

WHITMAN COUNTY PLANNING COMMISSION

To convene:

Wednesday, March 18, 2020  
7:00 p.m.  
Auditorium  
Public Service Building  
Colfax, Washington

Proposed new marijuana ordinance, Chapter 19.64.

PRELIMINARY FINDINGS OF FACT

1. In November of 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (now the Liquor and Cannabis Board) (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors, and retailers.
2. In 2018, the Washington Court of Appeals ruled I-502 does not override local governments' authority to regulate local businesses, including recreational marijuana businesses, through zoning or otherwise, and the Washington Supreme Court has declined to review that decision.
3. The Whitman County Code does not currently have specific provisions addressing the production, processing, and wholesale or retail sale of recreational marijuana.
4. The Board of County Commissioners received numerous statements from county residents concerning the ill effects of growing, processing, and/or sale of marijuana on surrounding residents, including strong odors and possible pollution and negative effect on crime rates.
5. RCW 36.70.795 authorizes the County to adopt, and subsequently extend if needed, a moratorium for a specific purpose for up to six (6) months if a public hearing on the proposal is held within at least sixty (60) days of the moratorium's adoption.
6. On March 4, 2019, the Whitman County Board of County Commissioners held a duly noticed public meeting to consider an ordinance adopting a temporary moratorium regarding recreational marijuana businesses in order to provide sufficient time for the County to consider any necessary zoning regulations as they specifically relate to the growing, processing, and/or selling of marijuana in the un-incorporated areas of the County
7. On March 4, 2019, the Board of County Commissioners adopted an ordinance imposing a moratorium on the establishment, location, operation, licensing, or maintenance of facilities, businesses or any other activities involving the production, processing, or wholesale or retail sale of recreational marijuana or marijuana-infused products to be effective on March 11, 2019. See Exhibit 1.

8. On September 3, 2019, the Board of County Commissioners extended the moratorium to March 4, 2020, to give the Planning Commission more time to complete their task. See Exhibit 2.
9. On March 2, 2020, the Board of County Commissioners extended the moratorium to September 4, 2020 to give the Planning Commission more time to complete their task. See Exhibit 3.
10. The Whitman County Planning Commission was tasked by the Board of County Commissioners to consider any necessary zoning regulations as they specifically relate to the growing, processing, and/or selling of marijuana in the un-incorporated areas of the County.
11. On March 20, 2019, the Planning Commission and the Board of County Commissioners held a joint public workshop in order for the Planning Commission to hear from the Commissioners. See Exhibit 4.
12. Several potential approaches to marijuana zoning were discussed such as an outright ban on marijuana; allow marijuana to continue as an outright allowed use; create a marijuana zoning ordinance. The Planning Commission was asked to consider public health, welfare and safety; odor control; are odors from the marijuana plant harmful to human or animal health; would there be an increase in crime if the marijuana industry is allowed to continue in the County; what is a reasonable setback distance to houses; is water consumption a concern; are hazardous chemicals to be used.
13. On April 3, 2019, the Planning Commission held the first public workshop on the subject of marijuana in the County. Speakers invited to this workshop were the Whitman County Sheriff, Brett Myers, and Lester Erwin from Pullman Fire District #12. See Exhibit 5, transcript of minutes.
14. Sheriff Myers gave an overview of the history of marijuana in Washington State from medical marijuana being approved in 1998 to Initiative 502 in 2012 which approved recreational marijuana. He commented that a lot of enforcement by his office is on minors using marijuana. Regarding any increases in crime related to marijuana, Sheriff Myers stated that he couldn't actually say that there is an increase in crime but there has been an increase in public use of marijuana. He noted that there has been an increase in fatal motor vehicle accidents due to THC since passage of I-502. There have been 2-3 burglaries and assaults committed in marijuana shops locally. He recommended that the Planning Commission comes up with a very strict set of guidelines and rules for the location of marijuana businesses and make sure that those rules be consistent.
15. Rural Fire Chief Mr. Erwin stated that he and the other local fire districts had concerns about the safety of marijuana production and processing facilities. He stated that since the fire departments did not know what was in these facilities they had no idea what the firefighters might encounter if called to an emergency. The firefighters reached out to some of the local existing marijuana businesses and

toured the production facility on Airport Road and a proposed one on Country Club Road. From those visits he said a lot was learned. He noted that marijuana businesses are very strictly regulated and that they are very well run. He commented that there is absolutely nothing in those marijuana businesses that he walked through that can pertain to safety of his firemen, not any worse than a fertilizer plant. There are not a lot of chemicals in there. It is mainly just plants being grown and most of the stuff they use is all general public stuff they can get anywhere. He recommended that Knox boxes be put on marijuana buildings so that emergency responders can access without breaking down a door. He also mentioned having access to building plans so that emergency responders know where the breakers and power shut-offs are located.

