dispensaries are located.
- . Committee Member Paquette asked if any of the crime statistics provided analyzed increased crime as a whole in the communities where marijuana is legal, not just areas where dispensaries are located. The committee did not know of any such study.
- . Committee Member Paquette asked if any of the taxes collected would go the Marysville Police or Schools. Staff answered that none of the taxes collected would go to the Marysville Police or Schools.
- . Committee Member Mighell stated that she had discussed the tax collection concern of the Marysville I-502 Committee with the WSLCB and that money is earmarked towards education.
- . Lt. Thomas had the list of tax distribution. Primarily taxes collected will be distributed to the Liquor Control Board for administration expenses, to the state's Basic Health Plan, to the state general fund, and to health-related programs. B&O and local retail sales taxes would apply at retail outlets.
- . The committee had a general discussion regarding the DUI process for individuals under the influence of marijuana. Lt. Thomas gave a brief overview stating that it takes

approximately 2 – 4-hours to process a marijuana DUI arrest and a warrant is required in order to get a blood sample.

- . Lt. Thomas discussed the article in the Everett Herald from Monday, November 18th. The topic of discussion was the fact that an individual quoted in the article stated that they would continue to purchase marijuana on the "black market" in order to avoid the increased prices due to taxation.
- . Committee Member Mighell asked whether or not the City could potentially require security guards when a retail business was open in order to avoid loiterers, etc. CAO Hirashima stated that she believes this was a possibility.
- . Lt. Thomas stated that CD Staff has prepared six (6) alternatives for consideration and asked each committee member which alternative they would recommend to the Planning Commission. The following are the recommended alternatives:
 - Committee Member Richards: Recommended allowing retail outlets only, as outlined in Alternative 6, however not to allow producers/processors and also limit the hours of operation between 10AM – 8PM.
 - Committee Member Mighell: Recommended allowing retail outlets, as outlined in Alternative 6, allow producers and processors, as outlined in Alternative 5, however, the producer/processor area boundary is recommended to be expanded to 156th Street NE.
 - Committee Member Muller: Recommended Alternative 2, continuing the moratorium until such a time where the WSLCB and other regulating entities have adopted and put into place a set of rules, and said rules have been vetted by the courts, and Marysville has had an opportunity to monitor how other cities have implemented those rules and the impacts producers, processors and retailers have on the implementing communities.
 - Committee Member Paquette: Recommended Alternative 2. In addition Committee Member Paquette wants the City to be able to rescind any and all marijuana retail, producer and processor permits if said businesses are ultimately allowed to locate in Marysville and there is Police evidence that these businesses are having a negative impact on the community.
 - Marysville Police (c/o Lt. Thomas): Recommend Alternative 1 – Prohibition on retail, producers and processors.
- . Staff overviewed what the next steps are and that the committee would be informed of any and all upcoming workshops and hearings before the Marysville Planning Commission and Council.
- . ADJOURNED


Chris Holland, Planning Manager


Date

PLANNING COMMISSION



MINUTES

November 26, 2013

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the November 26, 2013 meeting to order at 7:00 p.m. noting the excused absences of Marvetta Toler and Kelly Richards.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo

Staff: CAO/CD Director Gloria Hirashima, Planning Manager Chris Holland, Lt. Thomas, Commander Goldman

Absent: Kelly Richards, Marvetta Toler

APPROVAL OF MINUTES

October 22, 2013

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the October 22 Meeting Minutes

Commissioner Andes commented that the minutes state that Commissioner Richards was absent but also that he voted to approve the minutes. Staff indicated that this information would be confirmed and clarified.

Motion passed unanimously (5-0) to approve the minutes with the understanding that the minutes would be clarified regarding Commissioner Richards' attendance.

AUDIENCE PARTICIPATION

None

NEW BUSINESS

I-502 Recreational Marijuana

Planning Manager Holland reviewed new items in the Planning Commission's packet. He explained that the Council enacted a 12-month moratorium on September 9. Ordinance 2936 contained a work plan in it for reviewing potential regulations. It also established the creation of an I-502 committee. The Mayor appointed four members of the community: Councilmember Steve Muller, Planning Commissioner Kelly Richards, business owner Kate Mighell, and citizen Bruce Paquette. Two meetings were held, one on November 5 and one on November 19 to discuss I-502 and potential regulations. There was good discussion, but it was clear that the committee was not going to come to any consensus.

Planning Manager Holland stated that staff compiled a set of alternatives for the Planning Commission to review as follows:

- Alternative 1 – Prohibition
- Alternative 2 – Continue with the moratorium and monitor how other cities have implemented I-502 regulations before taking further action
- Alternative 3 – Prohibit retailers and allow for producers and processors (Tier 1 only – maximum 2,000 SF plant canopy)
- Alternative 4 – Prohibit retailers and allow for producers and processors (limited to Tier 1 and Tier 2 producers)
- Alternative 5 – Prohibit retailers and allow for producers and processors. (Tiers 1, 2, and 3)
- Alternative 6 – Allow retailers in certain areas; if they want to allow producers they could add alternatives 3, 4, or 5.

Lt. Thomas gave an overview of the Marysville Police Department's position paper. He stated that the Police Department is recommending continued prohibition based on the documented, reported criminal activity associated with marijuana production, processing, and sales; the negative impact of marijuana as seen as a gateway drug; and the unanswered questions by the State Liquor Control Board on how they are going to regulate, fund, and provide adequate staffing necessary for such a large, emerging industry. He further elaborated on the reasons for this recommendation as contained in the Memorandum from Chief Smith. He also discussed the current status of this issue as a violation of federal law. He commented on his experience as an undercover narcotics detective where violent, organized crime was tied to a lot of marijuana cases. Regarding the status of marijuana as a gateway drug, the police feel that making marijuana more accessible to our youths isn't in the best interest of the public safety and health of the citizens in Marysville. Another issue is that financial institutions are not getting involved in the proceeds, which is forcing marijuana establishments to work on a cash-only basis. This would increase the risk of robbery and violent takeovers for the money or drugs. However, recently the Bank of America has said they would take the cash proceeds, but they would not get involved in financing, credit card usage, or loans needed to establish these businesses. Finally, Lt. Thomas discussed the hazards

associated with marijuana grows including mold and pesticides. He expressed concern about the health of the workers in these establishments taking care of the plants. Lt. Thomas summarized that the public health and safety would be better served by a prohibition on I-502.

Commissioner Leifer referred to a comment by I-502 Committee Member Mighell at the November 5 meeting stating that marijuana producers and retailers are currently operating illegally in Marysville and I-502 would make these operations legal and more predictable. He asked for a response from police. Lt. Thomas commented that due to the taxation on marijuana, the prices will go up in the retail establishments. People who currently grow and sell it illegally would probably continue to do that because it would be more profitable. He briefly reviewed the history of grows in this region. Lt. Thomas said he thinks I-502 would allow illegal activity to continue and to even be better disguised as it is diverted and sold illegally in other states. He related this to prohibition and also his experience with oxycodone manufacturers.

Chair Leifer then referred to the Police Department's concern regarding the fact that the state doesn't have any rules in place yet, and commented that the rules would be coming out on December 1. Lt. Thomas said he has seen the draft version of the rules, and he wrote the Police Position Paper knowing what the draft rules are. The Liquor Control Board currently has 56 liquor control agents. With I-502 they will be hiring 22 more agents plus 5 additional positions. This is a total of only 83 officers to deal with this issue statewide. He doesn't think there are enough controls in place to close the loopholes for diversion and other illegal activities. He is not comfortable with the level of regulation that the rules would provide due to the limited resources available to the Liquor Control Board.

Commissioner Hoen wondered about the relationship between legal and illegal sales. Lt. Thomas stated that in the minutes one of the committee members asserted that the legalization of the sale of marijuana would significantly reduce the illegal sales. Lt. Thomas said he thinks there will be a reduction, but it will not be as dramatic as some are saying and it will not be significant enough to stop the black market trade.

Commissioner Hoen referred to one of the committee members who stated that crime had not increased as a result of marijuana outlets. Lt. Thomas noted that the charts and graphs from the study quoted by that committee member are in the packet. He stated that he spoke with Mukilteo who had a few incidents right at the beginning of legalization of medical marijuana dispensaries, but since then they have not had issues. However, police have identified studies out of California and Colorado which show that there has been increased crime related to these operations. Questions and answers about the level of crimes related to marijuana establishments were reviewed.

Commissioner Hoen commented that based on election the majority of the public wants this to be added to their communities. Lt. Thomas acknowledged that the voters voted for I-502, but he pointed out that the perception of most voters was that this would be taxed and controlled through the liquor stores. Since the Liquor Control Board has done away with their retail markets, some voters have indicated they would change their vote

if they could. Lt. Thomas pointed out that the perception of voters was that taxing marijuana would solve a lot of economic woes the state is facing. He thinks this was an overly simplistic approach.

CAO Hirashima pointed out that most of the contacts the City is receiving are from prospective business owners. She stated that the Planning Commission's task is to make a recommendation to the Council on what would be best for the Marysville community. The committee was put together in order to get the views of stakeholders including the police department, concerned citizens, and prospective business owners.

Commissioner Hoen then referred to the license requests and noted that locations on 108th Street and 119th Street could open anyway with a county license. Planning Manager Holland commented that those people could request a producer/processor license, but he wasn't sure if they would qualify. Commissioner Hoen asked if a retail operation could be opened in the county very close to the city limits. Planning Manager Holland said they couldn't because of the rural zoning designations in those adjacent areas.

CAO Hirashima added that the Tulalip reservation is not allowing marijuana operations in their boundary because they are a federal reservation. She noted that throughout the state there will be a myriad of zoning regulations, and there will be inconsistencies with adjacent cities. Marysville is trying to coordinate with Lake Stevens, Arlington, and Snohomish to provide some level of consistency.

Commissioner Hoen pointed out that the Liquor Control Board didn't do anything to control medical marijuana, but it seems like there will be a lot more regulation with recreational marijuana. Planning Manager Holland agreed. He stated that the DOR has released some draft rules on medical marijuana which will align directly with the rules for retail operations. Commissioner Hoen thanked Lt. Thomas for answering his questions.

Commissioner Lebo asked about the legal requirements to purchase recreational marijuana. Lt. Thomas stated that you have to be 21 or older, you can only buy an ounce, and you must show photo ID. The retail establishments won't have any product available to the consumer that they can get to directly. The draft rules also talk a lot about security and cameras. Commissioner Lebo asked about the requirements to purchase medical marijuana. Lt. Thomas said that you have to possess a green card which you get through a doctor and possess photo ID showing that you are above the age of 21. At this point it's illegal to sell medical marijuana so it's done through a donation process.

Commissioner Andes commented that he concurred with the police recommendations. He expressed concern about the crime associated with the drugs in general and expressed support for a prohibition. Commissioner Smith concurred.

The Planning Commission thanked Lt. Thomas for his time and information.

Planning Manager Holland referred to Committee Mighell's information she provided about crime statistics, gateway myths, and excerpts from other municipalities in adopting ordinances related to I-502 and allowing producers, processors, and retailers in their community. This was information provided to the commission.

Chair Leifer stated that he personally was in support of prohibition, but acknowledged that the majority of the voters which he represents voted for this so a sincere examination of all the facts related to it is important. As a result, he indicated support of Alternative 2 in order to see what happens with other cities.

Planning Manager Holland stated that a hearing could be scheduled for January 14.

Commissioner Lebo spoke in support of a hearing and getting input, but commented on the importance of equal input for both sides. There was general discussion on the Commission's role of representing the City versus being true to their personal principles.

Motion made by Commissioner Lebo, seconded by Commissioner Smith, to set a hearing date for January 14. Motion passed unanimously (5-0).

Commissioner Andes asked if it was known how the citizens of Marysville voted on the initiative. CAO Hirashima was not sure, but she thought that it was a majority in Marysville.

