

ORDINANCE NO. 2014-06

AN ORDINANCE of the City of Bainbridge Island, Washington, establishing zoning regulations relating to marijuana processing, producing/growing, retailing and collective gardens and amending Bainbridge Island Municipal Code Sections 18.09.020, 18.09.030, and 18.36.030.

WHEREAS, recent amendments to Chapter 69.51A RCW, relating to the medical use of cannabis, have expanded the scope of certain activities involving the use of cannabis for medical purposes that are permitted under state law; and

WHEREAS, RCW 69.51A.085 allows “qualifying patients” to create and participate in “collective gardens” for the purpose of producing, processing, transporting, and delivering cannabis for medical use, subject to certain conditions; and

WHEREAS, RCW 69.51A.140 delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes as exercise of the City’s police power; and

WHEREAS, the City Council understands that while the medical benefits of cannabis have been recognized by the state legislature, cannabis, also known as marijuana, remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA), and possession and use of cannabis is still a violation of federal law; and

WHEREAS, in 2012 Washington voters approved Initiative 502 which authorizes certain production, processing and retailing of marijuana and directs the State Liquor Control Board to develop rules and regulations to:

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

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

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

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

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

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

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

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

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

Section 2. Section 18.09.020 of the Bainbridge Island Municipal Code is amended to add marijuana related uses as shown in Exhibit A.

Section 3. Section 18.09.030 of the Bainbridge Island Municipal Code, Use Specific Standards, is amended to add the following subsection:

K. Marijuana Related Uses

1. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Bainbridge Island is an authorization to circumvent federal law or to provide permission to any person or entity to violate federal law. In addition to collective gardens, only Washington State licensed marijuana producers, processors, and marijuana retailers may locate in the City of Bainbridge Island and then only pursuant to a license issued by the State of Washington. The purposes of these provisions is solely to acknowledge the enactment by Washington voters of Initiative 502 and state licensing procedures to permit, but only to the extent required by state law, marijuana processors, marijuana producers and marijuana retailers to operate in designated zones of the city.

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

3. No marijuana processor, marijuana producer or marijuana retailer shall locate within 1000 feet, measured from the exterior perimeter, from any of the following existing uses as defined in Section 314-55-010 WAC:

a. Elementary or secondary school;

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

4. Marijuana Retailer: A Site Plan and Design Review permit may be required, pursuant to Section 2.16.040.B, Site Plans and Design Review Applicability.

5. Marijuana Processors: A Site Plan and Design Review permit is required and must be approved prior to any City approval of business licenses or other required permits.

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

- a. A Minor Site Plan and Design Review permit is required and must be approved prior to any City approval of business licenses or other required permits;
- b. Minimum lot area of 1 acre required;
- c. Only Tier 1 (less than 2,000 sq. ft. of plant canopy) marijuana production businesses are allowed, as described by the Washington State recreational marijuana licensing rules, Section 314-55-075(6) WAC;
- d. Minimum 25 foot setback for marijuana related buildings, uses, or outdoor planting areas.
- e. A 25 foot full screen perimeter landscaping buffer to other properties, meeting the planting requirements of BIMC Section 18.15.010.D.4.a is required; and
- f. A 25 foot partial screen roadside buffer to streets or planned right-of-way meeting the planting requirements of BIMC Section 18.15.010.D.4.b is required.

Section 4. Section 18.36.030 of the Bainbridge Island Municipal Code is amended to add the following definitions in alphabetical order in the section and re-number the existing definitions:

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

149. "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture,

salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

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

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

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

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

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

Section 5. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance.

Section 6. Effective Date. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

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

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

Anne S. Blair, Mayor

ATTEST/AUTHENTICATED:

Rosalind D. Lassoff, CMC, City Clerk

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

DRAFT

Table 18.09.020 Use Table

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

“A” = Accessory Use

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

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

Supporting Document prepared by Vice Chair Kate Kelly
Summary of Bainbridge Island Planning Commission Discussion
Marijuana Retailing, Processing and Producing on the Island

After conducting study sessions on January 9 and 23, and February 13 and 27, 2014, holding a public hearing and more discussion on March 13, and receiving public testimony and comment on all those occasions, the Planning Commission recommends to the City Council that is in the public interest for the City of Bainbridge Island to adopt reasonable requirements for marijuana-related uses so that the location of such uses is consistent with the goals of the Comprehensive Plan and so that the secondary impacts of such uses are minimized and mitigated, and the health, safety and welfare of the public is protected.

The Planning Commission members agree with the general findings presented below and unanimously support the recommendations set out below related to the location of retail and processing facilities, and collective gardens.

On the subject of marijuana production, the Commission was divided in our conclusions as to what to recommend to the Council. A majority of four Commissioners recommend that the Council allow limited marijuana production in certain areas of the Island zoned residential. A minority of the Commissioners recommend that marijuana production be limited to areas zoned Business/Industrial.

