



# *Pacific County* **PLANNING COMMISSION**

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PO Box 68, 1216 W. Robert Bush Dr., South Bend, WA 98586  
360.875.9356 or 360.642.9356

## **MEETING AGENDA**

**Meeting:** January 16<sup>th</sup>, 2014 at 6:00 PM

**Location:** Courthouse Annex Building, South Bend, WA

1. **Call to order and introduction of Planning Commission members & County staff**
2. **Review of Minutes**
  - None to review at this time
3. **Correspondence**
4. **Public Hearing**
  - Continuance - Amendment of Ord. 162 – Recreational Marijuana
5. **Old Business**
6. **New Business**
  - Planning Short Course – March 27<sup>th</sup>, Long Beach
7. **Adjournment**

*Next meeting date is scheduled for  
**February 6<sup>th</sup>, 2014 in South Bend***



**Pacific County**  
**PLANNING COMMISSION**

January 16, 2014 Minutes  
Courthouse Annex Building  
South Bend, Washington

**ATTENDANCE**

Eric deMontigny, Chair  
Jim Sayce, Vice Chair  
Mike Nichols, Member  
Scott Turnbull, Member  
Bill Kennedy, Member  
Stan Smith, Member  
David Burke, Prosecuting Attorney  
Kathy Spoor, County Administrator  
Faith Taylor-Eldred, DCD Director  
Tim Crose, DCD Assistant Director  
Matt Reider, DCD Planner  
Tia Channell, Clerk

There were 19 members of the general public in attendance. *(Please refer to the recordings of the public workshop for more detailed discussion).*

Chairman Eric deMontigny called the meeting to order at 6:10 p.m. and introduced the Planning Commission (PC) members and staff.

The clerk administered the oath.

**MINUTES**

There were no minutes ready for review at the time of the meeting.

**CORRESPONDENCE**

- Comment from the Washington State Attorney General
- Comment from Shoalwater Bay Tribe
- Comment from anonymous Rural Land owner

**PUBLIC HEARING**

**Continuance of Amendment of Ordinance No. 162 – Recreational Marijuana**

- Tim Crose briefed the audience on where the Planning Commission was at in the hearing process since the last meeting and gave a description of the maps and correspondence passed out. Tim also stated that in his research, the County would only receive resale sales tax of in the amount of 1% and the rest of tax goes to the State.
- Eric deMontigny opened the hearing to those who would like to speak or had comment on the matter.

- Alejandro Di-Tolla, grower/processor applicant of the Tokeland property, stated that he believed Tim's presentation is great, however, he believes there will be more money coming into the County just based on the jobs the company creates.
- Jim Sayce, asked Alejandro "what's a rough estimate of how many workers you may have and square footage of the factory?"
- Jason Bohbot, friend of Alejandro, stated he has a friend in Colorado with a business with one thousand lights, 1 light is approximately 4x4, and he has around 83 employees. He also stated that could safely say that per tier 3 license could have approximately 200 employees.
- Stan Smith asked "what happens to any waste that needs disposed of?"
- Jason Bohbot, as for waste of any part of the plant not processed, it's all composted and could be used in the garden when finished.
- Jim Sayce, asked if the Liquor Control Board regulates the waste of the plant?
- Eric deMontigny stated he believed he saw specifics within the WAC (314-55), the requirements for how the bi-products and such had to be handled for processing, etc.
- Mike Nichols asked if with this new industry, if he (Alejandro) sees less waste of the product over time.
- Alejandro stated that as with any industry, it's always a goal to turn any waste of product into money.
- David Burke stated that the AGO opinion is the first among equals. It's not the law. They have smart lawyers giving their best sense of what this means. Second part of the opinion, essential says, counties can regulate. Zoning goes back to constitution, it's very broad. The essential argument is that counties can say no to anything because there are other places within the state in which marijuana can be allowed. It could be subject to litigation. Bottom line, the AGO opinion essentially gives you authority to do pretty much what you want, no regulation whatsoever. The AGO opinion basically gives 360 degrees to operate.
- Walt Wollen, stated that what he sees with the industry, is it's basically agriculture. Every portion of the product can be used. It's not a product people are just getting high off of, it is product that can even be made into paper and rope. He stated he sees a positive move on the part of the county and state and think it will be clean and healthy industry for our state.
- Rick Bambauer, used a winery as an example. He stated that in California, if you grow grapes for wine or maybe cotton or nuts or apples, you can do so without a Conditional Use Permit. Whereas, the location selling the product would. The growing aspect is a completely different thing then processing. It's just like any other crop growing in the ground. Where does it stop? Do you need a conditional use to grow corn?
- Eric deMontigny, stated that it's like any other farm operation. It's highly regulated by the State which is why he sees it that lends itself to a Conditional Use. Additionally, there are concerns with sensitive groups that may come in contact with it such as children.
- Tim Crose, the draft put together was just a starting point. It's just a draft, it can be written any way or changed in any direction.
- Stan Smith, stated that he is a farmer and agrees with a lot of what has been said. But based on the type of farming he does, contacting the State Liquor Control Board is not needed and that is where the main difference is.
- Rick Bambauer, stated he'd like to add that in addition to the basic sales taxes, we are forgetting that with a Tier 3 growing location (up to 30,000 sq. feet), that will bring in property taxes as well.
- Craig Jacobsen, attorney on behalf of Shoalwater Bay Tribe, would like to supplement the comments received already.
  - Point 1 – note that the map states there is a producer and process in the Tokeland location but the list does not show a Processor on the list.

- Point 2 – note that there are 3 Producer License Applications on the application list which would be estimated at 600 jobs not just 200 jobs. What would be the over impact of a small location with that many additional people? Would the county even allow that capacity wise? Is the county going to add the additional Law Enforcement to take into account of the additional capacity? These are all things that should be considered.
- Discussion was held amongst the Planning Commission regarding the process and cost of marijuana, both illegally and legal.
- Rebecca Hart, Ilwaco resident, stated she has two concerns. One is related to the handling of cash in these businesses. The banks are not processing large cash deposits and you can't use a credit card. It's an issue that needs to be addressed as well. Rebecca also asked if there is some sort of a clearing house where members of the public can access.
- Eric deMontigny gave out details of information available on Municipal Research Service, [www.mrsc.org](http://www.mrsc.org).
- Craig Jacobsen, had a question regarding the factual basis for the SEPA Determination of Non Significance.
- Tim Crose stated that during the comment period for the SEPA they received no comments stating any kind of concern.
- RECESS AT 7:50

RECONVENE 8:10

- Eric deMontigny asked the Planning Commission members if they had any additional comments, language or concerns, that they provide those to Tim Crose by the Friday of the following week (January 24th, 2014 at 4:00 pm). He also asked public members, to please provide any comments they have, either by mail or email to Tim by the same date (email and mailing address was provided).

**OLD BUSINESS**

No old business to discuss.

**NEW BUSINESS**

- A planning short course will be held Thursday, March 27<sup>th</sup>, 2014 from 6:30 to 9:30 pm at the Long Beach City Hall.

The meeting adjourned at 8:30 p.m.

**PACIFIC COUNTY**

**PLANNING COMMISSION**

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*Eric deMontigny, Chair*

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*Jim Sayce, Vice Chair*

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*Mike Nichols, Member*

**PACIFIC COUNTY PLANNING COMMISSION  
SEPA DETERMINATION OF NON-SIGNIFICANCE**

**Motion:**

The Pacific County Planning Commission has determined that the proposed amendment to Section 24 of Pacific County Ordinance No. 162, Zoning, does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file with Pacific County; and after review of comments submitted as a result of the issuance of a Preliminary Determination of Non-Significance by the Pacific County Department of Community Development on December 24, 2013; and after the public hearing held January 2, 2014 and January 16, 2014 regarding the proposed ordinance amendment. The Pacific County Planning Commission hereby recommends approval of the SEPA Threshold Determination (as preliminarily issued by the Department of Community Development), to the Pacific County Board of Commissioners.

**Vote:**

\_\_\_\_\_ Favor                      \_\_\_\_\_ Opposed                      \_\_\_\_\_ Abstain

Dated this 16th day of January, 2014

\_\_\_\_\_, Chairman

\_\_\_\_\_, Vice-Chairman

\_\_\_\_\_, Secretary

In Witness Thereof: \_\_\_\_\_, Clerk

Updated Marijuana SLCB License Applications as of 1-14-14

**PRODUCER**

KNAPPTON FARM	525 STATE ROUTE 401	NASELLE	MARIJUANA PRODUCER TIER 1
MARTY'S ENTERPRISES	2409 JOE JOHNS RD STE 2	OCEAN PARK	MARIJUANA PRODUCER TIER 1
SOMA CO OP	307 SALMON CREEK RD	NASELLE	MARIJUANA PRODUCER TIER 1
4:20 COASTAL TIMES	20105 S ST	OCEAN PARK	MARIJUANA PRODUCER TIER 2
4:20 COASTAL TIMES LLC	20105 S ST	OCEAN PARK	MARIJUANA PRODUCER TIER 2
EVER GREEN FLORA	1324 SR 101	CHINOOK	MARIJUANA PRODUCER TIER 2
EVERGREEN GARDENS	522 RUE CREEK RD	MENLO	MARIJUANA PRODUCER TIER 2
JUST CHILLIN	21810 PACIFIC WAY	OCEAN PARK	MARIJUANA PRODUCER TIER 2
EVER GREEN FLORA L.L.C.	1324 SR 101 STE B	CHINOOK	MARIJUANA PRODUCER TIER 3
THE INDOOR GARDEN, LLC	23822 SANDRIDGE RD	OCEAN PARK	MARIJUANA PRODUCER TIER 3
TOKELAND GROWING	2918 WHEELER AVE STE A	TOKELAND	MARIJUANA PRODUCER TIER 3
TOKELAND GROWING	2918 WHEELER AVE STE B	TOKELAND	MARIJUANA PRODUCER TIER 3
TOKELAND GROWING	2918 WHEELER AVE STE C	TOKELAND	MARIJUANA PRODUCER TIER 3

**PROCESSOR**

4:20 COASTAL TIMES	20105 S ST	OCEAN PARK	MARIJUANA PROCESSOR
4:20 COASTAL TIMES LLC	20105 S ST	OCEAN PARK	MARIJUANA PROCESSOR
EVER GREEN FLORA	1324 SR 101	CHINOOK	MARIJUANA PROCESSOR
EVERGREEN GARDENS	522 RUE CREEK RD	MENLO	MARIJUANA PROCESSOR
KNAPPTON FARM	525 STATE ROUTE 401	NASELLE	MARIJUANA PROCESSOR
MARTY'S ENTERPRISES	2409 JOE JOHNS RD STE 2	OCEAN PARK	MARIJUANA PROCESSOR
THE INDOOR GARDEN, LLC	23822 SANDRIDGE RD	OCEAN PARK	MARIJUANA PROCESSOR

**RETAIL**

CANNABLISS CO.	#11 PORTLAND ST	CHINOOK	MARIJUANA RETAILER
CANNABLISS CO. LLC	11 PORTLAND ST STE B	CHINOOK	MARIJUANA RETAILER
NORMAL HIGH	774 WATER ST	CHINOOK	MARIJUANA RETAILER
NORTH COUNTY CANNABIS	3551 STATE ROUTE 105	GRAYLAND	MARIJUANA RETAILER
PURPLE DREAM	27008 SANDRIDGE RD	NAHCOTTA	MARIJUANA RETAILER
THE BLIND PIG	4711 PACIFIC WAY	SEAVIEW	MARIJUANA RETAILER



## SHOALWATER BAY INDIAN TRIBE

P.O. Box 130 • Tokeland, Washington 98590  
Telephone (360) 267-6766 • FAX (360) 267-6778

Tim Crose, Planning Director  
Pacific County DCD  
1216 W. Robert Bush Drive  
PO Box 68  
South Bend, WA 98586



Dear Mr. Crose,

This letter is sent on behalf of the Shoalwater Bay Indian Tribe (Tribe), a federally recognized Indian tribe headquartered on the Shoalwater Bay Reservation in Pacific County. We are writing to object to the limited process, and lack of clear standards and guidelines that are apparently being used by the Pacific County Planning Commission in its efforts to revise County Ordinance 162 (Zoning) to allow for zoning for marijuana production within the County.

Following I-502 passage, the Washington State Liquor Control Board (WSLCB) was tasked with implementation of the initiative as law. During the business license submission period for a Master Business License, a vast number of applicant's submitted applications, including a number located within Pacific County. It is unclear, from the process the Planning Commission is using, whether and to what extent it is aware of the number and location of applicants, and whether the WSLCB has provided the County guidance on its available quota (square feet or facilities) for production, processing, or retailing of marijuana.

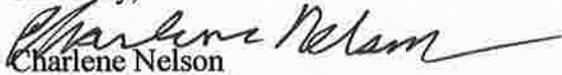
The Tribe is very concerned about any zoning or approvals for production, manufacture, or retail within the Tokeland area. The Tokeland area has traditionally been underserved by Pacific County in core services, including law enforcement. It is a finite land mass and peninsula and any poor decision-making for the peninsula will disproportionately impact the Tribe, the tribal government, and the community.

The Tribe suggests that the Planning Commission share information directly with the Tribe regarding current applicants, and the Commission's assessment and mapping of any "restricted entities" within the Tokeland area. Those entities obviously will impact allowed licensing. The Tribe wants to understand how the County will site, permit, zone for, or otherwise allow marijuana production/manufacture/retail in the County, and how those sites correlate to available County services and law enforcement response time. The Tribe requests that the County provide all planned due diligence, including data and criteria, that it will use in acting as a "local authority" in either approving or denying an application. To the extent that the County has determined there is a law enforcement concern with I-502 implementation, our cooperative law

enforcement departments (County and Tribe) should meet to better understand what the County's concerns are so that the Tribal Police Department is informed. I-502 does not provide for unlimited production within Washington State, so Pacific County will need to tailor its standards and planning to match what will ultimately be a finite number of approved licenses.

We intend to monitor this process closely, to determine whether the County follows its own procedures, and applicable administrative law practices, in developing any Ordinance revisions and/or re-zoning. Please provide the Tribe all available and public information, draft documents, draft maps, internal work product, and proposed Ordinance and Map revisions as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charlene Nelson", with a long horizontal flourish extending to the right.

Charlene Nelson

Chairman, Shoalwater Bay Indian Tribe

## **SUGGESTED FINDINGS OF FACT**

### **Supporting Amendment to Section 24, Ordinance No. 162**

1. Initiative 502 passed at the November 2012 General Election directing the Washington State Liquor Control Board to develop licensing and other regulatory measures for producing, processing, and selling marijuana for non-medical purposes.
2. I-502 limits the number of retail outlets to be licensed by each county, for the purpose of making usable marijuana and marijuana infused products available for sale to adults 21 years or over (I-502, Sec. 13).
3. I-502 decriminalizes, for the purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with I-502.
4. Chapter 314-55 WAC regulates the licensing and reporting requirements for the production, processing, and retail sale of marijuana products.
5. The Liquor Control Board's SEPA environmental checklist for the proposed rules did not appear to completely analyze the impact of outdoor growing of marijuana, but noted that "local land use regulations will avoid or minimize other impacts to sensitive areas".
6. The Board of Pacific County Commissioners adopted Ordinance No. 172 on December 10, 2013 establishing a temporary emergency moratorium on marijuana related businesses until proper regulatory rules can be enacted.
7. Pacific County has analyzed its local land use regulations to determine whether or how environmentally sensitive areas may need additional protection from these new uses.
8. Placement of marijuana production and processing facilities best suited to locate in Industrial, Mixed Use, and Rural Lands districts where agricultural activities are allowed.
9. Production and processing facilities require a Conditional Use Permit.
10. In addition to buffer requirements listed in WAC 314 -55-050(10), a 500 foot setback is required from the perimeter of residential properties.
11. The Pacific County Comprehensive Plan encourages rural economic growth that is sensitive to the environment and will not adversely affect surrounding residential uses.
12. Retail sales of marijuana products are best suited in Community Commercial and Mixed Use zoning districts.
13. The Pacific County Department of Community Development issued a SEPA preliminary determination of non-significance on December 24, 2013.
14. In recommending adoption of Section 24, Recreational Marijuana, the Pacific County Planning Commission is not implying that anyone who operates such businesses is immune from federal law.
15. All public notice requirements for the public hearing were met.

**WA State Liquor Control Board - Initiative 502**

**Sensitive Entities List  
Adult Recreational Marijuana**

Important Note Regarding the 1,000 foot Measurement: The LCB will file an emergency rule on October 16, 2013, that will revise the current language regarding the 1,000' buffer. The language in the emergency rule will state: "The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older."

