



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** August 29, 2011

**COUNCIL DISTRICT:** Citywide  
**SNI AREAS:** All

**SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE TO ESTABLISH  
ZONING AND LAND USE REGULATIONS PERTAINING TO MEDICAL  
MARIJUANA COLLECTIVES**

## **RECOMMENDATION**

The Planning Commission voted 6-0-1 (Commissioner Platten absent) to recommend that the City Council adopt the Negative Declaration and approve the proposed Medical Marijuana Collective Land Use Ordinance with specific recommendations for each of the zoning and land use parameters of the Council-initiated ordinance.

## **OUTCOME**

Should the Council approve the land use and zoning regulations as well as an ordinance regarding the operations of Collectives in San Jose, then the City will have a comprehensive regulatory program for Medical Marijuana Collectives.

## **BACKGROUND**

After public testimony and deliberation, in April 2011, the City Council initiated an ordinance setting forth land use and zoning regulations (hereafter, Land Use Ordinance) pertaining to Medical Marijuana Collectives. As required by the Municipal Code, the Planning Commission conducted a public hearing on this Council-initiated ordinance. On June 22<sup>nd</sup>, the Planning Commission heard public testimony and discussed the Land Use Ordinance and the staff reports (<http://www.sanjoseca.gov/planning/hearings/PC/2011/Reports/0622/Ord.pdf>). Prior to making its recommendation to the Council, the Commission requested additional information from staff, particularly regarding the proposed regulatory ordinance (proposed changes to Title 6 of the Municipal Code, (hereafter Regulatory Ordinance) to govern the operational requirements of Collectives within San Jose.

On July 13<sup>th</sup>, the Commission heard a presentation from the Planning and Code Enforcement divisions of the Department of Planning, Building and Code Enforcement; the Police Department; and the City Attorney's Office regarding the Land Use Ordinance and the Regulatory Ordinance. The Commission also considered an additional written report from staff: <http://www.sanjoseca.gov/planning/hearings/PC/2011/Reports/0713/MMOrd.pdf>. The Commission then heard public testimony and engaged in a dialogue with staff. After the discussion, the Commission was prepared to make its recommendation; however, because the public was previously informed that the Commission's recommendation would occur on July 27<sup>th</sup>, the Commission continued the hearing to that date to make its recommendation.

On July 27<sup>th</sup>, the Commission again heard public testimony and then gave its recommendation for each of the parameters of the Land Use Ordinance. Individual votes were taken for each parameter as well as a vote on the overall package of recommendations. Additionally, although outside of the land use purview of the Commission, they also provided recommendations to the Council regarding the maximum number of Collectives that could operate in San Jose, off-site cultivation of medical marijuana, alternative delivery methods, and the process by which Collectives would become registered with the City.

To facilitate the public's participation and testimony on the 27<sup>th</sup>, all of the prior written reports to the Commission were posted to the Planning Commission agenda for July 27<sup>th</sup>, along with a new supplement that addressed questions from the Commission's July 13<sup>th</sup> meeting: <http://www.sanjoseca.gov/planning/hearings/PC/2011/Reports/0727/MMOrd.pdf>.

## **ANALYSIS**

The majority of the Commissioners acknowledged meeting with Medical Marijuana Collective representatives and visiting one or more Collectives to understand the current operations. Over the course of the three meetings, the Commission heard public testimony primarily from the Collectives and their representatives. This memorandum summarizes the Planning Commission's recommendations, the votes on the individual parameters, and other comments that the Commission wished to provide to the City Council. Attached to this report is a summary table comparing the Council-initiated ordinance and Planning Commission recommendations, as well as all correspondence received by the Commission on this topic.

### **Zoning Districts**

The Council initiated Land Use Ordinance specified that permitted Collectives be located in the Commercial General (CG), Downtown Primary Commercial (DC), Light Industrial (LI) and Combined Industrial Commercial (CIC) Districts. The Planning Commission recommended those zones be expanded to also include: Commercial Pedestrian (CP), Commercial Office (CO), Commercial Neighborhood (CN), Heavy Industrial (HI) and Industrial Park (IP), which would result in all non-residential Districts permitting Collectives. The Commission wanted to broaden the available zoning districts for Collectives while expanding the distance requirements to sensitive uses (see below). This motion passed unanimously (6-0-1, Platten absent).

### Distance Requirements

The Council initiated Land Use Ordinance provided that Collectives must comply with AB 2650 distance requirements for schools; and, that Collectives should comply with the same distance requirements as are currently required for liquor stores and for all other sensitive uses, as follows:

- 600 feet from Public and Private Schools;
- 500 feet from child daycare facilities, churches with child daycare facilities, community/recreation centers, parks, libraries, substance abuse rehabilitation centers and other Collectives; and
- 150 feet from residential uses

After a couple of motions, the Planning Commission recommended that the distances between a Collective and specific sensitive uses be expanded to 1,000 feet from all of the above-mentioned uses, with the exception of 500 feet from substance abuse rehabilitation centers and 150 feet from residential uses, measured property line to property line. The Commission stated that the distances to sensitive uses should be expanded to further protect families and children. The 1,000-foot distance was also based on one Commissioner's research of Medical Marijuana Collective regulations in other cities, such as San Diego. This motion passed (4-2-1, Abelite and Cahan opposed, Platten absent). Commissioner Abelite stated that he was opposed because the distances would be too limiting for Collectives and, therefore, for patients. Cahan was opposed because impenetrable barriers should be considered as a factor rather than just a strict distance measurement.

### Pedestrian Area Restrictions

The Council initiated Land Use Ordinance provided that no Collective should be located on the ground floors of buildings with active pedestrian use such as in Downtown or in areas intended to have high pedestrian traffic, including but not limited to major shopping malls (i.e., The Plant, Oakridge, Eastridge, etc.). The Planning Commission recommended that Collectives not be allowed to be located on the ground floor of buildings within the Commercial (CP) and Downtown Primary Commercial (DC) zoning districts, even if the building is single-story. This motion passed unanimously (6-0-1, Platten absent).

### Zoning Verification

The Planning Commission agreed with the Council-initiated Land Use Ordinance that requires a Zoning Verification for each Collective. The Commission voted unanimously on this motion (6-0-1, Platten absent).

### Additional Criteria for Light Industrial Parcels

Council directed the Administration to include in the Land Use Ordinance language adding criteria to the Zoning Verification process at the discretion of the Director of Planning to protect the Light Industrial zones. In light of the ministerial Zoning Verification method included in the Council-initiated Land Use Ordinance, it is critical that Council's intent to protect Light Industrial areas be implemented in a clear "yes/no" approach. Accordingly, in its memorandum to the Planning Commission, staff suggested specific criteria rather than open ended discretion. These criteria are that no Collective be allowed to locate within the Enterprise Zone or other Incentive Zone, and that no Collective be allowed to locate within 1,000 feet of businesses that use and/or store hazardous materials. The Enterprise Zone is an adopted geography consistent with State programs and generally includes an area extending as far north as the San Jose Mercury News headquarters on Ridder Park Drive, as far east as the western boundary of Independence High School, as far south as the Monterey Corridor Redevelopment Project area, and as far west as the Julian-Stockton Redevelopment Project area/Diridon Station area. Staff also suggested the 1,000-foot distance because this is the distance that is used to protect sensitive uses from hazardous materials.

The Commission debated the extent to which the Commission's recommendations on the other parameters of the Land Use Ordinance would provide adequate protection to the City's employment lands. Some Commissioners did not think additional protections were necessary. Others disagreed, saying that additional protections were necessary for Light Industrial zoned properties only. The Planning Commission agreed with staff's recommendations on both criteria (5-1-1, Cahan opposed and Platten absent).

### Maximum Number of Collectives

Even though the maximum number of Collectives is proposed to be a part of the Regulatory Ordinance (Title 6), the Commission recommended a maximum number of 25 Collectives with no more than 3 per Council District. The Commission stated that San Jose should either ban Collectives or allow them in a manner that they can be successful in a regulated environment. This motion passed (5-1-1, Bit-Badal opposed and Platten absent).

### Off-Site Cultivation

Although the Regulatory Ordinance is outside the purview of the Planning Commission, the Commission did recommend an allowance for off-site cultivation so long as it occurs in the City of San Jose (motion passed unanimously (6-0-1, Platten absent)).

The Commission acknowledged the testimony from the Collectives that expressed concern about becoming a target for crime since it would be public knowledge that they were growing on-site at the Collective location. After some discussion of energy use, Commissioner Abelite explained that the amount of energy that the Collectives say they use in grow operations is less than the amount of energy used in a shopping center, based on his experience with such centers. For example, the grow operations of two Collectives is about the same as one mid-size grocery store.

### Alternative Delivery Systems

At the time of the Commission's deliberations, it was unclear if the proposed Regulatory Ordinance would allow medical marijuana products such as lotions, salves, etc. as an alternative to smoking the medical marijuana. For this reason, the Commission recommended unanimously the allowance for such alternative delivery systems (6-0-1, Platten absent). As part of their consideration, the Commission noted their assumption that County Health would provide proper oversight of these products.

### Process Recommendations

Although outside the Planning Commission's purview, Commissioner Abelite proposed a framework for selecting Collectives based on the testimony to the Commission:

1. Upon adoption of Title 20, a moratorium preventing the opening of any new collective is established. In addition, all operating collectives must obtain a "Zoning Verification" from the Planning Department within 30 days. All other collectives can now be closed. (note 1).
2. At the 60 day time frame, the City can post an application on line and any remaining collectives should then submit an application to the City Manager's office. Limit this to the first 45 collectives that make application. This may further serve to disqualify and close more collectives. (note 2).
3. At this point, the remaining collectives would be permitted to operate within guidelines so long as they pay prorated monthly licensing fees.
4. As soon as possible, the City Manager's office then can conduct a ranking RFP selection process which selects the \_\_\_\_\_ best operators. RFP application fees to be charged.

Note 1: The process and criteria of what and how a "Zoning Verification" is implemented is already established. It is a non discretionary review of where a collective is currently operating. Simply put, if the applicant collective does not meet the Title 20 zoning code, no Zoning Verification is issued. No discretionary approval exists.

Note 2: The City Manager's office has already formulated a 7-page list of criteria that qualifies approvable collectives and another 3-page list of what disqualifies collectives. This is a non-discretionary set of criteria.

The Commission voted unanimously on this motion (6-0-1, Platten absent).

August 29, 2011

**Subject: Proposed Ordinance for Medical Marijuana Collectives**

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### Planning Commission Vote on Recommendation Package

After the individual consideration and vote on each parameter, the Planning Commission voted unanimously (6-0-1, Commissioner Platten absent) to recommend that the City Council adopt the Negative Declaration and approve the proposed Medical Marijuana Collective ordinance with specific recommendations for each of the zoning and land use parameters of the Council-initiated ordinance as described in this memorandum.

### Other Comments/Observations

On July 13<sup>th</sup>, Commissioner Platten, knowing that he would not be in attendance for the Commission's July 27<sup>th</sup> meeting, requested that his comments and observations be included in this transmittal, as summarized below:

- San Jose is a "crucible of change."
- There is high demand for medical marijuana. San Jose has the opportunity to regulate the Collectives to make money for the City and help quality of life.
- The Council-initiated ordinance was not "a good ordinance." Instead, Council should consider the recommendations of Medicinal Cannabis Collectives Coalition (MC3) in their letter dated July 11, 2011.
- The Zoning Districts which are appropriate for Collectives include IP-Industrial Park.
- The Council should use a "merit based" selection process for a limited number of Collectives in San Jose.
- The Collectives should obtain a Conditional Use Permit instead of a Zoning Verification.
- A limit of ten Collectives is "arbitrary" and the Council should consider no limit.
- There are overlapping land use issues that need to be reconciled in the proposed Land Use Ordinance.

### COORDINATION

This ordinance was coordinated with the City Attorney.

### CEQA

Negative Declaration PP11-039, resolution to be adopted by City Council.

/s/

JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Laurel Prevetti at 408-535-7901.

Attachments:

- Table Comparing Council-Initiated Ordinance and Planning Commission Recommendations
- Correspondence

**Zoning and Land Use Regulations for Medical Marijuana Collectives**  
**Proposed Title 20 Amendments to the Municipal Code**

	<b>City Council Initiated Ordinance</b>	<b>Planning Commission Recommendations</b>
<b>Zoning Districts</b>	<ul style="list-style-type: none"> <li>• CG-Commercial General</li> <li>• DC-Downtown Primary Commercial</li> <li>• LI-Light Industrial</li> <li>• CIC-Combined Industrial Commercial</li> </ul>	<ul style="list-style-type: none"> <li>• CP-Commercial Pedestrian</li> <li>• CO-Commercial Office, only if the site is within 600 feet of an existing Medical Facility</li> <li>• CN-Commercial Neighborhood</li> <li>• CG-Commercial General</li> <li>• DC-Downtown Primary Commercial</li> <li>• CIC-Combined Industrial Commercial</li> <li>• HI-Heavy Industrial</li> <li>• LI-Light Industrial</li> <li>• IP-Industrial Park</li> </ul>
<b>Distance Requirements</b>	<ul style="list-style-type: none"> <li>• 600 feet from Public and Private Schools (AB2650)</li> <li>• 500 feet from child daycare, church with child daycare, community/recreation center, park, library, substance abuse rehab. center or another Collective</li> <li>• 150 feet from residential use</li> </ul>	<ul style="list-style-type: none"> <li>• 1,000 feet from Public and Private Schools (exceeds AB2650), child daycare, church with child daycare, community/recreation center, park, library</li> <li>• 500 feet from substance abuse rehab. center or another Collective</li> <li>• 150 feet from residential use</li> </ul>

	<b>City Council Initiated Ordinance</b>	<b>Planning Commission Recommendations</b>
<b>Pedestrian Area Restrictions</b>	Not on the floors of buildings with active pedestrian use (defined as the ground floor of buildings located within the Downtown Core or Neighborhood Business Districts, which areas are more particularly identified in the San Jose General Plan and all floors of shopping centers located on a parcel or parcels totaling over 40 acres in size (such centers would include, by way of example, Eastridge, the Plant and other similarly-sized shopping centers)	Not on the ground floor of buildings within the CP-Commercial Pedestrian and DC-Downtown Primary Commercial zoning districts
<b>Additional Criteria for Light Industrial Parcels</b>	Direct the Administration to return with these criteria	<ul style="list-style-type: none"> <li>• No Collectives within the Enterprise Zone or other Incentive Zone</li> <li>• No Collectives within 1000 feet of businesses that use and/or store hazardous materials</li> </ul>
<b>Zoning Verification</b>	Yes	Yes
<b>Maximum Number</b>	10, no more than 2 per Council District	25, no more than 3 per Council District
<b>Off-Site Cultivation</b>	No	Yes, limited to the City of San Jose
<b>Alternate Methods</b>	Allow edibles and other cannabis products, per draft Title 6	Allow other cannabis products (no mention of edibles)



	<b>City Council Initiated Ordinance</b>	<b>Planning Commission Recommendations</b>
<b>Selection Process</b>	Per draft Title 6	<ol style="list-style-type: none"> <li>1. Upon adoption of Title 20, a moratorium preventing the opening of any new collectives is established. In addition, all operating collectives must obtain a "Zoning Verification" from the Planning Department within 30 days. All other collectives can now be closed. (note 1).</li> <li>2. At the 60 day time frame, the City can post an application on line and any remaining collectives should then submit an application to the City Manager's office. Limit this to the first 45 collectives that make application. This may further serve to disqualify and close more collectives. (note 2).</li> <li>3. At this point, the remaining collectives would be permitted to operate within guidelines so long as they pay prorated monthly licensing fees.</li> <li>4. As soon as possible, the City Manager's office then can conduct a ranking RFP selection process which selects the _____ best operators. RFP application fees to be charged.</li> </ol> <p>Note 1: The process and criteria of what and how a "Zoning Verification" is implemented is already established. It is a non discretionary review of where a</p>

		<p>collective is currently operating. Simply put, if the applicant collective does not meet the Title 20 zoning code, no Zoning Verification is issued. No discretionary approval exists.</p> <p>Note 2: The City Manager's office has already formulated a 7 page list of criteria that qualifies approvable collectives and another 3 page list of what disqualifies collectives. This is a non discretionary set of criteria.</p>
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Director of Planning, Building & Code Enforcement  
 Joseph Horwedel  
 200 East Santa Clara St., 3<sup>rd</sup> Floor Tower  
 San Jose, CA 95113

*Rec'd  
 28 July 2011*

Re: Medical Cannabis Ordinance

Good morning Director Horwedel,

Thank you again for all your efforts on this important issue. Over the past 18 months, I have personally attended all council, community outreach and planning commission meetings regarding this issue. Unfortunately, some of the items in the proposed medical cannabis regulations are not based on sound policy, just expediency. Below is a short summary of the items I find most troubling:

**Zoning**

The city council focus of only permitting dispensaries in very limited zones to reduce the number of collectives will not ensure safe access for patients or give the best collectives a chance to exist. The same, if not better results can be achieved by instead focusing on the distance to sensitive uses and receptors. The map matrix introduced at the July 13<sup>th</sup> meeting shows no collective in the (CG) Commercial General zone will meet the sensitive use distance requirements. By including (CN and CP) Commercial Neighborhood & Commercial Pedestrian, the ordinance will ensure safe and convenient access for patients. The sensitive use distance requirements will guarantee the collectives are located in convenient, yet appropriate locations. Numerous cities, including Oakland and San Francisco have had tremendous success with dispensaries located in commercial zones.

