

Lauren Davidson

From: Perry Huston
Sent: Monday, March 28, 2016 4:40 PM
To: Angela Hubbard; Lauren Davidson
Subject: FW: Okanogan County Community Coalition - Comments regarding proposed zoning Title 17A
Attachments: 2016-03 Regional Planning Commission CUP Comments.pdf

From: Andi Ervin [<mailto:occcandi@yahoo.com>]
Sent: Monday, March 28, 2016 4:37 PM
To: Sheilah Kennedy; Ray L. Campbell; Jim DeTro; Perry Huston
Cc: Frank Rogers; Lesa Eiffert; David Kirk; Leah Beetchenow; Josie Bent; Andi Ervin; Sally Hutton; Lauri Jones; Sheila Corson; Racie McKee; Stacey Okland; Larry Schreckengast; Teri Kruse; Terri Yaksic; Angela Rios; Lynell Morrison-Nelson
Subject: Okanogan County Community Coalition - Comments regarding proposed zoning Title 17A

Attached is written comment regarding the proposed Zoning Draft Title 17A. I will hand-deliver these comments to the Okanogan County Regional Planning Commission at tonight's hearing.

Thank you for considering these comments. If you have any questions or would like to discuss any of this further, you are welcome to contact me.

Andi Ervin
Executive Director
Okanogan County Community Coalition
occcandi@yahoo.com
(509) 322-8436



O K A N O G A N

**COUNTY COMMUNITY
COALITION**

March 15, 2016

Okanogan County Regional Planning Commission
123 5th Ave N.
Okanogan, WA 98840

Re: Zoning Code and Conditional Use Permit for Marijuana Business

Since the legalization of retail marijuana in Washington State in 2012 Okanogan County has experienced a rapidly growing marijuana industry without any local oversight over the placement or suitability of these businesses. The Washington State Liquor Cannabis Board (LCB) and marijuana entrepreneurs promised communities in Washington State a well-regulated and thoughtful roll out of this industry. However, it is clear that those promises have not been kept. As a result Okanogan County has become the wild-west of the marijuana industry with few boundaries and little regard for the local impact of these businesses, and inadequate regulation.

As this industry has developed, our organization has tracked enforcement and compliance of local marijuana businesses and have found multiple examples of LCB turning a blind eye to violations. Some examples of violations that LCB has responded to: failure to effectively utilize the traceability system, failure to pay taxes in a timely manner, failure to follow the approved operating plan, inadequate security systems, and inadequate fencing. Coalition members have driven to sites on Greenacres Road and Omak River Road and taken photos of non-compliant fencing from the road for multiple weeks in a row. The traceability system used to "track the plant from seed to sale" is completely elementary, and consists of simple stick on labels with a bar code. These are easily removed from packaging, leaving no system in place to trace marijuana leaking into the black market. Omak police have found juveniles in possession of retail marijuana – with the traceability numbers removed from the label.

The most egregious enforcement issue we uncovered is when the retail store south of Okanogan failed a LCB retail compliance check by selling \$10 of marijuana to an 18 year old girl after checking her actual Washington State Drivers License twice. Had members of our coalition not raised the issue with LCB, the person who sold the marijuana to the 18 year old would not have referred for criminal charges. LCB was planning on just handling the case using the administrative process and monetary fines. In reviewing the records from this case, we learned that the owner of this business did not even know how to use her security camera and it took LCB several weeks to obtain the video recording of the sale.

Okanogan County currently has 63 grows and 3 retailers. There are an additional 53 grows and 6 retailers with "pending" licenses. Clearly the licensing division of LCB has little regard for outlet density, suitability of this type of business to the neighborhood and/or surrounding businesses, or the negative impact on planned community development. When LCB licensed the marijuana retail store in Omak they did so despite objections from the

ANDI ERVIN, CPP / EXECUTIVE DIRECTOR
Po Box 1688 / OMAK WA 98841
(509) 322.8436 / occcandi@yahoo.com / www.okcommunity.org

Omak Mayor and numerous neighbors and community groups. Most appalling, they denied Omak's right to appeal the LCB decision to license this location without having a single conversation with the mayor. As a result of a public records request by our organization, we discovered that they approved the license for final inspection without making a single on-site visit, even though the local government objected. When LCB enforcement officers arrived for the final inspection, Sgt. Koplin from Omak Police Department met them at the site and requested they go with him to see the nearby video game arcades and recreation center that were the basis of the concerns expressed by the City of Omak. The LCB officer informed Sgt. Koplin that he was not authorized to inspect anything beyond the actual premises and refused to measure the distance of this store to neighboring recreation centers and video game arcades – which fall within the 1,000 foot buffer listed in LCB rules.

