

**CITY OF COVINGTON
Planning Commission Minutes**

May 5, 2016

City Hall Council Chambers

CALL TO ORDER

Chair Judd called the regular meeting of the Planning Commission to order at 6:35 p.m.

MEMBERS PRESENT

Chele Dimmett, Jennifer Gilbert-Smith, Bill Judd, Jim Langehough Paul Max, Krista Bates and Alex White

MEMBERS ABSENT - None

STAFF PRESENT

Brian Bykonen, Associate Planner and Code Enforcement Officer
Richard Hart, Community Development Director
Kelly Thompson, Planning Commission Secretary

APPROVAL OF MINUTES AND AGENDA

- **1. Vice Chair Max moved and Commissioner Dimmett seconded to approve the April 7, 2016 minutes, the April 21, 2016 minutes and agenda. Motion carried 7-0.**

Community Development Director, Richard Hart shared some ground rules regarding anyone providing testimony who wished to remain anonymous.

CITIZEN COMMENTS - None

UNFINISHED BUSINESS - None

PUBLIC HEARING

Mr. Hart shared a memo related to Covington Municipal Code (CMC) Title 18 on Proposed Permanent Marijuana Zoning Regulations and reviewed the attachments. A map was included in the packet indicating zoning type broken down by other local jurisdictions.

The City of Covington is proposing that production be limited to the Industrial (I) zone and retail uses be allowed in General Commercial (GC) and Mixed Commercial (MC) zones.

Based on the proposed regulations, an applicant could apply for a Conditional Use Permit (CUP) if they wanted to locate 500' from a public park, recreation center, public library, church or game arcade. A Public Hearing before the Hearing Examiner would be required. The current fee is approximately \$10,500. A typical CUP is attached to a Commercial Site Development Application which would also require review of engineering and a building permit. However, for marijuana retail sales use, the staff time involved would be considerably less. If the Planning Commission chooses to recommend reducing the fee to the City Council, if approved, the Fee Resolution would be amended.

Vice Chair Max asked about Washington State Initiative 502. Mr. Hart explained that was the initiative that was passed by the voters that is driving this proposed code change. Mr. Hart explained that the applicant must indicate whether they are applying for medical marijuana, recreational marijuana or both. The map showing the zoning types for cities which have allowed marijuana sales have not indicated whether they are for medical or recreational sales. Mr. Hart also explained that the CUP does not follow the business, it is specific to the location. Mr. Hart also shared how the CUP process works.

Commissioner Dimmett asked whether once a marijuana store is established, if a use came in after the fact that required the buffer, what would happen. Mr. Hart indicated that answer is currently being researched. Staff will be working on an answer to report to the City Council.

2. Public Hearing on Proposed Permanent Marijuana Zoning Regulations

Chair Judd opened the Public Hearing.

Darci Ross -27708 SE 268th Street, Ravensdale, WA 98051 – When she voted for I-502, she voted in favor of the 1000' buffer from sensitive uses. There is another recreational sales store less than a mile away. She is concerned about the proximity of the medical marijuana retailer to the library.

Jeff Tillotson – 17866 South Angeline Ave NE, Suquamish, WA 98392 - He agrees that the medical marijuana retailer is too close to the library and would like the 1000' buffer to remain.

Brian Longmore - 25408 SE 216th, Maple Valley, WA 98038 - He asked why they are considering reducing the buffer and wondered whether this would invite more marijuana business into the city.

Colleen O'Rourke - PO Box 6023 Kent, WA 98064 – She is the owner of Covington Holistic Medicine. They have been in business for 6 years and have not had any problems or issues. They would like to remain in business. She wanted a discreet location and even asked the high school to make sure that the track team did not run past the location to be mindful of children in the area.

Laurent Bentitou – 11421 NE 95th St, Kirkland, WA 98033 – The voters approved I-502 which included a 1000' buffer from sensitive areas because they did not want marijuana sales near children. Many people were able to find locations that met the 1000' sensitive area setback. He asked what rationale is there for reducing the standard. Are citizens safer by lowering the standard? He stated that if a CUP is approved, then citizens are stuck with the decision.

Ben Bentitou – 11301 SE 86th Place, Newcastle, WA 98056 He owns the recreational marijuana store off of Covington Way. He followed all of the rules and they value the location that they have. If the standards are there for a reason, they should apply everyone.

The Public Hearing was closed.

Question and Answers:

Commissioner White asked if a 500' buffer was passed under permanent zoning regulations, could it be changed later. Mr. Hart explained that if you adopt a buffer area, yes, the regulations could be changed in the future.

Commissioner Dimmett asked about medical vs. recreational marijuana. Ms. O'Rourke's medical marijuana facility preceded I-502 and there were not buffers established at that time. Mr. Hart shared that they would be treated the same under the new regulations effective July 1, 2016.

Commissioner White asked if the citizen comments are by two competing businesses and Commissioner Gilbert-Smith asked if any of the testimony was received from residents of Covington. Mr. Hart responded no.

Commissioner Langehough asked what the rationale was for reducing the buffer. Mr. Hart shared that if you map the sensitive areas with a 1000' buffer, you limit the geographical area that the stores could be allowed. There are very few pieces of property available when you apply the 1000' buffer to all of the sensitive areas. When the original regulations came from the state, there was a limited number of licenses that would be issued. The city of Covington received zero licenses due to the population being under 20k. Due to "at-large" licenses that could be located within unincorporated King county or another small city, the city was able to approve the existing recreational marijuana license. The

state modified their regulations and they opened up new licenses. It is a free market system. Local government could also adopt a distance required between stores. Some cities have said they would rather have them located within the same geographical area. The more restrictions there are, the fewer allowed businesses.

