



MEMORANDUM

Date: August 15, 2016

To: Houghton Community Council

From: Dorian Collins, Senior Planner, AICP
Paul Stewart, Deputy Director, AICP

Subject: Update on amendments to the Kirkland Zoning Code, Buffers from Marijuana Retail Uses - Chapter 115, File CAM16-00961

As you know, the Planning Commission and Houghton Community Council (HCC) considered proposed Zoning Code amendments that would reduce the buffer distance from a marijuana retailer to a licensed child care center at a joint public hearing on June 23, 2016 ([meeting packet](#)). The Planning Commission recommended approval of the amendments (see Attachment 1), but the Houghton Community Council did not support any change to buffer distances from marijuana retailers.

Since the HCC did not support any reductions in the buffer distances, and the Planning Commission's proposed amendment would likely not result in additional eligible sites for marijuana retailers within the Houghton area, staff recommended that the City Council consider revised amendments, written so as not to be effective within Houghton (Attachment 2). Ordinance 4528, which will be considered by the City Council at its meeting on August 16th, is drafted to incorporate this change from the Planning Commission's recommendation (see Attachment 3).

The text amendment to be considered by the City Council is shown below:

Section 115.155: Marijuana Retail Business – Buffer Requirements from Licensed Child Care Centers (not effective within the Houghton Community Municipal Corporation).

Except as otherwise provided in this Section, the distance requirements of RCW 69.50.331(8)(a) (as it now exists or may subsequently be amended) shall apply to state liquor and cannabis board licensing of all marijuana producers, processors, retailers and research premises. Pursuant to RCW 69.50.331(8)(b), the Washington State Liquor and Cannabis Board may issue a license for a marijuana retail premises located within 1,000 feet of the perimeter of the grounds of a child care center, but no portion of the property on which a state-licensed marijuana retailer is located may be within 600 feet of the perimeter of the grounds of a child care center. For the purpose of this Section, "child care center" shall have the definition set forth in WAC 170-295-0010. This section shall not be effective within the Houghton Community Municipal Corporation.

Staff will provide a brief report at the Community Council's meeting on August 22nd regarding the action taken by the City Council when it considers Ordinance 4528 on August 16th.

Attachment

1. Planning Commission recommendation, dated July 25, 2016
2. Staff Transmittal Memo to City Council
3. Ordinance 4528

cc: CAM16-00961

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CITY OF KIRKLAND
Planning and Building Department
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3600
www.kirklandwa.gov

MEMORANDUM

Date: July 25, 2016

To: Kirkland City Council

From: Eric Laliberte, Chair, Kirkland Planning Commission

Subject: Planning Commission Recommendation to Adopt Zoning Code Amendments – Buffers from Marijuana Retail Uses, File CAM16-00961

INTRODUCTION

We are pleased to submit the recommended amendments to the Kirkland Zoning Code for consideration by the City Council.

The proposed amendments are presented below.

BACKGROUND

House Bill 2136, passed in June of 2015, made several amendments to Washington’s recreational marijuana law. Among the amendments were new provisions to provide flexibility to local governments to reduce the current 1,000 foot buffer from certain uses, through adopting regulations that establish a buffer of between 100 and 1,000 feet from any of the restricted uses other than schools and playgrounds.

The Kirkland City Council placed the topic of reductions to buffer distances on the Planning Commission’s work program for study, and limited the study to possible changes to the buffer from marijuana retailers to child care center uses.

The Planning Commission and Houghton Community Council (HCC) held a joint study session on May 12, 2016 to provide direction to staff in scoping draft amendments for a public hearing. The meeting packet can be viewed [here](#).

The Planning Commission and the HCC also held a joint public hearing on June 23, 2016. The Planning Commission voted to recommend approval of the proposed amendments. The Houghton Community Council, however, voted to reject any modifications to the existing buffer distances. The materials prepared for the public hearing can be viewed [here](#).

We received several written comments (Attachment 1), and heard comments from three speakers at the public hearing regarding changes to the buffer distance. Two of the speakers represented the marijuana retailers currently operating in Kirkland. One expressed support for the buffer reductions, and the other was opposed to any changes. The third speaker discussed her support for a cap on the number of retail stores, possibly imposed by the City in addition to the maximum established by the State. We also listened to the concerns of the HCC during their deliberations.

The HCC passed a motion to reject any modifications to the existing buffers, stating the following concerns:

- Reliable knowledge of impacts from marijuana retailers is not yet available (traffic, parking, etc.)
- Existing marijuana retailers have made investments based on existing regulations and it would be inappropriate to make changes until they have been given time to begin to recover their investment.
- Child care centers under the state definition may accommodate children up to 12 years of age, and should therefore not be treated differently from elementary schools which accommodate children of similar ages.
- No urgency to act now, since the City's maximum of four licenses have already been issued.