16. At the next scheduled workshop on May 1, 2019, seven Washington State University professors were invited to talk about their knowledge on the marijuana plant. They were Tom Jobson, Professor in the Civil & Environmental Engineering Laboratory for Atmospheric Research; John Wyrick, Associate Professor in the School of Molecular Biosciences; Jon Davis, Assistant Professor in the Department of Integrative Physiology and Neuroscience; Ryan McLaughlin, Assistant Professor in the Department of Integrative Physiology and Neuroscience; David Gang, Professor in the Institute of Biological Chemistry; Mark Lange, Associate Professor in the Institute of Biological Chemistry; and Michael Kahn, Professor in the Institute of Biological Chemistry. Also speaking at this workshop was Josh Ashby, an attorney who routinely represents marijuana businesses. He is the Executive Chair for the State Bar Association's Cannabis Law Section and the Executive Chair for the NW Marijuana Legal Conference which tracks legal developments both in the Northwest and abroad. See Exhibit 6, transcript of minutes.
17. Professor Jobson talked about his research on trace gas analysis and air quality. He had done some air quality sampling of marijuana businesses in Spokane County for the Spokane Clean Air Agency. Spokane County has numerous marijuana grow operations and experienced a lot of odor complaints. Professor Jobson and his team analyzed air samples from the marijuana facilities. They discovered that Myrcene was the most abundant thing emitted by these plants, followed by Limonene and Alpha and Beta Pinene, and some varieties were big emitters of Terpene. He stated that all those are mono-terpene compounds. They are not regulated air pollutants, and they do not appear on the State's Air Toxic list, so they're not considered air toxics. He commented that the odor issue in Spokane County is simply a nuisance issue. These findings gave the Spokane Clean Air Agency the information to produce best management practices to find solutions to the odor complaints. Solutions such as installing filtration systems in grow facilities to eliminate emissions are being negotiated with marijuana grow facilities. He further stated that the odor issue in Spokane County is a nuisance issue and is not a health issue. He explained that the State has a Clean Air Act, which basically follows the EPA Clean Air Act and there is a list of chemical compounds that are considered air toxics, and none of those compounds that were measured are on that list. So, for the Spokane

Clean Air Agency, it's not a toxic issue, it's a nuisance issue, just like odor from compost or landfills, it's a simple odor issue.

18. Professor Wyrick talked about his research on carcinogens and their effects on any damage, repair and mutations, primarily in skin cancer, but also with some toxic compounds and agents that are used in chemotherapy. His work is on understanding how those kinds of compounds affect health, as well as, what causes cancer. He also stated that he is not researching marijuana. He talked about the effects of smoking marijuana and that studies show evidence that smoking marijuana is mutagenic. He also discussed volatilizing marijuana and some studies show that toxic compounds are emitted from that. He stated that terpenes don't have to be heated up to form toxic chemicals. To emphasize this point he gave examples of air fresheners and furniture manufactures where pine or lemon scents which contain terpenes potentially cause health problems to the workers. He also stated that he is not an expert on cannabis and that studies on these issues are preliminary and not conclusive. He talked about marijuana grow operations potentially causing smog and air pollution through the release of volatile organic compounds (VOC's). Also talked about a study showing some evidence that pine forests, which emit a lot of terpenes, can potentially seed clouds. The point he was making is that terpenes combined with other compounds can create pollution. He personally agrees that the smell of the cannabis plant is a nuisance. He mentioned possible mold and allergies associated with the growing of marijuana and the possibility that cows inhaling the smell from marijuana plants could affect their milk.
19. Professor Davis talked about how he is trying to understand how cannabis stimulates appetite for people who have cancer. His research involves exposing lab animals to vaporized or volatilized cannabis and perform a battery of tests on them. What he has found out is that this exposure increases appetite.
20. Professor McLaughlin talked about his research on understanding the development effects of cannabis on the brain and behavior using lab animals. He made a distinction between the odors emitted by the cannabis plant and the heating of the cannabis plant. His point concerned inhaling THC. He stated that there is very little THC in the cannabis plant itself. It exists as a compound called THCA, which is an acid form of THC. In order for someone to actually feel the intoxicating effects of cannabis, the THC needs to be decarboxylate meaning that the acid group is removed from the THC. That is done by heating. That is why people smoke cannabis. He stated that if you were to just pick up a plant and start munching on it and eating it, you wouldn't get intoxicated from that. He went on to say that he is not concerned about the effects of the plant in its non-decarboxylated form. He further explained that THC and other plant derived cannabis molecules are basically fat molecules that don't dissolve in water and pose a very low risk of dissolving into the water table. He agrees that the smell from flowering cannabis is pungent and unappealing to some but it won't get you intoxicated. He talked about the evidence presented by some of his fellow WSU professors regarding potential detrimental effects of monoterpenes and pointed out that "*there is just as large, if not an even*

