PLANNING COMMISSION AGENDA

December 11, 2013, 7:00 p.m.
Multipurpose Room/Council Chamber
Burien City Hall, 400 SW 152nd Street
Burien, Washington 98166

This meeting can be watched live on Burien Cable Channel 21 or streaming live and archived video on www.burienmedia.org

1. ROLL CALL	
2. AGENDA CONFIRMATION	
3. PUBLIC COMMENT	Public comment will be accepted on topics not scheduled for a public hearing.
4. APPROVAL OF MINUTES	October 23, 2013
5. NEW BUSINESS	Introduction to Amended Zoning Regulations for Marijuana Related Businesses and Establishing a Public Hearing.
6. PLANNING COMMISSION COMMUNICATIONS	
7. DIRECTOR'S REPORT	
8. ADJOURNMENT	
Future Agendas (Tentative)	December 25, 2013 – **Meeting Cancelled** January 8, 2014 • Public Hearing on Marijuana Related Businesses Zoning Amendments January 22, 2014 • Recommendation on Marijuana Related Businesses Zoning Amendments February 12, 2014 • Comprehensive Plan Update and 2014 Community Development Work Program

Planning Commissioners

	Jim Clingan (Chair)	
Greg Duff	**Ray Helms**	**Joey Martinez**
Brooks Stanfield	**Nancy Tosta (Vice Chair)**	**Butch Henderson**

City of Burien

BURIEN PLANNING COMMISSION
October 23, 2013
7:00 p.m.
Multipurpose Room/Council Chambers
MINUTES

To hear the Planning Commission's full discussion of a specific topic or the complete meeting, the following resources are available:

- Watch the video-stream available on the City website, www.burienwa.gov
- Check out a DVD of the Council Meeting from the Burien Library
- Order a DVD of the meeting from the City Clerk, (206) 241-4647

CALL TO ORDER

Chair Jim Clingan called the October 23, 2013, meeting of the Burien Planning Commission to order at 7:01 p.m.

ROLL CALL

Present: Jim Clingan, Greg Duff, Ray Helms, Butch Henderson, Joey Martinez, Brooks Stanfield and Nancy Tosta

Absent: None

Administrative staff present: Chip Davis, Community Development director; David Johanson, senior planner

AGENDA CONFIRMATION

Direction/Action

Motion was made by Commissioner Tosta, seconded by Commissioner Martinez, to approve the agenda for the October 23, 2013, meeting. Motion passed 7-0.

PUBLIC COMMENT

None.

APPROVAL OF MINUTES

Direction/Action

Motion was made by Commissioner Tosta, seconded by Commissioner Henderson, and passed 7-0 to approve the minutes of the October 9, 2013, meeting.

PUBLIC HEARING

2013 Comprehensive Plan Map Amendments

Chair Clingan opened the hearing at 7:05 p.m. Chip Davis gave a brief synopsis of the proposed Comprehensive Plan map amendment and rezone request for Navos. He summarized the criteria the proposed amendments must meet for approval, the work done on the amendments by the Planning Commission thus far, and the next steps following the hearing.

Chris Fiori of Heartland LLC, project management consultants to Navos, spoke in support of the proposed amendments. He said they appreciate their experience of working with the City on the rezone for the past six months and they support the staff report wholeheartedly. He noted that time is of the essence as Navos

needs to move the children living at the Seattle Children's Home on Queen Anne Hill into the new residential units at the Burien site in a time frame that works for Navos and the children.

Chair Clingan closed the hearing at 7:20 p.m.

OLD BUSINESS

Direction/Action

Commissioner Tosta moved that the Planning Commission recommend to the Burien City Council approval of Comprehensive Plan Map Amendment and Rezone Request Reference Number 2013-1 and adopt the findings and conclusions of the staff recommendation report. Commissioner Martinez seconded. There was no discussion. The motion carried 7-0.

NEW BUSINESS

None.