We reviewed and considered all correspondence and public comment on the proposed amendments, as well as the comments made by the HCC. The Planning Commission determined that we were generally comfortable with some reduction in the buffer distance, and concluded that we supported a reduction in the buffer from child care centers to 600 feet. With a buffer of 600 feet, approximately 24 additional parcels would become eligible for marijuana retail use (see [public hearing materials](#), pages 4 (table) and 21 (map)). All of the newly eligible parcels would be located within the northern half of the city. While we had some discussion about whether or not a cap should be placed on the number of marijuana retailers to be allowed in Kirkland, we eventually concluded not to recommend that the City limit the number of retail businesses to be allowed in Kirkland at this time.

The proposed amendments would be included in a new section to be added to Chapter 115 of the Kirkland Zoning Code:

115.155: Marijuana Retail Business – Buffer Requirements from Licensed Child Care Centers

Except as otherwise provided in this Section, the distance requirements of RCW 69.50.331(8)(a) (as it now exists or may subsequently be amended) shall apply to state liquor and cannabis board licensing of all marijuana producers, processors, retailers and research premises. Pursuant to RCW 69.50.331(8)(b), the Washington State Liquor and Cannabis Board may issue a license for a marijuana retail premises located within 1,000 feet of the perimeter of the grounds of a child care center, but no portion of the property on which a state-licensed marijuana retailer is located may be within 600 feet of the perimeter of the grounds of a child care center. For the purpose of this Section, "child care center" shall have the definition set forth in WAC 170-295-0010.

Attachment

1. Correspondence

cc: CAM16-00961



CITY OF KIRKLAND
Planning and Building Department
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3600
www.kirklandwa.gov

MEMORANDUM

Date: August 15, 2016

To: Kurt Triplett, City Manager

From: Dorian Collins, Senior Planner, AICP
 Paul Stewart, Deputy Director, AICP

Subject: Planning Commission Recommendation to adopt amendments to the Kirkland Zoning Code, Buffers from Marijuana Retail Uses - Chapter 115, File CAM16-00961

RECOMMENDATION

Adopt enclosed Ordinance 4528, consistent with the recommendation of the Planning Commission and Houghton Community Council (Exhibit A). The Ordinance includes a revision from the text recommended by the Planning Commission that would cause the amendments to not be effective within Houghton.

BACKGROUND DISCUSSION

The Kirkland City Council has expressed interest in allowing greater flexibility in the location of retail marijuana businesses. The Council placed this topic on the Planning Work Program last December following the passage of legislation authorizing local jurisdictions to reduce the buffer from marijuana retailers to restricted uses.

The proposed code amendments include the addition of a new section to Chapter 115 of the Zoning Code that would establish a buffer distance of no less than 600 feet between marijuana retailers and child care centers. The minimum buffer distance from all other restricted uses (minimum 1,000 feet) would not be affected by these amendments. The amendments are included within the body of the Ordinance.

The Planning Commission and Houghton Community Council (HCC) considered the proposed amendments to the Zoning Code at a joint public hearing on June 23, 2016 ([meeting packet](#)). The Planning Commission recommended approval of the amendments, but the Houghton Community Council did not support any change to buffer distances from marijuana retailers.

At the Council's August 16th meeting, Eric Laliberte will present an overview of the Planning Commission's recommendation on the code amendments. The Planning Commission's recommendation is to reduce the minimum buffer from marijuana retailers to child care centers from 1,000 feet to 600 feet. The recommendation is discussed in Exhibit A.

Staff Recommendation to Incorporate HCC Direction

Since the HCC did not support any reductions in the buffer distances, and the Planning Commission's proposed amendment would likely not result in additional eligible sites for marijuana retailers within the Houghton area, staff recommends that the proposed amendments be written so as not to be effective within Houghton. Ordinance 4528 is drafted to incorporate this change from the Planning Commission's recommendation:

Section 115.155: Marijuana Retail Business – Buffer Requirements from Licensed Child Care Centers (not effective within the Houghton Community Municipal Corporation).

Except as otherwise provided in this Section, the distance requirements of RCW 69.50.331(8)(a) (as it now exists or may subsequently be amended) shall apply to state liquor and cannabis board licensing of all marijuana producers, processors, retailers and research premises. Pursuant to RCW 69.50.331(8)(b), the Washington State Liquor and Cannabis Board may issue a license for a marijuana retail premises located within 1,000 feet of the perimeter of the grounds of a child care center, but no portion of the property on which a state-licensed marijuana retailer is located may be within 600 feet of the perimeter of the grounds of a child care center. For the purpose of this Section, "child care center" shall have the definition set forth in WAC 170-295-0010. This section shall not be effective within the Houghton Community Municipal Corporation.