Commissioner Hoen asked about the pros and cons of requiring a 2500 foot separation between retail locations. He wondered if it might be better to have it in a district sort of situation. Planning Manager Holland explained that the 2500 foot separation rule was in an interim regulation that was adopted by the City of Everett. Upon discussion with the Police Department and the committee there didn't seem to be any issues with that. The police actually prefer that the separation would occur if regulations were ultimately adopted so retailers, producers, and processors are not congregated in one single area.

CAO Hirashima pointed out that there has been some discussion about whether or not a city can prohibit retail marijuana establishments. Some cities have requested an Attorney General Opinion about the matter, but ultimately the decision will be made by the courts. However, the City is moving forward with the belief that cities have zoning authority and have the full range of options available to them.

Commissioner Hoen commented that the City of Wenatchee's charter says you have to follow all federal rules, and that is what they are basing their prohibition on. Planning Manager Holland pointed out that Wenatchee's business licenses say that you have to meet all city, state, and federal laws, but they changed their business licensing categories to have marijuana producers, processors, and retailers exempted from obtaining a business license from the City of Wenatchee.

Chair Leifer commented on the potential for liability with the confusion surrounding this issue with regard to federal and state law. Planning Manager Holland commented that it still is a controlled substance and if the federal government wants to come in and seize

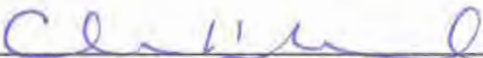
the product, supplies and property they can. Chair Leifer asked if the City is getting explicit legal advice from the City Attorney on this. CAO Hirashima stated that the City Attorney has been following this process very closely and that he would be available at the public hearing to answer questions.

ADJOURNMENT

Motion made by Commissioner Lebo, seconded by Commissioner Smith, to adjourn at 8:21 p.m. Motion passed unanimously.

NEXT MEETING:

January 14, 2014



Chris Holland, Planning Manager, for Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

January 14, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Planning Commission Chair Steve Leifer called the January 14, 2014 meeting to order at 7:00 p.m. noting the absence of Commissioner Marvetta Toler.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo, Kelly Richards

Staff: Planning Manager Chris Holland, CAO Gloria Hirashima, City Attorney Grant Weed, Chief Smith, Lt. Thomas

Absent: Marvetta Toler

APPROVAL OF MINUTES

November 26, 2013

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the November 26, 2014 Meeting Minutes. **Motion** passed unanimously (5-0) with Commissioner Richards abstaining as he was not at the November 26 meeting.

PUBLIC HEARING

I-502 Recreational Marijuana

The hearing was opened by Chair Leifer at 7:02 p.m.

Planning Manager Chris Holland reviewed the background on this item as contained in the memo from him to the Planning Commission dated January 9, 2014. He then highlighted the recommendations of the I-502 Committee as stated in the memo on page 2.

Public Testimony:

Greg Kanehen, 6602 56th Dr. NE, Marysville, WA 98270, stated he and his colleagues represent the Marysville Area Pastors Association which has a heart for the community and a desire to create a safe place for individuals and families. They believe in building life-giving principles into families and communities. They find it is essential in creating a healthy environment to work together with organizations such as Marysville Together Coalition, the Marysville School District, and the City of Marysville Parks and Recreation. This has resulted in numerous benefits for the community. Because the Marysville Area Pastors Association has an investment in the community they are concerned about the safety of children and teens with the establishment of a retail outlet for marijuana. Their concerns come out of the fact that they want to see beneficial outcomes for everybody. They recognize that a decision to not allow retail outlets is a difficult one, but feel that not all freedoms are beneficial for the community and for families. He noted that sometimes the pursuit of freedom can lead to enslavement and addiction. The Marysville Area Pastors Association asks that safeguards for children be in place. With the potential for abuse or misinterpretation of the laws, they urge that the Planning Commission recommend that the Council not establish these places. He stressed that their heart is for the community, and their main concern is for the safety of children and teens in the community.

Cathy Schindler, 14120 51st Drive NE, Marysville, WA 98271, spoke as part of Marysville Together, a community coalition. She read and distributed a letter that was previously sent to Mayor Nehring and the City Council from Marysville Together. The letter stated that one of the group's primary focuses is creating awareness and providing resources to help combat substance abuse among our youth and families. In light of this specific focus they urged the City not to allow retail outlets for the sale and distribution of marijuana in Marysville. This recommendation is based on research by agencies and health and human service organizations that indicate marijuana use may lead to other drug use and an increase in violent crime. They also cited federal laws that still make marijuana an illegal substance. She spoke in support of maintaining the safety and wellness of children and their families which is consistent with Marysville Together's 25-year history. They are a community partnership of caring, involved members committed and empowered to promote safety, diversity and awareness and respond to the needs of the community so that everyone who lives in Marysville will take responsibility for working together towards a safe and healthy community. With the potential for abuse or misinterpretation of the laws, the establishment of marijuana retail outlets is of grave concern to the group. She spoke in support of preventing the establishment of retail outlets for marijuana in the community.

Chair Leifer asked how Marysville Together feels about the growing and processing of marijuana. Ms. Schindler replied that they don't want to see any of that in the community because they don't want to send the message that this is a community norm.

Isaac Steimle, 95 Quinn Avenue, Apt. C, Marysville, WA 98270, spoke against having retail marijuana establishments, processing, and grow sites in the community due to the negative impacts on the community, especially if it is seen as accepted by leaders of the community.

Bruce Paquette, 6908 75th Drive NE, Marysville, WA, encouraged the Planning Commission to continue the moratorium on processing, growing, and sales to take time to see how this is affecting other communities that allow it. He is a licensed clinical social worker in Washington and works with homeless people on the street. He stated that 90% of the guys in prison committed their crimes while they were under the influence of some sort of drug. He expressed concern about telling youth that this is accepted. If this becomes normalized through laws passed, he is very concerned about the long-term impact on youth.

Dave Mills, 8202 83rd Avenue NE, Marysville, WA 98270, stated that youth are a big priority for him too. He believes that there are a lot of misconceptions flying around about this issue. He feels that the wait-and-see attitude is something that they can all work with. He believes that there is already a lot of pot being grown, sold, and smoked in the community. He asserted that he has more friends who have died from alcohol than from marijuana. He encouraged everyone to do their own research on the internet to find out what is true. He thinks that allowing this will help to control the situation and enable the City to gain some money from taxation. He urged people to watch what will happen in Colorado. He stated he would like to see the process move forward, but he doesn't think the City is ready for it yet. Over the next six months, maybe they will be able to see what happens with this situation in other places. He recommended that at the very least the Commission's recommendation should be to continue the moratorium in order to watch and see what happens, with the provision that a special ordinance could be passed to lift the moratorium if it appears that this is a good idea. He emphasized that the people applying for these licenses are responsible business owners, not potheads.

Rob Mina, 5615 87th Avenue NE, Marysville, WA 98270, said he thinks a lot of business owners believe this will bring in jobs and provide a lot of taxes. He stated that he was against this in general, and wished it didn't get passed in the state; however, after discussing it with family members who are police officers in Seattle, he says he learned that approximately 60% of the money that the drug cartels make is actually from marijuana. Noting that this issue already exists in the shadows with a criminal element, he feels that legalizing it will bring it out of the shadows and into the light. He commented that the War on Drugs obviously hasn't worked. He thinks that putting this out there with the controls that the State has, including background checks and surveillance, is a good idea. The people who have approached him to lease industrial buildings are well-funded, reputable business owners. He asserted that if kids can't get marijuana here they will drive to Arlington, Everett, or some other city that has allowed it. He doesn't see any downside to this and supports production, processing, and sales, but recommended keeping it out of the downtown area.

Kate Mighell, 15305 West Lake Goodwin Road, stated that she has owned a business in Marysville for the last 12 years. She was on the I-502 Committee and is in support of this. She had high hopes of opening a facility here; however, due to her experience on the I-502 Committee, she has sold her building, and is going to locate elsewhere. She thinks that allowing this would be a positive thing for the public good and something that the City needs to embrace. She thinks legalizing marijuana is going to get rid of a lot of crime, create a lot of tax dollars, and create opportunities for education. She compared attitudes towards marijuana to historical fears and stereotypes about desegregation or allowing women into the workplace. Regarding the concept of marijuana as a gateway drug, the reason this perception exists is because the people that now sell marijuana in the back alleys also sell other things. This wouldn't happen under the proposed retail setup with all the regulations and surveillance. Regarding crime related to marijuana, this has occurred because marijuana has been illegal, and the illegality of marijuana has been a breeding ground for organized crime in the same way the prohibition on alcohol created a breeding ground for the American mafia. The reason the voters passed I-502 is because they want that to go away. She claimed that no one has ever died from marijuana usage, and it is not addictive. On the other hand, many people die from alcohol every year. She encouraged everyone to step back from their assumptions and have an open mind. She stated that she was in support of all three aspects: growing, processing, and retail.

Sue Rumsey, 6907 57th Street NE, Marysville, WA 98270, stated that she doesn't see anything positive about allowing addictive drugs in the community. She also doesn't see how this could be compared to allowing blacks in the community or allowing women to work as they are completely different topics. She does believe it is a gateway drug because it's the lowest level of drug that comes into the society and into families, and youth can get it easily. When you are under the influence you don't making good decisions, can get into accidents, and create havoc. She believes crime efforts should be used at the beginning instead of waiting until people are on heroin or crack. Additionally, marijuana is still against federal law. Regarding tax benefits, she stated that Marysville can get tax dollars elsewhere in ways that support families and the community. She spoke against jumping on the bandwagon just because everybody else is doing it. Instead, she stated, they should stand their ground and hold true to their commitment. She spoke in support of Alternative 1 or 2 in order to do more research before this is allowed in the community.

Ray Ferguson, 5918- 59th Drive NE, Marysville, a resident of Marysville for nearly 20 years, stated he is adamantly opposed to all of these proposals. He stated that laws have been in place in this country for many decades against the use of marijuana for a very good reason; it's harmful. The laws are in place to protect the citizens, and removing those laws would be harmful. He urged against falling into the mindset that because this is accepted somewhere else, it should be accepted here. Regarding the comparison with alcohol, which has been associated an enormous number of deaths throughout the years. He thinks if they start to accept the use of marijuana they will likely see the same thing happen. He suggested that they look to the use of alcohol as an indicator of what would happen if they start to embrace the use of marijuana. He stated that it is a harmful drug, just like alcohol is, and it is addictive. He rejected the

idea that no one has ever been harmed or killed by the use of marijuana. He noted that someone tonight had brought up an example of someone who did die because of marijuana. He reiterated that he is adamantly opposed to this and would be very disappointed in the City if this proposal is accepted.

Aaron Thompson, Pastor, stated that in addition to being a pastor he is a resident of the city with four teenagers. He commented that this issue is really about the kind of city they want to have. He believes that they want to have a healthy community. One thing that needs to be addressed is that there are lots of areas of life that will be off limits to kids if they partake in marijuana, even if it's legal, such as the military and other jobs. He spoke in support of having a healthy community as much as possible. He spoke in opposition to all three aspects of marijuana.

Seeing no further public comments, the hearing was closed at 7:47 p.m.

Staff Comments:

Planning Manager Chris Holland referred to the spreadsheet at the back of the memo in the Planning Commission's packet which goes over all of the producers, processors, and retailers that were applied for in the City. He pointed out that of the 10 proposed producers only 3 of them could potentially comply with state zoning regulations. Similarly, with the processors there were three as well that could meet the requirements. Of the retailers, nine could potentially comply with state law even though the City could only potentially have three retailers.

CAO Hirashima mentioned that City Attorney Grant Weed, Police Chief Smith, and Lt. Thomas were present and available to answer questions.

Police Chief Rick Smith reminded the Planning Commission of the document that Lt. Thomas wrote which involves the discussion Chief Smith had with the Planning Commission last year related to medical marijuana. He stated that things have not changed in terms of where he stands as police chief. There are still crime issues associated with marijuana that need to be looked at as can be seen in Colorado. The DEA has said they are suspecting there are cartel issues that are starting to infiltrate Colorado. One of the reasons for the crime associated with this is because marijuana is a cash business. The Commission's packet contains crime numbers related to people in Washington who were robbed, burglarized, assaulted and even killed surrounding marijuana issues. He noted that the Liquor Control Board to date has only hired five people. They have said that they would hire 36 people with 22 geared towards enforcement of marijuana establishments including producers, processors, and retailers. To think that they will be able to have surveillance of all of these locations is simply not realistic. Additionally, at the local level police will be unable to follow-up on everything that happens. He believes this comes down to the values that they hold as a city. The decisions of Marysville should be based on the evidence and information that they have. The Police Department's recommendation is prohibition within the city.

