

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 Retail License Renewal – Weed Dudes

Date: June 22, 2017

The Planning Commission approved the marijuana retail license for Weed Dudes on May 17, 2016. To date, Weed Dudes is in full compliance with all state law and local regulations regarding marijuana retail business.

In May 2017, the business's agent had filed for a major amendment to the conditional use permit for an on-site consumption lounge. Action on that proposal was postponed pending state promulgation of onsite consumption regulations by the state Alcohol and Marijuana Control Board.

In response to the proposed amendment, the Planning Department received a citizen complaint with 70 signatures regarding a variety of objections to marijuana business¹ at Sawmill Creek Plaza due to alleged impacts to the adjacent neighborhood.

Staff investigated and found merit to the complaint regarding odor impacts, but those were not caused by this business. Moreover, the offending business, 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 20th report to the Planning Commission, which is attached. In addition, Weed Dudes took immediate corrective action to address another issue regarding screening of their storefront, which was an original condition of approval. 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 renewal.

¹ The complaint was in response 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:

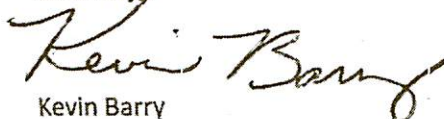
My name is Kevin Barry and I live at 105 Lillian Dr. I am strongly opposed to the requested CUP 17-09 before the Board tonight. Additionally, several residents of Lillian Dr. and other concerned Sitka residents have signed their concurrence with rejecting this proposal.

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 Krupa

Michael Harmon

Jeremy Strong

Janelle Lass

David Lass

Natalie Voron

Chris Voron

~~Kelly Buxton~~

Andrea Colvin

Taylor Colvin

Brittany Richardson

Lauren Kenny

Kathy Forrester

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Christina Bachmeier

JH

Jennifer Davis

My M. Fedell

Peggy Fedoroff

Amelia

Misty Feenstra

Heather Lockwood

Mindy Bartolaba

MIKE BARTOLABA

Amy L. Martens

Pete Martens

Jen Dill

Teal West

Mike West

Ramon Quevedo

Jennifer Davis

Megan Fondell

Peggy Fedoroff

Cynthia Duncan

Misty Feenstra

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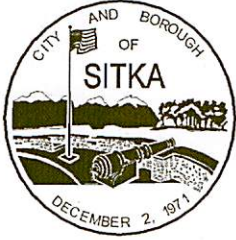
Jen Dill

Teal West

Mike West

Sue Conrad
Maia Y. Nendra
Ashley Green
Tyler Green
Dhara Tweedle
Kathi Jones
Jeanette Forah
Jill Lecrone
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Sharon Balovich
LESLIE YOUNG



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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

The Planning and Community Development Department has received a signed letter¹ 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.² 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

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

² 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.