MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, February 4, 2016
2:00 PM

AGENDA

I. Call to Order
A. Roll Call
B. Changes to Order of Agenda

II. Public Comment (non-agenda items)

III. Approval of Minutes
A. January 7, 2016 Draft Action Minutes (Attachment)

IV. Discussion and Action Items

A. Consideration and recommendation to City Council regarding Fourth Medical Cannabis Dispensary
Attachment: None (see 1-28-16 staff report with late items distributed at meeting: http://www.ci.berkeley.ca.us/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Medical_Cannabis/2016-01-28_MCC_Packet_Special%20Meeting.pdf)

B. Vote on MCC representative for February 23, 2016 Council meeting: Berkeley Municipal Code changes.

C. Election of officers

V. Information Items (*In compliance with the Brown Act, no action may be taken on these items. However, they may be discussed and placed on a subsequent agenda for action.)*
None.

VI. Correspondence
None.

VII. Adjournment

Berkeley Medical Cannabis Commission website: http://www.cityofberkeley.info/medicalcannabis/)
Medical Cannabis Commission Secretary: Elizabeth Greene, 2120 Milvia Street, 2nd Floor, Berkeley CA 94704.
Phone: 510-981-7484 EGreene@cityofberkeley.info

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City commission, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, do not include that information in your communication – you may deliver communications via U.S. Postal Service or in person to the Commission Secretary. Please contact the Commission Secretary for further information.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made

available for public inspection at the Planning and Development Department located at 2120 Milvia Street, Berkeley CA. Please contact the Commission Secretary for further information.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall **Thursday, January 7, 2016**
2180 Milvia Street **2:00 PM**
Redwood Room (Sixth Floor)

DRAFT ACTION MINUTES

I. Call to Order – 2:10

A. Roll Call

Commissioners present: Cooper, Ferguson-Riffe, Lampach, Pappas (arrived at 2:15), Rice, Tims.

Absent: Jones (excused) and Rush.

Staff present: Secretary Elizabeth Greene

B. Changes to Order of Agenda

None.

II. Public Comment

Two comments, one suggesting a future agenda item to discuss parity between City use definitions and State medical cannabis permits (ie Manufacturing term meaning the same for state and city purposes), and one encouraging people to attend Planning Commission meetings to show support for expanding cultivation beyond the M District.

III. Approval of November 5, 2015 Draft Action Minutes

Motion/second to approve the minutes (Ferguson-Riffe/Rice).
(Pappas arrived at 2:15)
Chair Pappas asked that the minutes be amended to correctly reflect a statement he made in his Chair Report. The second sentence of Item V. shall be changed as follows: "9th Circuit Court decision will allow a ~~San Francisco~~Fairfax (Marin County) dispensary ~~in the Marina District~~ to reopen." The author of the motion accepted the change. The motion carried 4-0-2-2. (Ayes: Ferguson-Riffe, Pappas, Rice, Tims. Noes: None. Abstain: Cooper, Lampach. Absent: Jones, Rush.)

IV. Planning Staff Report

Secretary Greene made the following announcements:

- David Lampach has been appointed to the MCC by Councilmember Moore. (Commissioner Lampach introduced himself at this time.)
- There is one excused absence (Jones). There is still one open seat (the Mayor's appointee). People interested in filling those positions should fill out a form with the City Clerk, and can also contact the Mayor's office to express interest.
- With the open seat and the excused absence, the number of appointed members of the MCC is 7. The quorum for action is 4 votes.
- Update on dispensary application process: Two meetings scheduled to review applicants – to be discussed during this meeting. Encouraged everyone to read the applications which are accessible from the MCC page.

- 2016 meeting dates are attached. Because of special meeting in January, MCC will either need to drop a meeting later in the year or ask Council to approve an 11th meeting.
- Might need to hold elections at the February meeting.
- No late items.

V. Chairperson's Report

Chair Pappas gave a State of the Commission report. Congratulated Commissioner Lampach on his appointment. Expressed pride in the Commission and the work that was done last year. Read the MCC's purpose statement. Mentioned that the City of San Diego is working on cultivation regulations, and that the 40 Acres RICO filing was denied. Disappointed that only one dispensary was involved in MCC meetings last year.

VI. Subcommittee Reports

None.

VII. Discussion and Action Items

A. <u>Changes to Zoning Ordinance</u>: Discuss outcome of 11-18-15 and 12-16-15 Planning Commission consideration of Zoning Ordinance cultivation changes and expansion of cultivation outside the M District. Possible vote on MCC representative for February 23rd Council meeting and vote on a recommendation to Council regarding the Planning Commission's recommendation.

Staff reviewed the Planning Commission actions: 1) forwarding a recommendation to the Council to change Zoning Ordinance Section 23E.72.040 related to cultivation, including a change that removing limits on the number of cultivation locations in the M District, to be heard at the City Council meeting on February 23rd, and 2) asking for more information regarding possible expanding of cultivation beyond the M District. Chair Pappas and Commission Rice also described the meetings and made recommendations to talk with WEBAIC (West Berkeley Association of Industrial Companies) regarding their concerns about cultivation in West Berkeley.

Public Comment: One comment, whether cultivation business allowed in other districts would require variances.

Discussion: Commissioner Rice mentioned that Council member Droste and Arreguin's appointments opposed removing the restriction on the number of cultivation sites. She encouraged supporters to talk with City Council before the February 23rd meeting and attend the February 23rd City Council meeting. She mentioned the information on the cultivation handouts that have been given to the Planning Commission and suggested that the number of employees that can be expected to be employed at cultivation businesses be added. Commissioner Lampach will try to provide employment information from Colorado. Need to convince the Council not to put this off until the November State vote regarding legalization.

Motion/second to appoint Commissioner Rice and Chair Pappas to represent the MCC at the February 23rd Council meeting regarding the Section 23E.72.040 changes (Cooper/Ferguson-Riffe). Motion carried 5-0-1-2. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Tims. Noes: None. Abstain: Rice. Absent: Jones, Rush.)

Motion/second supporting the Planning Commission recommendation and appointing Secretary Greene, along with the Chair and Vice Chair, to draft a letter to the Council supporting the Planning Commission's position. (Pappas/Ferguson-Riffe). Motion carried 5-1-0-2. (Ayes: Cooper, Ferguson-Riffe, Pappas, Rice, Tims. Noes: Lampach. Abstain: None. Absent: Jones, Rush.)

B. <u>Dispensary selection process</u>: Discussion of upcoming MCC review of applications for the 4th dispensary.

Staff announced the dates of the two MCC meetings to review and possibly make a recommendation to the Council regarding the dispensary applicants:

Thursday, January 28th, 6:00 PM, North Berkeley Senior Center (special meeting)

Thursday, February 4th, 2:00 PM, 6th floor City Hall (regular meeting time and date)

Staff also reviewed the format that was discussed at the November meeting for the applicant review: Applicant presentations, MCC questions and public comment (January meeting), and public comment and MCC discussion (February meeting). A link to the applications are on the MCC's webpage.

Public Comment: Five comments, regarding the order of the presentations, the type of Council recommendation being considered, whether any applications are in the West Berkeley Plan area, if only Principals would be able to present, and how there ended up being six finalists.

Discussion: Is 10 minutes enough time for each applicant presentation? (General agreement from applicants in the audience that 10 minutes is adequate.) Some discussion followed about the order of the meeting.

Motion/second to adopt both the staff recommended meeting format (with MCC questions held until all applicants have presented), and the three questions recommended by staff for the applicant presentations.as well as any other questions that might be suggested by the MCC (Cooper/Tims). Motion withdrawn.

Motion/second to adopt the staff recommended by staff (with MCC questions held until all applicants have presented) (Cooper/Lampach). Motion carried 5-1-0-2. (Ayes: Cooper, Ferguson-Riffe, Lampach, Rice, Tims. Noes: Pappas. Abstain: None. Absent: Jones, Rush.)

MCC discussed additional topics to ask the applicants to include in their presentations, including plans to improve the status quo, plans to give back to the community and plans to help low-income patients.

Motion/second to adopt staffs three topics and to add "What do you plan to do for the community?" Motion carried 5-0-1-0. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: Tims. Absent: Cooper, Rush.)

Commissioner Lampach announced that he will recuse himself from the selection process due to business associations with some of the applicants.

There was general agreement that the order of the presenters will be decided by

selecting names out of a hat at the beginning of the January 28th meeting, and that the type of recommendation to send to Council will be decided at the February 4th meeting.

C. <u>Changes to the Berkeley Municipal Code</u>: Discuss chapter numbering and Council hearing status. Discuss and vote on staff recommendations to Council regarding selection process and energy use. Vote on MCC representative for February 23rd, 2016 Council meeting.

Staff explained the changes to the Chapter numbering and staff recommendations for new ordinance language regarding energy use (12.25.080) and recommendation that the cultivation Chapter (12.25) not take effect until the need for a cultivation selection process is determined and/or a selection process is developed.

Public Comment: None.

Motion/second to adopt staff recommended language regarding energy use (Cooper/Pappas). Motion carried 6-0-0-2. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice, Tims. Noes: None. Abstain: None. Absent: Jones, Rush.)

Continued discussion of language regarding a selection process was continued into discussion of Item D. Concerns expressed about the possibility of one or two entities controlling all possible cultivation sites and removing opportunities for small businesses to establish in Berkeley.

(Tims left at 4:20).

D. <u>Cultivation selection process</u>: Discuss whether a selection process is necessary.

Public Comment: Five public comments, regarding language to use when describing expansion of cultivation sites, the need to verify a commitment to affordable, <u>medical</u> cannabis, possibility of one person controlling all possible sites, recommendation to use the same selection process as for dispensaries, and reference to Oakland's proposed cultivation process.

Discussion: General agreement that a selection process is important, to verify "who" and "how" businesses are run. Questions were raised about the crimes that could prohibit participation in a cultivation business. Some discussion about having no selection process for small businesses. Specifics should be discussed at the March meeting.

Motion/second to recommend to Council that Chapter 12.25 not become effective until a selection process is determined (Cooper/Rice). Motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

X. Adjournment

Motion to adjourn at 4:45.

No late items were distributed at the meeting.

Commissioners in attendance: 6
Members of the public in attendance: Approximately 26
Public speakers: 13
Length of meeting: 2 hours, 35 minutes

APPROVED: _____
Elizabeth Greene
Medical Cannabis Commission Secretary

Greene, Elizabeth

From: Ryan Hudson <ryan@apothecariumsf.com>
Sent: Friday, January 29, 2016 3:57 PM
To: Greene, Elizabeth
Subject: San Francisco MCD program documents
Attachments: SF Planning MCD Draft Report March 2014.pdf; 2014 MCD Annual Report-3.pdf

Hi Beth,

Here are two documents from San Francisco that speak to the MCD program. A Planning Commission report from 2014 and the Department of Public Health's 2014 report. I am not aware of any other more recent documents or reports.

Some pages to note in the Planning Commission report; 11-17 & page 22 where the report touches on transparency and how MCD's in SF fit into the community.

Kind Regards,

Ryan Hudson
Co-Founder & Executive Director
The Apothecarium
ryan@apothecariumsf.com
415.928.3300

City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

Edwin M. Lee, Mayor
Barbara A. Garcia, MPA, Director of Health

Richard J. Lee, MPH, CIH, REHS
Acting Environmental Health Director

2014 Annual Director's Report on Medical Cannabis Dispensaries

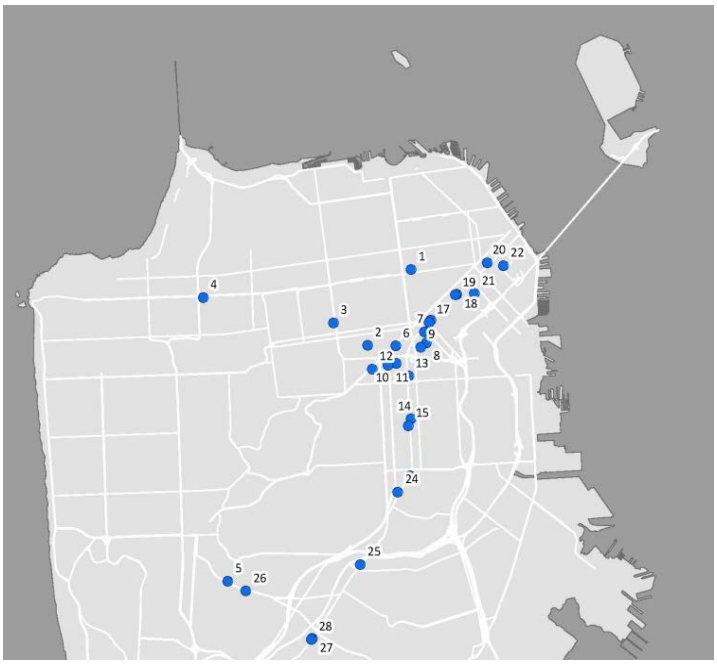
Introduction:

The Director of Public Health shall make a report to the Board of Supervisors per Article 33 section 3321 of the San Francisco Health and Safety Code[1]. This Article also defines the rules and regulations by The Department of Public Health (DPH), and its relationships with other city departments in the permitting and operating procedures. This report will summarize how patients obtain medical cannabis, how the program regulates this operation and will also describe trends in Medical Cannabis that may require further regulations.

Program Overview:

As of December 31st, 2014, there were 28 Permitted Medical Cannabis Dispensaries (MCD) operating in the City and County of San Francisco (Figure 1). DPH issues a permit to operate an MCD once approvals are granted by the Department of Building Inspection, Planning Department, Fire Department and The Mayor's Office of Disability. A permit does not overrule state and federal laws regarding cannabis enforcement.

Figure 1 – Permitted Medical Cannabis Dispensaries in San Francisco



1 .	Grass Roots	1077 Post Street
2 .	Good Fellows Cannabis Club	473 Haight Street
3 .	BASA	1328 Grove Street
4 .	Hemp Center (aka Patient Place)	4811 Geary Boulevard
5 .	1944 Ocean Collective	1944 Ocean Avenue
6 .	Ketama Collective	14 Valencia Street
7 .	San Francisco Med Cannabis Clinic	122 10th Street
8 .	Green Cross	230 11th Street
9 .	SF Foundation on Going Green	211 12th Street
10 .	Valencia Street Caregivers	280 Valencia Street
11 .	Love Shack	502 14th Street
12 .	The Apothecarium	2095 Market Street
13 .	Med Thrive Co-op	1933 Mission Street
14 .	Shambala Healing Center	2441 Mission Street
15 .	Purple Star MCD Collective	2522 Mission Street
16 .	SPARC	1256 Mission Street
17 .	Re-leaf Herbal	1284 Mission Street
18 .	Barbary Coast Collective	952 Mission Street
19 .	Bloom Room	471 Jessie Street
20 .	70 Second St	70 2nd Street
21 .	Green Door, the	843 Howard Street
22 .	Igzactly Health Center	527 Howard Street
23 .	Mission Herbal Care	3139 Mission Street
24 .	Bernal Heights Cooperative	33 29th Street
25 .	The Green Cross	4218 Mission Street
26 .	Waterfall Wellness	1545 Ocean Avenue
27 .	Tree-Med, Inc	5234 Mission Street
28 .	Mission Organics Center	5258 Mission Street

In order to obtain Medical Cannabis from a licensed MCD, a patient must first obtain a doctor's recommendation for medical cannabis. The patient must then become a member of a dispensary organized as either a collective or cooperative. The patient must have a valid government issued ID to ensure they are a California resident and are over the age of 18, along with a verified doctor's recommendation. A patient may be a member of more than one dispensary. Dispensaries' membership (patients) numbers range widely from 1,000 to 20,000 members.

Locations of MCDs are not approved by DPH but through a referral from the Planning Department. The Planning Department recommended changes to the current planning code which address patients' access and neighborhood concerns, but these changes are not yet heard by the Board of Supervisors. Existing locations, though initially approved by The Planning Department, may now be in non-conforming legal use based on more recent Planning regulations.

Annual Performance by San Francisco Dispensaries:

The permit holder must follow Article 33 section 3308 as a condition of their permit. In 2014, there were 5 public complaints that were either abated onsite or during a follow-up inspection. The complaints included an unclean facility, product packaging found in a park, improper intake procedures, and odors. Violations found during routine inspections included: improperly labeled edible cannabis, current business licenses not posted and/or paid, intake procedure and record keeping inadequate, measurement devices inaccurate and general nuisances. All violations were abated voluntarily within the allotted time set forth in Article 33. There was also one citation to a director's hearing due to repeat improper intake procedures and an invalid seller's permit. The result of this hearing is pending.

Conclusion and Future Planning:

Currently, San Francisco has the most progressive and successful regulatory program in California based on its assurance of safe access for San Francisco residents to medical cannabis. Other jurisdictions recently created their own regulatory programs, with some rules based on the success of the San Francisco program. Because of this patchwork approach to regulation, several state legislative bills attempted, but failed, to further regulate medical cannabis. These bills would have regulated transportation, growing, quality testing, government revenue generation, physician recommendations, and edible product rules among other areas.

Legalization of cannabis for recreational use will likely be on the ballot in 2016. If approved by voters, local lawmakers may wish to build upon existing medical cannabis framework to encompass recreational use.

Notes:
[1] SEC. 3321. ANNUAL REPORT BY DIRECTOR.
(a) Once a year, commencing in January 2007, the Director shall make a report to the Board of Supervisors that:
(1) Sets forth the number and location of medical cannabis dispensaries currently permitted and operating in the City;
(2) Sets forth an estimate of the number of medical cannabis patients currently active in the City;
(3) Provides an analysis of the adequacy of the currently permitted and operating medical cannabis dispensaries in the City in meeting the medical needs of patients;
(4) Provides a summary of the past year's violations of this Article and penalties assessed.
(b) Upon receipt of this Report, the Board of Supervisors shall hold a hearing to consider whether any changes to City law, including but not limited to amendments to the Health Code or Planning Code, are warranted.
(Added by Ord. 275-05, File No. 051250, App. 11/30/2005)

SAN FRANCISCO
PLANNING DEPARTMENT

Draft Planning Commission Report

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HEARING DATE: MARCH 20, 2014

Report Name:	**Evaluating the Planning Code's Medical Cannabis Dispensaries Locational Requirements**
Case No.:	2013.1255U
Initiated by:	Supervisor John Avalos [Board File 130734]
Staff Contact:	Aaron Starr, Legislative Planner *(415) 558-6362* aaron.starr@sfgov.org
Reviewed by:	AnMarie Rodgers, Manager, Legislative Affairs AnMarie.Rodgers@sfgov.org
Recommendation:	**Adopt Report and Forward to the Board of Supervisors**

STATEMENT OF PURPOSE

This report was prepared in response to an Ordinance (BF 130734), introduced by Supervisor Avalos on July 16, 2013 and passed into law on November 27, 2013, which directs the Planning Commission to prepare and submit a report to the Board of Supervisors evaluating the provisions of the Planning Code related to the location of medical cannabis dispensaries (hereinafter MCDs). This is a draft report prepared for the Planning Commission which, if approved, will be transmitted to the Board of Supervisors.

This report will provide a summary of the medical cannabis[1] laws in San Francisco as well as at the state and at the federal level, it will summarize existing controls for MCDs, and recommend changes to existing regulations. It will also address the specific questions posed in the Ordinance, which include:

1. The extent to which MCDs are concentrated in particular communities within San Francisco;
2. The nature and extent of effects of the location requirements for MCDs on medical cannabis patients' access to medical cannabis;
3. The nature and extent of effects of the location requirements for MCDs on the public health, safety and welfare in the communities in which MCDs are located;
4. Whether increased community input into the approval process to establish an MCD would benefit the public health, safety and welfare, and, if so, what procedures would be most effective in increasing such community input;
5. Projected impacts on the public health, safety and welfare of expanding the areas in which MCDs can be located; and

[1] For consistency, the term cannabis is used instead of "marijuana" or "pot" throughout this report, except when referring to specific laws or titles.

6. Best operational practices that should be employed by MCDs to ensure the public health, safety and welfare, including but not limited to minimum levels of security measures, hours of operation, and location.

In preparing this report, the Department staff consulted with representatives of the medical cannabis community, including dispensary owners, advocates and patients; staff at the Department of Public Health (hereinafter, "DPH"), Police Department (hereinafter, "SFPD"), the San Francisco Unified School District (hereinafter SFUSD) and City Attorney's Office; and neighbors of MCDs. In addition to attending an Axis of Love working group meeting on December 15, 2013 where several MCD owners and members of the MCD community provided input on the content of this report (see Exhibit D), the following individuals were also consulted:

City Staff. Ryan Clausnitzer, *Department of Public Health, MCD Division*; Sgt. Ely Turner, *SFPD Permit Officer, Ingleside Station*; Vicky Wong, *Deputy City Attorney*; Captain Hector Sainez, *SFPD*; Chris Armentrout, *SFUSD;* Valley Brown, *former neighborhood advocate (current Board Aide)*;

MCD Community. David Owen, *MCD Advocate*; Stephanie Tucker, *MCD Advocate*; Kevin Reed, *Owner, The Green Cross*; Ryan Hudson, *Owner, The Apothecarium*; Patrick Goggin, *Attorney At Law, Mediator*; Shone Gochenaur, *Executive Director, Axis of Love SF*

Neighbors. Pat Tura, *Duboce Triangle Neighborhood Association*; Terry Bennett, *President, Merchants of Upper Market and Castro*; Joelle Kenealey, *President, Outer Mission Merchants and Residents Association*; Barbara Fugate, *Cayuga Improvement Association*; Linda D'Avirro, *Excelsior Neighborhood Association*; Laurie Heath, *Neighbor of an MCD*; Dan Weaver, *President, Ocean Avenue Association*

BACKGROUND

Medical Cannabis in California

Proposition 215. In 1996, California voters passed Proposition 215, known as the Compassionate Use Act, by a 56% majority making California the first state in the union to allow for the medical use of cannabis. In San Francisco, Proposition 215 passed by a 78% majority. Prop 215 established the right of seriously ill Californians[2] to obtain and use cannabis for medical purposes when recommended by a physician.

Prop 215 removed state-level criminal penalties on the use, possession and cultivation of cannabis by patients who possess a written or oral recommendation from their physician that he or she would benefit from medical cannabis. Patients diagnosed with any debilitating illness where the medical use of cannabis has been deemed appropriate and has been recommended by a physician are afforded legal protection under this act. The bill did not set limits on the amount of medical cannabis a patient could possess at any one time; it was silent on medical cannabis

[2] Conditions typically covered by the law include, but are not limited to, arthritis; cachexia; cancer; chronic pain; HIV or AIDS; epilepsy; migraine; and multiple sclerosis.

dispensaries; and it did not set any land use controls governing the sale or distribution of medical cannabis.

Senate Bill 420. Senate Bill 420, which took effect on January 1, 2004, imposes statewide guidelines outlining how much medicinal cannabis patients may grow and possess. Under the guidelines, qualified patients or their primary caregivers may possess no more than eight ounces of dried cannabis or six mature (or 12 immature) cannabis plants. The legislation also allows counties and municipalities to approve and maintain local ordinances permitting patients to possess larger quantities of medicinal cannabis than allowed under the new state guidelines[3].

Senate Bill 420 also grants implied legal protection to the state's medicinal cannabis dispensaries, stating, "Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients ... who associate within the state of California in order collectively or cooperatively to cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions."

While Senate Bill 420 did not establish any land use controls limiting where dispensaries could be located, it did establish certain limitations on where medical cannabis could be smoked. These include:

(a) In any place where smoking is prohibited by law.
(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence
(c) On a school bus.
(d) While in a motor vehicle that is being operated.
(e) While operating a boat.

Finally, the bill also required the State Department of Health Services to establish and maintain a voluntary program for the issuance of identification cards to qualified patients. Counties are required to participate in the identification card program by providing applications upon request, process completed applications, issue ID Cards, and maintain certain records. For patients, however the process is voluntary. The California Department of Public Health reports that during the fiscal year that ended last June, the state had only 9,637 valid card holders[4].