PLANNING COMMISSION COMMUNICATIONS

Commissioner Helms reminded commissioners about Boo in Burien on Oct. 26, with trick-or-treating at local businesses, hay rides, a haunted house, pumpkin painting, a costumed dog parade and wiener dog races.

DIRECTOR'S REPORT

Mr. Davis told the commissioners the regularly scheduled Planning Commission meeting on Nov. 13 is canceled because the commissioners acted on the Comprehensive Plan map amendment and rezone request tonight. The Nov. 27th meeting, the evening before Thanksgiving, also is canceled. The commissioners will meet again on Dec. 11 to begin consideration of permanent zoning regulations relating to recreational marijuana uses.

Chair Clingan congratulated David Johanson on approval of the Shoreline Master Program by the state Department of Ecology. Mr. Johanson said now begins the work of implementing the program.

ADJOURNMENT

Direction/Action

Commissioner Duff moved for adjournment; Commissioner Stanfield seconded. Motion carried 7-0. The meeting was adjourned at 7:23 p.m.

APPROVED:_____

_____

Jim Clingan, chair
Planning Commission

DRAFT

CITY OF BURIEN, WASHINGTON
MEMORANDUM

DATE: December 4, 2013

TO: Burien Planning Commission

FROM: Charles W. "Chip" Davis, AICP, Community Development Director

SUBJECT: Introduction to Amended Zoning Regulations for Marijuana Related Businesses and Establishing a Public Hearing

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PURPOSE

The purpose of this agenda item is to introduce proposed amendments to the Burien Zoning Ordinance (BMC Title 19) for marijuana related businesses based on the interim zoning regulations which were adopted by the Burien City Council on August 19, 2013. The focus of this meeting will be on reviewing the proposed permanent regulations in preparation for a Planning Commission public hearing scheduled for January 8, 2014.

BACKGROUND

On August 19, 2013 the Burien City Council adopted Ordinance No. 586 establishing a six-month interim zoning ordinance on the establishment, location, operation, licensing, maintenance or continuation of marijuana producers, processors, and retailers as regulated pursuant to Washington State Initiative 502. The ordinance was adopted as an emergency and as such took effect immediately upon passage. The Planning Commission conducted a public hearing on the interim zoning regulations on September 25, 2013.

At this meeting staff will present an overview of the proposed permanent regulations and outline the proposed timeline for adoption of zoning regulations for the location of marijuana related businesses in Burien. The public hearing, which will occur at the next scheduled Planning Commission meeting, will serve a dual purpose: it will provide the required public hearing for the proposed marijuana related business zoning regulations and it will be the opportunity for the public to comment on the proposed rules prior to the expiration of the interim zoning regulations on February 19, 2014.

ACTION

Staff is requesting that the Planning Commission receive the staff presentation on the proposed zoning regulations for marijuana related businesses and conduct a public hearing at the next regularly scheduled Planning Commission meeting on January 8, 2014.

DRAFT SCHEDULE

Planning Commission:

01/08/14: Public Hearing on Zoning Regulations for Marijuana Related Businesses.

01/22/14: Recommendation on Zoning Regulations for Marijuana Related Businesses.

City Council:

01/27/14: Intro and Discussion of Zoning Code Amendments for Marijuana Related Businesses.

02/03/14: Discussion and Possible Adoption of Amendments for Marijuana Related Businesses.

Attachments:

1. Marijuana Related Businesses Zoning Summary
2. Proposed Marijuana Related Business Zoning Amendments
3. Ordinance No. 586 Establishing Six-Month Interim Zoning Ordinance
4. Marijuana Related Businesses Draft Allowable Areas Map
5. Marijuana Related Businesses Draft Exclusion Areas Map
6. Draft Public Hearing Notice

Marijuana Related Business Zoning Summary

On August 19, 2013, City of Burien Ordinance No. 586 established interim zoning regulations governing recreational marijuana businesses in the City of Burien. The following marijuana related business regulations, based on the previously adopted regulations, are proposed as amendments to the Burien Zoning Ordinance (BMC Title 19):

A. **Definitions (New sections BMC 10.10.333, 19.10.333.2-.5, 19.10.467 and 19.10.552):**

The terms "marijuana", "marijuana-infused products", "marijuana producer", "marijuana processor", and "marijuana retailer" shall have the meaning set forth in RCW 69.50.101.