*larger literature to show that the terpenes have anti-inflammatory properties, they have analgesic properties, they have anti-tumorigenic properties and there are very extensive review papers that have been published on this, both in animal models, as well as cell cultures, looking in cultures that are looking at cancer cells, for instance. A lot of this has shown that these components have antioxidant and anti-inflammatory properties.” Further “The vast majority of the alpha beta pinene that we see in the world are from pine trees, so it’s a little bit surprising to me that these would have such pervasive effects and long term effects on air quality, considering the number of pine trees that we have. Myrcene as well being the most predominant cannabinoid or cannabis based terpene is actually the most prominent component of hops as well. The cannabis and the hops plants are very close relatives, so myrcene is a very prominent component of it. Up to 40% of its weight, of its mass is myrcene. We’re not necessarily as much concerned about growing plants or hops for alcohol purposes, so I just want to make sure that there is not a lot of, that we clear up some misconceptions, I think, about what terpenes are actually doing. And really, I think, the consensus, at least in the neuroscience and the mental health research field right now, is that we can actually utilize the power of terpenes to try and treat some disorders, whether they be for pain or eating disorders or inflammatory disorders as well. So, I think again, like it was stated, there is still a lot of research that needs to be done on this. But, I really feel like its maybe a little bit premature to consider the long term health effects of growing a small, whatever is being planned here. I just think that maybe we should pump the breaks a little and we need to understand that these compounds are not necessarily quite as harmful as we may be thinking.”*

21. Professor Gang talked about his work on the chemistry and biochemistry of volatile compounds produced by plants. He submitted several papers into the record. He told about the concerns that some people at WSU had regarding the possibility of terpenes contaminating the milk of cows at the WSU dairy which is next door to a pending marijuana grow operation. He referenced a study done in Oregon where cows in an enclosed space were exposed to culinary plants, not cannabis or marijuana, but which contain the same compounds as cannabis. The study suggested that those compounds could end up in the cow’s milk. He said he found a couple dozen other studies that talk about how milk absorbs compounds that cows either ingest or re-vent. He then talked about Material Safety Data Sheets (MSDS). Those sheets referenced the most abundant compounds that the cannabis sativa plant makes. One of those is limonene which, according to the MSDS causes skin irritation, material may be irritating to the mucous membranes and upper respiratory tract, may be harmful by inhalation, ingestion, or skin absorption, may cause an allergic skin reaction, may cause eye or respiratory system irritation, very toxic to aquatic life with long lasting effects. The MSDS further states in reference to limonene: “To the best of our knowledge, the toxicological properties have not been thoroughly investigated.” Professor Gang then stated that all the compounds associated with cannabis have the same potential reactions as limonene. He goes on to explain that plants produce lots of very, very toxic compounds and through his studies he has endeavored to understand “*how those toxic compounds are made*

and which ones are toxic to humans and why. Which ones are toxic to bacteria and why. Which ones are toxic to other animals or fish or microprobes or whatever it is. We use a lot of these compounds in our health practices and in our cosmetics and in our cleaning of our houses, because we find the smell is pleasant and they don't really affect us very much, but they do great wonderful things to kill bacteria. Limonene is a good example of that. It's quite toxic to lots of bacteria, but it's not very toxic to most people. We heard that stated earlier and that's pretty true." The message Professor Gang seems to be expressing is because there are very few studies done on all these compounds and little is scientifically known about their effects on the environment and human and animal health, should we the County not be a little bit conservative? He also talked about hemp being legalized through the federal and state governments. Hemp is the same species as cannabis and may be grown as an agricultural crop. Hemp emits the same compounds as marijuana but in different ratios.