Commissioner Hoen referred to fatalities he had heard of in Colorado and asked if there was any more information about this. Chief Smith said there was no more information because that turned out to be a hoax.

Commissioner Hoen asked City Attorney Weed if I-502 is different than the state liquor laws in that it doesn't allow opting out. He said that the state liquor laws allow municipalities to opt out of liquor sales, but he didn't think there was opt-out language in I-502. City Attorney Weed said that I-502 is silent on this issue. Commissioner Hoen asked City Attorney Weed about the status of the Liquor Board's request for an opinion by the Attorney General's Office on this. City Attorney said he wasn't aware if any opinion has been issued or what the timing will be, but remarked that there are two parts to the request. The first part of the request for opinion is whether or not the state law pre-empts local entities such as cities and counties from adopting their own regulations concerning I-502 and the sale, production, and processing of marijuana. The second part of the request for the opinion is whether or not local entities can impose an outright ban. He stressed that whatever opinion the Attorney General's Office issues will be given some weight, but it is not the law. Courts may refer to it and take it into consideration, but it is still just an opinion.

Chair Leifer asked City Attorney Grant Weed about the US Department of Justice's opinion regarding this and the local Washington representative of the US Attorney's Office which ends with a comment that "regardless of state law permitting such activities" and also concluded that "local government employees who conducted marijuana regulatory activities under Washington State law are subject to prosecution under a CSA." Chair Leifer acknowledged that this is an opinion, but asked City Attorney Weed how this might affect city employees. City Attorney Grant Weed stated he is not able to publicly disclose legal advice that he is providing to a client, but responded to the issue in general. Since the opinion was rendered, there has also been a memorandum that was issued in August of last year by the US Attorney's Office which outlines the 8 priorities that the federal government has in terms of enforcement of the Controlled Substances Act (CSA). The memo gives some guidance to states like Colorado and Washington that have adopted laws that purport to legalize marijuana. The memo states that if the states that adopt legalization of marijuana statutes have strict and robust rules for enforcement, the federal government would steer away from vigorous enforcement of the CSA, but it doesn't say that they wouldn't enforce the CSA if there aren't robust enforcement and strict rules. One of the issues many cities are concerned about is if they do adopt regulations of their own that allow any one of the three tiers of licensing and the city's own rules aren't strict and robust, would the cities or officials responsible for implementing them be subject to prosecution. He thinks the main focus of the federal government is going to be in reviewing how well the State of Washington does in the regulation and enforcement of I-502. He stressed that the federal government will be watching this closely.

Chair Leifer reiterated that the reality is that marijuana is still a controlled substance under federal laws. City Attorney Weed concurred and stated it is very clear that under the CSA marijuana is classified as a Schedule 1 drug which "has a high potential for abuse and lack of any accepted medical use." The possession, use, sale, and

distribution of marijuana under federal law is a federal crime, and this has not changed even with the adoption of I-502. What the government has done by issuing its memo back in August, is acknowledge that the federal government can't enforce the federal law against any and every person so they will defer to the states to do their thing. However, they listed 8 priorities which, if are not met by the states, the federal government will be more proactive in the enforcement of the federal law. There is also case law at both the US Supreme Court level and the state law level which suggests that the federal law preempts the state law, but it has not been decided with regard to Washington's I-502. The law is still unsettled as to which law trumps which.

Chair Leifer suggested that the federal decision to back away from this is somewhat of a political decision and is subject to change depending on the leadership. Knowing that these facilities could be confiscated under the drug laws, he asked what the likelihood is that these could all become suspect and subject to seizure. City Attorney Weed stated that it is a very good question and a very difficult one to answer. He stated that it would be naïve to think that the policies of the US Attorney's Office couldn't change if there was a change in leadership.

Chair Leifer then asked for clarification about a paragraph on page 6 of 8 in the ordinance previously passed stating which parts of the marijuana plant are legal and which parts aren't. City Attorney Weed said he thought that the definition came straight out of I-502. Lt. Thomas attempted to clarify this.

Commissioner Hoen said he heard that there is quite a large contingent of applicants who are prepared to file lawsuits against municipalities who are not following the rule the way they think they should. He asked if some of these claims might be consolidated or if they would be addressed individually. City Attorney Weed stated that cities and counties throughout the state are addressing this issue in a wide variety of ways. He reviewed some of those various ways. There has been a lot of press about groups that have threatened litigation. He expects that some cases having the same or similar issues will be consolidated as this moves ahead. He stated that the initial step in challenging a municipality's ordinance will be the state court in the county in which the city is located or in federal court in the district of federal court that the city is located. Not every issue that is the same will be consolidated, but he expects that there will be some common themes. He expects that this will take some time for case law to be developed. In the meantime, there will be a number of different questions that will remain unanswered.

Commissioner Lebo asked whether the tax revenue will trickle down to local law enforcement so that they can do the extra work that is needed for these facilities. City Attorney Weed said his understanding is that it will go to the State of Washington and will not trickle down to the localities. This is one of the issues that the Association of Washington Cities raised with the Liquor Control Board and with the legislature. CAO Hirashima added that the only portion that would come to the City would be the regular sales tax. The rest would go to the State.

Commissioner Richards asked if, since it is still illegal federally, there would be an issue with going through federal banks. City Attorney Weed was not sure, but noted that the question has been raised to the Liquor Control Board. There have been concerns raised about this. Chief Smith said that it is still an issue. Because of the fact that this is a cash business, there is a tie to money laundering and organized crime that's associated with it.

Commissioner Andes referred to the earlier statement that more people die from alcohol than they do from marijuana, and stated that is based on the fact that alcoholism and alcohol can kill by itself. However, he asserted that if you add up all the people that have been killed because of a burglary or other crime associated with marijuana it would outweigh those who die from alcohol.

Chair Leifer noted that the Council has asked the Commission to come up with a recommendation for the City Council. He called attention to the six alternatives presented by the I-502 Committee as options, but noted that the Planning Commission was free to come up another alternative as well.

Commissioner Richards said he was on the I-502 Committee and had recommended allowing retail stores with specific hours. However, after hearing the comments tonight, he was in support of Alternative 2 to continue the moratorium for at least a year to see how other cities handle this.

Commissioner Smith concurred that continuing the moratorium would give the City more time to sort it out.

Commissioner Lebo thanked everyone for showing up and for sharing their thoughts. He said he is grateful for our community and wants to keep it safe for our children and youth to live. He doesn't want people to think they can come to Marysville to buy or sell drugs. He stated that he would recommend Alternative 1.

Commissioner Andes spoke in support of Alternative 1.

Commissioner Hoen said there are still way too many unanswered questions for a permanent decision. He doesn't think the illegal marijuana trade will go away. He thinks kids will continue to get it the same way they get it now although they may start thinking it's not as bad a thing with adults saying that it is okay. He spoke in support of continuing the moratorium even though he doesn't personally like moratoriums.

Commissioner Richards asked if a prohibition could be lifted at some point if the City decides to do that. City Attorney Weed stated that any ordinance can be changed if desired by the City Council.

Chair Leifer noted that he has great respect for voters and their wishes, but his personal feeling is that this is a gateway drug. He is not in favor of production, processing or selling of it. The fact that the federal law clearly states that this is not legal is also a big issue at this time. He noted that it is generally accepted that federal law trumps state

law. Based on all of this he stated that he is opposed to all aspects of it. He added that he had considered supporting continuance of a moratorium, but this just appears to delay the inevitable. He spoke in support of Alternative 1 – Prohibition.

Commissioner Richards stated that he had moved his recommendation to Alternative 1.

There was disruption by some audience members who were upset because more than 50% of the voters want this in Marysville. They indicated that the Planning Commission was obligated to honor those wishes above their personal beliefs.

City Attorney Weed commented that the Public Comment portion of the meeting was closed so it wasn't appropriate to have dialog with the public at this time.

Commissioner Andes explained for the benefit of the public that the Planning Commission would be making a recommendation to the City Council, but that the Council would be making its own decision. He invited everyone to come back to speak at the Council meeting when they address this topic.

Motion made by Commissioner Lebo, seconded by Commissioner Richards, to recommend Alternative 1 to the City Council, which is a prohibition on marijuana retail, producers, and processors in Marysville. **Motion** passed unanimously (6-0).

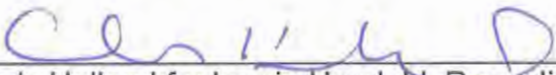
NEXT MEETING:

January 28, 2014

Chris Holland stated that the next meeting would be on potential changes to the floodplain ordinance which were necessary in order to be in compliance. Additionally, the State is continuing to look at amendments to the SEPA Ordinance which would allow for certain exemptions. Staff will update the Planning Commission on that, but the final recommendation from the State will not be coming down until sometime in February.

ADJOURNMENT

Motion made by Commissioner Lebo, seconded by Commissioner Richards, to adjourn the meeting at 8:38 p.m. **Motion** passed unanimously.


Chris Holland for Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

February 25, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the February 25, 2014 Planning Commission meeting to order at 7:02 p.m. noting there were a few staff members in the audience. He also noted the absence of Marvetta Toler from the meetings over the past several months and that no one had heard from her although they had tried to make contact. He asked CAO Hirashima what would happen if there was a tie vote with an even number of commissioners. CAO Hirashima said staff would try to contact Commissioner Toler to discern the situation. She also indicated that she would research the rules regarding a tie vote.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo, Kelly Richards

Staff: Planning Manager Chris Holland, Lt. Thomas, Commander Goldman, CAO Hirashima

Absent: Marvetta Toler

APPROVAL OF MINUTES

February 11, 2014

Motion made by Commissioner Richards, seconded by Commissioner Smith, to approve the February 11, 2014 Meeting Minutes. **Motion** passed unanimously (6-0).

AUDIENCE PARTICIPATION

None

OLD BUSINESS

I-502 – Recreational Marijuana

Planning Manager Holland commented that there are still a lot of unknowns related to marijuana business regulations, and it is changing every day. He reviewed some of the recent developments, including an Attorney General opinion stating that I-502 would not pre-empt local jurisdiction's laws. Also, it was asked of the Attorney General whether or not a jurisdiction could adopt regulations that would basically not allow producers, processors, and retailers within their jurisdiction. It was decided by the Attorney General that that would not be illegal either.

However, there are some new House bills that have been introduced to the Washington State Senate this year. One of those is HB 2322 which would prohibit cities and counties from imposing bans on marijuana. Therefore, if the Council was to ban marijuana facilities right now and that bill passed, the City's regulations would disappear and there would be no regulations in place to provide any protections at all for Marysville. HB 2144 proposes allowing some of the tax monies now going to the state to go to the local jurisdictions.

The Washington State Liquor Control Board also just stated that although the Attorney General said that cities can adopt rules prohibiting marijuana establishments, they are still going to issue licenses within their jurisdiction. As a result of all of this there are a lot of regulations that will be set in place over the next few months. With things changing so rapidly, Council felt that the Planning Commission should continue to discuss this issue until some of these items are worked through. The moratorium will remain in effect until September 23, 2014. Staff hopes that the rules and regulations will be known well before that date. Also included in the Planning Commission's packet is an alternative ordinance language regarding prohibition which was the original Planning Commission recommendation. Additionally, there is another alternative that would put into place some protections for Marysville in case cities are pre-empted and not allowed to adopt a ban on marijuana businesses.