General Findings

In 2012 Washington voters, including a majority of the voters on Bainbridge Island, approved Initiative 502 authorizing certain production, processing and retailing of marijuana under rules and regulations adopted by the State Liquor Control Board.

Under Initiative 502, a marijuana processor, producer or retailer cannot be sited within 1000 feet of the following existing uses: elementary or secondary school, playground, recreation center or facility, childcare center, public park, public transit center, library, or game arcade. Due to the number of such public facilities on Bainbridge Island, separate and above any zoning restrictions, these distancing restrictions significantly reduce the potential locations for marijuana retailers, processors or producers on the Island.

There is a comprehensive framework under state statutory law and the rules of the Washington State Liquor Board for the strict regulation and permitting of marijuana production, processing and retailing operations.

Marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act, 21 USC 801, et seq. and its possession and use is a violation of state law.

Marijuana Retail Recommendation (unanimously supported by the Planning Commission)

Based on the size of the population of the Island, under state law the Liquor Control Board will grant only one license for a retailer of marijuana on Bainbridge Island. The Planning Commission recommends that marijuana retail operations be a permitted use only in the zoning districts that

otherwise permit general retail, and that, due to the strict requirements imposed under state law - including the distancing requirements, surveillance and alarm systems, and background checks - the City treat a marijuana retailer like any other retail establishment when it comes to City land use permits.

Marijuana Processing Recommendation (Unanimously supported by the Planning Commission)

Marijuana processing can include mechanical processing of the parts of the plant, but it can also include chemical processing to extract oils and otherwise make the product useable. The chemical processing of marijuana can involve toxic and hazardous materials. Due to the nature of the business, the Planning Commission unanimously recommends that marijuana processing be limited to the Business/Industrial zoning district, and that a site plan and design review be required for all new processing facilities even if they are proposing to move into an existing manufacturing space. Among other things, under existing state and local law, these facilities are required to comply with distancing requirements, laws related to the safe handling and disposal of hazardous materials, and general laws related to odor, light and noise. This recommendation is consistent with zoning regulations adopted by other local jurisdictions in and around Kitsap County.

Collective Garden Recommendation (Unanimously supported by the Planning Commission)

The Planning Commission unanimously recommends that, due to uncertainty with regard to state law affecting collective gardens and the regulation thereof, the City Council adopt an indefinite moratorium on the location of collective gardens on Bainbridge Island.

Marijuana Production: General Findings

In the section discussing “Agricultural Lands”, the Bainbridge Island Comprehensive Plans states:

“The protection and support of existing farms and the preservation of prime agricultural lands and farms of local significance are important goals of the residents of Bainbridge Island, as evidenced in the Bainbridge Island Subarea Plan, testimony from public meetings, and community survey.

Farming on the Island provides an economic and nutritional benefit to the community. Equally important, protection of agricultural lands will enhance the cultural and economic diversity of the community and help retain the rural character of the Island.

Farm operations on the Island are unique. Unlike many other jurisdictions, farms on the Island are not located within one geographical area. Instead, over 40 small farms, ranging in size from 1 acre to 40+ acres, are mostly dispersed throughout the Island, with some clustering of farms in a few locations. The specialty, high-intensity, very small farms will continue to be an important adjunct to farming in the future.

Agriculture is one of the most fragile industries in any rapidly growing area. As land values continue to rise, the threat to small farms on Bainbridge Island increases. Given the nature of farming on the Island – small farms dispersed throughout the Island -the City must use creative solutions to conserving existing farms and encouraging the creation of new farms.”

Goal 3 of the “Environmental Element” of the Comprehensive Plan provides that land use decisions should

“Encourage and support farming as an economically viable option for land use and as a means to providing diversity of lifestyle.”

Under AG 3.5,

“The City should permit the production, processing, and marketing of farm products from Island farms. Processing shall include value-added processing of Island-grown crops.”

GOAL 3 of the Residential Open Space section of the Comprehensive plan is to

“Preserve the character of the interior areas of Bainbridge Island through establishment of an Open Space Residential District.” Going on to state:

OS 3.1

“The Open Space Residential District is designated for less intensive, residential development and a variety of agricultural and forestry uses.” and

OS 3.2

“Residential development shall be compatible with the preservation of open space, forestry, agricultural activities, and natural systems. Accessory farm buildings and uses are allowable.”

In section 18.06.020 of the Bainbridge Island Municipal Code, agriculture and forestry are among the uses promoted in the R-0.4, R-1, and R-2 zones.

The “Right to Farm” chapter of the Municipal Code states: “The city declares that an agricultural operation in conformance with agricultural best management practices is not a public or private nuisance” (BIMC 16.26.030.A).

