

# City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

*Coast Guard City, USA*

## MEMORANDUM

**To:** Phillip Messina, Municipal Administrator  
Mayor Hunter and Members of the Assembly

**From:** Michael Scarcelli, Planning and Community Development Director *MS*  
Samantha Pierson, Planner I

**Subject:** Marijuana Cultivation and Retail License Renewals – Northern Lights Indoor Gardens

**Date:** June 22, 2017

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The Planning Commission approved the marijuana cultivation and retail licenses for Northern Lights Indoor Gardens on May 17, 2016. The business's agent submitted an annual report to the Planning Department on April 20, 2017 detailing the first year of operations. The Planning Commission considered the report at their May 16, 2017 meeting, with no action required. To date, Northern Lights Indoor Gardens is in full compliance with all state law and local regulations regarding marijuana retail and cultivation business.

In May 2017, the Planning Department received a citizen complaint with 70 signatures regarding a variety of objections to marijuana business<sup>1</sup> at Sawmill Creek Plaza due to alleged impacts to the adjacent neighborhood. Staff investigated and found merit to the complaint regarding odor impacts. Northern Lights Indoor Gardens, LLC, took immediate corrective action that included revamping the filtration system and ordering more carbon filters. Staff was satisfied that the odor impacts were mitigated to adequate levels in a commercial district. Staff addressed these concerns and the subsequent remedial steps taken in a June 20<sup>th</sup> report to the Planning Commission. Overall, the businesses have been very responsive to these concerns. Staff will remain cognizant of the concerns raised by the neighboring citizens and do further study into mitigation measures that support the local commercial district and residential uses within it.

**RECOMMENDED ACTION:** Approval of the license renewals.

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<sup>1</sup> The complaint was in response to the proposed Conditional Use Permit Amendment of Weed Dudes, but implicated Northern Lights Indoor Gardens, LLC, due to the nature of the objections. The original letter as well as staff's response is attached.

May 15, 2017

**Planning Department Board**

100 Lincoln Street

Sitka AK 99835

Re: Notice of Application and Public Hearing CUP 17-09

Dear Members of The Board:

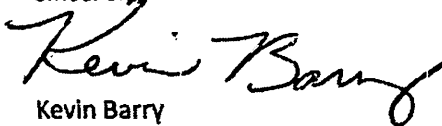
My name is Kevin Barry and I live at 105 Lillian Dr. I am strongly opposed to the requested CUP 17-09 before the Board tonight. Additionally, several residents of Lillian Dr. and other concerned Sitka residents have signed their concurrence with rejecting this proposal.

Our primary items of concern are:

1. Neighborhood of many children
  - a. Family oriented area – not supported by marijuana sales development nearby
    - i. Two years ago, the mall housed a pet store, hotel, theater, restaurant and woodshop
    - ii. Today, two marijuana businesses and potentially a marijuana smoking lounge
    - iii. Business model that requires security of “high level steel bars” not neighborhood friendly
    - iv. Children from Lance Dr., Price St., Lillian Dr. and others use the pedestrian path to await the school bus at a bus stop 50’ from the entrance to the mall building. Potential impacts of inebriated drivers is foolhardy. Afternoon school bus times and current student rider numbers for this stop are:
      1. Baranof Bus, 8 to 10 students at arriving at 2:50PM
      2. Blatchley Bus, 20 students arriving at 3:40PM
      3. High School Bus, 20 students arriving at 3:45PM
2. Concern for area quality
  - a. Negative impacts to home resale values
  - b. Odor control is a significant concern.
  - c. Hours are listed as “Unknown.” How can we adequately comment on this item?
  - d. This business activity should be in city areas that allow activity for persons 21+, not at the perimeter of a sizeable residential neighborhood.

We would strongly urge the Planning Department to reject this Conditional Use Permit Application.

Sincerely,



Kevin Barry  
105 Lillian Dr.

907-738-7270 C

907-747-0533 H

Mindy Barry

Karen Krupa

~~William Ward~~

Jessica N. Charlton

Pauge Bernhardt

Erika Seehafer

Richard Topf

Kealoha Harmon

Jeremy Strong

Janelle Lass

David Lass

Natalie Voron

Chris Voron

~~Andrea Colum~~

Andrea Colum

Taylor Colvin

Brittany Richardson

Laven Kenny

Kathy Forrester

Janet M. Schwartz

Jennifer Lulloh

Christina Bachmeier

Mindy Barry

Karen Krupa

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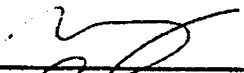
Janet M. Schwartz

Jennifer Lulloh

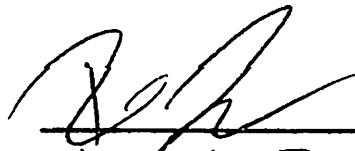
Christina Bachmeier

Signature

printed name

  
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M. Cole  
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Diana Erickson



Jennifer Davis

Mr. M. Fiddell

Peggy Fedoroff



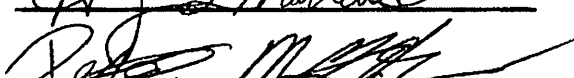
Misty Feenstra

Heather Lockwood

Mindy Bartolaba

MIKE BARTOLABA

Amy L. Martens



Jen Dill

Teal West

Mike West

Ramon Quevedo

Jennifer Davis

Megan Fondell

Peggy Fedoroff

Cynthia Duncan

Misty Feenstra

Heather Lockwood

Mindy Bartolaba

MIKE BARTOLABA

Amy L. Martens

Pete Martens

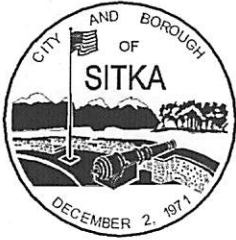
Jen Dill

Teal West

Mike West

Sue Conrad  
Maia Y. Nendra  
Ashley Green  
Tyler Green  
Diana Tweedle  
Kathi Jones  
Jeanette Forah  
Jill Lecrone  
Jennifer Oen  
Kristine Hoke  
Megan Bahst  
Kirstin Karsunkin  
Heather Gluth  
Lisa H. Hunter  
Barbara Webb  
Matthew Burrows  
Stephanie Peterson  
Kate Mullin  
Jacki Horton  
Nicki McArthur  
Sharon Balovich  
Leslie Young