CAO Hirashima commented that the Council is grateful for the work done by the Planning Commission and for the fact that they did so much vetting of this issue. The Council appreciated the various alternatives that were presented. They also understood the reasons why the Planning Commission had recommended prohibition. There continues to be a lot of concern about how cities who have prohibitions will fare. There is concern about what the legislature will do, in addition to a concern about being the test case for some of the litigation that will undoubtedly be part of this process. Since the Planning Commission completed their work so quickly, the Council felt it provided an opportunity to investigate other alternatives. She stressed that the Council was very pleased with the work done by the Planning Commission. They just felt that the City would be in a stronger position if they came up with some alternative language in the event that the City is required to allow these businesses.

Commissioner Richards asked if the Planning Commission should just wait until the House bills get sorted out. CAO Hirashima replied that the Council wanted the Planning Commission to go ahead and come up with some alternatives.

Commissioner Andes said it was difficult to make a recommendation when they don't know what will happen with the House bills. CAO Hirashima recommended that they could look at what would be the least impactful situation to the community aside from prohibition.

Commissioner Richards recommended that one option could be retail only within specific hours. Chair Leifer wondered if they would even have the option of limiting it to just retail or if they would have to allow all three aspects.

Commissioner Richards asked what zoning areas staff is looking at for production. Planning Manager Holland replied that staff originally recommended the light industrial (LI) zone for producers and processors. This would be the area from 128th north to 152nd. There were also some additional protections in place where they wouldn't be allowed to be located within 2500 feet of another producer/processor although they could be located within the same building. Based on the regulations, limited numbers of these would be allowed. Commissioner Richards asked if the soccer fields were factored in as future schooling because those fields are owned by the school district. Planning Manager Holland replied that area is not zoned LI. Commissioner Richards spoke in support of limited hours from no earlier than 10 a.m. to no later than 8 p.m.

Planning Manager Holland reviewed the definitions, zoning, and development standards contained in Draft Alternative 2. There was a recommendation from the Planning Commission to add trails to item 7(h) under 22C.280.020 (the 1000 foot-rule).

Chair Leifer commented on the confusion of all the regulations. He commented that spending a lot of time developing regulations that serve to basically disallow these businesses would probably not be the best use of time. In light of the lack of clarity regarding regulations, he recommended maintaining a position of prohibition with the statement that in the event that that's not possible, the City will put together the necessary zoning and regulations.

Commissioner Richards again recommended including conditions related to hours of operation of retail.

Commissioner Hoen asked about the deadline for the Planning Commission getting this back to Council. CAO Hirashima said that Council hoped to get it back in April.

Commissioner Richards suggested restricting these businesses to the Smokey Point Master Plan in order to facilitate development of that area.

Chair Leifer noted that if they start putting up a lot of obstacles there will probably be a lawsuit. He thinks that, short of prohibition, other attempts at restrictions would be

ineffective. CAO Hirashima emphasized that it is within cities' rights to have zoning limitations.

Commissioner Hoen commented that the luxury of the moratorium will be that there will be a batch of lawsuits in other places that the City will be able to consider. He also brought up comments about funds potentially being withheld by the state for cities that have prohibitions.

Chair Leifer asked what the mindset is of the Council regarding the potential loss of revenue. CAO Hirashima said that the Council hasn't mentioned the profits from the marijuana businesses being something they were concerned with. The more concerning issue is if the state was to take away liquor revenue because that is something that the City is already relying on.

Commissioner Lebo asked if the Council would consider losing the \$600,000 a year in order to take a firm position. CAO Hirashima said they hadn't discussed that specifically, but she thought the Council would be very concerned about the loss of that much revenue out of the General Fund.

Planner Manager Holland solicited comments from the Planning Commission on areas they would like to see changes in Draft Alternative 2.

Kelly Richards:

- Add restrictions regarding hours of operation from 10 a.m. to 8 p.m.
- Look at the possibility of putting the zoning in the Smokey Point Master Plan. Planning Manager Holland commented that the City looks at that area as being its employment area. Commissioner Richards suggested that the marijuana businesses might at least get some of the infrastructure started. Commissioner Andes asked if this might deter other businesses from located there. Commissioner Lebo thought this was a great idea, but said it absolutely would deter certain businesses from locating there and people from wanting to do business there. CAO Hirashima concurred and commented that the City spent a lot of energy setting its sights on trying to create an employment base for the City in that area.

Jerry Andes:

- Add trails to the 1000-foot buffer.
- Limit the hours of operation.
- Move maximum canopy from tier 2 to tier 1.

Steve Leifer:

- Add churches or places of worship to the 1000-foot buffer.

Steven Lebo:

- Zone marijuana businesses within 1000 feet of the police station.

Steve Leifer:

- Add language stating that if there are repeated public disturbances or police action, licenses could be revoked. Commissioner Hoen stated that part of the state rules say that the license has to be renewed annually and comments from the city with empirical information about them being a bad business are highly considered by the Liquor Control Board. CAO Hirashima thought that the City's business licenses might already address this type of situation. Planning Manager Holland offered to bring back information that the State has related to this as well as the City's business license information.

Chair Leifer asked if the Council had an expectation that the Planning Commission would hold another hearing. CAO Hirashima said she thought they were just looking for more research, but she would confirm that with the Council.

There was consensus among the Planning Commission that their overwhelming preference was prohibition.

Commissioner Lebo commented that the Planning Commission has given their recommendation and they stand by that. He expressed concern about compromising that position.

CAO Hirashima said the Council was clear about the Planning Commission's recommendation. She thought they just wanted some backup research.

Commissioner Lebo asked if the Council would consider giving up the half a million dollars a year that would come from liquor sales to not compromise its standards. He suggested that they could propose a fundraiser to make up that money somewhere else that is more productive than drugs and alcohol.

CAO Hirashima reported that the industrial family wage property tax exemption bill the Planning Commission worked on a couple years ago cleared the Senate about a week ago and is in the House now. She was optimistic that it might get through this year. She also reported that the City is running a Transportation Benefit District on the ballot on April 22 where .2 of one percent sales tax would be dedicated to overlays of city streets.

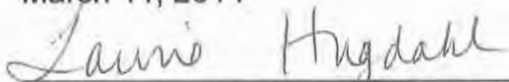
CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Andes, to adjourn the meeting at 8:30 p.m. **Motion** passed unanimously (6-0).

NEXT MEETING:

March 11, 2014



Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

March 11, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the March 11, 2014 meeting to order at 7:02 p.m. noting the excused absence of Commissioner Kelly Richards.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo, Marvetta Toler

Staff: Planning Manager Chris Holland, CAO Gloria Hirashima, Lt. Thomas, Commander Goldman

Absent: Kelly Richards

APPROVAL OF MINUTES

February 25, 2014

Motion made by Commissioner Smith, seconded by Commissioner Lebo, to approve the February 25 Meeting Minutes. **Motion** passed unanimously (5-0) with Councilmember Toler abstaining.

AUDIENCE PARTICIPATION

None

OLD BUSINESS

I-502 – Recreational Marijuana

Planning Manager Holland recapped the discussion at the previous meeting noting that some of the requested changes that the Planning Commission asked for were

incorporated in a revised draft in this meeting's packet. Some of these changes included limiting hours of operation for retail facilities between 10 a.m. and 8 p.m., requiring that marijuana facilities be set back 1000 feet from any public or regional trail or church, synagogue, or temple, restricting marijuana production facilities to a maximum of 2000 square feet of canopy (a tier 1 facility), and considering only allowing the marijuana facilities within the Smokey Point Master Plan boundaries.

The Planning Commission also had requested more information about any process by which the City has authority to revoke a marijuana facility permit if there is any illegal activity or a lot of police activity. In regards to the information about revoking a marijuana facility's permit due to increased police activity, staff proposed requiring a city-issued permit for a marijuana facility which would have language stating that if the facility is in violation of the conditions of the permit it could go into enforcement proceedings. Staff also looked at the business license provisions in Chapter 5 of the Municipal Code. This has two subsections that allow for inspections of businesses and also requires that any business meet all federal, state, and city statutes, laws, regulations, or ordinances. It also includes a process by which those licenses could be revoked. The Planning Commission had also asked about any enforcement procedures the Washington State Liquor Control Board has so that chapter was also included in the packet.

Additionally, at the last meeting there was discussion about requiring the 2500 foot separation between marijuana facilities, but after consideration of the complexities of this rule including vesting rights, staff is now recommending an alternative of just shrinking the zoning area if there is a concern about a proliferation of producers and processors.

The tracked changes of the draft Development Standards were reviewed:

Permit review process:

There were no comments or questions.

Development standards:

Commissioner Hoen asked how the City would qualify a legitimate religious facility. Planning Manager Holland said they would look at the business licenses to see if there is a non-profit registered. He acknowledged that this language may need to be strengthened. Chair Leifer remarked that a 501(c)(3) corporation would cover a lot of these.

Commissioner Toler asked what would constitute a recreation center or facility. Planning Manager Holland referred to the definitions section earlier in the code.

Marijuana Facility Retail Map:

Commissioner Andes asked about requiring a setback from residential such as 1000 feet. Planning Manager Holland explained that would remove most of the area that staff has recommended for retail. Commissioner Andes noted that a lot of the producer/processor area would be adjacent to residential as well. Planning Manager Holland stated that if that is something desired by the Planning Commission they could consider a different area within the city. He commented that the 1,000 foot buffer from R-zones would take out the entire retail overlay zone area, but wouldn't take out the entire producer/processor area. Commissioner Andes said he felt there should be some sort of buffer between residential and retail. Chair Leifer also expressed concern about having these adjacent to residential property.

Commissioner Hoen suggested that they would want the retail to be in an area that is regularly patrolled by police and also well-lit. Lt. Thomas concurred. Commissioner Hoen asked if there are any kinds of restrictions about bars and taverns adjacent to residential. Planning Manager Holland said he was not aware of any city regulations regarding this. He commented that most of the commercial area along State Avenue is adjacent to residential, but further north might be an option.

Commissioner Hoen addressed the hours of operation. He noted that the state liquor sales hours by WAC are 8 a.m. to 12 a.m. He thought that changing the hours would be confusing and didn't seem like it would really accomplish anything. In addition, research shows that increasing the distance required for people to drive while under the influence of alcohol could increase the number of accidents. He also wasn't sure that the City even had the authority to change the hours. Planning Manager Holland acknowledged that he was not sure how this and things like the setback requirements would hold up, but noted that they wouldn't know until they are litigated.

Commissioner Smith also expressed concern about the lack of a setback from residential areas. Commissioner Lebo thought the further away these are located from residential the better. He wondered why they were even considering the zoning regulations when there are still so many unknowns. He said he personally wouldn't like the zoning adjacent to residential at all.

Commissioner Toler said she didn't think it was any different from having a liquor store right next to your house. She pointed out that the houses along State Avenue are in a commercial zone. She thinks there are enough checks and balances in the regulations so that it doesn't need to be a big concern.

Chair Leifer commented on the apparent impossibility of coming up with an alternative plan when the Planning Commission's desire was prohibition. Commissioner Hoen pointed out that the Council said to bring back a backup plan. Commissioner Lebo asked what they could possibly base their backup plan on. Commissioner Hoen suggested that the regulations provided by the state and trying to build a decent community. Chair Leifer stressed that the consensus is they would like to see it all

prohibited, but they recognize there is a likelihood that the state will override that. In that event they need to come up with a backup plan.

CAO Hirashima commented that staff could take a closer look at the corridor to see if there is an area that is not abutting a residential zone with some buffer such as a railroad, road, or stream. She thought they would be able to find some area that would meet that criteria south of 100th. She emphasized that staff recognizes the Planning Commission's preference is prohibition, but in the event that is not possible it is necessary to have a backup plan.

Chair Leifer asked why they are ruling out the area running adjacent to Smokey Point Blvd. CAO Hirashima said that retail would be allowed there in the GC zone. Planning Manager Holland commented that it was desirable to have them consolidated in one area for police enforcement as opposed to being spread out. Chair Leifer asked why they wouldn't want to consolidate the facilities north of the new police station on the east side of State Avenue north of the new overpass since there is virtually no residential in that area. Lt. Thomas referred to the map and noted that with the 1000 foot rule a lot of that area would be ruled out (because of parks, daycares, etc.). Chair Leifer reiterated that he would be very upset if one of these things came into his neighborhood. He would be totally opposed to it. Commissioner Andes spoke in support of looking at the area referred to by Chair Leifer.