22. Professor Lange works in the same institute as Professor Gang. He works on how plants make various natural products or volatiles. He mentioned that Commissioner Largent had asked him if there is something specific about cannabis that makes it different from other crops that we grow or other emitters that we are exposed to? Professor Lange answered that "*in terms of the different types of chemicals that it makes, it's not that unusual. Plants use volatiles to communicate. Almost all plants emit some kind of volatile to either attract pollinators, to communicate with other plants, to make sure that other plants or animals don't get too close. In some cases it's defense, in some cases it's attraction. So, the fact that volatiles are emitted is not very unusual. So, is the odor of cannabis unique? And the answer is, yes. If you ask humans or dogs that have been exposed before, if they can recognize the smell, they will.*" There is something specific about that. He asked are the concentrations of these volatiles in cannabis extremely high and answered that it was hard to tell. He explained that if cannabis plants were planted close together in a field the emissions would be higher if they were not planted so close. He stated that everything is a toxin, it just depends on the dose. He then went on to talk about possible considerations for regulating cannabis. Regarding health he talked about how volatiles are regulated by the state and federal government and that none of the agencies consider the growing of marijuana a real issue. There is an emission inventory that is issued by the state every few years. This covers emissions from industrial emissions, gas stations, vehicle exhaust, road dust, construction dust, agricultural burning, fuel used for heating, residential wood combustion, structural and vehicle fires, livestock emissions, natural and biogenic activities, trees, shrubs, soil, those kinds of things, wildfires, agricultural activities, fertilizer applications and so on. His point was that if you try to put the volatile release from marijuana fields into perspective, then you have to compare that with some of the other activities that are important. Particulate matter is one of the ones that people are particularly concerned about, so those are very small dust particles. Whitman County is by far the highest in Washington State when it comes to small dust particles from agricultural activities. That's due to tilling, harvesting and so on. That's seasonal, but the total amount of matter that is released into the air is over 15,000 tons. Then

fertilizer and pesticide applications, again Whitman County is the highest in Washington State, of all the counties. So, we do have airborne concerns with various activities that we have to take into account. He then says the question is, *“would cannabis fields have a similar impact, potentially on the air quality? And I would say that depends on the acreage. If everything that is planted here is cannabis, then we would very likely get to concentrations that are relevant, even in comparison to wildfires that have increased in recent years, agricultural activities and so on. But that really depends on the acreage.”* He then talked about the issue of odors from marijuana being a nuisance which he said is ambiguous. Some people are bothered by it others are not. His recommendation is to regulate marijuana locally.

23. Professor Kahn's research is in nitrogen fixation in alfalfa. He does not work with cannabis or marijuana but as a scientist he sees that he can be useful in helping the Planning Commission interpret the science involved in the subject of marijuana. He started off by talking about a scientific paper from Denmark that Professor Gang had spoken about. This is the paper where cows were put in a confined area and exposed to essential oils for nine hours. Professor Kahn's observations were that yes, the levels of essential oils in the cow's milk went up but the rise was deemed not significant. This he says is because the baseline measurement of terpenes in the cow's milk beforehand were pretty high thus making the rise statistically non-significant. He suggests that what the cows had been eating were high in terpenes. He goes on to say that *“terpenes are common, you've heard that from several people and what you haven't heard are the abbreviations GRAS, generally recognized as safe. Many terpenes, in fact I don't know that there are any terpenes that we're talking about here that are not on this list. This list, a lot of compounds, the FDA does not regulate, because they are essentially grandfathered in. There is an industry group that essentially looks at the safety of these compounds and so this is the group that essentially says you can put mint in your toothpaste, you can put lemon oil in something that you want to rub on your chest. You have terpenes in your life all the time.”* He recognizes that these common compounds have not gone through close scrutiny like some novel anti-cancer drug but that is because they are generally recognized as safe. He also stated that some people might have allergic reactions to these compounds. He talked about the MSDS sheets and how that might not be an appropriate standard for cannabis. He said those are based on the hazard of using those compounds in the lab and the amounts of terpenes involved with marijuana are at low concentrations.