Relegating patients to such unfriendly zones as those currently being proposed by the city council seems prejudicial when compared with more traditional commercial zoning:

	<b>Industrial Zones</b>	<b>Commercial Zones</b>
<b>Environment</b>	<ul style="list-style-type: none"> <li>• Desolate – especially at night;</li> </ul>	<ul style="list-style-type: none"> <li>• Well lit and generally safer;</li> </ul>
<b>Accessibility</b>	<ul style="list-style-type: none"> <li>• Difficult access for handicapped, elderly;</li> </ul>	<ul style="list-style-type: none"> <li>• Easily accessible (especially for handicapped, elderly)</li> </ul>
<b>Transportation</b>	<ul style="list-style-type: none"> <li>• Little or no public transportation;</li> </ul>	<ul style="list-style-type: none"> <li>• Plentiful public transportation</li> </ul>
<b>Security</b>	<ul style="list-style-type: none"> <li>• Added security required due to isolation;</li> <li>• Potential for crime/lawsuits due to patients forced to visit industrial zones at night</li> </ul>	<ul style="list-style-type: none"> <li>• Overall safety due to large populace and general design and usage of the environment</li> </ul>

The welfare and safety of the citizens is always a top priority for cities when establishing ordinances or regulations. Please consider recommending the city council include CN and CP zones in the final ordinance.

## Permits

While directly not a planning issue, the streamlined process recommended by staff for distributing permits is a first come-first served race to accomplish this task. While this may seem like less work now...there will most certainly be more enforcement work later because bad operators got lucky and were issued a permit. Prodigious litigation in other cities dictates that any streamlined process should be based on merit not chance. Why not follow San Jose's existing *Conditional Use Permit* model which requires rigorous review and public input...why reinvent the wheel? While the CUP approval does run with the land, Title 6 will insure that operators meet city requirements in order to be issued a permit to operate.

I realize this is unfamiliar territory for the city, however by looking to working models in other cities (not Los Angeles) and keeping an open mind, San Jose can craft an ordinance that is a benefit to all its residents. A good example would be Sacramento where councilmember Robbie Waters, a former sheriff known as the council's most active medical marijuana **opponent** said he had finally been able to see past "the cop view" of medical distribution. Waters shocked advocates in a dramatic turnaround by warmly thanking them for years of educating him about the importance of medical marijuana. The city council recently voted unanimously to pass an agreeable compromise ordinance. I hope San Jose can do the same.

Thank you for your time.

Sincerely,



Pat Knoop

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San Jose, CA 95123  
408.455.5550  
patknoop@yahoo.com

7-27-11  
Stangis



NOT FOR CONSTRUCTION

POTENTIAL MEDICINAL CANNABIS LOCATIONS UNDER THE PROPOSED ORDINANCE

M/C3 ANALYSIS  
SAN JOSE, CA

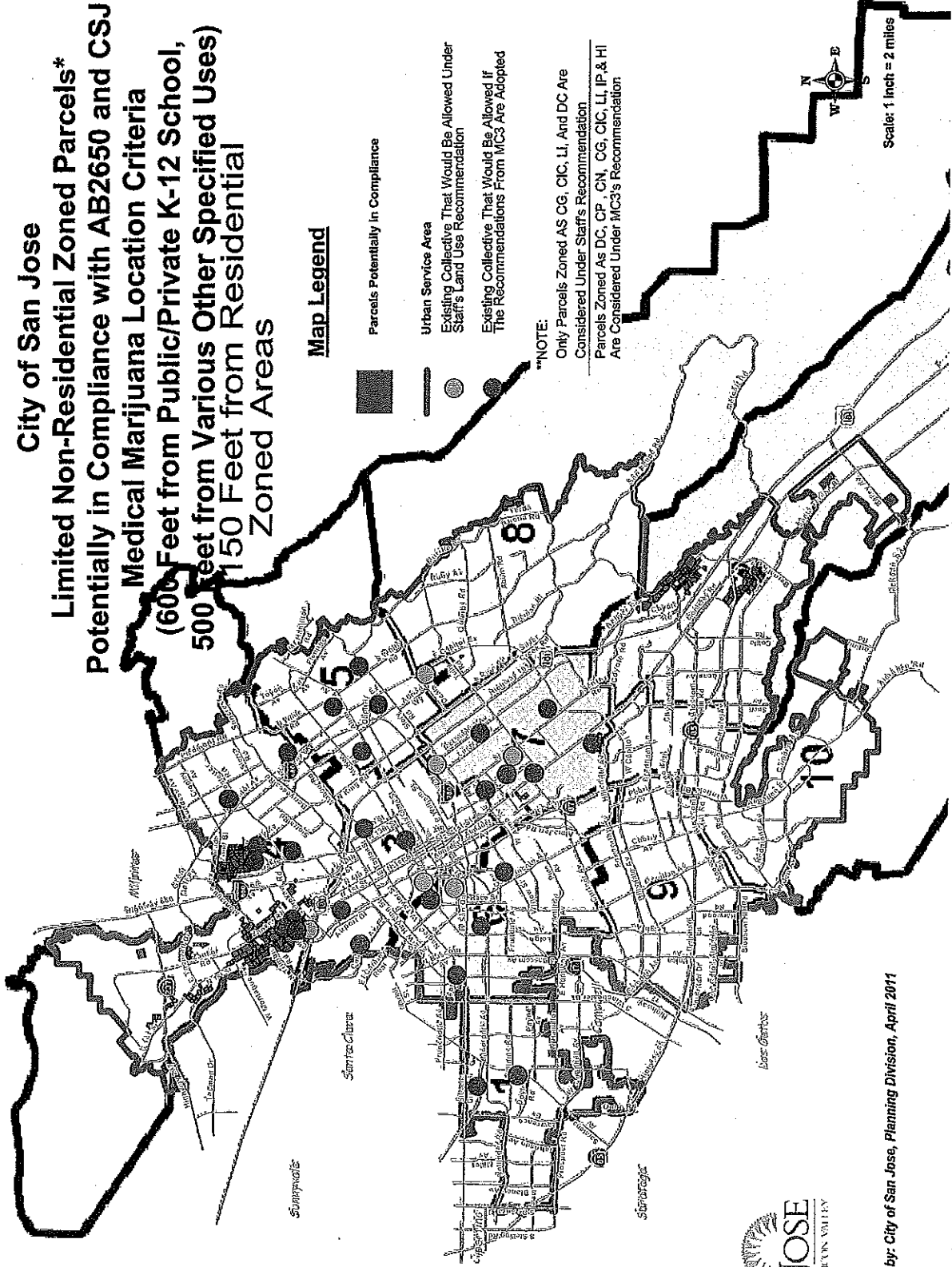
PROJECT:	2008.106
FILE:	M/C3 COLLECTIVE.DWG
DATE:	APR. 15, 2009
SCALE:	
DESIGNED BY:	CT
DRAWN BY:	LRC
REVIEWED BY:	CT/VR
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EXHIBIT 2  
OF XX

**City of San Jose**  
**Limited Non-Residential Zoned Parcels\***  
**Potentially in Compliance with AB2650 and CSJ**  
**Medical Marijuana Location Criteria**  
**(600 Feet from Public/Private K-12 School,**  
**500 Feet from Various Other Specified Uses)**  
**150 Feet from Residential**  
**Zoned Areas**

Map Legend

- Parcels Potentially in Compliance
  - Urban Service Area Existing Collective That Would Be Allowed Under Staff's Land Use Recommendation
  - Existing Collective That Would Be Allowed If The Recommendations From M/C3 Are Adopted
- \*NOTE:**  
 Only Parcels Zoned AS CG, CIC, LI, And DC Are Considered Under Staff's Recommendation  
 Parcels Zoned As DC, CP, CN, CG, CIC, LI, IP, & HI Are Considered Under M/C3's Recommendation



Map Prepared by: City of San Jose, Planning Division, April 2011

FOR THE PURPOSE OF USE OF THESE PLANS FOR CONSTRUCTION OR OTHER APPROVES, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL LIABILITY AS A RESULT OF CONSTRUCTION OF WORK OR THIS PROJECT, EXCEPT FOR THE DESIGN PROFESSIONAL'S NEGLIGENCE OR INCOMPETENCE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ALL LIABILITY AS A RESULT OF CONSTRUCTION OF WORK OR THIS PROJECT, EXCEPT FOR THE DESIGN PROFESSIONAL'S NEGLIGENCE OR INCOMPETENCE.

Planning Commission Agenda: July 27, 2011,

Item: 3.e

TO: Chair and Fellow Planning Commissioners

From: Commissioner Ed Abelite

Re: A policy recommendation as it relates to selection of collectives

I am writing this narrowly focused memo and recommendation on what could be the process for selecting which medical marijuana collectives ultimately receive the right to operate within the City of San Jose.

My primary concern is that I am reluctant about using a CUP or similar process for collective selection. Furthermore, I believe that neither a "lottery system" nor a "first in line application" process will give the City the best operators.

I think what would work is a system that: Stops further proliferation of collectives; Closes down collectives that do not meet initial Title 20 criteria; and then selects the top say 30 users based on a ranking RFP selection system.

This recommendation is not meant to address the following questions which we will be debating perhaps as separate discussion items and motions:

- The maximum number of collectives;
- On/Off site cultivation;
- Zoning Districts;

Therefore I submit the following as a possible recommendation from the Planning Commission to the Mayor and City Council in regards to the selection of the best collective operators.

1. Upon adoption of Title 20, a moratorium preventing the opening of any new collectives is established. In addition, all operating collectives must obtain a "Zoning Verification" from the Planning Department within 30 days. All other collectives can now be closed. (note 1).
2. At the 60 day time frame, the City can post an application on line and any remaining collectives should then submit an application to the City Manager's office. Limit this to the first 45 collectives that make application. This may further serve to disqualify and close more collectives. (note 2).
3. At this point, the remaining collectives would be permitted to operate within guidelines so long as they pay prorated monthly licensing fees.
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Note 2: The City Manager's office has already formulated a 7 page list of criteria that qualifies approvable collectives and another 3 page list of what disqualifies collectives. This is a non discretionary set of criteria.



## Proposed Changes to Title 20 Regarding Medical Marijuana Collectives

### *Summary*

In order to protect the rights and promote the health of medical cannabis patients in San José without infringing upon the rights of other residents, the Cannabis Patients Alliance respectfully suggests the following changes to the proposed amendment to Title 20 of the San José Municipal Code:

- Set a cap of 30 permits for collectives, but allow those few currently operating responsibly to continue operations; saving money on litigation while maximizing marijuana business tax revenue, and making it easier to close non-compliant collectives while effectively banning new ones
- Allow collectives to operate in non-residential zones as long as they are at least 600 feet from a K-12 school and 150 feet from any property in a residential zone, or have sufficient intervening barriers; allowing collectives to be located in areas that provide convenient access to patients
- Issuing a temporary zoning code compliance certificate to those few collectives that are currently operating responsibly but are located in areas that are not in compliance with the new zoning requirements, allowing them 180 days to find a location and preventing any interruption in the delivery of medicine to their patients
- Allow collectives to sell goods used in the cultivation, processing, and consumption of medical cannabis; giving patients an opportunity to purchase these supplies from an organization that is able to provide them with discounts and important information on how to best use them to promote their health

## *Setting a Cap of 30 Permits*

The current proposal from the city council sets a cap of 10 permits. This number is a random selection that does not account for the demand in San José, a city with over 950,000 residents, surrounded by communities that do not have any access to legal medical cannabis dispensaries. This leaves 1 collective for every 95,000 residents of San José, or one for every 180,000 residents of Santa Clara County.

By comparison, Oakland, with a population of only 400,000, just voted to increase the number of dispensaries from 4 to 8, creating one facility for every 50,000 residents. San Francisco, a city of 800,000, authorized 26 dispensaries, one for every 31,000 residents.

Meeting the current demand for medical cannabis in San José with only 10 dispensaries would require Wal-Mart sized facilities and all the traffic and parking problems that come along with them. It would also decrease tax revenues and increases illegal activity as patients turn away from high prices, long wait times, low quality, and the inferior service that come with granting monopolies to a few providers. They will be forced back to the street for their medicine.

This plan also encourages illegal activity by ensuring that only operators or investors with millions of dollars to build and operate such large facilities will receive permits. That type of investment isn't made without expecting a significant profit, which is contrary to state law.

*When the number of permits is increased to at least 30, the required size of each facility is reduced by 2/3<sup>rd</sup>'s, with a corresponding decrease in the impact on the surrounding community. It also encourages collectives to compete for patients, promoting lower prices, higher quality, and better service. This is a better solution for everyone.*

## *Keeping Responsible Providers*

Implementing the city council's proposed changes to Title 20 and Title 6 will result in huge expenditures to process applications and close down existing responsible providers while seriously jeopardizing tax revenues. It will also harm patients by closing down their current sources for medicine, forcing them to choose from only 10 giant providers granted monopolies on a first-come, first-served basis. This can all be avoided by allowing those collectives that are currently operating responsibly to remain open, and letting natural attrition reduce their numbers to 30 or less over time.

By most estimates, there are approximately 125 or more collectives currently operating dispensaries in San José today. Of those, only 73 paid the marijuana business tax in April. Using the requirement that marijuana taxes be paid would immediately eliminate 52 collectives, reducing the total



by over 41%. Requiring business licenses issued by December of 2010 as per existing regulations would eliminate approximately 20 more, reducing the total to 53, for an overall reduction of almost 60%. Finally, requiring the payment of application and permit fees would eliminate another 5 to 10 collectives, taking the total to approximately 43, reducing the current number by 2/3<sup>rd</sup>'s!

The existing responsible operators generated over \$300 in tax revenues in April, and if allowed to continue operations, will produce even more as time goes on. They already enjoy the trust and support of San José's patients and they can continue operating without interruption. Granting permits to 10 randomly selected, large-scale commercial providers will interrupt the flow of medicine to patients while increasing prices, lowering quality, and reducing the level of service, sending legitimate patients to the streets for their medicine. This not only increases illegal activity, it dramatically reduces tax revenues that are desperately needed to balance the city's budget.

By selecting collectives that are currently operating responsibly, permits will be issued on a merit-based system, without having to use expensive and time-consuming processes like a Conditional Use Permit, which is adamantly opposed by the mayor and city council.

*Awarding permits to 40 or so collectives that have already proven to be responsible operators by obtaining a business license, paying all applicable taxes, and being good providers and neighbors is the easiest, least expensive, and most equitable way to ensure that the patients of San José have access to the medicine they need without negatively impacting the community or the city's budget.*

### ***Allow Collectives in Non-Residential Zoning***

Despite having almost as many dispensaries as Starbuck's shops currently operating in San José, there is no tangible proof that collectives are causing any major problems for their neighbors. When challenged to back up claims of crime waves and floods of nuisance complaints, police and code enforcement officers could only cite a handful of crimes and anecdotal complaints, far less violence and offense than be found in the average San José middle school. This lack of legitimate complaints supports the assertion that collectives should be allowed to locate in all non-residential zones, as long as they comply with the state requirement regarding schools, and are at least 150 feet away from a zoned residence, and act as responsible neighbors.