Growing marijuana has many commonalities with the small farming practices encouraged in residential areas by the Island’s Comprehensive plan. At the same time, however, this type of farming is different from traditional fruit and vegetable production which has occurred on the Island. This is due to the fact that marijuana production is strictly regulated by state law, the product itself continues to be classified as a controlled substance under state and federal law, and the growing of marijuana can present secondary effects not presented by traditional agriculture.

There is a certain amount of public discomfort with the prospect of marijuana production on the Island – even if it is legally permitted and strictly regulated. This is due in part to concerns about the nature of the product and the potential secondary effects a marijuana growing facility might have on neighbors. These concerns may change over time as Washingtonians have more experience with the effects and regulation of marijuana-related facilities, but they exist at this time and should be acknowledged as the City considers where – or if - to allow marijuana production on the Island.

Under state law marijuana production can be permitted indoors or outdoors. Growing is not permitted inside a residence but it is permitted inside a rigid building. Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, under state law outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet strict security requirements.

Under state law, applicants for a marijuana producer's license must designate on their operating plan the size category of the production premises and the actual square footage in their premises that will be designated as plant canopy. There are three categories:

- Tier 1: Less than 2,000 square feet;
- Tier 2: 2,000 square feet to 10,000 square feet;
- Tier 3: 10,000 square feet to 30,000 square feet

State law limits the amount of product a producer can keep at the licensed location, and prescribes requirements for – among other things - background checks, surveillance and alarm systems, and traceability of the product “from seed to sale.”

Minority Marijuana Production Recommendation (this recommendation is supported by 3 out of 7 commissioners)

Due to the differences with traditional small farming practices and potential secondary effects, three members of the Planning Commission recommend limiting marijuana production on the Island to the Business-Industrial district. Because of the limited amount of properties covered by that designation and the 1000-foot distancing restrictions imposed by state law, this limitation would severely limit marijuana production on the Island under current zoning designations. This recommendation is consistent with zoning regulations adopted by other local jurisdictions in and around Kitsap County.

Majority Marijuana Production Recommendation (this recommendation is supported by 4 out of 7 commissioners)

Other jurisdictions in and around Kitsap County have restricted marijuana production – and farming activities - to areas not zoned for residential. Compared to these other areas, Bainbridge Island has a relatively small amount of land that is not zoned residential. Over 50% of the Island is zoned R-0.04 (Open Space Residential) in the City's Comprehensive Plan. The Open Space Residential District is designated for areas appropriate for low-density, residential development, and a variety of agriculture and forestry uses. We pride ourselves on the fact that – as set out in the Comprehensive Plan language quoted above - “farms on the Island are not located within one geographical area. Instead, over 40 small farms, ranging in size from 1 acre to 40+ acres, are mostly dispersed throughout the Island, with some clustering of farms in a few locations.” The Comprehensive Plan validates the future importance of these land use patterns.

It is the recommendation of four members - a majority – of the Planning Commission that Tier 1 marijuana production be allowed in the R-0.4 Zoning District. Recognizing the difference between marijuana production and traditional farming, we recommend a minimum lot size of one acre, that production be limited to outdoors or in a greenhouse, that any licensed marijuana producer be

required to obtain a site plan and design review and be subject to the general laws related to odor, light and noise, and that there be required setbacks and landscape buffers, in addition to the security and other restrictions required by state law.

A majority of the Planning Commissioners have concluded that this deliberate, cautious approach balances the many factors that need to be taken into account should we allow marijuana production on the Island, and that this outcome remains true to the Comprehensive Plan goals associated with encouraging open space and agriculture on the Island while recognizing the characteristics of marijuana production that distinguish it from traditional farming.

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

March 18, 2014

The Planning Commission vote on March 13, 2014 was divided, 3-3, on the matter of allowing marijuana to be grown in a residentially-zoned area. The final vote was 4-3 when the Planning Commission chair cast his vote to break the tie.

Over a period of five meetings, the PC discussed several matters:

1. What the vote to legalize marijuana meant on Bainbridge Island
2. Definitions of marijuana and various aspects of marijuana cultivation and processing
3. Where a retail marijuana license could be granted
4. Where marijuana could be processed on the island
5. Where marijuana could be grown (produced) on the island

What did the I-502 vote mean?

The most divisive discussion centered around the meaning of the vote on I-502 on Bainbridge Island. It was often stated that the ±70% in favor of legalization vote meant that Bainbridge Islanders wanted pot to be available and grown on the island. This was disputed by those who felt that the I-502 vote was simply about decriminalizing the possession and use of pot, and had nothing to do with the zoning regulations in our community. The issue was nicely articulated by one citizen who commented that if the I-502 ballot measure had stated that the issue was whether marijuana could be grown and/or processed on our residential land, the vote most likely would have been the opposite of what occurred with the question of legalization.

Definitions of Marijuana

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

still be widely supported is the opportunity to produce locally on the island as much of our food as possible.