**WILLAPA**

**BAY**

**Bay Center**

SCHOOL ST 1ST ST  
2ND ST

## Pacific County

### "Sensitive Entities" 1,000' Buffer Zones



**Legend**

- Churches 1000ft Buffer
- Pacific County Sensitive Entities
- Sensitive Entities 1000ft Buffer
- Agriculture
- Community Commerical
- Mixed Use
- Rural Lands
- Tokeland Mixed Use
- Sections
- Township

1 in = 2,000 feet

**Disclaimer:**  
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**Washington State  
Vicinity Map**

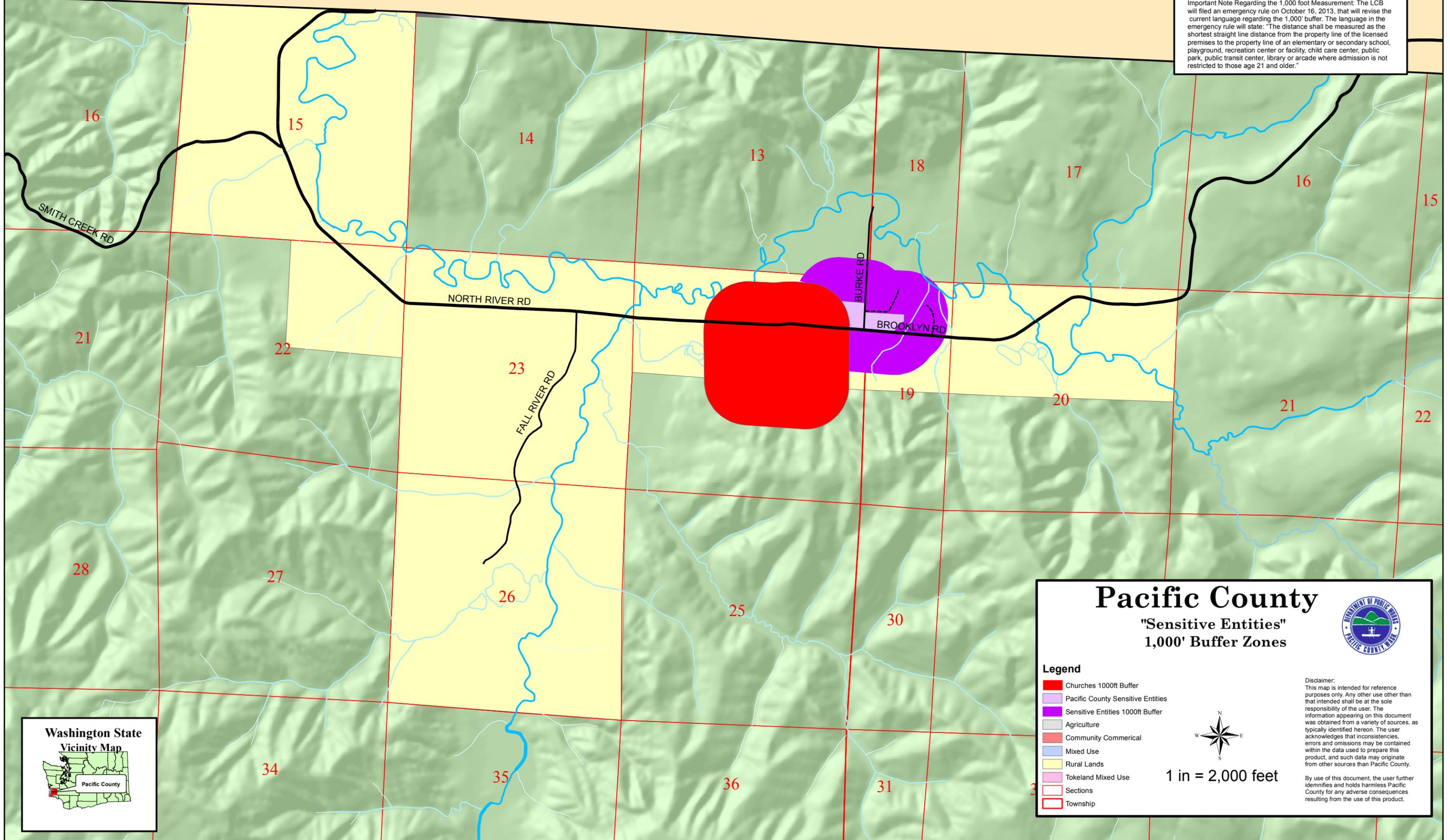


Pacific County

# GRAYS HARBOR COUNTY

## WA State Liquor Control Board - Initiative 502 Sensitive Entities List Adult Recreational Marijuana

Important Note Regarding the 1,000 foot Measurement: The LCB will file an emergency rule on October 16, 2013, that will revise the current language regarding the 1,000' buffer. The language in the emergency rule will state: "The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older."



### Pacific County "Sensitive Entities" 1,000' Buffer Zones



**Legend**

- Churches 1000ft Buffer
- Pacific County Sensitive Entities
- Sensitive Entities 1000ft Buffer
- Agriculture
- Community Commercial
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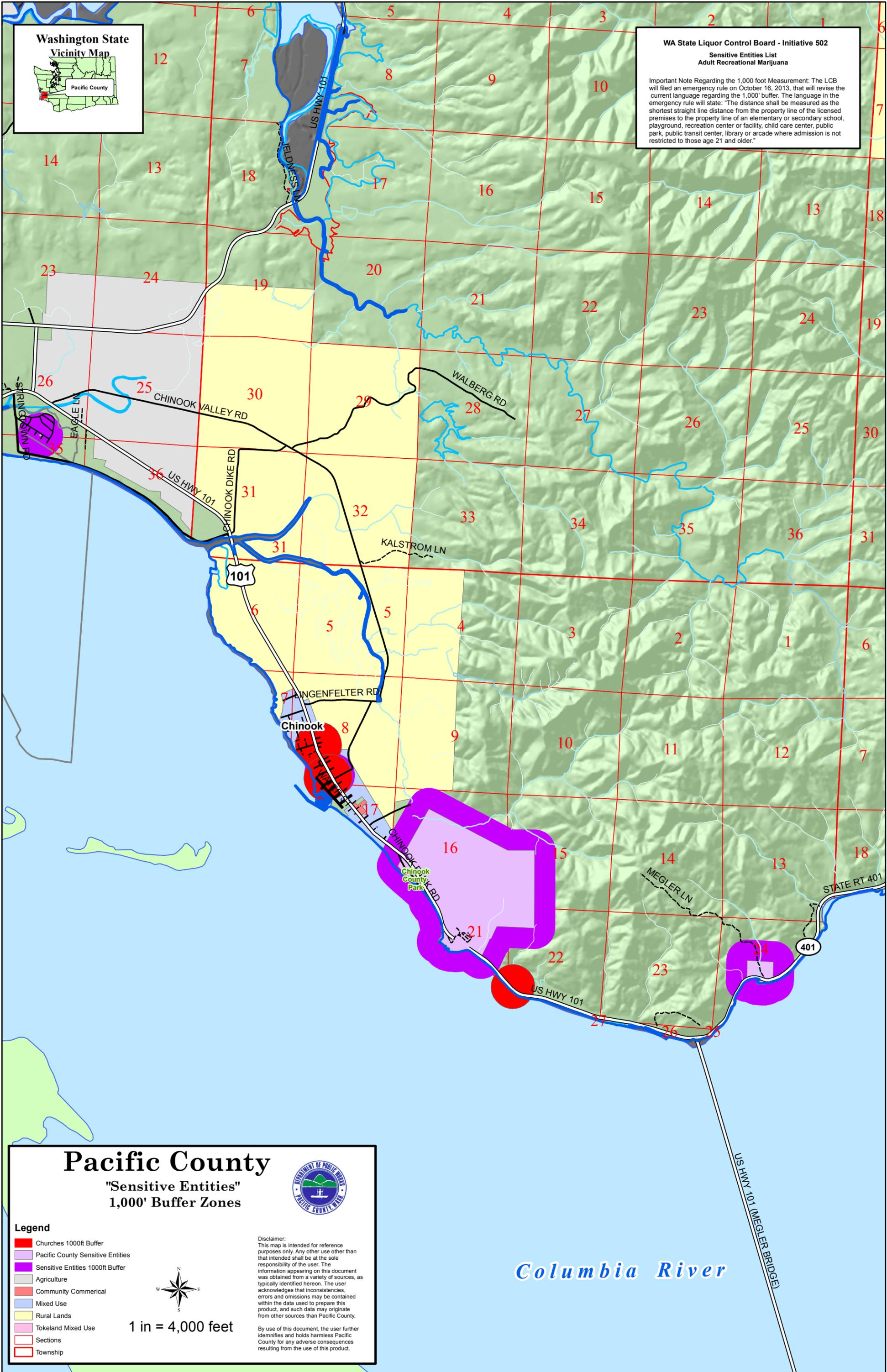
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**Washington State  
Vicinity Map**



**WA State Liquor Control Board - Initiative 502  
Sensitive Entities List  
Adult Recreational Marijuana**

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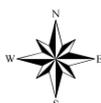
**Pacific County**

**"Sensitive Entities"  
1,000' Buffer Zones**



**Legend**

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1 in = 4,000 feet

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*Columbia River*

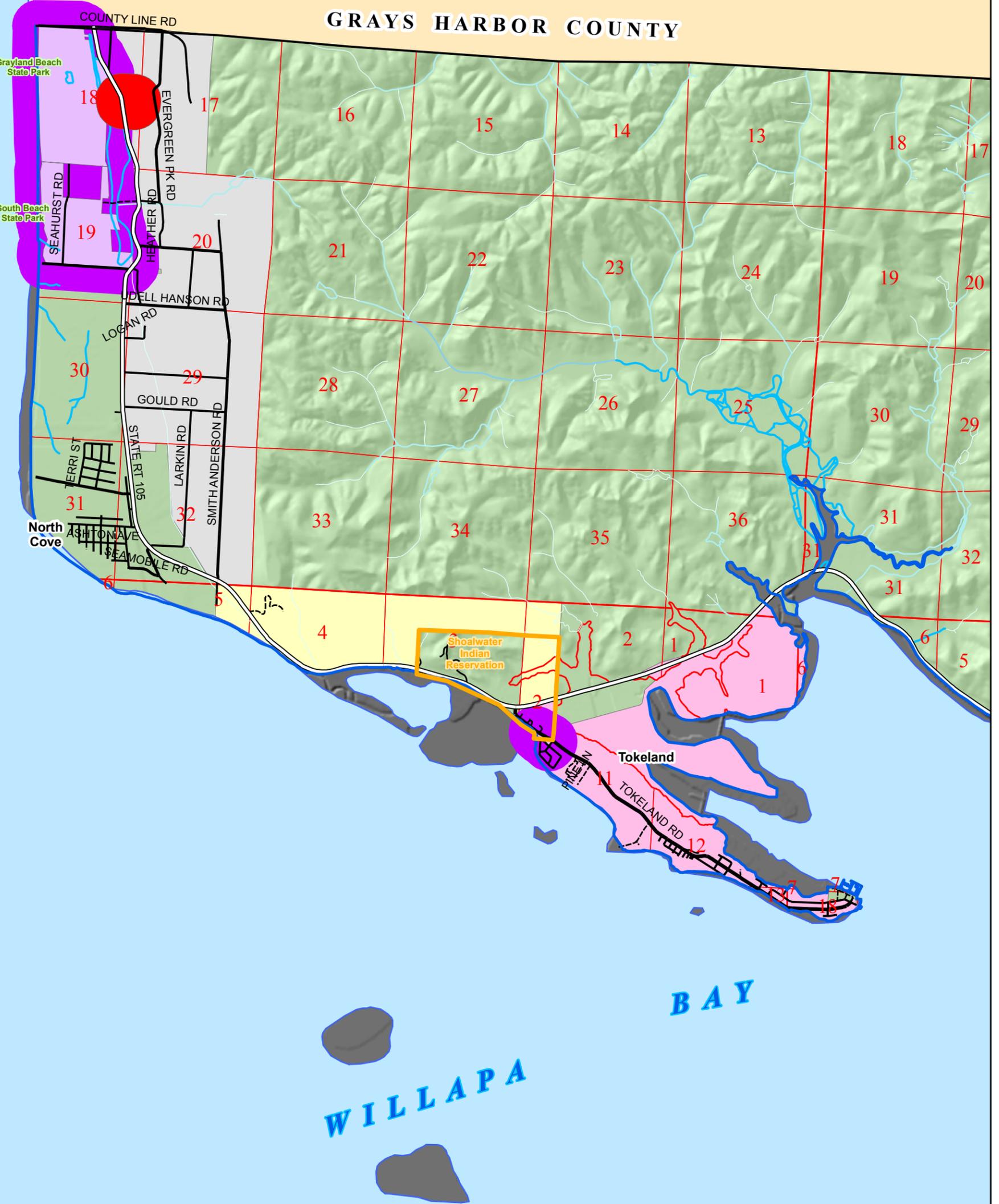
**WA State Liquor Control Board - Initiative 502**

**Sensitive Entities List  
Adult Recreational Marijuana**

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**GRAYS HARBOR COUNTY**

PACIFIC OCEAN



**Pacific County  
"Sensitive Entities"  
1,000' Buffer Zones**



- Legend**
- Shoalwater Reservation
  - Churches 1000ft Buffer
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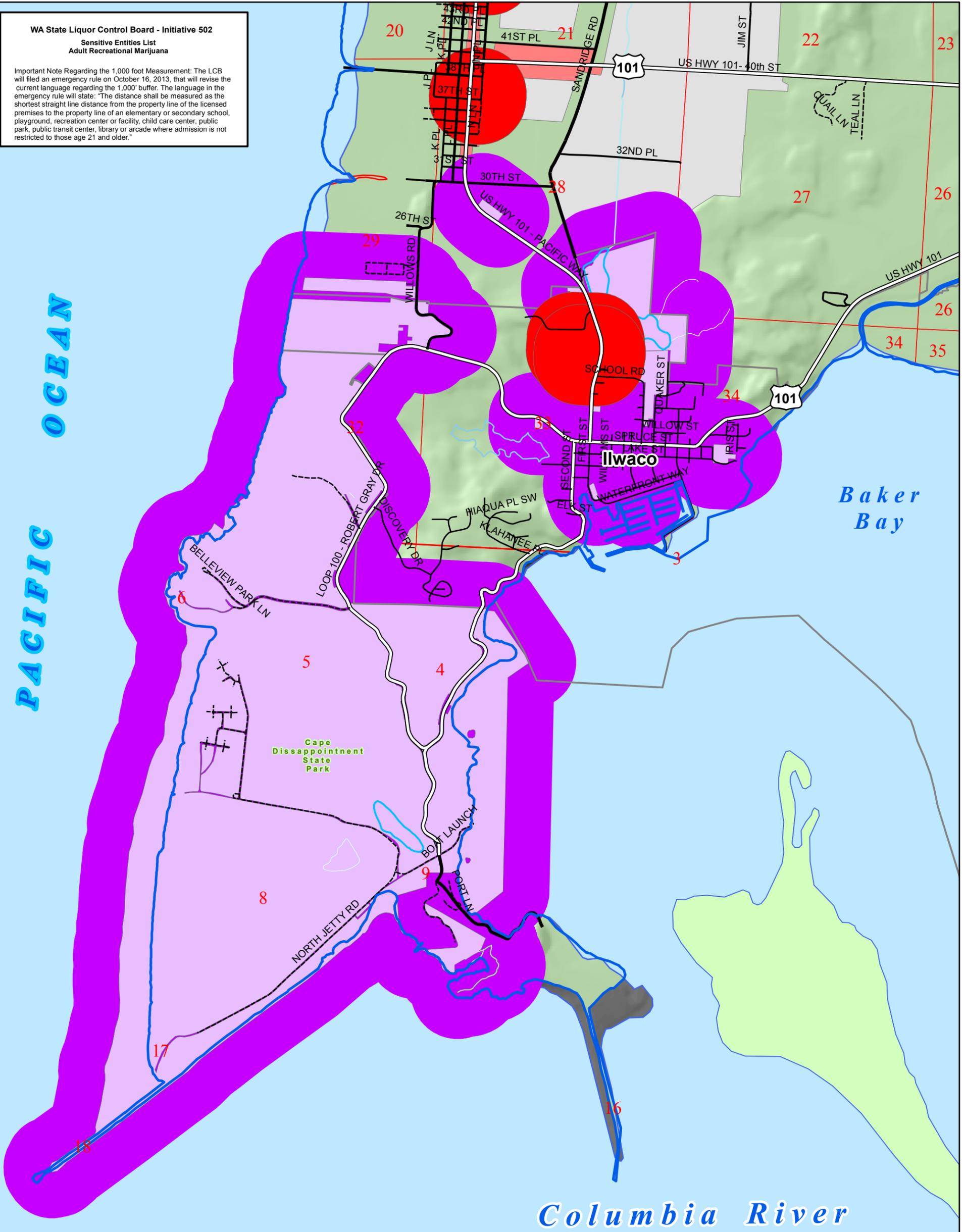


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**WA State Liquor Control Board - Initiative 502**  
**Sensitive Entities List**  
**Adult Recreational Marijuana**