CAO Hirashima said she was fairly confident that staff could bring back a map with a subset of areas that would not be contiguous to residential south of 100th Street. Chair Leifer recommended that they do that in addition to the north end.

Commissioner Andes said he'd rather leave the Smokey Point Master Plan area out of it altogether. He noted that the City has worked very hard to get this area where they want it to be.

Chair Leifer asked Commissioner Hoen for clarification about his feelings about the hours of operation. Commissioner Hoen commented that he felt it was a waste of time and could be seen as obstruction. He added that studies show that the further people have to go for services the higher the risk of accidents. He acknowledged that the more concentrated these businesses are in one area, the higher the risk of crime. Commissioner Lebo asked Commissioner Hoen if he'd rather have crime or accidents. Commissioner Hoen replied that he'd rather have crime downtown where the police could deal with it.

Chair Leifer commented that after they get the additional information from staff they might be able to agree on an option to take back to Council.

Planning Manager Holland said staff sent off the draft of the prohibition and proposed draft development standards to the Department of Commerce to get the review process started as well as issuing a SEPA Threshold Determination of Non-significance to make sure the City is compliant with all the rules and regulations of GMA.

There was consensus to work through the following three items at the next meeting:

- Hours of operation
- Churches
- Proposed mapping changes

Chair Leifer welcomed Marveta Toler back. Commissioner Toler said she was glad to be back.

Commissioner Lebo commented on how difficult it is to come up with regulations when everything is so gray.

CAO Hirashima gave an update on development activity in the City.

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

The meeting was adjourned at 8:25 p.m.

NEXT MEETING:

March 25, 2014



Laurie Hugdahl, Recording Secretary

PLANNING COMMISSION



MINUTES

March 25, 2014

7:00 p.m.

City Hall

CALL TO ORDER

Chair Leifer called the March 25, 2014 meeting to order at 7:00 p.m. recognizing the excused absence of Marvetta Toler.

Marysville

Chairman: Steve Leifer

Commissioners: Roger Hoen, Jerry Andes, Kay Smith, Steven Lebo, Kelly Richards,

Staff: Planning Manager Chris Holland, Associate Planner Angela Gemmer

Absent: Marvetta Toler

APPROVAL OF MINUTES

Motion made by Commissioner Smith, seconded by Commissioner Andes, to approve the March 11, 2014 Meeting Minutes. **Motion** passed unanimously (5-0) with Commissioner Richards abstaining since he was absent at that meeting.

AUDIENCE PARTICIPATION

Kelly Richards, 5220 108th Street NE, Marysville, WA 98271, recommended that the Planning Commission look at making schools exempt from the current sign ordinance. He commented that the current zoning makes it difficult for schools to replace their existing signage.

Planning Manager Holland stated that there is a process in place to amend the regulations by using a Conditional Use Permit to request a variance. He noted that staff could also look at a fee reduction for that process for schools and code amendments for those types of facilities but pointed out that the City can't make a different set of rules

for one type of facility. There was general discussion about possible options related to code amendments.

NEW BUSINESS

Comprehensive Plan Periodic Update Amendments No. 1

Associate Planner Angela Gemmer introduced the Comprehensive Plan Periodic Update Amendment No. 1 and overview of upcoming amendments as contained in the packet including:

- Updated Urban Growth Area Map
- Areas of Future Influence Map - Chris Holland commented that the line is what was agreed upon for future UGA expansion to allow for planning of future service of that area
- Text amendment to the public participation process
- Inclusion of language pertaining to physical activity in the Land Use and Transportation Elements
- Inclusion of Regional Transit Authority, and other Essential Public Facilities referenced in State law, into the sections pertaining to Essential Public Facilities; and
- Provisions to allow for Day Care I's within existing single family residences in commercial zones

Chair Leifer asked if staff has any idea what might take place in some of the future influence areas. He also referred to the Regional Transportation facilities and asked where those might be located. Chris Holland referred to the future influence areas and noted that the City has not looked into annexation of those areas. The City is not allowed to expand boundaries until certain requirements are met.

OLD BUSINESS

I-502 - Recreational Marijuana

Chris Holland recapped topics discussed at the last meeting and updated the Commission that nothing happened on all the House Bills that were on the floor.

He reviewed Alternative Retail Boundaries 1, 2, and 3 and discussed ownership of properties within Alternative Retail Boundary 2. He commented that the 1000' buffer from churches, proposed by the Planning Commission would severely limit possible locations for siting a retail marijuana facility with Alternative Retail Boundary 1. Discussion about potential options followed.

Commissioner Lebo expressed frustration that Council had requested a Plan B even though the Commission unanimously voted for prohibition. He feels this compromises the Planning Commission's stated position.

Commissioner Hoen said that Council is very happy with the prohibition recommendation, but they are asking for an alternative plan in case they are forced to allow it by the state.

Planning Manager Holland commented that there are already jurisdictions that are in litigation on this matter. Having a running start on this means the Council will be ready to have regulations in case it's required.

Commissioner Hoen commented that one of the biggest challenges now appears to be with the buffers around churches. He wondered why the state chose not to include those.

Chair Leifer recommended amending Alternative Retail Boundary 2 and include the properties south to 152nd Street NE, west of Hayho Creek and east of Smokey Point Boulevard, if they have to allow it. He acknowledged that it would be restrictive, but the City would have the advantage of law enforcement being close to this area. Planning Manager Holland discussed the fact that retail facilities would likely locate within existing storefronts, rather than new construction, and reviewed the potential storefront locations within amended Alternative Retail Boundary 2.

Commissioner Hoen noted that one of the benefits of legalized marijuana is to divert the illegal sale of marijuana to a shop that is regulated. To him there is some value in that competition.

Planning Manager Holland noted that staff was also looking for a recommendation for the hours of operation, as the Planning Commission had previously discussed proposing to limit retail sales between 10AM and 8PM.

Commissioner Hoen said he had thought earlier that it might be against RCW to change the hours from what the state had approved (8AM to 12AM), but learned that it is allowable as long as it is reasonable.

Motion made by Commissioner Richards, seconded by Commissioner Andes, to identify the area in Alternative Retail Boundary 3 with the restricted hours of operation between 10AM and 8PM.

Discussion Commissioner Hoen disagreed with changing the hours, but said he would go with the will of the Commission.

Motion passed (5-1) with Commissioners Hoen, Andes, Richards, Leifer, and Smith, voting in support and Commissioner Lebo voting against the motion.

There was a moment of silence for the victims of the tragedy in Oso.

CITY COUNCIL AGENDA ITEMS AND MINUTES

ADJOURNMENT

Motion made by Commissioner Richards, seconded by Commissioner Hoen, to adjourn the meeting at 8:36 p.m. Motion passed unanimously.

NEXT MEETING:

April 8, 2014



Chris Holland, Planning Manager, for Laurie Hugdahl, Recording Secretary

Marijuana Facility Development Standards

Section 1. MMC 22A.020.040 is hereby amended by amending Section "C" definitions to amend the following definition:

"Cannabis or Marijuana" means all parts of the plant cannabis, whether growing or not; 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. For the purposes of this definition, "cannabis" 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. The term "cannabis" includes cannabis products and usable cannabis.

"Child care center" (definition related to recreational marijuana facilities regulations only) means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

Section 2. MMC 22A.020.060 is hereby amended by amending Section "E" definitions to add the following definitions:

"Elementary school" (definition related to recreational marijuana facilities regulations only) means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

Section 3. MMC 22A.020.080 is hereby amended by amending Section "G" definitions to add the following definitions:

"Game arcade" (definition related to recreational marijuana facilities regulations only) means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where per-sons under twenty-one years of age are not restricted.

Section 4. MMC 22A.020.130 is hereby amended by amending Section "L" definitions to add the following definitions:

"Library" (definition related to recreational marijuana facilities regulations only) means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

Section 5. MMC 22A.020.140 is hereby amended by amending Section "M" definitions to add the following definitions:

"Marijuana Use" includes an store, agency, organization, dispensary, cooperative, network consultation, operation, or other business entity, group or person, no matter how described or defined, including any associated premises and equipment which has for its purpose or which is used to grow, select, measure, process, package, label, deliver, dispense, sell or otherwise transfer for consideration, or otherwise, marijuana in any form.

"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 as wholesale to marijuana retailers.

"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.

"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.

"Marijuana retailer" means a person licensed by the State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet.

Section 6. MMC 22A.020.170 is hereby amended by amending Section "P" definitions to add the following definitions:

"Playground" (definition related to recreational marijuana facilities regulations only) means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

"Public park" (definition related to recreational marijuana facilities regulations only) means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a base-ball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

"Public transit center" (definition related to recreational marijuana facilities regulations only) means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

Section 7. MMC 22A.020.190 is hereby amended by amending Section "R" definitions to add the following definition:

"Recreation center or facility" (definition related to recreational marijuana facilities regulations only) means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

"Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

Section 8. MMC 22A.020.200 is hereby amended by amending Section "S" definitions to add the following definition:

"Secondary school" (definition related to recreational marijuana facilities regulations only) means a high and/or middle school: A school for students who have completed

their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

Section 9. MMC 22A.020.220 is hereby amended by amending Section “U” definitions to add the following definition:

“Useable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana-infused products.

Section 10. A new section MMC 22C.190.030 “Prohibited Home Occupations” is hereby created as follows:

MMC 22C.190.030 Prohibited Home Occupations.

Prohibited home occupations are enterprises which may create objectionable noise, fumes, odor, dust or electrical interference and may involve hazardous materials or on-site storage of petroleum products, and which are not compatible with residential development. The following is a nonexhaustive list of examples of such prohibited enterprises:

- (1) Automobile, truck and heavy equipment repair;
- (2) Autobody work or painting;
- (3) Parking and storage of heavy equipment;
- (4) Storage of building materials for use on other properties;
- (5) Marijuana production, processing or retail facility; or
- (6) Similar types of enterprises.

Section 13. MMC Section 22C.010.060 table entitled “Permitted uses” in Residential Zones is hereby amended to add new provisions to the table as follows (All other provisions of MMC 22C.010.060 table entitled “Permitted uses” remain unchanged and in effect):

				<u>WR</u>				<u>WR</u>	
	<u>R-4.5</u>	<u>R-6.5</u>	<u>R-8</u>	<u>R-4-</u>	<u>R-12</u>	<u>R-18</u>	<u>R-28</u>	<u>R-6-</u>	<u>R-</u>
<u>Specific Land Use</u>				<u>8</u>				<u>18</u>	<u>MHP</u>
<u>Government/Business Service Land Uses</u>									
<u>State-Licensed Marijuana Facilities:</u>									
<u>Marijuana Processing Facility – Indoor Only (48)</u>									
<u>Marijuana Production Facility – Indoor Only (48)</u>									
<u>Marijuana Retail Facility (48)</u>									

Section 14. MMC Section 22C.010.070 entitled “Permitted uses – Development conditions” is hereby amended to add a new footnote (48) which shall read as follows (All other provisions of MMC 22C.010.070 remain in effect and unchanged):

(48) No person or entity may produce, grow, manufacture, process, accept donations for, give away or sell marijuana or marijuana infused products within Residential zones in the City.

Section 15. MMC Section 22C.020.060 table entitled “Permitted uses” in Commercial, Industrial, Recreation and Public Institutional Zones is hereby amended to add new provisions to the table as follows (all other provisions of MMC 22C.020.060 table entitled “Permitted uses” remain unchanged and in effect):

Specific Land Use	NB	CB (63)	GC	DC	MU (63)	BP	LI	GI	REC	P/I
Government/Business Service Land Uses										
<u>State-Licensed Marijuana Facilities:</u>										
<u>Marijuana Processing Facility – Indoor Only (69)</u>							P			
<u>Marijuana Production Facility – Indoor Only (69)</u>							P			
<u>Marijuana Retail Facility (69)</u>			P							

Section 16. MMC Section 22C.020.070 entitled “Permitted uses – Development conditions” is hereby amended to add a new footnote 69 which shall read as follows:

(69) State-Licensed Marijuana Facilities must obtain a marijuana facility permit from the city and comply with the development standards outlined in Chapter 22C.280 MMC.