The list of sensitive receptors in the current proposal from the city council provides no justification for their inclusion. There is no proof that the presence of a private collective, that does not even allow a non-member, let alone a child to enter the premises, poses any threat to parks, trails or churches.

Judging by the experience of San Francisco, there is little reason to expect that dispensaries will provoke any more complaints than any other business or entity in the city. The San Francisco Department of Public Health, responsible for supervising medical cannabis dispensaries in that city, recently released information showing only 11 complaints against dispensaries in the last 5 years, and none of them were serious<sup>1</sup>.

*By allowing collectives to locate throughout the city, where patients need them, demand can be met without creating any hardship for the community or jeopardizing anybody's safety.*

### ***Temporary Zoning Code Compliance Certificates for Responsible Operators***

Since allowing responsible collectives to continue operations is the easiest, least expensive, most effective, and best way to meet the needs of San José's cannabis patients and other residents, it makes sense to allow those operators to relocate, if necessary, to comply with new zoning regulations.

*If a collective has properly obtained a license and pays their taxes, but they do not meet new zoning requirements, then the Planning Director should issue a temporary zoning code compliance certificate, allowing them to time relocate. This will ensure an uninterrupted flow of medicine to patients, and revenue to the city.*

### ***Allow Retail Sales Where They Make Sense***

Businesses that are currently permitted to sell equipment and supplies normally used for cultivating, processing, or consuming medical cannabis are not even allowed to mention the words "cannabis" or "marijuana" when speaking with patients, for fear of civil and criminal sanctions. It is only logical to allow collectives to provide these goods, because they are the patients #1 source for information on medical cannabis, and they can provide the best prices through cooperative purchasing. Sales of these goods also help to offset the cost of operating the non-profit collective, lowering the cost of medicine for all members.

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<sup>1</sup> SF Weekly July 15, 2011  
Cannabis Patients Alliance

## *Title 20 Text with Suggested Changes*

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE INITIATING, PURSUANT TO SECTION 20.120.010 OF CHAPTER 20.120 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE, PROCEEDINGS TO AMEND SECTION 20.10.040 OF CHAPTER 20.10; SECTION 20.40.100 OF CHAPTER 20.40; ADDING A NEW PART 9.5 TO CHAPTER 20.80; AND ADDING A NEW PART 13 TO, AND AMENDING SECTION 20.100.200 OF, CHAPTER 20.100, ALL TO ESTABLISH LAND USE REGULATIONS PERTAINING TO MEDICAL MARIJUANA COLLECTIVES, SETTING A PUBLIC HEARING FOR AUGUST 3, 2010 AT 1:30 P.M. IN CITY COUNCIL CHAMBERS, AND REFERRING SAID ORDINANCE TO THE PLANNING COMMISSION FOR ITS REVIEW AND RECOMMENDATION

BE IT RESOLVED by the Council of the City of San Jose as follows:

**SECTION 1.** Pursuant to provisions of Chapter 20.120 of Title 20 of the San Jose Municipal Code, the Council of the City of San Jose, on its own motion, does hereby initiate proceedings to adopt that certain proposed ordinance entitled, "AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTION 20.10.040 OF CHAPTER 20.10 AND SECTION 20.40.100 OF CHAPTER 20.40; ADDING A NEW PART 9.5 TO CHAPTER 20.80; ADDING A NEW PART 13 TO, AND AMENDING SECTION 20.100.200 OF, CHAPTER 20.100, ALL TO ESTABLISH LAND USE REGULATIONS PERTAINING TO MEDICAL MARIJUANA COLLECTIVES."

**SECTION 2.** The above-mentioned ordinance, a draft of which is attached hereto as Attachment 1 and incorporated into this Resolution by this reference as if fully set forth herein, is hereby referred to the Planning Commission for its report, comment and recommendation pursuant to the provisions of Section 20.120.010 of Chapter 20.120 of Title 20 of the San José Municipal Code, and the City Clerk is hereby directed to send a copy of this Resolution to said Planning Commission for this purpose.

**SECTION 3.** August 3, 2010, at the hour of 1:30 p.m., in the Council Chambers of the Council of the City of San Jose in the City Hall of said City, is the time and place for a public hearing on the proposal to approve the above-mentioned ordinance amending Title 20 of the San José Municipal Code. The City Clerk is hereby directed to publish notice thereof as required by Chapter 20.120 of Title 20 of the San Jose Municipal Code.

**ATTACHMENT 1**

**DRAFT — FOR REFERRAL TO PLANNING COMMISSION  
FOR ITS COMMENT AND RECOMMENDATION**

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTION 20.10.040 OF CHAPTER 20.10, SECTION 20.40.100 OF CHAPTER 20.40; ADDING A NEW PART 9.5 TO CHAPTER 20.80; AND ADDING A NEW PART 13 TO, AND AMENDING SECTION 20.100.200 OF, CHAPTER 20.100, ALL TO ESTABLISH LAND USE REGULATIONS PERTAINING TO MEDICAL MARIJUANA COLLECTIVES

**WHEREAS**, on June 1, 2010, the Director of Planning, Building and Code Enforcement determined, pursuant to the provisions of Title 21 of the San José Municipal Code and the provisions of the California Environmental Quality Act of 1970 (together with regulatory guidelines promulgated there under), that the environmental impacts resulting from the approval and adoption of this Ordinance are analyzed and disclosed in the Environmental Impact Report for the General Plan 2020 (the "EIR"), together with that certain City Council Resolution No. 65459, under File No. PP10-116; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has considered and hereby approves of the reuse of the EIR, together with Resolution No. 65459, as the environmental clearance for the approval and adoption of this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

**SECTION 1.** Section 20.10.040 of Chapter 20.10 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.10.040 Interpretation**

A. In interpreting and applying the provisions of this Title, they shall be held to be for the purpose of promoting the public safety, health, convenience, comfort, prosperity, or general welfare of the community. It is not intended by this Title to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Title imposes a greater restriction upon the use of buildings or premises or upon height or buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this Title shall govern.

B. No provision of this Title is intended to nor shall be interpreted or applied to allow a use or structure that violates state or local law.

**SECTION 2.** Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.40.100 Allowed Uses and Permit Requirements**

- A. "Permitted" land uses are indicated by a "P" on Table 20-90.
- B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.4
- D. "Administrative" uses are indicated by an "A" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- E. "Restricted" land uses are indicated by an "R" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Zoning Code Compliance Certificate as set forth in Chapter 20.100.
- F. Land uses not Permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not Permitted.
- G. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Change table to show CO,CP,CN,CG Permitted, and then include LI,IP,HI,CIC

**SECTION 3.** Chapter 20.80 of Title 20 of the San José Municipal Code is hereby amended by adding a new Part to be numbered and entitled and to read in its entirety as follows:

**Part 9.5  
MEDICAL MARIJUANA COLLECTIVES**

**20.80.750 Purpose**

The purpose of this Part is to further fulfill the purposes and intents set forth in Chapter 6.88 of Title 6 of the San José Municipal Code.

**20.80.755 Definitions**

Unless expressly defined in this Title otherwise, the terms used in this Part shall have the meanings ascribed to them in Chapter 6.88 of Title 6 of the San José Municipal Code. Capitalized terms utilized in this Part that are not typically capitalized are intended to alert the reader of this Part that a term used in this Part may be a term that is defined in Chapter 6.88 of Title 6 or in this Title of the San José Municipal Code.

**20.80.760 Compliance Required**

A. No person shall operate, or suffer or allow the operation of, a Medical Marijuana Collective except in full compliance with all of the terms and conditions of this Part.

B. In addition to the requirements set forth in Subsection 20.80.760.A above, no person shall operate, or suffer or allow the operation of, a Medical Marijuana Collective until such time as a zoning code compliance certificate or temporary waiver has been duly applied for and issued by the Director pursuant to the provisions of Chapter 20.100 of this Title, which zoning code compliance certificate confirms full conformance of a proposed Medical Marijuana Collective with all of the applicable provisions of this Title. The application for such zoning code compliance certificate shall be filed pursuant to the requirements and processes set forth in said Chapter 20.100.20.80.765 Zoning Code Compliance Certificate Not Required. The provisions of this Part are not intended to and shall not regulate the cultivation or possession of Medical Marijuana for a medical use in full compliance with all applicable state and local laws by a single Qualified Patient or Primary Caregiver at their primary residence located within a zoning district that allows for residential uses.

#### **20.80.770 Allowed Districts**

Medical Marijuana Collectives are allowed only on those real properties located in CG-Commercial General, CO-Commercial Office, CN-Commercial Neighborhood, CP-Commercial Pedestrian, LI-Light Industrial, IP-Industrial Park, HI-Heavy Industrial, and CIC-Combined Industrial Commercial Zoning Districts as described in Chapter 20.40 of this Title or in those Planned Development Zoning Districts that allow CG-Commercial General, CO-Commercial Office, CN-Commercial Neighborhood, CP-Commercial Pedestrian, LI-Light Industrial, IP-Industrial Park, HI-Heavy Industrial, and CIC-Combined Industrial Commercial Zoning District uses as described in Chapter 20.60 of this Title.

#### **20.80.775 Maximum Number**

No more than a maximum of ten (30) Medical Marijuana Collectives shall be allowed to operate in the City, unless the collective has been granted special status by meeting the following criteria:

1. Possess any City of San José Business license issued prior to December 31, 2010, and
2. Possess a Seller's Permit issued by the State of California, and
3. Show proof that all applicable San José Medical Marijuana Taxes due through June 30, 2011 have been paid in full, and
4. Qualify for a zoning code compliance certificate or waiver,

#### **20.80.780 Restrictions and Conditions**

The location and operation of Medical Marijuana Collectives shall be subject to and shall comply with all of the following restrictions and conditions set forth in this Section, in addition to those restrictions and conditions that may be imposed on a Medical Marijuana Collective under or pursuant to other provisions of the San José Municipal Code or other applicable state or local laws, regulations or policies. Anyone operating, or allowing or suffering the operation of, a Medical Marijuana Collective shall comply with, or shall cause the compliance with, all of the following restrictions and conditions set forth in this Section, in addition to those restrictions and conditions that may be imposed on a

Medical Marijuana Collective under or pursuant to other provisions of the San José Municipal Code or other applicable state or local laws, regulations or policies, at all times at the Medical Marijuana Collective:

A. At the time of issuance of a zoning code compliance certificate, no Medical Marijuana Collective shall be located on a parcel of real property that is closer than a minimum of one hundred and fifty (150) feet from any parcel zoned for residential use or another Medical Marijuana Collective, or show proof of sufficient intervening barriers, and distances under this subsection shall be measured from the point of entry to the premises to the point of entry to the premises; and

B. All activities conducted at a Medical Marijuana Collective shall at all times fully comport with the provisions of California Health & Safety Code Sections 11362.5, et. seq. through Section 11362.83, as amended from time to time; and

C. Retail sales of goods, including items used to cultivate and process medical marijuana and the paraphernalia used to consume it shall be allowed at the Medical Marijuana Collective; and

D. The hours within which a Medical Marijuana Collective may choose to operate shall be within the hours of 8:00 a.m. and 8:00 p.m.

E. Cultivation of Medical Marijuana on the site of a Medical Marijuana Collective is allowed as a part of the Medical Marijuana Collective use.

**SECTION 4.** Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended by adding a new Part to be numbered and entitled and to read in its entirety as follows:

**PART 13  
ZONING COMPLIANCE CERTIFICATE**

**20.100.1500 Applicability**

A. The provisions of this Part apply to and shall govern the issuance of zoning code compliance certificates, which certificates are required whenever the provisions of this Title so mandate.

B. The Director is authorized to issue a zoning code compliance certificate or temporary waiver in accordance with the provisions of this Part.

**20.100.1510 Purpose**

The purpose of this Part is to provide for a ministerial process by which the Director can provide ministerial confirmation of the compliance of a site with the applicable provisions of this Title.

**20.100.1520 Application**

The application for a zoning code compliance certificate shall comport with the processes and requirements, including without limitation the payment in full of applicable fees, set forth in Parts 1 and 2 of this Chapter, provided, however, that no public hearing on a zoning code compliance certificate is required.

#### **20.100.1525 Compliance Certificate**

A. The Director shall issue, or cause the issuance of, a zoning code compliance certificate when the Director determines that the application evidences full compliance with all of the applicable provisions of this Title.

B. The Director shall not issue, nor allow the issuance of, a zoning code compliance certificate when the Director determines that the application evidences noncompliance with any applicable provision of this Title. However, the Director may issue a temporary waiver allowing 180 days for a Medical Marijuana Collective that meets all the requirements listed in Part 9.5 Section 20.80.775 to qualify for a zoning compliance certificate.

C. The Director's determination under this Section shall be in writing, in the form of issuance of a zoning code compliance certificate or temporary waiver, or a writing describing the noncompliance that prevents the issuance of a zoning code compliance certificate.

D. The Director's determination is subject to an appeal to the planning commission.

#### **20.100.1530 Availability of Certificate – Medical Marijuana Collective**

A. A Medical Marijuana Collective shall keep, or cause to be kept, a true and correct copy of the zoning code compliance certificate or temporary waiver issued by the Director for that Medical Marijuana Collective, in legible condition, on the premises of that Medical Marijuana Collective.

B. A Medical Marijuana Collective shall present, or cause to be presented, the copy of its zoning code compliance certificate to a City police officer or City code enforcement officer who is at the site of the Medical Marijuana Collective immediately upon request.

#### **20.100.1535 Updated Certificate – Medical Marijuana Collective**

A Medical Marijuana Collective shall apply for a new zoning code compliance certificate whenever it intends to modify its operations in a manner that may impact compliance with the provisions and conditions set forth in this Title.

#### **20.100.1540 Nontransferability – Medical Marijuana Collective**

A zoning code compliance certificate may not be transferred or assigned; this includes without limitation a prohibition of a transfer or assignment to another Medical Marijuana Collective that plans to operate on the same site.

**SECTION 5.** Section 20.100.220 of Chapter 20.100 of Title 20 of the San José

Municipal Code is hereby amended to read in its entirety as follows:

#### **20.100.220 Appeal – Hearing Body**

Decisions on permits or approvals pursuant to this Chapter are subject to appeal as set forth in Table 20-260 which lists the initial decision maker and the decision making body which will hear any appeal.



Change the table to read that the decision may be appealed to the Planning Commission

## *SF Weekly Article on Dispensary Complaints*

*Marijuana*

### S.F. MEDICAL MARIJUANA DISPENSARIES GENERATE ONLY 11 COMPLAINTS IN FIVE YEARS

By Chris Roberts Fri., Jul. 15 2011 at 7:50 AM

That all you got?

Pot clubs. They're boring. You go in, you buy some pot, you leave. For all the clamor a new medical cannabis dispensary's opening receives from jumpy John Q. Public, with a few notable exceptions, most we see these days resemble dentists' offices, not dens of iniquity (and, we suspect, the drugs in dentists' offices are more fun, if you're into that kind of thing).

Know what's even more boring? Reading the list of citizen complaints San Francisco's medical cannabis dispensaries have generated over the past few years.

SF Weekly recently asked the Department of Public Health, which oversees the city's dispensary program, for a compendium of recent problems with the city's cannabis collectives. And we received it: A grand total of 11 complaints on file over a five-year period, according to the documents we received from our public records request.

Want some bedtime reading? Then click on, dear reader.

2006: A neighbor upstairs from HopeNet on Ninth Street writes to say that the stench from the dispensary is exacerbating his emphysema. A DPH inspector visits and smells pot; can't reach the complainant after a few tries. Result: resolved.

2007: Canna Med Care on Sutter Street -- since closed -- was using a scale that was off by .4 grams. In a separate complaint filed that year, a neighbor on Dore Alley says that HopeNet's customers were blocking the sidewalk. HopeNet asked not to block the sidewalk. Also, workers at 1525 Howard

Street complain that the smell from Emmalyn's is too much. DPH visits but can't detect a scent.