State Attorney General Guidelines. SB 420 authorizes the Attorney General to set forth and clarify details concerning possession and cultivation limits, and other regulations. The bill also authorize(s) the Attorney General to recommend modifications to the possession or cultivation limits set forth in the bill. The bill requires the Attorney General to develop and adopt guidelines to ensure the security and non-diversion of cannabis grown for medical use. The State's Attorney

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[3] Section 3302 of the San Francisco Health Code allows patients to have 8 ounces of dried cannabis and up to 24 cannabis plants per qualified patient or up to 25 square feet of total garden canopy measured by the combined vegetative growth area. However, if a qualified patient has a doctor's recommendation that this quantity does not meet the patient's medical needs, the patient may possess an amount of cannabis consistent with the patient's needs.

[4] Leff, Lisa. "How Many Pot Patients California Has Is Anyone's Guess." Salon.com, March 24, 2012. Web. December 11, 2013.

General issued these guidelines in a 2008 memo title "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use." The memo mostly clarifies existing state law.

Assembly Bill 2650. AB 2650, which took effect on Jan 1, 2011, prohibits medical cannabis collectives from operating within 600 feet (as a crow flies) of a school. This bill defined a school as any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive. It covers all activities by dispensaries or other providers that have a storefront location or mobile outlet and are required to have a business license. The bill grandfathered dispensaries that are currently allowed to operate there under existing local regulations. The bill specifically stated that cities and counties were still able to adopt ordinances or policies that further restrict the location or establishment of medical cannabis dispensaries.

Medical Cannabis in San Francisco

MCDs started to establish in San Francisco shortly after Proposition 215 passed in order to provide safe access to medical cannabis for those suffering from debilitating illnesses. At that time, San Francisco did not have any regulatory controls in place to restrict the placement and operations of the dispensaries. As a result, over 40 dispensaries were established in the city without any land use controls, often resulting in incompatible uses next to each other.

Medical Cannabis Act. San Francisco's law covering medical cannabis, the Medical Cannabis Act (hereinafter MCA), became effective on December 30, 2005. The Act, set forth in Ordinance 275-05 and supported by Ordinances 271-05 and 273-05, amended the Planning, Health, Traffic, and Business and Tax Regulation Codes in order to establish a comprehensive regulatory framework for MCDs in San Francisco. The Act designates DPH as the lead agency for permitting MCDs. DPH conducts its own review of all applications and also refers applications to other involved city agencies, including the Planning Department, in order to verify compliance with relevant requirements. The Planning Department will only review an application from an MCD once it has received a valid referral from the Department of Public Health. The Planning Commission's review of the MCD application is generally limited to the locational and physical characteristics of MCDs.

The City's MCD Definition. Article 33 of the San Francisco Health Code defines a MCD as a cooperative or collective of ten or more qualified patients or primary caregivers that facilitates the lawful cultivation and distribution of cannabis for medical purposes and operates not for profit. An MCD may purchase or obtain cannabis only from members of the cooperative or collective and may sell or distribute cannabis only to members of the cooperative or collective. MCDs may operate only on a not for profit basis and pay only reasonable compensation to itself and its members and pay only reasonable out-of-pocket expenses.

Planning Code MCD Regulations. The Planning Code defers to the Health Code's definition of an MCD (see above) but places the following additional restrictions on where and how MCDs can operate:

1. The parcel containing the MCD cannot be located within 1,000 feet from a parcel containing a public or private elementary or secondary school; or a community

facility and/or recreation center that primarily serves persons under 18 years of age;

2. the MCD is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health;
3. no alcohol is sold or distributed on the premises for on or off-site consumption; and
4. if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that the doors and windows are not left open for such purposes, resulting in odor emission from the premises;

MCD applications generally require a mandatory Discretionary Review (hereinafter DR) hearing before the Planning Commission. Unlike other mandatory DRs, which only require a 10-day notice to adjacent neighbors, MCDs require a 30-day mailed notification to owners and occupants within a 300 foot radius of the subject property. In the West Portal NCD, a CU is required to establish an MCD, and in the Excelsior Outer Mission NCD a CU is required to establish an MCD within 500 feet of an existing MCD. Supervisor Yee has also introduced an Ordinance that would require a CU for MCDs in the Ocean Avenue neighborhood MCDs are categorized as an Institutional Use, which reflects their status as both a non-profit enterprise and a medical service provider.

Health Department MCD Applications. The cost of an MCD application is $8,656, with an additional $4,019 in annual license and re-inspection fees. Permit applications to operate an MCD from the Department of Public Health are required to contain, among other standard pieces of information, the following:

1. All felony convictions of each person applying for the permit and any other person who will be engaged in the management of the medical cannabis dispensary;
2. Whether cultivation of medical cannabis shall occur on the premises; whether smoking of medical cannabis shall occur on the premises of the medical cannabis dispensary;
3. Whether food will be prepared, dispensed or sold on the premises; and
4. The proposed security measures for the MCD, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

DPH is also required to arrange with the Department of Justice for fingerprinting services and criminal background checks to verify the information provided in the application. In addition to the mandatory DR hearing before the Planning Commission, MCDs are also subject to a public hearing, conducted by DPH, once all other City Departments have completed their review. The purpose of this hearing is to ensure that the applicant has submitted all of the required paperwork and obtained the required approvals. This hearing isn't scheduled by DPH staff until these requirements are met.

Operational Requirements. The Health Code outlines several operating requirements for MCDs, which include[5]:

1. MCDs shall be operated only as collectives or cooperatives and operate on a not for profit basis.
2. MCDs shall sell or distribute only cannabis manufactured and processed in the State of California.
3. MCDS must be closed between the hours of 10 p.m. and 8 a.m. the next day.[6]
4. Patients and staff of MCDs shall not disturb the peace in any way.
5. MCDS may not dispense more than one ounce of dried cannabis per patient per visit.
6. MCDs may not maintain more than ninety-nine (99) cannabis plants in up to 100 square feet of total garden canopy measured by the combined vegetative growth area.
7. No medical cannabis shall be smoked, ingested or otherwise consumed in the public right-of-way within fifty (50) feet of a medical cannabis dispensary.
8. Cultivation of medical cannabis on the premises of an MCD must be conducted indoors.
9. Medical cannabis can only be sold and/or dispenses on the premises of a licensed MCD. However, medical cannabis can be delivered to qualified patients outside the premises of the MCD if the person delivering the cannabis is a qualified patient and a member of the MCD.
10. MCDs are not permitted to obtain an ABC license or sell alcohol.
11. MCD are required maintain records of all qualified patients.
12. MCDs shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within 100 feet of the premises.
13. MCDs shall provide and maintain adequate security on the premises, including lighting and alarms.
14. Signage for the medical cannabis dispensary shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated.
15. MCDs must display the following text outside of the store front with a minimum 2" font: *"Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis may obtain cannabis from medical cannabis dispensaries."*
16. MCDs must provide the Health Department and all neighbors located within 50 feet of the establishment with the contact information of the designated community liaison, who is charged with addressing operating problems with the MCD.
17. MCDs may purchase or obtain cannabis only from members of the medical cannabis dispensary's cooperative or collective and may sell or distribute cannabis only to members of the medical cannabis dispensary's cooperative or collective.

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[5] These regulations have been edited and condensed for ease of reading and to save space. The full text of these requirements can be found in Section 3308 of the Health Code.

[6] Section 303 of the Health Code allows two MCDs to operate 24 hours a day. These MCDs must be located at least one mile from each other and be accessible by late night public transportation services. To date, no MCD has been permitted to operate 24 hours.

18. MCDs may sell or distribute cannabis only to those members with a medical cannabis identification card or a verifiable, written recommendation from a physician for medical cannabis.
19. All employees must be 18 years of age or older. People under the age of 18 are not permitted on the premises of an MCD unless that person is a qualified patient with a valid identification card.
20. MCDs that display or sell drug paraphernalia must do so in compliance with California Health and Safety Code.
21. MCDs shall maintain all scales and weighing mechanisms on the premises in good working order.
22. MCDs that prepare, dispense or sell food must comply with and are subject to the provisions of all relevant State and local laws regarding the preparation, distribution and sale of food.
23. MCDs must meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the Department of Public Health.
24. MCDs must be ADA accessible.

Operational Regulations. The Health Code also includes operational regulations, which include:

1. A requirement that the operator provide patients and customers with information regarding those activities that are prohibited on the premises;
2. A requirement that the operator prohibit patrons from entering or remaining on the premises if they are in possession of or are consuming alcoholic beverages or are under the influence of alcohol;
3. A requirement that the operator require employees to wash hands and use sanitary utensils when handling cannabis;
4. A description of the size and type of notice of hearing to be posted in a conspicuous place on the property at which the proposed medical cannabis dispensary is to be operated and the number of days said notice shall remain posted; and
5. A description of the size and type of sign posted near the entrances and exits of medical cannabis dispensaries providing notice that no medical cannabis shall be smoked, ingested or otherwise consumed in the public right of way within fifty (50) feet of a medical cannabis dispensary and that any person violating this policy shall be deemed guilty of an infraction and upon the conviction thereof shall be punished by a fine of $100.

Number of Patients. This question is difficult to answer because while the City knows how many MCDs have been authorized, the City doesn't have similar records on the number of medical cannabis patients who have received authorization from doctors. Nor, does the City know where patients may live. Further, some patients may come from outside the City to purchase medical cannabis. While the State has a centralized registry for medical cannabis patients, the registry was made voluntary and relatively few patients have signed up[7]. The

[7] Assemblywoman Nora Campos, a San Jose Democrat, sponsored a bill (AB2465) that would have required anyone who wants to claim a legal right to use marijuana for health reasons to apply for a county-issued identification card. The bill appears to have died in committee last year.

California Department of Public Health reports that during the fiscal year that ended last June, the state had only 9,637 valid card holders. In Colorado, by contrast, the state with a medical cannabis regime most similar to California's but where patient registration and annual renewal is mandatory, the total number of patients holding valid ID cards as of last December was 82,089. If California's patients were registering at that rate, there would be more than 615,000 patients[8]. According to the report submitted by the Police Department for this report (see Exhibit C), some MCDs in San Francisco have as many as 15,000 members; a good number of these may come from outside of the City.

Federal Laws

Cannabis was first criminalized in the US in 1937 with the Cannabis Tax Act, which made possession or transfer of cannabis illegal throughout the United States under federal law. This ban excluded medical and industrial uses, which were taxed at a nominal rate. Since then, the most significant federal action on the regulation of cannabis was in 1970 when it was classified as a Schedule I substance under the Controlled Substances Act (hereinafter CSA), where it remains today. Schedule I substances are considered to have a high potential for dependency and no accepted medical use, making distribution of cannabis a federal offense.

The Ogden Memo. In October of 2009, the Obama Administration issued what is commonly referred to as the "Ogden Memo," which encouraged federal prosecutors not to prosecute people who distribute cannabis for medical purposes in accordance with state law. The memo advised U.S. attorneys to focus on going after cannabis dispensaries that posed as medicinal but were actively engaged in criminal acts, such as selling to minors, possession of illegal firearms or money-laundering. The idea was to raid only MCDs that use medical-cannabis laws as a shield. Despite that memo, California-based U.S. Attorneys initiated a major crackdown on medical cannabis operations throughout the state starting in 2011. There were more than 100 raids nationwide on cannabis dispensaries during Obama's first term[9]. In San Francisco, the City lost 7 dispensaries[10], all of which were approved per the City's MCA.

August, 2013 Memo. In late August of 2013, the U.S. Department of Justice (hereinafter USDOJ) announced an update to their cannabis enforcement policy. The statement reads that while cannabis remains illegal federally, the USDOJ expects states like Colorado and Washington to create "strong, state-based enforcement efforts.... and will defer the right to challenge their legalization laws at this time." The USDOJ also reserves the right to challenge the states at any time they feel it is necessary. According to the memo, federal authorities still will prosecute individuals or entities involved in the following activities:

1. The distribution of marijuana to minors.

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[8] Leff, Lisa. "How Many Pot Patients California Has Is Anyone's Guess." Salon.com, March 24, 2012. Web December 11, 2013.

[9] Dickinson, Tim. "Obama's War on Pot." RollingStones.com, February 16, 2012. Web, December 13, 2013.

[10] Medical Cannabis Task Force. "Annual Committee Report: Legal Committee" 2012-1013, pg. 2.

2. Directing revenue from marijuana sales to gangs and cartels.
3. Diverting marijuana from states where it is legal to other states where there are no laws allowing for marijuana use.
4. Using legal sales as cover for trafficking operations.
5. Using violence and or firearms in marijuana cultivation and distribution.
6. Driving under the influence of marijuana.
7. Growing marijuana on public lands.
8. Possessing marijuana or using on federal property.

San Francisco has very strong operational and locational restrictions, in contrast to other municipalities in California such as Los Angeles and San Jose, which have had to force the closure of hundreds of MCDs over the past year. However, the lack of a strong enforcement apparatus at the state level has made the continued closures of MCD in San Francisco likely. California would need to adopt a regulatory framework and enforcement mechanisms similar to those in Colorado, which regulates consumption, licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores. There has been some effort at the state level to address this issue, but so far nothing has passed either house[11].

Drug Free School Zones. Drug Free Schools Zones were instituted in the 1980s as a reaction against wide spread crack use in the inner cities. While some states have their own version of this law, the federal government was the first to adopt a 1000 foot drug free buffer around sensitive uses. The Drug Free School Zone legislation augments the CSA with several additional offenses carrying increased maximum penalties, when the crimes are committed within a specified distance of a school or other facility regularly used by children. Under Federal law, the affected areas can include illegal federal drug sales on, or within one thousand feet of a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility. While these laws have their undeniable appeal - nobody wants drugs near schools - in a dense urban environment, a 1000 foot buffer can make every place a stay-away zone.[12]. Further, in San Francisco, this law has been used by the USDOJ to target MCD that are within 1000 feet of not just schools but other sensitive uses outlined in the federal law.

Banking. Because the Federal Government has regulatory authority over banks, it is extremely difficult for MCDs to maintain a bank account. Most banks refuse to do business with licensed dispensaries, for fear of federal prosecution for money-laundering and other federal drug crimes. Once a bank account is found to be associated with an MCD it is immediately closed by the bank, as a result most MCDs are required to conduct business entirely in cash and have to devise

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[11] Assemblyman Ammiano introduced AB 473, which would create the Division of Medical Marijuana Regulation and Enforcement within the Department of Alcoholic Beverage Control. This bill made it out of committee, but failed to pass the house on a vote of 35 to 37 on May 31, 2013.

[12] Join Together Staff. "Drug Free School Zoned Called Unfair, Ineffective." www.drugfree.org, March 23, 2006, Web January 22, 2014.

complex and creative ways to manage their accounts and meet their payroll. Recreational cannabis businesses in Colorado and Washington are also dealing with this issue. Recently, the situation seems to be changing. This January, US Attorney General Eric Holder announced that U.S. treasury and law enforcement agencies will soon issue regulations opening banking services to state-sanctioned marijuana businesses. Holder specified that the new rules would address problems faced by newly licensed recreational pot retailers in Colorado, and medical marijuana dispensaries in other states.[13]

Cannabis Now

Since California passed proposition 215, 19 more states and the District of Columbia have enacted similar laws. More recently, and perhaps more significantly, voters in Washington State and Colorado legalized cannabis for recreational use. This year, both Colorado and Washington will join Uruguay as the only places in the world where you can legally buy, sell and possess cannabis for recreational use[14]. The federal government has been willing to let this experiment play out so long as the states abide by the expectations outlined in the Justice Department's August 2013 memo. Washington and Colorado are the country's guinea pigs for legalized recreational cannabis use, and have had to deal with various policy and regulatory challenges including taxation, minimizing or eliminating the back market, federal banking rules, land use, and a host of other regulatory issue. California and San Francisco should be paying close attention to how they handle these issues because recreational cannabis may be again considered by the voters of the Golden State.

Several groups have filed proposals to put recreational cannabis initiatives on California's 2014 ballot and our former Mayor and current Lieutenant Governor, Gavin Newsome, is spearheading an effort to place an initiative on the ballot in 2016. According to a recent Tulchin Research poll, nearly two-thirds (65 percent) of Californians support legalizing, regulating and taxing recreational cannabis in the state. While just 32 percent oppose legalization and 3 percent were undecided. Last time this was on the ballot in 2010, the measure failed statewide 53.5% to 46.5%. It's noteworthy that in San Francisco, Prop 19 garnered 63.6% of the vote, second only to Santa Cruz County where it garnered 63.7% of the vote. All sign point to legalization of the recreation use of cannabis within the next three years, and such an initiative is likely to pass in San Francisco by a wide margin.

More than most cities in the United States, cannabis has been an integral part of San Francisco culture for a long time. It was with Allan Ginsberg when he read Howl, it was in the air during the Summer of Love, Armistead Maupin made it a character in his Tales of the City series, and even Harvey Milk was familiar with cannabis. One can smell it on the streets, on MUNI and at parties. Some Giants fans smoke it before games along McCovey Cove, and some movie goers toke up outside the Metreon before the movies. People from all walks of life and within every

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[13] Ingman, David. "Eric Holder Just Announced A Major Shift on US Marijuana Policy." Reuters.com, January 23, 2014. Web January 30, 2014.

[14] The Netherlands has a prohibition on cannabis, but tolerates the drug and does not prosecute for small amounts of possession, sale, and cultivation. Otherwise, it is essentially legal there as well.

profession use cannabis for recreation purposes in San Francisco[15]; whether one partakes in it or not, cannabis is a part of this City, its culture, and its history. When cannabis becomes legal for recreational use in California, San Franciscans will likely demand that the City take a progressive approach on how and where it is sold.

How legalization will affect the City's land use regulations will depend largely on what passes at the ballot box. Moreover, any changes we make to the City's MCD land use regulation and process should take into consideration that recreational cannabis will most likely come to California in the next few years. Existing MCDs are well capitalized to transition from purely medical providers to recreational providers once that happens. The quality and character of the operations we permit now will set the standard for the recreational cannabis providers once legalization comes to pass. The locational requirements we put in place now will almost certainly impact where recreational cannabis establishments are located once recreational use becomes legal.

Questions

The following questions were posed to the various individual that were interviewed for this report. While groups and individuals expressed extremely different perspectives on how our current MCD regulations are impacting the health safety and welfare of our communities, several common themes did surface, which are detailed below. Each interview added new perspective and contributed to the Department's understanding and impressions of the issues. Some questions were more appropriate for some groups than others and not every interviewee had opinions on every question. In order to get the most candid responses, no interviewee is directly quote in this report.

1. **The extent to which MCDs are concentrated in particular communities within San Francisco.**

   There is a consensus among the interviewed stakeholders that MCDs are concentrated into only a few communities. MCD advocates lament that there aren't enough places for MCDs to open, especially in the northern and western parts of the City, while some neighborhoods, the Outer Mission in particular, expressed concern about an overconcentration of MCDs. Both groups are frustrated at the City's lack of action on addressing their particular concerns. What caused this concentration can mostly be attributed to the City's 2005 MCA, which established the land use restriction for MCDs in San Francisco. While San Francisco has performed much better than other large cities in California[16] because of the MCA, the Act should be amended if the City is to address MCD concentration.

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[15] Nagourney, Adam. "Few Problems with Cannabis for California." NYTimes.com, October 26, 2013. Web February 10, 2014.

[16] Nagourney, Adam. "Few Problems with Cannabis for California." NYTimes.com, October 26, 2013. Web February 10, 2014.

MCDs are permitted in what the Planning Department refers to as the "Green Zone", which is based on the City's 2005 MCA's land use restrictions (see Exhibit H). The Green Zone map shows properties that are within the permissible zoning districts and are not located within 1000 feet of a school. The map doesn't show the properties that are outside of the 1000 foot buffer around recreation buildings that primarily cater to people under the age of 18, or properties that contain drug treatment centers, both of which are restrictions outlined in the MCA. It also doesn't show which properties have suitable commercial spaces and willing landlords, or which neighborhoods are more receptive to MCDs. When these factors are included, the limited pool of potential MCD sites shrinks even further. If the Federal restrictions for Drug-Free zones where shown, the Department believes there would likely be no eligible sites within San Francisco.

The largest area of the Green Zone is located in the downtown core, but there are parts of Green Zone in most areas of the City. As shown in Exhibit F, of the 29 permitted and operational MCDs in San Francisco, 21 or 72% are located in the north eastern part of the City (Divisadero to the west and Caesar Chávez to the south), and the majority of those, 17 of the 21 or 81%, are located South of Market Street. The north eastern part of the City has the greatest population density and contains the largest area of the green zone, so it isn't surprising that most of the MCDs would be locates in these areas. However, that doesn't explain the complete lack of MCDs in other areas, which presumably have medical cannabis patients and contain portions of the Green Zone. Notably, there are no MCDs located in the Inner or Outer Sunset Districts, Outer Richmond, Park Side, West Portal, Haight Ashbury, Laurel Heights, the Marina, or North Beach; and there is only 1 MCD in the Outer Richmond.

Some of this could be inertia; MCDs, like other businesses, may gravitate towards one another to attract customers and provide choice. Some of it might be because MCDs want to open in areas with the least amount of neighborhood opposition; MCDs that are located downtown or in SOMA probably don't face as much neighborhood opposition as MCDs that try to locate within neighborhood commercial districts. Whatever the specific reason, it is hard to deny that MCDs are clustering in certain neighborhoods. This is at least partly because of the land use restrictions enacted in the 2005 MCA that limits the areas where they can locate, but because the Green Zone is dispersed throughout the City it can also be attributed to outside forces that discourage MCD in certain neighborhoods.

2. **The nature and extent of effects of the location requirements for MCDs on medical cannabis patients' access to medical cannabis.**

Patients and patient advocates assert that the City's location requirements are having a significantly negative effect to their access. As mentioned above, there are numerous neighborhoods in the City that do not have any MCDs. This unequal distribution requires some patients to travel long distances to obtain their medicine and for patients who require a large amount of medicine and have to visit MCDs several times a week, this can be quite a burden. Based on a survey conducted by American's For Safe Access (See Exhibit E) 48.49% of SF Residents travel an average distance of three or more miles to their MCD of choice. Further, at least 56.8% of San Francisco respondents do not live

within walking distance of an MCD and 61.74% of made a trip to an MCD every other day. Journeys to MCDs by public transit from underserved neighborhoods can take up to an hour each way, which is a long time for anyone but especially for patients that have illnesses or disabilities that impair their mobility.

Several MCDs offer deliver service, and three locations in the City only operate as delivery service. This is a great solution for some patients who don't live near an MCD or who can't leave home because of their illness. However, according to advocates, there are patients that cannot use delivery services or prefer to go to the MCD for a variety of reasons. Patients may not feel comfortable having medical cannabis delivered to their home; some MCD patients live in government assisted housing or SROs where anti-drug policies are strictly enforced. Some patients prefer to discuss their medication options with the person behind the counter; different strains of cannabis have different affects, and the person behind the counter has the expertise to help patients find the right strain of cannabis to address their particular needs. And finally, MCDs provide patients a way to socially interact with other patients helping to foster community, which also aids in improving health and wellness.

Some MCD owners also voiced concern about existing MCDs being displaced when sensitive uses move within 1000' of an existing MCD (see attached letter from Access of Love). There are no city or state laws that would require existing MCDs to close if a sensitive use moved near it; however, some MCD owners contend that the federal government is using the Safe School Zones law as justification to target MCDs near sensitive uses, regardless of local or state law. As a result, some MCD advocates would like to see the City restrict sensitive uses from moving closer to existing MCDs.

3. **The nature and extent of effects of the location requirements for MCDs on the public health, safety and welfare in the communities in which MCDs are located.**

The impacts of MCDs on the communities in which they are located, like any business, are primarily determined by how the business operates. MCDs can offer many benefits to city residents including better access to medication, increased safety, and added foot traffic for the neighborhood. On the other hand, the nature of this peculiar use can also make integrating it into the community challenging. The following is a discussion of some of the benefits and challenges MCDs bring to neighborhoods. Some of the challenges are faced by a varied of businesses, such as double parking, but some are also peculiar to this specific use, such as exclusivity and "vibe." Throughout the interviews conducted by the Department a narrative of the issues emerged; the following categories are an attempt to distill the issues and concerns into their broader themes.