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

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

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

"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.*

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

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

B. **State licensed marijuana producers and marijuana processors (New sections BMC 19.16.050.23 and 19.15.070.13):**

State licensed marijuana producers and processors may locate in the City of Burien pursuant to the following regular and special regulations:

1. **Marijuana producers and processors** may locate only in the I-Industrial and AI-Airport Industrial zones following a **Type 1 Administrative Review.**

   *The **Draft Allowable Areas Map** for Burien delineates the areas where producers and processors may locate in orange. Detailed, property specific designations may be obtained by contacting the Community Development Department.*

2. **The Type 1 Review process for marijuana producers and marijuana processors** shall include a determination and finding as to whether or not the proposed use is compatible with adjoining uses. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given to minimizing odor, noise, light, glare and traffic impacts.

3. **Marijuana producers and marijuana processors** must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.

4. **Marijuana producers and processors** shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any zone other than the I-Industrial and AI-Airport Industrial zones.

5. **Marijuana producers and processors** shall not operate as an accessory to a primary use or as a home occupation.

6. **Marijuana producers and processors** may locate in the same building, and all production and processing activities shall occur within an enclosed structure.

7. **Marijuana producers and processors** shall not locate within one thousand feet (1,000') as measured by the shortest straight line distance from the property line of the licensed facility to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

   *The **Draft Exclusion Areas Map** delineates the areas where producers and processors are excluded from locating. Areas shown in peach color are located within 1000' of a youth-oriented facility.*

C. **State licensed marijuana retailers (New sections BMC 19.15.015.11, 19.15.020.11, 19.15.025.13, 19.15.035.16, 19.15.040.17, 19.15.055.14 and 19.15.065.16)**

State licensed marijuana retailers may locate in the City of Burien pursuant to the following regular and special regulations:

1. **Marijuana retailers** may locate only in the CN-Neighborhood Commercial, CI-Intersection Commercial, CR-Regional Commercial, CC-Community Commercial, DC-Downtown Commercial, SPA-1 Old Burien and SPA-3 Gateway zones following a **Type 1 Administrative Review**.

   *The **Draft Allowable Areas Map** for Burien delineates the areas where retailers may locate in red. Detailed, property specific designations may be obtained by contacting the Community Development Department.*

2. **The Type 1 Review process for marijuana retailers** shall include a determination and finding as to whether or not the proposed use is compatible with adjoining uses. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given to minimizing odor, noise, light, glare and traffic impacts.

3. **Marijuana retailers** must comply with all requirements of state law and the Washington State Liquor Control Board's regulations.

4. **Marijuana retailers** shall not locate in the RS-Residential Single-Family, RM-Multi-Family, PR-Professional Residential, O-Office and SPA-2 Ruth Dykeman Children's Center zones.

5. **Marijuana retailers** shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone.

6. **Marijuana retailers** shall not operate as an accessory to a primary use or as a home occupation.

7. **Marijuana retailers** shall not locate within one thousand feet (1,000') as measured by the shortest straight line distance from the property line of the licensed facility to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

   *The **Draft Exclusion Areas Map** delineates the areas where retailers are excluded from locating. Areas shown in peach color are located within 1000' of a youth-oriented facility.*

Key Points

- The initial presentation for the proposed marijuana related business zoning is scheduled for the Planning Commission on December 11th. A public hearing on the proposed regulations is scheduled for the January 8, 2014 Planning Commission meeting and the Commission will make its recommendation to the Burien City Council on January 22nd. The Burien City Council is scheduled to consider the proposed regulations at their January 27th and February 3rd meetings.

- Since the Liquor Control Board has not issued any licenses yet and will not be doing so until January, 2014 at the earliest, the interim zoning regulations have been instrumental in responding to inquiries from property owners and potential licensees on the suitability of specific properties for locating recreational marijuana uses and serve as the basis for the proposed marijuana related business zoning amendments.