2008: The bathroom at HopeNet wasn't working. It was working when DPH visited. Another complaint said that outside of 442 Haight Street (now a shoe store) the presence of a "known drug dealer" alarmed a neighbor who later sees people smoking pot outside the establishment on two separate occasions. That matter was referred to SFPD.

2009 was the dirty year: Green Goddess at 940 Geary Street was selling pot without a permit. Also, 194 Church Street was doing the same thing. Both operations were shut down.

2010: Grassroots on Post Street was selling more than an ounce per visit, in violation of city rules. Told not to do it anymore. Another complaint said that a man on Palm Avenue in Laurel Heights upset his neighbors by making cannabis lollipops in his kitchen. He said he'll stop.

2011: A man who claims to have top-security clearance from the United States government says he was assaulted outside of SPARC, and that he received harassing e-mails and phone calls following "a traumatic brain injury."

Had enough? So have we. Suffice to say that San Francisco medical cannabis dispensaries are hardly the most threatening entities in town. In fact, we believe that the local Pet Food Express has generated more contention.

But this comes as no surprise to cannabis advocates -- it's what they've been saying for years, in fact.

"How many other businesses have had that few complaints against them?" asks David Goldman with the S.F. chapter of Americans for Safe Access. "How many bars, how many drugstores -- how many banks? I'd say the medical cannabis dispensary industry is amazingly complaint-free compared to other industries."

## *Land Use Implications of Dispensaries*

# of Dispensaries	10	30	73	105
Patient Visits per Day	477	159	65	45
Patient Visits per Hour	60	20	8	6
Registers Required	12	4	2	1
Parking Spaces*	58	20	8	6
Facility Size (sq.ft.)	11,658	3,886	1,597	1,110
Cultivation Area (sq.ft.)	14,111	4,704	1,933	1,344
Total Size (sq.ft.)	25,769	8,590	3,530	2,454

10% - 40% Off for Qualified Members!



CO-OP INC.

[www.HRCBayArea.com](http://www.HRCBayArea.com)

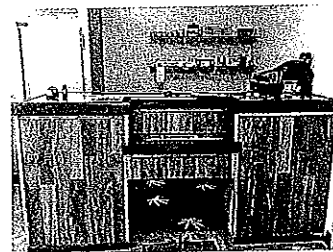
1701 S. 7th Street #7, in San Jose CA 95112

### *Committed to a Cure*

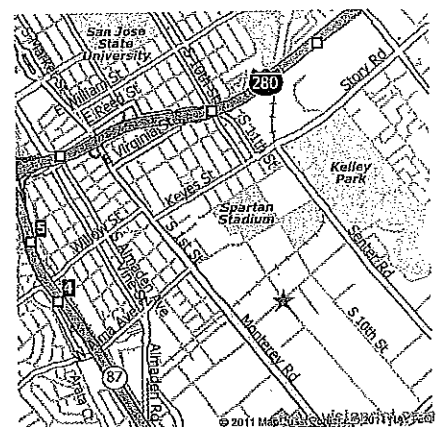
- \* Highest Quality Clones
- \* Education opportunities
- \* % of sales goes to YOUR choice of local charities
- \* Many Strains Available
- \* Volunteer your Service/ Talents
- \* Vendors welcomed
- \* Join us on FaceBook

1st Collective Famous For:  
Wheel Chair Accessible Counter Tops &  
Front Door Ramp Service.

Notes/ Comments:



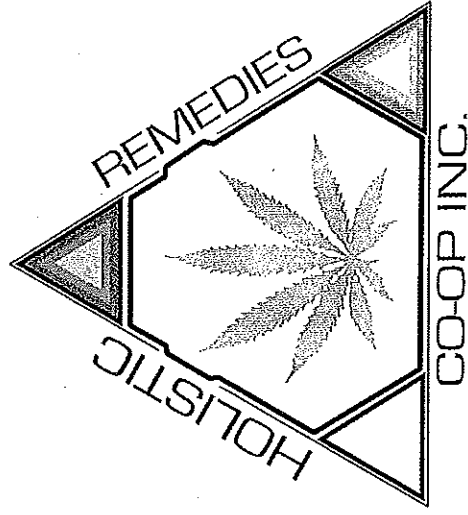
FREE GIFT for every NEW MEMBER!



Notes/Comments:

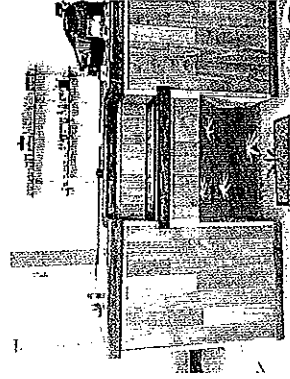
*Cannabis*

*Cannaisseur*



1701 S. 7th Street #7  
 San Jose CA 95112

1st Collective Famous For:  
 Wheel Chair Accessible  
 Counter Tops &  
 Front Door Ramp Service



Purple Kush

White Widow

Lemon Kush

Banana Kush

Green Crack Berry

Life Saver

Hindu Kush

Afgoo Daddy



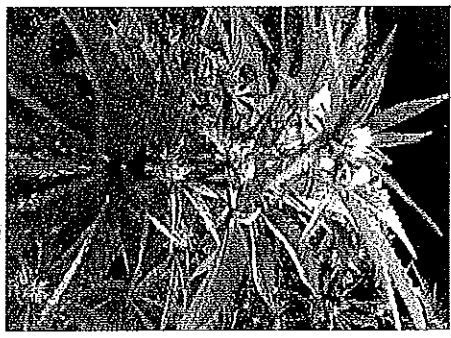
There is an important aspect in determining which strain to use, it requires that you learn to listen to your body very carefully. We at SCREED feel it is important for every cannabis consumer to understand that each body is different and will respond to Cannabis strains in a different way. Not all cannabis strains will work the same for each person. One person may have a complete recovery relief, while another person sees no results at all. It's all very individual and often requires a little trial and error to find what works best for you. @new time changes may need to be made as healing takes place and your body needs something different. It's imperative that you know how to read your bodies cues and listen to the messages it has for you. When you learn how to listen to your body you'll know exactly what's working and what isn't. You'll know what you need. There are many ways to learn how at Stochastic Remedies Co. @a. We can help guide you thru the process.

*idea:* Blue Spartan

- Lavender
- God's Gift
- Purple Urkle

*Sativa:* Green Crack Berry

- Cheezel
- Fain Weel
- Saw Diesel
- Champagne



Chocolate/ Strawberry Coconut Milk Shats:

Medicate in ~ 1/2oz or 1oz

Coconut In Traditional Medicine:

People from many diverse cultures, languages, religions, and races scattered around the globe have revered the coconut as a valuable source of both food and medicine. Whenever the coconut palm grows the people have learned of its importance as a effective medicine. For thousands of years coconut products have held a respected and valuable place in local folk medicine.

In traditional medicine around the world coconut is used to treat a wide variety of health problems including the following: abscesses; asthma, baldness, bronchitis, butises, burns, colds, constipation, coughs, dropsy, dysentery, earache, fever, flu, gingivitis, gonorrhea, irregular or painful menstruation, jaundice, kidney stones, lice, malnutrition, nausea, rash, scabies, scurvy, skin infections, sore throat, swelling, syphilis, toothache, tuberculosis, tumors, typhoid, ulcers, upset stomach, weakness, and wounds.

Fruit Baskets:

Not sure what you want? Then try a Fruit Basket. Mix and match 1.4 grams. With the many strains of cannabis to choose from at SCREED, a consumer likes to have a variety of flavors to take home. Pick from one of the following size baskets:

- \* 3 strains at 1.4 grams = 4.2
- \* 6 strains at 1.4 grams = 8.4
- \* 9 strains at 1.4 grams = 12.6
- \* 12 strains at 1.4 grams = 17.2 oz.



Capsules:

For every strain of cannabis out there, SCREED brings you a capsule filled with Coconut oil & the strain you desire. If we have the strain available then chances are, we have the capsule to match it for the non-smoking consumer. All capsules are made with vegetables and are vegan friendly. We have a shelf life of one year. Ask for more details.

420 special Blue Spartan

Blue Spartan

Green Crack Berry

215 Green Crack Berry

Algoo Daddy

Purple

Salad Mix

215 Salad Mix

Banna Kush



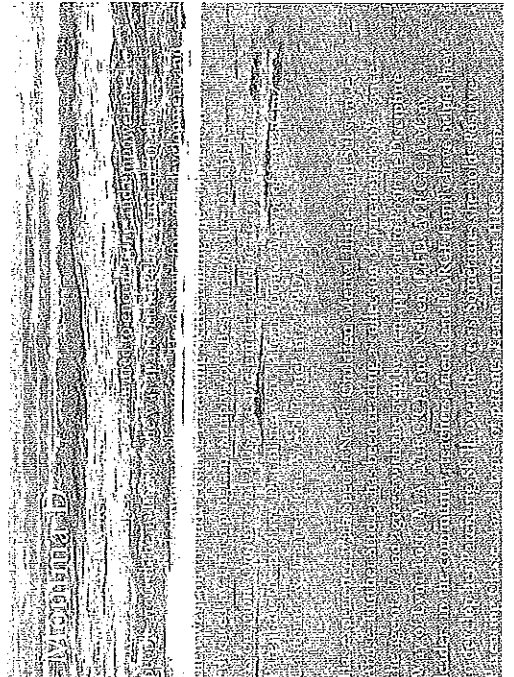
# Dear Reader,

As a parent, the things you say and do have a tremendous influence on the decisions your child makes - especially when it comes to using Medical Cannabis, drugs or alcohol. Research shows that children who learn about the risks from their parents, are up to 50 percent less likely to abuse substances. Many kids start becoming curious about these substances at any stage of life. The best prevention for Medical Cannabis, Drugs & Alcohol abuse, delinquency and other dysfunctional behaviors is effective parenting which is based on mutual respect. Family's and Children don't come with a set of directions and effective parenting skills are learned, not inherited. Never has there been a greater need for Parenting Education in this growing industry.

The issue of drugs can be very confusing to young children. If drugs are so dangerous, then why is the family medicine cabinet full of them? And why do TV, movies, music and advertising often make drug and alcohol use look so cool? We need to help our kids to distinguish fact from fiction. And it's not too soon to begin. By talking to your children about drugs and alcohol, you can help them make better choices and live safer, healthier lives. Starting the conversation with your children and keeping communication open is never easy - but it's also not as difficult as you may think. Whether you're having trouble finding the time or finding the right words, [www.imetotalk.org](http://www.imetotalk.org) can provide the support and resources you need when it's time to talk to your children about Medical Cannabis, drugs and alcohol.

Finally, before you teach your children to think about the consequences of their actions before they act. Medical Cannabis, Drugs and Alcohol Abuse are no different. Be skeptical and most of all be safe.

Much Love,  
Momma D  
Holistic Remedies Co-op.  
THC\_Danielle@yahoo.com



10/10/10

Holistic Remedies Co-op attempts to bring health, balance and harmony to the mind, body and spirit of you, your family and Children within the community.

Holistic Remedies are basically any remedy that is derived from a natural source, rather than a synthetic drug. An example of a natural remedy would be our specialty medication(s) with Cannabis in many forms. Another example of an alternative remedy would be this "Guide on how to talk to your kids about Medical Cannabis, Drugs & Alcohol."

Home remedies are tried and true practices, beliefs, or traditions passed down through families for generations to the present to treat or cure conditions within our Co-op.

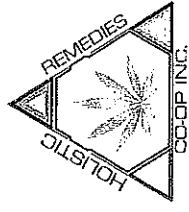
We at HRC feel it is important for every member to understand that each family's needs are different and not all remedies will work the same for each family environment. It's all very individual and often requires a little trial and error to find what works best. Over time, changes may need to be made as healing takes place and your family needs something different. We hope this Guide will help as a teaching tool in this fast growing industry of Medical Cannabis in our world. There are many ways to learn more at Holistic Remedies Co-Op.

So what are you waiting for? Become a member of Holistic Remedies Co-op and enter into a world of possibilities.....

### Office Hours:

Day	Hours
Monday	11:00am - 7:00pm
Tuesday	11:00am - 7:00pm *
Wednesday	11:00am - 7:00pm
Thursday	11:00am - 7:00pm **
Friday	11:00am - 7:00pm ***
Saturday	Appointment Only
Sunday	Appointment Only

- \* Tuesday & Thursday's - Book a Consultation to learn more about HRC.
- \*\* Thursday's - Specials on Coconut Milk (plain, Strawberry or chocolate)
- \*\*\* Friday Fun Days - Come in and play the nugg toss or Doobie pass for free Medications.



HRC is Committed to a cure and the safety of our children in the community.

# A Guide on how to talk to your kids about Medical Cannabis, Drugs & Alcohol.



# Talking to Children about Family Members Who Abuse Substances

We may need to talk to our children about relatives who are acting different because they are drunk or under the influence of a substance. Instead of saying things like, "Grandma is sick/crazy today," or "Daddy doesn't feel well," it is important to be honest and use words that say what IS happening. The reason is children could develop a serious mental illness or trauma later on in life. With Medical Cannabis being a natural holistic remedy that can help in some cases, we do not want to have an impact of added complications from using the words "crazy, sick or feel well." The script below is another parenting tool help guide you the next time someone is under the influence of a substance around your child.

## CHILD- Why does Grandma act so funny when we visit?

**ADULT- Grandma has had too much "Alcohol or medication" and she is "drunk or Medicated."** Sometimes people do things that are not good for them, and Grandma is doing that right now. Are you scared of Grandma?

**CHILD- I think Grandma is funny. (If a child is quiet or is uncomfortable must be removed from the environment to a safe place.)**

**ADULT- Grandma may be acting funny, but it's not healthy for grandma to "drink or not properly medicate" like she is. I wish my mother wouldn't do that.**

A child/teen get older and spend more time away from the family, there are some new messages about Medical Cannabis, Drugs, Prescription Drugs and Alcohol abuse we want to make sure they get. One example is people can develop bad habits that form into addictions/substance abuse when they don't use the medications properly. Learn more at [WomanD's.com](http://WomanD's.com)

# PARENTING TOOLS

As parents, we can do many things to enhance our children's self-image. Here are some Parenting tools to remember:

- Offer lots of praise for any job well done. "Catch them being good" (Children hear the word "NO" more than 3,000 times before the age of 3.)
- If you need to criticize your child, talk about the action, not the person. If your Child gets a math problem wrong, it's better to say, "I think you added wrong. It's ok to make a mistake.... Let's try again."
- Assign do-able chores. A Three-year-old can use a rag or baby wipe to clean the dining table. (this will act as your pre-wash and get them to form good habits) A six-year-old can bring her plate over to the sink after dinner or hold a dust pan for you; a 12-year-old can get the mail, unload a dishwasher, feed and walk the dog after school. Performing such duties and being praised for them helps your child feel good about them self. As all parents come to learn, it's the little things that a person can do in life, will help the family. (Ask about Child of the day game)
- Spend one-on-one time with your youngster(s). Setting aside at least 15 uninterrupted minutes per child per day to talk, play a game or take a walk together, lets them know you care. Have family circle times of safety examples. Would be at meal times, board games or family meetings.
- Despite advice to abstain until 18 or a medical issue(s) that may occur, Children may still choose to experiment. Teach moderation, peer evaluation (assessing your friends and their reliability) and common sense.

• Say, "I love you." Nothing will make your child feel better. Try to challenge yourself to say, "I love you" more then once a day. Because your child should hear "I love you" 3,000 times before the age of 3 rather than "NO."