Double Parking. Double parking is an issue in all commercial areas of the City, not just where MCDs are located. While several MCDs have strict no double parking policies, going so far as to have their security guards turn double parking patients away, still the issue persists. Some nearby businesses also complain about MCD patients illegally parking in private lots and being met with hostility and anger when confronting the illegal parkers about it. There are ways that the Planning Code and planning process can

address the issue of double parking, such as requiring certain monitoring conditions as part of the approval process, but the most effective way to address this issue is to have the City's parking and traffic laws more consistently and effectively enforced.

Diversion. While there are no hard statistics on the practice, diversion or reselling is a common complaint and has been witnessed by several community members. The issue arises when a patient buys medical cannabis and then resells it, often around the corner or even in front of the MCD, to a non-patient. Like the double parking issue, the planning and land use process is not the most effective way to deal with this issue. If reselling is witnessed by police there should be legal consequences, but short of catching resellers in the act the next most effect way to deal with the issue is for the MCD operators to have a strict no tolerance policy for this type of behavior and monitor the area around their stores to ensure that this doesn't happen. The Health Code does have rules that require MCD operators to monitor the front of their establishments for litter and cannabis smoking, but there isn't a specific provision in the Health Code that addresses reselling or diversion monitoring.

Convenient Access. Convenient access to MCDs is a benefit to a community's, health, safety and welfare. MCD patients that suffer from physically debilitating illnesses greatly benefit from convenient access because they can more easily access their medication. But even beyond that population, having convenient access benefits all MCD patients and the City overall. It allows patients to shop in their communities, saving time and reducing traffic. It also lessens the burden on City neighborhoods where MCDs are clustered. We wouldn't expect only a few neighborhoods to have essential services such as grocery stores or banks, and we shouldn't expect only a few neighborhoods in the City to have MCDs.

Crime and Safety. Based on the information available to the Department, it does not appear that MCDs have a negative impact on crime or community safety, and they may actually improve safety in certain neighborhoods because they provide additional eyes on the street. According the report submitted to the Department by SFPD (see Exhibit C), the few issues reported to SFPD regarding MCDs have more to do with quality of life concerns, such as double parking, smell, and loitering, rather than crime and safety. This is also consistent with the types of complaints filed with DPH. There are also several related studies out of UCLA that deal with this issue. One study showed that there was "no correlation between increased violent and property crime and the density of MCDs."[17] And another study showed that MCDs located in Sacramento with robust security systems actually had lower crime rates within 250 feet than MCDs without those security systems[18]. Another study done by RAND Corporation showed that crime actually decreased around MCDs in Los Angeles; however, this study was later retracted

[17] PubMed.Gov. "Exploring the ecological association between crime and medical marijuana dispensaries." http://www.ncbi.nlm.nih.gov/pubmed/22630790, July, 2012. Web January 21, 2014

18 Hewitt, Allison. "Tracking how pot dispensaries affect crime." http://newsroom.ucla.edu, September 27, 2011. Web December 11, 2013.

by RAND because "the crime data used in the analysis were insufficient to answer the questions targeted by the study."[19]

Neighborhood Vitality. MCDs can improve neighborhood vitality in many ways. Like any small business the mere act of filling a vacant store front improves neighborhood vitality by bringing added foot traffic to a neighborhood. Some MCDs also have also revitalize neglected store fronts, improved side walk conditions, planted trees, and made other financial investments in the neighborhoods. Two specific examples are SPARC at Mission and 8th Street, often called the "Apple Store" of MCDs, and the Green Cross at Mission and Silver, which is a more typical MCD operation. SPARC took over a small industrial type building on a neglected stretch of Mission Street between 8th and 9th Streets. SPARC renovated the store front using multi-colored obscured glass panes arranged in a unique pattern. While the store front isn't transparent, it's certainly an improvement to the neighborhood and enhances the pedestrian experience along Mission Street. The Green Cross took their improvements a step further by replacing the worn-out sidewalk in front of their store, planting trees and filling the tree well with flowers. Both MCDs recognize the importance that neighborhood vitality plays in the success of their operation and have made significant financial investments in order to ensure that vitality.

Odor. Whether it's being smoked or it's just sitting there in a bag, cannabis has a very distinct and pungent odor. To some the smell is pleasant and welcome, while others find it off-putting or even feel ill from the smell. In some extreme cases the smell of just the cannabis plant can cause a severe allergic reaction. In discussions with some community members, smell often came up as an issue of concern; however, based on DPH complaints, odor emitting from MCDs does not appear to be a huge problem citywide. According to DPH, within the past couple of years there have only been two odor complaints linked to MCDs. One complaint was of odor emanating from an open door to the street, and another was from someone complaining about their neighbor, who was an MCD owner, smoking cannabis. There is no provision in the Health Code that requires MCDs be properly ventilated; however there is a general "nuisance" line (Health Code Section 3308-(e)) that can be applicable to all uses including MCDs. Also, if medical cannabis is smoked on the premises, the Planning Code requires that the MCD "provide adequate ventilation within the structure such that the doors and windows are not left open for such purposes, resulting in odor emission from the premises."

Vibe. Many neighbors complain about what they call the negative "vibe" of MCDs, which from their standpoint is caused by how MCDs relate to the street and the attitude of the MCD's operator's and employees. What the neighbors describe as "vibe" can be described by the combined effect of two factors: design and neighborliness. From a design perspective, some MCDs downgrade the visual character of a neighborhood by using obscured windows and unattractive storefronts. Neighborliness is harder to

[19] Rand Corporation. "RAND Retracts Report about Medical Marijuana Dispensaries and Crime." http://www.rand.org/news/press/2011/10/24.html, October 24, 2011. Web January 21, 2014.

characterize. Neighborliness can be experienced by the way staff interact with the public. Staff and security guards working at the MCD's can present as aloof, friendly or hostile. Neighborliness can also indicate the level of involvement of an MCD operator with established community institutions and celebrations: such as participation in street fairs, support of community-serving nonprofits and recreational events. While the Code can't force problem MCD operators or their employees to be friendlier, it can require that greater attention be paid to the design of the store front, the pedestrian experience and how an MCD responds to a neighborhood context. Most MCDs have obscured windows that cut off the facility from the rest of the street and are often covered by security bars. This type of storefront negatively impacts the pedestrian experience and also creates a feeling that something unsavory is happening behind the obscured glass.

Exclusivity. MCDs are by their nature exclusive enterprises and don't provide a service or product that is accessible or needed by the majority of the public. Only those people with a referral from a doctor can enter an MCD, let alone buy the products that MCDs sell. In this way MCDs are not like other commercial uses in the city. MCDs are often compared to pharmacies, but pharmacies allow anyone to enter, and even if you don't take prescription medication they usually sell toiletries or over the counter medication that most people need and buy. MCDs are a unique use in this respect. There's really no solution to this issue given the nature of medical cannabis; however, this concept of exclusivity should be considered when looking at concentrations in certain neighborhoods. An over concentration of MCDs in any one neighborhood means that there are a number of establishments that are not accessible to the vast majority of people who live in the neighborhood.

Community. MCDs can play a role in building community; not only among patients but also within the neighborhood. The Vapor Room in the Lower Haight, which was shut down by the USDOJ, was in some ways a model example on how and MCD can give back to the community. The operators of this establishment invested in and helped with organizing street fairs, financing murals, participating in the neighborhood organization and by many accounts were very responsive to neighborhood complaints. But this type of community involvement is not limited to just one MCD. Many do participate in neighborhood or local merchant organizations and some even provide grants to local schools. The Apothecarium at Church and Castro recently gave a grant to the Harvey Milk Civil Rights Academy, a local elementary school in the Castro. However, based on the experience of some neighborhood organization, this community centered approach isn't universal. Like any industry some businesses will be more involved than others and it really depends on the people behind the operation that set the tone for how the MCD interacts with the community.

4. **Whether increased community input into the approval process to establish an MCD would benefit the public health, safety and welfare, and, if so, what procedures would be most effective in increasing such community input.**

Members of the public can make their concerns known to the Planning Department at any time during the permitting process; they have the opportunity to give testimony

before the Planning Commission; there is a separate publically noticed approval hearing held by The Director of DPH; and any MCD permit can be appealed to the Board of Appeals once issued. Yet, while opportunity exists for community input, it is difficult to know when a permit for an MCD has been filed so that you can engage in the process. The only notice neighbors get about an MCD from the Planning Department 30 days before the hearing. Many MCDs do conduct their own version of a pre-application meeting[20] or open house prior to or early in the permitting process, and not surprisingly those MCDs that hold a pre-application meeting for neighbors, tend to be the ones that are more successfully integrated as community assets. Yet this is not a required practice and any pre-application outreach is done voluntarily.

In addition to knowing when a permit is issued it's also important to understand how the system works so that you can engage in it. While the Department has made a concerted effort to improve its outreach and public information efforts, the City bureaucracy and Planning Code remain daunting to the new participant. In neighborhoods that have more experience dealing with the Department and land use issues in the City, the system tends to work fine. MUMC and DTNA, both organizations that have extensive experience dealing with land use issues, didn't have problems with the current level of community input. However, neighborhoods with less knowledge of the process or less experience working with the Department felt that the system was confusing and unresponsive. Knowing the questions to ask, what the process is, and how to engage in it were all challenges.

Every neighborhood group interviewed for this report felt that a mandatory pre-application meeting was a good idea, and even some MCD owners and advocates the Department spoke with felt that making it a mandatory requirement would benefit the process. Pre-application outreach would enable the neighborhood groups to get involved early in the process and allow MCD owners the opportunity to introduce themselves to their neighbors and hear their concerns. It may also help eliminate MCD operators that aren't prepared to make an investment in the community or become community partners. Since the Department of Public Health is the lead agency for MCD applications, and ultimately responsible for their approval and regulation, it makes sense that pre-application meetings should be done prior to submitting an application to DPH. This will allow neighbors to get involved at the earliest possible point in the process to ensure that their voices are heard from the outset.

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[20] The Pre-Application Meeting is a mandatory form of community outreach conducted by the project sponsor in order to receive initial feedback regarding certain project types prior to submittal to the Planning Department or the Department of Building Inspection. Adjacent neighbors and relevant neighborhood groups are invited to attend this meeting which must take place during certain hours of the day and within a certain distance from the project site. This meeting is intended to initiate neighbor communication to identify issues and concerns early on; provide the project sponsor the opportunity to address neighbor concerns about the potential impacts of the project prior to submitting an application; and, reduce the number of Discretionary Reviews (DRs) that are filed.

5. **Projected impacts on the public health, safety and welfare of expanding the areas in which MCDs can be located.**

Expanding the Green Zone could address MCD advocate's concern over the lack of available places for MCDs to operate and the concerns that some community members have about the over concentration of MCDs in their neighborhood. The Department identified three possible ways to expand the Green Zone and increase the number of available commercial spaces. The first is to allow MCDs in zoning districts where they are not currently permitted, such as PDR, South of Market Districts and NC-1 Districts. The second is to reduce the Planning Code required buffer around schools from 1000' to 600' per State Law (see AB 2650 discussed on page 4); and the third is to allow MCDs on the second floor in neighborhood commercial districts. Doing all three of these actions together would expand the Green Zone approximately five times the current size, from 462 acres to 2373 acres (see Exhibit H).

Add Zoning Districts. The best part about this option is that it increases the size of the Green Zone dramatically; significant areas of the City's eastern portion would turn green on the map and a few neighborhood commercial centers in the western part of the city would open up as well. The worst or perhaps least ideal outcome of this option is that it does little to increase the Green Zone in the western and northern areas of the City where there are currently no or too few MCDs. Regardless, this option should be considered because it has the potential to open up more commercial space for MCDs than the other two options. Whether or not all non-residential neighborhoods should be included requires greater discussion with the various stakeholders, and what impact this could have to the City's supply of PDR space should be investigated more thoroughly; however looking at MCDs as land use similar to other retail operations, it makes sense to allow them in any zoning district where retail operations are permitted, with the caveat that certain restrictions should still apply to their location and operation.

Reducing the Buffer. San Francisco instituted its 1000 foot buffer around schools in 2005, prior to the State adopting land use controls for MCDs. The City's 1000 foot rule was derived from SB 420 (discussed on page 3), which prohibits medical cannabis from being smoked, but not sold, within 1000' of a school. SB 420's restriction was likely based on the federal government's Drug Free School Zone law (discussed on page 9) that places greater penalties on the sale or use of drugs within 1000 feet of schools and other sensitive uses. While not necessarily an arbitrary number, the federal government did not develop the 1000 foot rule with MCDs in mind or San Francisco's dense urban form; it's a blunt instrument and doesn't account for neighborhood boundaries, paths of travel for students, or barriers like wide roadways and hills.

Reducing the 1000 foot buffer to the state's 600 foot buffer minimum would do the most to expand the Green Zone more evenly throughout the City, potentially expanding access for patients who live in underserved neighborhoods. Since most of the commercial zones in the western side of the City are already included in the Green Zone, what prevents the Green Zone from expanding in these neighborhoods is the 1000 foot buffer limitation. However, MCDs that established prior to the City adopting the MCA in 2005 and were

located closer than 1000 feet to schools have been targeted by the USDOJ for closure. Should the State adopt a more robust regulatory framework as required by Obama Administrations August 2013 memo, the USDOJ may step back its enforcement activities on MCDs, but until then an MCD operator would be taking a greater risk if she was to open an MCD less than 1000 feet of a school.

Reducing the 1000 foot buffer could also be a hard sell to San Francisco's schools. A representative from SFUSD expressed concern about how this change would impact schools and whether or not this would increase student expose to cannabis, thereby increasing cannabis use among the student population. While no one wants medical cannabis to be diverted to students, at least one study done in Los Angles, which has more lax MCD regulations than San Francisco, found no evidence of increased drug use among high school students during the period when medical marijuana shops opened there.[21] This isn't to say that the concern expressed by SFUSD should be dismissed; developing brains are particularly sensitive to drug and alcohol use and cannabis has been shown to change teenage brain structure and impair memory function[22]. However, there isn't any evidence that the Department has found which shows the existence of MCDs near schools increases teenage drug use. Further, the 1000 foot buffer is an extreme metric when considered within the context of San Francisco dense urban environment. Reducing the buffer from 1000 to 600 feet will still prevent MCDs from locating on the same block as a school and the mandatory DR process will continue to allow for a more nuanced review of the proposed MCD location.

MCDs on the Second Floor. Allowing MCDs on the second floor wouldn't expand the geography of the Green Zone, but it could potentially increase the number of commercial spaces available for MCDs. It would also partially address issues of transparency, over concentration and exclusivity; MCDs on the second floor have less of a visual impact on the street than those on the ground floor. MCDs were originally prohibited from the second floor because of concerns over ADA access; most second floor spaces in our NCDs are not ADA accessible. However, ADA access and appropriate MCD location are two separate issues. You can have an accessible second floor commercial space, just as you can have an inaccessible ground floor commercial space. It's unknown how many second floor accessible spaces there are in our neighborhood NCDs, but as a policy matter it doesn't make sense to exclude them from the second floor. There are already limitations in place on the conversion of dwelling units and the Mayor's Office of Accessibility reviews each MCD application to ensure compliance with ADA Accessibility before an application is approved.

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[21] Nagourney, Adam. "Few Problems with Cannabis for California." NYTimes.com, October 26, 2013. Web February 10, 2014.

[22] Bergland, Christopher. "Heavy Marijuana Use Alters Teenage Brain Structure." http://www.psychologytoday.com, December 16, 2013. Web February 3, 2014.

6. **Best operational practices that should be employed by MCDs to ensure the public health, safety and welfare, including but not limited to minimum levels of security measures, hours of operation, and location.**

The best operational practices for MCDs are those that reinforce their role as a non-profit organization. These MCDs serve their community, provide compassionate care, and act as a care giver to the sick. They offer a clean and safe environment to obtain medication and to medicate. They provide benefits to the community by improving safety, fixing up their store fronts, planting trees and donating local charities. They hire friendly and knowledgeable staff and respond to complaints in a neighborly way. San Francisco is lucky in that many of its MCDs employ most if not all of these best practices. This is in part due to how the medical cannabis in San Francisco formed around compassionate care. It's also due in part to the City's 2005 MCA, which established 24 operational requirements and an additional five operational regulations (see discussion on pages 6 and 7 above).

Hours of Operations. MCDs hours of operations are restricted by both the Planning and Health Code, which limits their hours of operation from 8:00 AM to 10:00 PM. The Health Code also allows two MCDs to operate 24-hours a day[23]. In practice, only about six of the City's approximately 29 retail operations stay open until 10:00 PM, most close by 7:00 or 8:00 PM. Most MCDs open at 10:00 or 11:00 AM, with about six opening before then. While at least one neighbor expressed a desire to shorten the hours of operation for MCDs, this wasn't a significant issue of concern for the majority the people interviewed. The current parameters seem to be appropriate and allow each MCD to decide what hours best serve their patients.

Security. A good security plan is essential for successful MCD. As an all cash business that sells an illegal product under federal law, these commercial establishments can be an attractive target for criminals. The Health Code requires that MCDs submit a security plan with their MCD application, but those security plans are not routinely reviewed or approved by SFPD or another expert in security[24]. Regardless, all MCDs have some type of security system that usually includes cameras both inside and outside the store, alarms, a guard at the front door and sometimes a second strong door once the patient gets inside. It may be prudent to have DPH and SFPD set minimum standards for MCD security, but the inherent incentive for MCD operators to protect the business with proper security systems seems to be sufficient. Further, the relatively low incidents of violent crime and robberies associated with MCDs also suggest that further regulation is not required in this area.

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[23] According to DPH, there aren't any MCDs that have taken advantage of this provision of the Health Code. According to the Health Code, MCDs which remain open 24 hours a day must be located more than 1 mile apart and along a major transit line.

[24] A representative from SFPD sent an email to the Department indicating that the Police Department is open to discussing basic security plans with DPH.

Location. Like any retail operation, MCDs want to locate in areas that will be able to serve the most customers. This includes heavily trafficked commercial areas, areas close to both public transit and parking, and areas that are less likely to make it a target of the USDOJ. From the community's perspective, the general perspective was that MCDs should not be clustered too close together or be located too close to residential districts. From the public policy perspective, MCDs should be located in accordance with the City's MCA, but beyond that it's also in the City's interest to have MCDs located within close proximity to public transit lines, be evenly distributed so that all patients have convenient access to their medicine, and be within commercial neighborhoods that have a diversity of uses. These various interests overlap in many areas, but when considering an MCD application, the Planning Commission seeks to balance the desires of the neighborhood and applicant with the outcome that best advances the City's overall goals and policies.

On-site Consumption. When MCDs provide a place for patients to medicate, they also reduce the likelihood that medication purchases at the establishment will be smoked outside of the MCD or within the general vicinity. MCDs that have onsite consumption are also providing a place to medicate for patients who may not be able to in their home because of their living situation or housing type[25]. On-site consumption also helps create MCDs that are more focused on patient care rather than a financial transaction. This in turn helps to facilitate community around the MCD by providing a space for people to interact. Further, on site consumption provides a safe and supportive environment for patients who are often dealing with debilitating and painful illnesses.

Most MCDs who have onsite consumption do so by allowing patients to use vaporizers, as opposed to smoking. Vaporizing is considered by many patients a superior method of ingesting medical cannabis over smoking because it is believed that the patient inhales fewer carcinogens while still receiving the THC that provides medical benefit[26]. Vaporizers use a central heating element within the device to slowly and steadily heat up the medical cannabis to the point just before combustion occurs, between 356° – 392° F. When burning the cannabis, temperatures can reach 1200°+, so the patient may be inhaling more toxins that don't provide any medical benefit and can potentially be harmful. Vaporizing also produces vapor and not smoke, reducing fumes and potentially lessening the impact to employees and neighbors. While vapor does have a faint smell, it dissipates quickly.

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[25] While San Francisco residents can currently smoke in multifamily dwelling units as long as their lease allows, cities such as Berkeley have made it illegal to smoke any substance within apartments and condominiums. Read more about Berkeley's law on KQED's website: http://blogs.kqed.org/newsfix/2013/12/06/berkeley-approves-smoking-ban retrieved on 3/3/14.

[26] The Federal Food, Drug and Cosmetic Act prohibits companies with unregulated products from making health claims. The Federal Drug Administration is expected to issue regulations in the near-term. See New York Times article, "A Hot Debate Over E-Cigarettes as a Path to Tobacco, or From It" written by Sabrina Travernise, February 22, 2014. Retrieved from http://www.nytimes.com/2014/02/23/health/a-hot-debate-over-e-cigarettes-as-a-path-to-tobacco-or-from-it.html on 3/3/14.

Staff. It's important for MCDs to hire employees that are knowledge, professional and friendly. These three characteristics not only improve the patient experience, but they also help maintain good relationships with the adjacent community. Staff at MCDs should know their product so that patients are informed about their choices and they should have a good understanding of Health Code rules and regulation. In addition, security staff should also appear authoritative and professional, yet also friendly to non-patients and patients alike. Owners aren't always there, so it is essential that MCDs higher professional and friendly staff as ambassadors for their MCD to the community.

Transparency. As discussed above, two of the main complaints about MCDs are their exclusivity and "vibe". While this can sometimes be attributed to the neighborliness of the MCD employees, it can also be determined design and by how MCDs relate to the street. Many MCDs obscure their windows, but there are some that provide transparency into the store, which helps to better integrate the dispensary into the community. Two MCD in particular, Apothecarium and Barbary Coast, show how an MCD can successfully blend into the community by complying with the Codes existing transparency requirements. Both dispensaries have transparent windows and use half-opened blinds to provide some privacy[27]. The Apothecarium even has an open door staffed by security that further increases the connection to the neighborhood. While privacy concerns should be considered, hiding medical cannabis behind obscured windows only increases the feeling that MCDs are an illicit business.

Compassionate Care. Compassionate care is the idea of providing free or reduced cost medicine to patients in need. This service reinforces an MCD's role as a non-profit organization and of taking care of the sick. In 2008, the Board of Supervisors adopted a non-binding resolution urging MCDs to "institute compassionate care programs to relieve the suffering of qualified low and no (income) patients who are not able, due to income, to attain safe and legal access to medical quality cannabis as recommended by a

[27] Blinds and curtains are not prohibited by the Planning Code's transparency rules, but should remain at least partially open.

physician for their health."[28] Further study would be required to determine whether the City could require MCDs to provide compassionate care services. However, the Planning Commission can consider compassionate care programs during the entitlement process when discussing an MCD's overall commitment to the community.

Community Engagement. MCDs that engage with the community early in the application process and continue to provide such engagement after approval can truly be positive assets to neighborhood. MCDs can demonstrate early engagement by holding pre-application meetings and open houses, and sustain that commitment by joining merchant organizations, starting beautification projects, and making financial investments in the community. This is true for any business; however MCDs are unique in that they are a new phenomenon, and there is also a suspicion around MCDs because of cannabis's association with criminal elements and 80-years of anti-drug legislation by the federal government. Therefore, the onus should be MCD operators to demonstrate that they are committed to the neighborhood early in the process and to demonstrate that they plan to maintain that commitment after approval.

REQUIRED COMMISSION ACTIONS

Per Ordinance 264-13, the Planning Commission is required to prepare and submit a report to the Board of Supervisors evaluating the provisions of the Planning Code related to the location of medical cannabis dispensaries by May 1, 2014. The Planning Commission may vote to adopt or amend and adopt this report and then forward it to the Board of Supervisors.

ENVIRONMENTAL REVIEW

This Report was determined not to be a project per State CEQA Guidelines, Section 15060(c)(2.