Minority Recommendation: To deal with this confusion, it is recommended that the City Council **amend BIMC 18.36.030.23, “Agriculture, Crop”** to state that marijuana is excluded from this definition. That will remove marijuana growing operations from the crop agriculture protections under the BI Municipal Code. In addition, an **amendment to BIMC 16.26.020 B**, should add the words “but excluding marijuana” after the words “ornamental crops.”

These amendments recognize the fact that marijuana is very different from the types of crops which are afforded a measure of heightened protection under our municipal code, and that marijuana is a crop that will not be sold in Town and Country nor at the Farmers Market, that can be a nuisance in terms of odors from the flowering plant, and that it is a regulated substance which is still illegal under federal law.

Retail Sales of Marijuana

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

Marijuana Processing

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

Growing/Production of Marijuana

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

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

- a. The strict regulations established by the state for growing include such requirements as 24/7 complete video surveillance systems (WAC 314-55-083 (3), controlled access and entrances and exits with fixed camera coverage in addition to alarm systems (WAC 314-55-083 (2). A 24-hour “quarantine” area for crops being transported from the grow operation to the marijuana processor or retailer must be maintained. (WAC 314-55-083 (3)(f)
 - b. Conspicuous signage is required to be posted on the premises (WAC 314-55-086)
 - c. There are mandatory requirements for training and identification of employees
 - d. Extensive records of each daily application of pesticides applied to the marijuana plants or growing medium must be recorded and maintained. (WAC 314-55-087 (1)(f)
 - e. Recordkeeping requirements as detailed in WAC 314-55-087 are required for the grow operation from seed to final product
 - f. Issues of waste and waste water management are detailed in WAC 314-55-097. This is not a simple composting operation
 - g. Quality assurance regulations for products moving to direct use such as marijuana flowers are detailed in WAC 314-55-102
 - h. A producer must have an operating plan which includes the above plus the qualifications and training plan for employees
2. The majority recommendation contains no restrictions on the number of employees involved with the grow operation, nor the impacts on the neighborhood and its roads of the added traffic attendant to employees, transportation of materials utilized in the grow operation, transportation of product from the operation, parking for employees. Even our major and minor home operations have strict standards in these areas.
 3. Personal and neighborhood safety may become an issue due to the fact that this is still a cash-only operation as the banking industry has not yet been assured by the federal government that they can legally handle marijuana-related money.
 4. Even with property-line setbacks, on a one-acre parcel of property which is the minimum size on which marijuana cultivation would be allowed, it will be difficult to actually conceal the fact that a marijuana grow operation is on the property. There is a very real question about the property valuation impacts of such an activity on neighboring properties. The state also requires signs to be prominently placed on the property.
 5. The State has deemed it necessary to impose 1000-foot buffers to separate places where children congregate (schools, parks, playgrounds, etc.) from the production of the controlled substance and industrial business of marijuana, yet these children are not offered this same protection in their neighborhoods where they play. For many families, one of the main reasons to move to Bainbridge Island was so that their children could play, unsupervised, in safe residential neighborhoods.

6. The city has a mechanism to expand and change zoning on the island. This occurs through the comprehensive plan update, due in 2016, or a plan amendment process which occurs every three years. If the island does not currently have enough land zoned for business/industrial use, these are the mechanisms to change land uses to meet changing needs. To circumvent this established process and allow the production of marijuana in residential neighborhoods just because we currently do not have much land in the B/I zone establishes a dangerous precedent.
7. This legislative designation, to allow marijuana to be grown in one of our residential zones, is really for the financial gain of a very few people who will be able to take advantage of this zoning amendment. State law has strictly limited the number of producer and processor licenses on Bainbridge. Therefore, while this recommended action is not spot zoning per se, as it amends the zoning code for an entire residential zone (R 0.4), in fact it is zoning done for the benefit of only a very few people – those who have applied for and have an interest in obtaining a marijuana producer license and who ultimately meet the state standards to receive a producer license. Unlike legitimate zoning, there is no public benefit for all of the rest of the people who will potentially be negatively affected by this action.
8. Since this type of agriculture is not for the production of products that can be widely sold to, used and enjoyed by the citizens of this community, the real motive for commercial marijuana production is speculative financial gain. And that is one purpose of the Business/Industrial zone, which is where this activity should take place.
9. The Planning Commission majority, apparently in consideration of the extraordinarily high energy usage associated with the growing of marijuana, suggested that marijuana growing be allowed only “outdoors or in greenhouses.” However, “greenhouse” as defined in BIMC 18.36.030.101 states it is “an establishment where flowers, shrubs, vegetables, trees and other horticultural and floricultural products are grown, both **in open and enclosed buildings.**” This definition does specify any sort of percentage of natural light penetration into the building, and in fact means a totally enclosed warehouse-type operation meets the current definition of greenhouse.

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