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Orinda City Council bans outdoor marijuana plants

By Sora O'Doherty

When marijuana becomes legal in California in 2018, Orindans will be allowed to cultivate six marijuana plants indoors, but none outside, by a new ordinance to be adopted by the city council recently. The council took a pragmatic approach, recognizing that enforcement of restrictions on marijuana would be difficult to accomplish. Council Member Dean Orr was concerned about limiting the freedom of Orindans to grow marijuana on their property, but was convinced to support the ban on outdoor cultivation when assured that cultivation in a greenhouse or other garden building is consider an indoor grow. The council received a staff report and heard from Police Chief Mark Nagel, as well as two speakers in the public forum. Jaime Rich of Alcohol and Drug Addiction Prevention Team of Lamorinda expressed her concern that the new state law, Proposition 64, adopted by California voters in last November's general election, could enable easier access to marijuana by young people, who can suffer more adverse effects than adults. She recognized that the law did not permit the city to ban indoor grows, but urged the council to ban outdoor grows as more easily accessible to young people. She admitted that she didn't know about deliveries of marijuana, and Nagel agreed that he did not know how it would be possible to regulate deliveries.

Orinda mom Debbie Berndorf told the council, "If you haven't tried marijuana lately, you don't know marijuana." She stressed that the drug is now much higher in THC and is seriously addictive, unlike the product of 18 years ago. She spoke of the nuisance of outdoor grows, which, she said, produce horrific smells that can prevent neighbors from even using their backyards. She also opined that there are very few homebound patients who require home marijuana deliveries. She suggested a registry, which was not adopted by the council, but stopped short of recommending a permit process.

Orinda City Attorney Osa Wolff was joined by an expert from her firm, Shute, Mihaly & Weinberger LLP, Heather Minner. Minner advised that the city could impose restrictions on outdoor grows, but that smells are not as easily measurable as noise. The city could limit the number of outdoor plants, or ban them completely, which the council decided to do.

The city cannot ban indoor cultivation, but could have chosen restrictions. However, enforcement problems proved a deterrent to such restrictions. The council did concur with a staff recommendation to ban commercial marijuana activities from Orinda.

Council Member Inga Miller mused that she didn't want to send Orinda residents to Moraga or Lafayette to buy marijuana; a furtherance of "retail leakage." However, Council Member Darlene Gee supported the ban and suggested it was more likely that Orindans would go west to seek their marijuana in Berkeley or Oakland.

So Orindans will be able to order marijuana deliveries, but won't be able to pick up local supplies; they can grow marijuana plants inside, but not outdoors.

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