RECOMMENDATION

The Planning Department's role in regulating MCDs is mainly limited to land use requirement, DPH is charged with operational oversight and regulatory authority. While other departments have been consulted for this report and issues not under the purview of the Planning Department are discussed here, the scope of this report is primarily focused on the responsibilities of the Planning Commission and the Commission's delegation to the Planning Department. None of the recommendations in this report have been vetted by other City commissions or department heads. Further, the Department recommends that any monitoring and enforcement responsibilities should stay under the authority of DPH.

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[28] "Urging Medical Cannabis Dispensaries to implement compassionate care programs to serve low and no income patients." Introduced by Supervisor Mirkarimi. Adopted November 6, 2007. Board File 071505, Enactment Number 623-07

The Department recommends that the Planning Commission make the following policy recommendations to the Board of Supervisors:

1. Maintain the DR process and enhance the DR process by adding Commission findings for MCD DR applications.
2. Expand the Green Zone. Consider three options 1) reducing the 1000 foot buffer to 600 feet, 2) allowing MCDs in more zoning districts and 3) permitting the use on the second floor.
3. Remove the 1000 foot buffer around Recreational Facilities.
4. In the event that the existing Green Zone is expanded, it would be appropriate to institute a buffer around MCDs on the ground floor in Neighborhood Commercial Districts.
5. Require a pre-application meeting for new MCDs.
6. Clarify in the Planning Code's MCDs definition that MCDs located on the ground floor are subject to the Transparency Requirements in Planning Code Section 145.1.
7. Add double parking and diversion monitoring policies in the Health Code.
8. Provide a dedicated source of information and platform for discussion regarding the MCD process in San Francisco.

BASIS FOR RECOMMENDATION

Recommendation #1: Maintain the DR process and enhance the DR process by adding Commission findings for MCD DR applications.

Maintain DR: There was some discussion about whether or not MCDs should require CU authorization instead of a mandatory DR. There are benefits to the CU process; it places the onus on the applicant to make the case for the use and it is a more robust regulatory tool. When the Commission votes to not take DR, it is allowing DBI to issue a use permit for an MCD at that location. Use permits are more difficult to revoke if the MCD operator is not complying with and conditions of approval; whereas CU approvals can be revoked by the Commission at a public hearing. However, CUs are also an expensive application that would incur additional time and process. The Conditional Use process would be more appropriate if MCDs weren't already heavily regulated and monitored by DPH or if there were too many MCDs in a particular neighborhood, like the Code currently does for restaurant and bars or MCDs in the Excelsior Outer Mission NCD, where there is a concern over overconcentration The Department recommends maintaining the current DR process because it balances the need for greater access for MCD patients with the need of the community to engage in the approval process.

Enhance DR with Findings: In order for the Commission to have a standard set of criteria to base its approval or denial of a MCDs DR Application, the Department recommends that findings be added to the Planning Code to be considered by the Commission when evaluating MCD application. Some suggested findings included:

1. The proposed MCD has demonstrated a commitment to the community through engagement and outreach.
2. If the MCD is located closer than 1000 feet of a school or recreational facility that primarily serves persons under the age of 18, it is not also located along a major path of travel of that use.

3. The proposed MCD will improve patient access by locating in a neighborhood that is currently underserved by MCDs.
4. The propose MCD is located along a major transit line.
5. The proposed MCD is offering unique services to patients including onsite medicating facilities, patient care programs and compassionate care programs.

Recommendation 2: Expand the Green Zone. Consider three options 1) reducing the 1000 foot buffer to 600 feet, 2) allowing MCDs in more zoning districts and 3) permitting the use on the second floor.

All three options discussed in this report should be employed to some degree to expand the Green Zone. Each option has its benefits and limitations, but no one solution can address the issues of better access, more even distribution and competing federal law.

First, reducing the buffer around schools from 100 feet to 600 feet should come with certain findings for the Commission to assess the impacts to adjacent schools, and the recognition that MCD operators may be reluctant to locate closer than 1000 feet to sensitive uses for fear of federal prosecution. As discussed in detail on pages 18-19, reducing the 1000 foot buffer to the state's 600 foot buffer minimum would do the most to expand the Green Zone more evenly throughout the City, potentially expanding access for patients who live in underserved neighborhoods. Since most of the commercial zones in the western side of the City are already included in the Green Zone, what prevents the Green Zone from expanding in these neighborhoods is the 1000 foot buffer limitation.

Second, expand the Green Zone into some or all of the non-residential districts where they are currently prohibited, which includes South of Market, NC-1 (Neighborhood Commercial, Cluster), M (Industrial) and PDR (Production Distribution and Repair) districts. This would significantly expand the Green Zone and create additional spaces for MCDs to locate, but there are three significant issues of concern with this proposal. First, it would further cluster MCDs into only one area of the City, as most of these districts are on the eastern side of the City where the majority of the Green Zone and MCDs are already located. Second, it may not provide many new locations near housing (potential MCD clients) and transit service to enable easy access. And third, this change may place additional pressure on the City's limited and shrinking supply of PDR spaces. MCDs are categorized as Institutional Uses; therefore they would not be automatically limited by the retail use size limitations in PDR Districts. If the City does pursue opening up additional PDR districts for MCD uses, considerations should be given to limiting the number and size of MCD in PDR districts, similar to how retail uses are controlled in these districts, or only opening up certain PDR districts to MCDs.

Third, allowing MCDs on the second floor in NCDs can be done immediately without extensive stakeholder outreach because it would not introduce MCDs into areas of the City where they are currently prohibited, and it would help address the aesthetic and exclusivity issues associated with ground floor MCDs (see the discussion on pages 15 and 16). Further, there are already protections in the Health Code that require all MCDs to be ADA accessible, negating the need to prohibit them from the second floor or accessibility reasons. And finally there are robust protections in the Planning Code that limit the conversion of dwelling units throughout the City, reducing the risk that MCDs would displace second floor dwelling units. For these reasons, the Department recommends allowing MCDs on the second floor of NCDs immediately. At the

same time, while the Department believes that expanding the controls to all MCDs on the second floor will create more potential space for MCDs, it will not assist with achieving better distribution of MCDs. The best route for encouraging such distribution would be reducing the buffer from 1000 feet to 600 feet and including more zoning districts in the Green Zone. These more effective mechanisms, however, will require a broader community discussion.

Recommendation 3: Remove the 1000 foot buffer around Recreational Facilities

The Code currently restricts MCDs from locating within 1000 feet of a Recreational Facility that primarily serves people 18 years of age or younger. The Department is proposing that this provision be removed because it has found that most Recreational Facilities in the City serve various age groups making the distinction hard to make and difficult to map. Further, it is rarely used to prohibit an MCD in a particular location. Removing it would have little impact on the Green Zone, but it would give more clarity to the process and to MCD operators looking for commercial spaces in which to operate. In its place, the Department recommends that a finding be created that consider sensitive uses around proposed MCDs (see Recommendation 1).

Recordation 4: In the event that the existing Green Zone is expanded, it would be appropriate to institute a buffer around MCDs on the ground floor in Neighborhood Commercial Districts.

The MCD community was mixed on the issue of buffering. Some MCD owners voiced support for a buffer around MCDs to prevent overconcentration, while other MCD advocates strongly opposed it. Most neighbors on the other hand were strongly in favor of a buffer. The Department included it as a recommendation in this report primarily because it addresses the issue of MCDs exclusivity (see discussion on page 16 above). MCDs are a peculiar use; they've been compared to pharmacies because they dispense medication and to bars, another use that sells an intoxicating and highly regulated product. In reality, neither of those comparisons captures the unique nature of MCDs. MCDs are private clubs not open to the public, and having too many of them on a commercial street could potentially deaden the street for non-patients. Up until now, the Department was cautious about instituting buffers around MCDs because the Green Zone was so limited. However, if the Green Zone is sufficiently expanded, buffering should also be considered. Conversely, the Department recommends avoiding further locational barriers if other steps are not take to expand the Green Zone. Currently the Excelsior Outer Mission NCD requires a CU for MCDs that are proposing to locate within 500 feet of an existing MCD and a similar provision is being proposed for the Ocean Avenue NCT. Such a proposal could be adopted city-wide.

Recommendation 5: Require a pre-application meetings for new MCDs

Pre-applications meeting will provide neighbors the opportunity to learn about the project early in the process and let the applicant assess community concerns before investing significant resources and time into a particular site. Since most MCDs already conduct some form of early neighborhood outreach and engagement, making this a mandatory step in the process is simply codifying a common and reasonably expected practice. Because DPH is the lead permitting and regulatory agency for MCDs, the Department recommends that pre-application meetings be held prior to the application submittal to DPH. The current procedures that the Planning Department uses for required pre-application meetings can also be adopted by DPH.

The Planning Department requires a pre-application meeting for new construction; any vertical addition of 7 feet or more; any horizontal addition of 10 feet or more; decks over 10 feet above

grade or within the required rear yard; and all Formula Retail uses subject to a CU authorization. Applicants are required to invite all relevant neighborhood groups, and all abutting property owners and occupants, including property owners and occupants across the street from the project site. The meeting must be held at the subject site, or within 1 mile of the subject site. Meetings must be conducted between 6:00 p.m. – 9:00 p.m. Monday through Friday or from 10:00 a.m.to 9 p.m. Saturday and Sunday. In addition the Department also requires the use of a standardized invitation, sign in sheet, meeting summary, and affidavit; invitations are required to be mailed out no less than two weeks prior to the meeting.

Recommendation 6: Clarify in the Planning Code's MCDs definition that MCDs located on the ground floor are subject to the Transparency Requirements in Planning Code Section 145.1.

This recommendation is intended to remove some of the stigma surrounding MCDs and better integrate them into a neighborhood. Placing MCDs behind obscured store fronts adds to the misconception that MCDs are an illicit business and it downgrades the visual character and appeal of a neighborhood. Historically, the Department has not required MCDs to comply with the transparency requirements outlined in Planning Code Section 145.1, and until recently, the Planning Code's transparency requirements have been difficult to interpret and enforce. However, a recent interpretation by the Zoning Administrator, developed in with the Department's Enforcement Team, has clarified the requirements in a hand out (see Exhibit G) and produced a video[29]. The Department believes that these rules are flexible enough to still permit on site medicating spaces and protect patient privacy.

Recommendation 7: Add double parking and diversion monitoring policies in the Health Code.

The Health Code currently requires operators to monitor the public right-of-way in front of the MCD for litter and smoking. To address community concerns, the Department recommends adding right-of-way monitoring for diversion and double parking as well. DPH already enforces double parking and reselling complaints through Section 3308(e) of the Health Code, which "prohibits any breach of peace… or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct…"; however the Department believes it would be beneficial to call out double parking and reselling specifically as these issues are of significant concern for the community.

Recommendation 8: Provide a dedicated source of information and platform for discussion regarding the MCD process in San Francisco.

To help alleviate any potential frustration in navigating the MCD process, the Department proposes to establish a dedicated platform for providing detailed information to help inform the public about the steps required in establishing a MCD in San Francisco as well as opportunities to ask questions, voice concerns and be actively engaged. This will be in the form of a dedicated webpage, instructional video or other media source. This recommendation would be a part of the Department's growing efforts in community outreach and engagement.

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[29] http://www.sf-planning.org/index.aspx?page=3638

RECOMMENDATION:	Adopt Report and Forward to the Board of Supervisors

ATTACHMENTS AND EXHIBITS

Exhibit A:	Draft Resolution
Exhibit B:	Board File 1307345
Exhibit C:	Police Department Report
Exhibit D:	Letter from Access of Love
Exhibit E:	Survey from American's for Safe Access
Exhibit F:	Location of Medical Cannabis Dispensaries in SF
Exhibit G:	Planning Department's Storefront Transparency Guidelines
Exhibit H:	Existing Green Zone & Expansion Potential

Greene, Elizabeth

From: Ryan Monsanto <ryanm711@gmail.com>
Sent: Saturday, January 30, 2016 4:04 PM
To: Greene, Elizabeth
Subject: The Cannabis Center
Attachments: CW Analytical_Laboratories Testing.pdf; Halent Laboratories Testing _Xternal 2.pdf; Halent Labortories Invoice 7-28-2012 (1).pdf; Halent Laboratories Testing _Nternal Elixer (1).pdf; HHC Homeles Program.jpg

Hello Elizabeth,

I want to share with you some information listed below and attached the type of center we were building in Hercules, Ca. With our new improved concept The Cannabis Center can become the new state of the art cannabis healing center that we would love to bring for the City of Berkeley.

In addition, I was part of the managing team for Xternal topical products where we worked with Doctors on the research and development for the Cannabinoids and Endocannabinoid system. Attached are some testing results during that time as we continued efforts to improve the CBD's contents on how they reacted with our cannabinoid receptors. We have a vast knowledge base, resources, and experience to offer for the City of Berkeley in activating a unique model that can take the industry to a new level of healing. Please kindly share the following information to the city leaders of Berkeley. If you have any questions or request, please don't hesitate to let me know.

Listed below are links to video footages and an article of the Hercules Health Center:

Hercules Health Center Commercial:

https://www.youtube.com/watch?v=FK7jbboGst0

Hercules Health Center Homeless Program:

https://www.youtube.com/watch?v=ydEii1Qd-x0

Hercules Health Center "In search of Good Medicine" National Article:

http://www.tokeofthetown.com/2012/09/road_trip_in_search_of_good_medicine_-_hercules_we.php

Thank You,
Ryan Monsanto

Cannabis Analysis Report

Sample ID	8009010
System ID	
Sample Type	Tincture
Strain	Unknown
Date Submitted	02-24-2011
Client	Hercules Health Center
Description	Xternal Spray Pain Relief 2oz/75ml

Results are valid for 7 weeks from date submitted.

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Submitted For	
Cannabinoid Profiling	Yes
Pesticide Screening	No
Microbiological Screening	No

Ancillary Data	
Moisture	0.00%

Cannabinoid Profiling		Percent [1]
Delta-9-Tetrahydrocannabinol	THC	0.05%
Cannabidiol	CBD	0.00%
Cannabinol	CBN	0.00%

Pesticide Screening	Detected?
Avermectin	Not tested
Bifenthrin	Not tested
Permethrin	Not tested

Microbiological Screening	
Yeast Summary:	Not tested
Mold Summary:	Not tested
APC Summary:	Not tested
Coliforms Summary: [2]	Not Applicable
Escherichia coli Summary: [2]	Not Applicable

Comments

Concentrations in actual tincture:
THC = .216 mg/ml; CBD = .006 mg/ml; CBN = 007 mg/ml;

Mass per spray:
THC = 0.3 mg/spray; CBD = 0.009 mg/spray; CBN = 0.01 mg/spray;

1. Cannabinoids reported as percent dry weight if moisture is greater than zero, otherwise percent total weight.
2. Coliform and E. coli tests are performed only after a failed APC test.

CW Analytical Laboratories uses its best efforts to deliver high quality results and to verify that the data contained therein have been selected on the basis of sound scientific judgment. However, CW Analytical Laboratories makes no warranties or claims to that effect and further shall not be liable for any damage or misrepresentation that may results from the use or misuse of these data in any way.

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Test Results

For

Xternal

Strain/Name

Muscle Rub Topical Spray

Pesticides:	PASS	Molds, Fungus:	PASS

Selected Content for Unheated Sample, % by weight								
THCA		THC		CBDA		CBD		CBN *max**
0.00		0.00		0.00		0.00		0.00

Selected Content for Unheated Sample, mg/g								
THCA		THC		CBDA		CBD		CBN *max**
0.03		0.01		0.00		0.00		0.00

* ≡ Asterisks indicate combined values of acid and neutral forms, corrected for mass loss from decarboxylation.

Most of the acid cannabinoids (e.g. THCA) readily convert to their neutrals (e.g THC) upon heating, giving different properties.

Date Performed:	Type:	Test ID#
7/28/2012	Topical - Spray	2642-1

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Analysis

Halent TESTED

Xternal

Muscle Rub Topical Spray

Analysis Date: 07/28/12 **Type:** Topical - Spray **Sample ID#** 2642-1

Pesticides: PASS

Molds, Fungus: PASS

Cannabinoid Content for Unheated Sample, % by weight

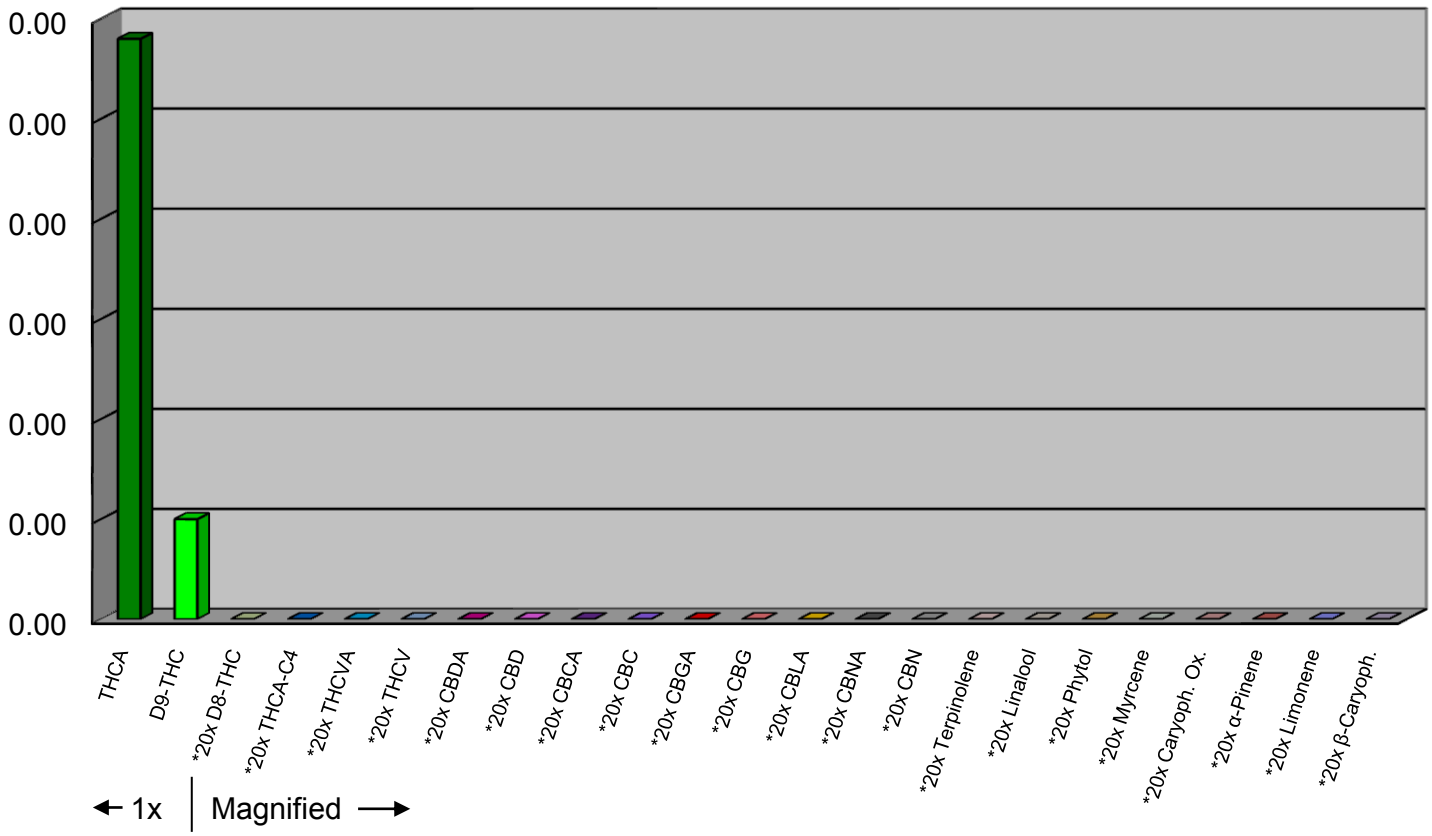
THCA	D9-THC	D8-THC	THCA-C4	THCVA	THCV
0.003	<0.001	<0.001	<0.001	<0.001	<0.001

CBDA	CBD	CBLA	CBCA	CBC
<0.001	<0.001	<0.001	<0.001	<0.001

CBGA	CBG	CBNA	CBN
<0.001	<0.001	<0.001	<0.001

Terpene Content for Unheated Sample, % by weight

Terpinolene	<0.001	Alpha-Pinene	<0.001	Myrcene	<0.001
Linalool	<0.001	Caryophyllene Oxide	<0.001	Limonene	<0.001
Phytol	<0.001	Beta-Caryophyllene	<0.001		



Halent TESTED 7/28/12 No Pesticide/Mold ID 2642-1

THCA	0.00	CBDA	0.00	THCVA	0.00	CBG*	0.00	%
THC	0.00	CBD	0.00	THCV	0.00	CBN*	0.00	wt

Xternal
Muscle Rub Topical Spray
MEDICINAL CANNABIS 11362.5 H&S COMPLIANT
KEEP AWAY FROM CHILDREN

Halent TESTED 7/28/12 No Pesticide/Mold ID 2642-1

THCA	0.00	CBDA	0.00	THCVA	0.00	CBG*	0.00	%
THC	0.00	CBD	0.00	THCV	0.00	CBN*	0.00	wt

Xternal
Muscle Rub Topical Spray
MEDICINAL CANNABIS 11362.5 H&S COMPLIANT
KEEP AWAY FROM CHILDREN

Halent TESTED No Pesticides or Molds ID 2642-1
THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent TESTED No Pesticides or Molds ID 2642-1
THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent TESTED No Pesticides or Molds ID 2642-1
THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent TESTED No Pesticides or Molds ID 2642-1
THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent TESTED No Pesticides or Molds ID 2642-1
THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
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THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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CBDA 0.00 CBD 0.00 CBG* 0.00 %
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CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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CBDA 0.00 CBD 0.00 CBG* 0.00 %
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CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent TESTED No Pesticides or Molds ID 2642-1
THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent TESTED No Pesticides or Molds ID 2642-1
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THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

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THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent TESTED No Pesticides or Molds ID 2642-1
THCA 0.00 THC 0.00 7/28/2012
CBDA 0.00 CBD 0.00 CBG* 0.00 %
THCVA 0.00 THCV 0.00 CBN* 0.00 wt

Halent LABORATORIES

Invoice-0004

Send Remittance To:
Halent Labs
216 F St .
Davis, CA 95616
1-530-400-9586

Date: July 28, 2012

To: Xternal

OldSchoolMedical@gmail.com

Test #		Qty	Description	Unit Price	Line Total
From	To				
2642-1	2642-2	2	Halent Test		
			Muscle Rub Topical Spray	$ 200.00	$ 200.00
			Nternal Elixer	$ 120.00	$ 120.00
				Paid	$ -
Terms:	Due Upon Receipt			Amout Due	$ 320.00

Halent™ LABORATORIES

www.Halent.com

Test Results

For

Xternal

Strain/Name

Nternal Elixer

Pesticides:	PASS	Molds, Fungus:	PASS

Selected Content for Unheated Sample, mg/mL								
THCA		THC		CBDA		CBD		CBN *max**
0.7		2.3		0.0		0.0		0.0

Density = 0.878

Selected Content for Unheated Sample, mg/teaspoon								
THCA		THC		CBDA		CBD		CBN *max**
3.4		11.5		0.1		0.0		0.1

Estimated Selected Content for Ideally Heated Sample, mg/mL								
THCA		THC		CBDA		CBD		CBN *max**
~0		2.8		~0		0.0		0.0

* ≡ Asterisks indicate combined values of acid and neutral forms, corrected for mass loss from decarboxylation.

Most of the acid cannabinoids (e.g. THCA) readily convert to their neutrals (e.g THC) upon heating, giving different properties.