24. Josh Ashby stated that he was invited to talk to the Planning Commission about legal developments in Washington regarding cannabis. He represents clients involved in the marijuana business. He talked about case law regarding marijuana in Washington. He said that *“there has been huge amounts of investigation on the science, on the implications regarding land use, regarding property values, is huge. Most of the law, in fact deals with property values and that is a big one.”* One thing he has recognized from talking with other states that have legalized marijuana is the reason that barriers on marijuana are dropping is for a lack of evidence of a problem.

When asked about marijuana odors being a potential nuisance he acknowledged that nuisance is a difficult issue with no easy answer. He basically said that Whitman County has to determine if they want to have this industry in their jurisdiction or not. He sees an economic benefit to counties that allow marijuana and does not think that there is much of a safety issue based on studies that have been done after the 2014 Farm Bill was passed. On the question of some counties rejecting marijuana he responded that some jurisdictions in the state have made marijuana illegal but all of them are currently in litigation. When asked how counties have fared when challenging the marijuana industry he stated that several high profile cases regarding odor issues that have failed. He said that “*nuisance has to have an illegal tie-in to it and the footing just simply hasn’t been there for people who have brought their odor claim, there hasn’t been anything for them to claim on the property side. So, at this point, all of that has worked against property owners. In most places there isn’t a lot of new case law that is emerging at the moment or high profile litigation underway, in part because of that. Tenth Circuit in Colorado had the most high profile case and it went to a jury in fact, and it went against the property owners who were claiming nuisance.*” He added that in every case a property owner has brought against a cannabis business the property owner has lost. He also talked about the legalization of hemp and the potential conflicts of growing hemp near marijuana.

25. On the June 5, 2019, Planning Commission workshop, John Pederson, the Spokane County Planning Director spoke about Spokane County’s experiences with marijuana and the creation of their marijuana zoning ordinance. Spokane County went down a similar path to Whitman County when marijuana was legalized in that they outright allowed the growing of marijuana as an agricultural activity, processing was deemed an industrial activity and allowed in industrial districts and retail was allowed in retail zones. He began by outlining the history of I-502 and how it would be regulated by the state. Initially, the new policy of dealing with the marijuana industry seemed to be working out. Then complaints started coming in. The Spokane Board of County Commissioners (BOCC) started hearing citizens complaining about impacts to residents such as property values, and setbacks to marijuana facilities. Spokane County then put a moratorium in place to consider creating a marijuana ordinance. They went through a series of interim ordinances discussing things like where marijuana operations could go, what should the setback be to residences and property lines, and lot sizes. Initially the setback from marijuana grow operations, both indoor and outdoor, was 300 feet. The County adopted a zoning code amendment in 2014. That worked for about 1.5 to 2 years then complaints about odors started coming in. These odor complaints came from the Spokane Clear Air Agency and mainly concerned outdoor grow operations. This led to another text amendment of the zoning code. This time it was decided to have any new marijuana businesses go through a conditional use process. Very detailed conditional use permit standards were established and flexibility was given to the hearing examiner to impose additional standards, greater setbacks if necessary based on public input. The CUP standards also required working closely with the

Spokane Clean Air Agency to mitigate odor issues. See Exhibit 7, transcript of minutes.

26. At the next Planning Commission workshop on June 26, 2019, a draft marijuana zoning ordinance prepared by planning staff was presented to the Commission. The formulation of the marijuana code continued over the subsequent Planning Commission workshops on July 17, September 4, October 2, November 6, December 4, 2019, and January 8, 2020.

27. On the September 4, 2019, Planning Commission workshop, Dave Anderson, the managing director for the Growth Management Program at the Washington Department of Commerce was invited to speak about how local governments in Washington manage land use and planning and in particular the Washington State Vesting Doctrine. Mr. Anderson explained that under the Growth Management Act Washington State comprises of fully planning counties and partially planning counties. Whitman County is a partially planning county and is only responsible for protecting critical areas and natural resource areas. He explained that all counties in the state are governed by the rules and laws and practices in both statutory law and in common law that govern how building permit applications are processed and what rights do applicants and property owners have when it comes to their right to have a permit reviewed at the county level and their right to get a permit. He then talked about the state Vested Rights Doctrine and how it relates to the principle of underlying fairness, which is you have a right to know what laws apply to you. If you are going to do something and you need to get approval from the government for something that you are going to do, you have a right to know before you file the application, the rules under which that application is going to be considered. That is the basic principle of due process. In essence, this means that when a citizen files an application for a building permit the laws that apply to that application are the ones on the books at the time of application. That is the basic principle in Washington law. That is what is called the Vested Rights Doctrine, which is your right to have your application considered under the rules that were in place at that time, even if they may change on a later date, those changes are not retroactive. See Exhibit 8, transcript of minutes.