Okanogan County requires conditional use permits for many different types of land uses in all zones including: animal disposal facilities, asphalt batch plants, auto repair (with the exception of industrial zones), auto towing (with the exception of industrial zones), cellular communication towers, event centers, wastewater treatment plants, commercial kennels (with the exemption of industrial zones), campgrounds. A Conditional Use Permit (CUP) is even required for schools and churches.

Our recommendation for a conditional use permit for marijuana business includes the following provisions:

- Ban marijuana producers and processors from land zoned as urban residential, neighborhood use, neighborhood commercial, rural residential and low density residential. What we have learned over the past two years is that marijuana production and processing causes unreasonable nuisance and harm to the neighboring properties because of light pollution, odor, visual decay of the neighborhood, and potentially decreased property values of the neighboring properties. We have also learned the LCB has little to no regard for these local concerns.
- Provide a means for local oversight for marijuana businesses that create identified problems or nuisance; or excessive strain on local services, including law enforcement. Include the authority to suspend or revoke the CUP for violations or lack of mitigation.
- Require annual review by the planning department for compliance with LCB rules including: adequate security, adherence to the traceability system, and compliance with all state and local laws including water rights, and proper disposal of cull product. We recommend a fee for annual review so that this will be cost neutral for Okanogan County.
- Require a separate permit for the burning of cull product. The licensee should pay for on-site observation and supervision by local fire department and/or law enforcement during the burning of product to ensure neighborhood safety and minimize the risk of leakage of product into the black market. Currently LCB approves burning of cull marijuana, but they are not present during the burning nor do they notify local law enforcement. Before issuing a local permit, the marijuana licensee should be required to submit documentation showing that LCB approved their proposed burning of marijuana and the quantity approved for burning.
- Require reporting of all theft and criminal activity to local law enforcement. This is particularly important so that we can track and respond to problem businesses. During our routine public records requests we have uncovered that crimes are at times only being reported to LCB and not to local law enforcement. LCB does not appear to be communicating these crimes to local law enforcement jurisdictions.
- Require an assignment clause requiring any person purchasing a property with a CUP for marijuana to go through the local public review period before being assigned the CUP. This will allow for oversight during a transfer of property title, identification of problems, and the ability to limit grandfathering property if overtime the specific location became non-compliant.
- Require adequate setback of the marijuana crop from highways and public roads. This provision will help maintain the intent of the "visual barrier" required by WAC. While we were assured several years ago by LCB that there would be a "visual barrier" –many of the 63 pot grows in our county are quite visible and LCB chooses not to act.

- Work with Okanogan County Chief Civil Deputy Prosecutor to develop a reasonable amortization period for existing businesses not currently in compliance with the adopted CUP requirements to come into compliance.

Our organization suggests that you work with Sheriff Rogers and local police chiefs, as well as Mr. Huston in the Planning Department, to set a fee schedule that will offset expenses for the suggestions above. The revenue generated by this industry is significant. Marijuana producers and processors, which make up the bulk of the marijuana licenses in Okanogan County, are no longer charged excise tax by Washington State (beginning 7/1/15). They can afford to pay the necessary fees for monitoring and regulating their industry that has a tremendous impact on the community and public safety. This should be approved in such a way to be cost neutral to local governments.

This industry is established in Okanogan County; but we need to find a way to decrease its negative impact on neighborhoods and community safety. The past year and half has proven that the State will not adequately monitor this industry. Therefore, we must adopt reasonable and workable solutions to address the negative impact of this industry. Adding a conditional use permit with a reasonable amortization schedule (to bring non-compliance businesses into compliance) is the only way to ensure that local concerns and local interests are addressed.

Thank you for considering our comments. Feel free to contact me directly if you have any questions or wish to discuss this further.

Sincerely,



Andi Ervin, CPP
Executive Director

cc: Honorable Sheilah Kennedy, District 1
Honorable Ray Campbell, District 2
Honorable Jim Detro, District 3
Mr. Perry Huston, Okanogan County Planning Department