The following compounds are particularly abundant in this sample:

Linalool

Date Performed:	Type:	Test ID#
7/28/2012	Tincture	2642-2

Halent TESTED

Halent LABORATORIES

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1-530-400-9586

Analysis

Halent TESTED

Xternal

Nternal Elixer

Analysis Date: 07/28/12 **Type:** Tincture **Sample ID#** 2642-2

Pesticides: PASS

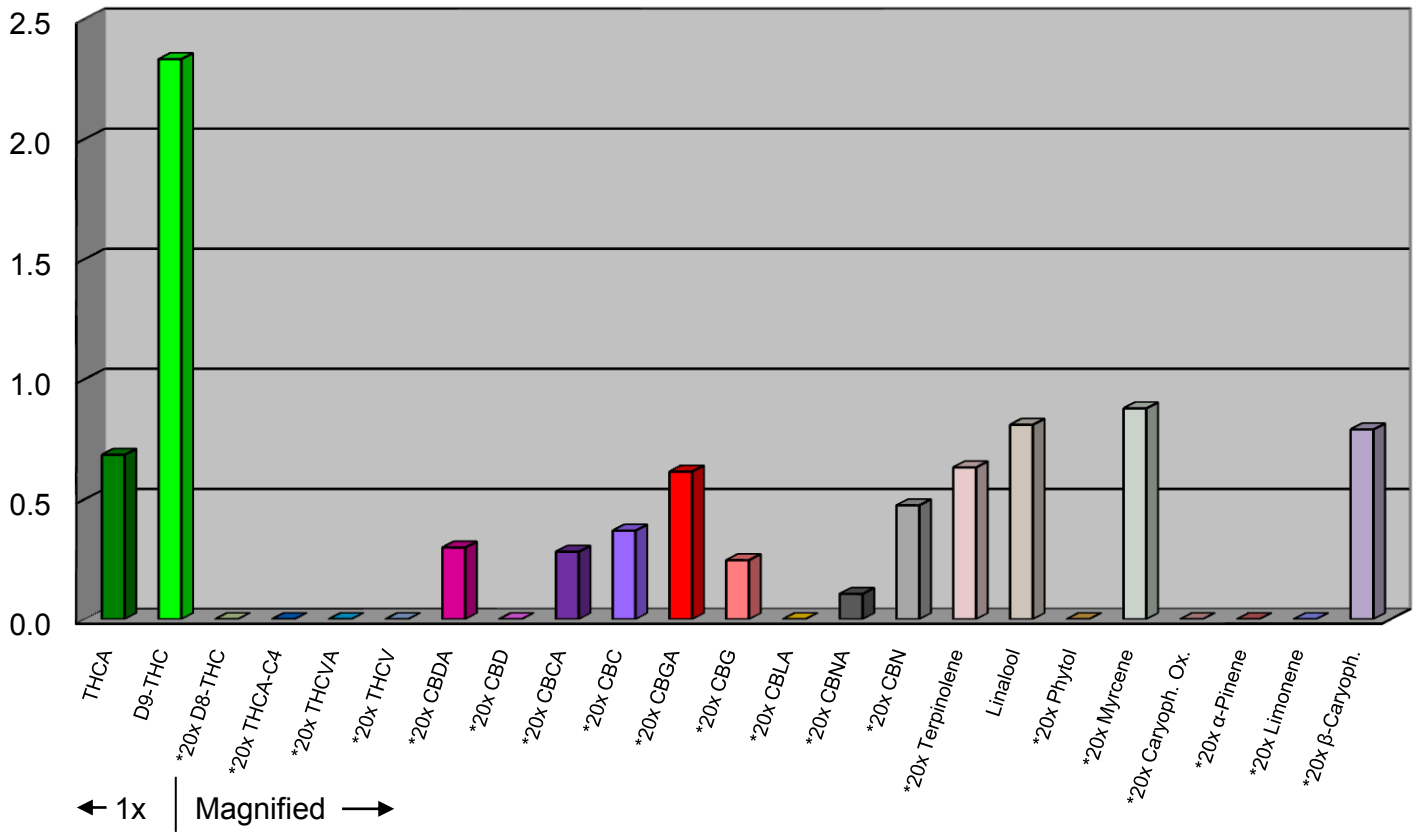
Molds, Fungus: PASS

Cannabinoid Content for Unheated Sample, mg/mL

THCA	0.7
D9-THC	2.3
D8-THC	<0.01
THCA-C4	<0.01
THCVA	<0.01
THCV	<0.01
CBDA	0.01
CBD	<0.01
CBLA	<0.01
CBCA	0.01
CBC	0.02
CBGA	0.03
CBG	0.01
CBNA	<0.01
CBN	0.02

Terpene Content for Unheated Sample, mg/mL

Terpinolene	0.03	Alpha-Pinene	<0.01	Myrcene	0.04
Linalool	0.81	Caryophyllene Oxide	<0.01	Limonene	<0.01
Phytol	<0.01	Beta-Caryophyllene	0.04		



Halent TESTED 7/28/12 No Pesticide/Mold ID 2642-2

THCA	0.7	CBDA	0.0	THCVA	0.0	CBG*	0.0	mg
THC	2.3	CBD	0.0	THCV	0.0	CBN*	0.0	mL

Xternal
Nternal Elixer
MEDICINAL CANNABIS 11362.5 H&S COMPLIANT
KEEP AWAY FROM CHILDREN

Halent TESTED 7/28/12 No Pesticide/Mold ID 2642-2

THCA	0.7	CBDA	0.0	THCVA	0.0	CBG*	0.0	mg
THC	2.3	CBD	0.0	THCV	0.0	CBN*	0.0	mL

Xternal
Nternal Elixer
MEDICINAL CANNABIS 11362.5 H&S COMPLIANT
KEEP AWAY FROM CHILDREN

Halent TESTED No Pesticides or Molds ID 2642-2
THCA 0.7 THC 2.3 7/28/2012
CBDA 0.0 CBD 0.0 CBG* 0.0 mg
THCVA 0.0 THCV 0.0 CBN* 0.0 mL

Halent TESTED No Pesticides or Molds ID 2642-2
THCA 0.7 THC 2.3 7/28/2012
CBDA 0.0 CBD 0.0 CBG* 0.0 mg
THCVA 0.0 THCV 0.0 CBN* 0.0 mL

Free Gram
w/ $50 donation!

Greene, Elizabeth

From: marea mendoza <marea.mendoza510@gmail.com>
Sent: Monday, February 01, 2016 4:21 PM
To: Greene, Elizabeth
Subject: Special Medical Cannabis Meetings, February 4

My name is Marea Mendoza and I have been living in Berkeley for the past 6 years but I was born and raised in the East Bay. I got into a bad car accident 5 years ago and have been using medical cannabis to help ease the pain. I have been following the permit selection process closely and attended the January 28th meeting. I believe that there are few good candidates in the remaining 6, however, the Apothecarium is not one. They are a multi franchise dispensary that I believe would not serve the Berkeley community well.

At the meeting, an associate of the Apothecarium told the commission that the Apothecarium was a single dispensary. That is simply not true.

Here is the article about their award of a second permit in Sf:
http://www.marinatimes.com/2015/11/apothecarium-squeaks-in/

And the third location in Las Vegas:
http://www.apothecariumlv.com/

I know the commission has a tough choice ahead. I hope that this information is helpful in picking the best candidate for Berkeley.

Sincerely,
Marea

LATE ITEMS
MCC 02-04-2016
Page 40 of 298

We, the undersigned area residents and merchants, support Amoeba Music's proposal to operate a medical cannabis dispensary in the building adjacent to their record store at 2465 Telegraph Avenue in Berkeley. We feel that this would have a positive impact on the neighborhood.

Name (print)	Signature	Address	Affiliation (optional)
1) Kamal		2521 Telegraph Ave Berkeley CA	owner FN LEDS
2) Dandelion Harris		2500 Telegraph Ave Berkeley CA 94704	510 skateboards
3) ELADIO ARIZIS		1704 FAIRVIEW ST BERKELEY	"510"
4) Terrence McKray		1051 MONTEREY AVE Berkeley	510 skate boards
5) Kastlifttead		739 76th street oakland	MCC customs
6) Thomas	Leong	2422 Telegraph Ave	Owner MSC Customs
7) Willie	Longe	2422 Telegraph Ave	Manager MSC Customs
8) AL GEYER		2416 Telegraph Ave	ANNAPURNA
9) LINDA LIN		2410 TELEGRAPH AVE	BERKELEY SPECTACLE OPTICAL
10) Russell Chatten		2390 Telegraph Ave Berkeley Ca	OWNER STUDIO SIX
11) Lee Six		2390 Telegraph Ave Berkeley CA	CO OWNER
12) Kellen Gauthier		2467 Telegraph Ave	Manager
13) Carol	Lipnick	2510 Telegraph Ave	owner
14) ELIS		2556 Telegraph ave	owner
15) Buffalo Exchange	Kelly	2585 telegraph ave	manager

We, the undersigned area residents and merchants, support Amoeba Music's proposal to operate a medical cannabis dispensary in the building adjacent to their record store at 2465 Telegraph Avenue in Berkeley. We feel that this would have a positive impact on the neighborhood.

Name (print)	Signature	Address	Affiliation (optional)
1) Ladan Sanjani		2565 Telegraph Ave Berkeley CA 94704	Pasta Bene
2) Ryan Langston		1130 Shed Ave Oakland CA	Bows & Arrows
3) Kyle Martin		Pittsburg CA 94565 2565 East Leland road	Bows + Arrows
4) Matt Kep		2509 Telegraph Ave Berkeley CA 94704	Upper Playground
5) Cassy Benuzzi		2505 Telegraph Ave, Berkeley, CA 94704	Sockshop Telegraph
6) Jae Chny		2438 Durant Ave	SODOI COFFEE
7) E.T. Ortiz	E.T. Ortiz	696-43rd Richmond	Revolutio Beats for media ones
8) Ed Monroe	Ed Monroe	1098 Euclid Ave Berk, CA 94708	Street Vendor
9) DIKPAL KC	Dikpal	2374 Telegraph Ave Berkeley CA 94704	Hi Times.
10) BRIAN STEN		2512 Telegraph Ave #207	Hi Times
11) ANJANI KC	Anjani	2374 Telegraph Ave Berk CA	Hi Times
12) Kamy Ammal		2512 Telegraph Ave	Sams market
13) Jay Mez		2486 Bancroft Way	Whelans S.
14) Chelsea Lee Price		2508 Channing Way	Twisted Thistle
15)			

Greene, Elizabeth

From: Justin Fischedick <justin@excelsioranalytical.com>
Sent: Monday, February 01, 2016 2:31 PM
To: Greene, Elizabeth
Subject: Attn: Medical Cannabis Commission / City Council
Attachments: Fischedick comment Berkeley license GOE.pdf

Hello, my name is Justin T. Fischedick PhD. I am a scientist who currently works with Excelsior Analytical Laboratory in Union City, CA that specializes in lab testing of medicinal cannabis. I obtained my PhD in natural products chemistry from the University of Leiden in The Netherlands. During this time I researched medicinal cannabis and published a number of peer reviewed studies on cannabis chemistry and analytics. I would like to provide comment on the current dispensary application process underway in the city of Berkeley. I have a strong understanding of Berkeley's medicinal cannabis regulations specifically regarding testing and quality control. I've worked with other dispensaries in Berkeley such as the premier model dispensary Berkeley Patients Group with both understanding the details of the lab testing required by the city as well as providing various testing services. In many ways my positive experiences with with Berkeley Patients Group resemble those I have with the Garden of Eden who is currently applying for a dispensary license in Berkeley. During my postdoctoral research at Washington State University representatives from Excelsior Analytical Lab and the Garden of Eden asked for my advice on how to develop accurate testing procedures that they were in need of. Now that I work for Excelsior Analytical we still have a positive working relationship with the Garden of Eden. In many ways Garden of Eden is an ideal client for a scientist such as myself. Their commitment to obtaining accurate and meaningful results makes them a pleasure to work with. Furthermore Garden of Eden has been willing to work with us on long term projects that are essential to gaining a deeper understanding of the important scientific issues that need to be resolved in order to improve cannabis lab testing. The Garden of Eden's proactive approach to lab testing demonstrates to me that they have a commitment to providing safe and effective medicine for their patients. For these reasons they should be considered for the license to operate a dispensary in the city of Berkeley.

Sincerely,

Justin T. Fischedick, PhD

--
Ea Lab

CheckMate

Tax Preparation • Bookkeeping
Dennis Roberts
Sharon Powell
Bob Loorz

1405 Addison
Berkeley, CA 94702
(510) 849-1555
(510) 849-1005 Fax

To City of Berkeley

Re: The Cannabis Center, 1440 University
Berkeley, CA 94702

Dear Ms. Greene,

Regarding the proposed location of The Cannabis Center, we strongly endorse the attached letter from Joyce Yamaguwa.

Sincerely,

Dennis Roberts
CheckMate Tax Service

November 19, 2015

Ms. Elizabeth Greene
City of Berkeley
2120 Milvia St.
Berkeley, CA 94704

Re: The Cannabis Center, 1440 University Ave., Berkeley

Dear Ms. Greene,

I am the property owner of 1441 University Ave., also known as the Savers Building. We are strongly opposed to the proposed location of The Cannabis Center, next door at 1440 University.

The location is not appropriate, as it does not have any parking. The Floor Plan included in the Application (page 12) does not accurately represent the site. The parking depicted is not available to the subject location, and should not have been reflected; please see exhibit A attached.

The Application states in Article III. Proposed Location, "The retail space is next door to restaurants, service providers, and a grocery store with plenty of parking including available parking on University Ave." The existing restaurant is operating under a conditional use permit, due to the lack of parking. The employees and patrons of the Taqueria have placed excessive demand on street parking, as well as our private parking. Again, parking at our site (the "grocery store with plenty of parking") is not available to employees or patrons of 1440 University. We adequately park our tenant (Savers Thrift), and have had great difficulty keeping surrounding residents and businesses from parking in our lot.

In addition to a dispensary, the Cannabis Center will also be providing medical services. The Cannabis Center plans to offer services onsite and offsite such as chiropractic care, acupuncture care, spiritual healing massage and mental health services. The parking requirement for medical is far greater than standard retail. Again, the proposed location has no parking, and The Cannabis Center will create an untenable situation for the neighborhood.

We currently have daily battles managing our parking lot. History has shown that the CUP for the restaurant should not have been approved assuming use of our parking lot. An additional pharmacy/medical business which requires ample and convenient parking should not be allowed to occupy 1440 University, as it will further exacerbate an existing parking shortage in the neighborhood.

Sincerely,
Berkeley Bazaar Partners

Joyce Yamagiwa

Greene, Elizabeth

From: Ondine Boulter <ondineboulter@gmail.com>
Sent: Thursday, January 28, 2016 9:16 PM
To: Greene, Elizabeth
Cc: Matthew Gibbs
Subject: In opposition to Cannabis Dispensary at 3243 Sacramento Street

Neighborhood residents in opposition to iCANN Health Center Proposal

Dear Elizabeth,

This letter is issued in opposition to the iCANN Health Center proposal for 3243 Sacramento St., Berkeley, CA 94702. As 13 year residents of Alcatraz Avenue, we have grave concerns about the impact of the proposed iCANN Cannabis Dispensary on the surrounding neighborhood.

We attended the community meeting for the medical cannabis dispensary proposed by iCANN Health Center. The organization and people occur as very professional with the necessary expert consultants in tow. iCANN's CEO represented a heartfelt intent to serve seniors. In that context, the location, directly across from a senior center, makes sense as iCANN also offers ancillary services that may be a support to seniors in the neighborhood. However, a number of issues were deliberately obscured and this causes us to seriously question intent and we stand in opposition to the proposal.

Scope of Operation

While the discussion was about edibles and the senior market, the presenters were careful to avoid any indication of exclusivity for market or product. Without exclusion by age and/or product, it seems almost certain that iCANN intends to service the broad dispensary market. Broad market and product scope causes one to doubt whether the senior focus is little more than a marketing and branding scheme to win approval for this location. This concern is reinforced by the proposed operating hours of 9 AM to 9 PM 7-days a week, which seems completely out of range for a senior clientele.

This facility might be different from other dispensaries in concept, but the failure of iCANN to make a strong case with market and product data cause valid concern that profit maximization with a broad segment and product inventory rather than senior market and product segmentation is the overriding agenda. I do not have market data at hand, however, I feel comfortable in positing that seniors do not make up a high percentage of the average dispensary client base. Thus, it's also easy to speculate that this facility will attract a similarly balanced demographic.

Impact on Neighborhood

This is not a walk-up business that the neighborhood could economically support on its own. Whether exclusive to seniors or not, the facility would be a magnet facility drawing people in from across Berkeley and Oakland. That means increased cars and traffic.

If the clientele is predominately youthful, then the volume of people drawn to the facility may be greater than anticipated - youth travel, seniors far less so. A youthful clientele would most likely have greater impact on the neighborhood, opening to more problems than seniors. **We have many families with young children (including our own) in this neighborhood, who cannot safely cross streets due to chronic traffic, congestion and speeding cars. Why make matters worse by heightened traffic and the need for security in a neighborhood already riddled with crime?**

The necessity for security is largely based in the nature of iCann's clientele. Rather than making the neighborhood safer, the positon taken by their security expert falls within the logic that "we are going to create a problem by drawing in people that does not now exist and just trust us to take care of that problem". However professional and expert they may be, the logic is difficult to support.

Parking

The foregoing issues feed into another dominant issue, parking. Our neighborhood is already severely impacted by parking problems throughout the day due to the well-utilized CEI Over 60 Health Center on the corner. The buses from the center (5 or 6 of them on any given morning) have been forced to block driveways and double park in the neighborhood as the loading zone they have in front of their Center is not adequately to accommodate their vehicles.

We were advised that the iCann facility expects 478 clients per day. Depending on the validity of market studies that could be a very conservative number. Nonetheless, based on 12 hours per day of operation with largely single-occupant cars, if approved, this neighborhood will be bombarded with 39+ cars per hour. Assume an average visit of 20 minutes, which equates to, on average, over 13 cars needing parking at any one time. At peak times, this number could double or even quadruple. All while traffic and congestion already plague this corridor of commuters.

Due to the presence of a senior health center and clinic on this corner and limitations of their clientele for walking long distances, this Sacramento and Alcatraz intersection requires a certain amount of available parking for seniors during daytime operating hours. There is only street parking available to them and that is limited and already filled for at least 1 to 2 blocks in each direction throughout business hours, Monday through Friday. The proposed facility would swamp the neighborhood, pushing parking access out an additional 1 to 2 blocks or more. My father has been a patient of this clinic and am well aware of the health of the clientele. It is often fragile. We can't expect these seniors to walk the additional blocks to reach the clinic.

After 4 PM, the residents of the neighborhood require parking for their vehicles upon returning home from their jobs. With proposed operating hours that run until 9 PM, iCann would then be in competition with the neighbors, the local businesses, and the influx of non-residents that visit the Tuesday Farmers Market. Should this proposal be accepted, I can only imagine issues from the neighbors once the full impact on early evening residential parking in the neighborhood is fully realized. The situation would undoubtedly cause negative impact on the neighbors, traffic, and the many seniors that reside in the Mabel Howard apartments. **If iCANN is really about helping seniors, their proposal is short-sighted at best, as it promises to increase traffic and congestion, threatening to endanger the very clientele the owners claim to be serving.**

Again, we stand in strong opposition and recommend that the proposal be rejected.

Ondine Boulter & Matthew Gibbs

1409 Alcatraz Avenue

Berkeley

Greene, Elizabeth

From: Christopher Cherney <ccherney@earthlink.net>
Sent: Saturday, January 30, 2016 1:08 PM
To: Greene, Elizabeth
Subject: Neighbor in Opposition to "Medical" Marijuana Dispensary for 3243 Sacramento Avenue

Dear Elizabeth,

- I am writing in opposition to the proposed "medical" marijuana dispensary at 3243 Sacramento Avenue. In fact, I am opposed to any and all "medical" marijuana dispensaries, because they promote drug abuse.
- For 19 years, my family and I have lived two blocks from the proposed site.
- I am a Berkeley homeowner and parent.
- I am a health care professional (nursing home administrator for 20 years). I also teach health policy to undergraduates in the CSU system (4 years).
- My opposition is based on two premises, buttressed by robust research: (1) nearly all "medical" marijuana goes toward drug abuse, and (2) teenage pot use is 5 times higher in medical marijuana states. (See: http://www.philly.com/philly/blogs/thinktank/Medical-marijuana-laws-dangerous-and-unnecessary.html)
- Because of these well-known truths about "medical" marijuana, prominent medical organizations oppose all "medical" marijuana laws and entities that distribute "medical" marijuana. These organizations include the American Medical Association, American Academy of Pediatrics, and American Society of Addiction Medicine.
- Berkeley should not be approving dispensaries that encourage drug use by children, and drug abuse in general. Let's not kid ourselves: there's little "medical" about "medical" marijuana dispensaries, which cater to male substance abusers (about 70% of "medical" marijuana users), not to sufferers of chronic pain, about 60% of whom are women.
- I proudly worked as a volunteer to pass Measure D (Soda Tax) last November, which protects Berkeley kids and invests in public health.
- I am aghast at efforts to increase the number of "medical" marijuana dispensaries in Berkeley. These dispensaries will harm Berkeley children by encouraging drug use at an early age.
- This homeowner and parent is energetically opposed to any marijuana dispensary in Berkeley, including the dispensary proposed for 3243 Sacramento Avenue.

Thank you for your consideration.

Christopher Cherney
Cell: (510) 504-7522

Greene, Elizabeth

From: Adam West <adamwest916@yahoo.com>
Sent: Monday, February 01, 2016 4:47 PM
To: Greene, Elizabeth
Subject: Attention: Medical Cannabis Commission

My name is Adam, and I've been a resident of Berkeley for many years. I attended last week's meeting for the city's dispensary applications, and I discovered a few things that were quite concerning that I wanted to bring to your attention. During the public comment portion of last week's meeting, one of the attendees had mentioned iCANN's relationship to out of town financiers. I decided to do further research on the subject, and realized that not only is that true, but it is rather alarming the amount of outside influence iCANN's is subjected to.

iCANN's application is actually driven by Forefront, an out of state company with predatory intentions. Research shows they charge a fee to complete the application and then upon successful award of a permit they require a percentage of gross. Forefront is the one who purchased the building iCANN used to apply with. The loan is a convertible loan, that converts into equity of the dispensary under terms stated in the application. If Chris Crane was a friend of Sue Taylor like he stated in the hearing on the 28th these loans and lease terms would not be at such high interest/cost. Sue Taylor, the spokesperson for iCANN, tried to make the argument that iCANN is from the community and cares about its members. Unfortunately, it seems Sue Taylor is being taken advantage of by a greedy out of town mass corporation trying to hijack the compassion of providing medicine to patients in Berkeley, and instead running a corporate model to maximize profits. You can see the extent of their reach all over the country through their website 4frontventures.com

Upon researching iCANN's application I discovered the following:
1. Page 280 shows Trevor Pratte is the Lessor of the property, not iCANN or Sue Taylor.
2. Pages 113-180 are what forefront uses as a cookie cutter application across the country.
3. Page 93-97 is the contract between forefront and iCANN. This is the predatory portion of their agreement. A quick read here shows whats really going on.
4. Page 78 shows that all the "Business" knowledge comes from forefront.

This clearly indicates we are being misled by the application for iCANN's dispensary. It really seems Sue Taylor is being preyed upon and taken advantage of. She appears to be used simply as a nice face to cover up the fact that this is all Forefront coming in and trying to extend their reach within the industry into Berkeley. Sue Taylor will most likely be tossed aside as soon as the permit is obtained by Forefront, and then who knows what they're going to do with it. It is actually quite similar to another applicant for this license: Blum. If you go to the link below, you will see the article detailing how Blum sold their Oakland medical cannabis license to Terratech for $21 million! The fact that they're even being allowed to apply for a Berkeley permit is mind boggling! Clearly they will try to sell this license for many millions again to some out of town mega-corporation. http://time.com/money/4177736/pot-dispensary-goes-public/

This is exactly what Forefront is trying to do. I urge to not give their application any further corporation. They are clearly a predatory mega corp taking advantage of a local community activist (Sue Taylor) in order to use her to acquire a permit and make millions, keeping all that money outside of our community. Please keep Forefront and Blum out of Berkeley. I urge you to reject both application from iCANN and Blum.

Thank you.