Section 17. A new Chapter 22C.280 MMC “State-Licensed Marijuana Facilities” is hereby created as follows:

**Chapter 22C.280
State-Licensed Marijuana Facilities**

Sections:

- 22C.280.010 Purpose.**
- 22C.280.020 Permit review process.**
- 22C.280.030 Development standards.**
- 22C.280.040 Marijuana retail facility map.**
- 22C.280.050 Marijuana processing and production facility map.**

22C.280.010 Purpose.

The purpose of this chapter is to outline the development standards and citing of marijuana facilities within the City of Marysville.

22C.280.020 Permit review process.

- (1) A marijuana facility permit shall be required prior to establishing such a use. The prospective marijuana facility operator (property owner or lessee), shall apply for the marijuana facility permit and shall be responsible for compliance with all conditions of the permit.
- (2) Application process.
 - (a) A marijuana facility permit shall be processed as set forth in Chapter 22G.010 MMC, Article V, Code Compliance and Director Review Procedures.
 - (b) Application fees. Permit processing fees for a marijuana facility shall be established in MMC 22G.030.020.

Comment [c1]: PC Recommended requiring applicants to obtain a marijuana facility permit from the City, in order for City Departments to have an opportunity to review, prior to establishing a marijuana facility.

- (c) If the marijuana facility permit application meets all of the requirements specified in MMC 22C.280.020(3), then the application shall be deemed complete and the community development department shall circulate copies of the application materials to relevant city departments who shall review the application and furnish the community development department with a report as to the effect of the proposed use on the public health, safety and general welfare, and containing their recommendations as to the approval of the permit.
- (d) Decision. If the community development director finds that appropriate provisions have been made according to the requirements of MMC 22C.280.030, then the marijuana facility permit shall be granted. If the community development director finds that the proposed marijuana facility does not make appropriate provisions according the requirements of MMC 22C.280.030, the city may disapprove or return it to the applicant for modification and conditions of approval.
- (e) Public notice. A marijuana facility permit is exempt from the public notice requirements set forth in MMC 22G.010.090 and MMC Section 22G.010.150.
- (f) Appeals. Decisions of the community development director may be appealed. Such appeals shall be heard and decided by the hearing examiner in accordance with procedures set forth in Chapter 22G.060 MMC, Hearing Examiner.
- (3) Application submittal.
 - (a) The applicant shall be required to submit a land use application, supplied by the community development department.
 - (b) The applicant shall specifically describe, to the satisfaction of the community development director, how the proposed marijuana facility complies with the development standards outlined in MMC 22C.280.030.
 - (c) Site plan. The applicant shall provide an accurate site plan containing the following information:
 - (i) The name or title of the proposed marijuana facility;
 - (ii) The date, north arrow and appropriate engineering scale as approved by the community development department (e.g., one inch equals 20 feet; one inch equals 30 feet; one inch equals 40 feet; one inch equals 50 feet; one inch equals 60 feet);
 - (iii) Property lines and dimensions;
 - (iv) Adjacent land use(s) within 1,000 feet of proposed site boundary;
 - (v) Existing and proposed structure location(s) and size;
 - (vi) Floor plan identifying the proposed use(s);
 - (vii) Location and name of existing and proposed streets and right-of-way;
 - (viii) The location of existing driveways;
 - (ix) All easements and uses include the references to auditor's file numbers;
 - (x) Existing and proposed utility services; and
 - (xi) Fire hydrant location and distance.
 - (d) The applicant shall provide their approved state-licensed marijuana facility permit.
- (4) Failure to Comply. If a marijuana facility permit has been issued, and the community development director determines that the applicant has violated any conditions of that permit, the director shall issue a notice of violation and required compliance in accordance with the procedures set forth in Chapter 4.02 MMC, Enforcement Procedures. Failure to correct the violation after a reasonable time

for compliance shall result in revocation of the permit. In such an event all activities associated with the marijuana facility shall cease immediately.

22C.280.030 Development standards.

All state-licensed marijuana facilities shall meet the following development standards:

- (1) All facilities must be state-licensed and comply with all requirements of state law and the Washington State Liquor Control Board's regulations for state-licensed marijuana facilities.
- (2) No marijuana facility shall be allowed in a Residential (R) zone.
- (3) No marijuana facility shall be allowed as a home occupation.
- (4) No marijuana facility shall be located in a mobile or temporary structure.
- (5) No marijuana facility shall locate on a site or building with non-conforming status.
- (6) No marijuana facility shall be an accessory use to a primary use.
- (7) Location:
 - (a) A marijuana retail facility shall not be allowed on a single parcel which contains a marijuana processing facility, or marijuana production facility. A marijuana processing facility and a marijuana production facility can be located on a single parcel only if located within the same fully-enclosed and secure building.
 - (b) Marijuana processing facilities, production facilities and retail facilities shall be located in a fully-enclosed and secure building. Outdoor marijuana, processing facilities, production facilities and retail facilities shall be prohibited.
 - (c) A marijuana retail facility shall only be allowed to locate within the General Commercial zones as mapped in MMC 22C.280.040.
 - (d) Marijuana processing facilities and marijuana production facilities shall only be allowed to locate within the mapped areas identified in MMC 22C.280.050.
 - (e) A state-licensed marijuana facility shall not be located within 1,000 feet of the perimeter of a parcel, which has at least one of the land uses listed below:
 - (i) Elementary or secondary school (public or private);
 - (ii) Playground;
 - (iii) Recreation center or facility;
 - (iv) Child care center;
 - (v) Public park;
 - (vi) Any public or regional trail;
 - (vii) Public transit center;
 - (viii) Library;
 - (ix) Any game arcade, which allows admission to persons less than 21 years of age;
 - (x) Any legally permitted church, synagogue or temple, not operated as a home-occupation.
- (8) Hours: A marijuana retailer licensee may sell usable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of 10:00 a.m. and 8:00 p.m.
- (9) Size: State-licensed marijuana production facilities shall be limited to a total of 2,000 square feet of plant canopy or less.
- (10) No production, processing or delivery of marijuana may be visible to the public nor may it be visible through windows.
- (11) All fertilizers, chemicals, gases and hazardous material shall be handled in compliance with all applicable local, state and federal regulations and shall not be allowed to enter a sanitary sewer or stormwater system nor be released into the atmosphere outside of the structure where the facility is located.

Comment [c2]: PC added trails, as it was not included in the WSLCB Rules.

Comment [c3]: PC added churches, as it was not included in the WSLCB Rules.

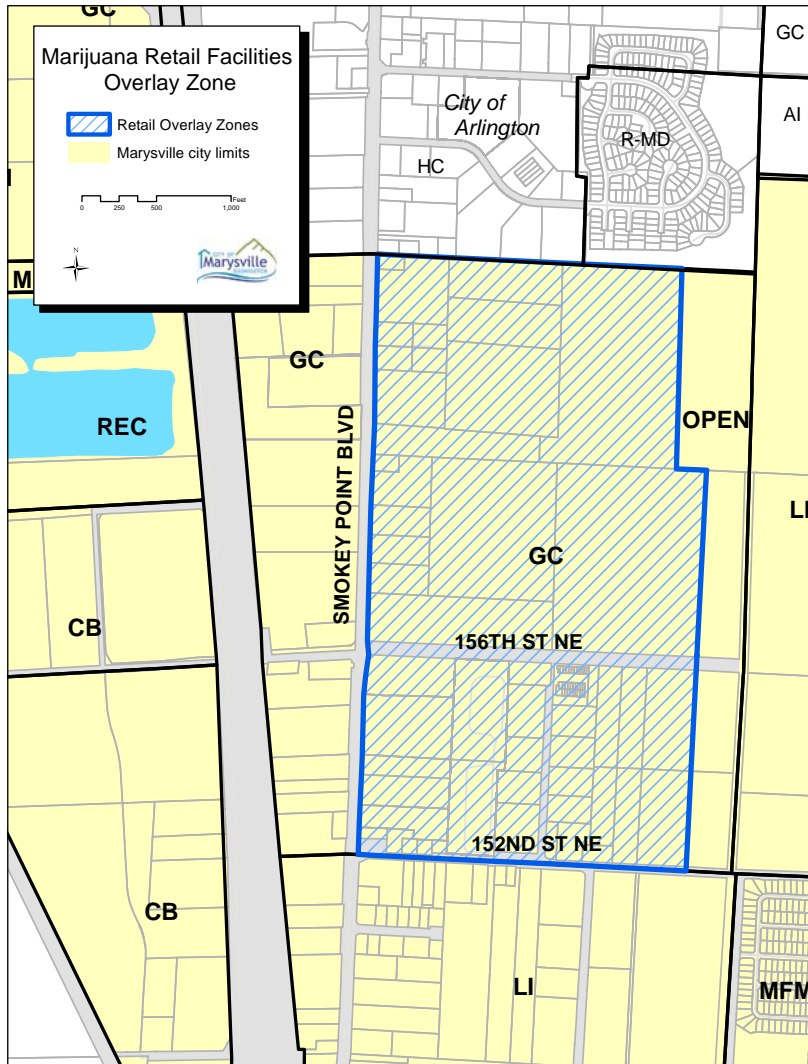
Comment [c4]: WAC 314-55-147 allows store hours from 8AM to 12AM

Comment [c5]: PC recommended a maximum canopy of 2,000 SF (Tier 1). Tier 2 (2,000 – 10,000 SF) and Tier 3 (10,000 – 30,000 SF) allowed by the WSLCB.

- (12) No odors shall be allowed to migrate beyond the interior portion of the structure where a marijuana facility is located.
- (13) No use that constitutes or purports to be a marijuana producer or processor engaged in activity prior to the enactment of the ordinance shall be deemed to have been a legally established use and cannot claim legal nonconformance.
- (14) A City of Marysville business license pursuant to Chapter 5.02 MMC and a state license pursuant to Chapter 314-55 WAC shall be obtained prior to the start of marijuana facility operations.
- (15) All marijuana facilities shall comply with Chapter 19.27 RCW, State Building Code, and Title 16 MMC, Building. Appropriate permits shall be obtained for all changes of use, tenant improvements, mechanical system improvements, electrical upgrades and similar work.
- (16) Advertising. In accordance with WAC 314-55-155, each state-licensed retail facility may have one sign, limited to sixteen hundred square inches (11.11 square feet), identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right-of-way. Pursuant to MMC 22C.160.030 is shall be unlawful to erect or display a sign in the city without a sign permit issued by the community development department.