- All marijuana uses will be prohibited as a use or as a non-conforming use in all Single-Family Residential, Multi-Family Residential, Professional Residential, Office and SPA-2 (Ruth Dykeman Children's Center) zones.

- State licensed marijuana production and processing will only be allowed as a use or as a non-conforming use in the Industrial or Airport Industrial zones (more specifically only in a portion of the Northeast Redevelopment Area) and all activities must occur within an enclosed structure.

- State licensed marijuana production and processing can be located in the same industrially zoned building.

- State licensed marijuana production, processing or retailing cannot operate as an accessory to a primary use or as a home occupation.

- In order to apply for the required Type 1 Administrative review, the applicant will be required to produce either a license or license application from the State of Washington as only State licensed producers, processors and retailers will be considered.

- No use that purports to be a marijuana producer, processor or retailer that was engaged in the activity prior to August 19, 2013 shall be deemed to be a legally established use and shall not be entitled to non-conforming status.

- Marijuana producers, processors and retailers are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable City ordinances.

City of Burien Marijuana Related Business Zoning Amendments					
Section	BMC	Topic	Current Code	Proposal	Comment
1	NEW 19.10.333 – Definitions	Marijuana definition	None	"Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.	Definition from RCW 69.50.101
2	NEW 19.10.333.2 – Definitions	Marijuana processor definition	None	“Marijuana processor” means a facility licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.	Definition from RCW 69.50.101
3	NEW 19.10.333.3 – Definitions	Marijuana producer definition	None	“Marijuana producer” means a facility licensed by the state liquor control board for the production and sale at wholesale of marijuana to marijuana processors and other marijuana producers.	Definition from RCW 69.50.101
4	NEW 19.10.333.4 – Definitions	Marijuana retailer definition	None	“Marijuana retailer” means a facility licensed by the state liquor control board where useable marijuana and marijuana-infused products may be sold at retail.	Definition from RCW 69.50.101

City of Burien Marijuana Related Business Zoning Amendments					
Section	BMC	Topic	Current Code	Proposal	Comment
5	NEW 19.10.333.5 – Definitions	Marijuana-infused products definition	None	"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 usable marijuana.	Definition from RCW 69.50.101
6	NEW 19.10.467 – Definitions	Retail marijuana outlet definition	None	"Retail marijuana outlet" means a location licensed by the State Liquor Control Board for the retail sale of usable marijuana and marijuana-infused products.	Definition from RCW 69.50.101
7	NEW 19.10.552 – Definitions	Usable marijuana definition	None	"Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.	Definition from RCW 69.50.101
8	NEW 19.15.050.23 19.15.070.13	Marijuana producers and processors as permitted use	Industrial (I) and Airport Industrial (AI) zone use charts	Marijuana producers and processors are a permitted use in these zones subject to a Type 1 Review process which includes a determination and finding as to whether or not the proposed use is compatible with adjoining uses. Producers and processors are subject to the following special regulations: 1. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given minimizing odor, noise, light, glare and traffic impacts. 2. Must comply with all requirements of State law and the Washington State Liquor Control Board's regulations. 3. Marijuana producers and processors shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any zone other than I or AI zones.	From Ordinance No. 586, Interim Zoning Regulations