Information and lessons about drugs are important enough to repeat frequently. So be sure to answer your children's questions as often as they ask them to initiate conversation

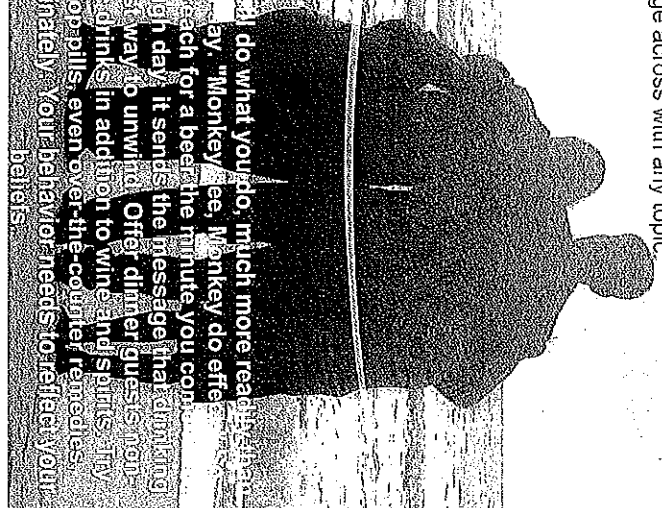
# Look for Teaching moments

Encourage honest communication especially if your child in a situation where they need a ride due to their own or someone else's drug (or alcohol) consumption. They should know to never under any circumstances, get into a vehicle with someone under the influence, they should know that they can call you any of your close friends any time, day or night, and be picked up-- no questions asked and no consequences until an agreed time. It's okay to say, "We don't allow any Medical Cannabis, drug use, and children in this family are not allowed to drink alcohol. The only time that you can take any drugs is when the doctor or Mom/Dad gives you medicine when you're sick. We made this rule because we love you very much, and we know that medications, drugs can hurt your body and make you very sick; some may even kill you. Do you have any questions?"

What is the difference between Street Drugs, and Medical Cannabis? Anything given to you that was NOT prescribed by a doctor IS a Street Drug(s), pot, Weed, non-prescribed medications are all examples of Illegal Substances. Medical Cannabis or Medications can only be prescribed by a medical Doctor.

If you are watching TV with your eight-year-old and Medical Cannabis is mentioned on a program, you can say, "Do you know what Medical Cannabis is? It's a medication that can hurt your body if not properly used." If your child has more questions, answer them. It is ok to say, "I don't know at this time." If not, let it go. Short, simple comments said and repeated often enough will get the message across with any topic

do what you do, much more readily than when you say, "Monkey see, Monkey do" after a rough day, it sends the message that drinking is the best way to unwind. Offer dinner guests non-alcoholic drinks in addition to wine and spirits. Try not to pop pills, even over-the-counter remedies indiscriminately. Your behavior needs to reflect your beliefs.





# Holistic Remedies Co-op.

## PRAYER PARTNER

TAKING TIME TO PAUSE FOR THE CAUSE....

HRC'S PRAYER PARTNER CONCEPT HAS A SCRIPTURAL BASIS:

*"Two are better than one,  
because they have a good return  
for their work.  
If one falls down,  
his friend can help him up.  
But pity the man who falls  
and has no one to help him up!  
Though one may be overpowered,  
two can defend themselves.  
A cord of three strands is not quickly broken."  
Ecc. 4:9, 10, 12.*

### WHAT IS AN HRC PRAYER PARTNER?

THE HRC'S PRAYER PARTNER & IT'S MEMBER ARE ENCOURAGED TO BECOME A PERSONAL PRAYER PARTNER TO HOLISTIC REMEDIES CO-OP. THE HRC PRAYER PARTNER(S) PRAY PERSONALLY OR TOGETHER WEEKLY—OR EVEN DAILY TO "PAUSE FOR THE CAUSE" DURING YOUR NEXT 420. THEIR PRAYERS SHOULD BE FOR PERSONAL NEEDS OF EACH PATIENT IN THE CO-OP., THE QUALITY OF MEDICATION(S) HRC RECEIVES/ SUPPLIES AS WELL AS FOR THE GROWTH OF HRC AND IT'S COMMUNITY. SOMETIMES HRC WILL HAVE PRAYER PARTNER GROUPS THAT CHOOSE TO MEET TOGETHER FOR UNITED PRAYER AT THE CO-OP.



*"I urge, then, first of all, that requests, prayers, intercession and thanksgiving be made for everyone.... This is good, and pleases God our Savior, who wants all men to be saved and to come to a knowledge of the truth." (1 Timothy 2:1, 3)*



## Some suggestions for what to pray for HRC:

- \* Ask the Lord to guide in your prayer for HRC, choosing What you should pray for
- \* Over illness' that effect our patients
- \* Medication dose not fall into the wrong hands or pet's
- \* Protection for your family and also for the patients at HRC, staff, volunteers, Children, parents, growers, crops, gardens, vendors, the quality of medications, network connections, other collectives, other co-op's, more education, world government, your city, the law makers, plus the world-wide work of God or your Higher Power.
- \* The neighborhood and patients at HRC, that the good news of "coming out of the shadows and into the light" may reach everyone in a positive way.
- \* The people who are attending the HRC meetings, classes and education.
- \* The preparations for the meeting(s): location, equipment, advertising, the staff and leaders, guest speakers etc.
- \* Be ready to call on your higher power for Prayer Partners to pray anytime for a patient who needs special prayer for healing: spiritually, emotionally, physically or the relationships in their life.
- \* The people responsible in any position of authority at HRC— for teachers, Leaders, City Council, police in San Jose, administrators, parents, teens, will shed truth and light on the movement for Medical Marijuana.
- \* The donations in and out going are used in the best way for the patients at HRC.
- \* Our enemies that come against HRC.
- \*\*\* Remember that your prayers are powerful, your Higher Power Loves you and thank you for your support in being an Holistic Remedies Co-op. Prayer Partner. \*\*\*
- "Praise God for His heart's desire that all people be saved. Ask that heaven would designate this year as a "proper time" for the testimony of Christ to be given afresh with simple power (1 Tim. 2:6). Name specific people.*

James A. Campagna  
J. Arthur Properties II, LLC  
PO Box 6150  
San Jose, CA 95150

July 26, 2011

Laurel Prevetti  
Assistant Director of Planning  
City of San Jose  
Department of Planning, Building & Code Enforcement  
200 East Santa Clara St., 3<sup>rd</sup> Floor Tower  
San Jose CA 95113

RE: Medical Marijuana Collectives - land use regulations

Dear Ms. Prevetti,

We own the property at 1711 Hamilton Avenue, San Jose, California that is currently occupied by a tenant operating a Medical Marijuana Collective. The property is zoned "CO" and has maintained a "Medical use" for over 50 years.

This letter is to encourage the Planning Commission and Staff, when they consider zoning regulations for medical marijuana collectives, to adopt a policy that would include properties with an existing "medical use" because these locations have a history of serving the medical needs of the community. Medical buildings provide the public a safe and private environment to collect their medicine, local access for patients, good proximity to freeways, ample parking, and neighbors within the proximity are accustomed to patient traffic.

Alternatively, we would request that the City adopt a process whereby an existing "medical use" building may apply for a conditional use permit on a case by case basis. These properties are generally well suited because the community is accustomed to patronizing medical use properties to address their medical needs.

It would be unfortunate if the ill, disabled and elderly had to travel outside their neighborhoods in order to obtain the medicine their doctors have recommended.

Sincerely,



James A. Campagna

3e

**Prevetti, Laurel**

**From:** Gurza, Renee  
**Sent:** Wednesday, July 27, 2011 9:07 AM  
**To:** Prevetti, Laurel  
**Cc:** 'dchloupek@gmail.com'  
**Subject:** FW: Medical Cannabis Resource Use Statistics and General Consumption Rates

**Attachments:** Energy\_Use\_Graphs(1)-2.xls; San\_Jose\_Medical\_Cannabis\_Resource\_Use\_Statistics-1.doc



Energy\_Use\_Gra San\_Jose\_Medic  
hs(1)-2.xls (36..\_Cannabis\_Reso.

Hello -- For the Planning Commission's public record, as well as the Director as the Administrator of CEQA under San Jose Municipal Code Title 21, on the pending medical marijuana legislation.

Thank you,  
Renee Gurza

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

**From:** Douglas Chloupek [mailto:dchloupek@gmail.com]  
**Sent:** Wednesday, July 27, 2011 8:14 AM  
**To:** Gurza, Renee  
**Subject:** Medical Cannabis Resource Use Statistics and General Consumption Rates

Dear Miss. Gurza,

Medical Cannabis Resource Use Statistics and General Consumption Rates

The city of San Jose collected \$330,000 - roughly a third of a million dollars - in the month of April 2011 from the 7% city tax on Medical Marijuana, according to the city's finance department. Working from this figure, in conjunction with typical Cannabis yield averages, this memo was created to give a concrete understanding of the consumption rate of medical Cannabis in San Jose and its impact on physical and environmental resources.

The average cooperative/collective in San Jose recommends their members donate \$45 per 3.5 gram increment (the most common price for the most common quantity) of Cannabis. Dividing that figure by the total gross sales of \$4.7 million, you get 104,444 increments. 104,444 increments x 3.5 grams = 365,554 grams. In pounds, that's 805 lbs of Cannabis consumed in April 2011 alone. It is also important to note that this figure does not represent the entire San Jose market, only the portion represented by legitimate, tax-paying businesses.

Now, if one is to assume a limit of 10 cooperatives in San Jose, and they are required to grow 100% of their cannabis on site, that means they must produce at least 805 lbs per month combined, that equates to 80 lbs per cooperative per month of minimum production. Cannabis plants typically have a three-month cycle, which means that each cooperative must produce 240 lbs of Cannabis every three months to keep up with demand.

Cannabis produces approximately one pound of consumable flowers per 1000-Watt light worth of high-intensity lighting. That means each cooperative will need 240- to 1000-Watt lights to meet the production minimums. 240,000 watts worth of high-intensity lighting multiplied by 12 hours per day (the amount the lights have to stay on to produce flowers) equals 2,880 kWh of energy consumption per day per cooperative.

In order to support a "flowering" garden of that size, a "vegetative" garden for creating new plant starts must also be created. Vegetative gardens typically require a third as much space as the flowering gardens, but the lights must run at least 18 hours per day in order to keep the starts from flowering early. Add on another 72 lights running 18 hours per day and that's an additional 1,296 kWh per day per cooperative. Each of these lights will require at least 16 sq. ft. of space per light for plants. In total, each cooperative would need 312 lights, over

4,992 sq. ft. of plant material consuming 4,176 kWh worth of power every day to meet the minimum production need.

In 2004, according to The California Statewide Residential Appliance Saturation Study\*, each household consumed an average of 5,914 kWh per year. If each cooperative uses 4,176 kWh per day over 365 days, that's 1,524,240 kWh per year per cooperative of minimum energy consumption - more than 257 residential homes worth of power.

I believe this represents a significant impact on the resources of both medical Cannabis cooperatives and the city of San Jose and warrants further consideration in light of the proposal to have Cannabis grown primarily on-site. Also, it is very important to recognize that these figures account only for the high-intensity lighting used in indoor cultivation. Many ancillary costs and impacts would be involved in a cultivation project of that magnitude including: HVAC costs for heating and cooling, general construction, electrical engineering, heavy water consumption, etc.

In light of the information included in this memo, it is my understanding that a new CEQA analysis will need to be conducted to accurately understand the negative impact San Jose may potentially see if on-site cultivation is mandated. Please feel free to contact me if you would like any other information or if I can be of any further assistance.

Sincerely,

Douglas Chloupek  
CEO  
MedMar Healing Center

## Medical Cannabis Resource Use Statistics and General Consumption Rates

To Whom It May Concern:

The city of San Jose collected \$330,000 – roughly a third of a million dollars – in the month of April 2011 from the 7% city tax on Medical Marijuana, according to the city's finance department. Working from this figure, in conjunction with typical Cannabis yield averages, this memo was created to give a concrete understanding of the consumption rate of medical Cannabis in San Jose and its impact on physical and environmental resources.

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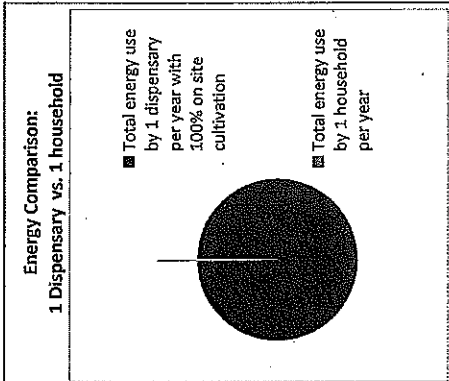
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In light of the information included in this memo, it is my understanding that a new CEQA analysis will need to be conducted to accurately understand the negative impact San Jose may potentially see if on-site cultivation is mandated. Please feel free to contact me if you would like any other information or if I can be of any further assistance.

Sincerely,

Douglas Chloupek  
CEO  
MedMar Healing Center

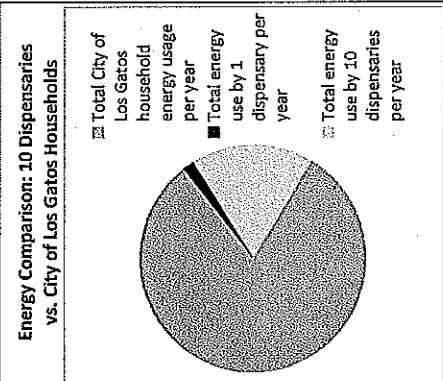
\*California Energy Commission, "California Statewide Residential Appliance Saturation Study" June 2004, 19 July 2011, [http://www.energy.ca.gov/reports/400-04-009/2004-08-17\\_400-04-009ES.PDF](http://www.energy.ca.gov/reports/400-04-009/2004-08-17_400-04-009ES.PDF)



In kWh  
1,524,240  
5,914 \*

Total energy use by 1 dispensary per year with 100% on site cultivation  
Total energy use by 1 household per year

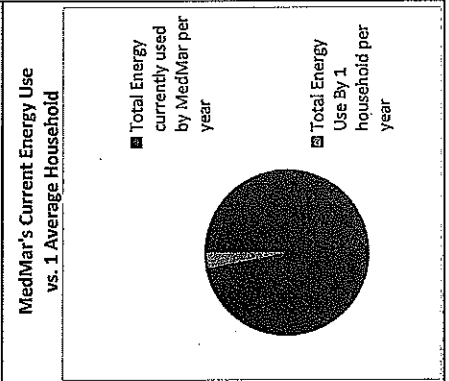
\*[http://www.energy.ca.gov/reports/400-04-009/2004-08-17\\_400-04-009ES.PDF](http://www.energy.ca.gov/reports/400-04-009/2004-08-17_400-04-009ES.PDF)



In kWh  
11,988 \*\*  
70,897,032  
1,524,240  
15,242,400

Total City of Los Gatos households  
Total City of Los Gatos household energy usage per year  
Total energy use by 10 dispensaries per year  
Total energy use by 10 dispensaries per year

\*\*<http://profiles.nationalrelocation.com/California/Los%20Gatos/>



In kWh  
192,000  
5,914

Total Energy currently used by MedMar per year  
Total Energy Use By 1 household per year

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MEMORANDUM

PC Agenda: 07-27-11

Item: 3.e.

**TO:** Planning Commission  
City of San Jose

**FROM:** MC3 (*Medicinal Cannabis  
Collectives Coalition*)  
Ariel Loveland, President  
Jerry Strangis

**SUBJECT:** Final memo re: Medical Marijuana ordinances.

**DATE:** July 25, 2011

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MC3 stands by its recommendations as stated in its memos of July 11 (summary) and July 5 (Title 20 and Title 6), submitted for the previous Commission meeting. The purpose of this memo is to supplement and clarify those earlier memos which should be referred to for detailed analysis.