28. On the January 8, 2020, Planning Commission workshop, Chris Skidmore from the Whitman County Environmental Health Department was invited to speak about water usage in the state. He spoke about how legal availability of water is established in the County. He said that the Washington State Department of Ecology regulates water in the state and that there are two options: a water right and an exemption to a water right. Under an exemption a landowner files a notice of intent with the Department of Ecology 72 hours prior to drilling a well with a licensed well driller. When the well is drilled then the landowner is required to prove potability by testing for nitrates and total coliform. When potability is proven and the well is put into beneficial use then that demonstrates legal availability of water. The exempt well is allowed to withdraw up to 5,000 gallons per day for residential use which includes watering up to ½ acre of lawn, up to 5,000 gallons

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per day for industrial use, and unlimited use for stock watering. He also informed the commission that there are no restrictions from Ecology on any water basins in Whitman County. See Exhibit 9.

28-29. Members of the public who attended these workshops who are concerned about the effects of marijuana on adjacent landowners submitted a number of letters and papers into the record. These concerns covered a range of issues such as health effects to the public, environmental pollution from waste discharges and air pollution, lack of local regulations on marijuana, possible negative effect on the cow's milk at the WSU dairy on Country Club Road, possible negative financial effects placed on the County, general objections to allowing marijuana businesses in the County because marijuana is listed as a schedule 1 drug at the federal level, concerns about a perception that because Whitman County has no regulations regarding marijuana that it is attracting more and more marijuana businesses and becoming a mecca for the industry; and putting a permanent moratorium on the industry. The concerns were considered in developing these proposals.

29-30. With the addition of the new zoning code Chapter 19.64, some changes to other codes are necessary to coordinate with the new code. In Chapter 19.10 – Agricultural District, it is recommended to add the following language to the list of conditional uses stated in Section 19.10.090: **Marijuana production and processing.** Also in Section 19.10.020 under permitted uses add: **For purposes of this Chapter, the term agriculture/agricultural excludes the production, processing, and sale of any controlled substances, including marijuana, cannabis and its derivatives.**

30-31. In Chapter 19.03 – Definitions, there are several additions. In Section 19.03.025 – Agricultural Activity, add: **For purposes of Title 19, the term agriculture/agricultural excludes the production, processing, and sale of any controlled substances, including marijuana, cannabis and its derivatives.**

31-32. Add: **Section 19.03.156 – Child Care Center, An entity that regularly provides child daycare and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning under Chapter 170-295 WAC.**

32-33. **Re-number Section 19.03.156 to 19.03.157 and Section 19.03.157 to 158.**

33-34. Add: **Section 19.03.235 – Elementary School, A school with a physical location for early education that provides the first four to eight years of basic education and recognized by the Washington State Superintendent of Public Instruction.**

34-35. Add: **Section 19.03.353 – Marijuana Producer Tier 1, To produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana**

producer licensees. Tier 1 allows for two thousand square feet or less of dedicated plant canopy.

~~35-36.~~ Add: **Section 19.03.354 – Marijuana Producer Tier 2, To produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Tier 2 allows for between two thousand square feet and ten thousand square feet of dedicated plant canopy.**

~~36-37.~~ Add: **Section 19.03.355 – Marijuana Producer Tier 3, To produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Tier 3 allows for between ten thousand square feet and thirty thousand square feet of dedicated plant canopy.**

~~37-38.~~ Add: **Section 19.03.356 – Marijuana, Means all parts of the plant Cannabis, as defined in Title 69.50 RCW as it now exists or may be amended. Marijuana is a controlled substance which requires greater regulatory controls than production and processing of agricultural products that are not controlled substances. Whitman County allows but regulates the production, processing and sale of marijuana and requires marijuana operations not only to be validly licensed by the State but also to comply with local development regulations.**

~~38-39.~~ Add: **Section 19.03.357 - Marijuana Processor, A person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.**

~~39-40.~~ Add: **Section 19.03.358 – Marijuana Producer, A person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.**

~~40-41.~~ Add: **Section 19.03.359 – Marijuana Retailer, A person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.**

~~41-42.~~ **Renumber Section 19.03.355 to Section 19.03.360; Section 19.03.359 to Section 19.03.361; and Section 19.03.360 to Section 19.03.362.**

~~42-43.~~ Add: **Section 19.03.451 – Playground, A public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, federal government, or metropolitan park district.**

~~43-44.~~ Add: **Section 19.03.452 – Public Park, An area of land for the enjoyment of the public, having facilities for rest and /or recreation, such as a baseball**

diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district.