City of Burien Marijuana Related Business Zoning Amendments					
Section	BMC	Topic	Current Code	Proposal	Comment
8 (cont.)	NEW 19.15.050.23 19.15.070.13	Marijuana producers and processors as permitted use	Industrial (I) and Airport Industrial (AI) zone use charts	4. Marijuana producers and processors shall not operate as an accessory to a primary use or as a home occupation. 5. Marijuana producers and processors may locate in the same building and all production and processing activities shall occur within an enclosed structure. 6. Marijuana producers and processors shall not locate within one thousand feet (1,000') as measured by the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreational center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older.	From Ordinance No. 586, Interim Zoning Regulations
9	NEW 19.15.015.11 19.15.020.11 19.15.025.13 19.15.035.16 19.15.040.17 19.15.055.14 19.15.065.16	Marijuana retailers as permitted use	Neighborhood Commercial (CN), Intersection Commercial (CI), Regional Commercial (CR), Community Commercial (CC), Downtown Commercial (DC),	Marijuana retailers are a permitted use in Commercial zones subject to a Type 1 Review process which includes a determination and finding as to whether or not the proposed use is compatible with adjoining uses. Retailers are subject to the following special regulations: 1. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given minimizing odor, noise, light, glare and traffic impacts. 2. Must comply with all requirements of State law and the Washington State Liquor Control Board's regulations.	From Ordinance No. 586, Interim Zoning Regulations

City of Burien Marijuana Related Business Zoning Amendments					
Section	BMC	Topic	Current Code	Proposal	Comment
9 (cont.)	NEW 19.15.015.11 19.15.020.11 19.15.025.13 19.15.035.16 19.15.040.17 19.15.055.14 19.15.065.16	Marijuana retailers as permitted use	Old Burien (SPA-1) and Gateway (SPA-3) zone use charts	3. Marijuana retailers shall not locate in the Single-Family Residential (RS), Multi-Family (RM), Professional Residential (PR), Office (O) and Ruth Dykeman Children's Center zones. 4. Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone. 4. Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation. 5. Marijuana retailers shall not locate within one thousand feet (1,000') as measured by the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreational center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older.	From Ordinance No. 586, Interim Zoning Regulations
10	ADD 19.17.090.4.A.x	Marijuana Businesses as prohibited use	Home Occupations	A. Prohibited home occupations. x. Marijuana producers, processors and retailers.	From Ordinance No. 586, Interim Zoning Regulations

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 586

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, ESTABLISHING A SIX-MONTH INTERIM ZONING ORDINANCE ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, MAINTENANCE OR CONTINUATION OF MARIJUANA PRODUCERS, PROCESSORS, AND RETAILERS AS REGULATED PURSUANT TO WASHINGTON STATE INITIATIVE 502; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Burien has the authority to adopt interim zoning regulations pursuant to RCW 35A.63.220; and

WHEREAS, on November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, Initiative 502 directs the Washington State Liquor Control Board (LCB) 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 and other designated public facilities; and
4. Establish a process for the City to comment prior to the issuance of such licenses.

WHEREAS, the LCB recently issued initial draft rules, and was expected to adopt final rules in mid-August 2013 to begin issuance of marijuana producer, processor and retail licenses to qualified applicants in December, 2013; and

WHEREAS, after receiving public input regarding the proposed rules, the LCB postponed adoption of final rules to allow more time to clarify certain aspects of the I-502 implementation including, but not limited to, limits or caps on the amount of marijuana that will be grown and the number of retail stores to be licensed; and

WHEREAS, now the final rules are not scheduled to take effect until November of 2013; and

WHEREAS, Initiative 502 prohibits marijuana-related uses within 1,000 feet of the perimeter of certain uses and buildings, such as child care centers, public parks and recreation

centers or facilities, but does not address whether LCB-licensed marijuana businesses must comply with land use and zoning restrictions of local jurisdictions; and

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police power and is specifically authorized by RCW 35A.63.100; and

WHEREAS, Section 69.51A.140 RCW, enacted as part of Washington's medical cannabis act, delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes related to marijuana production, processing and dispensing as exercises of the City's police powers and not necessarily limited to medical marijuana-related uses; and

WHEREAS, the Burien Municipal Code does not currently have specific provisions addressing licensing, producing, processing or retailing of recreational marijuana; and

WHEREAS, marijuana production, processing, and retailing uses must be addressed in the City's zoning code, but the land use and secondary impacts of these uses are still largely unknown and the regulations that the City will need to address them are uncertain pending the LCB's adoption of its licensing regulations and procedures; and

WHEREAS, unless the City acts immediately to address marijuana-related uses, such uses may be able to locate in the City without regulation and thereby have adverse impacts on the City and its citizens; and

WHEREAS, although the Washington state electorate as a whole voted to approve I-502, the City has not heard from the citizens of Burien regarding their opinions on the implementation of recreational marijuana-related land uses; and

WHEREAS, the City deems it in the public interest to impose interim zoning regulations for a period of six months in order to investigate this issue further and obtain regulatory clarity and guidance from the LCB's rules and Burien's citizens;

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

Section 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35A.63.220. The Council may adopt additional findings in the event that additional evidence is presented to the City Council.

