



Memorandum

DATE: January 25, 2016

TO: Mayor and Councilmembers

FROM: Alex Herzog, CMO Management Analyst

RE: Cannabis Regulations and Marijuana Retail Licenses

CC: Debbie Tarry, City Manager
John Norris, Assistant City Manager
Margaret King, City Attorney
Julie Ainsworth-Taylor, Assistant City Attorney
Jessica Simulcik-Smith, City Clerk

In October 2015, the State Liquor and Cannabis Board (LCB) began accepting applications for additional marijuana retailer licenses. And, through the LCB's recent evaluation of demand for medical and recreational marijuana, Shoreline has been allotted two additional retail marijuana licenses, for a total of four. The City's initial two retail marijuana businesses - Dockside Cannabis, located at 15001 Aurora Avenue N, and 365 Recreational Cannabis, located at 17517 15th Avenue NE - have been in operation since late-2014 and early-2015, respectively.

Since re-opening the application process, the City has received from the LCB three notices of application for the two newly-allotted licenses, and at this point, it is unclear which of these applicants will be issued licenses. Proposed Ordinance No. 735, which you are discussing at your meeting on January 25, includes a provision that would require a 1,000 foot buffer between retail locations to prevent the clustering of retail businesses and to minimize the traffic impacts on surrounding areas. However, based on the notices the City has received, there is a possibility that the LCB may license a business within 1,000 feet of an existing retail operation.

On December 14, 2015, the City received a Notice of Application from such a potential retailer. The Americana Weed Company has proposed to locate at 17547 15th Avenue NE within a few hundred feet of an existing marijuana retailer, 365 Recreational Cannabis. Attachment A to this memo provides a map showing

the locations of the two current marijuana retail businesses and the three potential applicants for a retail marijuana license.

On December 22, 2015, staff sent a letter to the LCB requesting an extension to the comment period for this application (Attachment B) so that the Council would have time to consider proposed Ordinance No. 735, which would effectively prevent Americana Weed Company from locating within 1,000 of 365 Recreational Cannabis. On December 28, the LCB granted an extension which expired on January 11 (Attachment C). On January 8, 2016, Shoreline staff requested an additional extension that would have allowed Council time to consider the proposed marijuana regulations (Attachment D). While the City has yet to receive a formal letter denying this request, staff did receive an email from LCB staff dated January 15 that this additional extension request would be denied (Attachment E.)

In addition, staff has received inquiries from applicants who have licenses pending LCB approval about the potential impact of Ordinance No. 735. Specifically, how would the requirement of a 1,000 foot buffer affect businesses that had submitted license applications, were licensed, and/or operating before the ordinance took effect?

Legal analysis from the City Attorney's Office, which included input from the City's Planning and Community Development Director, found that courts have established that a business must be "established and maintained" before a particular zoning code takes effect to be considered a legal nonconforming use (*Miller v. City of Bainbridge Island (2002)*; *Meridian Minerals v. King County (1991)*). Therefore, as it relates to the proposed buffer, a retail marijuana location that is within 1,000 feet of another retailer must be operable before the requirement takes effect in order to be considered a legal nonconforming use.

Alternatively, if Council would like to "grandfather" in or forgive the 1,000 foot buffer between retail locations for applicants that have already begun the licensing and review process with the LCB, staff recommends that Council amend proposed Ordinance No. 735 by removing the existing Section 5 of the Ordinance and replacing it with the following:

Section 5: Effective Date and Vesting Status. The provisions of this Ordinance shall become effective five (5) days from its publication. If a marijuana retailer has taken substantial steps to begin retail operations prior to this date at a location impacted by regulation established in Section 1, the City will consider the location exempt from compliance and a legal non-conforming use. Substantial steps are defined as having been issued a marijuana retailer license from the State of Washington, having been issued a City of Shoreline business license, and having ownership or a valid lease for the location of the retail operation. Any such retail operation seeking status under this Section shall open its operations within thirty (30) days of the effective date of this Ordinance or waive all rights to such status.