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**PACIFIC OCEAN**

*Baker Bay*

*Columbia River*

**Pacific County**

**"Sensitive Entities"  
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1 in = 2,000 feet

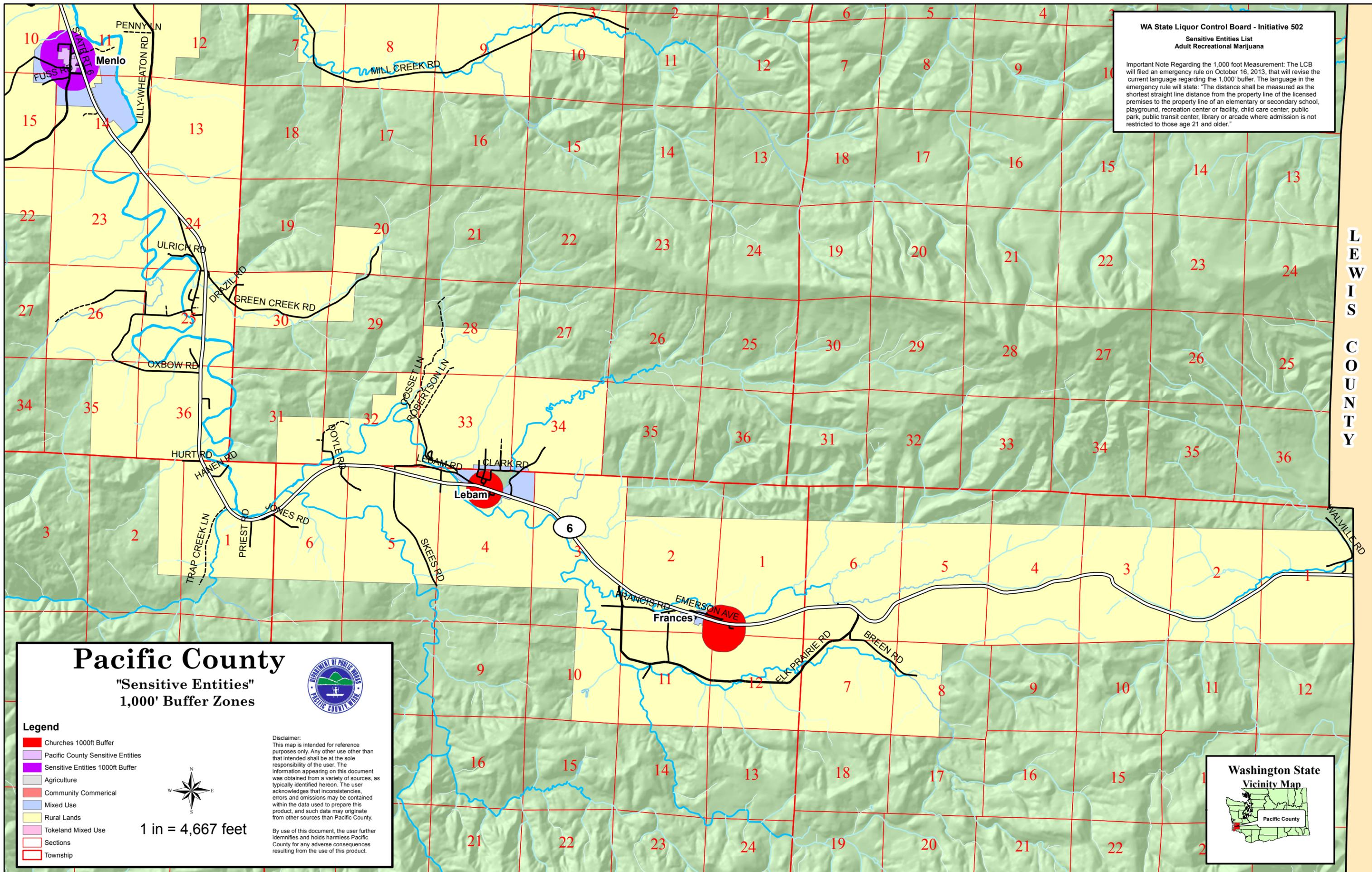
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**WA State Liquor Control Board - Initiative 502**  
**Sensitive Entities List**  
**Adult Recreational Marijuana**

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LEWIS COUNTY



# Pacific County

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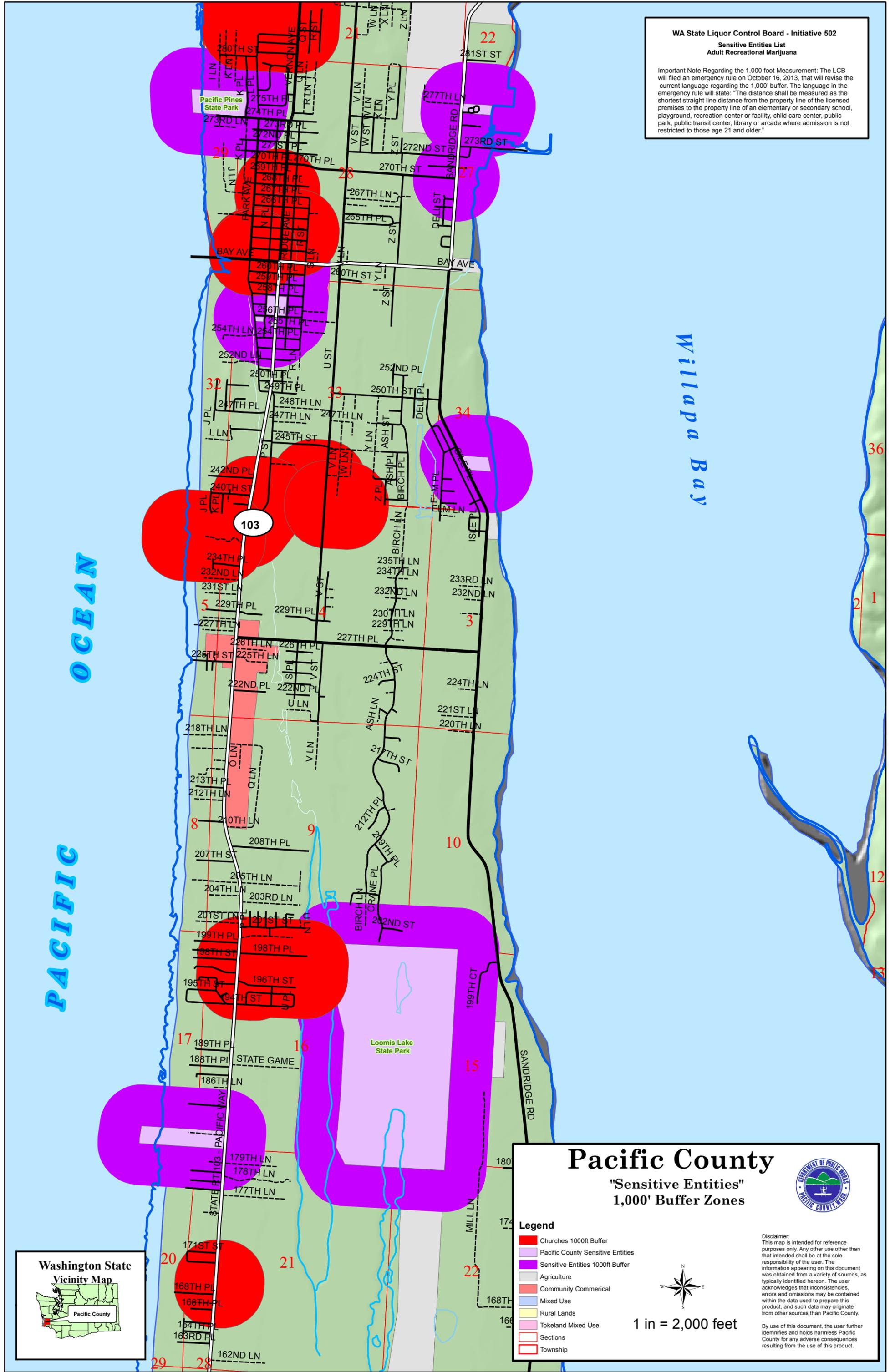
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WA State Liquor Control Board - Initiative 502

Sensitive Entities List  
Adult Recreational Marijuana

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Willapa Bay

PACIFIC OCEAN

PACIFIC OCEAN

103



# Pacific County

## "Sensitive Entities" 1,000' Buffer Zones



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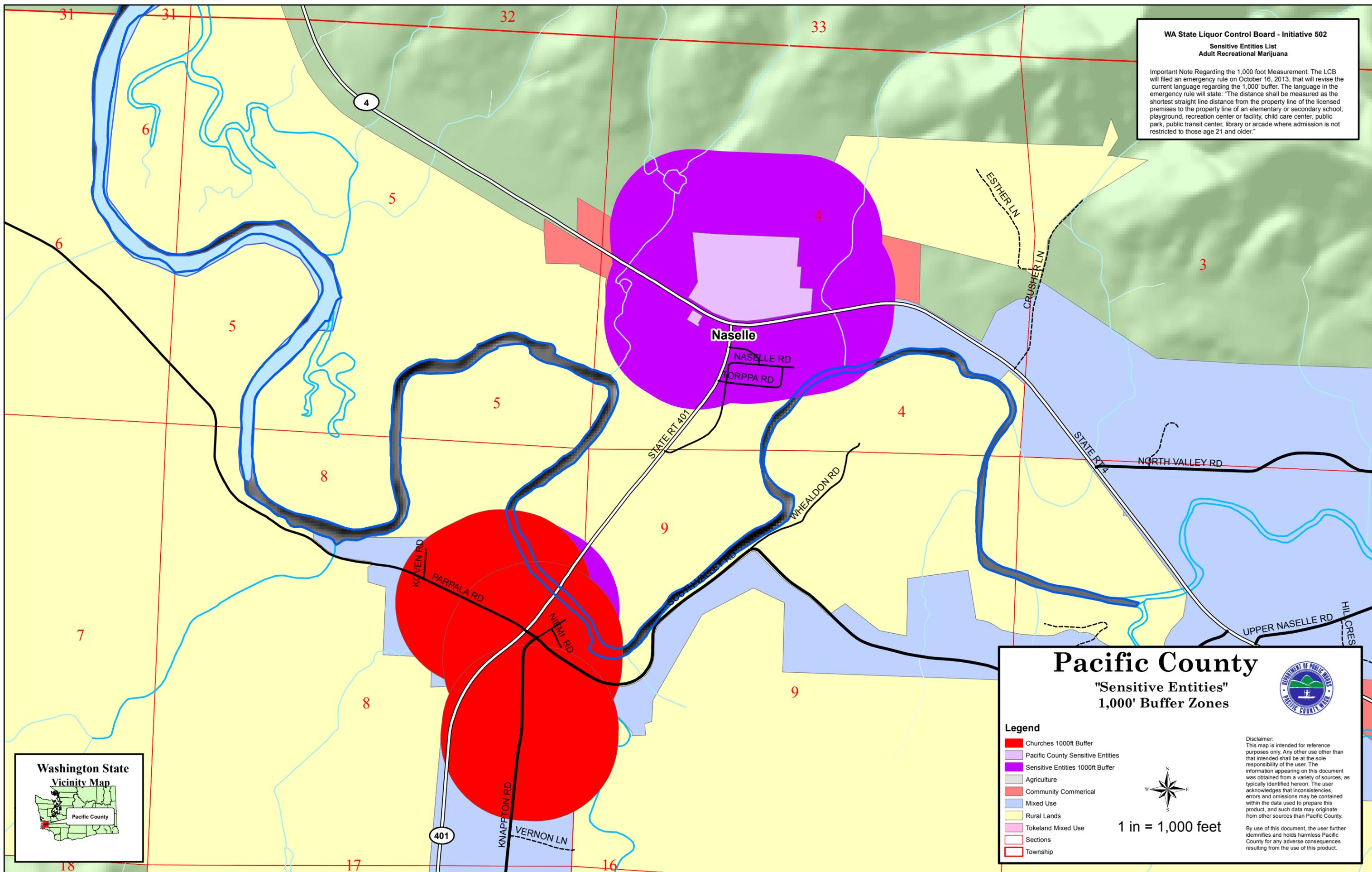
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WA State Liquor Control Board - Initiative 502

Sensitive Entities List  
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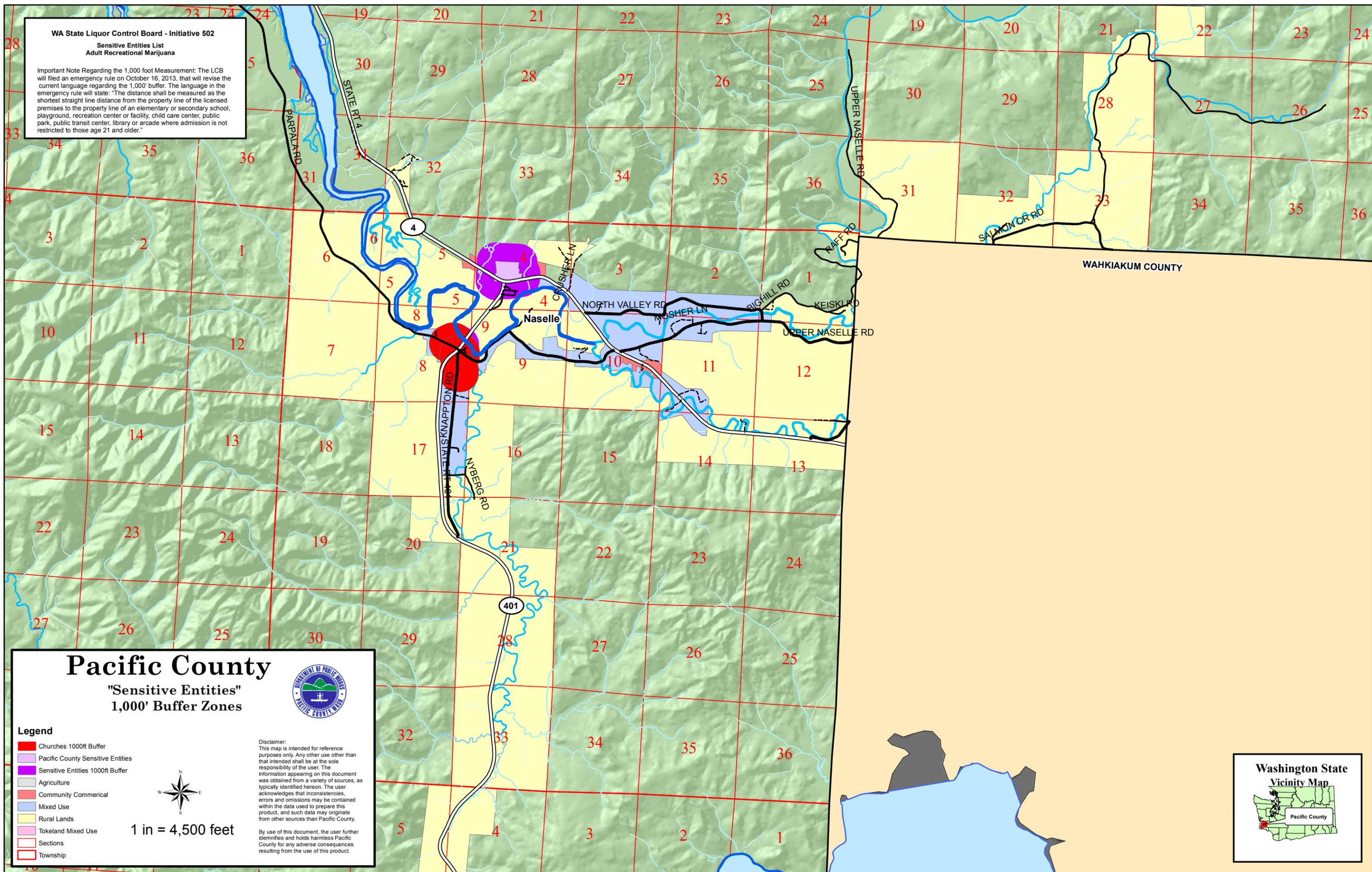
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1 in = 1,000 feet

**WA State Liquor Control Board - Initiative 502**  
**Sensitive Entities List**  
**Adult Recreational Marijuana**

Important Note Regarding the 1,000 foot Measurement: The LCB will file an emergency rule on October 16, 2013, that will revise the current language regarding the 1,000' buffer. The language in the emergency rule will state: "The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older."