Greene, Elizabeth

From: robin wright <redrobinw@yahoo.com>
Sent: Monday, February 01, 2016 2:09 PM
To: Greene, Elizabeth
Subject: Concern about proposed ICANN dispensary

Hello, Please forward to the Medical Cannabis Dispensary Commission to be part of the public record. Thank you.

I have a concern about the proposed Medical Marijuana Dispensary at 3243 Sacramento St Berkeley for ICANN.

I believe the building was bought by an out of state LLC from Colorado. Is there concern for the local neighborhood? If the director lives in Berkeley, why did she or anyone who might report to her not care about the building being covered by graffiti? This is a blight on a troubled neighborhood.

On Nov 10 2015 # 271440 for graffiti was reported to the city
On Dec 12th, 2015 # 12275898 more graffiti was reported to the city. Typically a letter is sent by Code Enforcement to enforce cleanup.
Would I see more grafitti today if I walked by? Probably.

They appear to be careless neighbors with no concern for a "healthy" or clean neighborhood. Maybe they only want to line their pockets with cash.

Robin Wright
3043 Ellis St
Berkeley 94703

By the way, I am a cancer patient and a senior who has purchased medical marijuana. I am amazed at the assembly line of customers and the amount of customers, and speed of transactions and potential dollars that the dispensary I use takes in.

Greene, Elizabeth

From: David Prinz <david.prinz@gmail.com>
Sent: Tuesday, February 02, 2016 6:10 PM
To: Greene, Elizabeth

Hi Elizabeth,

I'm forwarding five separate emails I received from Brendan Hallinan that all speak to the issue of whether crime increases or decreases in the vicinity of a dispensary, once it is open. Thanks for your help in distributing this information to the commission members.

Americans For Safe Access

AN ORGANIZATION OF MEDICAL PROFESSIONALS, SCIENTISTS, AND PATIENTS HELPING PATIENTS

MEDICAL CANNABIS DISPENSING COLLECTIVES AND LOCAL REGULATION

AmericansFor SafeAccess
Advancing Legal Medical Marijuana Therapeutics and Research

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MEDICAL CANNABIS DISPENSING COLLECTIVES AND LOCAL REGULATION

2006

EXECUTIVE SUMMARY
Introduction 1

OVERVIEW
About this Report 3
About Americans for Safe Access 3
The National Political Landscape 3
History of Medical Cannabis in California 4
What is a Medical Cannabis Dispensing Collective 4
Rationale for Medical Cannabis Dispensing Collectives 5
Medical Cannabis Dispensing Collectives are Legal Under State Law 5
Why Patients Need Convenient Dispensaries 6
What Communities are Doing to Help Patients 6

IMPACT OF DISPENSARIES AND REGULATIONS ON COMMUNITIES
Dispensaries Reduce Crime and Improve Public Safety 7
Why Diversion of Medical Cannabis is Typically Not a Problem 8
Dispensaries Can Be Good Neighbors 8

BENEFITS OF DISPENSARIES TO THE PATIENT COMMUNITY
Dispensaries Provide Many Benefits to the Sick and Suffering 10
Research Supports the Dispensary Model 11
Many Dispensaries Provide Key Social Services 11
Conclusion 13

APPENDIX A
Recommendations on Dispensary Regulations 14

APPENDIX B
Ordinance Evaluation Survey Questions 18

APPENDIX C
Survey Answer and Data Analyses 19

APPENDIX D
Maps of Ordinances 20

Americans For Safe Access

AN ORGANIZATION OF MEDICAL PROFESSIONALS, SCIENTISTS AND PATIENTS HELPING PATIENTS

EXECUTIVE SUMMARY

California's original medical cannabis law, the Compassionate Use Act (Prop. 215), directs local officials to implement ways for qualified patients to access their medicine. With the passage of state legislation (SB 420) in 2003, and the 2005 court ruling in *People v. Urziceanu*, medical cannabis dispensing collectives (or dispensaries) are now recognized as legal entities. Since most of the more than 150,000 cannabis patients in California (NORML 2005 estimate) rely on dispensaries for their medicine, communities across the state are facing requests for business licenses or zoning decisions related to the operation of dispensaries.

Americans for Safe Access, the leading national organization representing the interests of medical cannabis patients and their doctors, has undertaken a study of the experience of those communities that have dispensary ordinances. The report that follows details those experiences, as related by local officials; it also covers some of the political background and current legal status of dispensaries, outlines important issues to consider in drafting dispensary regulations, and summarizes a recent study by a University of California, Berkeley researcher on the community benefits of dispensaries. In short, this report describes why:

Regulated dispensaries benefit the community by:

- providing access for the most seriously ill and injured
- offering a safer environment for patients than having to buy on the illicit market
- improving the health of patients through social support
- helping patients with other social services, such as food and housing
- having a greater than average customer satisfaction rating for health care

Creating dispensary regulations combats crime because:

- dispensary security reduces crime in the vicinity
- street sales tend to decrease
- patients and operators are vigilant
- any criminal activity gets reported to police

Regulated dispensaries are:

- legal under California state law
- helping revitalize neighborhoods
- bringing new customers to neighboring businesses
- not a source of community complaints

This report concludes with a section outlining the important elements for local officials to consider as they move forward with regulations for dispensaries. ASA has worked successfully with officials in Kern County, Los Angeles, San Francisco and elsewhere to craft ordinances that meet the state's legal requirements, as well as the needs of patients and the larger community. Please contact ASA if you have questions: 888-929-4367.

OVERVIEW OF MEDICAL CANNABIS DISPENSARIES

"As the number of patients in the state of California who rely upon medical cannabis for their treatment continues to grow, it is increasingly imperative that cities and counties address the issue of dispensaries in our respective communities. In the city of Oakland we recognized this need and adopted an ordinance which balances patients' need for safe access to treatment while reassuring the community that these dispensaries are run right. A tangential benefit of the dispensaries has been that they have helped to stimulate economic development in the areas where they are located."

- Desley Brooks, Oakland City Councilmember

ABOUT THIS REPORT

Land-use decisions are now part of the implementation of California's medical marijuana, or cannabis, laws. As a result, medical cannabis dispensing collectives (dispensaries) are the subject of considerable debate by planning and other local officials. Dispensaries have been operating openly in many communities since the passage of Proposition 215 in 1996. As a compassionate, community-based response to the problems patients face in trying to access cannabis, dispensaries are currently used by more than half of all patients in the state and are essential to those most seriously ill or injured. Since 2003, when the legislature further implemented state law by expressly addressing the issue of patient collectives and compensation for cannabis, more dispensaries have opened and more communities have been faced with questions about business permits and land use options.

In an attempt to clarify the issues involved, Americans for Safe Access has conducted a survey of local officials in addition to continuously tracking regulatory activity throughout the state. (safeaccessnow.org/regulations.) The report that follows outlines some of the underlying questions and provides an overview of the experiences of cities and counties around the state. In many parts of California, dispensaries have operated responsibly and provided essential services to the most needy without local intervention, but city and county officials are also considering how to arrive at the most effective regulations for their community, ones that respect the rights of patients for safe and legal access within the context of the larger community.

ABOUT AMERICANS FOR SAFE ACCESS

Americans for Safe Access (ASA) is the largest national member-based organization of patients, medical professionals, scientists and concerned citizens promoting safe and legal access to cannabis for therapeutic uses and research. ASA works in partnership with state, local and national legislators to overcome barriers and create policies that improve access to cannabis for patients and researchers. We have more than 30,000 active members with chapters and affiliates in more than 40 states.

THE NATIONAL POLITICAL LANDSCAPE

A substantial majority of Americans support safe and legal access to medical cannabis. Public opinion polls in every part of the country show majority support cutting across political and demographic lines. Among them, a Time/CNN poll in 2002 showed 80% national support; a survey of AARP members in 2004 showed 72% of older Americans support legal access, with those in the western states polling 82% in favor.

This broad popular consensus, combined with an intransigent federal government which

refuses to acknowledge medical uses for cannabis, has meant that Americans have turned to state-based solutions. The laws voters and legislators have passed are intended to mitigate the effects of the federal government's prohibition on medical cannabis by allowing qualified patients to use it without state or local interference. Beginning with California in 1996, voters passed initiatives in eight states plus the District of Columbia -- Alaska, Colorado, Maine, Montana, Nevada, Oregon, and Washington. State legislatures followed suit, with elected officials in Hawaii, Maryland, Rhode Island, and Vermont taking action to protect patients from criminal penalty, and the California legislature amending its voter initiative in 2003.

Momentum for these state-level provisions for compassionate use and safe access has continued to build as more research on the therapeutic uses of cannabis is published. And the public advocacy of well-known cannabis patients such as the Emmy-winning talkshow host Montel Williams has also increased public awareness and created political pressure for compassionate state and local solutions.

Twice in the past decade the U.S. Supreme Court has taken up the question. In the most recent case, *Gonzales v. Raich*, a split court upheld the ability of federal officials to prosecute patients if they so choose, but did not overturn state laws. In the wake of that decision, the attorneys general of California, Hawaii, Oregon, and Colorado all issued legal opinions or statements reaffirming their state's medical cannabis laws. The duty of state and local law enforcement is to the enforcement and implementation of state, not federal, law.

HISTORY OF MEDICAL CANNABIS IN CALIFORNIA

Local officials and voters in California have recognized the needs of medical cannabis patients in their communities and have taken action, even before voters made it legal in 1996. In 1991, 80% of San Francisco voters supported Proposition P, a ballot initiative which recommended a non-enforcement policy for the medical use, cultivation and distribution of marijuana. In 1992, citing both the interests of their constituency and the endorsement of therapeutic use by the California Medical Association, the San Francisco Board of Supervisors adopted a resolution urging the mayor and district attorney to accept letters from recommending physicians (Resolution No. 141-98). In 1993, the Sonoma Board of Supervisors approved a resolution mirroring a Senate Joint Resolution passed earlier that year, noting that a UN committee had called for cannabis to be made available by prescription and calling on "Federal and State representatives to support returning [cannabis] preparations to the list of available medicines which can be prescribed by licensed physicians" (Resolution No. 93-1547).

Since 1996 when 56% of California voters approved the Compassionate Use Act (CUA), public support for safe and legal access to medical cannabis has only increased. A statewide Field poll in 2004 found that "three in four voters (74%) favors implementation of the law. Voter support for the implementation of Prop. 215 cuts across all partisan, ideological and age subgroups of the state." (field.com/fieldpollonline/subscribers/Rls2105.pdf)

Even before the release of that Field poll, state legislators recognized that there is both strong support among voters for implementing the safe and legal access promised by the Compassionate Use Act (CUA) and little direction as to how local officials should proceed. This led to the drafting and passage of Senate Bill 420 in 2003, which amended the CUA to spell out more clearly the obligations of local officials for implementation.

WHAT IS A CANNABIS DISPENSARY?

The majority of medical marijuana (cannabis) patients cannot cultivate their medicine for themselves or find a caregiver to grow it for them. Most of California's estimated 200,000 patients obtain their medicine from a Medical

Cannabis Dispensing Collective (MCDC), often referred to as a "dispensary." Dispensaries are typically storefront facilities that provide medical cannabis and other services to patients in need. There are more than 200 dispensaries operating in California as of August 2006. Dispensaries operate with a closed membership that allow only patients and caregivers to obtain cannabis and only after membership is approved (upon verification of patient documentation). Many dispensaries offer on-site consumption, providing a safe and comfortable place where patients can medicate. An increasing number of dispensaries offer additional services for their patient membership, including such services as: massage, acupuncture, legal trainings, free meals, or counseling. Research on the social benefits for patients is discussed in the last section of this report.

RATIONALE FOR CANNABIS DISPENSARIES

While the Compassionate Use Act does not explicitly discuss medical cannabis dispensaries, it calls for the federal and state governments to "implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana." (Health & Safety Code § 11362.5) This portion of the law has been the basis for the development of compassionate, community-based systems of access for patients in various parts of California. In some cases, that has meant the creation of patient-run growing collectives that allow those with cultivation expertise to help other patients obtain medicine. In most cases, particularly in urban settings, that has meant the establishment of medical cannabis dispensing collectives, or dispensaries. These dispensaries are typically organized and run by groups of patients and their caregivers in a collective model of patient-directed health care that is becoming a model for the delivery of other health services.

MEDICAL CANNABIS DISPENSARIES ARE LEGAL UNDER STATE LAW

In an effort to clarify the voter initiative of 1996 and aid in its implementation across the state, the California legislature enacted Senate Bill 420 in 2004, which expressly states that qualified patients and primary caregivers may collectively or cooperatively cultivate cannabis for medical purposes (Cal. Health & Safety Code section 11362.775). This provision has been interpreted by the courts to mean that dispensing collectives, where patients may buy their medicine, are legal entities under state law. California's Third District Court of Appeal affirmed the legality of collectives and cooperatives in 2005 in the case of *People v. Urziceanu*, which held that SB 420, which the court called the Medical Marijuana Program Act (MMPA), provides collectives and cooperatives a defense to marijuana distribution charges. Drawing from the Compassionate Use Act's directive to implement a plan for the safe and affordable distribution of medical marijuana, the court found that the MMPA and its legalization of collectives and cooperatives represented the state government's initial response to this mandate. By expressly providing for reimbursement for marijuana and services in connection with collectives and cooperatives, the Legislature has abrogated earlier cases, such as Trippett, Peron, and Young, and established a new defense for those who form and operate collectives and cooperatives to dispense marijuana. (See *People v. Urziceanu* (2005) 132 Cal.App.4th 747, 33 Cal.Rptr.2d 859, 881.)

This new case law parallels the interpretation of SB 420 provided to the League of Cities last year by Berkeley Assistant City Attorney Matthew J. Orebic, in his presentation "Medical Marijuana: The conflict between California and federal law and its effect on local law enforcement and ordinances." As he states in that report:

> In the 2004 legislation, Section 11362.775 … expressly allow[s] medical marijuana to be cultivated collectively by qualified patients and primary caregivers, and by necessary implication, distributed among the collective's members… Under the collective model, qualified patients who are unwilling or unable to cultivate marijuana

on their own can still have access to marijuana by joining together with other qualified patients to form a collective.

Orebic also notes that the law allows for those involved to "receive reimbursement for services rendered in supplying the patient with medical marijuana."

WHY PATIENTS NEED CONVENIENT DISPENSARIES

While some patients with long-term illnesses or injuries have the time, space, and skill to cultivate their own cannabis, the majority in the state, particularly those in urban settings, do not have the ability to provide for themselves. For those patients, dispensaries are the only option for safe and legal access. This is all the more true for those individuals who are suffering from a sudden, acute injury or illness.

Many of the most serious and debilitating injuries and illnesses require immediate relief. A cancer patient, for instance, who has just begun chemotherapy will typically need immediate access for help with nausea, which is why a Harvard study found that 45% of oncologists were already recommending cannabis to their patients, even before it had been made legal in any state. It is unreasonable to exclude those patients most in need simply because they are incapable of gardening or cannot wait months for relief.

WHAT COMMUNITIES ARE DOING TO HELP PATIENTS

Many communities in California have recognized the essential service that dispensaries provide and have either tacitly allowed their creation or, more recently, created ordinances or regulations for their operation. Dispensary regulation is one way in which the city can exert local control over the policy issue and ensure the needs of patients and the community at large are being met. As of August 2006, twenty-six cities and seven counties have enacted regulations, and many more are considering doing so soon. See appendix D.)

Officials recognize their duty to implement state laws, even in instances when they may not have previously supported medical cannabis legislation. Duke Martin, mayor pro tem of Ridgecrest said during a city council hearing on their local dispensary ordinance, "it's something that's the law, and I will uphold the law."

> "Because they are under strict city regulation, there is less likelihood of theft or violence and less opposition from angry neighbors. It is no longer a controversial issue in our city."
> -Mike Rotkin, Santa Cruz

This understanding of civic obligation was echoed at the Ridgecrest hearing by Councilmember Ron Carter, who said, "I want to make sure everything is legitimate and above board. It's legal. It's not something we can stop, but we can have an ordinance of regulations."

Similarly, Whittier Planning Commissioner R.D. McDonnell spoke publicly of the benefits of dispensary regulations at a city government hearing. "It provides us with reasonable protections," he said. "But at the same time provides the opportunity for the legitimate operations."

Whittier officials discussed the possibility of an outright ban on dispensary operations, but Greg Nordback said, "It was the opinion of our city attorney that you can't ban them; it's against the law. You have to come up with an area they can be in." Whittier passed its dispensary ordinance in December 2005.

Placerville Police Chief George Nielson commented that, "The issue of medical marijuana continues to be somewhat controversial in our community, as I suspect and hear it remains in other California communities. The issue of 'safe access' is important to some and not to others. There was some objection to the dispensary ordinance, but I would say it was a vocal minority on the issue."

IMPACT OF DISPENSARIES AND REGULATORY ORDINANCES ON COMMUNITIES IN CALIFORNIA

DISPENSARIES REDUCE CRIME AND IMPROVE PUBLIC SAFETY

Some reports have suggested that dispensaries are magnets for criminal activity or other behavior that is a problem for the community, but the experience of those cities with dispensary regulations says otherwise. Crime statistics and the accounts of local officials surveyed by ASA indicate that crime is actually reduced by the presence of a dispensary. And complaints from citizens and surrounding businesses are either negligible or are significantly reduced with the implementation of local regulations.

This trend has led multiple cities and counties to consider regulation as a solution. Kern County, which passed a dispensary ordinance in July 2006, is a case in point. The sheriff there noted in his staff report that "regulatory oversight at the local levels helps prevent crime directly and indirectly related to illegal operations occurring under the pretense and protection of state laws authorizing Medical Marijuana Dispensaries." Although dispensary-related crime has not been a problem for the county, the regulations will help law enforcement determine the legitimacy of dispensaries and their patients.

The sheriff specifically pointed out that, "existing dispensaries have not caused noticeable law enforcement of secondary effects and problems for at least one year. As a result, the focus of the proposed Ordinance is narrowed to insure Dispensary compliance with the law" (Kern County Staff Report, Proposed Ordinance Regulating Medical Cannabis Dispensaries, July 11, 2006).

The presence of a dispensary in the neighborhood can actually improve public safety and reduce crime. Most dispensaries take security for their members and staff more seriously than many businesses. Security cameras are often used both inside and outside the premises, and security guards are often employed to ensure safety. Both cameras and security guards serve as a general deterrent to criminal activity and other problems on the street. Those likely to engage in such activities will tend to move to a less-monitored area, thereby ensuring a safe environment not only for dispensary members and staff but also for neighbors and businesses in the surrounding area.

Residents in areas surrounding dispensaries have reported improvements to the neighborhood. Kirk C., a long time San Francisco resident, commented at a city hearing, "I have lived in the same apartment along the Divisadero corridor in San Francisco for the past five years. Each store that has opened in my neighborhood has been nicer, with many new restaurants quickly becoming some of the city's hottest spots. My neighborhood's crime and vandalism seems to be going down year after year. It strikes me that the dispensaries have been a vital part of the improvement that is going on in my neighborhood."

Oakland's city administrator for the ordinance regulating dispensaries, Barbara Killey, notes that "The areas around the dispensaries may be some of the most safest areas of Oakland now because of the level of security, surveillance, etc…since the ordinance passed."

Likewise, Santa Rosa Mayor Jane Bender noted that since the city passed its ordinance, there appears to be "a decrease in criminal activity. There certainly has been a decrease in complaints. The city attorney says there have been no complaints either from citizens nor from neighboring businesses."

Those dispensaries that go through the permitting process or otherwise comply with local ordinances tend, by their very nature, to be those most interested in meeting community standards and being good neighbors. Cities enacting ordinances for the operation of dispensaries may even require security measures, but it is a matter of good business practice for dispensary operators since it is in their own best interest. Many local officials surveyed by ASA said dispensaries operating in their communities have presented no problems, or what problems there may have been significantly diminished once an ordinance or other regulation was instituted.

Mike Rotkin, fifth-term councilmember and former four-term mayor in the City of Santa Cruz, says about his city's dispensary, "It provides a legal (under State law) service for people in medical need. Because it is well run and well regulated and located in an area acceptable to the City, it gets cooperation from the local police. Because they are under strict city regulation, there is less likelihood of theft or violence and less opposition from angry neighbors. It is no longer a controversial issue in our city."

Regarding the decrease in complaints about existing dispensaries, several officials said that ordinances significantly improved relations with other businesses and the community at large. An Oakland city council staff member noted that they, "had gotten reports of break ins. That kind of activity has stopped . That danger has been eliminated."

WHY DIVERSION OF MEDICAL CANNABIS IS TYPICALLY NOT A PROBLEM

One of the concerns of public officials is that dispensaries make possible or even encourage the resale of cannabis on the street. But the experience of those cities which have instituted ordinances is that such problems, which are rare in the first place, quickly disappear. In addition to the ease for law enforcement of monitoring openly operating facilities, dispensaries universally have strict rules about how members are to behave in and around the dispensary. Many have "good neighbor" trainings for their members that emphasize sensitivity to the concerns of neighbors, and all absolutely prohibit the resale of cannabis to anyone. Anyone violating that prohibition is typically banned from any further contact with the dispensary.

> "The areas around the dispensaries may be some of the most safest areas of Oakland now because of the level of security , surveillance, etc. since the ordinance passed."
> -Barbara Killey, Oakland

As Oakland's city administrator for the regulatory ordinance explains, "dispensaries themselves have been very good at self policing against resale because they understand they can lose their permit if their patients resell."

In the event of street or other resale, local law enforcement has at its disposal all the many legal penalties the state provides. This all adds up to a safer street environment with fewer drug-related problems than before dispensary operations were permitted in the area. The experience of the City of Oakland is a good example of this phenomenon. The city's legislative analyst, Lupe Schoenberger, stated that, "…[P]eople feel safer when they're walking down the street. The level of marijuana street sales has significantly reduced."

Dispensaries operating with the permission of the city are also more likely to appropriately utilize law enforcement resources themselves, reporting any crimes directly to the appropriate agencies. And, again, dispensary operators and their patient members tend to be more safety conscious than the general public, resulting in great vigilance and better preemptive measures. The reduction in crime in areas with dispensaries has been reported anecdotally by law enforcement in several communities.

DISPENSARIES CAN BE GOOD NEIGHBORS

Medical cannabis dispensing collectives are typically positive additions to the neighborhoods in which they locate, bringing additional customers to neighboring businesses and reducing crime in the immediate area.

Like any new business that serves a different customer base than the existing businesses in the area, dispensaries increase the revenue of other businesses in the surrounding area simply because new people are coming to access services, increasing foot traffic past other establishments. In many communities, the opening of a dispensary has helped revitalize an area. While patients tend to opt for dispensaries that are close and convenient, particularly since travel can be difficult, many patients will travel to dispensary locations in parts of town they would not otherwise visit. Even if patients are not immediately utilizing the services or purchasing the goods offered by neighboring businesses, they are more likely to eventually patronize those businesses because of convenience.

ASA's survey of officials whose cities have passed dispensary regulations found that the vast majority of businesses adjoining or near dispensaries had reported no problems associated with a dispensary opening after the implementation of regulation.

Kriss Worthington, longtime councilmember in Berkeley, said in support of a dispensary there, "They have been a responsible neighbor and vital organization to our diverse community. Since their opening, they have done an outstanding job keeping the building clean, neat, organized and safe. In fact, we have had no calls from neighbors complaining about them, which is a sign of respect from the community. In Berkeley, even average restaurants and stores have complaints from neighbors."

Mike Rotkin, fifth term councilmember and former four term mayor in the City of Santa Cruz said about the dispensary that opened there last year, "The immediately neighboring businesses have been uniformly supportive or neutral. There have been no complaints either about establishing it or running it."

Mark Keilty, Planning and Building director of Tulare, when asked if the existence of dispensaries affected local business, said they had "no effect or at least no one has complained."

And Dave Turner, mayor of Fort Bragg, noted that before the passage of regulations there were "plenty of complaints from both neighboring businesses and concerned citizens," but since then, it is no longer a problem. Public officials understand that, when it comes to dispensaries, they must balance both the humanitarian needs of patients and the concerns of the public, especially those of neighboring residents and business owners.