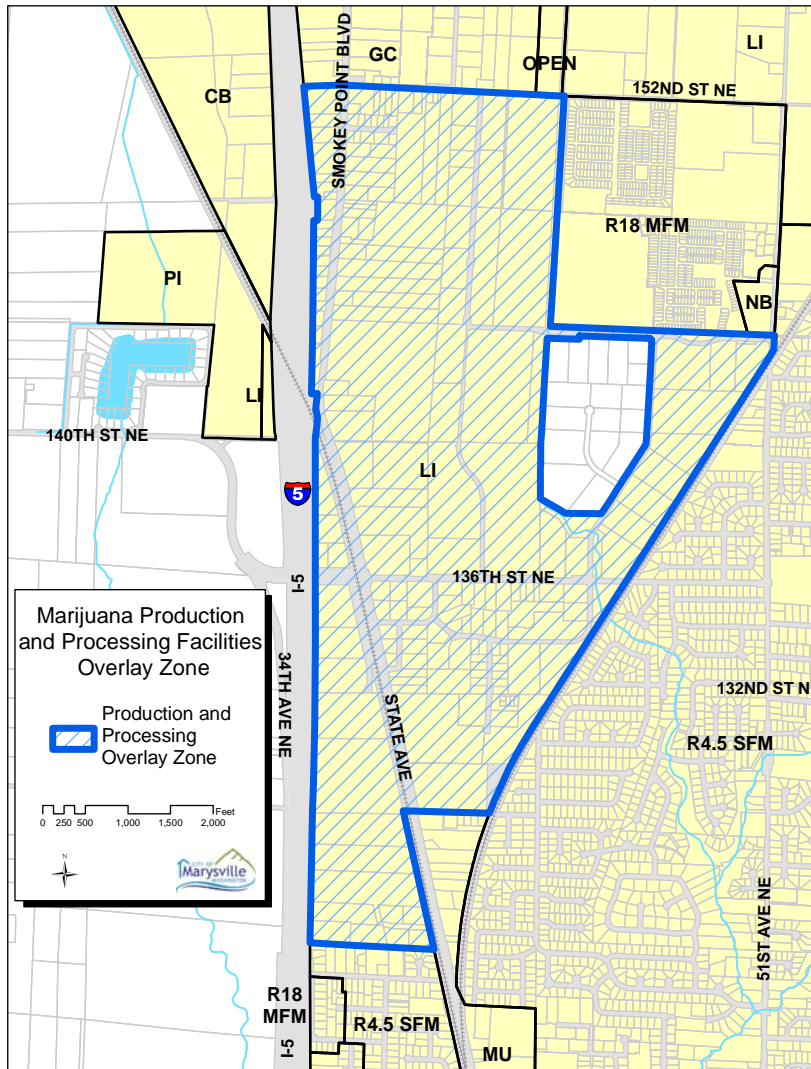
22C.280.040 Marijuana retail facility map.

Marijuana retail facilities shall be allowed to be established if in compliance with all of the application provisions outlined in MMC 22C.280.030, and only if located within the following mapped area(s):



22C.280.050 Marijuana processing and production facility map.

Marijuana processors and producers shall be allowed to be established if in compliance with all of the application provisions outlined in MMC 22C.280.030, and only if located within the following mapped area(s):



Section 18. MMC Section 22G.010.300 entitled “Code compliance review – Actions subject to review” is hereby amended as follows:

22G.010.300 Code compliance review – Actions subject to review.

The following actions shall be subject to administrative review by the community development director, or designee, for determining compliance with the provisions of this title and/or any applicable development conditions which may affect the proposal:

- (1) Building permits;
- (2) Grading permits; ~~and~~
- (3) Temporary use permits; ~~and~~ and
- (4) Marijuana facility permits.

Section 19. MMC Section 22G.030.020 entitled “General fee structure” is hereby amended as follows (all other provisions of MMC 22G.030.020 table entitled “General fee structure” remain unchanged and in effect):

22G.030.020 General fee structure.

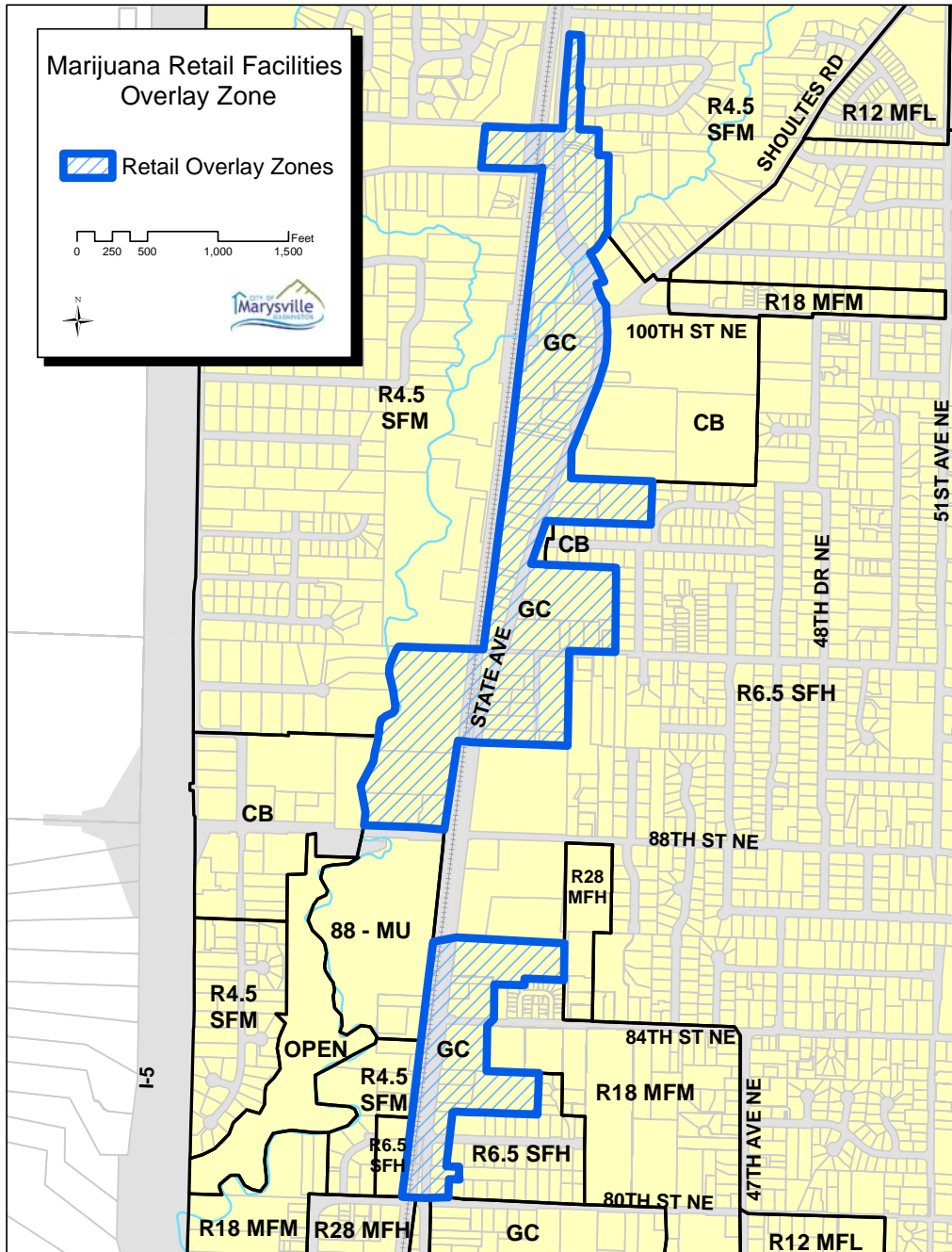
The community development department is authorized to charge and collect the following fees:

Type of Activity	Fee
Land Use Review Fees	
Administrative approval (bed and breakfast, accessory dwelling unit, <u>marijuana facility permit</u> or similar request)	\$250.00

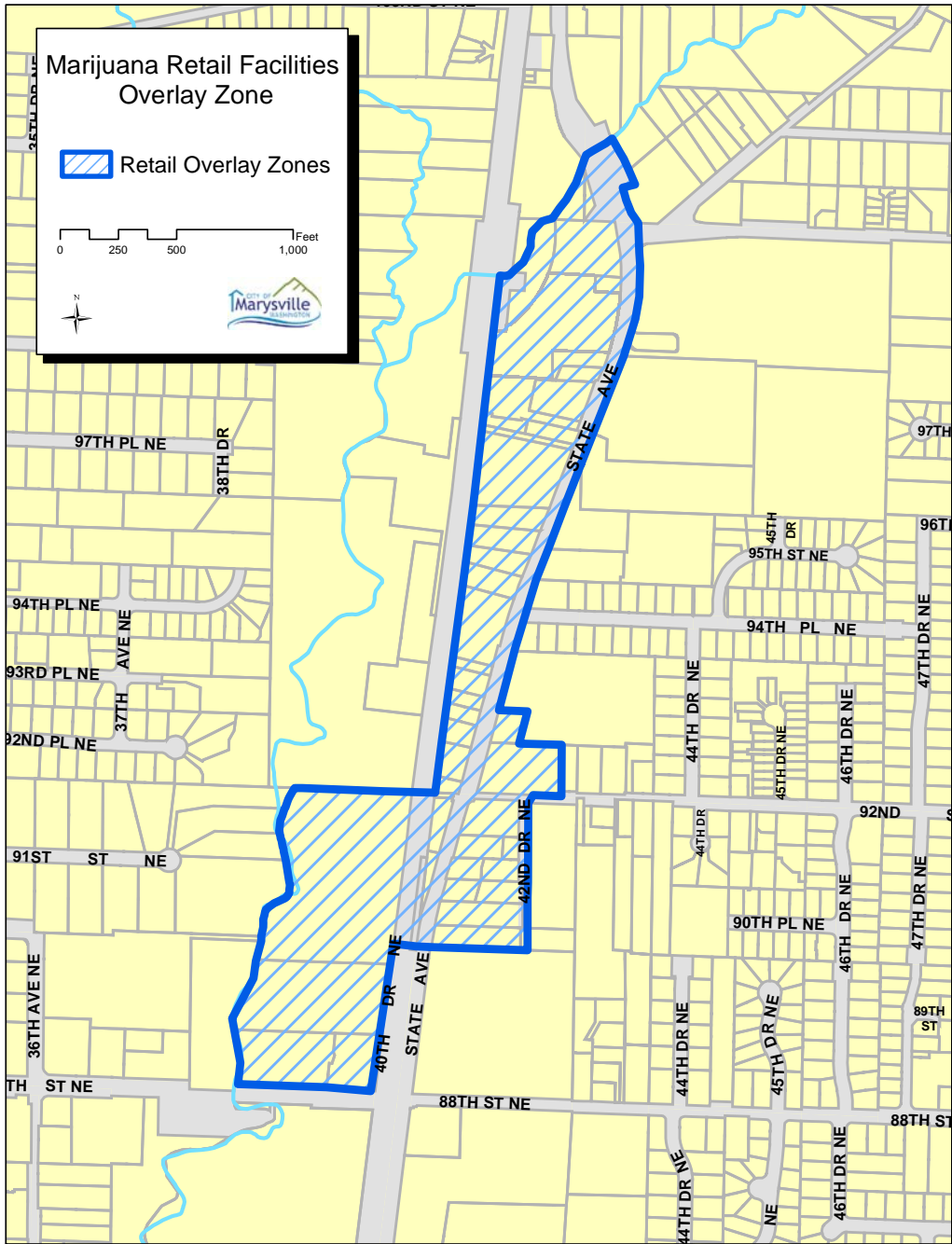
Section 20. MMC Section 22G.010.150 entitled “Administrative approvals without notice” is hereby amended as follows:

- (1) The director may approve, approve with conditions, or deny the following without notice:
 - (a) Boundary line adjustments;
 - (b) Extension of time for approval;
 - (c) Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not:
 - (i) Affect overall project character;
 - (ii) Increase the number of lots, dwelling units, or density; or
 - (iii) Decrease the quality or amount of open space;
 - (d) Home occupations;
 - (e) Critical areas management determinations made by the community development director pursuant to [Chapter 22E.010 MMC](#);
 - (f) Bed and breakfast permits;
 - (g) Accessory dwelling units;
 - (h) Site plan with commercial, industrial, institutional (e.g., church, school) or multiple-family building permit if permitted outright;
 - (i) Site plan with administrative conditional use permit; and
 - (j) A marijuana facility permit.
- (2) Director’s decisions under this section shall be final on the date issued.