WAHKIAKUM COUNTY

# Pacific County

## "Sensitive Entities" 1,000' Buffer Zones



- Legend**
- Churches 1000ft Buffer
  - Pacific County Sensitive Entities
  - Sensitive Entities 1000ft Buffer
  - Agriculture
  - Community Commerical
  - Mixed Use
  - Rural Lands
  - Tokeland Mixed Use
  - Sections
  - Township



1 in = 4,500 feet

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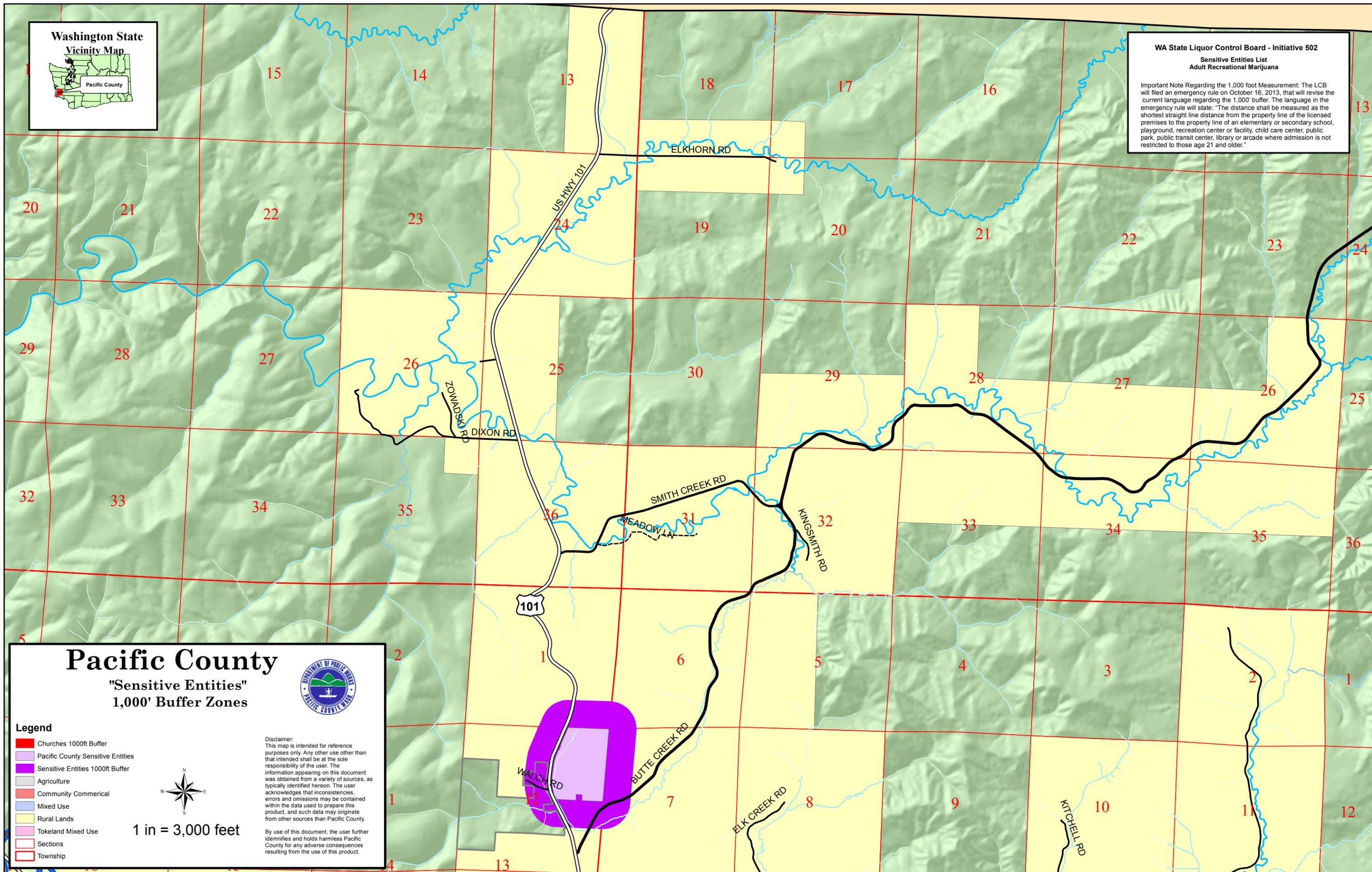


Washington State  
Vicinity Map



WA State Liquor Control Board - Initiative 502  
Sensitive Entities List  
Adult Recreational Marijuana

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Pacific County

"Sensitive Entities"  
1,000' Buffer Zones



Legend

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# Pacific County

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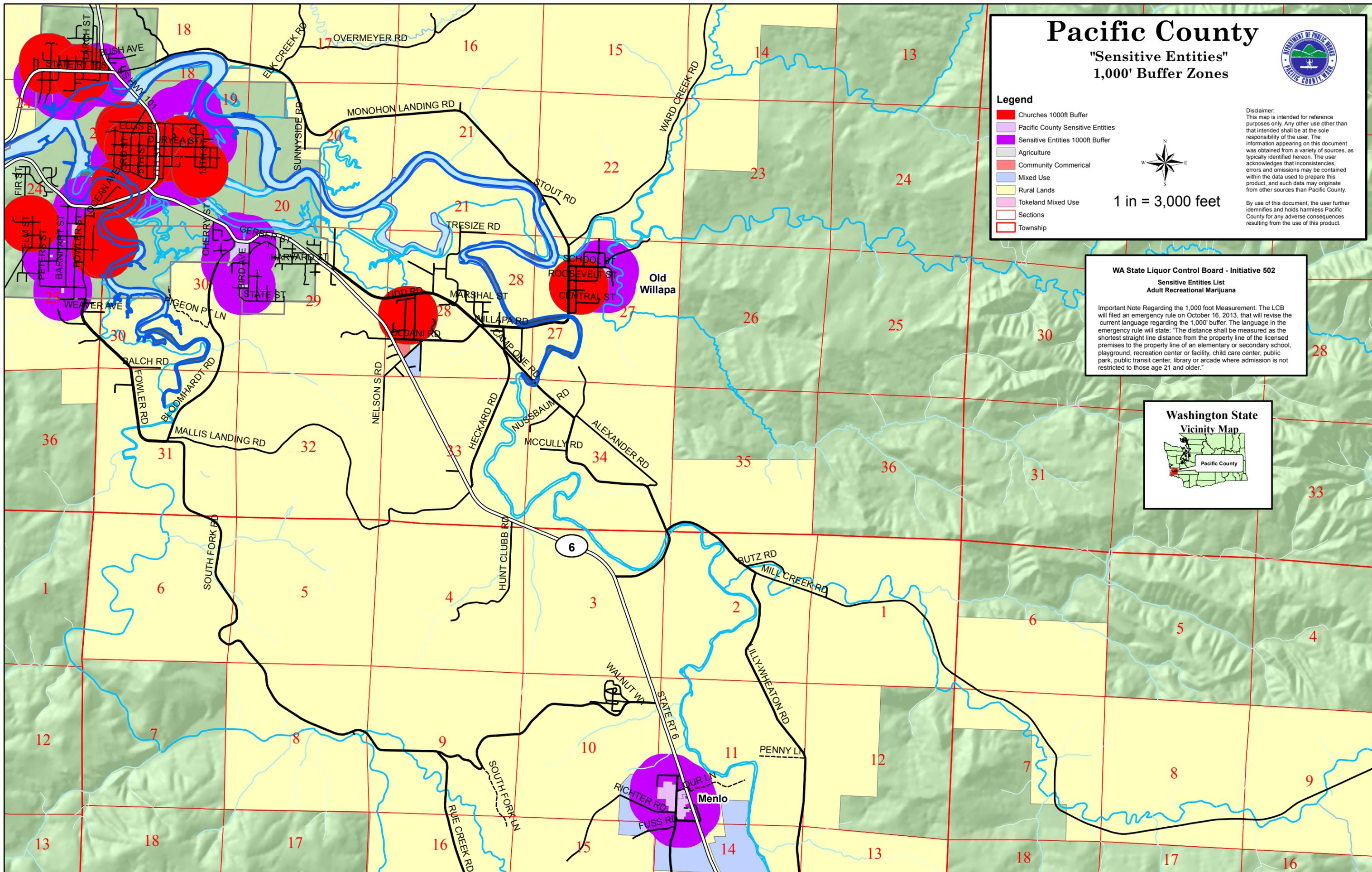
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### WA State Liquor Control Board - Initiative 502 Sensitive Entities List Adult Recreational Marijuana

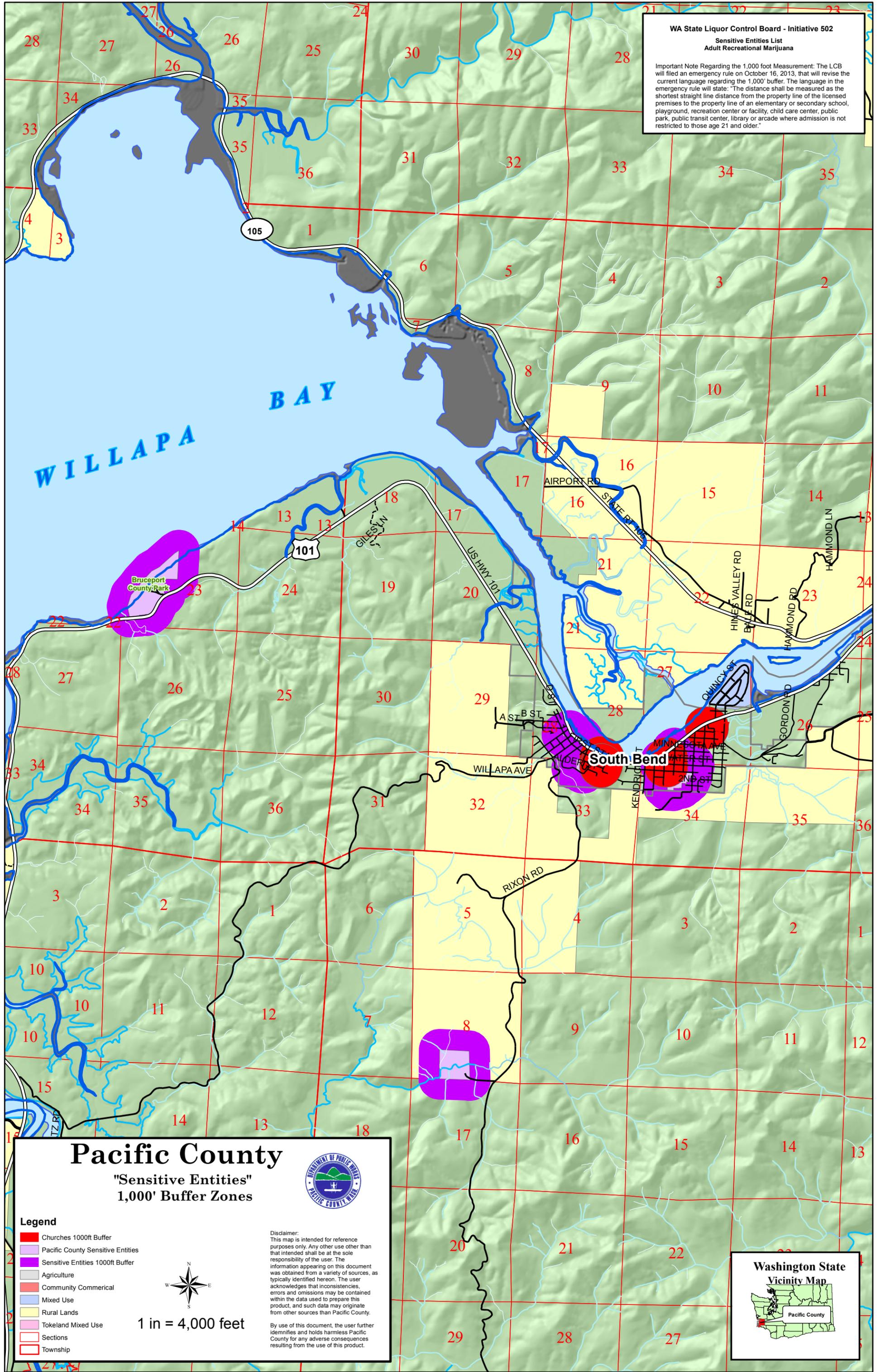
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### Washington State Vicinity Map



**WA State Liquor Control Board - Initiative 502**  
**Sensitive Entities List**  
**Adult Recreational Marijuana**

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**Pacific County**  
**"Sensitive Entities"**  
**1,000' Buffer Zones**



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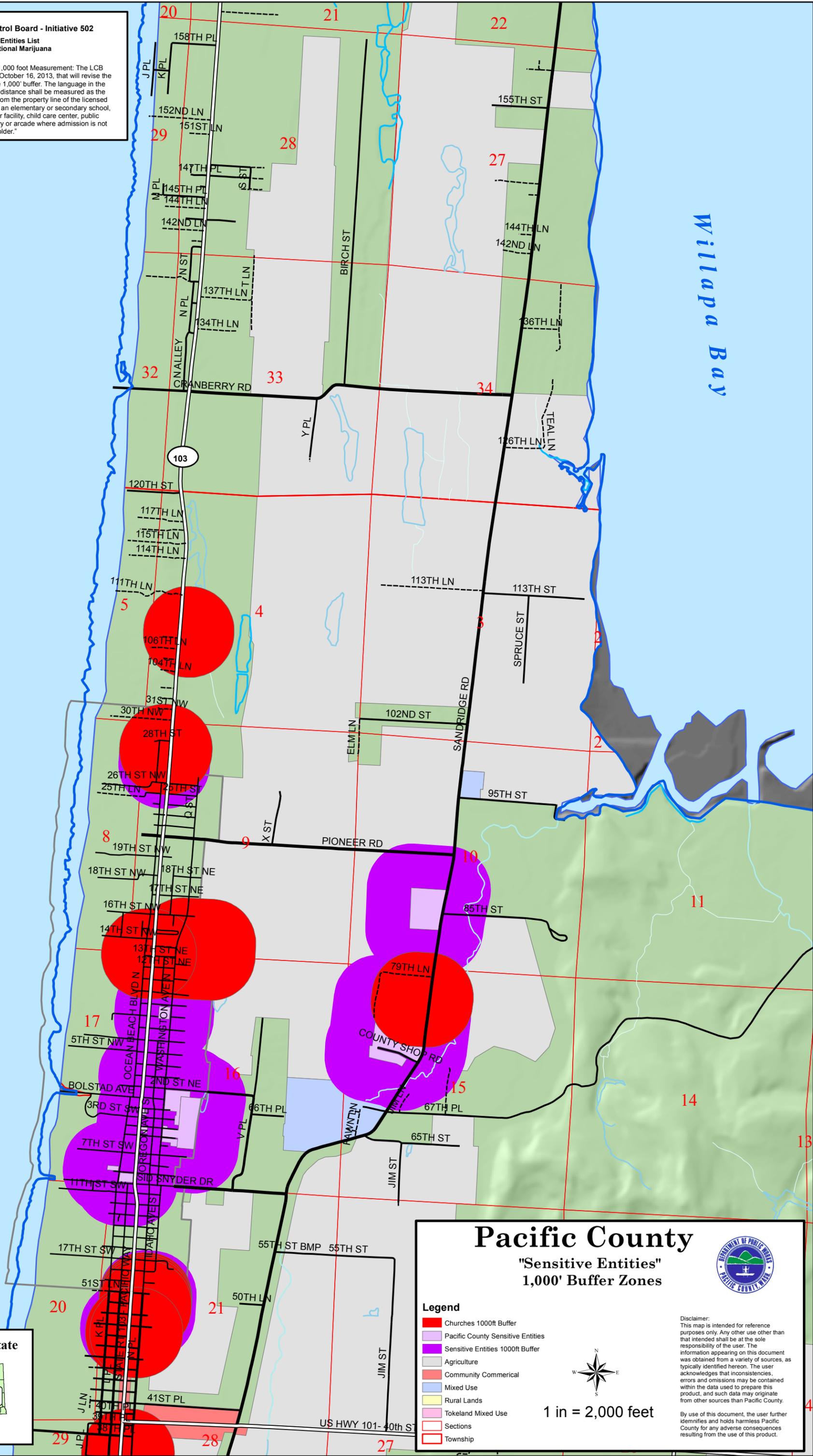
**WA State Liquor Control Board - Initiative 502**

**Sensitive Entities List  
Adult Recreational Marijuana**

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PACIFIC OCEAN

Willapa Bay



## Pacific County

### "Sensitive Entities" 1,000' Buffer Zones

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1 in = 2,000 feet

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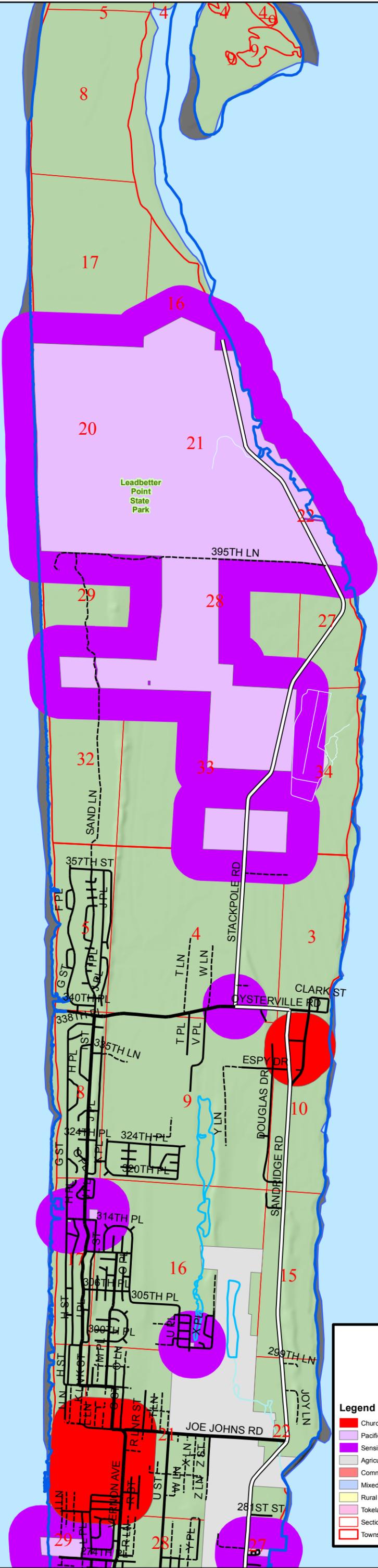


WA State Liquor Control Board - Initiative 502  
Sensitive Entities List  
Adult Recreational Marijuana

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PACIFIC OCEAN

Willapa Bay



## Pacific County

### "Sensitive Entities" 1,000' Buffer Zones

**Legend**

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1 in = 3,000 feet

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Ryan C. Espegard  
Direct: (206) 676-7548  
E-mail: respegard@gth-law.com

January 24, 2014

Pacific County Planning Commission  
P.O. Box 68  
1216 W. Robert Bush Dr.  
South Bend, WA 98586

*Via Email Only*

RE: Amendment of Ordinance 162 – Recreational Marijuana

Pacific County Planning Commission:

We represent Michael Isaac, a Pacific County resident and applicant for a marijuana retail license under the business name The Blind Pig, located in Seaview. We are writing in response to the proposed amendment of Ordinance 162 to establish zoning regulations specifically for licensed producers, processors, and retailers of marijuana.

We understand and applaud the fact that Pacific County is taking a cautious approach to the zoning of the new legal and regulated marijuana industry in order to protect the welfare of the community. However, we fear that the County may be considering some unnecessarily restrictive regulations concerning retailers or may otherwise delay the adoption of legitimate zoning that will ultimately harm Pacific County entrepreneurs. Therefore, we write to provide comment on your contemplated regulation of licensed marijuana retailers.

