Commercial Cultivation of Marijuana in Residential Zones

On November 9, 2015, the CBJ Assembly approved Ordinance 2015-39, which amended the land use code to establish in which zoning districts each type of marijuana business would be allowed or prohibited to operate. One of the changes made allowed the commercial cultivation of marijuana in D1 residential zones outside the Urban Service Area. Such use is limited to 500 square feet, around the size of an average garage. D1 residential means that there is a single residence on a parcel that has an approximate minimum size of 1 acre. The Urban Service Area boundary delineates the area in which the CBJ encourages infill development, primarily by providing municipal water and sewer.

The decision to authorize such use was reached after a lengthy public process that began with the work of the Marijuana Committee in February 2015. The topic of commercial cultivation was addressed in nine separate meetings of the Marijuana Committee, Title 49 Committee, Planning Commission, Committee of the Whole, and Assembly. The topic was presented in a draft ordinance, public testimony was held, the issue was debated, the ordinance was refined, and ultimately the Assembly voted to allow such activity subject to a conditional use permit process. During this period of time, the topic was not only published on CBJ’s websites, it was also reported on through newspaper articles and radio reports.

The Assembly’s decision to allow commercial cultivation in a residential zone is not unprecedented. There are many other commercial enterprises that are allowable under the table of permissible uses including child care, veterinary clinics, professional offices, mining, as well as other wholesale and retail agricultural uses. As a practical matter, the commercial cultivation of marijuana is subject to tighter restrictions than many of the other enterprises mentioned including location limitations related to churches, schools, and day care facilities.

The Assembly recognizes that there is not a consensus in the community regarding commercial cultivation in residential areas. There were many vocal proponents and opponents to the decision – all of whom had legitimate points to be made and who felt strongly that their perspective was the right one. The Assembly itself had differing opinions on whether such use was appropriate. However, after all voices were heard and the merits of the topic were discussed and debated, the measure passed on November 9, 2015 by a majority vote of the Assembly. The issue was revisited at the Committee of the Whole meeting on March 14, 2016, where after further discussion, a vote of the majority opted not to reconsider the decision.

The citizens of the State of Alaska voted to legalize marijuana in November of 2014. In Juneau, the ballot measure passed by 63%. The process by which we as a community move from legalization to viable commercial business requires many steps and decisions along the way. Our obligation as a legislative body is to create a transparent and fair process that serves the overall good of the community. We believe we have done so in this case. Should issues arise as a result of these decisions; the topic of appropriate zoning for commercial cultivation can be revisited. In the meantime, the Planning Commission is charged with looking at each application for commercial cultivation in a D1 residential zone outside the Urban Service Area and considering the merits of each application on a case by case basis.

The Assembly wants to thank the many citizens who have taken the time to participate in this discussion. We believe that community engagement and civil discourse is the foundation of the democratic process. The willingness of our citizens to actively engage in sensitive community issues is what makes living in Juneau and serving in an elected capacity meaningful and rewarding.

Sincerely,
The City and Borough of Juneau Assembly
March 21, 2016