At the time of Council's discussion of marijuana regulations on November 9, 2015, the number of additional marijuana licenses allocated to Shoreline was unknown. Since then, the LCB has finalized allocations. As stated above, the City has now been allocated a total of four retail marijuana licenses. A maximum of four marijuana retailers in the City may assuage some concerns of retailers clustering in the City.

Attachments

Attachment A – Recreational Marijuana Retailers Map

Attachment B – December 22, 2015 City Letter to the LCB

Attachment C – December 28, 2015 LCB Extension Request Response

Attachment D – January 8, 2015 City Letter to the LCB

Attachment E – January 15, 2015 LCB Email

Recreational Marijuana Retailers

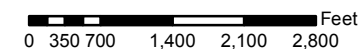
Marijuana Facility

- Licensed Retailer
- Pending License

1000' Buffer

- Licensed
- Pending

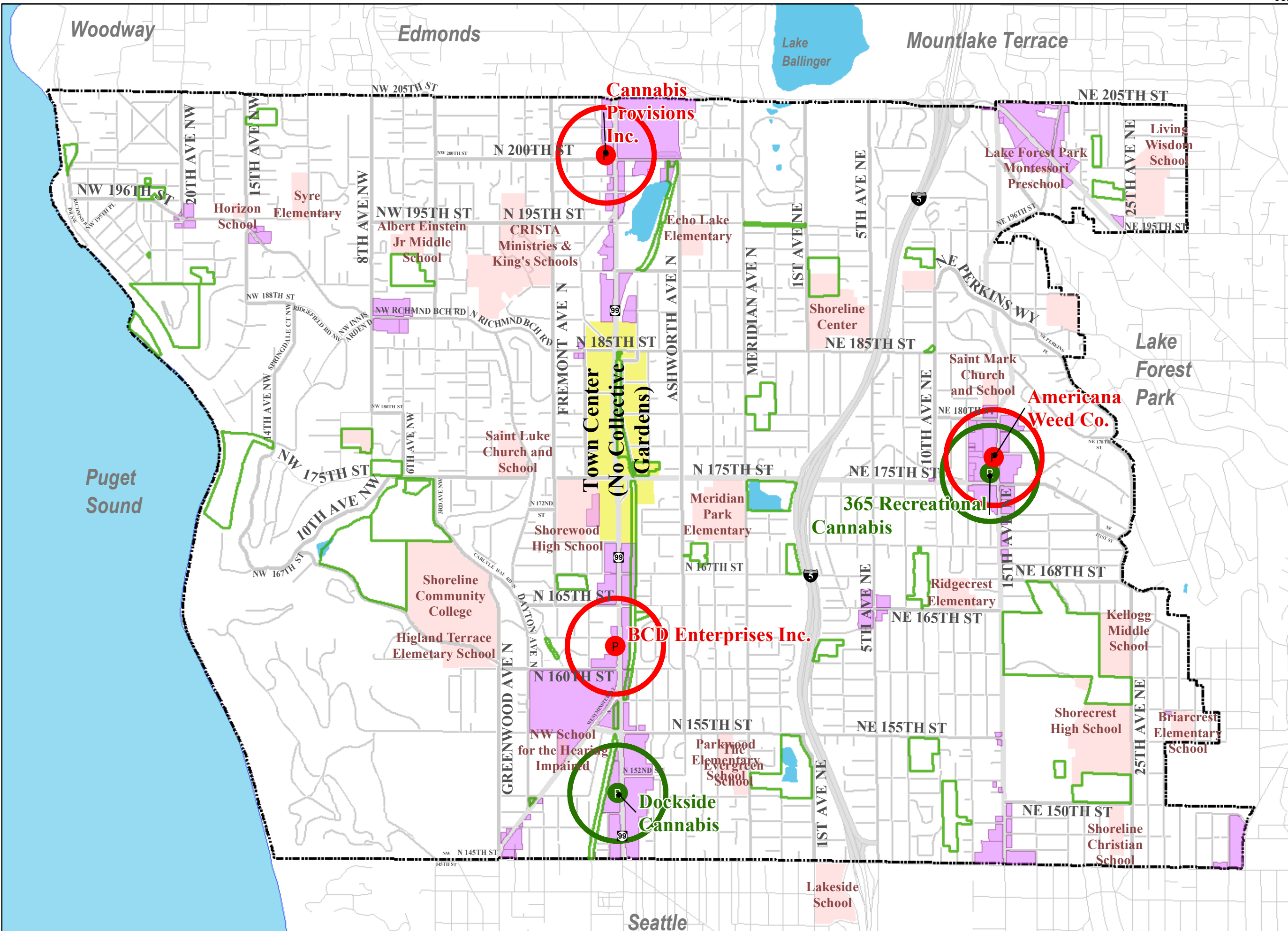
- Park Boundary
- School
- Commercial Zoning
- City Boundary
- Town Center