**A. Free Use of Land**

While we believe that the Planning Commission only has the best interests of the community in mind, we are concerned that the recent Attorney General's Opinion (AGO 2014 No. 2) could provide a false sense that any zoning regulation adopted by the County would be supported by Washington law. There is significant disagreement with Attorney General's Opinion within the legal community, particularly in regards to zoning (or banning) of retail establishments.

The Attorney General concluded that I-502 did not preempt the entire field of marijuana regulation, but missed a crucial distinction in regards to marijuana retailers. I-502 grants the WSLCB significantly more authority over retail zoning than it does over

Reply to:

Seattle Office

600 University, Suite 2100  
Seattle, WA 98101

(206) 676-7500  
(206) 676-7575 (fax)

Tacoma Office

1201 Pacific Ave., Suite 2100  
Tacoma, WA 98402

(253) 620-6500  
(253) 620-6565 (fax)

producers and processors, and therefore, I-502 may preempt the field of *retail* regulation. I-502 grants the WSCLB the unique authority to determine “[r]etail outlet locations and hours of operation.” RCW 69.50.342(6). Further, the WSLCB is required to determine “the maximum number of retail outlets that may be licensed in each county, taking into consideration: . . . (c) The provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market.” RCW 69.50.345(2). The stated intent of I-502 also includes taking “marijuana out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.” Given these provisions, a local regulation that makes it impractical for a retailer to operate in the jurisdiction, leaving residents unable to have adequate access to legal marijuana, would be inconsistent with I-502 and thus would be preempted and void under RCW 69.50.608. It is also important to remember that the Attorney General’s Opinion is not binding law, and that these issues will likely need to be resolved by either the legislature or in future litigation elsewhere.

Even if Pacific County can legally enact restrictions on marijuana retailers, ordinary constitutional limits on the extent of the restrictions would still apply. As the Planning Commission is aware, Pacific County must take care not to deprive property owners of the free use of their land without due process. Zoning restrictions must bear a substantial relation to public health, safety, or welfare and must not be unreasonable, arbitrary, or capricious. Therefore, we urge the Planning Commission to consider the limited potential impacts of legal and regulated marijuana retail businesses to avoid zoning regulations based on irrational fears and dissenting public opinion.

## **B. Retailers Have No Significant Impacts**

Retailers have no significant impacts on their communities beyond the impacts experienced with any other form of retail such as a convenience store or grocery store where beer can be purchased. This is largely due to the fact that the WSLCB has tight regulations in place that limit potential impacts.

For example, the store will have no odor. Retailers are not allowed to grow or process marijuana and can only sell products that have already been packaged by processors. The products will be packaged in tamper resistant heat sealed packaging. WAC 134-55-105(7). The products are also not allowed to be opened or consumed at the business. RCW 69.50.357(5). Without open packages or consumption taking place on the property, there should be no odor traveling to neighboring properties or public rights of way.

Customers will not become intoxicated at or near the property. As noted above, consumption in stores is not permitted. Additionally, consumption anywhere in public is

prohibited. RCW 36.50.445. The likelihood that a customer will openly consume marijuana at or near the property is no different than the likelihood of a customer consuming beer in a grocery store parking lot. It is an unlikely event that does not justify restrictive zoning of the business.

Perhaps most importantly, the store will not have a negative influence on minors. Without noticeable consumption or odor, the only remaining potential impact on children would be the appearance of the store and related advertising. However, retailers cannot display marijuana products in a manner visible from a public right-of-way. RCW 69.50.357(4). In fact, retailers are not even allowed to have signage visible to the general public from a public right-of-way except for a single sign identifying the business by its trade name. RCW 69.50.357(3). In this case, a single sign identifying the business as "The Blind Pig." The exterior appearance of the store will do little to attract the unwanted attention of the youth in the community.

### **C. Recommendation for Pacific County**

It is our recommendation that Pacific County not enact unnecessary zoning ordinances that restrict the only two retailers that could be licensed in the county. We believe that the Pacific County Code is already sufficient to protect the general welfare of the public and that retailers should be allowed in any location where general retail is currently allowed. However, if the Planning Commission is inclined to specifically address licensed marijuana retailers, then they should be a permitted use in all Community Commercial (CC) zones without other restrictions.

Given that retailers will have no odor, that public consumption will not occur, and that the appearance of the business will be subdued, there is no reasonable justification for enacting any additional buffers beyond the buffers already established by I-502. For example, requiring additional buffers between retailers and residential or religious uses would be unreasonable, arbitrary, and capricious. This is especially true where related businesses such as grocery stores where alcohol is available would be exempt from such buffers.

Finally, the recommendation should be acted upon immediately. While the decision to enact a moratorium in order to develop proper regulations is understandable, the moratorium loses its purpose once Pacific County understands the issues and knows the action it should take. Pacific County should immediately lift the existing moratorium on marijuana retailers or implement its permanent zoning. Continuing with the moratorium is having a real and detrimental effect on the well-intentioned entrepreneurs in your community. Additionally, the Planning Commission should feel free to follow the

Gordon Thomas Honeywell<sup>LLP</sup>  
January 24, 2014  
Page 4

recommendation on retailers and act now while continuing to discuss proper zoning for producers and processors if needed.

We genuinely appreciate your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan C. Espegard". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ryan C. Espegard

Lenny Habersetzer called today; 1/28/2014 @ 12:07pm

Received a letter regarding his license. And would like to submit the following testimony.

Safety, security

There will be no weapons, if there are weapons and they will be qualified.

No increase in traffic, except for owner going back and forth more often.

Grower only.

Normal farm traffic.

Environment

Will not affect water or air, except water that is already being used. Totally organic and recycle everything including the water.

Community

Lived here all his life and is concerned about the community as well. Won't even know that he is there.

From: Christopher Brown, Manager, The Indoor Garden llc  
P.O. Box 84  
Nahcotta, Washington 98637

To: Mr. Tim Crose, Planing Director, Pacific County DCD  
1216 W. Robert Bush Drive  
P.O. Box 68  
South Bend, Washington 98586  
Email : [tcrouse@co.pacific.wa.us](mailto:tcrouse@co.pacific.wa.us)

Dear Mr. Crose, it is a sad day that you propose to violate the Washington state constitution, and the wishes of the people of the state who have enacted I-502, now Chapter 3, laws of 2013 I-502.

The published "Suggested finding of fact, Supporting Amendment to Sec 24, Ordinance No.162", does just that. The Suggested findings in no way are the proper exercise of local Police Power of the county, as required by the recient Attorney Generals Opinion, AGO 2014 No. 2 January 16, 2014. The Suggested Finding of Fact is merely the ramblings of a group of ignorant people acting in a conspiracy under the color of law, to deprive the people of their rights guaranteed by the state constitution. I do believe you and your subordinants took an oath to support that and the US constitution before assuming your and their present positions.

As you know the people have enacted I-502 to provide for a regulated closed system of licensed entities to provide for the production, processing and sales of cannabis to those over the age of 21 within the state of Washington.

Within the statute, Chapter 3 laws 2013 I-502, the liquor control board was given exclusive jurisdiction to make the necessary rules and regulations to implement the wishes of the people, and to provide for a limited time of public comment to provide for those that had legitimate concerns for public safety, access, setbacks from sensitive areas, so those legitimate concerns could be integrated into the rules and regulation for those licensed by the Liquor Control Board.

The final rules were published December, 1 2013, and none of the published rules made any provisions for your proposed moritorium nor any other provisions of the Suggested Finding of Fact you have published.

As you and your entity have failed to exercise your administrative remedy by participating in the rule and regulation making process with the Liquor Control Board within the time proscribed by the Statute, Chapter 3 laws 2013 I-502, your conspiracy with the members of the planing commission, Eric demontigny, Ken Osborne, Mike Nichols, Bill Kennedy, Jim Sayce, Stan Smith and Scott Turnbull, to act under the color of law to deprive the people of Washington of their rights under the statute, Chapter 3 laws 2013 I-502, is a Federal Crime under Title 18 U.S.C Section 241 and 242.

I have attached the criminal complaint I have made with the U.S. Attorney against the County Commissioners for their placement of a moritorium on the Statute within Pacific County. Should you or any members of the planning board form a majority and pass into law the proposed ammendments to Section 162, prejudicing the rights of the people to exercise their rights under the rules and regulations published by the Liquor Control Board on December, 1 2013 as required by the statute, I will file an ammended complaint against you and the majority board members in your official and personal capacity with the U.S Attorney, for violation of my rights, by your conspiracy under the color of law, in violation of Title 18 U.S.C Section 241 and 242.

Sincerely,  
Christopher Brown, Manager, The Indoor Garden llc

**Criminal Complaint against State Actors,  
acting in a conspiracy and acting under the color of law,  
to deprive the people of Washington of their  
constitutional rights under law.**

01/01/2014

Christopher Brown  
c/o P.O. Box 84  
Nahcotta, Washington 98637

To: Jenny A. Durkan, United States Attorney, Western District, Washington State;  
Robert H. Westinghouse, Criminal Division, Criminal Chief

United States Attorneys Office  
700 Stewart Street, Suite 5220  
Seattle, Washington 98101-1271

Dear Attorney General Durkan and Criminal Chief Westinghouse, I hope the new year finds you well.

The reason I am writing and filing this Criminal Complaint with you today is that I believe by their public actions, The Mayor, Bob Anderson, The City Counsel Members, Mark Perez, Del Murphy, Natalie Hanson, Jerry Philips, City Administrator, Gene Miles, Long Beach Police Chief Flint Wright and City Attorney Douglas Goelz, employees of the City of Long Beach Washington, are acting in concert, conspiring to deprive the people of their rights under the Constitution in Violation of Title 18, U.S.C., Section 241. Further I believe by their public actions, the above named are also acting in concert, conspiring to deprive the people of Washington of their rights under the Color of Law, In violation of Title 18, U.S.C., Section 242.

In addition, I am also filing this Criminal Complaint with you today as I believe by their public actions, The Pacific County Commissioners, Steve Rogers, Frank Wolfe, Lisa Ayers, Pacific County Sheriff Scott Johnson and Pacific County Prosecutor David Burke, are acting in concert, conspiring to deprive the people of their rights under the constitution in violation of Title 18, U.S.C., Section 241. Further I believe by their public

actions, the above named are also acting in concert, conspiring to deprive the people of Washington of their rights under the Color of Law, in violation of Title 18, U.S.C, Section 242.

As to The Mayor, Bob Anderson, The City Counsel Members, Mark Perez, Del Murphy, Natalie Hanson, Jerry Philips, City Administrator, Gene Miles, Long Beach Police Chief Flint Wright and City Attorney Douglas Goelz employees of the City of Long Beach Washington, below is a copy of the ordinance/moratorium they have enacted and enforce through the City Police in violation of Title 18, Section, 241 and 242.

---

ORDINANCE No. 895

AN INTERIM ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON  
ENACTING A MORATORIUM ON ANY AND ALL LAND USES RELATED TO  
CANNABIS (MARIJUANA); PROHIBITING ISSUANCE OF LICENSES OR  
PERMITS FOR LAND USES RELATED TO CANNABIS (MARIJUANA);  
REFERRING THE MATTER TO THE LONG BEACH PLANNING COMMISSION;  
ORDERING TRANSMITTAL TO THE DEPARTMENT OF COMMERCE;  
PROVIDING FOR A PUBLIC HEARING; PROVIDING FOR SEVERABILITY;  
AND DECLARING AN EMERGENCY AND ESTABLISHING AN EFFECTIVE  
DATE

WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for “qualifying patients” to the charge of possession of Cannabis (marijuana), and

WHEREAS, the City acknowledges the right of qualified health care professionals to recommend the medical use of Cannabis (marijuana), acknowledges the affirmative defense available to qualifying patients for the possession of Cannabis (marijuana) as well as the right of patients to designate a “designated provider” who can “provide” rather than sell Cannabis (marijuana) to only one patient at any one time, and

WHEREAS, the Legislature has passed Engrossed Second Substitute Senate Bill [E2SSB] 5073 (the Act) and the Governor has signed the bill but has vetoed several sections of the bill, and

WHEREAS, E2SSB 5073 was effective on July 22, 2011, and

WHEREAS, the Act authorizes “collective gardens” in which certain qualifying patients or their providers may produce, grow, and deliver Cannabis (marijuana) for medical use, and

WHEREAS, the citizens of the State of Washington passed Initiative 502, allowing the use of marijuana for non-medical purposes, and

WHEREAS, Initiative 502 in part directed the Washington State Liquor Control Board (SLCB) to develop rules and regulations to accomplish the following:

1. Determine the number of producers, processors and retailers of marijuana by county; and
2. Develop licensing and other regulatory measures; and
3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative’s distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and
4. Establish a process for the City to comment prior to the issuance of such licenses; and
5. The SLCB has recently announced a delay in the implementation of its rules until December 2013 and a delay in license issuance until approximately June 2014;
6. The SLCB is presently considering whether to conduct environmental review under SEPA; and

7. Upon the SLCB's completion of its implementation process, the City intends to prepare and effectuate a formal work plan to expeditiously develop a legally-compliant permanent local regulatory framework for marijuana-related uses, and

WHEREAS, the growth, processing, delivery/sale and use of Cannabis (marijuana) present immediate potential issues of public safety for surrounding properties as well as for the property on which such activities occur. Furthermore, the location of these activities near schools, day care facilities and other lawful uses presents immediate issues relating to the public welfare and the protection of minors resulting in a public emergency, and

WHEREAS, the City's zoning, licensing, and other development regulations do not address the potential impacts from Cannabis- (marijuana-) related land uses and the City needs adequate time to consider what such regulations should be and how to enact them, and

WHEREAS, on August 29, 2013 the United States Department of Justice, Office of the Deputy Attorney General, issued to all U.S. Attorneys a memorandum under the heading "Guidance Regarding Marijuana Enforcement" as a guide to the exercise of investigative and prosecutorial discretion as they relate to Cannabis (marijuana) prosecution that modified and directed the Justice Department's focus to those circumstances where Cannabis (marijuana) production, processing, or use are allowed but are either not accompanied by a strong and effective state regulatory system, or where such a regulatory system exists, but is not complied with, and

WHEREAS, the City Council of Long Beach deems it to be in the public interest to establish a zoning moratorium pending local review of the changes in laws regarding both medical and personal use marijuana, and

WHEREAS, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH,  
WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Moratorium Enacted

Section 2. Cannabis-(Marijuana-) Related Land Uses Prohibited

Section 3. Referral to Planning Commission

Section 4. Ordinance to be Transmitted to Department of Commerce

Section 5. Public Hearing Set

Section 6. Severability

Section 7. Emergency Declared; Effective Date

Section 8. Adoption Date

Published November 20 and November 27, 2013

Legal No. 420-13

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As to The Pacific County Commissioners, Steve Rogers, Frank Wolfe, Lisa Ayers, Pacific County Sheriff, Scott Johnson and Pacific County Prosecutor David Burke, employees of Pacific County Washington, below is a copy of the ordinance/moratorium they have enacted and enforce through the Pacific County Sheriff in violation of Title 18, U.S.C., Sections 241 and 242.

**ORDINANCE NO. 172**

AN INTERIM ORDINANCE ESTABLISHING A TEMPORARY EMERGENCY MORATORIUM IN PACIFIC COUNTY, WASHINGTON ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, MAINTENANCE OR CONTINUATION OF MARIJUANA PRODUCERS, PROCESSORS, AND RETAILERS AS REGULATED PURSUANT TO WASHINGTON STATE INITIATIVE 502; REFERRING THE MATTER TO THE PACIFIC COUNTY PLANNING COMMISSION; ORDERING TRANSMITTAL TO THE DEPARTMENT OF COMMERCE; PROVIDING FOR A PUBLIC HEARING; SETTING PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING A PUBLIC EMERGENCY; ESTABLISHING AN EFFECTIVE DATE; AND ESTABLISHING A TERMINATION DATE.

**WHEREAS**, Initiative 502 (I-502) was passed by the voters of the State of Washington on November 6, 2012, and provided a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

**WHEREAS**, I-502 legalizes the production, processing, and retail sales of marijuana and directs the Washington State Liquor Control Board (WSLCB) to promulgate rules for the issuance of licenses by the WSLCB to such producers, processors, and retailers; and

**WHEREAS**, under I-502, a "producer" is one who produces marijuana for sale at wholesale to processors, a "processor" is one who processes, packages, and labels usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers, and a "retailer" is one who sells usable marijuana, marijuana-infused products, and marijuana paraphernalia at a retail outlet to persons twenty-one years of age and older; and

**WHEREAS**, the WSLCB has announced that it will receive marijuana producer, processor and retailer license applications from November 18, 2013 to December 19, 2013; and

**WHEREAS**, I-502 prohibits marijuana-related uses within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade where persons under twenty-one years old may enter; and

**WHEREAS**, the County does not have any regulations that address the type and location of facilities/premises used for the production, processing, and retail sales of marijuana and marijuana-infused products; and

**WHEREAS**, the County's zoning and other development regulations do not address the potential impacts of facilities/premises used for the production, processing, and retail sales of marijuana and marijuana-infused products and the County needs adequate time to consider whether such regulations should be enacted; and

**WHEREAS**, the Board of Pacific County Commissioners deems it to be in the public interest to establish a zoning moratorium to give the County time to consider the adoption of land use

regulations pertaining to production, processing, and retail sales of marijuana and marijuana-infused products; and

**WHEREAS**, under WAC 197-11-880 emergency actions are exempt from the requirements of the State Environmental Policy Act (SEPA) when there is not sufficient time to comply with SEPA;

**WHEREAS**, pursuant to RCW 36.70.795 and RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this Ordinance;

**NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF PACIFIC COUNTY, WASHINGTON PURSUANT TO CHAPTER 36.70 RCW, CHAPTER 36.70A RCW, AND CHAPTER 36.32 RCW, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1: Moratorium Enacted**

Pursuant to the provisions of RCW 36.70.795 and RCW 36.70A.390, a zoning moratorium is hereby enacted in Pacific County prohibiting the licensing, establishment, maintenance, or continuation of any production, processing, or retailing of marijuana and/or marijuana-infused products pursuant to I-502 and its implementing regulations. This zoning moratorium shall apply to land located within the unincorporated area of the County.