Section 2. Interim Regulations Established. The City hereby establishes the following interim zoning regulations for the location and establishment of marijuana producers, processors, and retailers that are licensed by the State of Washington under Initiative No. 502 and the regulations promulgated pursuant thereto:

A. The terms “marijuana”, “marijuana-infused products”, “marijuana producer”, “marijuana processor”, and “marijuana retailer” shall have the meaning set forth in RCW 69.50.101.

B. State licensed marijuana producers and marijuana processors may locate in the City of Burien pursuant to the following restrictions:

1. Marijuana producers and marijuana processors must comply with all requirements of state law and the Washington State Liquor Control Board’s regulations.

2. Marijuana producers and processors may locate only in the I-Industrial and AI-Airport Industrial zones following a Type 1 Administrative Review.

3. Marijuana producers and processors shall not locate on a site or in a building in which non-conforming production or processing uses have been established in any zone other than the I-Industrial and AI-Airport Industrial zones.

4. Marijuana producers and processors shall not operate as an accessory to a primary use or as a home occupation.

5. Marijuana producers and processors may locate in the same building, and all production and processing activities shall occur within an enclosed structure.

6. Marijuana producers and processors shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

C. State licensed marijuana retailers may locate in the City of Burien pursuant to the following restrictions:

1. Marijuana retailers must comply with all requirements of state law and the Washington State Liquor Control Board’s regulations.

2. Marijuana retailers may locate only in the CN-Neighborhood Commercial, CI-Intersection Commercial, CR-Regional Commercial, CC-Community Commercial, DC-Downtown Commercial, SPA-1 Old Burien and SPA-3 Gateway zones following a Type 1 Administrative Review.

3. Marijuana retailers shall not locate in the RS-Residential Single-Family, RM-Multi-Family, PR-Professional Residential, O-Office and SPA-2 Ruth Dykeman Children's Center zones.

4. Marijuana retailers shall not locate in a building in which non-conforming retail uses have been established in any residential or office zone.

5. Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.

6. Marijuana retailers shall not locate within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

D. The Type 1 Review process for marijuana producers, marijuana processors and marijuana retailers shall include a determination and finding as to whether or not the proposed use is compatible with adjoining uses. The facility shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community. Special attention shall be given to minimizing odor, noise, light, glare and traffic impacts.

E. Marijuana producers, marijuana processors and marijuana retailers are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable City ordinances.

Section 3. Public Hearing Required. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, within sixty days of the passage of this Ordinance the City Council will hold a public hearing on these interim zoning regulations.

Section 4. Duration. The interim zoning regulations established herein shall be in effect until six-months from the effective date noted below, unless extended by the City Council, pursuant to State law.

Section 5. Definitions. As used in this ordinance, the following terms have the meanings set forth below:

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

or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

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

3. "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.

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

5. "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.

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

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

Section 6. No Non-conforming Uses. No use that constitutes or purports to be a marijuana producer, marijuana processor, or marijuana retailer as those terms are defined in this ordinance, that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the Burien Municipal Code and that use shall not be entitled to claim legal non-conforming status.