> "Dispensaries themselves have been very good at self policing against resale because they understand they can lose their permit if their patients resell." -Barbara Killey, Oakland

Oakland City Councilmember Nancy J. Nadel wrote in an open letter to her fellow colleagues across the state, "Local government has a responsibility to the medical needs of its people, even when it's not a politically easy choice to make. We have found it possible to build regulations that address the concerns of neighbors, local businesses law enforcement and the general public, while not compromising the needs of the patients themselves. We've found that by working with all interested parities in advance of adopting an ordinance while keeping the patients' needs foremost, problems that may seem inevitable never arise."

Mike Rotkin of Santa Cruz stated that since Santa Cruz enacted an ordinance for dispensary operations, "Things have calmed down. The police are happy with the ordinance, and that has made things a lot easier. I think the fact that we took the time to give people who wrote us respectful and detailed explanations of what we were doing and why made a real difference."

BENEFITS OF DISPENSARIES TO THE PATIENT COMMUNITY

DISPENSARIES PROVIDE MANY BENEFITS TO THE SICK AND SUFFERING

Safe and legal access to cannabis is the reason dispensaries have been created by patients and caregivers around the state. For many people, dispensaries remove significant barriers to their ability to obtain cannabis. Patients in urban areas with no space to cultivate cannabis, those without the requisite gardening skills to grow their own, and, most critically, those who face the sudden onset of a serious illness or who have suffered a catastrophic illness - all tend to rely on dispensaries as a compassionate, community-based solution that is an alternative to potentially dangerous illicit market transactions.

Many elected officials around the state recognize the importance of dispensaries for their constituents. As Nathan Miley, former Oakland City councilmember and now Alameda County supervisor said in a letter to his colleagues, "When designing regulations, it is crucial to remember that at its core this is a healthcare issue, requiring the involvement and leadership of local departments of public health. A pro-active healthcare-based approach can effectively address problems before they arise, and communities can design methods for safe, legal access to medical marijuana while keeping the patients' needs foremost."

Likewise, Abbe Land, mayor of West Hollywood says safe access is "very important" and long-time councilmember John Duran agreed, adding, "We have a very high number of HIV-positive residents in our area. Some of them require medical marijuana to offset the medications they take for HIV." Jane Bender, mayor of Santa Rosa, says, "There are legitimate patients in our community, and I'm glad they have a safe means of obtaining their medicine."

Oakland's city administrator for ordinances, said safe access to cannabis is "very important" for the community. "In the finding the council made to justify the ordinance, they say 'have safe and affordable access'."

And Mike Rotkin, the longtime Santa Cruz elected official, said that this is also an important matter for his city's citizens: "The council considers it a high priority and has taken considerable heat to speak out and act on the issue."

It was a similar decision of social conscience that lead to Placerville's city council putting a regulatory ordinance in place. Councilmember Marian Washburn told her colleagues that "as you get older, you know people with diseases who suffer terribly, so that is probably what I get down to after considering all the other components."

While dispensaries provide a unique way for patients to obtain the cannabis their doctors have recommended, they typically offer far more that is of benefit to the health and welfare of those suffering both chronic and acute medical problems.

Dispensaries are often called "clubs" in part because many of them offer far more than a clinical setting for obtaining cannabis. Recognizing the isolation that many seriously ill and injured people experience, many dispensary operators chose to offer a wider array of social services, including everything from a place to congregate and socialize to help with finding housing and meals. The social support patients receive in these settings has far-reaching benefits that is also influencing the development of other patient-based care models.

For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

RESEARCH SUPPORTS THE DISPENSARY MODEL

A 2006 study by Amanda Reiman, Ph.D. of the School of Social Welfare at the University of California, Berkeley examined the experience of 130 patients spread among seven different dispensaries in the San Francisco Bay Area. Dr. Reiman's study cataloged the patients' demographic information, health status, consumer satisfaction, and use of services, while also considering the dispensaries' environment, staff, and services offered. The study found that "medical cannabis patients have created a system of dispensing medical cannabis that also includes services such as counseling, entertainment and support groups, all important components of coping with chronic illness." She also found that levels of satisfaction with the care received at dispensaries ranked significantly higher than those reported for health care nationally.

Patients who use the dispensaries studied uniformly reported being well satisfied with the services they received, giving an 80% satisfaction rating. The most important factors for patients in choosing a medical cannabis dispensary were: feeling comfortable and secure, familiarity with the dispensary, and having a rapport with the staff. In their comments, patients tended to note the helpfulness and kindness of staff and the support found in the presence of other patients.

Patients in Dr. Reiman's study frequently cited their relationships with staff as a positive factor. Comments from six different dispensaries include:

"I love this spot because of the love they give, always! They treat everyone like a family loved one!"

"This particular establishment is very friendly for the most part and very convenient for me."

"The staff and patients are like family to me!"

"The staff are warm and respectful."

"The staff at this facility are always cordial and very friendly. I enjoy coming."

"This is the friendliest dispensary that I have ever been to and the staff is always warm and open. That's why I keep coming to this place. The selection is always wide."

MANY DISPENSARIES PROVIDE KEY SOCIAL SERVICES

Dispensaries offer many cannabis-related services that patients cannot otherwise obtain. Among them is an array of cannabis varieties, some of which are more useful for certain afflictions than others, and staff awareness of what types of cannabis other patients report to be helpful. In other words, one variety of cannabis may be effective for pain control while another may be better for combating nausea. Dispensaries allow for the pooling of information about these differences and the opportunity to access the type of cannabis likely to be most beneficial.

> "There are legitimate patients in our community, and I'm glad they have a safe means of obtaining their medicine."
> -Jane Bender, Santa Rosa

Other cannabis-related services include the availability of cannabis products in other forms than the smokeable ones. While most patients prefer to have the ability to modulate dosing that smoking easily allows, for others, the effects of edible cannabis products are preferable. Dispensaries typically offer edible products such as brownies or cookies for those purposes. Many dispensaries also offer classes on how to grow your own cannabis, classes on legal matters, trainings for healthcare advocacy, and other seminars.

Beyond providing safe and legal access to cannabis, the dispensaries studied also offer important social services to patients, including counseling, help with housing and meals, hospice and other care referrals, and, in one case,

even doggie daycare for members who have doctor appointments or work commitments. Among the broader services the study found in dispensaries are support groups, including groups for women, veterans, and men; creativity and art groups, including groups for writers, quilters, crochet, and crafts; and entertainment options, including bingo, open mike nights, poetry readings, internet access, libraries, and puzzles. Clothing drives and neighborhood parties are among the activities that patients can also participate in through their dispensary.

Social services such as counseling and support groups were reported to be the most commonly and regularly used service, with two-thirds of patients reporting that they use social services at dispensaries 1-2 times per week. Also, life services, such as free food and housing help, were used at least once or twice a week by 22% of those surveyed.

"Local government has a responsibility to the medical needs of its people, even when it's not a politically easy choice to make. We have found it possible to build regulations that address the concerns of neighbors, local businesses law enforcement and the general public, while not compromising the needs of the patients themselves. We've found that by working with all interested parities in advance of adopting an ordinance while keeping the patients' needs foremost, problems that may seem inevitable never arise." -Nancy Nadel, Oakland

Dispensaries offer chronically ill patients even more than safe and legal access to cannabis and an array of social services. The study found that dispensaries also provided other social benefits for the chronically ill, an important part of the bigger picture:

> [T]he multiple services provided by the social model are only part of the culture of social club facility. Another component of this model … is the possible benefit that social support has for one diagnosed with a chronic and/or terminal physical or psychological illness. Beyond the support that medical cannabis patients receive from services is the support received from fellow patients, some of whom are experiencing the same or similar physical/psychological symptoms…. It is possible that the mental health benefits from the social support of fellow patients is an important part of the healing process, separate from the medicinal value of the cannabis itself.

Several researchers and physicians who have studied the issue of the patient experience with dispensaries have concluded that there are other important positive effects stemming from a dispensary model that includes a component of social support groups.

Dr. Reiman notes that, "support groups may have the ability to address issues besides the illness itself that might contribute to long-term physical and emotional health outcomes, such as the prevalence of depression among the chronically ill."

For those who suffer the most serious illness, such as HIV/AIDS and terminal cancer, these groups of like-minded people with similar conditions can also help patients through the grieving process. Other research into the patient experience has found that many patients have lost or are losing friends and partners to terminal illness. These patients report finding solace with other patients who are also grieving or facing end-of-life decisions. A medical study published in 1998 concluded that the patient-to-patient contact associated with the social club model was the best therapeutic setting for ill people.

CONCLUSION

Dispensaries are proving to be an asset to the communities they serve, as well as the larger community within which they operate.

ASA's survey of local officials and monitoring of regulatory activity throughout the State of California has shown that, once working regulatory ordinances are in place, dispensaries are typically viewed favorably by public officials, neighbors, businesses, and the community at large, and that regulatory ordinances can and do improve an area, both socially and economically.

Dispensaries - now expressly legal under California state law - are helping revitalize neighborhoods by reducing crime and bringing new customers to surrounding businesses. They improve public safety by increasing the security presence in neighborhoods, reducing illicit market marijuana sales, and ensuring that any criminal activity gets reported to the appropriate law enforcement authorities.

More importantly, dispensaries benefit the community by providing safe access for those who have the greatest difficulty getting the medicine their doctors recommend: the most seriously ill and injured. Many dispensaries also offer essential services to patients, such as help with food and housing.

Medical and public health studies have also shown that the social-club model of most dispensaries is of significant benefit to the overall health of patients. The result is that cannabis patients rate their satisfaction with dispensaries as far greater than the customer-satisfaction ratings given to health care agencies in general.

Public officials across the state, in both urban and rural communities where dispensary regulatory ordinances have been adopted, have been outspoken in praise of what. Their comments are consistent on and favorable to the regulatory schemes they enacted and the benefits to the patients and others living in their communities.

As a compassionate, community-based response to the medical needs of more than 150,000 sick and suffering Californians, dispensaries are working.

APPENDIX A

RECOMMENDATIONS ON DISPENSARY REGULATIONS

Cannabis dispensaries have been operating successfully around California for a decade with very few problems. But since the legislature and courts have acted to make their legality a matter of state law more than local tolerance, the question of how to implement appropriate zoning and business licensing is coming before local officials all across the state. What follows are recommendations on matters to consider, based on adopted code as well as ASA's extensive experience working with community leaders and elected officials.

COMMUNITY OVERSIGHT

In order to appropriately resolve conflict in the community and establish a process by which complaints and concerns can be reviewed, it can often be helpful to create a community oversight committee. Such committees, if fair and balanced, can provide a means for the voices of all affected parties to be heard, and to quickly resolve problems.

The Ukiah City Council created such a task force in 2005; what follows is how they defined the group:

The Ukiah Medical Marijuana Review and Oversight Commission shall consist of seven members nominated and appointed pursuant to this section. The Mayor shall nominate three members to the commission, and the City Council shall appoint, by motion, four other members to the commission. Each nomination of the Mayor shall be subject to approval by the City Council, and shall be the subject of a public hearing and vote within 40 days. If the City Council fails to act on a mayoral nomination within 40 days of the date the nomination is transmitted to the Clerk of the City Council, the nominee shall be deemed approved. Appointments to the commission shall become effective on the date the City Council adopts a motion approving the nomination or on the 41st day following the date the mayoral nomination was transmitted to the Clerk of the City Council if the City Council fails to act upon the nomination prior to such date.

Of the three members nominated by the Mayor, the Mayor shall nominate one member to represent the interests of City neighborhood associations or groups, one member to represent the interests of medical marijuana patients, and one member to represent the interests of the law enforcement community.

Of the four members of the commission appointed by the City Council, two members shall represent the interests of City neighborhood associations or groups, one member shall represent the interests of the medical marijuana community, and one member shall represent the interests of the public health community.

DISPENSARIES REGULATIONS ARE BEST HANDLED THROUGH THE HEALTH OR PLANNING DEPARTMENTS, NOT LAW ENFORCEMENT AGENCIES

Reason: To ensure that qualified patients, caregivers, and dispensaries are protected, general regulatory oversight duties - including permitting, record maintenance and related protocols - should be the responsibility of the local department of public health (DPH) or planning department. Given the statutory mission and responsibilities of DPH, it is the

natural choice and best-suited agency to address the regulation of medical cannabis dispensing collectives. Law enforcement agencies are ill-suited for handling such matters, having little or no expertise in health and medical affairs.

Examples of responsible agencies and officials:

- Angels Camp - City Administrator
- Atascadero - Planning Commission
- Citrus Heights - City Manager
- Los Angeles - Planning Department
- Plymouth - City Administrator
- San Francisco - Department of Public Health
- Selma - City Manager
- Visalia - City Planner

ARBITRARY CAPS ON THE NUMBER OF DISPENSARIES CAN BE COUNTER-PRODUCTIVE

Reason: Policymakers do not need to set arbitrary limitations on the number of dispensing collectives allowed to operate because, as with other services, competitive market forces and consumer choice will be decisive. Dispensaries which provide quality care and patient services to their memberships will flourish, while those that do not will fail.

Capping the number of dispensaries limits consumer choice, which can result in both decreased quality of care and less affordable medicine. Limiting the number of dispensing collectives allowed to operate may also force patients with limited mobility to travel farther for access than they would otherwise need to.

Artificially limiting the supply for patients can result in an inability to meet demand, which in turn may lead to such undesirable effects as lines outside of dispensaries, increased prices, and lower quality medicine.

Examples of cities and counties without numerical caps on dispensaries:

- Dixon
- Elk Grove
- Fort Bragg
- Placerville
- Ripon
- Selma
- Tulare
- Calaveras County
- Kern County
- Los Angeles County
- City and County of San Francisco.

RESTRICTIONS ON WHERE DISPENSARIES CAN LOCATE ARE OFTEN UNNECESSARY AND CAN CREATE BARRIERS TO ACCESS

Reason: As described in this report, regulated dispensaries do not generally increase crime or bring other harm to their neighborhoods, regardless of where they are located. And since for many patients travel is difficult, cities and counties should take care to avoid unnecessary restrictions on where dispensaries can locate. Patients benefit from dispensaries being convenient and accessible, especially if the patients are disabled or have conditions that limit their mobility.

It is unnecessary and burdensome for patients and dispensaries, to restrict dispensaries to industrial corners, far away from public transit and other services. Depending on a city's population density, it can also be extremely detrimental to set excessive proximity restrictions (to schools or other facilities) that can make it impossible for dispensaries to locate anywhere within the city limits. It is important to balance patient needs with neighborhood concerns in this process.

PATIENTS BENEFIT FROM ON-SITE CONSUMPTION AND PROPER VENTILATION SYSTEMS

Reason: Dispensaries that allow members to consume medicine on-site have positive psychosocial health benefits for chronically ill people who are otherwise isolated. On-site consumption encourages dispensary members to take advantage of the support services that improve patients' quality of life and, in some cases, even prolong it. Researchers have shown that support groups like those offered

by dispensaries are effective for patients with a variety of serious illnesses. Participants active in support services are less anxious and depressed, make better use of their time and are more likely to return to work than patients who receive only standardized care, regardless of whether they have serious psychiatric symptoms. On-site consumption is also important for patients who face restrictions to off-site consumption, such as those in subsidized or other housing arrangements that prohibit smoking. In addition, on-site consumption provides an opportunity for patients to share information about effective use of cannabis and to use specialized delivery methods, such as vaporizers, which do not require smoking.

Examples of localities that permit on-site consumption (many stipulate ventilation requirements):

- Berkeley
- San Francisco
- Alameda County
- Kern County
- Los Angeles County

DIFFERENTIATING DISPENSARIES FROM PRIVATE PATIENT COLLECTIVES IS IMPORTANT

Reason: Private patient collectives, in which several patients grow their medicine collectively at a private location, should not be required to follow the same restrictions that are placed on retail dispensaries, since they are a different type of operation. A too-broadly written ordinance may inadvertently put untenable restrictions on individual patients and caregivers who are providing either for themselves or a few others.

Example: Santa Rosa's adopted ordinance, provision 10-40.030 (F)

"Medical cannabis dispensing collective," hereinafter "dispensary," shall be construed to include any association, cooperative, affiliation, or collective of persons where multiple "qualified patients" and/or "primary care givers," are organized to provide education, referral, or network services, and facilitation or assistance in the lawful, "retail" distribution of medical cannabis. "Dispensary" means any facility or location where the primary purpose is to dispense medical cannabis (i.e., marijuana) as a medication that has been recommended by a physician and where medical cannabis is made available to and/or distributed by or to two or more of the following: a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq., or a qualified patient's or caregiver's place of residence.

PATIENTS BENEFIT FROM ACCESS TO EDIBLES AND MEDICAL CANNABIS CONSUMPTION DEVICES

Reason: Not all patients smoke cannabis. Many find tinctures (cannabis extracts) or edibles (such as baked goods containing cannabis) to be more effective for their conditions. Allowing dispensaries to carry these items is important to patients getting the best level of care possible. For patients who have existing respiration problems or who otherwise have an aversion to smoking, edibles are

essential. Conversely, for patients who do choose to smoke or vaporize, they need to procure the tools to do so. Prohibiting dispensaries from carrying medical cannabis consumption devices, often referred to as paraphernalia, forces patients to go elsewhere to procure these items. Additionally, when dispensaries do carry these devices, informed dispensary staff can explain their usage to new patients.

Examples of localities allowing dispensaries to carry edibles and delivery devices:

- Angels Camp
- Berkeley
- Citrus Heights
- Santa Cruz
- Sutter Creek
- West Hollywood
- Alameda County
- Kern County
- Los Angeles County.

APPENDIX B

MEDICAL CANNABIS DISPENSARY ORDINANCE EVALUATION SURVEY QUESTIONS

1. What is your name and position?

2. How important is safe access to medical marijuana in your community?

3. On what date did your city/county pass its ordinance?

4. Were there medical cannabis dispensaries in your district before the ordinance? How many?

5. If any, were there any complaints against them before the ordinance was passed? If yes, who made the complaints? What were the specific complaints that were made? How frequently were complaints made?

6. Were there any objections to passing an ordinance to regulate medical cannabis dispensaries?

7. If so, what were the primary objections? Who were the main objectors?

8. Has the ordinance implementation allayed or amplified those concerns?

9. How many medical cannabis dispensaries are there now? What is the estimated population of the area that may utilize them? Do you think the current number of dispensaries is enough to address the needs of the community?

10. Has there been an increase or decrease in criminal activity related to dispensaries since the regulations were implemented?

11. How has the ordinance improved the public safety in your community? Has it worsened the public safety? How?

12. Has the existence of dispensaries affected local business? How do neighboring businesses view dispensaries?

13. What would you advocate be changed in the current regulations?

14. Do you have anything else you would like to say in evaluation of the medical cannabis ordinance?

For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

APPENDIX C

SURVEY ANSWER AND DATA ANALYSIS

Summary

- The majority of responses were positive.
- Safe access is important to every community.
- Complaints of dispensaries generally decrease after regulation.
- Objections to the ordinance were allayed after implementation.
- Regulation improved public safety.
- Crime decreases or shows no effect affect after regulations
- Most businesses are either supportive of or neutral about neighboring dispensaries.

	Safe access important to local community	Dispensaries existed prior to regulation	Complaints of existing dispensaries prior to ordinance	Complaints decreased after passage of ordinance	Community objections to the ordinance	Regulation implementation allayed ordinance objections	Regulation improved public safety	Regulation resulted in decrease of crime around dispensaries	Positive effects on business post-regulation	**Responses**
Fort Bragg										
		√	√	√						Yes
	√									No
					√	√	√	√	√	Neutral
Oakland										
	√	√	√	√	√	√	√	√	√	Yes
										No
										Neutral
Placerville										
		√			√					Yes
										No
	√		√	√		√	√	√	√	Neutral
San Francisco										
	√	√	√		√				√	Yes
										No
				√		√	√	√		Neutral
Santa Cruz										
	√	√	√	√	√	√	√	√	√	Yes
										No
										Neutral
Santa Rosa										
	√	√	√	√	√	√	√	√		Yes
										No
									√	Neutral
Tulare										
	√	√			√					Yes
			√			√				No
				√			√	√	√	Neutral
West Hollywood										
	√	√					√			Yes
			√		√					No
				√		√		√	√	Neutral

California Cities with Dispensary Moratoriums

For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

California Cities with Dispensary Bans

For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

California Cities Allowing for and Regulating Dispensaries

For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

California Counties with Moratoriums, Bans and Ordinances

For more information, see www.AmericansForSafeAccess.org or contact the ASA office at 1-888-929-4367 or 510-251-1856.

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"We change laws."

Medical Marijuana Dispensaries and Their Effect on Crime

Opponents of medical marijuana sometimes speculate that medical marijuana dispensaries will lead to increased crime rates in surrounding areas.[1] These dispensaries, they claim, will attract thieves and robbers to the facilities and breed secondary crimes in surrounding areas. Such claims have prompted empirical and statistical analyses by researchers and law enforcement agencies. In what should not come as a surprise, given the robust security at most medical marijuana facilities, these studies have routinely shown that, contrary to these concerns, dispensaries are not magnets for crime. Instead, these studies suggest that dispensaries are no more likely to attract crime than any other business, and in many cases, by bringing new business and economic activity to previously abandoned or run-down retail spaces, dispensaries actually contribute to a reduction in crime.

While the data is reassuring, one public safety challenge for dispensaries and adult use marijuana stores has been that many have been forced to operate as cash-only businesses because of banks' concern about federal legal issues. However, with new guidance that was issued by the federal government in February 2014, it is expected that more small banks and credit unions will open accounts for marijuana businesses.

What follows is a brief summary of anecdotal and scientific evidence, including law enforcement data analyses and academic research on medical marijuana dispensaries and their effect on crime. For more information on dispensaries, medical use of marijuana, state laws, and other issues related to medical marijuana, please visit mpp.org/medical.

2009 Los Angeles Police Department survey — In response to debate over medical marijuana regulations by the Los Angeles City Council, and claims from medical marijuana opponents that dispensaries were magnets for crime, Los Angeles Police Chief Charlie Beck asked his department to produce a report comparing the robbery rates of L.A. banks and medical marijuana dispensaries. The report indicated that there were 71 robbery reports filed with the LAPD at the city's 350 banks. Despite there being far more medical marijuana dispensaries — more than 800 at the time according to Beck — there were fewer robbery reports filed at dispensaries: just 47.

When asked about the report, and claims that dispensaries are crime magnets, Beck said, "I have tried to verify that because, of course, that is the mantra. It really doesn't bear out. … Banks are more likely to get robbed than medical marijuana dispensaries."[2]

2009 Denver Police Department survey — An analysis of robbery and burglary rates at medical marijuana dispensaries conducted by the Denver Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than

[1] "'Across the state, we're seeing an increase in crime related to dispensaries,' said Ernie Martinez, a Denver police detective who is president of the Colorado Drug Investigators Association." "Medical marijuana dispensaries' effect on crime unclear," *The Denver Post*, January 24, 2011. http://www.denverpost.com/news/marijuana/ci_17178820#ixzz1ngbvMOlI.