~~44-45.~~ Renumber Section 19.03.452 to Section 19.03.453; Section 19.03.453 to Section 19.03.454; Section 19.03.454 to Section 19.03.455; Section 19.03.455 to Section 19.03.456; and Section 19.03.456 to Section 19.03.457.

~~46.~~ Add: **Section 19.03.458- Secondary School, A high and/or middle school with a physical location. A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.**

~~45-47.~~ In Chapter 19.06 – Board of Adjustment add: **In the case of a marijuana producer, processor, or retailer, the notice distance shall be 1,500 feet.**

~~46-48.~~ In Chapter 19.15 – North Pullman-Moscow Corridor District (N-PMC) add: **Marijuana retail stores and indoor marijuana production and processing to Section 19.15.050 – Conditional Uses.**

~~47-49.~~ In Chapter 19.16 – South Pullman-Moscow Corridor District (S-PMC) add: **Marijuana retail stores and indoor marijuana production and processing to Section 19.16.060 – Conditional Uses.**

~~48-50.~~ In Chapter 19.20 – Heavy Commercial District add: **Indoor marijuana production and processing, as a conditional use, to Section 19.20.080 – Conditional Uses and Administrative Uses.**

~~49-51.~~ In Chapter 19.30 – Light Industrial District add: **Indoor marijuana production and processing, as a conditional use, to Section 19.30.080 – Conditional Uses and Administrative Uses.**

~~50-52.~~ In Chapter 19.31 – Heavy Industrial District add: **Indoor marijuana production and processing, as a conditional use, to Section 19.31.080 – Conditional Uses and Administrative Uses.**

~~51-53.~~ These Findings, Conclusions and Recommendations were made available for public review on March 13, 2020, on the Planning Division’s webpage and by request at the Whitman County Public Works Planning Division.

~~52-54.~~ Admitted into the record are the following:

- a. The Planning Commission workshop minutes from April 3, 2019; May 1, 2019; June 5, 2019; June 26, 2019; September 4, 2019; October 7, 2019; November 6, 2019; December 4, 2019; January 8, 2020; and February 5, 2020.

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b. All letters, scientific papers, emails, and presentations submitted to the Planning Commission during the public workshops;

~~53-55~~. As required by the State Environmental Policy Act, a SEPA Environmental Checklist for this non-project action was prepared, and a DNS (Determination of Nonsignificance) was issued on February 27, 2020. The comment period ended March 12, 2020, and one comment was received. See Exhibit 10.

~~54-56~~. A legal notice regarding this hearing and the SEPA decision was published in the Whitman County Gazette on February 27, 2020.

From the foregoing Findings of Fact, this Commission now makes the following:

#### FURTHER FINDINGS AND CONCLUSIONS

1. These proposals are consistent with the goals and policies of the Whitman County Comprehensive Plan.
2. These proposals are consistent with the general purposes of the zoning code.
3. These proposals will benefit businesses and landowners with increased efficiency in implementation of the County code.
4. These proposals will not have a significant adverse environmental impact.
5. These proposals are needed to protect the public health, welfare, and safety.

#### **RECOMMENDATION**

NOW, THEREFORE, BE IT RECOMMENDED to the Whitman County Board of Commissioners that they duly amend the Whitman County Zoning Ordinance to add Chapter 19.64 – Marijuana, to the County zoning ordinances and the additions to Chapters 19.03, ~~19.06~~, 19.10, 19.15, 19.16, 19.20, 19.30, and 19.31 as described in the proposed ordinance hereto attached and made a part of by reference.

BE IT FURTHER ORDERED that the Recommendation, Findings of Fact, Minutes, and proposed ordinance shall be transmitted to the Board of County Commissioners for the purpose of being accepted or rejected in accordance with the provisions of RCW Chapter 36.70, a copy of said Amendment being attached and made part hereof.

DONE at Colfax, Washington, on the \_\_\_\_ day of \_\_\_\_\_, 2020

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Chad Whetzel, Chair  
Whitman County Planning Commission

ATTEST:

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Elinor Huber, Clerk  
Whitman County Planning Commission