Section 7. Work Program. The Director of Community Development and/or his/her designee is hereby authorized and directed to address issues related to determining the legality of marijuana production facilities, processing facilities, and retailing facilities, including but not limited to review of the pending dispute between state and federal law enforcement authorities regarding the legality of recreational marijuana under any circumstances and notwithstanding the enactment by the legislature of Initiative 502. The work program should also develop appropriate permanent land use regulations pursuant to the new state law and state licensing requirements for review and recommendation for inclusion in the zoning regulations or other provisions of the Burien Municipal Code. Such regulations shall permit the location of marijuana producers, marijuana processors, and marijuana retailers in the city to the extent, but only to the extent, authorized by state law and then only when in compliance with state licensing requirements and City regulations. Further, appropriate nuisance declaration and abatement provisions should be developed to address any violations of any new State or City regulations or licensing requirements. Such regulations shall be presenting to the Burien Planning Commission and Burien City Council for consideration and action in due course. The Finance Director and/or

his/her designee is hereby authorized to develop business licensing or other regulations that may be necessary and appropriate pursuant to the newly amended law for review and recommendation for inclusion in the Burien Municipal Code.

Section 8. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.13.190. Without immediate interim zoning regulations on the establishment on such uses, development or use of a property may occur or attempt to become vested that is incompatible with I-502, the rules to be adopted by the Liquor Control Board and the laws adopted by the City of Burien. Therefore, the interim zoning regulations must be imposed as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time. This Ordinance does not affect any existing vested rights to use or develop a property in a lawful way.

Section 9. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein.

Section 10. Conflict with other BMC Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Burien Municipal Code, this Ordinance shall control.

Section 11. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 19TH DAY OF AUGUST 2013, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 19TH DAY OF AUGUST 2013.

CITY OF BURIEN
/s/ Brian Bennett, Mayor

ATTEST/AUTHENTICATED:
/s/ Monica Lusk, City Clerk

Approved as to form:
/s/ Ann Marie Soto, Acting City Attorney

Filed with the City Clerk: August 19, 2013
Passed by the City Council: August 19, 2013
Ordinance No. 586
Date of Publication: August 22, 2013

Marijuana Related Businesses

DRAFT Allowable Areas

Seattle

Seatac

Normandy Park

Des Moines

Allowable Areas

- Production/ Processing
- Retail

Marijuana licenses may not be issued within 1,000 ft of the following:

- Transit Center
- Child Care Centers
- Libraries
- Schools
- Burien Parks
- Non-Burien Parks

1,000 ft buffers around protected sites in adjacent jurisdictions may result in marijuana exclusion areas in Burien.