No warranties of any sort, including accuracy, fitness, or merchantability, accompany this product.



Date: 1/13/2016





**SHORELINE
CITY COUNCIL**

Shari Winstead
Mayor

Chris Eggen
Deputy Mayor

Will Hall

Doris McConnell

Keith McGlashan

Chris Roberts

Jesse Salomon

December 22, 2015

Washington State Liquor and Cannabis Control Board
License Division
PO Box 43075
Olympia, WA 98504-3075

RE: License 414649-7Y
Applicant: Americanna Weed Co. LLC
Location Address: 17547 – 15th Avenue NE, Shoreline, WA

On December 14, 2015, the Washington State Liquor and Cannabis Control Board sent the City of Shoreline a Notice of Marijuana License Application for the above-mentioned marijuana retail operation. Comments on this application are due to the Board by January 4, 2016.¹ Given the recent amendments enacted by the Washington State Legislature and the re-opening of the acceptance of applications by the Board, the City is in the process of evaluating both licensing and land use regulations. This process requires review of proposed regulations by both the City Planning Commission and the City Council along with a public hearing to allow the citizens of Shoreline to voice their opinions. While the City has commenced review during the holiday season, more time is needed before comments can be submitted on marijuana licensing applications. This application may be impacted by the proposed regulations.

Therefore, the City of Shoreline requests a twenty-day extension of the comment period to January 25, 2016.¹ The City will endeavor to provide comments earlier than this deadline if possible.

Thank you for your consideration of this matter.

Sincerely,

Debbie Tarry
City Manager

cc: Shoreline City Clerk

¹ The City calculates the deadline for submittals as January 3, 2016, a Sunday, and therefore, the deadline falls to the next business day, January 4, 2016.

¹ Once again, the deadline falls on a Sunday so the deadline falls to the next business day, January 25, 2016.



Washington State
Liquor and Cannabis Board

Marijuana Unit
PO Box 43098, 3000 Pacific Ave SE
Olympia WA 98504-3098
Phone: (360) 664-1600

Extension Request Response

December 28, 2015

ATTN:
CITY OF SHORELINE, KING COUNTY

RE: Trade Name: AMERICANNA WEED CO.
License #: 414649 -
UBI #: 6033580640010003

Thank you for your request for a 20 day extension to review this application. The date of your request was December 22, 2015. The 20 day extension is granted through January 11, 2016 has been granted.

Any further extensions must be requested in writing to the Liquor and Cannabis Board. You will receive a written response to your request.

Thank you,

Kimberly Chabot

Marijuana Licensing Investigator
(360) 664-1788
kac@lcb.wa.gov

Enclosure(s)



**SHORELINE
CITY COUNCIL**

Chris Roberts
Mayor

Shari Winstead
Deputy Mayor

Will Hall

Doris McConnell

Keith A. McGlashan

Jesse Salomon

Keith Scully

January 8, 2016

Washington State Liquor and Cannabis Board
License Division
PO Box 43075
Olympia, WA 98504

RE: License 41469-7Y
Applicant: Americana Weed Co. LLC
Location Address: 17547 15th Avenue NE, Shoreline, WA

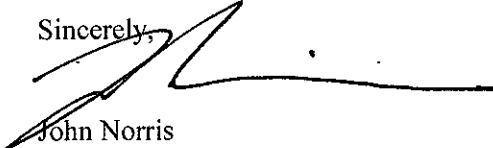
On December 14, 2015, the Washington State Liquor and Cannabis Board (LCB) sent the City of Shoreline a Notice of Marijuana License Application for the above mentioned marijuana retail operation. Given recent amendments enacted by the Washington State Legislature and the re-opening of the acceptance of applications by the Board, the City is in the process of evaluating both licensing and land use regulations. This process requires review of proposed regulations by both the City Planning Commission and the City Council along with a public hearing to allow the citizens of Shoreline to voice their opinions.