Sue Conrad  
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Barbara Webb  
Matthew Burrows  
Stephanie Peterson  
Kate Mullin  
Jacki Horton  
Nicki McArthur  
Sharon Balovich  
LESLIE YOUNG



# City and Borough of Sitka

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*Coast Guard City, USA*

## Planning and Community Development Department

Date: June 15, 2017

From: Michael Scarcelli, PCDD Director

To: Planning Commission

Re: Report on Marijuana Businesses and Complaints Received at Sawmill Creek Plaza

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The Planning and Community Development Department has received a signed letter<sup>1</sup> that urged the denial of a conditional use permit amendment for Weed Dudes. The argument requesting denial was based on several points that to sum included 1) Family/residential neighborhood not supported by marijuana business, 2) Traffic/pedestrian concerns with “inebriated” drivers, 3) Negative impact to home resale value, 4) Odor impacts, and 5) Unknown hours of operations. To sum, staff believe only the odor and lack of hours of operation concerns have any merit. However, all complaints are moot as the permit consideration was postponed pending state adoptions of regulations for on-site consumption and more the odor impacts were not attributable to the specific business in question. Further, there is concern that some signers of the group form letter were not informed of the specifics of what they were signing.

### 1. Which use doesn't fit: pot or home?

- a. The letter signers argue that the marijuana business is not a good fit for the area.
  - i. I would respond that the code not only within the purpose section of the C-1 and C-2 districts, but also highlighted by the title of the zone and all the use tables clearly and unequivocally establishes the C-1 and C-2 zoning districts as commercial zones that also allow residential uses.<sup>2</sup> In this case the residential use, while at times a permitted use, occurred under a planned unit development or cluster housing development a form of conditional use. The marijuana use has received a conditional use

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<sup>1</sup> Letter dated May 15, 2017 addressed to Planning Department Board, signed by Kevin Barry of 105 Lillian Drive and approximately 69 other citizens (attached).

<sup>2</sup> SGC Tables 22.16.015-1, -3, -4, -5, and -6; & SGC 22.16.080

permit with conditions of approval as well as a state license. The business is regulated by state law, local ordinance, and conditions of approval. The balance between commercial and residential use is complex in this area due to the dynamic nature of the types of uses that can and are occurring. It is an area that has a stark mix of light to heavy commercial and even industrial type uses up against residential uses. It would be my suggestion that all uses in this type of area should be more tolerant of the range of other uses due to this mix. While residential use is important to a community, so is having areas where commercial business can occur and expand.

## **2. Traffic and Pedestrian Impacts & Inebriated Driving**

- a. The concern is that with large numbers of school aged children and a school bus drop-off/pick-up location nearby that potential inebriated drivers could create potential impacts.
  - i. Intoxicants can intoxicate. There is/are other businesses in the plaza that could be the nexus of such inebriated drivers. Assuming for point of argument that Weed Dudes is found to be the cause, an additional condition of approval to mitigate the impact of inebriated drivers could be drafted (such as all consumption clients shall be provided shuttle service, or shall be educated on the laws of driving, public safety, and also shall not be served if driving, etc.). Staff will further review best practices regarding identifying and mitigating traffic safety impacts, including consultation with state troopers and local police to prepare appropriate recommendations for future reviews.

## **3. Negative Home Resale Impacts**

- a. The concern is that the marijuana business will impact the resale of homes.
  - i. There is no objective resale information that shows a statistical drop in home values in that area. More, even if there was, it would have to be directly attributed to this marijuana business to support a denial. With residential homes up against high intensity commercial and industrial type uses and junkyards it is difficult at best to attribute home value impact to the marijuana business. Staff will further investigate whether there are indications of negative impact to home values.

## **4. Odor Impacts**

- a. Odor control was a significant concern.



- i. There is support for this concern. Staff site investigation did result in observations of marijuana odor within the immediate vicinity of Northern Lights Indoor Gardens. This odor control issue was not attributable to Weed Dudes, but to another business. That aside, it is important to understand the context of how and why that occurred. My understanding is that during a power outage the exhaust and air 'scrubbing' system went off. When the power went back on, the exhaust fans reversed direction. In addition, there was a supply issue with carbon filters. Both of these situations have been corrected. The business has installed baffles and taken steps to have back-up filters to avoid a repeat. It is further suggested that the business have back-up power supply to avoid lack of air scrubbing should a power outage occur again (which is likely). Staff will continue to monitor the odor issue and new odor control measures. Should there be additional odor issues, staff will bring back the specific offending business or businesses for review and consideration of the conditional use permit.

## **5. Unknown hours of Operation**

- a. Concern is that the public did not know the hours of operation.
  - i. Staff has some concern about hours of operation. State marijuana business regulations will limit hours of operation of a retail establishment. These regulations will be stricter than what has been the historical precedent of hours of operation for all other conditional use business currently operating in Sitka in comparable zoning districts. More, a variety of permissible businesses could operate in a C-1 or C-2 zone without restriction as to hours. To address this concern, staff will request detailed hours of operation for all future amendments.