**RECOMMENDATIONS**

1. Include the IP Industrial Park, HI Heavy Industrial, CP Commercial Pedestrian, and CN Commercial Neighborhood zoning districts, for medical marijuana collective uses. Make the distance from, and impact on, *sensitive uses* the main criteria for appropriate locations. The proposed sensitive uses and distances are more than adequate and require no expansion.
2. Include a merit-based selection process with a public hearing, i.e., a CUP. This will ensure that only the best-qualified collectives are licensed. Replace proposed 20.80.760(B) "...Zoning Code Verification Certificate has been duly applied for and issued by the Director pursuant to the provisions of Chapter 20.100 of this Title, which Zoning Code Verification Certificate confirms full conformance of a proposed Medical Marijuana Collective with all of the applicable provisions of this Title. The application for such zoning code compliance certificate shall be filed pursuant to the requirements and processes set forth in said Chapter 20.100" with "...Conditional Use Permit has been duly applied for and issued by the Planning Commission pursuant to the provisions of 20.100.700-770 of this Title and in compliance with all the applicable provisions of this Part. The application for such Conditional Use Permit shall be filed pursuant to the requirements and processes set forth in Chapter 20.100. In granting a CUP, the Planning Commission shall have the power to allow a collective to locate inside the minimum distance requirements (except for the state law required distance to schools) only on a finding that the location will not have undue adverse impact on any sensitive use or the public health and welfare." Delete 20.100.1500-1540.
3. Clarify 20.80.775(G) to allow both on- and off-site cultivation, but with a limitation on the number of off-site locations citywide, to be determined by Staff. Require 24-hour security for on-site cultivation. Require that both on- and off-site cultivators growing medical marijuana pass a background check and have no prior non-marijuana felony convictions.
4. Delete 6.88.800 requiring the immediate closure of all existing collectives. Instead, require that all collectives applying for a permit must stipulate to close down voluntarily if not awarded a permit upon completion of a competitive merit-based application process. This will save the City hundreds of thousands of dollars in potential legal fees.
5. Add a definition to 20.80.755 as follows and amend Title 6 definition accordingly: "Medical marijuana collective" or "collective" means an incorporated or unincorporated association, composed of four (4) or more qualified patients and designated primary caregivers of qualified patients (individually and collectively referred to as "member(s)") who associate ~~at a particular location~~ to collectively or cooperatively cultivate and distribute marijuana for medical purposes, and to offer related services, in strict accordance with California Health and Safety Code Sections 11362.5, *et seq.*

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6. **Insert a Personal Use Cultivation section into Title 20** (as it is clearly a land use issue) based on proposed 6.88.900 as modified by the MC3 7/5/11 Title 6 Recommendations 16-20.

7. **Increase the maximum number of collectives allowed from 10 to 20 and remove the maximum of 2 collectives per district. This will decrease the potential of creating 10 overly large facilities.**

**CONCLUSION**

In summary, we believe the City has come a long way in developing regulations that will allow medical marijuana collectives in San Jose. We ask that the City take these last steps to fine tune and implement regulations that will allow only the most qualified collectives to feasibly operate in San Jose. The above outlined points are keys to reaching this goal. **Unless these issues are addressed, the ordinances will preclude every single MC3 member from applying for permission to operate.**

Please feel free to contact us if you have any questions. Thank you for your consideration.

Ariel Loveland, President, MC3 (Medical Cannabis Collectives Coalition), (415) 314-3353  
Jerry Strangis, Strangis Properties, (408) 234-5931



Lawren  
Vasquez  
# -13-14

Patient Objections to SJ's Proposed Collective Land Use Regulations  
Americans for Safe Access - Silicon Valley Chapter, a nonprofit patient advocacy organization

## TITLE 20

### **20.80.770 Maximum Number**

The cap is set at 10. We request an increase to 50 based on San Jose's population, geography, and traffic. To compare, Denver has a population of 500,000 and has 400 storefront collectives.

### **Tables 20-90, 20-110, & 20-140 Allowed Districts**

Approved zones are Commercial General, Light Industrial, Downtown Commercial, and Combined Industrial Commercial. We request the addition of Commercial Office, Commercial Neighborhood, and Industrial Park districts. These zones are appropriate for this type of land use. The more restrictions imposed on collectives the more difficult it is for them to find a location and serve patients. Any and all arbitrary restrictions should be removed.

### **20.80.775 (A) & (B) Sensitive Uses**

Sensitive uses should focus on unsupervised teens and children who may loiter or congregate near a collective. Consequently the restrictions on locating 500 ft from substance abuse rehabs, other medical cannabis collectives, day cares, and churches with day cares should be deleted, as there are no unsupervised minors present. We also request the restriction on recreation centers and community centers be amended to those that primarily serve youth under 18. The only restriction should be limiting collectives from locating 600 ft or closer to any public or private k-12 school and libraries. Prop 215 already prohibits medical cannabis use in parks. Residential zones are not sensitive uses.

### **20.80.765 Zoning Certificate**

This section exempts a single patient or caregiver from the zoning code compliance certificate requirement, but if two patients in the same residence were to cultivate medical cannabis they would have to comply with the land use requirements intended for storefront operations, not small private collectives or personal grows. This Section is also inconsistent with the definition of collective in Title 6. Both Title 6 and Title 20 should only apply to collectives of 10 or more members with public storefront operations, otherwise they are infringing on patient rights under H&S Codes 11362.5 and 11362.775.

### **20.80.775(E) No Sales of any products**

This Section restricts the sale of any commercial products on site including medical cannabis. It also prohibits the manufacture of any cannabis products including lotions, tinctures, and edibles. This restriction is inconsistent with the DA's protocol and the City Attorney's revised position on cannabis sales. A similar provision in Title 6 was revised, however Title 20 was not properly amended. The sole purpose and mission of a storefront medical cannabis collective is to engage in the distribution of medical cannabis including nonsmoked products. There should be no restrictions on sales at collectives save for existing restrictions on alcohol and tobacco, etc.

## **TITLE 6** (Not officially submitted to the Planning Commission)

### **6.88.320 Lottery**

The rules for the lottery are not outlined and are left up to the City Manager. It is possible that the first person in line could submit ten acceptable applications and receive all ten operating permits. Instead of a lottery, all applications should be considered at once and comparatively ranked using predetermined factors and scores. The top point getters receive the permits. Other cities like Sacramento, Napa, Palm Springs, and Alameda County use this method.

### **6.88.430(E) On Site Cultivation Required**

This section requires all medicine distributed by the collective to be grown on site at the storefront location. This illegally restricts members from contributing medicine that they grow at home. It is also impractical to grow all of the needed medicine on site. There are better ways to track the medicine from seed to sale such as requiring growers to register, maintain records, and meet minimum building requirements. The District Attorney's Office has stated that they have NO position on whether state law requires on-site cultivation.

### **6.88.440(J) On Site Consumption**

Prohibits on site consumption including eating edibles or applying lotions at a collective. This should restrict onsite smoking or vaporizing only. There should also be a general exception for employees.

### **6.88.470(C) Electrical Equipment**

This Section restricts the use of extension cords, however there are industrial extension cords that are safe to use. This is an arbitrary restriction that only makes it more difficult to cultivate, not safer.

### **Part 9 6.88.900 Personal Use Regulations**

These regulations violate patient rights under Prop 215 and have nothing to do with regulating the storefront collectives. This section should be completely removed. Current laws and fire code regulations already address public safety concerns. The fines for violating this section are \$2,500 for each offense and should also be removed.

### **CONTACT INFORMATION:**

SiliconValleyASA@gmail.com  
www.SiliconValleyAsa.org





Vince Rineo  
7-13-11

PROJECT:	2011ZCA
FILE:	2011ZCA
DATE:	MARCH 2011
SCALE:	1"=100'
DESIGNED BY:	VERO
DRAWN BY:	YC
REVIEWED BY:	ORL
BY:	VERO CONSULTANTS

COLLECTIVES BY COUNCIL DISTRICT  
DISTRICT: # of COLLECTIVES

1	4
3	13
4	16
5	5
6	38 - 3 empty
7	15
10	1
2,8,9	0

*38 - 3 empty*  
*collected*



© 2011 Google

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**MEMORANDUM**

PC Agenda: 07-13-11

Item: 3.d.

**TO:** Planning Commission  
City of San Jose

**FROM:** MC3 (*Medicinal Cannabis  
Collectives Coalition*)  
Ariel Loveland, President  
David Tymn  
Jerry Strangis  
James Anthony  
Vincent Rivero

**SUBJECT:** Final written responses and recommendations to 7/5/11 Planning Division staff report regarding Medical Marijuana ordinances. **DATE:** July 11, 2011

---

**The Planning Commission should exercise its powers, and fulfill its duties, to review and make recommendations on Land Use Planning and Zoning legislation issues regardless of whether they are couched as amendments to Title 20 or to Title 6.**

The Title 20 medical marijuana legislation is inextricably linked with the Title 6 legislation on the same subject. The very definitions—and nothing is more important in land use planning than the definitions—are found ONLY in Title 6. Proposed 20.80.755 refers to Title 6 for all definitions on medical marijuana. Clearly, Title 6 supplements and informs Title 20 to such an extent that considering 20 without 6 would be futile.

The maximum number of collectives is found in both Title 20 and Title 6. Thus the two Titles overlap and duplicate each other on some issues and must be considered together.

The critical (and fatal) issue of **mandatory** onsite cultivation of all medical marijuana distributed by a collective is found only in Title 6. (Proposed 6.88.430(E).) This is clearly a land use issue: cultivation is agriculture is land use—especially if it involves high-amperage electrical usage. But proposed 20.80.775(G) says only that onsite cultivation “is **allowed**.” This clearly implies that it is allowed, but **not required**. If medical marijuana is not required to be grown onsite then it is allowed to be grown offsite. (It has to be grown somewhere—a collective is meaningless without medicine.) Thus, on this critical issue, Titles 20 and 6 contradict each other, and the Planning Commission should address these contradictions and make sensible policy recommendations resolving them.

### **RECOMMENDATIONS**

The members of MC3 (Medical Cannabis Collectives Coalition), and its consultants, have reviewed the Planning Staff report dated July 5, 2011. We have offered additional comments and requested ordinance revisions in our two memos of July 5 (one for Title 20 and one for Title 6), many of which were included in our five memos to Planning staff dated May 23, 2011. Unless otherwise noted, we support the majority of staff’s analysis and recommendations.

We request that the Planning Commission recommend to the City Council, the following ordinance clarifications:

**For Title 20, the following can be made as one or more motions. The rationales are in the earlier memos.**

- 
1. **Include the IP Industrial Park, HI Heavy Industrial, CP Commercial Pedestrian, and CN Commercial Neighborhood zoning districts, for medical marijuana collective uses. Make the distance from, and impact on, sensitive uses the main criteria for appropriate locations.**
  2. **Include a merit-based selection process with a public hearing, i.e., a CUP. This will ensure that only the best-qualified collectives are licensed. Replace proposed 20.80.760(B) "Zoning Code Verification Certificate has been duly applied for and issued by the Director pursuant to the provisions of Chapter 20.100 of this Title, which Zoning Code Verification Certificate confirms full conformance of a proposed Medical Marijuana Collective with all of the applicable provisions of this Title. The application for such zoning code compliance certificate shall be filed pursuant to the requirements and processes set forth in said Chapter 20.100" with "Conditional Use Permit has been duly applied for and issued by the Planning Commission pursuant to the provisions of 20.100.700-770 of this Title and in compliance with all the applicable provisions of this Part. The application for such Conditional Use Permit shall be filed pursuant to the requirements and processes set forth in Chapter 20.100. In granting a CUP, the Planning Commission shall have the power to allow a collective to locate inside the minimum distance requirements (except for the state law required distance to schools) only on a finding that the location will not have undue adverse impact on any sensitive use or the public health and welfare." Delete 20.100.1500-1540.**
  3. **Increase the maximum number of collectives allowed from 10 to 20 and remove the maximum of 2 collectives per district. This will decrease the potential of creating 10 overly large facilities.**

For Title 6, twenty recommendations are contained in MC3's memo re: Title 6 dated 7/5/11, included in the current staff report packet as the last item starting at p. 83 of 89 (attached to the Supplemental Staff Memo). The Planning Commission should exercise its powers, and fulfill its duties, to review all the land use planning and zoning issues raised in Title 6 which supplement, impact, overlap, duplicate, complement, and conflict with Title 20. These twenty recommendations can be made in one or more motions by reference to that memo. The issue of mandatory onsite cultivation is contained therein as are other critical land use issues.

If no recommendations are made regarding Title 6, then make the following additional recommendations regarding Title 20.

4. **Clarify 20.80.775(G) to allow both on- and off-site cultivation, but with a limitation on the number of off-site locations citywide, to be determined by Staff. Require 24-hour security for on-site cultivation. Require that both on- and off-site cultivators growing medical marijuana pass a background check and have no prior non-marijuana felony convictions.**
5. **Add a definition to 20.80.755 as follows and amend as needed: "Medical marijuana collective" or "collective" means an incorporated or unincorporated association, composed of four (4) or more qualified patients and designated primary caregivers of qualified patients (individually and collectively referred to as "member(s)") who associate at a particular location to collectively or cooperatively cultivate and distribute marijuana for medical purposes, and to offer related services, in strict accordance with California Health and Safety Code Sections 11362.5, et seq.**
6. **Insert a Personal Use Cultivation section into Title 20 (as it is clearly a land use issue) based on proposed 6.88.900 as modified by the MC3 7/5/11 Title 6 Recommendations 16-20.**

#### **Recent Updates:**

Medical cannabis law, politics, and policy continue to evolve. On June 29, 2011, the US Department of Justice issued the attached memo to all US Attorneys clarifying its medical marijuana prosecution policy. The memo focuses on discouraging the "planned cultivation of tens of thousands of cannabis plants" that the current San Jose draft would mandate. This week and next the City of Oakland is considering revised drafts of its distribution ordinance and its (never-implemented) cultivation ordinance. If implemented, Oakland's would be the first ever centralized cultivation model in California and will test the clarified federal policy.

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**CONCLUSION**

In summary, we believe the City has come a long way in developing regulations that will allow medical marijuana collectives in San Jose. We ask that the City take these last steps to fine tune and implement regulations that will allow only the most qualified collectives to operate in San Jose. The above outlined points are keys to reaching this goal.

Please feel free to contact us if you have any questions. Thank you for your consideration.

Ariel Loveland, President, MC3 (Medical Cannabis Collectives Coalition), (415) 314-3353  
David Tymn, TYMN Land Planning Services, (408) 656-7739; James Anthony, (510) 207-6243  
Jerry Strangis, Strangis Properties, (408) 234-5931; Vincent Rivero, VER Consultants, (408) 834-7889





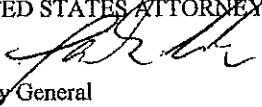
U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

June 29, 2011

MEMORANDUM FOR UNITED STATES ATTORNEYS

FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding the Ogden Memo in Jurisdictions  
Seeking to Authorize Marijuana for Medical Use

Over the last several months some of you have requested the Department's assistance in responding to inquiries from State and local governments seeking guidance about the Department's position on enforcement of the Controlled Substances Act (CSA) in jurisdictions that have under consideration, or have implemented, legislation that would sanction and regulate the commercial cultivation and distribution of marijuana purportedly for medical use. Some of these jurisdictions have considered approving the cultivation of large quantities of marijuana, or broadening the regulation and taxation of the substance. You may have seen letters responding to these inquiries by several United States Attorneys. Those letters are entirely consistent with the October 2009 memorandum issued by Deputy Attorney General David Ogden to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana (the "Ogden Memo").

The Department of Justice is committed to the enforcement of the Controlled Substances Act in all States. Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large scale criminal enterprises, gangs, and cartels. The Ogden Memorandum provides guidance to you in deploying your resources to enforce the CSA as part of the exercise of the broad discretion you are given to address federal criminal matters within your districts.

A number of states have enacted some form of legislation relating to the medical use of marijuana. Accordingly, the Ogden Memo reiterated to you that prosecution of significant traffickers of illegal drugs, including marijuana, remains a core priority, but advised that it is likely not an efficient use of federal resources to focus enforcement efforts on individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or their caregivers. The term "caregiver" as used in the memorandum meant just that: individuals providing care to individuals with cancer or other serious illnesses, not commercial operations cultivating, selling or distributing marijuana.

The Department's view of the efficient use of limited federal resources as articulated in the Ogden Memorandum has not changed. There has, however, been an increase in the scope of

commercial cultivation, sale, distribution and use of marijuana for purported medical purposes. For example, within the past 12 months, several jurisdictions have considered or enacted legislation to authorize multiple large-scale, privately-operated industrial marijuana cultivation centers. Some of these planned facilities have revenue projections of millions of dollars based on the planned cultivation of tens of thousands of cannabis plants.