Given this review process, the City requested an extension of the comment period for this application in a letter to the LCB dated December 22, 2015 (enclosed). This extension was granted by the LCB through January 11 in a letter dated December 28, 2015 (also enclosed). While the City has commenced this licensing and land use review process, including City Planning Commission review and the holding of a public hearing on proposed development regulations, the City Council has yet to discuss and potentially adopt the proposed regulations.

As this application may be impacted by the proposed regulations, the City of Shoreline requests a forty (40) day extension of the comment period to February 17, 2016. This would allow for the proposed ordinance being considered by the City Council for adoption on February 8, 2016 to be published and become effective.

Thank you for your consideration.

Sincerely,


John Norris
Assistant City Manager

cc: Debbie Tarry, City Manager
Julie Ainsworth-Taylor, Assistant City Attorney
Alex Herzog, CMO Management Analyst
Jessica Simulcik Smith, City Clerk

From: [Heidi Costello](#)
To: [Heidi Costello](#)
Subject: FW: Shoreline marijuana licenses LCB Responses
Date: Friday, January 22, 2016 10:59:43 AM

From: Chabot, Kimberly A (LCB) [kimberly.chabot@lcb.wa.gov]
Sent: Friday, January 15, 2016 9:51 AM
To: Alex Herzog
Cc: O'Dell, Frank (LCB)
Subject: Shoreline marijuana licenses LCB Responses

Hi Alex,
Sorry for the delay, I was out sick and catching up. I will prepare a response today to your second request for an extension, as previously discussed, will not be granted. I have answered in red below.

Sincerely,
Kimberly Chabot
Marijuana Licensing Specialist 3
3000 Pacific Avenue SE
Olympia, WA 98504
360-664-1788
kimberly.chabot@lcb.wa.gov<<mailto:KAC@liq.wa.gov>>

From: Alex Herzog [<mailto:aherzog@shorelinewa.gov>]
Sent: Wednesday, January 13, 2016 3:10 PM
To: Chabot, Kimberly A (LCB)
Cc: Julie Ainsworth-Taylor; Jessica Simulcik Smith
Subject: Shoreline marijuana licenses

Hi Kimberly,

Hoping you and I can connect today or tomorrow about licensing marijuana businesses in Shoreline. I have few questions which I will provide here in addition to the voicemail I left for you yesterday. Please feel free to call or email if responding by email is easier for you:

1: Can you explain how the licensing review process and when and where the 'Notice of Application' fits into that process? It looks like there are about 13 applicants for marijuana retail licenses in Shoreline and the City has only received notice of three. This leads me to believe that the notice is sent after an applicant passes some sort of initial review. Is this correct?

Yes the LA notice is sent at the time of interview.

2. Also, being that there are 13 applications for our two additional allocated licenses, this leads me to believe that there is some sort of queue being developed. Conceivably, if those at the top of the list do not pass the licensing process, it makes sense to move to the next license and potential issue it if that applicant passes. Correct? Is there a limit to the number in the queue? We work with them until they are licensed, which means they may be building out, as opposed to just a small interior remodel. If there is an issue and we move through the threshold process, and they are denied on criminal history or some other reason, then the application is withdrawn.

If the City's licensing maximums are being reached we notify applicants, if they wish to continue they do so at their own risk, or they have 2 weeks to find another location, or be withdrawn.

3. Can you tell me more about the process for renewal of licenses? Will the City receive some sort of notification of applications to renew? Any info on this would be helpful.

Frank O'Dell would be able to provide more detail about the renewal process, as I do not do that. Currently, we

notify the local authority on renewals, but not non-renewal, or revocation.

Thanks,

Alex Herzog
Management Analyst
City Manager's Office
206-801-2216
City of Shoreline
17500 Midvale Ave N.
Shoreline, WA 98133