**Section 2: Production, Processing, and Retailing Pursuant to I-502 Prohibited**

All production, processing, and retailing pursuant to I-502 as defined in Section 1 are hereby designated as prohibited use throughout the unincorporated area of Pacific County. No license, land use permit, or building permit shall be issued to any person or entity seeking to produce, process, or retail marijuana and marijuana-infused products.

**Section 3: Referral to Planning Commission**

This Ordinance shall be referred to the Pacific County Planning Commission for its review. The Planning Commission shall hold a hearing in January 2014 regarding land use issues pertaining to the production, processing, and retailing of marijuana and marijuana-infused products pursuant to I-502 and shall make appropriate recommendations to the Board of Pacific County Commissioners regarding this matter.

**Section 4: Ordinance to be transmitted to the Department of Commerce**

Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

**Section 5. Public Hearing Set**

Pursuant to RCW 36.70.795 and RCW 36.70A.390, the Board of Pacific County Commissioners hereby sets a public hearing for January 28, 2014. Additional action on this interim Ordinance, may be taken if necessary. The Clerk of the Board is directed to cause appropriate notice of such hearing to be given.

**Section 6. Penalties**

Any violation of this Ordinance shall be subject to the enforcement mechanism delineated in Pacific County Ordinance No. 165. A violation of Ordinance No. 172 shall be a Class I violation under Section 3.B of Ordinance No. 165, or a misdemeanor under Section 3.C of Ordinance No. 165.

**Section 7. Severability**

This Ordinance is in the best interest of Pacific County and an emergency is declared to exist, making passage of this Ordinance urgent and necessary to protect the public peace, health, safety, and welfare, and immediate preservation of the public order of Pacific County.

**Section 8. Effective Date**

Ordinance No. 172 shall take effect immediately.

**Section 9. Term**

Ordinance No. 172 shall remain in effect until repealed or until June 10, 2014, whichever shall come sooner.

**ADOPTED** by the Board of Pacific County Commissioners meeting in regular session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 10th day of December, 2013.

3 AYE; 0 NAY; 0 ABSTAIN; 0 ABSENT

APPROVED AS TO FORM:

David J. Burke  
David J. Burke, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS  
PACIFIC COUNTY, WASHINGTON

Lisa Ayers  
Lisa Ayers, Chair

Steve Rogers  
Steve Rogers, Commissioner

ATTEST:

Marie Guernsey  
Marie Guernsey, Clerk of the Board

Frank Wolfe  
Frank Wolfe, Commissioner



Board of Pacific County Commissioners  
 P O Box 187 \* 1216 W Robert Bush Dr \* South Bend, WA 98586  
 Phone 360/875.9337 / Fax 360/875.9335

**BOH/BOCC meet 2nd and 4th Tuesday of each month, beginning at 9 a.m.**

**REQUESTED MEETING DATE:**  
 12/10/2013

**AGENDA REQUEST FORM**

(TO BE COMPLETED BY THE CLERK/DEP. CLERK OF THE BOARD)

Agenda Item # 28

BOCC ACTION:  APPROVED  DENIED

Subject: Interim Ordinance No. 172 Date: 12/10/2013

SUBJECT TO ADEQUATE BUDGET APPROPRIATION

NO ACTION TAKEN WITHDRAWN  DEFERRED

CONTINUED TO DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

OTHER: \_\_\_\_\_

DEFERRED TO: \_\_\_\_\_

DEFERRED TO LIST:

<input type="checkbox"/> BO	<input type="checkbox"/> ALLEIGH	<input type="checkbox"/> BSW	<input type="checkbox"/> PACCDM	<input type="checkbox"/> Superior Court
<input type="checkbox"/> CE	<input type="checkbox"/> AUDITOR	<input type="checkbox"/> EMA	<input type="checkbox"/> ACTA	<input type="checkbox"/> Treasurer
<input type="checkbox"/> SEA	<input type="checkbox"/> DM	<input type="checkbox"/> Health	<input type="checkbox"/> Insurance	<input type="checkbox"/> Vegetation Mgmt
	<input type="checkbox"/> Env. Services	<input type="checkbox"/> Justice	<input type="checkbox"/> SDC	<input type="checkbox"/> WSD Coop. Ext.
	<input type="checkbox"/> PCD	<input type="checkbox"/> NDC	<input type="checkbox"/> Sheriff	<input type="checkbox"/> Other

**AGENDA ITEM REQUEST**

Please fill out in full or the request may be returned for more information. Also, please attach all pertinent documentation.

DEPARTMENT/OFFICE: Commissioners Office	DIVISION (if applicable): Ordinances
OFFICIAL NAME & TITLE: Marie Guemsey, Clerk of the Board	PHONE / EXT:
SIGNATURE: <i>Marie Guemsey</i>	DATE: 12/3/2013
NARRATIVE OF REQUEST	
RECOMMENDED MOTION <u>To Be Completed by the Clerk/Deputy Clerk of the Board</u>	
Adopt Interim Ordinance No. 172 establishing a temporary emergency moratorium in Pacific County on the establishment, location, operation, licensing, maintenance or continuation of marijuana producers, processors, and retailers as regulated pursuant to WA State Initiative 502 and refer the matter to the Planning Commission	

Attorney General Durkan, Criminal Chief Westinghouse, as you know the people of Washington through the initiative process provided for in our state constitution have decided to decriminalize the use and possession of Cannabis by those 21 years of age and older.

The people have also authorized the Washington State Liquor Control Board to make rules and regulations providing for the administration of a closed regulated system of Licensed Manufacturers, Processors and Retailers.

The people in passing initiative i-502, now Chapter 3 Laws of 2013-I-502 filed and published by the Secretary of State, for the State of Washington, made provisions for the Liquor Control Board to solicit and accept public comment/participation as to health and safety concerns, and operating regulations for the licensees under the law. The public comment period was of a fixed duration and the rules promulgated under the act became final December 1, 2013.

The named employees of the City of Long Beach, and the named employees of Pacific County Washington, implemented their so called "moratoriums" after the rule making process was closed and the rules and regulations were finalized and published and required by the initiative. The named City and County employees failed to participate in the rule and regulation process with the Liquor Control Board, being nonfeasant in their particular office, their current attempts regulate applicants under the law is malfeasance.

Should the City and County have had legitimate concerns for the specious reasons they now proffer in the provided "moratoriums" the City and County have published, their remedy was to participate in the rule making process in the time provided for by law. To come after the time for participation has passed, without the authority of law to overturn, delay an initiative lawfully enacted by the people, makes their acts criminal under Title 18, Section 241 and 242.

The Washington Constitution makes no provision what so ever to put a moratorium on a citizens initiative, nor a law passed by the legislature for that matter, by a City, Town or County, the law provided to the Liquor Control Board, exclusively, the authority to make rules and regulations governing the operation of the licensee Producers, Processors and Retailers of Marijuana in the state of Washington. The above publications by the City and County are self published indictments as to their criminal culpability in violating the rights of the people, in a conspiracy under the color of law.

Below are the relevant sections of the Washington Constitution I rely upon in forcing my claim for harm caused by the named City and County employees, as well as being an applicant for a Producer/Processor license under the law. My provisional license number with the Liquor Control Board is 053099, under the name The Indoor Garden llc, application #20133534832, filed 12/19/2013 with the state of Washington Business licensing Service. I also have property and contract, that are affected by the City and Counties illegal acts and use these as grounds for standing as a party damaged by their illegal acts.

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**ARTICLE I  
DECLARATION OF RIGHTS**

**SECTION 1 POLITICAL POWER.** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

**SECTION 29 CONSTITUTION MANDATORY.** The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise.

**SECTION 30 RIGHTS RESERVED.** The enumeration in this Constitution of certain rights shall not be construed to deny others retained by the people.

**SECTION 32 FUNDAMENTAL PRINCIPLES.** A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government.

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**ARTICLE II  
LEGISLATIVE DEPARTMENT**

**SECTION 1 LEGISLATIVE POWERS, WHERE VESTED.** The legislative authority of the state of Washington shall be vested in the legislature, consisting of a senate and house of representatives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature.

(a) Initiative: The first power reserved by the people is the initiative. Every such petition shall include the full text of the measure so proposed. In the case of initiatives to the legislature and initiatives to the people, the number of valid

signatures of legal voters required shall be equal to eight percent of the votes cast for the office of governor at the last gubernatorial election preceding the initial filing of the text of the initiative measure with the secretary of state. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon, or not less than ten days before any regular session of the legislature. If filed at least four months before the election at which they are to be voted upon, he shall submit the same to the vote of the people at the said election. If such petitions are filed not less than ten days before any regular session of the legislature, he shall certify the results within forty days of the filing. If certification is not complete by the date that the legislature convenes, he shall provisionally certify the measure pending final certification of the measure. Such initiative measures, whether certified or provisionally certified, shall take precedence over all other measures in the legislature except appropriation bills and shall be either enacted or rejected without change or amendment by the legislature before the end of such regular session. If any such initiative measures shall be enacted by the legislature it shall be subject to the referendum petition, or it may be enacted and referred by the legislature to the people for approval or rejection at the next regular election. If it is rejected or if no action is taken upon it by the legislature before the end of such regular session, the secretary of state shall submit it to the people for approval or rejection at the next ensuing regular general election. The legislature may reject any measure so proposed by initiative petition and propose a different one dealing with the same subject, and in such event both measures shall be submitted by the secretary of state to the people for approval or rejection at the next ensuing regular general election. When conflicting measures are submitted to the people the ballots shall be so printed that a voter can express separately by making one cross (X) for each, two preferences, first, as between either measure and neither, and secondly, as between one and the other. If the majority of those voting on the first issue is for neither, both fail, but in that case the votes on the second issue shall nevertheless be carefully counted and made public. If a

majority voting on the first issue is for either, then the measure receiving a majority of the votes on the second issue shall be law.

(b) Referendum. The second power reserved by the people is the referendum, and it may be ordered on any act, bill, law, or any part thereof passed by the legislature, except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions, either by petition signed by the required percentage of the legal voters, or by the legislature as other bills are enacted: *Provided*, That the legislature may not order a referendum on any initiative measure enacted by the legislature under the foregoing subsection (a). The number of valid signatures of registered voters required on a petition for referendum of an act of the legislature or any part thereof, shall be equal to or exceeding four percent of the votes cast for the office of governor at the last gubernatorial election preceding the filing of the text of the referendum measure with the secretary of state.

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## ARTICLE XI

### COUNTY, CITY, AND TOWNSHIP ORGANIZATION

**SECTION 5 COUNTY GOVERNMENT.** The legislature, by general and uniform laws, shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys and other county, township or precinct and district officers, as public convenience may require, and shall prescribe their duties, and fix their terms of office: *Provided*, That the legislature may, by general laws, classify the counties by population and provide for the election in certain classes of counties certain officers who shall exercise the powers and perform the duties of two or more officers. It shall regulate the compensation of all such officers, in proportion to their duties, and for that purpose may classify the counties by population: *Provided*, That it may delegate to the legislative authority of the counties the right to prescribe the salaries of its own members and the salaries of other county officers. And it shall provide for the strict accountability of such officers for all fees which may be collected by them and for all public moneys which may be paid to them, or officially come into their possession. [AMENDMENT 57, part, 1971 Senate Joint Resolution No. 38, part, p 1829. Approved November, 1972.]

Attorney General Durkan, Criminal Chief Westinghouse, the people of Washington have supreme legislative authority as provided by our constitution cited above. When our servants chose to exercise their own personal predilections in concert, under the color of law, we no longer have law, we have anarchy.

The people of Washington have chosen to take a path of enlightenment, and reject the horrendously failed social policy of relying upon ignorant people with guns and badges dictating through the force of arms our conduct, when this conduct in no way justifies such action.

In a time when the Department of Justice makes public statements that those that steal trillions are too big to prosecute, what legitimate purpose do you provide when you prosecute people over the growing, selling of a plant that in the history of man, has never caused the death of any human being by its ingestion, while prescription chemical pharmaceuticals kill tens of thousands yearly while being administered by through the FDA?

When you and your staff get over your laughing spasms that anyone would actually make a criminal complaint on those that would steal their right to determine how their society will operate, consider that at some time you or someone you love would be the victim of a group of police officers that can't get a correct address to serve a warrant, and come through the door, your door, the door of someone you love, the wrong address, and execute you when you have the audacity to challenge their presence.

A young veteran fresh from the wars in the middle east living in Arizona a couple years ago, was executed in his home by the Maricopa county Sheriffs drug squad, at the wrong address searching for marijuana, his execution at the hands of those not bright enough to go to the right place, resulted in 70 bullets in his body, you or your family or someone you love, myself, any random citizen, are subject to this gross incompetence everyday cannabis remains criminalized. The people of Washington have decided a change is in order to prevent these wholly avoidable tragedies.

This change cannot take place while moral and intellectual cowards acting in concert under the color of law, stand in the way of that change. The prosecution of The named City and County employees must be immediate, as they conspire not only to deprive the people of their rights, but through an incompetent police force at these employees direction, quite possibly deprive the people of their lives, while the police act under the Color of Law at their direction.

Sincerely,

Christopher Brown, Aggrieved party, 01/01/2014

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## Certificate of Service

I, Christopher Brown place in the US mail, on 01/02/2014 at Ocean Park, Washington, by certified mail return receipt requested to the United States Attorney, Western District of Washington and the following City and County employees, subject of this Criminal Complaint:

Jenny A. Durkan United States Attorney  
US Attorneys Office  
700 Stewart Street, Suite 5220  
Seattle, Washington 98101-1271  
Certified Mail #70120 3050 000 6069 2276

Robert H. Westinghouse, Criminal Division, Criminal Chief  
US Attorneys Office  
700 Stewart Street, Suite 5220  
Seattle, Washington 98101-1271  
Certified Mail #7012 3050 000 6069 2412

Scott Johnson, Pacific County Sheriff  
PO Box 27  
South Bend, Washington 98586  
Certified Mail #7012 3050 000 6069 2405

Flint Wright, Chief LBPD  
PO Box 795  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2399

Gene Miles, City Administrator  
PO Box 310  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2382

Jerry Philips, Long Beach City Counsel  
PO Box 310  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2375

Natalie Hanson, Long Beach City Counsel  
PO Box 310  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2368

Del Murphy, Long Beach City Counsel  
PO Box 310  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2351

Mark Perez, Long Beach City Counsel  
PO Box 310  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2344

Bob Anderson, Mayor Long Beach  
PO Box 310  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2337

Douglas Goelz, City Attorney  
PO Box 310  
Long Beach, Washington 98631  
Certified Mail #7012 3050 000 6069 2320

Lisa Ayers, County Commissioner  
PO Box 187  
South Bend, Washington 98586  
Certified Mail #7012 3050 000 6069 2313

Frank Wolfe, County Commissioner  
PO Box 187  
South Bend, Washington 98586  
Certified Mail #7012 3050 000 6069 2306

Steve Rogers, County Commissioner  
PO Box 187  
South Bend, Washington 98586  
Certified Mail #7012 3050 000 6069 2290

David Burke, Pacific County Prosecutor  
PO Box 45  
South Bend, Washington 98586  
Certified Mail #7012 3050 000 6069 2283

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: comments  
**Date:** Friday, January 24, 2014 12:01:30 PM

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**From:** s smith [mailto:holcombwa@yahoo.com]  
**Sent:** Friday, January 24, 2014 11:46 AM  
**To:** Tim Crose  
**Subject:** comments

Tim,

The only major thing I would like reexamined on the suggested language is the 500 ft. set back from residential property. I feel that is excessive, and we also would have to define what is ment by "residential property". It is also probably unnecessary. If we are concerned about odor, requiring charcoal filters in any exhaust air will take care of that. If odor were an issue, one would think the illegal grow operations in cities would have been easily detected. As far as grow operations otherwise bothering neighbors, I don't see the potential issues. Grow lights won't be on at night as that seems to be counterproductive to the plants' growth, from what I've been able to read about it. Traffic would be considered in the conditional use process we seem to be headed towards. I just don't see where we need another set back, much less 500 feet.

Stan

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: County cannabis ordinance  
**Date:** Friday, January 24, 2014 9:39:17 AM

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Please file

-----Original Message-----

From: Larry Warnberg [<mailto:warnberg@pacifier.com>]  
Sent: Friday, January 24, 2014 9:37 AM  
To: Tim Crose  
Subject: County cannabis ordinance

Hello Tim:

Howdy from the Valley. Thanks for the opportunity to comment on the County's role in cannabis regulation. I was unable to attend the public meetings, and appreciate your efforts to hear residents' concerns.

I fail to see any compelling need for the County to enact a new ordinance. State law established with the passage of I-502 sufficient guidelines and regulations for the growing, processing and selling of cannabis. The primary intent of I-502 is to decriminalize cannabis, and consequently reduce extralegal black market activity, Counties will benefit financially not only from increased tax revenue, new employment opportunities, a boost to tourism, but also reduced law enforcement costs. Pacific County should welcome this long-overdue legal reform, not erect additional barriers to its implementation. I especially oppose the proposed requirement for a Conditional Use permit for cannabis growers. There is no precedent for such a permit for any other legal agricultural crop. Requiring a Conditional Use permit will add unnecessary delay and expense for a crop that is already sufficiently regulated by the State.