The Ogden Memorandum was never intended to shield such activities from federal enforcement action and prosecution, even where those activities purport to comply with state law. Persons who are in the business of cultivating, selling or distributing marijuana, and those who knowingly facilitate such activities, are in violation of the Controlled Substances Act, regardless of state law. Consistent with resource constraints and the discretion you may exercise in your district, such persons are subject to federal enforcement action, including potential prosecution. State laws or local ordinances are not a defense to civil or criminal enforcement of federal law with respect to such conduct, including enforcement of the CSA. Those who engage in transactions involving the proceeds of such activity may also be in violation of federal money laundering statutes and other federal financial laws.

The Department of Justice is tasked with enforcing existing federal criminal laws in all states, and enforcement of the CSA has long been and remains a core priority.

cc: Lanny A. Breuer  
Assistant Attorney General, Criminal Division

B. Todd Jones  
United States Attorney  
District of Minnesota  
Chair, AGAC

Michele M. Leonhart  
Administrator  
Drug Enforcement Administration

H. Marshall Jarrett  
Director  
Executive Office for United States Attorneys

Kevin L. Perkins  
Assistant Director  
Criminal Investigative Division  
Federal Bureau of Investigations

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**MEMORANDUM**

PC Agenda: 06-22-11

Item: 3.c.

**TO:** Planning Commission  
City of San Jose

**FROM:** MC3 (*Medicinal Cannabis  
Collectives Coalition*)  
Ariel Loveland, President  
David Tymn  
Jerry Strangis  
James Anthony  
Vincent Rivero

**SUBJECT:** Responses and recommendations to the June 16,  
2011, Planning Division staff report regarding  
Medical Marijuana proposed Title 20 ordinance  
revisions.

**DATE:** June 22, 2011

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**RECOMMENDATION**

The members of MC3 (Medical Cannabis Collectives Coalition), and its consultants, have reviewed the Planning Staff report dated June 16, 2011. We offer the following comments and requested ordinance revisions, many of which were included in our memo to Planning staff dated May 23, 2011. Unless otherwise noted, we support the majority of staff's analysis and recommendations.

We request that the Planning Commission recommend to the City Council, the following ordinance clarifications:

1. **Include the IP Industrial Park, HI Heavy Industrial, CP Commercial Pedestrian, and CN Commercial Neighborhood zoning districts, for medical marijuana collective uses. Make the distance from, and impact on, *sensitive uses* the main criteria for appropriate locations.**
2. **Include a merit-based selection process, with a public hearing, such as a CUP or a City Manager-driven scoring process; increase the total number of collectives allowed from 10 to 20; and remove the maximum of 2 collectives per district. This will ensure that the best-qualified collectives are licensed, and will decrease the potential of creating 10 overly large facilities.**
3. **Allow both on- and off-site cultivation, but with a limitation on the number of off-site locations citywide, to be determined by Staff. Require 24-hour security for on-site cultivation. Require that both on- and off-site cultivators growing medical marijuana pass a background check and have no prior non-marijuana felony convictions. Specifically, amend 4/12/11 draft of Title 6 ordinance to delete 6.88.430(E).**

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## ANALYSIS

### **1. Include the IP Industrial Park, HI Heavy Industrial, CP Commercial Pedestrian, and CN Commercial Neighborhood zoning districts, for medical marijuana collective uses. Make the distance from, and impact on, sensitive uses the main criteria for appropriate locations.**

#### **Industrial Park Zoning District**

The list of zoning districts proposed to allow medical marijuana collective locations, skips from Combined Industrial Commercial to Light Industrial, and omits the *Industrial Park* zoning district. This omission seems to be an oversight during staff and council discussions. If Combined Industrial Commercial, and Light Industrial zoning districts are to allow medical marijuana collectives, then it seems reasonable to include Industrial Park which bridges the gap between Combined Industrial Commercial and Light Industrial. The Industrial Park zoning currently supports a number of excellent medical marijuana collectives. In addition, this district typically will meet all of the separation criteria set forth by the City Council and staff with regard to distances from residences, public and private schools, child daycare, community/recreation centers, parks, libraries, and substance abuse rehabilitation centers. Why not allow collectives to consider a wider variety of zoning districts, provided they meet the separation criteria? Thus the most qualified collectives will be successful, pay the City greater tax revenue, and give patients the best quality service and medicine.

#### **Heavy Industrial Zoning District**

Allowing only ten collectives, will likely result in ten very large scale collectives. Additionally, if onsite cultivation is allowed or required, the electrical needs for cultivation on that massive scale are mostly found in the Heavy Industrial district. The HI Heavy Industrial zoning district seems to be perfectly suited medical marijuana collectives with onsite cultivation because the tenant spaces in this zone are larger and often times more readily available. Allowing collectives more zoning district options such as the IP and the HI districts, would promote a more even distribution of collectives throughout the City. Furthermore, these districts usually meet all of the separation criteria set forth by the City Council with regard to distances from residences, public and private schools, child daycare, community/recreation centers, parks, libraries, and substance abuse rehabilitation centers. Why not allow collectives to consider a wider variety of zoning districts, provided they meet the separation criteria? Thus the most qualified collectives will be successful, pay the City greater tax revenue, and give patients the best quality service and medicine.

#### **Consistency with the Framework for Preservation of Employment Lands**

The inclusion of Industrial Park and Heavy Industrial zoning districts to allow Medical Marijuana collectives is consistent with the City's goals and policies for employment lands preservation. The City of San Jose Framework for Preservation of Employment Lands was adopted to help maintain a viable economy for the City and provide services to residents at levels consistent with the City's goals and policies. The City has a strong interest in preserving the City's remaining employment land acreage and job capacity for a wide array of businesses. Employment lands are defined as non-residentially designated lands supporting private sector employment. Medical marijuana collectives located in the industrial zoning districts preserve industrial lands for economic growth, provides employment in a new and expanding market, and provides new and increasing tax revenues.

### **Include CP Commercial Pedestrian and CN Commercial Neighborhood zoning districts, for medical marijuana collective uses.**

Allowing options for more zoning districts such as the CP and the CN districts, would promote more even distribution of collectives throughout the City, thereby reducing potential over-concentration and potential over-intensification. The CP and CN zoning districts are nearby public transportation and other patient medical treatment facilities. Although the CP and CN districts tend to be closer to sensitive receptors such as residential

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districts and school facilities, our land use research indicates that there are a small number of properties that would meet the City's current criteria for locating medical marijuana collectives in these districts. We propose that the city allow the CP and CN districts and use the sensitive use impact criteria and merit-based selection process to eliminate inappropriate locations. This will promote a more even distribution of potential sites throughout the city and provide additional options for tax revenue.

**2. Include a merit-based selection process, with a public hearing, such as a CUP or a City Manager-driven scoring process; increase the total number of collectives allowed from 10 to 20; and remove the maximum of 2 collectives per district. This will ensure that the best-qualified collectives are licensed, and will decrease the potential of creating 10 overly large facilities.**

As currently proposed, planning staff would complete a ministerial "zoning verification checklist," without any merit-based review by staff to allow permits for the best-qualified collectives. All other California cities with a limited number of collective permits issue them on the basis of merit, with a public hearing, either through a CUP or a City Manager scoring process. Staff is proposing a "first come first served" checklist approach—with no public hearing—that will promote a mad scramble and randomly reward whoever is first in line, not the best qualified. This may license barely qualified collectives that meet minimum checklist criteria.

As currently proposed, only ten medical marijuana collectives would be issued permits in San Jose. Staff recognizes that there are currently more than 100 existing collectives operating in San Jose. Clearly, the over one million residents in the area are creating a large demand for medical marijuana, as reflected in the existing number of collectives. If San Jose reduces the number to only ten, those ten will grow much, much larger than the typical current size to meet that current and future demand. There will be an increase in traffic, parking demand, and activity of over 10 times what the current collectives are experiencing. A CUP process, or scoring and ranking by City Manager's office, will ensure that those permitted will be those best able to handle this intensification. Any such merit-based system will strengthen the city's power to consider the impact on sensitive uses, and should include the discretion to permit appropriate locations on a finding of no harm to the public health and welfare. If the city wants even more review, it can combine both a City Manager scoring system followed by a CUP, as does the City of Stockton.

In Council hearings, staff has alluded to a potential CEQA issue related to a potential increase in collective facility size. We are suggesting that the city review this issue and increase the number to 20 collectives, so that impacts can be reduced to an acceptable level that qualifies for a ministerial CEQA exemption.

Allowing collectives more zoning district and council district options throughout the City, will promote more even distribution of collectives throughout the city. The available zoning districts, and parcels that meet the sensitive use separation requirements, are not evenly distributed throughout all council districts in the city. There may be a smaller number of available properties suitable in a council district that has more residential uses, versus some of the other districts that have more commercial and industrial properties available. We propose that the locations be evaluated by zoning district criteria, sensitive use separation, and a merit-based selection process, with no restriction by council district (or allow up to four per district). Let the process decide which properties are appropriate. Otherwise, there may be no collectives in some districts due to predominantly residential uses and higher numbers of sensitive receptors, which may result in only 6 or 8 even larger collectives that meet the inflexible proposed criteria.

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**3. Allow both on- and off-site cultivation, but with a limitation on the number of off-site locations citywide, to be determined by Staff. Require 24-hour security for on-site cultivation. Require that both on- and off-site cultivators growing medical marijuana pass a background check and have no prior non-marijuana felony convictions. Specifically, amend 4/12/11 draft of Title 6 ordinance to delete 6.88.430(E).**

The current proposal is to centralize the cultivation of all San Jose medical marijuana into ten large-scale industrial facilities located at the ten retail distribution sites (hence, “on-site”). This would have undesirable (if unintended) consequences, including:

- Unacceptable security and public safety risks due to mix of incompatible land uses: large-scale industrial cultivation and retail distribution—large-scale industrial cultivation should be isolated from retail distribution.
- Federal concern of the kind that has recently thwarted efforts to regulate cultivation under state law in Oakland, Berkeley, Isleton, Washington state, and Rhode Island. This kind of concern isn’t raised by retail distribution regulations without large-scale cultivation, such as recently implemented in Sacramento, Richmond, and Stockton. No other California city requires on-site cultivation.
- Many patients will simply return to the underground market due to loss of variety of marijuana strains that matches the variety of patient symptoms and conditions.
- Ten very large (up to 30,000 square feet or more) indoor marijuana “farms” consuming enormous quantities of electrical power.

Both on- and off-site cultivation should be allowed, rather than all being required on-site. When City Council first considered the “on-site only” approach, they assumed that the cultivation would be fairly small-scale and could be combined with the retail distribution at the same location (on-site). On further research, this is not accurate. Currently, there is little to no on-site cultivation. Most medical marijuana is grown outside of San Jose in small-scale indoor facilities. Thousands of such facilities supply the hundred-plus collectives in San Jose that, in turn, supply tens of thousands of patients. Requiring that these thousands of small-scale facilities from outside of San Jose be combined into ten large-scale sites in San Jose is not necessary or desirable, and it conflicts with state law allowing patients to associate to cultivate in collectives without such geographical restriction.

The Police Department’s three concerns can be addressed without resort to the poison pill of mandatory onsite cultivation. 1) Criminal background checks and collective or third-party verification of medical qualification can address concerns about possible criminal sources; 2) Laboratory testing can address purity concerns; and 3) Local government, collective, or third-party inspection can ensure that residences that cultivate medical marijuana remain residences and do not turn into non-residential “grow-houses.” Ironically, staff notes, in a footnote, that the federal government will not tolerate large-scale cultivation. *Why require the one thing that the federal government has been crystal clear it will not tolerate?*

### **CONCLUSION**

In summary, we believe the City has come a long way in developing regulations that will allow medical marijuana collectives in San Jose. We ask that the City take these last steps to fine tune and implement regulations that will allow only the most qualified collectives to operate in San Jose. The above outlined points are keys to reaching this goal.

Please feel free to contact us if you have any questions. Thank you for your consideration.

Ariel Loveland, President, MC3 (Medical Cannabis Collectives Coalition), (415) 314-3353  
David Tynn, TYMN Land Planning Services, (408) 656-7739; James Anthony, (510) 207-6243  
Jerry Strangis, Strangis Properties, (408) 234-5931; Vincent Rivero, VER Consultants, (408) 834-7889



Norman E. Matteoni  
Peggy M. O'Laughlin  
Bradley M. Matteoni  
Barton G. Hechtman  
Gerry Houlihan

June 22, 2011

Chairperson Lisa Jensen  
and Members of the City of San Jose Planning Commission  
200 East Santa Clara Street  
Tower, 3rd Floor  
San José, CA 95113-1905

**Re: Medical Marijuana Collectives Ordinance;  
June 22, 2011 Hearing (Item 3.c)**

Dear Chairperson Jensen and Members of the Commission:

This office is land use counsel to the South Bay Healing Center, a medical marijuana collective that will be affected by the ordinance amendment that you will be considering this evening.

The essence of the proposed amendment is to establish a simple process for determining appropriate locations for dispensaries. As acknowledged by Planning Staff, the overarching factor in that determination is the distance of the proposed location from any sensitive receptor. Additionally, staff is recommending that the process only apply to land with certain zoning designations, with the commercial pedestrian (CP) designation notably absent from staff's recommended listing.

We agree with staff that distance from sensitive receptors should be the critical factor, but believe that the process should be set forth in the ordinance without regard to zoning designation. In that scenario, as a practical matter, all residentially designated property would *de facto* be excluded from consideration because no residentially designated property would have the required distance from sensitive receptors. As to non-residentially designated properties,



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the verification process would occur on a parcel by parcel basis to determine whether the required distance was present, which is already the heart of the process proposed by staff.

Alternatively, if the Commission is attracted to the additional "control" of allowing these dispensaries only in certain enumerated zoning designations, then the CP designation should logically be on the list. There is no bright line distinction between commercial pedestrian and general commercial properties, and in fact many CP properties act like CG properties, and the other way around. While it may be true that sensitive receptors are more frequently found near CP property than CG properties, it is equally true that many CP properties are farther from sensitive receptors than many CG properties. It is neither logical nor good planning to exclude all CP properties from consideration, when many of those parcels would be a better choice for dispensary location than parcels with the CM or other commercial or industrial designation.

The South Bay Healing Center has a location at Williams Road and Saratoga Avenue. Though zoned CP, the area has very little foot traffic and hence appears more like a CG designated area. Marc Matulich will be at the hearing, and can provide you with additional information as to why this parcel is an example of how a dispensary can appropriately be located on a CP designated parcel.

We appreciate your consideration of our comments in your deliberation of this ordinance amendment, and ask that you direct staff to modify the ordinance along the lines we have described.

Very truly yours,



BARTON G. HECHTMAN

BGH

cc: Marc Matulich



Submitted to  
PC 6-22-11



**Land Use Impacts of  
Cultivating and Dispensing  
Medical Cannabis**

*A special report prepared for the  
Members of the San Jose Planning Commission*

## MEMORANDUM

**To:** Members of the Planning Commission  
**From:** Members of the Cannabis Patients Alliance  
**Date:** June 21, 2011  
**Regarding:** Item 3c-Medical Cannabis Ordinance

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The Cannabis Patients Alliance (the Alliance) is a non-profit that represents the interests of patients, their family members, primary caregivers, and collectives based in San Jose, California. The Alliance is dedicated to ensuring that all patients can locally access medical cannabis in their community without threat to their safety, well-being, or comfort.

We thank you for your consideration of this issue and commend you on your efforts to regulate medical cannabis dispensaries in San Jose. We also appreciate that this has been a long and time-consuming process for all involved, including those patients whose safe access to medication in their community has been in danger.