The existing recreational marijuana store was opened under interim regulations which allowed the city time to develop permanent regulations. The City Council has the option to retain the 1000' buffer and they asked the Planning Commission to evaluate the options and make a recommendation.

Vice Chair Max asked about the potential increase in number of stores if the regulation were reduced to the 500' buffer from sensitive areas. Mr. Hart would not speculate. He pointed out the red area on the map showing the locations outside of the buffer. A private property owner can choose or not choose to lease to a marijuana business. Many of these businesses are currently occupied. The other issue is how many licenses the state will issue. We have had several inquiries over the past several years, but only a couple who actually applied for the state license that could find a location within the city.

- **Commissioner White moved and Commissioner Dimmett seconded to recommend that the City Council adopt the Proposed Covington Municipal Code Amendments and Additions for Permanent Marijuana Regulations.**

Commissioner White stated that if the sensitive buffer is reduced, it is unlikely that another shop would locate within the city limits. He is comfortable with the existing medical facility remaining. He does not see a lot of pedestrian activity in that area. The existing medical marijuana business has existed for several years without problems.

Commissioner Dimmett feels her purpose on the commission is to try and balance her wants with the needs of the community. There is a medical marijuana store that has been operating for several years that she was not aware even existed. The new state requirement may have unintended consequences. The existing medical marijuana facility will be affected and may be out of business for a period of time. In response to the argument that reducing the buffer will invite more marijuana facilities, she feels that there are several obstacles including location, capital, etc. that would limit the number of new marijuana facilities. The CUP process seems like a reasonable process for facilities located between 500' and 1000' from the listed sensitive uses.

Commissioner Gilbert-Smith agrees with allowing the CUP process for facilities between 500' and 1000' from sensitive uses because it will go through a public

hearing that will mitigate impacts. She had hoped to hear from more Covington residents at the Public Hearing.

Commissioner Langehough does not want to see the existing medical marijuana facility to be put out of business, but he does not see the need to reduce the buffer. He does not want to see us become a city known for pot shops, but does not think that will happen even with the 500' sensitive area buffer.

Commissioner Bates stated that the staff and the Planning Commission have all made valid points. If the Planning Commission recommends the proposed regulations to City Council, there are still several steps in the process that the existing medical marijuana facility would have to go through in order to remain in business.

Vice Chair Max was not aware of either of the existing marijuana businesses in Covington. He has a friend with diabetes that uses medical marijuana. His nephew who passed away at 31, also used medical marijuana. From the standpoint of making a recommendation, he still has a level of uncertainty with regard to the CUP process and will leave it to the rest of the Planning Commission.

Chair Judd shared that the Planning Commission is here to represent the community and to make recommendations based on the needs of the community. The recommendation strikes a responsible balance. He believes that the free market is important. The regulation of maintaining the 1000' buffer is so restrictive that it is likely that only one marijuana business could operate. He is comfortable and feels this is the most responsible balance. He appreciates the business owners that do things the right way.

Mr. Hart recapped the public testimony. No one who testified lives in Covington. Two people own businesses in Covington. With regard to public safety concerns, there has not been one police call in 6 years to either the medical marijuana or recreational marijuana store.

➤ **Motion carried 6-1 with Vice Chair Max dissenting.**

The Planning Commission's recommendation will go to City Council on June 14, 2016. It is not a Public Hearing, however, there will be two public comment periods. Interested parties may submit comments in writing a week prior to the meeting and they will be given to the City Council or public comment can also be given at the meeting.

NEW BUSINESS - None

ATTENDANCE VOTE - None

PUBLIC COMMENTS

Darci Ross - She was under the impression that the medical marijuana facility had applied for a medical marijuana dispensary license. Mr. Hart responded that applicants can apply for either. The regulations that are being proposed do not distinguish between medical or recreational marijuana.

Steven Childers - He lives just outside the city limits. He is a medical patient and stated that the medical marijuana facility runs a very tight ship. He was given instructions on how to re-attain his prescription. He shared that they recently moved out of the city and by having the medical facility nearby has made it much more convenient him. He is grateful to see how the process is moving forward.

Laurent Bentitou - He stated he does not have a financial interest in or own the recreational store. The state did not allot a store to the City of Covington as the state only allocated licenses to cities over 25k population. He is certain that if a 500' buffer is approved, there will be 3-4 more stores within the city limits.

Brian Longmore - He owns two rentals and has kids in Covington. He does not have an interest in either the recreational or medical marijuana store. The people that want to know, that need it, will find it. He thinks that 3 – 4 more stores is too much for a small town.

COMMENTS AND COMMUNICATIONS FROM STAFF

Mr. Hart thanked everyone in the audience for attending and encouraged them to provide written comments or attend the City Council meeting on June 14, 2016. He hopes that everyone feels they were heard.

The Planning Commission will be discussing new Sign Code Regulations at the regularly scheduled meeting on May 19, 2016.

ADJOURN

The May 5, 2016 Planning Commission Meeting adjourned at 8:27 p.m.

Respectfully submitted,



Kelly Thompson, Planning Commission Secretary