- Area Within 1,000 ft of Adjacent City

0 0.25 0.5 1
Miles

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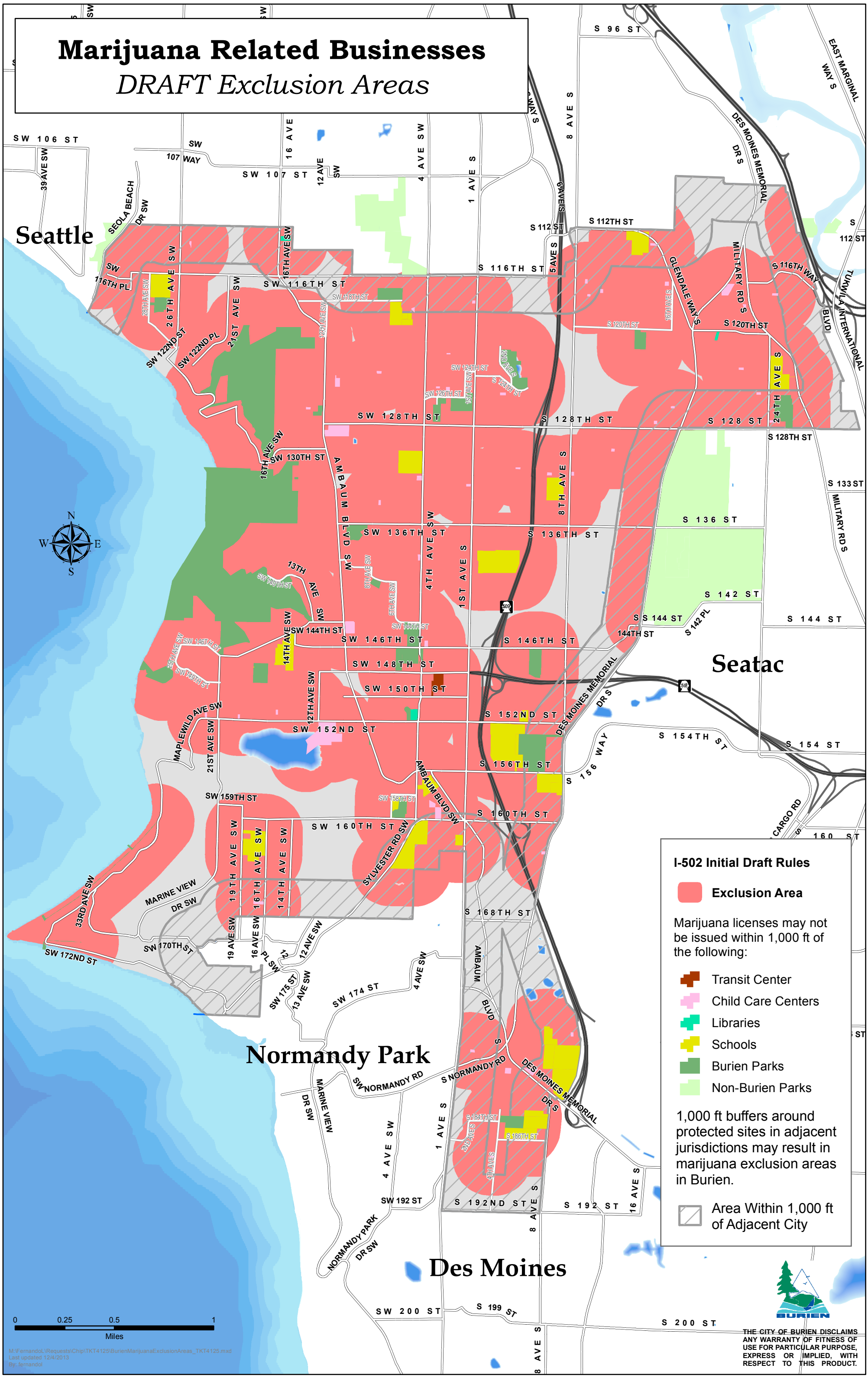
Last updated 12/4/2013
By: fernandol

THE CITY OF BURIEN DISCLAIMS ANY WARRANTY OF FITNESS OF USE FOR PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO THIS PRODUCT.

Marijuana Related Businesses

DRAFT Exclusion Areas



Public Hearing Notice

City of Burien | **400 SW 152nd St, Suite 300** | **Burien, Washington 98166**

Hearing Information

The City of Burien Planning Commission will hold a public hearing on **January 8, 2014,** at **7:00 p.m.** at Burien City Hall, 400 SW 152nd St, Suite 300, to receive public comments on proposed zoning regulations for the location and establishment of marijuana producers, processors and retailers which are licensed by the State of Washington pursuant to Chapter 314-55 WAC.

Applicant

City of Burien

Proposal

Amendments are proposed to the Burien Zoning Code (BMC Title 19) allowing the establishment, location, operation, licensing, maintenance or continuation of state licensed marijuana producers, processors, and retailers in Burien.

File No.

2013 Recreational Marijuana Interim Zoning Regulations
A summary of the proposed zoning regulations and project file are available for viewing at Burien City Hall during regular business hours.

How to Comment

Any person may submit written or oral comments or testimony at the public hearing, or may submit written comments prior to the hearing. Written comments may be submitted in person, via mail, e-mail or by facsimile. All documents submitted or requested as part of this application, including the City staff report are available for review at City Hall during regular business hours.

Project Planner (for submittal of written comments or for more information)

Charles W. "Chip" Davis, AICP
Community Development Director
City of Burien
400 SW 152nd St, Suite 300
Burien, WA 98166

Phone: (206) 248-5501
E-Mail: chipd@burienwa.gov

Date of Notice: December 18, 2013

DRAFT