Thanks for your consideration of my views.

Appreciatively,

Larry Warnberg  
31 Hurt Road, Raymond, WA 98577  
942-0099

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: I-502 public comments for the Commissioners of Pacific County  
**Date:** Thursday, January 23, 2014 2:46:45 PM

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Please file copy

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**From:** aditolla [mailto:[aditolla@me.com](mailto:aditolla@me.com)]  
**Sent:** Thursday, January 23, 2014 12:07 PM  
**To:** Faith Taylor; Tim Crose  
**Cc:** Alejandro Di-Tolla  
**Subject:** I-502 public comments for the Commissioners of Pacific County

Dear Faith and Tom,

It was a real pleasure to meet and talk with you both last thursday at Pacific County's meeting.

I would like to ask you if you have (or have received) from the Commissioners a bullet list of the main areas of concern regarding allowing operations and maintaining current zoning for I-502 production and processing applications. My goal is to simply be more effective by addressing the areas on which the Commissioners desire input and /or clarification.

We are mindful of the dateline to provide written input and what to do so before tomorrow's dateline.

Any guidance or assistance you could provide will be appreciated.

Sincerely,

Alejandro Di-Tolla  
Managing Director  
Eco Ventures LLC  
19217 36th Avneue W  
Suite 205  
Lynnwood, WA 98036  
T: 425-825-5454  
F:425-952-0200  
E: [aditolla@me.com](mailto:aditolla@me.com)

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: Issuance of permits: marijuana producers and processors  
**Date:** Monday, January 27, 2014 7:25:26 AM

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**From:** Marilyn Jordan [mailto:ruecreek@centurytel.net]  
**Sent:** Friday, January 24, 2014 1:17 PM  
**To:** Tim Crose  
**Subject:** Issuance of permits: marijuana producers and processors

To the Members of the Pacific County Planning Commission:

We are very deeply concerned about the issuance of permits for marijuana producers and processors on rural land.

Our first concern is for the *safety of these operations*. Rural land areas are rarely patrolled by law enforcement, and we believe this situation is conducive to illegal activity. How does the County (or the Liquor Control Board) plan to enforce the laws that govern these licenses? Will there be armed qualified security guards patrolling the perimeters? What are the guidelines that they will be required to follow? In addition, there will undoubtedly be increased traffic, and our rural roads are not constructed to handle that additional traffic and use.

Secondly, we are concerned for our rural community and and the *safety of our residents*. Where we live, many of us walk (or run) and enjoy the benefits of living in a rural area (outdoor exercise, wildlife viewing, etc.) With this type of business in the area, we strongly believe that our safety and the security and safety of our children, elderly and others will be greatly compromised.

Thirdly, we are concerned about the *safety of our environment*. Since the Olympic Regional Clean Air Agency has made it clear that they will not enforce or monitor marijuana odor, who will do it? How will the processing be regulated and what will be the environmental impact from it.

We strongly urge you to consider issuing these permits as "conditional use", but with very strict conditions. Please consider the following restrictions and conditions:

- \* Daytime **only** hours of operation
- \* An eight foot privacy fence surrounding the operation
- \* Mandatory security lighting

- \* Required hauling permits, bonds, etc. must be obtained by business
- \* Random compliance inspections
- \* Water testing (at least, bi-annually)
- \* Located at least 2,500' from any school, church, hospital, clinic, elder care facility, daycare, youth center, etc.
- \* Proof of a minimum \$2,000,000 in insurance

Thank you for considering our concerns regarding the issuance of these permits.

Gary and Marilyn Jordan

Rural land property owners

**From:** [Faith Taylor](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: last night's Planning Commission meeting  
**Date:** Monday, January 27, 2014 11:52:37 AM

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Faith  
Faith Taylor-Eldred  
Community Development Director/Environmental Health Director

NOTICE: All emails sent to and from this address will be received by the Pacific County email system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.

Pacific County is an Equal Opportunity Provider & Employer

-----Original Message-----

From: Marie Guernsey  
Sent: Tuesday, January 21, 2014 8:55 AM  
To: mary-jean grimes; Tim Crose  
Cc: Lisa Ayers; Faith Taylor  
Subject: RE: last night's Planning Commission meeting

Hi Mary-Jean,

I can only speak for the Board of County Commissioners. If there is a public hearing/meeting taking place we publish (as required) in the Chinook Observer, which is the legal county newspaper; however, if it is related to a specific area, we may advertise with the local paper that covers that area. Our notices are also sent to all papers as an "fyi". The hearings are also published on the Commissioners website here:

<http://www.co.pacific.wa.us/commissioner/weekagenda.htm>.

Hope this helps some.

Marie Guernsey|Clerk of the Board & Public Records Officer Board of Pacific County Commissioners  
1216 W Robert Bush Drive • P O Box 187 • South Bend, WA 98586  
P: 360.875.9337 • F: 360.875.9335  
[mguernsey@co.pacific.wa.us](mailto:mguernsey@co.pacific.wa.us)  
[www.co.pacific.wa.us](http://www.co.pacific.wa.us)

All e-mail sent to this address will be received by the Pacific County e-mail system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.

Pacific County is an Equal Opportunity Employer and Provider

-----Original Message-----

From: mary-jean grimes [<mailto:mjgrimes@comcast.net>]  
Sent: Friday, January 17, 2014 5:10 PM  
To: Tim Crose  
Cc: Lisa Ayers; Faith Taylor  
Subject: last night's Planning Commssion meeting

Hi Everyone,

Last night there was a meeting that affects the Tokeland/North Cove/ Grayland area.

I'd like to understand how people find out about Pac county dept. meetings? If notices are put in newspapers, which papers? I didn't see anything about it in the South Beach Bulletin. Please use the Bulletin to notify people on this end of the county.

Another question, are the minutes posted anywhere? I couldn't find find them on the Pacific County Website.

Thank you.

Mary-Jean Grimes

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: Marijuana in Pacific County--Please read  
**Date:** Monday, January 27, 2014 8:55:48 AM

---

-----Original Message-----

From: Georgia Mourikis [<mailto:tgmourikis@centurytel.net>]  
Sent: Sunday, January 26, 2014 7:34 PM  
To: Tim Crose  
Subject: Marijuana in Pacific County--Please read

Hi Tim, we were out of town last week and I am now catching up with the Chinook Observer and am distressed to read that the dead line for submitting comments regarding marijuana (growing and selling) in Pacific County was Friday, January 21. Just the headline of the comment notice "Fired Up About Pot?" is a concern. It is my fear that this entire issue will be "boogeymaned" out of existence. I feel that I am being forced into a hastily written statement but will do so rather than do nothing.

First, I am 66 years old, do not use marijuana and probably will not use it in the future, I am a retired Oregon Parole and Probation Officer and I believe that marijuana should be legalized and regulated as provided by the new legislation passed and the rules devised by the state legislature. I have too many reasons for this opinion to write in this short time but will highlight a few:

1. Reality is that it is being used and will continue to be used regardless of what Pacific county does....legalization allows standards for growth, use, selling.
2. Monetary: legalization allows taxation of the product, provides jobs, allows the criminal justice system to adjust their priorities on other criminal activity.
3. Medicinal use: At 66, I have heard a constant pounding of the evils of marijuana ,,,,pathway to crack...whatever. I just listened to a physician in Israel indicate that medicinal marijuana use could be beneficial to NFL football players verses their current use of oxycodone. Dr. Sonjay Gupta (sorry about the spelling) has reversed his opinion on medical marijuana. This has been dogma. Information evolves, beliefs change based on evidence changing...do not allow Pacific county to be stuck in the past.
4. Personal experience: My clients who smoked pot violated the law, went to jail, were placed on probation...if they sold, went to prison, were on parole. If this was their only crime, they were easy to supervise and were most compliant. Now, the majority of my clients had alcohol abuse involved in their criminal activity....they tended to be violent and very difficult to supervise. They had loved ones /strangers / whatever, very much damaged by their drinking both financially, emotionally and physically. In my job, I enforced the law. But I cannot tell you how many times I would shake my head at the destruction caused by alcohol.....a legal drug with a really big lobby group behind it. Children molested, physically abused by the drunken boyfriend, father, whatever. Pot smokers are not violent, they are mellow.

Much more to say but will close in the hopes that this letter is considered in your decisions. Marijuana is going to happen, This is your chance to have a say in how it happens. Step up and do it right. Thank you. Georgia Mourikis....and Tony too.

Sent from my iPad

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: Marijuana producer and processor permits  
**Date:** Tuesday, January 21, 2014 12:19:25 PM

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Please add to file

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**From:** Marie Guernsey  
**Sent:** Tuesday, January 21, 2014 10:39 AM  
**To:** Tim Crose  
**Subject:** FW: Marijuana producer and processor permits

---

**From:** Charlene Nelson [<mailto:cnelson@shoalwaterbay-nsn.gov>]  
**Sent:** Tuesday, January 21, 2014 10:26 AM  
**To:** Faith Taylor; Lisa Ayers; Mary Jean Grimes  
**Subject:** Marijuana producer and processor permits

Good Morning,

I think it would be very helpful if we could secure exact addresses where these 4 Marijuana growing sites and 3 Marijuana processing sites are being considered. I believe it was said at the meeting that the requesting person's address and the growing or processing site was to be one and the same. A clear map marked with proposed sites would be very helpful.

It sounds like these proposed developments might be close to Dolphin Cove which is a care facility for Elders and also close to our Low Income Housing where many families with children live. You might also consider the danger to the ground water and environment if 800 workers have jobs here. Jobs are great, but where do the workers go to the toilet and where do they park their cars etc and where does the waste go that is produced by the growing and processing of the plants? Is there light pollution from the buildings?. I think this is a big operation and pros and cons should be understood by everyone before a decision is made that can change this area dramatically.

It was interesting to see two of the investors behind the name Eco. I think Eco is part of Kindred Holdings which is owned by investors that live in other states. It sounded like all the producers and processors might be one business.

I think it would be a good idea if you had a public meeting in Tokeland to clarify what is happening and how it might affect the area. Lots of people here are not even aware that this is going on because the notices are going out in your local papers and most people here receive the Daily World. It might be a good idea to put any notice of such importance in the Daily World or send a letter to everyone who lives in Tokeland or owns property and is on the tax roll, notify the Chamber and put up a public notice in post office.

Please forward this to Tim and the Planning and Development folks and the Commissioners.

Thank You,

Charlene Nelson  
Shoalwater Bay Chairwoman

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: Planning meeting regarding marijuana growing permit  
**Date:** Monday, January 27, 2014 8:50:27 AM  
**Attachments:** [Pot Growing.asc](#)

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-----Original Message-----

From: Ann & Carol [<mailto:brandymax4@gmail.com>]  
Sent: Friday, January 24, 2014 7:06 PM  
To: Tim Crose  
Subject: Planning meeting regarding marijuana growing permit

Mr. Crose, I am sending you an email as an attachment regarding the permits and the planning commission's meetings on the growing/processing of marijuana in Tokeland.

I would like to request that you postpone your meeting of February 6, 2014 in order to give the interested residents of Tokeland a chance to educate themselves on the pertinent issues. Thank you, Carol M. Stibbie and Ann M. Davidson

**From:** [Tim Crose](#)  
**To:** [Tia Channell](#)  
**Subject:** FW: POT in Tokeland  
**Date:** Friday, January 24, 2014 11:25:10 AM

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One more

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**From:** dcparks@comcast.net [mailto:dcparks@comcast.net]  
**Sent:** Friday, January 24, 2014 11:24 AM  
**To:** Tim Crose  
**Cc:** Lisa Ayers  
**Subject:** POT in Tokeland

Tim Crose,

I heard from Charlene Nelson about the meeting on Jan 16 about growing pot in Tokeland. I too have concerns about a large pot growing operation in our neighborhood. I feel that Pacific County is letting our community down by not letting the Tokeland property owners be involved with the discussion.

Dennis Parks

**From:** [Ann Skelton](#)  
**To:** [Tim Crose](#); [Tia Channell](#)  
**Cc:** [Eric deMontingny](#)  
**Subject:** I-502 Marijuana Permitting/Planning Commission  
**Date:** Thursday, January 23, 2014 9:05:06 PM

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January 23, 2014

Tim Crose, Assistant Planning Director  
Pacific County DCD

RE: I-502 Marijuana Permitting

Dear Tim,

I would like to add some remarks to those I made at the planning commission meeting last Thursday.

#### Retail Outlets

As mentioned in an earlier email, I hope that there can be some flexibility regarding hours of operation of marijuana retail outlets. Our urban areas are dense and often commercial areas abut residential zones. Most businesses close at 5 or 6 pm and very few restaurants stay open past 9pm.

#### Growing and Processing

I suggest that the planning commission consider whether the growing and processing of marijuana in greenhouses should really constitute agriculture. As pointed out in the Skagit County rules, agriculture is defined as use of ground and soil. Their code categorizes outdoor production, greenhouse production and opaque structure production. Skagit County describes greenhouse buildings as glass or transparent material "in which temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants." Additionally they identify production inside a structure other than a greenhouse as manufacturing of natural materials. This is called an "opaque structure" and probably will be the most common type of marijuana grow structure we will see here. Manufacturing is defined in the dictionary as production or processing. The term "nursery" does not apply because that activity has do with the sale of live plants. I have included the Skagit County document below.

Skagit has made an important distinction that draws from a comprehensive plan which recognizes the importance of preserving agriculture lands. Pacific County's Comprehensive Plan recognizes valuable AG land too, which has been traditionally been used as pasture or cranberries or other bog-related crops. I don't see how placing greenhouses or opaque growing structures on agricultural lands compliments our comprehensive plan especially if that land is classified as long-term commercially significant.

According to the Section 11 of the Critical Areas Ordinance 147, agricultural land of long-term significance shall not be used for any other purpose than agriculture. I believe defining now whether marijuana growing in buildings is agriculture seems a basic question to resolve and doing this might save headaches in the future.

### Shoreline Master Program

Although zoning is basic, the PCSMP is also a valuable tool in determining whether certain areas near shorelines are suitable for marijuana growing and processing developments.

### General Livability

Noise, noxious fumes and bright lighting can all become nuisances. Some growers may decide to use dogs to guard perimeters; in rural areas this is a nuisance if the dog is barking at anything that moves. How can citizens be assured that when valid complaints are made, enforcement will follow?

Thank you for giving me the opportunity to comment.

Ann LeFors  
Seaview and Portland

<http://www.mrsc.org/artdocmisc/s52marijuanamemo.pdf>



*salt aire*

January 24, 2014

Tim Crose, Director  
Department of Community Development  
Pacific County, Washington  
1216 West Robert Bush Drive  
South Bend, Washington 98586

Dear Mr. Crose

Thank you for all of your work relating to the proposed amendments to Ordinance 162, zoning for the production, processing and sale of marijuana in Pacific County.

As requested by the commissioners during the public hearing meetings on January 2, 2014 in Long Beach and January 16, 2014 in South Bend, I am enclosing comments relating to the proposed zoning changes to allow for Marijuana Growing, Processing and Retail sales under I-502 within Pacific County related to the proposed (Section 24 – Recreational Marijuana).

The stated purpose of the proposed Section 24 amendment is to establish land use controls on siting and operation of any structure or use relating to Marijuana production, processing, and retaining associated with recreational Marijuana. Pacific County wishes to adequately separate such uses from incompatible adjacent land uses by establishing criteria to address public health and safety impacts from such uses.

My background is in agriculture, agricultural brokerage, appraisal, and consulting throughout California, Oregon, Nevada and Washington. I have been involved within in agricultural appraisals, brokerage or agricultural consulting on some of the largest, most complex, diversified farming operations in California and Nevada, including large dairy facilities, wineries, various nut processing facilities, fresh fruit packing and processing facilities, potato storage and processing facilities, controlled atmosphere cold storage facilities, as well as millions of acres of all types of row, field, vegetable crop land, all types of orchards and vineyards. My family has been involved in the brokerage of agricultural properties since 1912. It is common to see conditional use permits for various types of processing facilities, however, it is very rare to require conditional use permits for existing and ongoing agricultural production of any crops of properties zoned for agricultural purposes as a permitted use.

P.O. Box 420  
Grayland, Washington 98547  
360.268.6027 or 559.994.3356

Page Two  
Mr. Crose  
January 24, 2014

I personally am involved with Tokeland Growing, LLC as a joint venture partner. In addition I will be helping bring in additional investors to make this new venture a financial success.

The Tokeland Mixed Use zoning designation contains the widest range of permitted uses, as compared to the Mixed Use zoning designations in Pacific County. Over 300 residents of Tokeland signed petition when the Tokeland Mixed Use zoning was enacted, supporting the wide variety of land uses to be permitted within the Tokeland Mixed Use Designation, distinguishing this zoning over all other areas of Pacific County. The Tokeland residents made it clear then did not want zoning like the Long Beach area of Pacific County.

### **Mixed Use - Tokeland**

The intent of the Mixed Use District for the Tokeland Rural Activity Center is to provide for a broad range of residential, agricultural, commercial, recreational and limited industrial uses reflective of the existing and historical land use patterns found in the developed areas of Tokeland.

- Permitted uses include All agricultural uses, including animal husbandry, horticulture, viticulture, floriculture, beekeeping, crop cultivation and the processing of agricultural products.
- All aquacultural farming activities including the storage of commercial fishing gear and commercial fishing vessels, all marine- life raising activities, including all fish/shellfish receiving and harvesting practices incidental to aquacultural activities, seafood processing facilities, and the commercial sales of aquacultural products.
- The cultivation, harvest, and production of ferns, moss, boughs, bark, berries, nuts, tree fruits, tree seeds, nursery stock, and Christmas trees.
- Any use which is similar in nature, usage, and impact to a listed permitted use.