SEPA COMPLIANCE

An addendum to the Determination of Non-Significance dated March 13, 2014 concerning interim zoning regulations allowing for the interim retail sale of recreational marijuana in various zones and the prohibition of retail sales in other zones, was issued for the proposed amendments on June 9, 2016.

CRITERIA FOR AMENDING THE ZONING CODE

Chapter 135 of the Zoning Code contains four criteria for amending the text of the Zoning Code:

1. The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan; and
2. The proposed amendment bears a substantial relation to public health, safety, or welfare; and
3. The proposed amendment is in the best interests of the residents of Kirkland; and
4. When applicable, the proposed amendment is consistent with the Shoreline Management Act and the City's adopted shoreline master program.

The proposed amendments that would reduce the buffer between marijuana retailers and child care centers are consistent with the Comprehensive Plan. Policy ED-2.4 calls for the City to "provide a regulatory environment that is predictable, fair, responsive and timely". The policy supports a regulatory environment that allows for flexibility without sacrificing community standards. A buffer of

at least 100 feet, or 600 feet under the Planning Commission's recommendation, would be retained between the uses. The proposed amendments support the public health, safety and welfare of the community, and are in the best interests of the residents in the City of Kirkland because they implement the policies of the Comprehensive Plan, and provide expanded eligible sites for the City's four licenses for marijuana retailers, a use supported by the majority of Kirkland voters.

PUBLIC PROCESS

The proposed amendments were discussed at the joint study session of the Planning Commission and Houghton Community Council held on May 12, 2016, and at the joint public hearing held on June 23, 2016. Staff also provided a briefing to the Kirkland Alliance of Neighborhoods at its June 8th meeting.

Public notice was provided in several ways for the study of the proposed amendments and for the public hearing:

- Publication of the hearing notice in the newspaper, posting on official notification boards and posting on the City's website (notice requirements of KZC Chapter 160 for Process IV review).
- Direct mailing of the hearing notice to residents and property owners within 300 feet of the proposed 100-foot buffer from existing licensed child care centers where new parcels would become eligible as a result of the buffer reduction (approximately 6,400 postcards).
- Posting on the [Marijuana Webpage](#).
- Emailed notice to parties of record for the City's earlier study process/public hearing for the adoption of KZC amendments related to the retail, production and processing of marijuana (File number CAM14-02374).
- Emailed notice to all neighborhood groups (includes chairs and vice chairs for all neighborhood groups and representatives of KAN (Kirkland Alliance of Neighborhoods)).
- Emailed notice to all those who had submitted comments prior to distribution of the hearing packet.

Exhibit:

- A. Planning Commission recommendation, dated July 25, 2016

cc: CAM16-00961
Planning Commission

ORDINANCE NO. 4528

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING AND AMENDING KIRKLAND ZONING CODE SECTION 115.155.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend Section 115.155 of the Kirkland Zoning Code, as set forth in the report and recommendation of the Planning Commission dated July 25, 2016 and bearing Kirkland Planning and Building Department File No. CAM16-00961; and

WHEREAS, prior to making the recommendation, the Kirkland Planning Commission, following notice as required by RCW 36.70A.035, on June 23, 2016, held a public hearing, on the amendment proposals and considered the comments received at the hearing; and

WHEREAS, prior to making the recommendation, the Houghton Community Council, following notice as required by RCW 36.70A.035, on June 23, 2016, held a courtesy hearing at a joint hearing with the Planning Commission, on the amendment proposals and considered the comments received at the hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Section 115.155 of the Kirkland Zoning Code is hereby amended to read as follows:

Section 115.155: Marijuana Retail Business – Buffer Requirements from Licensed Child Care Centers (not effective within the Houghton Community Municipal Corporation).

Except as otherwise provided in this Section, the distance requirements of RCW 69.50.331(8)(a) (as it now exists or may subsequently be amended) shall apply to state liquor and cannabis board licensing of all marijuana producers, processors, retailers and research premises. Pursuant to RCW 69.50.331(8)(b), the Washington State Liquor and Cannabis Board may issue a license for a marijuana retail premises located within 1,000 feet of the perimeter of the grounds of a child care center, but no portion of the property on which a state-licensed marijuana retailer is located may be within 600 feet of the perimeter of the grounds of a child care center. For the

purpose of this Section, "child care center" shall have the definition set forth in WAC 170-295-0010. This section shall not be effective within the Houghton Community Municipal Corporation.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Section 4. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 20__.

SIGNED IN AUTHENTICATION thereof this ____ day of _____, 20__.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney