



October 27, 2016

City of Cathedral City
68700 Avenida Lalo Guerrero
Cathedral City, CA 92234

CUP No. 16-023

WCC MP

Re: Notice Of Appeal of issuance of Conditional Use Permit to WWC (medical marijuana dispensary); Planning Commission meeting- Agenda Item 4d

Dear City Council members:

I attended the Planning Commission meeting on 10/19/16 to express my opposition to the issuance of a CUP to WWC Marijuana Dispensary (agenda item 4d) based upon what I felt was a violation of the "undue concentration" clause of the Cathedral City Ordinance pertaining to medical marijuana dispensaries. The proposed location for the CUP for WWC is on Ramon road, approximately 250-300 feet from an existing medical marijuana dispensary located at 68-860 Ramon Rd. Ste. 2, Cathedral City, CA (called No Wait Meds). I was somewhat surprised and dismayed to find that Cathedral City has no definition nor guidelines for what constitutes "undue concentration". I was further dismayed by the arbitrary and unequal application of the ordinance to potential applicants.

First, let me state that I am not adverse to medical marijuana dispensaries, it's just that I do not want to operate a business with a medical marijuana dispensary on both sides of my business-much as I wouldn't want to operate my business with a liquor store on both sides. With this said, Cathedral City's medical marijuana ordinance, as currently written, exposes Cathedral City to liability/lawsuits from both applicants and the general public, along with exposing the public and local businesses to adverse social and economic impact. By failing to cap the number of dispensaries, and the requisite failure to define "undue concentration", the ordinance is hopelessly vague and allows for the granting and/or denial of licenses with no legal basis.

By way of example, when I was at the Planning Commission meeting on 10/19/16, item 4a was also seeking a CUP for medical marijuana dispensary to be located on Perez Rd. The proposed dispensary was going to be located in an office complex wherein another dispensary was already located, approximately 200 feet away. At the meeting, a total of five individuals spoke in opposition to the issuance of the CUP for various reasons, but all reasons given were based upon speculation and heresay. Basically, no admissible evidence was given that would provide the basis for a denial of the issuance of the CUP. Still, based upon the strong opposition, and bowing to constituent pressure, the Planning Commission denied the CUP. In denying the

application, the Planning commission relied on confidential "bullet points" from the City Attorney, to which attendees were not privy, to the effect that there had been admissible evidence that the proposed CUP for the dispensary would negatively impact surrounding businesses. The denial of the CUP was not based upon undue concentration. This begs the question-How did the dispensary that was already located within the same office complex obtain a CUP?

My point is that the medical marijuana ordinance is being applied selectively based upon the whims of the Planning Commission and elected officials. This approach to the law is unconstitutional and opens up Cathedral City to litigation, and I believe at this point it is not if but when Cathedral City will be sued by applicants. Their argument would probably begin with something like this- Equal protection under the law means that parties similarly situated with respect to a law must be treated alike under the law. (*Las Lomas Land Co., LLC v. City of Los Angeles* (2009) 177 Cal.App.4th 837, 857). "The concept of the equal protection of the laws compels recognition of the proposition that persons similarly situated with respect to the legitimate purpose of the law receive like treatment." (*In re Gary W.* (1971) 5 Cal.3d 296, 303.) Frequently the Courts have held that a statute may be invalidated as facially unconstitutional so long as it "create[s] [constitutional] problems in at least 'the generality' ... or 'vast majority' ... of cases" (*Today's Fresh Start*, 57 Cal.4th at p. 218 [citing *California Teachers Assn. v. State of California* (1999) 20 Cal.4th 327, 347; *American Academy of Pediatrics v. Lungren* (1997) 16 Cal.4th 307, 3430).

On the flip side, residents of Cathedral City can, and probably will, move for injunctive relief sometime in the near future based upon the city's failure to cap the number of dispensaries or to define "undue concentration". I won't belabor this hearing body with potential arguments in support of this opposite position, but suffice it to say that the residents would have a valid argument and would most likely succeed, at least initially, in obtaining a preliminary injunction based upon impending harm.

Add to the above confusion the fact that there are bills that have been signed into law that take effect on or about January of 2018, which could very well set out conflicting regulatory guidelines, and the Adult Use of Marijuana Act (AUMA) which will appear on the California ballot on November 8, 2016, as Proposition 64, for the legalization of recreational marijuana. Ultimately, without clarification of "undue concentration" or a cap on the number of dispensaries, Cathedral City may be left in a position to "take back" CUP's and licenses that have already been issued, which again would expose the city to more litigation.

I would propose a 180 day moratorium on the issuance of all CUPs and licenses by Cathedral City, including the one that I initially appeared on to oppose (WWC dispensary) until such time as the ordinance can be amended to further define "undue concentration". This would also allow the city to further assess the impact of the existing dispensaries. This approach has been used in the past by many other cities. By way of example, I have attached hereto as Exhibits C and D articles discussing the city of Denver, Colorado's moratorium on new marijuana licenses after the legalization of recreational marijuana.

Also attached is a memorandum from the city of Tigard, Oregon, where recreational marijuana is also legal, discussing how to handle the issue of "undue concentration". It should be noted that they, like most cities in the states where recreational marijuana is legal, have specific guidelines for what constitutes undue concentration. In this instance, the city of Tigard had in place an ordinance that stated "a dispensary may not be located within 1000 feet of another registered dispensary" (See Exhibit A hereto, pg. 2-highlighted) and were considering raising that to 2000 feet (See Exhibit A, pg. 2, last sentence).

Cities here in California have enacted similar guidelines for distances between registered medical marijuana dispensaries. In my research, in the cities that have allowed dispensaries and addressed the issue of undue concentration, the shortest distance between dispensaries that I have found is 600 feet (See Exhibit B hereto-Ordinance for Santa Cruz, CA-"The proposed location shall not be located with six hundred feet on any....other medical marijuana provider association dispensary establishment..." pg. 4-highlighted).

My objection to the WWC dispensary CUP, located 300 feet from an existing dispensary, and the proposed moratorium on the ordinance is clearly in the best interest of both the city and of its residents. Further, potential and existing applicants would also benefit in the long run by not being exposed to their license potentially later being "revoked" and also the deterrence of market saturation (wherein none of the dispensaries make money).

Sincerely,



Michael Petersen
P.O. Box 11333
Palm Desert, CA 92255
760-779-8688
Cell 760-899-3798

EXHIBIT A



City of Tigard Memorandum

To: Tigard Planning Commission

From: John Floyd, Associate Planner

Re: DCA2014-00002 Marijuana Facilities (Continued from January 12, 2015)

Date: February 2, 2015

On January 12, the Planning Commission considered marijuana facility regulations under a package of text amendments to the Tigard Development Code. In response to public testimony and subsequent deliberation, the Commission requested additional information before continuing the hearing. Specific issues identified by the Planning Commission are addressed below, followed by a list and summary of additional public comments received after the hearing and options for moving forward.

When considering the following questions and analysis, the Planning Commission may wish to keep in mind that the legal marijuana economy is still maturing, with many unknown issues and a dynamic regulatory environment at both the state and federal level. The OLCC is presently conducting “listening sessions” as they undergo new rulemaking regarding where and how recreational facilities will be allowed to operate, Governor Kitzhaber has requested the legislature address specific issues related to marijuana as part of the 2015 session, and a new presidential administration will take office in 2 years. As a result, the Commission may wish to act conservatively until OLCC and Federal regulations become more clear and stable.

Restated, the proposed text amendments are only a “first step” in what may become an ongoing adjustment process for all levels of government. As such, it may be preferable to allow room in the future to expand locations available for marijuana facilities through cautious restrictions in the near term, rather than retroactively increasing regulations and potentially voting to render license holders non-conforming at some future date.

Introduction to Measure 91

To help the Planning Commission understand what Measure 91 is and what it means for cities like Tigard, the following documents are included with this memorandum as Attachments 1 and 2 respectively.

- Measure 91: What it Means for Local Governments; League of Oregon Cities, November 2014.
- Control, Regulation, and Taxation of Marijuana and Industrial Hemp: Presentation to Legislative Task Force on OLCC; November 19, 2014.

It should be noted that the Oregon Medical Marijuana Dispensary Program remains unaffected by Measure 91. In addition to minimum security and operational requirements discussed elsewhere in this memorandum, the following location restrictions currently apply to medical marijuana dispensaries:

- Must be located in an area zoned for commercial, industrial, mixed use, or as agricultural land.
- A dispensary may not be located within 1,000 feet of a school (Private or public, primary, secondary, or career), within 1,000 feet of another registered dispensary, and may not be at an address registered with the Oregon Medical Marijuana Program as a grow site.
- Grow sites serving dispensaries must also be registered with the state.

Definition of permanent structure?

For purposes of clarity, staff proposes the following definition: “Permanent building: A non-mobile structure with a roof supported by columns or walls, and attached to a permanent foundation or footings.”

What does a 1,000 foot buffer from residential zones and the park zone look like? Can the buffer be reduced to 300 feet?

At the Commission’s request, staff amended the buffer maps to increase the distance from residential zones and parks from 500 feet to 1,000 feet. As anticipated and demonstrated in Attachment 3, the increased buffer has a significant impact on the number of parcels eligible to host a marijuana facility, but sufficient parcels still remain for multiple businesses to operate within the city. The Planning Commission must determine whether or not such a distance is a “reasonable restriction” on marijuana facilities.

As detailed in Attachment 1 of the staff report, staff recommended a 500 foot buffer on January 12 due to rough equivalencies identified in Tigard’s “Adult Entertainment” regulations and restrictions adopted by other local governments in Oregon. A lesser buffer area would not conflict with state requirements, but could result in undesired community impacts occurring closer to homes and public spaces.

Reducing the concentration and/or number of marijuana facilities.

Concern was expressed on January 12 regarding the possible concentration of businesses along a particular corridor or in a particular area of Tigard. To address this outcome, the City could restrict the concentration and number of marijuana facilities by increasing the minimum buffer distances between medical marijuana dispensaries from 1,000-feet to 2,000-feet, and applying the same standard to all marijuana facilities.

To help judge the effect of a 2,000 foot minimum separation standard with the City, it should be noted that the approximate length of Pacific Highway between the Portland Boundary and the Pacific Highway/217 interchange is approximately 6,000 feet, leaving room for only 1 or 2 facilities along that corridor. Similarly, the Tigard Triangle measures approximately 4,000 feet on the east-west axis, and approximately 7,500 feet on the north-south axis, leaving sufficient room for multiple businesses without an undue concentration.

Prohibition of marijuana facilities in zones that allow residential land uses.

Concern was expressed regarding the impact of marijuana facilities on residents living in zones allowing both commercial and residential occupancies. A review of allowed land uses in Tigard's twelve commercial zones and three industrial zones, revealed that residential land uses are allowed in all but four. Even the C-G: General Commercial Zone, which contains a large percentage of the City's retail and service uses along Pacific Highway and I-5, allows multi-family development through planned development review.

The four zones that exclude all residential land uses include the following:

- C-N: Neighborhood Commercial Zone
- I-P: Industrial Park Zone
- I-L: Light Industrial
- I-H: Heavy Industrial

To help illustrate the distribution of these zones, a map has been created to show their location with the city, and is included as Attachment 4. The map also includes the C-G: General Commercial zone for comparison, for comparative purposes.

Were the planning commission to restrict marijuana facilities to just these four zones, the full spectrum of marijuana facilities would still be allowed to operate within the city, as detailed in the table below. This would include growing, processing, distribution, retail, and any associated "clinics" or laboratories.

Zone	Retail	Office	General Industrial	Light Industrial	Wholesale Sales
C-N	P	P	N	N	N
I-P	R ¹	P	N	P	R ²
I-L	N	N	P	P	P
I-H	N	N	P	P	P

P = Permitted R = Restricted (see notes below) N = Prohibited

1. *Cannot exceed 20% of entire square footage within a development complex. Maximum of 60,000 square feet of gross leasable area per building or business.*
2. *Permitted if all activities, except employee and customer parking, are wholly contained in the building.*

When deliberating upon this question, the Planning Commission may wish to take the following facts into consideration:

- The only parcels zoned C-N are within 1,000 feet of a school (Conestoga Middle School), and are unlikely to have a marijuana facility approved for that location.
- As demonstrated in the table above, medical marijuana dispensaries and all four OLCC licenses specified in Measure 91 would be allowed in this combination of zones, albeit fewer when compared to the staff proposal.
- The City's industrial zones are generally separated and buffered from the City's residential land uses by Fanno Creek and the railroad corridor.
 - Industrial zones are generally located east of Fanno Creek, and south of State Highway 217 and Pacific Highway.
 - Areas where industrial and residential zones abut one another are limited:
 - Hall Boulevard between Burnham Street and Hunziker;
 - The single-family homes and apartments near the intersection of 72nd and Hunziker;
 - Tigard Street, between Katherine Street and Tiedeman Avenue; and
 - The Industrial park and offices next to Durham Elementary and Tigard-Tualatin High School (school buffers preclude dispensaries in this area).
- The majority of the industrial land in Tigard is zoned I-L and I-P. These two zones are relatively fluid due to their similarity of purpose and shared Comprehensive Plan Designation of Light Industrial, and there is a history of property owners switching from one zone to the other to pursue new market demands and business opportunities when the approval criteria can be met. In the case of marijuana facilities, a property owner may wish to change their zoning from I-L to I-P in order to allow a retail facility on the site.
- Restricting marijuana facilities to the City's industrial zones may not support the goals of the City's 2011 Economic Opportunities Analysis. That report concluded that Tigard has an insufficient amount of industrial land to meet both market demand and community needs, and the City should support actions that result in "land efficient" development, characterized as businesses with higher job densities and the efficient use of land. Of concern is a higher density of marijuana facilities that could displace or preclude other types of employee-dense, industrial land uses within the city's extremely limited industrial lands.
- Restricting marijuana facilities to these four zones would conflict with the desire of potential marijuana business owners to locate on Pacific Highway or Main Street Tigard, which are two of the three principal areas for retail activity in Tigard. The Planning Commission could, however, find marijuana facilities to have special characteristics and apply appropriate siting standards accordingly.

Security Requirements under Oregon Medical Marijuana Program and Measure 91.

Measure 91 does not establish security requirements for marijuana facilities licenses licensed by the OLCC. Those requirements will be determined through forthcoming rulemaking and legislation.

Minimum state-mandated security requirements for medical marijuana dispensaries are summarized below. Design features proposed by staff on January 12 are intended to supplement state mandated security features by focusing on external site security.

- Fully operational alarm system with motion sensors, multiple panic buttons, and external notification to an outside security company;
- Fully operational video surveillance system with mandatory areas of coverage, recording capabilities, battery backups, and archiving standards;
- Installation of a safe or vault;
- Restricted access areas secured by locked doors;
- Commercial grade door locks;
- Electronic data management system;
- A detailed policies and procedures manual and training program regarding operations, security, and transfer of product; and
- Customers cannot consume on premises;

Design Incentives for Signage

Staff was unable to identify code incentives that would achieve the stated desires of the Planning Commission for attractive and tasteful signage specific to marijuana businesses, given the expansive protection given to freedom of speech in Oregon. This issue of signage generally may be better addressed as part of a future examination of sign regulations within Tigard.

Additional Public Comment

Following the January 12 hearing, two comment letters were received and included as Attachments 4 and 5 to this memorandum.

- Peter Brock submitted an email on January 23, 2015 that called for a reduction of the proposed buffer from 500 feet to 200 feet, and believes downtown Tigard to be an appropriate location for a medical marijuana dispensary due to multi-modal access and the current presence of tobacco and alcohol shops.
- Julie Russell submitted two emails on January 18 and January 23 with links to news stories about the impact of marijuana

Potential Actions to Consider

To help the Planning Commission move forward with a recommendation to City Council, the following options may wish to be considered. Each is based upon feedback and questions received during the January 12 hearing. These options are not exclusive, and the commission may adopt one, several, or none of the following:

1. Recommend the text amendments as proposed.
2. Recommend text amendments with an increase or decrease in minimum buffer distances from specified uses or zones.
3. Recommend text amendments to include a minimum distance between marijuana facilities to reduce the density and number of these businesses within the City.
4. Recommend text amendments that restrict marijuana facilities to industrial zones.

Attachments:

1. Measure 91: What it Means for Local Governments; League of Oregon Cities, November 2014.
2. Control, Regulation, and Taxation of Marijuana and Industrial Hemp: Presentation to Legislative Task Force on OLCC; November 19, 2014.
3. Maps - Comparison of Available Sites for Marijuana Dispensaries – 1,000 Foot Buffer Scenario
4. Map – Tigard Zoning: Residential Land Uses Not Permitted
5. Email from Peter Brock; January 23, 2015
6. Emails from Julie Russell; January 18 & 23, 2015

EXHIBIT B

ORDINANCE NO. 2010-08

AN ORDINANCE OF THE CITY OF SANTA CRUZ
AMENDING TITLE 24 OF THE SANTA CRUZ MUNICIPAL CODE
MODIFYING STANDARDS FOR MEDICAL MARIJUANA DISPENSARIES

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

Section 1. Title 24 of the Santa Cruz Municipal Code is hereby amended as follows:

IG Zone District

24.10.1510 USE PERMIT REQUIREMENT.

1. The following uses require an administrative use permit and are subject to other applicable requirements of the Municipal Code. (Numerical references at the end of these categories reflect the general use classifications listed in the city's land use codes. Subcategories of uses within these use categories can be found in the land use codes, but they are not intended to be an exhaustive list of potential uses.)

- a. Agriculture (000);
- b. Auto services and repairs, including trucks, heavy equipment and auto towing, subject to performance standards in Section 24.12.900 (350);
- c. Boat repairs (340D);
- d. Churches (500);
- e. Communication and information services (550);
- f. Community organizations, associations, clubs and meeting halls (570);
- g. Eating and drinking establishments, subject to live entertainment and alcohol regulations of Chapter 24.12 (280);
- h. Educational facilities (public/private) (510);
- i. Fabricated metal products (150);
- j. Food and beverage stores (except liquor and convenience stores) (240);
- k. Forestry services (010);
- l. Government and public agencies (530);
- m. Leather tanning (110);
- n. Off-site public/private parking facilities, five or more spaces (930);
- o. Other manufacturing and processing industries (except bulk petroleum, scrap and waste materials) (155);
- p. Parks (700);
- q. Stone, clay, glass products (140);
- r. Temporary structures;
- s. Transportation facilities (560);
- t. Utilities and resources (540);
- u. Wireless telecommunications facilities, subject to the regulations in Part 15 of Chapter 24.12.

2. The following uses require a special use permit and are subject to other applicable requirements of the Municipal Code. All industrial classifications from 125 to 145 shall comply with all performance standards listed in Part 2 of the Environmental Resource Management provisions. (Numerical references at the end of these categories reflect the general use

ORDINANCE NO. 2010-08

classifications listed in the city's land use codes. Subcategories of uses within these use categories can be found in the land use codes, but they are not intended to be an exhaustive list of potential uses.)

a. Building material/garden supply stores (220) with 40,000 square feet or more including indoor floor area and outdoor storage, display, or sales areas. For building materials/garden supply stores of which 50% or more of the square footage will occupy an existing building, this threshold will be 75,000 square feet including indoor floor area and outdoor storage, display, or sales areas so long as vacant, available space in existing buildings in the IG zone exceeds 400,000 square feet. When the vacant, available square footage is less than 400,000 square feet, the 40,000 square foot threshold will apply;

b. Chemicals and allied products, subject to performance standards (130);

c. Large family daycare;

d. Group quarters (850);

e. Multiple dwellings or condominiums subject to R-M district regulations (830, 840);

f. Nightclubs/music halls, subject to live entertainment and alcohol regulations of Chapter 24.12 (630);

g. Paper and allied products subject to performance standards (125);

h. Parks and recreation facilities, subject to alcohol regulations in Part 12 of Chapter 24.12 (720);

i. Primary metals and material subject to performance standards (145);

j. Rubber, plastic, miscellaneous materials and products subject to performance standards (135);

k. Medical marijuana provider association dispensaries, as defined in Section 24.22.539 and subject to the siting criteria and performance standards in Section 24.12.1300;

l. Single-room occupancy (SRO) housing (860) under the following conditions:

(1) The site is located within one-quarter mile, (1,320 feet), of a grocery store.

(2) The lot size is less than 6,000 square feet.

(3) The SRO is part of a mixed use project, sharing the site and/or building with a use that is allowed under Section 24.10.1505, Principal Permitted Uses, is in conformance with Section 24.10.1540.2, and complies with the following requirements:

(a) The SRO development and the mixed use business are under one ownership.

(b) The amount of building space occupied by the non-residential use is either at a minimum equal to the SRO or residential use or the non-residential use occupies the entire ground floor of the development.

(4) Ambient interior noise levels can be mitigated below 45 decibels.

(5) Air quality on and around the site, including odors resulting from adjacent land uses, is not considered a potential health hazard and/or objectionable to residential use.

(Ord. 2005-30 § 12, 2005: Ord. 2005-15 § 14, 2005: Ord. 2004-27 § 12, 2004: Ord. 2004-24 § 1 (part), 2004: Ord. 2002-02 § 1 (part), 2002: Ord. 2000-12 § 4, 2000: Ord. 96-39 § 23, 1996: Ord. 95-04 § 8, 1995: Ord. 93-21 § 10, 1993: Ord. 89-37 § 2, 1989: Ord. 88-26 § 14, 1988: Ord. 87-22 § 8, 1987: Ord. 85-05 § 1 (part), 1985).

ORDINANCE NO. 2010-08

24.10.1830 USE PERMIT REQUIREMENT.

1. The following uses are subject to approval administrative use permit and a design permit:
 - a. Daycare and foster homes for children;
 - b. Eating and drinking establishments;
 - c. Foster family homes;
 - d. Guest ranches;
 - e. Off-street parking facilities accessory and incidental to an adjacent commercial use;
 - f. Temporary structures;
 - g. Veterinary hospitals and clinics;
 - h. Accessory buildings containing plumbing fixtures subject to the provisions of Section 24.12.140.

2. The following uses are subject to approval of a special use permit and a design permit:
 - a. Agricultural processing plant;
 - b. Group care homes;
 - c. Helipads;
 - d. Institutions for children or the aged;
 - e. Kennels and riding stables;
 - f. Off-street parking facilities serving commercial districts within three hundred (300) feet of the site;
 - g. Outdoor theaters, golf driving ranges, and other similar open-air commercial recreation facilities;
 - h. Public and private noncommercial recreation areas, buildings and facilities such as parks, country clubs, golf courses, and riding, swimming and tennis clubs;
 - i. Public and quasi-public buildings and uses including administrative, recreational, educational, religious, cultural, public utility or public service uses; but not including corporation yards, storage or repair yards, and warehouses;
 - j. Quarters, accommodation, or areas for transient labor, such as labor cabins or labor supply camps;
- (Ord. 2000-12 § 5, 2000: Ord. 88-60 § 29, 1988; Ord. 88-26 § 15, 1988; Ord. 85-05 § 1 (part), 1985).

24.22.539 MEDICAL MARIJUANA PROVIDER ASSOCIATION DISPENSARIES.

A nonresidential occupancy that is limited to the cultivation, production, acquisition and dispensing of medical marijuana and further by the siting criteria, performance standards and conditions of approval imposed on each establishment by the zoning board and zoning administrator, pursuant to Sections 24.08.040 and 24.12.1300 of this code. In addition, this use shall not be permitted as an accessory use to any other principal, special, or conditional use nor may it be permitted as a home business within any district of the city.
(Ord. 2000-12 § 7, 2000).

24.12.1300 SPECIAL USE PERMIT REQUIREMENT FOR MEDICAL MARIJUANA PROVIDER ASSOCIATION DISPENSARIES.

1. Special Use Permit Required. Medical marijuana provider association dispensaries, as defined by Section 24.22.539, may be allowed in C-C (Community Commercial), C-T (Thoroughfare Commercial) and I-G (General Industrial) districts, provided that they meet the siting criteria and performance standards described below and are so authorized pursuant to the procedures described in Section 24.08.040 for a special use permit. Special use permits shall be limited to no more than two dispensaries operating within the City of Santa Cruz and shall include the following conditions and operating procedures, in addition to the other requirements set forth in Sections 24.10.700 through 24.10.750 (for C-C Districts), 24.10.900 through 24.10.950 (for C-T Districts), and 24.10.1500 through 24.10.1540 (for I.G. Districts).

2. Siting Criteria. Applicants for a special use permit for a medical marijuana provider association dispensary must meet the following siting criteria prior to city consideration of a special use permit application:

a. The proposed location shall lie within a Community Commercial (C-C), Thoroughfare Commercial (C-T), or General Industrial (I-G) District.

b. If the proposed location is located within fifty feet of any legal dwelling unit or other residential use, the applicant shall be required to demonstrate to the zoning board that the use would not create an intensity of use that is incompatible with the nearby residential use and that the association would employ security measures that would insure that the use would not adversely affect the security and safety of the residential uses.

c. The proposed location shall not be located within six hundred feet of any residential zone district, any other medical marijuana provider association dispensary establishment, any public or private educational establishment serving persons under the age of 18 years, a public park with a children's playground, an alcohol or other drug abuse recovery or treatment facility, or any community care residential facility providing mental health/social rehabilitation services. For the purpose of this subsection, the six-hundred-foot distance requirement shall be measured from the periphery of the property boundary of such establishments. With respect to a public park with children's playground, the six-hundred-foot distance shall be measured from the periphery of the playground area.

d. The planning commission or the city council on appeal, may grant an exception to the six-hundred-foot distance requirement between the medical marijuana provider association dispensary and the above-referenced uses, except in the case of proximity to public educational uses, only if findings are made that the general public benefit that could be served by the issuance of the special use permit would outweigh concerns regarding intensity of use, land use compatibility and public health and safety. The burden of proof is on the Applicant to demonstrate that the overall effect would be positive.

3. Performance Standards. Medical marijuana provider association dispensaries, once permitted, shall meet the following operating procedures and performance standards for the duration of the use:

a. The association shall meet all the operating criteria for the cultivation, production, acquisition and dispensing of medical marijuana as may be required of the Santa Cruz city council and police department, including security concerns, and/or the county health department or their designee.

ORDINANCE NO. 2010-08

b. The association shall meet all the operating criteria for the cultivation, production, acquisition and dispensing of medical marijuana as required by the city council's administrative guidelines for the operation of medical marijuana dispensaries and gardens adopted pursuant to Ordinance 2000-06. (See Chapter 6.90, Personal Medical Marijuana Use.)

c. Dispensaries may possess no more dried marijuana or plants per qualified member patient or caregiver than permitted in strict accordance with State Law. The area within the dispensary used for cultivation of marijuana shall be limited to no more than 3,000 square feet of ADA complaint floor area.

d. No product shall be smoked, ingested or otherwise consumed on the premises.

e. The hours of operation shall be limited to no more than 7:00 AM to 7:00 PM, Monday through Friday if located within fifty feet of a residential use, and shall be limited to no more than 7:00 AM to 7:00 PM Monday through Saturday if located at a distance greater than fifty feet from a residential use.

f. Parking shall be provided according to the standard for retail pharmacy use as set forth in Section 24.12.240(aa). In addition to that requirement, whenever feasible, a passenger drop-off and pick-up parking zone shall be provided on the premises or immediately adjacent to the site. In no case shall double-parking by clients, caretakers, visitors or delivery vehicles be permitted.

g. The association shall prohibit loitering by persons outside the establishment, either on the premises or within fifty feet of the premises.

h. The association shall provide litter removal services each day of operation on and in front of the premises and, if necessary, on public sidewalks within fifty feet of the premises.

i. The association shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

j. Exterior lighting of the parking area shall be kept at a sufficient intensity so as to provide adequate lighting for patrons, while not disturbing surrounding residential or commercial areas.

k. Signage for the establishment shall be limited to one wall sign not to exceed twenty square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated.

l. The association shall provide the zoning administrator, the chief of police and all neighbors located within fifty feet of the establishment with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment. The association shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police department or the zoning administrator.

m. The association shall post a copy of the conditions of approval for the special use permit on the premises in a place where it may be readily viewed by any member of the general public.

n. The association shall meet any specific additional operating procedures and measures as may be imposed as conditions of approval by the zoning board or zoning administrator at the time of issuance of the special use permit in order to insure that the association will be a good neighbor.

o. In addition to the required application materials, the association shall submit an operations manual to describe the operation of the facility in conformance with these performance standards and Chapter 6.90, Personal Medical Marijuana Use.

ORDINANCE NO. 2010-08

p. To offset power consumption, the association shall install solar panels to provide as much power as possible for the indoor cultivation of medical marijuana.

q. No association shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the associations actual expenses for the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with State Law. All such cash and in-kind amounts and items shall be fully documented and a report of such shall be submitted to the City in accordance with Section 6.90 of the Municipal Code.

4. Findings. In approving a special use permit, it shall be determined by the hearing body that all of the following apply:

a. The proposed use complies with all of the mandatory requirements of this section and other applicable sections of this code and applicable policies of the General Plan;

b. The proposed use will not adversely affect the health, safety or welfare of area residents or businesses, or uses, or will not result in an undue concentration in any one neighborhood or district and will not be located within proximity of an incompatible use, such as a children's school, day care facility or children's' play area;

c. The operational characteristics of the proposed use, such as hours of operation, noise, odor, amount and location of parking, signage, loitering and litter, will not have a negative impact upon the surrounding area;

d. The proposed use is compatible with the sizes and types of other neighboring uses in the surrounding area, particularly those used primarily by persons under the age of 18;

e. The proposed use is not located in what has been determined by the Santa Cruz police department to be a high-crime area, where a disproportionate number of police service calls occur, or where there is currently parking congestion; and

f. The proposed use, as a nonresidential occupancy, shall meet all the building code requirements for such occupancy and, if proposing to locate in a legal dwelling unit, shall comply with all local standards, requirements and provisions for converting dwelling units to nonresidential use.

5. Conditions. The planning commission, or city council on appeal, may deny any application which is inconsistent with the above-noted findings, or may impose any additional conditions on the applicant or proposed location reasonably related thereto, or to the health, safety or welfare of the community, in addition to the specific requirements set forth in Section 24.12.1300.

6. Violations and Abatement. The zoning administrator may issue a cease and desist order or "stop order" for all activities subject to this special use permit for any establishment deemed by the zoning administrator to be in violation of any condition of approval of the special use permit or to otherwise constitute a public nuisance. The stop order shall be in effect immediately, pursuant to the procedures of Section 24.04.221. Upon issuance of the stop order, the zoning administrator shall schedule a public hearing to consider the revocation of the special use permit pursuant to Section 24.04.225.

(Ord. 2000-12 § 6, 2000).

ORDINANCE NO. 2010-08

Section 2. This Ordinance shall take effect and be in force thirty (30) days after final adoption.

PASSED FOR PUBLICATION this 9th day of March, 2010, by the following vote:

AYES: Councilmembers Lane, Mathews, Beiers, Madrigal, Robinson;
Mayor Rotkin.

NOES: None.

ABSENT: Vice Mayor Coonerty.

DISQUALIFIED: None.

APPROVED: ss/Mike Rotkin, Mayor

ATTEST: ss/Lorrie Brewer, City Clerk

PASSED FOR FINAL ADOPTION this ____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2010-08
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

City Clerk

EXHIBIT C

POLITICS > DENVER POLITICS

Denver City Council OKs 120-day moratorium on new marijuana players



In this Aug. 25, 2014 photo, marijuana store Denver Relief co-owner Kayvan Khalatbari, right, talks with his employee Jeff Botkin his medical and recreational marijuana shop in Denver. Khalatbari also runs Denver Relief Consulting, which assists current and would-be marijuana-related businesses around the country, as well as owning a chain of pizza restaurants in Denver.

By **JON MURRAY** | jmurray@denverpost.com

PUBLISHED: December 15, 2015 at 8:29 am | UPDATED: October 2, 2016 at 4:22 pm

A shortened four-month expanded moratorium on new players in Denver's legal marijuana markets won easy approval Monday night from the City Council.

After longer discussions in a committee late last month, the council passed the ordinance changes quietly as part of a block vote.

The city's existing two-year moratorium — set to expire Jan. 1 — has allowed only existing medical marijuana license holders to open recreational dispensaries, grow houses or edible manufacturers. That restriction was aimed at preventing the newly legalized recreational pot market from being flooded by newcomers when retail sales began in 2014.

Mayor Michael Hancock's marijuana adviser had sought to extend that restriction another two years, through the start of 2018, while instituting a similar moratorium on any new medical marijuana license applications, freezing that market.

In response to council concerns, city officials reduced the length of the new moratoriums to 120 days, for now.

Ashley Kilroy and her staff still plan to lobby council members over the next 120 days to extend the "transition phase" to the full two years, giving them more time to assess the legal marijuana industry's impact.

Jon Murray: 303-954-1405, jmurray@denverpost.com or @JonMurray

TAGS: MARIJUANA IN COLORADO



Jon Murray

is The Denver Post's city hall reporter. His coverage focuses on Denver Mayor Michael Hancock, the workings of the Denver City Council and interactions between the city's government and its people, from neighborhood issues to regulation of the marijuana industry. Reach him at (303) 954-1405.

Follow Jon Murray @JonMurray

**DIGITAL & DRIVEWAY DELIVERY -
50% OFF**

EXHIBIT D

POLITICS > DENVER POLITICS

Marijuana business caps could help neighborhoods, council members say



State Senate Bill 80 seeks to bring rules for the growing of medical marijuana plants in line with those for non-medical pot.

By **JON MURRAY** | jmurray@denverpost.com

PUBLISHED: February 22, 2016 at 11:52 am | UPDATED: October 2, 2016 at 4:42 pm

Denver City Council members want to replace a moratorium restricting the growth of the state's largest legal marijuana market with caps that they argue would protect saturated neighborhoods.

In some ways, the upshot of setting location caps on dispensaries and grow houses — both citywide and within smaller geographic areas — would be similar to the recently expanded moratorium, which bars new players from entering the market.

But supporters who are hammering out details, including how to set the limits, point to key differences: The caps would allow some new business owners to dive in without increasing the number of locations. They also would offer more protection to low-income neighborhoods with industrial areas that complain about cultivation odors.

And by limiting locations, the new rules would encourage the industry to convert medical marijuana dispensaries to recreational shops, which face more regulation and charge higher taxes.

Councilwoman Robin Kniech unveiled the outlines of her ideas Monday in the council's Marijuana Moratorium Committee. They haven't been drafted yet into a formal proposal.

"With the citywide approach, you can move around pieces on the chess board, but you can't add new pieces," Kniech said.

But under her proposal, potential new entrants could apply for a lottery when existing businesses close or have their licenses revoked.

That's not the case now. Late last year, the council extended through May 1 a 2-year-old moratorium that has allowed only businesses that had medical marijuana licenses in late 2013, a few months before retail sales began, to open recreational dispensaries, grow houses or edibles manufacturers.

The council also added a moratorium on new medical marijuana license applications. Mayor Michael Hancock's administration had sought another two years for that expanded moratorium, but council members approved a shorter extension so they could consider permanent rules that address concerns about the industry.

The administration and representatives of the industry, and pending applicants, are finding elements to like in Kniech's proposal, but all are waiting for more details. Some advocates say the industry should be able to grow as Denver grows.

So far, edibles manufacturers aren't being targeted.

On Monday, 11 of the council's 13 members took part in a discussion that found wide consensus on Kniech's goal of creating caps, along with concerns about some details.

Those include whether to set the caps so they include dozens of still-pending applications for dispensaries and cultivation facilities, as Kniech would do, or set them lower to bar more locations than exist now — or even contract the number of locations in some areas over time.

The Denver Post reported last month that residents in some low-income areas live amid higher concentrations of marijuana businesses.

Council president Chris Herndon said the March 2 meeting will focus on getting input and reaction from the industry as well as community and issue advocates.

TAGS: MARIJUANA POLITICS



Jon Murray

is The Denver Post's city hall reporter. His coverage focuses on Denver Mayor Michael Hancock, the workings of the Denver City Council and interactions between the city's government and its people, from neighborhood issues to regulation of the marijuana industry. Reach him at (303) 954-1405.

Follow Jon Murray @JonMurray

**DIGITAL & DRIVEWAY DELIVERY -
50% OFF**