The Tokeland Mixed Use already contains provisions for Conditional Uses for light industrial uses.

The property in the Tokeland Mixed Use is already protected under the Growth Management Act – being Rural Lands.

Page Three  
Mr. Crose  
January 24, 2014

The State of Washington is a “Right to farm” state. The right to farm is to protecting existing and ongoing agriculture from being farmed the farm operators rather than neighbors dictating on how and what to farm.

The Washington State Department of Ecology does not require permits to farm on “existing and ongoing” agricultural properties.

The Nelson Stock Ranch Property, where all the current Marijuana producer and processor applications in the Tokeland Area will be located, are all located within the Tokeland Mixed Use zoning designation.

- The Nelson Stock Ranch has historically been a “farm” since prior to statehood to the present.
- The property is “vested” as “existing and ongoing agriculture” being grandfathered due to historic existing and ongoing agricultural uses.
- The property is protected under the “Enabling Act”.
- The property is designated Non-Wetland – Prior Converted Farmland by the United States Department of Agriculture (NRCS).

The growing, production and processing of marijuana is considered by the State of Washington to be an agricultural activity. The growing and processing of Marijuana will be a heavily regulated farming operation under the rules and regulations imposed by the Washington State Liquor Control Board.

Any concerns about public safety relating to security are well addressed and spelled out by the Liquor Control Board on licensed Grower, Processor and Retailers. With the added tax revenues for the State of Washington, as well as Pacific County, there will be additional tax dollars to hire additional law enforcement officers. Each individual operation will have their own security on site as well. Realistically, the operations, if permitted on the Nelson Stock Ranch, could potentially fund additional law enforcement officers, with costs split up between the separate operations, if necessary.

**I would urge the Commissioners not to impose a Conditional Use Permit for the growing of Marijuana under a legally, licensed permit issued by the Washington Liquor Control Board within the Tokeland Mixed Use zoning designation for any property within the zoning district which consists of and historically has been “existing and ongoing” agricultural uses.**

Page Four  
Mr. Crose  
January 24, 2014

In the County's draft Section 24, the farming of Marijuana is described as a "Marijuana Production Facility". I would urge the county to change this definition to reflect the "Farming of Recreational Marijuana". The act of farming within a greenhouse is horticulture, not a facility.

Marijuana grown under a valid permit will be grown in controlled environment greenhouse facilities in Pacific County, given the short growing season and unpredictable weather condition which exist, especially on the coast in Tokeland. Greenhouse agricultural production is a permitted use already under the Tokeland Mixed Use. This does not need to be changed.

Presently, within the Tokeland Mixed Use zoning district, there is not a large enough supply of reliable electrical power until the Pacific County PUD completes the Tokeland Substation. Therefore, any permitted marijuana production permit issued to growers within this zoning district will realistically have to utilize natural light greenhouse structures with blackout capabilities located within the greenhouse structures. The concerns about light pollution would be limited realistically to security lighting for yard areas, as required by the Liquor Control Board, no different than most rural residences located within the Tokeland Mixed Use zoning.

The Tokeland Mixed Use already contains provisions relating to Conditional Use Permits for light industrial uses, which would potentially apply to the Marijuana Processing Facility structures. I would urge the commissioners to leave the conditional Use Permit process as presently exists within the zoning district.

If the permits applied for which would be constructed within the Tokeland Mixed Use zoning district, they would all be located on "existing and ongoing" agricultural property, which all agricultural uses are a permitted use under the present zoning.

Pacific County would benefit from the following:

- Sales Tax Revenue
- Property Taxes – from the multi-million dollars greenhouses, rolling stock and equipment
- Year round, good paying jobs for an area which has amongst the highest unemployment within the State of Washington.
- Local Business would benefit from having year round employment in the area. Food establishments, retail establishments, service stations, casinos, etc. will all benefit.

Page Five  
Mr. Crose  
January 24, 2014

With the implemental of I-5012, Pacific County has the opportunity to benefit for decades to come from this new agricultural industry. With the low, flat population trends in Pacific County, large areas of agricultural land, implemented in conjunction by a long term county plan, unemployment will decrease, tourism will increase, tax revenues will increase with permitted producers, processors and retailers under I-502. This is a growing industry which was voted by the citizens of Washington. This industry will continue to grow somewhere in the state of Washington. The question for Pacific County is do you want to be in the lead, and treat as new "dot com" job creation opportunity, or look the other way at other counties which will take this opportunity.

The economic base of Pacific County has always been supported by agriculture, weather timber, production agriculture or fishing. No matter what, it is all agriculture.

We look forward to working with the Pacific County on this new economic opportunity. I am available to assist the county in whatever way I can with my professional agricultural background . Feel free to call if there are any questions, or any assistance you need.

Sincerely,  
Salt Aire, Inc.



Richard M. Bambauer  
President and CEO

**From:** [Jim Sayce](#)  
**To:** [Tim Crose](#); [Tia Channell](#)  
**Cc:** [Eric deMontingny](#)  
**Date:** Friday, January 24, 2014 2:30:36 PM

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Tim,

Some follow up comments;

As noted before I would like to see grow, production, and sales as conditional uses.

Retail: Conditional use in Commercial/retail areas.. we'd have to condition in MU zone(s) say Tokeland or Chinook as well as OP and/or Seaview. However, it would appear to me that the only possible area in OP is near X street on the very east of town so I'm not sure if WCLB standards would nearly preclude an OP location but I suspect they could.

- If churches have registered day care programs where children are present as part of a regular day care program I think they should be within the 1000 foot circle exclusion area.
- As residential use is an outright permitted use on Ag or Rural for example that could automatically disqualify any such application for Ag or Rural lands. I think a better way to address this is either an outright setback or conditional setback from the property upon which the operation (Production/Processing) is being proposed
- I don't like the 1000 foot setback from residential properties for the simple reason that there are ag acreages that abut "residential properties" that are low developed or not developed and for every running foot, taking 1000 feet out of consideration appears to be an unnecessary burden. A setback could be conditioned on the type of adjacent residential property or density or it could be outright. Perhaps a better way is a front/rear/side setback plus conditions that relate to screening, light control, etc. A 200' setback that had a visual screen might be better than a 1000' setback without a screen. The visual screen could be a combination of a barrier fence and vegetation (I don't think anybody actually wants to look at a 10' high fence with razor wire nor do they want to see the skyline lit up with halogen lights 24-7).
- Retail hours of operation need to be regulated to typical business hours which can vary but 8 pm seems to be about the latest most business are open. I still desire that retail operations front doors and parking areas front state highways, have well lit parking lots with no benches, tables, chairs or places to sit out front. The direction and intensity of lighting, seating, etc. could be conditioned. I just don't like the thought of such retail operations on poorly lit side streets or back streets.
- For production ad processing: The whole question of whether it is ag or not is complicated. Many aspects of Ag are industrial looking in nature (take a dairy milking parlor or an egg or fryer production facility). They are huge but often remote for very good reasons..disease and contamination control and/or the adjacent open space to support that facility. Ag and rural lands have the space for setbacks, fences, security, etc. that we all seem to want to condition a facility that grows or processes. It seems counterproductive to regulate such operations to industrial zones which are in short

supply and then further constrict which could affect the industrial zone(s) use. I think a better way is to regulate in more lower density use areas where the conditions that relate to setbacks, screening, mitigating lighting, etc. can actually be complied with.

Jim

# Eco Ventures LLC

19217 36<sup>th</sup> Avenue W, Suite 205  
Lynnwood, WA 98036

Thursday, January 24, 2014

Eric deMontigny, Chairman  
Planning Commission  
Pacific County  
PO Box 68  
South Bend, WA 98586

Dear Mr. deMontigny;

It was a pleasure to meet you and the other Commissioners during the 01/16/14 Pacific County Commissioners' meeting.

We want to assist your efforts by complying with the request to provide the Commissioners with input on the several points addressed during the 01/02/14 and the 01/16/14 meetings of these ongoing discussions. We decided to provide a bullet-list format to facilitate the processing of our comments.

- **Job Creation:** although it is very difficult at this time to be able to provide a number of potential jobs to be created—as every company has a different business plan and the constrains they face (such as availability of power) vary from location to location, we estimate that the total number of jobs to be created directly by all the I-502 production and processing operations that want to be located within Pacific County would be in the order of several hundreds of local jobs for local County residents—based in the number of applications presented.
- **Traffic:** local traffic should be expected to increase in proportion to the increase in jobs; however, it does not seem to us that such potential increase could create a dramatic increase in traffic as operations are distributed within the County. Even the Tokeland area should not expect a significant traffic increase as the operations applying for licenses there because these are greenhouse farming operations that require a distributed work schedule. It is not a manufacturing facility that has set times for all workers to arrive and leave their jobsite.
- **Public Safety:** The nature of the regulation that the WSLCB has created imposes on the producers and processors substantial levels of security to be able to operate. This security is mainly passive security (electronic surveillance, access cards and codes, background checks for all employees, restricted access to only authorized personnel to the facilities, etc.). Thus, it seems that the example brought up at the 01/16/14 meeting by one of the Pacific County residents comparing our operations to a bank or pharmacy applies. And based on the comments made by the Pacific County Prosecutor at the 01/16/14 meeting, it seems that the law enforcement part

of the equation shares this perception. Furthermore, as new jobs are generated within the community, the number of potential delinquency acts should automatically reduce accordingly; thus, freeing police enforcement resources to address more important priorities within the County and each city within it.

- **Where will the production be sold?** I can only speak for our company's plans. According to our business plan, all of our production in Tokeland will be either sold to our distribution channel (the I-502 retailers with whom we have been securing distribution and sales relationships for the last eight months and none of which has retail applications located in Pacific County at this time) or destined for processing at our Seattle location—due to the existing power constraints in the Tokeland area.
- **Zoning:** It is prerogative of the Commissioners to address and define zoning parameters for the areas within the County; however, it seems that the County already has all zoning aspects addressed. Greenhouse Production is a farming operation not an industrial operation. And therefore, all applicants whose operations are identified as farming operations and which are to be located within areas that are properly zoned for farming should be granted the needed permits to operate without further delay or any conditional permits.
- **Tokeland:** during the last two meetings much time and discussion was allocated to the area of Tokeland and the total of four Tier 3 production applications to be based there: three applications from Tokeland Growing LLC and one from our company, Eco Ventures LLC. As Jason Bohbot and I explained during our dialog at the last meeting, because of the existing power limitations for the area of Tokeland, our production operation can only be a greenhouse-centric operation with minimal power. Thus, a real greenhouse farming operation. As such, many of the concerns brought up by the Commissioners and the Shoalwater Bay Indian Tribe's attorney (light contamination, noise, etc.) simply do not apply to our operation nor, it seems, to the Tokeland Growing operations either.

Eco Ventures LLC is committed to maintain an open dialog and work together with the Commissioners and local law enforcement towards the success of our operations and the wellbeing of the local community.

Myself and our investor, production and master gardener teams will be delighted to answer any questions you may have with regards our plans for expanding our operations to Pacific County.

Sincerely,

Alejandro Di-Tolla  
Managing Director  
Eco Ventures LLC  
19217 36<sup>th</sup> Avenue W  
Suite 205  
Lynnwood, WA 98036  
T: 425-825-5454  
C: 425-246-2372  
E: aditolla@me.com

**From:** [Florence Caplow](#)  
**To:** [Tia Channell](#)  
**Subject:** Re: How do I provide public comment to the planning commission via email?  
**Date:** Monday, January 27, 2014 1:46:51 PM

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Thanks!

Here it is.

Florence Caplow  
2892 Fisher Ave.  
Tokeland, WA 98590

I am very concerned about the proposed large marijuana growing operation in Tokeland. For one thing, I am offended by the use of the name of our community, named for an eminent 19th c. tribal leader, as an advertising gimmick for a marijuana producer. I think it reflects badly on both our community and the county. But more importantly, these indoor growing operations require truly vast amounts of electricity.

From a study on the energy use of indoor cannabis growing (<http://evan-mills.com/energy-associates/Indoor.html>): *Each four-by-four-foot production module doubles the electricity use of an average U.S. home and triples that of an average California home. The added electricity use is equivalent to running about 30 refrigerators. Processed Cannabis results in 4,600-times its weight in CO<sub>2</sub> emissions.*

We are a rural county with low population and relatively low energy use. We are trying to move toward renewable energy. A production center of this size could easily double the energy use of Tokeland, possibly raising electrical rates and the need to construct more energy production facilities. In this time of increasing concern about climate change, the last thing we need is another unsustainable industry.

Please vote NO on this project.

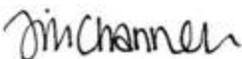
Sincerely,

Florence Caplow

On Mon, Jan 27, 2014 at 8:29 AM, Tia Channell <[tchannell@co.pacific.wa.us](mailto:tchannell@co.pacific.wa.us)> wrote:

Hello,

You can submit comments in writing as well. Go ahead and email me your concerns. The comment period technically ended Friday at 4:00 but if you email me soon I can still include yours as well. Thank you.



Administrative Assistant/Permit Tech



1216 W. Robert Bush Dr., PO Box 68, South Bend, WA 98586  
P: 360.875.9356, F:360.875.9304  
7013 Sandridge Rd., Long Beach, WA 98631  
P: 360.642.9382, F:360.642.9387

*NOTICE: All emails sent to and from this address will be received by the Pacific County email system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.*

*Pacific County is an Equal Opportunity Provider & Employer*

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**From:** Florence Caplow [mailto:[firenze33@gmail.com](mailto:firenze33@gmail.com)]  
**Sent:** Friday, January 24, 2014 7:50 PM  
**To:** Tia Channell  
**Subject:** How do I provide public comment to the planning commission via email?

I am a Tokeland resident, but I am out of state at the moment, so I can't participate in a hearing, and I'm very concerned about the environmental impacts of a potential marijuana growing operation in Tokeland. How can I communicate this to the planning commission without coming to a meeting?

Sincerely,

Florence Caplow

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[Slipping Glimpser: Zen Wonderings and Wanderings](#) (my essay blog)

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[Slipping Glimpser: Zen Wonderings and Wanderings](#) (my essay blog)

**Law Office of C. Craig Holley**

220 23rd Ave E Apt 202  
Seattle, WA 98112-5492  
(206) 325-5516  
Cholley3233@comcast.net

January 24, 2014

**Electronic Transmission Only**

Tim Crose  
Director, Pacific County Planning Commission  
Assistant Director, Department of Community Development

Faith Taylor-Eldred  
Director, Department of Community Development

Pacific County  
PO Box 68  
1216 W. Robert Bush Drive  
South Bend, WA 98586

Mr. Crose and Ms. Taylor-Eldred,

As you know, I represent Tokeland Growing, LLC, in its efforts to establish a lawful and fully regulated cannabis operation on the Nelson Stock Ranch property in Tokeland. The property has been exclusively and continuously a family farm since pre-statehood. It is vested under federal, state, and local law.

The Tokeland Mixed-Use (“TMU”) designation, a designation made unique to Tokeland through the dedicated efforts of over 300 Pacific County taxpayers in 1998 expressly does **not** require a Conditional Use Permit (“CUP”) for agricultural activities. (See Attachment.) Agricultural use by legal definition includes greenhouse growing.

My client’s concerns, frequently articulated at meetings and through correspondence, remains the proposed requirement of an additional Conditional Use Permit for growing cannabis in Pacific County. The CUP effectively re-designates this purely agricultural endeavor as a “facility” and imposes an

additional, onerous, and unnecessary layer of regulation on cannabis growing, which the State of Washington by statute has declared to be agricultural.

The requirement of a CUP in addition to the already restrictive and detailed requirements of I-502 and its enabling statutes and WACs practically ensures failure of State permit approval. As an essential element of the State approval process, aspirants to growing, processing, or sales of cannabis must meet stringent and unwaivable restrictions regarding public safety, security, waste disposal, access, environment, criminal activity, and the like. Tokeland Growing and any investors or joint venturers can and will meet all requirements or will not receive a State permit.

However, I-502 also requires -- pre-permit--proof of sufficient funds and their origination, site plans, business plans, and a demonstration that the permitted activity will be underway within one year and producing at a minimum of 50% of the permitted yield. The CUP, under the current permitting timelines, will delay any applicant's ability to have these factors timely in place so as to make a successful State permit impractical, or more likely, impossible.

The proposed CUP and accompanying SEPA and review period effectively regulate cannabis agricultural activities out of Tokeland, and out of Pacific County. It is axiomatic that Investors naturally gravitate to locations where there is local support rather than opposition, and where they have the greatest likelihood of success. From the correspondence and meetings it is clear that there is great support and little opposition for successful cannabis activities in Pacific County. The published Determination of Non-Significance generated **no** negative comments from the taxpaying public.

If the County government, however, does not support I-502 activities then it might be less expensive and less time-consuming, fairer and more direct, for all concerned—including individual taxpayers as well as Investors or permittees—to simply make that determination. The proposed CUP will have the same effect.

Thank you for your consideration of my client's (and others') concerns. I would also reserve comment on the public position or correspondence from the former Chairman of the Shoalwater Bay Indian Tribe until the new Chairman or the Council supports or adopts her demands.

Regards,

*/signed electronically/*

C. Craig Holley

Attorney for Tokeland Growing, LLC

Attachment: Section 18--Mixed Use District (MU)--Tokeland