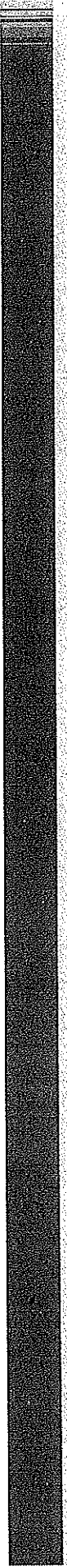
The Alliance appreciates the intent of the regulations: to make sure San Jose patients can safely access their medication. However, the current draft before you presents some very real conflicts and obstacles to achieving that goal. We therefore request that you make the following recommendations to City Council:

1. Eliminate the requirement for on-site cultivation: There are many practical, logistical and technical challenges to requiring that a collective grow all of its cannabis in the same place where it dispenses. Many of these challenges are due to the energy and space needed to cultivate cannabis indoors.
2. Approve a cap of up to 30 medical marijuana collectives: The Alliance estimates that there are approximately 47,000 patients in San Jose. These patients are currently being served by over 100 dispensaries. Because each dispensary serves a small membership, their impacts on the surrounding area are minimal like other commercial uses. When the membership of these 100 dispensaries is directed to only 10, the land use impacts will become magnified and problematic to surrounding land uses.
3. Allow collectives in all non-residential zones, subject to distance requirements to sensitive uses. The current zoning regulations are overly-restrictive and will create an artificial rise in land values, effectively narrowing the field of potential applicants to only those well-funded collectives that can afford to pay these prices even before they receive a permit.
4. Measure the distance between the Medical Marijuana Collective and any sensitive use as a straight line building to building.
5. Give the Zoning Director discretion to issue Zoning Code Verification Certificates.
6. Select permits based on a competitive process which will encourage a "race to the top" for each collective to offer their best program as part of the application process. Application fees can be set to pay for all expenses associated with the competitive application process.

We have provided you with an informational power point presentation designed to give you some of the background of medical cannabis legislation in California, information about how dispensaries typically operate and what is required to grow medical cannabis indoors. The Alliance looks forward to continuing to be a part of this discussion and working with the City to ensure that patients who need to access their medication in San Jose are able to do so in a safe and healthy environment.

# Land Use Impacts of Cultivating and Dispensing Medical Cannabis

Presented by the Cannabis  
Patients Alliance



Introduction:  
Medical Cannabis Regulation in  
California

# Proposition 215

*Proposition 215:* “The Compassionate Use Act” or “CUA” provides patients and their caregivers who obtain and use marijuana for medical purposes a legal defense to criminal prosecution and was passed in 1996.

*Problem:* Some critically ill patients are physically unable to cultivate their own medication; some patients did not have the ability or space to cultivate their own medication; and some patients with an end of life diagnosis do not have enough time to wait for their cannabis to be harvested... Proposition 215 did not clearly provide a legal defense for these patients who were not able to cultivate marijuana for their own use, and needed to rely on other patients or their caregivers to cultivate their medical cannabis.



## Senate Bill 420


To address the lack of clarity in Proposition 215, the Senate passed Senate Bill 420 in 2004, “the Medical Marijuana Program Act” or “MMP”

SB 420 clearly provides a legal defense to patients and primary caregivers who cultivate medical marijuana collectively or cooperatively.



## Local Implications

Upon passage of Proposition 215 and SB 420, cities such as Berkeley and Oakland began to create regulations that allowed patients and caregivers to distribute medical cannabis amongst themselves in storefront facilities or what we now know as dispensaries.




## California Attorney General's Office Guidelines

In 2008, the California Attorney General's Office developed "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" that provide guidelines for the lawful operation of a medical marijuana cooperative or collective.

Pursuant to these guidelines, **distribution and sales to individuals who are not members of the collective or cooperative are prohibited.**





## State Law Does Not Require that Dispensaries Cultivate On-Site

While the patients who contribute their excess medication to the collective and the patients who obtain excess medication must be in the same collective, *nothing in Proposition 215, SB 420, or the AG Guidelines require that cultivation and distribution take place in the same location or at one site.*

Part II: Land Use Impacts of  
Dispensing Medical Cannabis

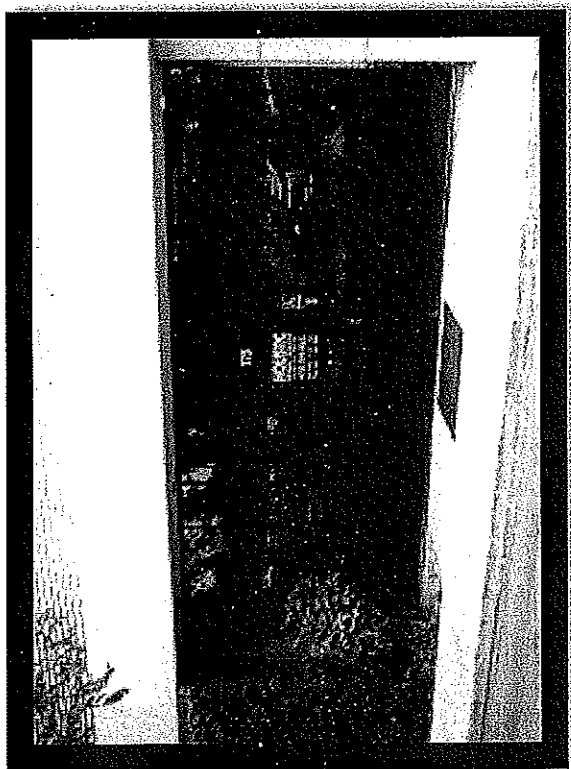


## What is a dispensary?

A medical cannabis dispensary is a fixed, storefront location where members of a particular collective are able to transfer medical cannabis among themselves for consideration (cash, services, goods, labor or other legal consideration.)

What does a dispensary look like?

Medical Cannabis  
Dispensaries are  
indistinguishable  
from other  
commercial  
activities.



Holistic Herbal Healers  
5406 Thornwood Drive

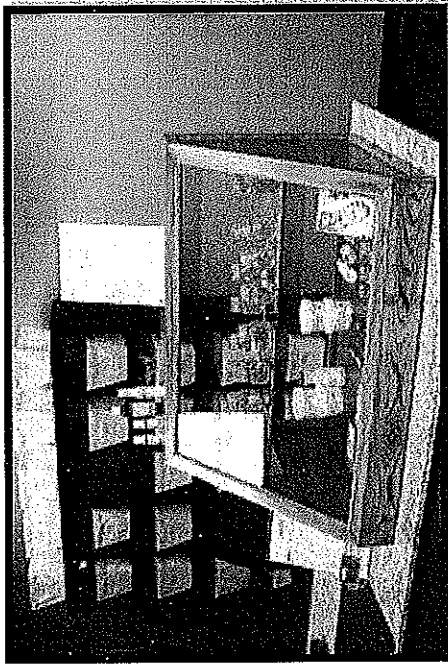
Prior to becoming a member of a particular collective or cooperative, an individual must prove that they are a qualified patient or primary caregiver by providing a photo ID and a doctor's recommendation.

Every time that a member enters a dispensary, their membership is confirmed.

## Member Verification Process



*Shown: waiting room, Holistic Herbal Healers*

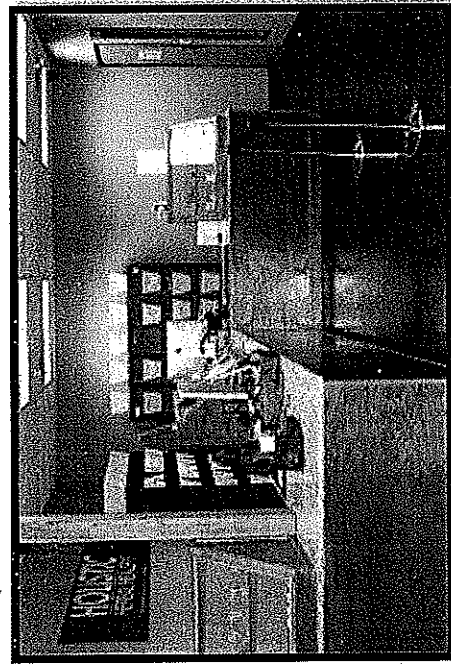


## Medication Dispensing Area

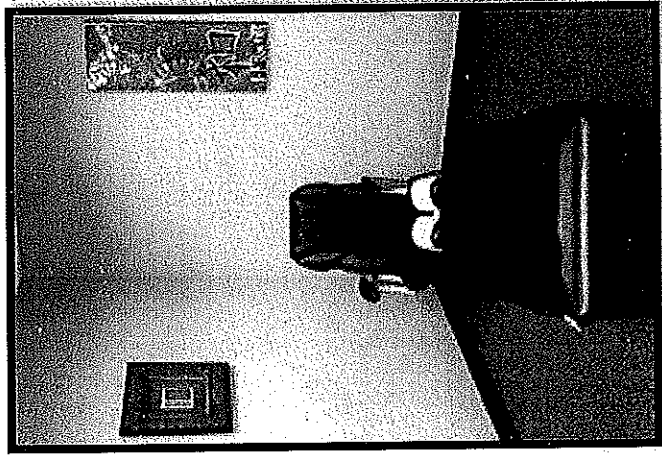
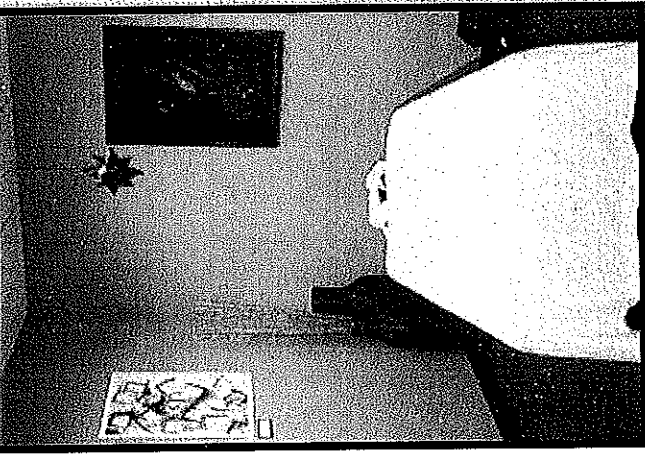
Only members of the collective or cooperative with a current recommendations are allowed into the area where medication is dispensed.

Members consult with the collective member staffing the dispensary and purchase their medication in the dispensary area.

A survey of our members found that the average length of stay for each member is approximately 20 minutes; during that time they spend about 12 minutes at the counter in the dispensary area.




*Shown: dispensary area, Holistic Herbal Healers*



### Auxiliary Services

Many medical cannabis dispensaries offer auxiliary services, such as therapeutic massage and classes to learn about how to safely cultivate your own medical cannabis.



## Land Use Impacts of Dispensing Medical Cannabis

- Impacts are comparable to similarly sized commercial activities
- There are currently over 100 medical cannabis dispensaries open in San Jose.
- The proposed ordinance will permit 10, forcing patients to join one of these large-scale collectives



## *Land Use Impacts are Magnified by the Proposed Approach*

Based on the amount of money the City has collected from the Marijuana Business Tax, we projected that if the number of medical cannabis dispensaries are capped at 10, *each facility will have as many as 477 members visits a day.*

These facilities will need parking to accommodate these numbers, and a dispensing area large enough to accommodate at least 58 patients/hour.

*Smaller scale dispensaries = reduced impacts*

The Alliance estimates that there are approximately 47,000 patients in San Jose. These patients are currently being served by over 100 dispensaries. Because each dispensary serves a small membership, their impacts on the surrounding area are minimal like other commercial uses. *When the membership of these 100 dispensaries is directed to 10 permitted dispensaries, the land use impacts will be magnified.*

Effects and Use Impacts of  
Large-Scale Medical Cannabis  
Cultivation



## What is needed for indoor cultivation?

1. Plants in a growing medium
2. Sufficient lighting (“Grow lights” - lights used range from fluorescents to high pressure sodium 400 watt or 1000 watt bulbs)
3. A watering system
4. Nutrients
5. Ventilation

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## *Indoor medical cannabis cultivation is energy-intensive*

Indoor cultivation requires high-intensity lighting, dehumidification to remove water vapor, space heating during non-illuminated periods and drying, irrigation water pre-heating, and ventilation and air conditioning to remove waste heat.

Additional energy consumption results from air cleaning, noise and odor suppression and inefficient electrical generators.

# Space Requirements for Indoor Cultivation

- Average area needed per plant: 1.95sf/plant
- Average yield per plant: 3.5 oz/plant
- Average area per pound: 48.6 sf
- Cultivation area needed for San Jose's current patient base: 141,110 sf
- Cultivation space needed per dispensary if only ten are allowed: 14,111 sf

## Land Use Conflicts between Cultivation and Dispensing:

*Cultivation and dispensing activities are not required to be at the same location and have different land use needs.*

- Large scale cultivation requires intense security measures and limited access to the site
- Collectives dispensing their medication best serve their members when they are located close to transportation and are easily accessible


# Land Use Impacts of Limiting the Number of Dispensaries to 10: *by the numbers*

# of Dispensaries	10	73	105
Patient Visits per Day	477	65	45
Patient Visits per Hour	60	8	6
Registers Required	12	2	1
Parking Spaces*	58	8	6
Facility Size (sq.ft.)	11,658	1,597	1,110
Cultivation Area (sq.ft.)	14,111	1,933	1,344
Total Size (sq.ft.)	25,769	3,530	2,454

\*Based upon 1 space for every 200 sq. ft. of facility without cultivation space

These numbers were calculated by the Alliance based on the accounting of monies the City received in April from the Marijuana Business Tax as reported in the May 13, 2011 City Manager's Memorandum, the San Jose Municipal Code, and standard medical cannabis cultivation practices.





## This presentation was prepared by the Cannabis Patients Alliance

The Cannabis Patients Alliance (the Alliance) represents the interests of patients, their family members, primary caregivers, and collectives based in San Jose, California.

The Alliance is dedicated to ensuring that all patients can locally access medical cannabis in their community without threat to their safety, well-being, or comfort.

	2011	2012	2013	2014	2015
Annual Growth Rate	25%	25%	25%	25%	25%
SJ MMJ Tax Percentage	7%	7%	7%	7%	7%
SJ MMJ Tax Collected (Month of March 2011)	\$ 290,000				
# of Collectives Paid to Date	73				
Total # of Collectives in SJ	105	10	10	10	10
Average cost of 1/8 Ounce Cannabis	\$ 55.00	\$ 55.00	\$ 55.00	\$ 55.00	\$ 55.00
Average Contribution per patient per visit**	\$ 45.00	\$ 45.00	\$ 45.00	\$ 45.00	\$ 45.00
Average Total Time Spent per patient per visit (min)	20	20	20	20	20
Average Time Spent per Patient, per Day, at Counter	12	12	12	12	12
No. of Collectives Allowed in San Jose per Ordinance	10	10	10	10	10
Hours of Operation (total hours/day)	8	8	8	8	8
Number of Visits per month, per patient	3	3	3	3	3
<b>Cultivation</b>					
1. 1x1000w light = 1 lb of medicine in 90 day cultivation cycle	36	36	36	36	36
2. 1x1000w light requires 6'x6' space to cultivate (Canopy Space)	30%	30%	30%	30%	30%
3. Additional Percentage of space required to cultivate - Trim area, restrooms, dry area, cure area, etc...					
<b>Patient Count Based on 105 Paying Collectives</b>					
Total # of Patient Visits Per Month	132,420	165,525	206,906	258,633	323,291
Total # of Patient Visits Per Day	4,414	5,518	6,897	8,621	10,776
<b>Implication for EACH of 10 remaining Collectives</b>					
Total # of Patient Visits Per Month	13,242	16,553	20,691	25,863	32,329
Total # of Patient Visits Per Day	441	552	690	862	1,078
Total # of Visits Per Hour	55	69	86	108	135
<b>Cultivation Implications</b>					
Total Revenue in SJ (per year)	\$ 71,506,849	\$ 89,388,562	\$ 111,729,452	\$ 139,661,815	\$ 174,577,269
Average Cost for 1/8 of an ounce	\$ 55.00	\$ 55.00	\$ 55.00	\$ 55.00	\$ 55.00
Total # Pounds Distributed per Collective (per month)	85	106	132	165	207
Total # Pounds Required per Collective (per day)	2.82	3.53	4.41	5.51	6.89
Total 1000w Lights required to Support Patient Base	254	317	397	496	620
Total Square Footage for canopy	9,142	11,427	14,284	17,854	22,318
Additional Square Footage Required	2,742	3,428	4,285	5,356	6,695
Total Cultivation Space	11,884	14,855	18,569	23,211	29,014