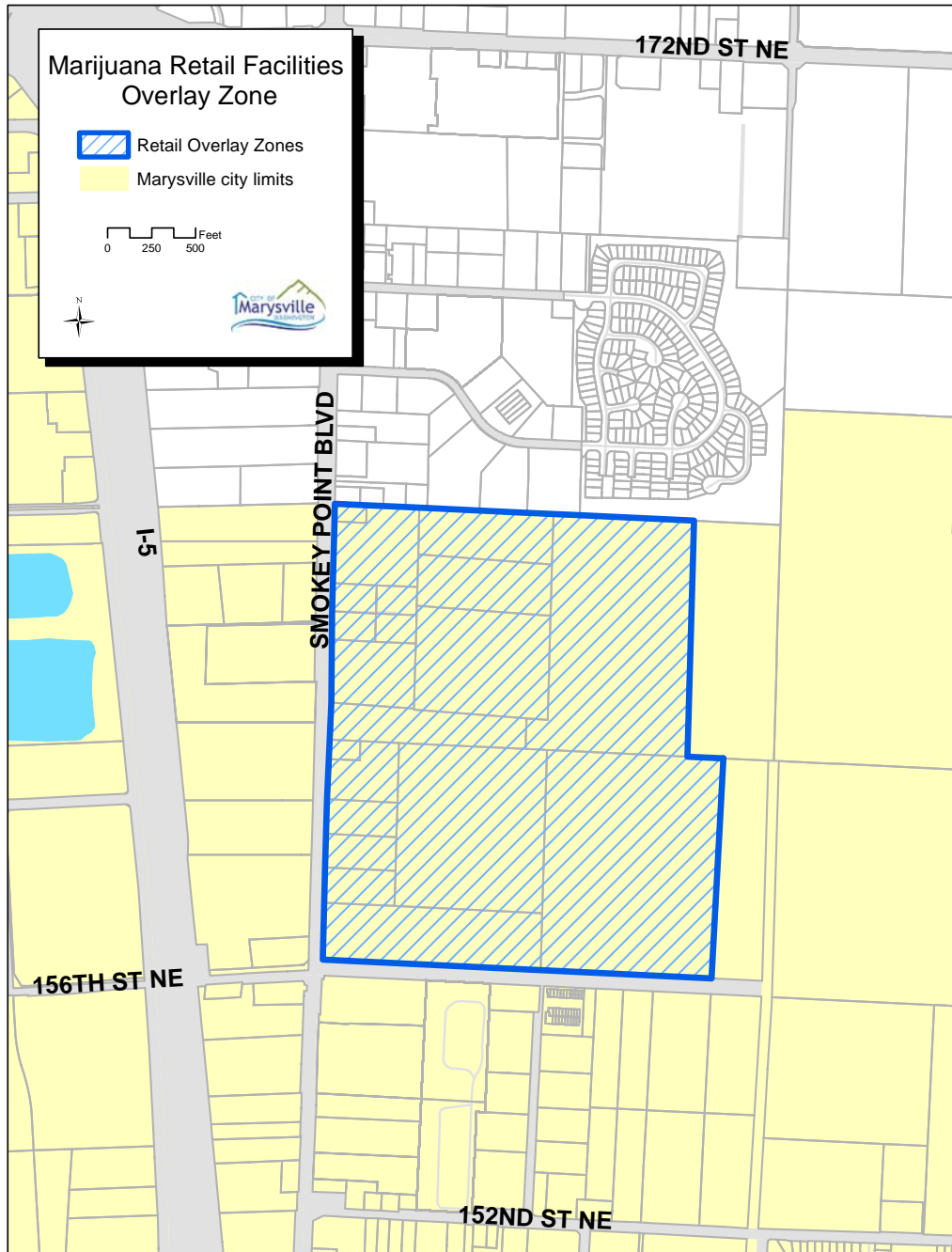
ORIGINALLY PROPOSED RETAIL BOUNDARY



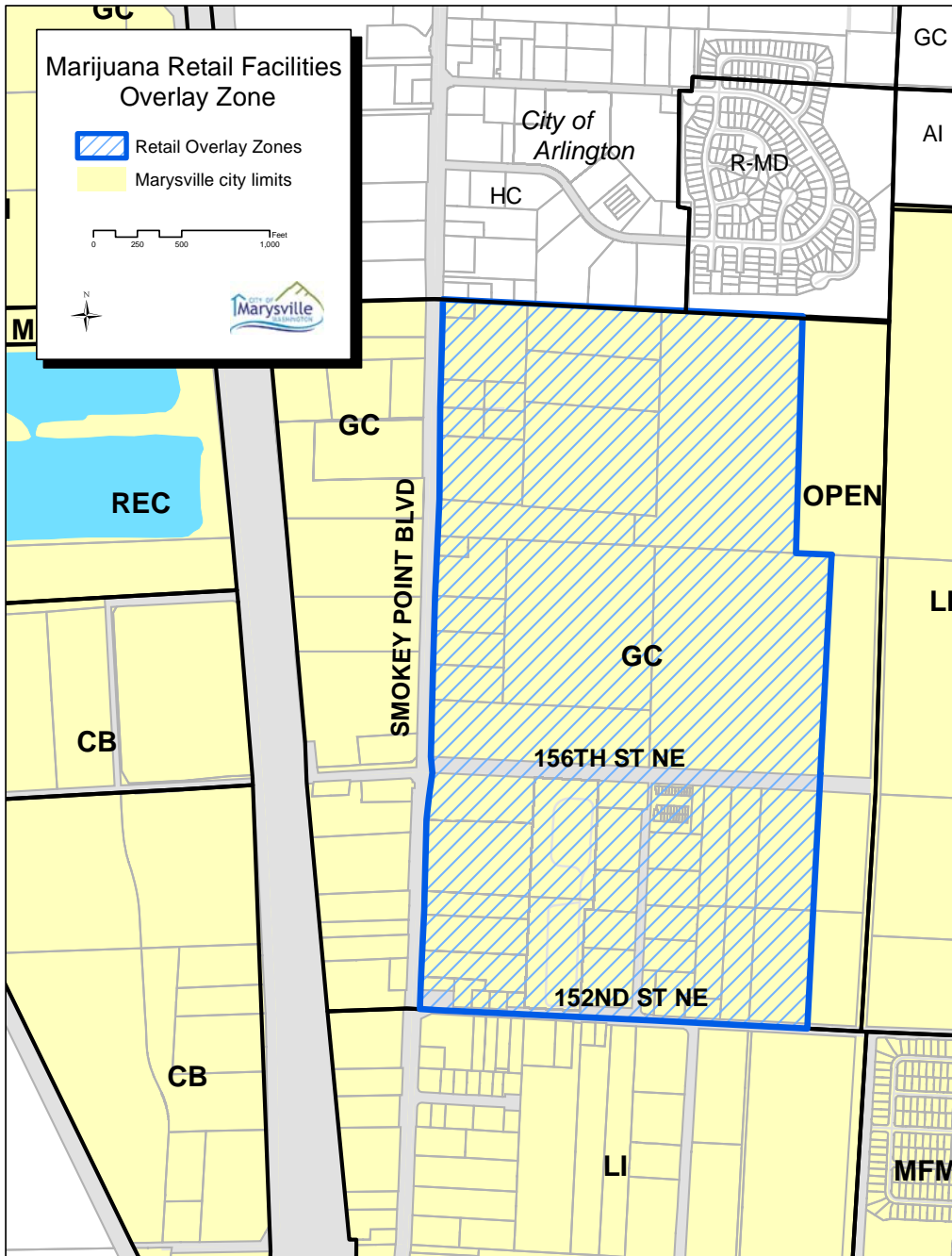
ALTERNATIVE RETAIL BOUNDARY 1



ALTERNATIVE RETAIL BOUNDARY 2



PC RECOMMENDED - RETAIL BOUNDARY 3

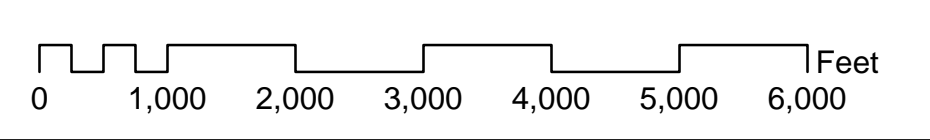




I-502 Retail Prohibitions and Proposed Zones

April 2014

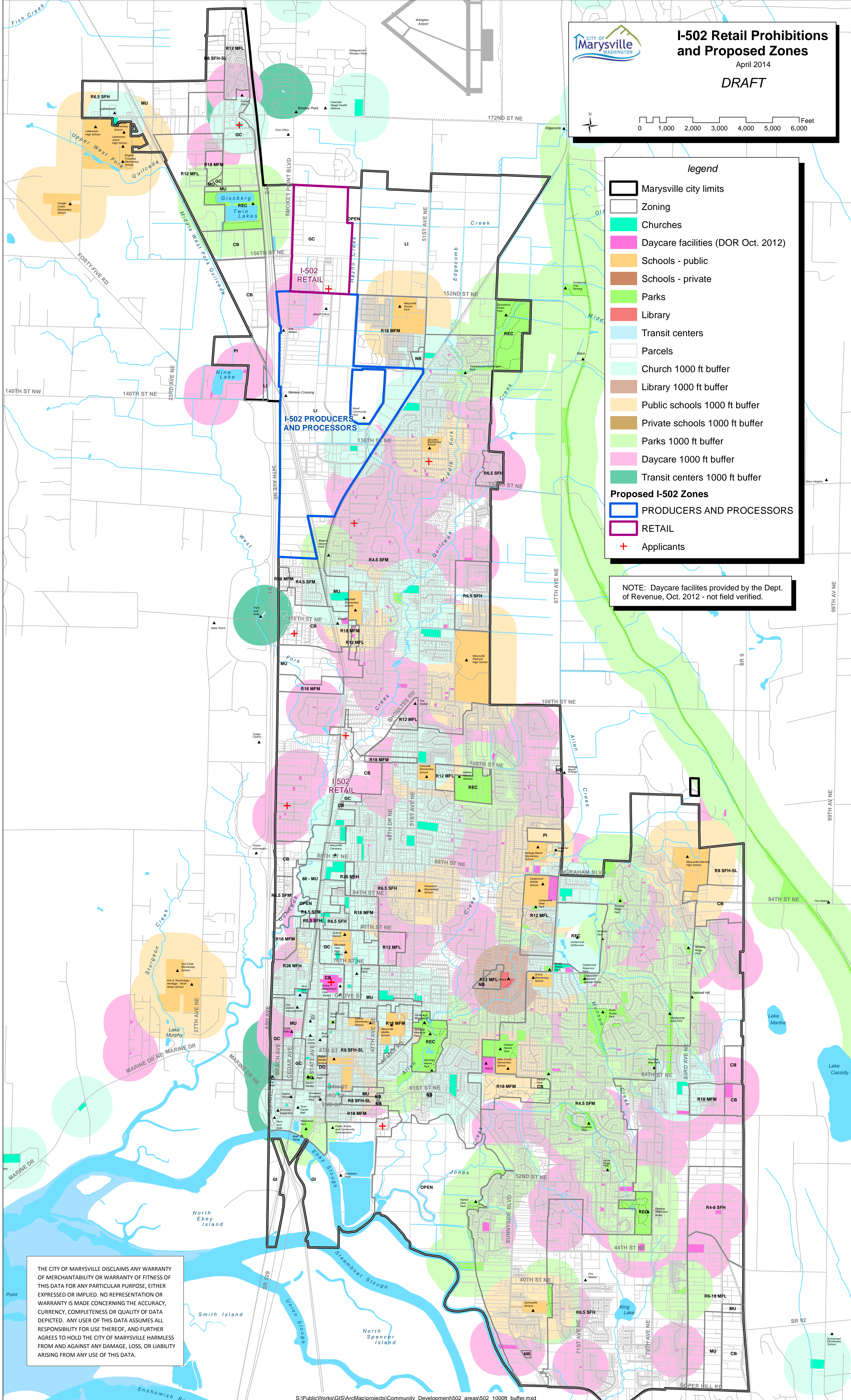
DRAFT



Legend

- Marysville city limits
- Zoning
- Churches
- Daycare facilities (DOR Oct. 2012)
- Schools - public
- Schools - private
- Parks
- Library
- Transit centers
- Parcels
- Church 1000 ft buffer
- Library 1000 ft buffer
- Public schools 1000 ft buffer
- Private schools 1000 ft buffer
- Parks 1000 ft buffer
- Daycare 1000 ft buffer
- Transit centers 1000 ft buffer
- Proposed I-502 Zones**
- PRODUCERS AND PROCESSORS
- RETAIL
- Applicants

NOTE: Daycare facilities provided by the Dept. of Revenue, Oct. 2012 - not field verified.



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