[2] "LAPD Chief: Pot clinics not plagued by crime," *Los Angeles Daily News*, January 17, 2010. http://www.dailynews.com/news/ci_14206441.

area banks and liquor stores and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for dispensaries, equal to that of pharmacies. That's lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks, the analysis found.[3]

2010 Denver Police Department analysis — In late 2010, the Denver Police Department looked at crime rates in areas in and around dispensaries. The analysis showed that through the first nine months of 2010, crime was down 8.2% relative to the same period in 2009. The decrease was comparable to the city's overall drop in crime of 8.8%.[4] *The Denver Post* completed a similar analysis and found that crime rates in some areas with the highest concentration of dispensaries saw bigger decreases in crime than neighborhoods with no dispensaries.[5]

2010 Colorado Springs Police Department analysis — An analysis by the Colorado Springs Police Department found that robbery and burglary rates at area dispensaries were on par with those of other businesses. Specifically, the department's data indicated that there were 41 criminal incidents reported at the city's 175 medical marijuana businesses in the 18-month period ending August 31, 2010. Meanwhile, over that same period, there were 797 robberies and 4,825 burglaries at other city businesses. These findings led the department's spokesman, Sgt. Darrin Abbink, to comment, "I don't think the data really supports [dispensaries] are more likely to be targeted at this point."[6]

October 2011 UCLA study, "Exploring the Ecological Link Between Crime and Medical Marijuana Dispensaries," — Researchers from UCLA, funded by the National Institute on Drug Abuse, used data from 95 census tracts in Sacramento to analyze two types of crime (violent and property) in areas with varying concentrations of dispensaries. What they found was that while factors traditionally understood to lead to increased crime — for example, large percentages of land zoned for commercial rather than residential use, a high percentage of one-person households, the presence of highway ramps, and a higher percentage of the population being ages 15-24 — were positively associated with crime in those areas, "the density of medical marijuana dispensaries was not associated with violent or property crime rates." In their conclusion, the researchers said, "[t]hese results suggest that the density of [medical marijuana dispensaries] may not be associated with increased crime rates or that measures dispensaries take to reduce crime (i.e., doormen, video cameras) may increase guardianship, such that it deters possible motivated offenders."[7]

Specifically, the study applied the "routine activity theory" of crime, which suggests that crime is more likely when three criteria are met: (1) a motivated offender, (2) a suitable target, as defined by factors like value, visibility, and access, and (3) a lack of guardianship such as low residency or poor security. The authors hypothesized that the lack of a relationship between dispensaries and crime could be attributable to either of two possible conclusions: either medical marijuana dispensaries were no more valuable a target than other businesses in the area — a possibility supported by the law enforcement surveys in L.A. and Denver discussed above — or heightened security at dispensaries was sufficient to deter criminal activity in the area.

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[3] "Analysis: Denver pot shops' robbery rate lower than banks," *The Denver Post*, January 27, 2010. http://www.denverpost.com/ci_14275637.
[4] See note 1, *supra.*
[5] *Id*.
[6] "Marijuana shops not magnets for crime, police say," *Fort Collins Gazette*, September 14, 2010. http://www.gazette.com/articles/wall-104598-marijuana-brassfield.html.
[7] http://www.uclamedicalmarijuanaresearch.com/node/10.

June 2011 Regent University study — Researcher Maura Scherrer of Regent University looked at the perception of crime, and medical marijuana dispensaries' impact on crime, among residents of Denver neighborhoods with varying socio-economic profiles. In so doing, she found that most crimes, including robbery, vandalism, and disorderly conduct increased in Denver from 2008 to 2009. However, in areas within 1,000 feet of a dispensary, rates were down for most types of crime, including burglary, larceny, and a 37.5% reduction in disorderly conduct citations. In her conclusion the author notes, "it appears that crime around the medical marijuana centers is considerably lower than citywide crime rates; a much different depiction than originally perceived."[8]

February 2014 *Urban Geography* — Researchers from the University of South Florida, the University of Colorado, and the New York City Criminal Justice Agency set out to determine whether medical marijuana dispensaries in Denver could be considered locally undesirable land uses (LULUs), land uses that people do not want to live close to, but which provide services to the community.[9] The researchers studied 275 medical marijuana centers in 75 Denver neighborhoods and concluded that:

> "[w]hile public officials, and especially law enforcement, clearly warn residents about the negative effects of these centers on the communities in which they are situated, there is little evidence that residents are listening, as these centers do not appear to have any impact on the urban landscape — and therefore on the health of the communities in which they are located."[10]

The study did find that medical marijuana centers are more likely to be opened in areas that have higher crime rates, but that is not unusual because crime follows retail concentrations. "In short, medical marijuana facilities appear to … be more similar to drugstores and coffee houses than they are to LULUs."[11]

Los Angeles crime trends — Los Angeles has frequently been cited as the city with the most dispensaries and the least regulation of those dispensaries. It is also the most populous city in the state that has the oldest and the broadest medical marijuana law, where any medical condition qualifies. While L.A. voters do prefer some regulation and control — and they approved a ballot measure to create a regulatory system in May 2013 — the city that has been cited as having more dispensaries than Starbucks certainly has not suffered a crime epidemic as a result of its permissive policies. On the contrary, overall crime in Los Angeles has dropped dramatically since dispensing collectives became legal in 2004. Crime rates have plummeted in the past 11 years, with decreases each of those 11 years. They are now the lowest they have been since 1949.[12]

The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006[13] — Researchers Robert Morris, Michael TenEyck, J.C. Barnes, and Tomislav Kovandzic

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[8] Study available at http://adr.coalliance.org/codr/fez/view/codr:983.
[9] Lyndsay N. Boggess, Deanna M. Pérez, Kathryn Cope, Carl Root & Paul B. Stretesky, Urban Geography (2014): Do medical marijuana centers behave like locally undesirable land uses? Implications for the geography of health and environmental justice, *Urban Geography*.
[10] *Id.* at p. 15
[11] *Id.* at p.16
[12] Kathy Mather, "L.A. crime falls for 11th year; officials note historic drops," *L.A. Times*, Jan. 13, 2014. http://www.latimes.com/local/lanow/la-me-ln-crime-falls-20140113,0,3357277.story#axzz2vJ6f1xlX
[13] Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014). "The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006." *PLoS ONE* 9(3): e92816. doi: 10.1371/journal.pone.0092816

analyzed the association between the enactment of a medical marijuana law and state crime rates for all Part 1 offenses — homicide, rape, robbery, assault, burglary, larceny, and auto theft — as collected by the FBI. The purpose was to help inform the debate on whether passage of medical marijuana laws leads to increased crime rates. The researchers used fixed-effects panel design to identify what, if any, effect passage of a medical marijuana law has on crime rates. This design analyzes changes individual states see in their respective crime rates over time and compares the changes to the crime rate trends among states that enacted medical marijuana laws and those that did not.

While all states experienced a reduction in Part 1 offenses during the period studied, those that had passed a medical marijuana law experienced greater reductions in those offenses than those states that had not. The researchers conclude that enactment of a medical marijuana law "is not predictive of higher crime rates and *may* be related to reductions in rates of homicide and assault."[14] They note that the most "important finding . . . is the lack of evidence of any increase in robbery or burglary, which are the type of crimes one might expect to gradually increase over time if the [medical marijuana laws lead to increased crime] theory was correct."[15]

[14] *Id.* at 5.
[15] *Id.*

LATE ITEMS
MCC 02-04-2016
Page 89 of 298

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Medical Marijuana Dispensaries Reduce Crime, Advocates Argue

04/19/2013 04:40 pm ET | **Updated** Apr 20, 2013

Aaron Sankin
Assistant San Francisco Editor, The Huffington Post

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Nine years ago, a small medical marijuana dispensary opened in San Francisco's Lower Haight. The Vapor Room quickly found its place within the neighborhood and its presence had an interesting, if not counterintuitive, effect: It appears to have reduced crime.

"Before the Vapor Room moved in, the neighborhood was riddled with problems: crime, illegal drugs, loitering, graffiti," said Stephanie Tucker, a medical cannabis advocate and former aide to Christina Olauge, who represented the area on the city's Board of Supervisors. "A lot of those issues actually got better because the dispensary had security and worked with other businesses in the neighborhood to build a community."

When the Obama administration launched an aggressive crackdown on California's medical cannabis industry nearly two years ago, prosecutors cited the fear of increased crime as a motivating factor in many of their efforts to shutter marijuana-related businesses. But pot advocates argue that dispensaries actually make their neighborhoods safer.

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LATE ITEMS
MCC 02-04-2016
Page 90 of 298

"We're actually finding they're having a positive effect by taking up retail and industrial space that would otherwise remain vacant and become a magnet for crime," said Mason Tvert of the Marijuana Policy Project. "These are also businesses with a significant level of security that can deter criminals from the whole area."

Marijuana Majority's Tom Angell noted that, in addition to adding both security guards and increased foot traffic to a given area, dispensaries also reduce crime by allowing pot smokers to obtain the plant without turning to the black market.

"It's not like marijuana wasn't already being sold in these neighborhoods," said Angell. "It was being sold illegally on the street by gang members, and the cities aren't getting any tax revenue from it."

California became the first state to legalize cannabis for medicinal purposes when voters passed Proposition 215 in 1996. In the decade and a half that followed, medical marijuana grew into a thriving industry, generating some $100 million in annual tax revenue for the state.

All that changed, however, when Justice Department officials announced in late 2011 that they would begin targeting dispensaries throughout California in an effort to make communities safer and keep marijuana away from parks and schools.

Since their crusade began, more than 100 businesses have been forced to shut down, and hundreds more have received threatening letters. One of the earliest targets was the Vapor Room, which closed its doors for good last summer.

U.S. Attorney Melinda Haag, whose district includes the Bay Area, detailed her concerns about crime in an interview with KQED last March. "There is a belief, backed by facts, that marijuana operations are often times the victims of criminal activity," she said. "Armed robberies at dispensaries, armed robberies at grow operations, and people who are nearby are at risk as a result of that."

Haag then told stories of a dispensary robbed at gunpoint near a preschool in Santa Cruz and a marijuana farmer in Humboldt County who murdered one of his undocumented immigrant employees after the worker asked to be paid.

But research suggests that such anecdotes are more the exception than the rule. A 2011 study out of UCLA that examined dispensaries in the Sacramento area found that their presence in a given neighborhood wasn't associated with an uptick in crime.

"The density of medical marijuana dispensaries was not associated with violent or property crime rates," read the study, which was funded by the National Institute on Drug Abuse.

An analysis by the Los Angeles Police Department found that dispensaries in California's largest city weren't outsize targets for crime, either. An internal report, commissioned by LAPD Chief Charlie Beck, determined that in 2009, only 47 robberies took place at the city's 800 marijuana clinics, while there were 71 robberies at Los Angeles' 350 banks that same year.

LATE ITEMS
MCC 02-04-2016
Page 91 of 298

San Francisco Police Department spokesman Officer Albie Esparza told The Huffington Post that SFPD doesn't keep any official statistics relating to dispensaries and crime.

Meanwhile, questions about the nature of dispensaries' effect on crime rates have divided the city's residents.

When a medical marijuana clinic attempted to open a few years ago in San Francisco's largely residential Sunset District, it provoked a huge uproar among the store's potential neighbors, who worried about their safety.

"Nothing personal against the owner, but we don't want that type of business here," Dallas Udovich, president of the Taraval Parkside Merchants Association, told the San Francisco Chronicle at the time. "People want to come to Taraval because it's safe. Well, there's a reason it's safe."

Tucker, the medical cannabis advocate, noted that this sort of reaction can be common. "Neighbors who don't understand medical cannabis will often have a lot of fear-based complaints about crime whenever a new dispensary threatens to move in," she said.

On the other hand, Angell pointed to the large positive effect that Oaksterdam University had on its downtown Oakland surroundings before its 30,000 square foot campus was raided by federal agents last year.

After the raid, Oakland city leaders gathered outside the building to decry the federal government's actions and tout the effects that businesses like Oaksterdam have had on their surrounding communities. "We have not had crime or violence associated with our dispensaries, and that's because they've been tightly regulated," Oakland City Councilwoman Rebecca Kaplan told the assembled media.

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After Oaksterdam's closure, neighborhood residents and businesses flew green flags in support of the institution. The school has since relocated to a significantly smaller building nearby.

Despite the high-profile raids and closures that have targeted medical marijuana businesses across the state, a handful of new dispensaries have managed to open over the past few years -- and the owners are determined to keep their neighborhoods safe.

Stephen Rechif, the manager at the Bloom Room dispensary, which opened in San Francisco's troubled Mid-Market corridor this past January, has already seen his business have a positive influence on its surroundings.

"We have a secure storefront covered by a heavy gate at night, and there's a security guard stationed out front," he said. "Nearby businesses are happy that we're here. We're bringing in more foot traffic to the neighborhood."

Carly Schwartz contributed to this story.

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LATE ITEMS
MCC 02-04-2016
Page 92 of 298

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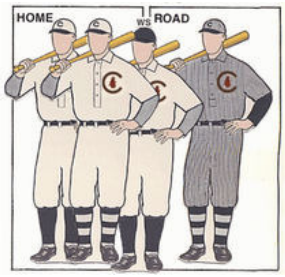
- 1. 

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LATE ITEMS
MCC 02-04-2016
Page 93 of 298

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LATE ITEMS
MCC 02-04-2016
Page 94 of 298

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The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006

Robert G. Morris , Michael TenEyck, J. C. Barnes, Tomislav V. Kovandzic

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Abstract

Background

Debate has surrounded the legalization of marijuana for medical purposes for decades. Some have argued medical marijuana legalization (MML) poses a threat to public health and safety, perhaps also affecting crime rates. In recent years, some U.S. states have legalized marijuana for medical purposes, reigniting political and public interest in the impact of marijuana legalization on a range of outcomes.

Methods

Relying on U.S. state panel data, we analyzed the association between state MML and state crime rates for all Part I offenses collected by the FBI.

Findings

Results did not indicate a crime exacerbating effect of MML on any of the Part I offenses. Alternatively, state MML *may* be correlated with a reduction in homicide and assault rates, net of other covariates.

Conclusions

These findings run counter to arguments suggesting the legalization of marijuana for medical purposes poses a danger to public health in terms of exposure to violent crime and property crimes.

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Introduction

The social ramifications of marijuana legalization have been hotly debated for at least four decades [1]. Despite a long history of marijuana use for medical purposes, policymakers and in some instances, the scientific community, have been quick to note the potential problematic social outcomes of marijuana legalization [2]. In spite of these political discussions, medical marijuana legalization (MML) has occurred in 20 states and the District of Columbia (between 1996 and the writing of this paper) and its recreational use has now been legalized in Colorado and Washington [3]. An interest in the ramifications of these laws has led to an increase in scholarly activity on the topic [4], [5]. The issue addressed in this article is whether MML has the effect of increasing crime. While there are many mechanisms by which MML might affect crime rates, the most obvious is by increasing the number of marijuana users, which may lead to a broader social acceptance of drug using behaviors and drug users [6]. To the extent that marijuana use serves as a “gateway” to harder drugs such as cocaine and heroin, MML could lead to long-term increases in crime as an ever-growing number of illicit drug users engage in serious predatory crimes to support their habits (but see [7]). But even if MML does not lead to a rise in marijuana use (especially among youth), the laws could still stimulate crime as newly opened medical marijuana dispensaries provide criminals with a highly attractive target with their repository of high quality marijuana and customers carrying large amounts of cash (but see [8]). As a member of the California Chiefs of Police Association stated, “A disturbing and continuing trend is the increasing number of home invasion robberies and associated violence resulting in the victimization of those cultivating and possessing marijuana … [D]ispensaries also continue to be targeted based upon the availability of larger quantities of drugs and cash” (see http://californiapolicechiefs.org/wp-content/uploads/2012/02/July_September_2010_Final.pdf). Though anecdotal evidence abounds to support both theses, and a few single-jurisdiction and cross-sectional studies have examined the MML-crime link (e.g., [9]), no single analysis has assessed the overall consequences of medical marijuana laws on crime rates across the United States. This study seeks to inform the debate by providing a comprehensive evaluation of the effects of state MML on state crime rates.

The Positive Correlation between Marijuana Use and Criminal Behavior

LATE ITEMS
MCC 02-04-2016
Page 95 of 298

Though the gateway hypothesis applies to the progression of drug-using behaviors, there remains the possibility that marijuana use leads to delinquent or criminal behavior via a similar mechanism. A number of studies have specifically examined the relationship between marijuana use and crime [10], [11], [12], [13], [14]. Early studies compared the amount of crimes committed by juveniles whose urine tested positive for marijuana upon entering a detention center and those committed by individuals who tested negative for marijuana. Dembo and associates [15], [16], for instance, found that youths who tested positive for marijuana had a significantly higher number of referrals to juvenile court for nondrug felonies than those testing negative for marijuana use.

Arseneault and colleagues [17] examined the relationship between marijuana dependence and the risk for violence in a sample of New Zealand adolescents. The authors controlled for gender, socioeconomic status, and many other concurrent disorders and concluded that marijuana dependence was related to a 280 percent increase in the odds of violence. This association was stronger than the individual effects of manic disorder, alcohol dependence, and schizophrenia. In a study using data collected from school-age adolescents in the Netherlands, those who reported marijuana use tended to report more delinquent and aggressive behaviors [18]. This relationship was significant after controlling for variables such as alcohol and tobacco use and the strength of the relationship increased with higher frequency of marijuana use. This study is noteworthy because marijuana use is decriminalized in the Netherlands, thus the relationship is unlikely to be based on the fact that marijuana users have to participate in the illegal market and are therefore at an increased risk for violence. While these studies were cross-sectional and show a correlation between current marijuana use and criminality or violent behaviors, other scholars have examined the link with longitudinal data.

Using multi-wave data, research has shown adolescents who reported marijuana use at age 15 were more likely to report violent involvement at age 19, indicating that marijuana use, particularly during adolescence may impact violent behavior in young adulthood [19]. Similarly, research has shown that frequent marijuana use during adolescence was a strong predictor of being involved in intimate partner violence [5]. Results revealed that consistent marijuana use during adolescence was related to a 108 percent increase in the likelihood of being involved in intimate partner violence in young adulthood and consistent marijuana use was associated with an 85 percent increase in the odds of being the perpetrator of intimate partner violence, independent of alcohol use.

These studies provide evidence to the notion that marijuana use is at a minimum correlated with an increase in violent or aggressive behaviors. What remains unclear is whether these findings imply a causal link between marijuana use and violence or whether the relationship is driven by an uncontrolled variable(s) (i.e., a spurious correlation). Along these lines, it could be argued that the relationship between violence and marijuana use is primarily due to its illegality and thus would not exist in an environment in which marijuana use, at least medicinally, is legalized.

The Negative or Null Correlation between Marijuana Use and Criminal Behavior

Most researchers who have examined the relationship between marijuana use and crime report that these laws do not have an effect on violent crime [20], [21]. Green and associates [20], for instance, concluded that while marijuana use was related to an increase in drug and property crime, it was not related to an increase in violent crime. Pedersen and Skardhamar [21] also found a relationship between marijuana use and subsequent arrest, although once the authors removed all types of drug charges from the models, the relationship was no longer significant. Results revealed no evidence that marijuana use was related to an increase in later non-drug arrest, such as arrests for violent crimes. The authors argued that the association between marijuana use and crime appears to exist because of its illegality. Thus, if the possession and sale of marijuana was legal the relationship between marijuana and crime might disappear.

It has been argued that medicinal marijuana laws may increase crime because the dispensaries and grow houses provide an opportunity for property crime and violent crime to occur, such as burglary and robbery. Kepple and Freisthler [9] examined the relationship between medical marijuana dispensaries and crime and their results suggested that after controlling for a host of ecological variables, no relationship existed between medicinal marijuana dispensaries and property or violent crime. Additional research has shown that medical marijuana dispensaries may actually reduce crime within the immediate vicinity of the dispensaries [8]. This may be due to the security measures implemented by dispensary owners (i.e., having security cameras, having a doorman, and having signs requiring identification). Importantly, medical marijuana dispensaries do not appear to increase crime in their surrounding areas.

In sum, research on the relationship between medicinal marijuana and crime is mixed. Studies have shown that states allowing the use of medical marijuana have higher prevalence rates of marijuana use [13], [14], yet other studies have found that legalized medicinal marijuana does not lead to an increase in its overall use [21], [22]. Research has also suggested that marijuana use is associated with an increase in illicit drug use [23], [19] and an increase in crime [17], [19], [16]. Others, however, have revealed that marijuana is not related to additional illicit drug use [22], [7], [17] or crime [8], [20], [9], [21]. Thus, the available evidence is equivocal and in need of a rigorous evaluation of the MML-crime relationship.

Methods

Data & Measures

Dependent Variables.

Data on all seven Part I offenses—homicide, rape, robbery, assault, burglary, larceny, and auto theft—for each state between 1990 and 2006 were obtained from the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program, published as *Crime in the United States*. The data were obtained using the “data for analysis” tool on the Bureau of Justice Statistics Web site (http://www.ojp.usdoj.gov/bjs/dtd.htm). All data were gathered for each of the 50 U.S. states across the 17 year time span for a total $N=850$. Values reflect the rate of each crime per 100,000 residents.

Medical Marijuana Legalization (MML).

To determine if and when MML occurred within a state, we searched the official legislative website of each US state. Between 1990 and 2006, the following 11 states legalized marijuana for medical use, with the year the law was passed in parentheses: Alaska (1998), California (1996), Colorado (2000), Hawaii (2000), Maine (1999), Montana (2004), Nevada (2000), Oregon (1998), Rhode Island (2006), Vermont (2004), and Washington (1998). We also ran models based on MML “legislation-effective year” rather than “legislation-passed year” and found no substantive differences in the results. The MML effective dates were also gathered from each State's official legislative website. Only 2 states (Connecticut and Colorado) had an MML effective year different than “passed”

LATE ITEMS
MCC 02-04-2016
Page 96 of 298

year, both being only a 1-year difference. While there are many options in modeling the effects of MML adoption on crime, we opted to use a post-law trend variable. The trend variable represents the number of years the law has been in effect with a value of zero for all years before the law was passed, a value of 1 for the year the law was passed, and a value of 1+*k*, where *k* = number of years after the initial passage of the law, for all subsequent years. Unlike the traditional "dummy variable" approach (i.e., 0 = no MML law, 1 = MML law), which posits a once-and-for-all impact on crime, the post-law trend variable captures any changes in the linear trend of crime that may be observed over time. If opponents of MML are correct that the laws lead to increased marijuana use by teenagers, many of whom are likely to continue illicit hard drug use throughout their adulthood, one might expect a gradual increase in crime over time. Such an effect would be best captured by the post-law trend variable.

Sociodemographic Control Variables.

Sociodemographic variables were included in the analysis to aid in controlling for a vast array of other time-varying influences that might be potential confounding factors over the study period. These variables, and their sources, have been described previously [24]. Specifically, they include each state's percent of the civilian labor force unemployed; the total employment rate; percent of the population living below the poverty line; real per-capita income (divided by the Consumer Price Index); the proportion of residents aged 15–24; the proportion of residents aged 25–34, the proportion of residents aged 35–44 years; the per-capita rate of beer consumption [25]; the proportion of residents with at least a bachelor's degree; and the percent of the state's population that lived in a metropolitan area. State-level unemployment data were obtained from the Bureau of Labor Statistics website (www.bls.gov/sae/home). Data on poverty were acquired via the Bureau of the Census website (www.census.gov/hhes/www/poverty). Personal income and real welfare payments data were taken from the Bureau of Economic Analysis website (www.bea.doc.gov/bea/regional/reis). The age variables were obtained directly from the U.S. Bureau of the Census. Data on beer consumption were taken from the Beer Institute website (www.beerinstitute.org). The percent of the population with college degrees or higher and the percent of the population living in a metropolitan area are linear interpolations of decennial census data, as reported in various editions of the *Statistical Abstracts of the United States*.

Additional measures included the number of prison inmates per 100,000 residents and the number of police officers per 100,000 residents. The number of prisoners was measured as the number of prisoners sentenced to more than a year in custody as of December 31 per 100,000 residents and was obtained from the Bureau of Justice Statistic's website (www.ojp.usdoj.gov/bjs). Data on the total number of police, including civilians, were taken from the Public Employment series prepared by the Bureau of the Census. Louisiana and Mississippi were missing information on this variable for the year 2006, therefore reducing the usable case count by two units. Substantive results were identical when values for this year were imputed with values from the previous year. Summary statistics for these explanatory variables are presented in Table 1.

	Mean	SD
Dependent Variables (prior to log transformation)		
Homicide Rate	5.778	3.347
Rape Rate	36.774	13.212
Robbery Rate	130.346	91.687
Assault Rate	303.573	161.996
Burglary Rate	845.706	304.654
Larceny Rate	2,727.552	687.953
Auto Theft Rate	406.504	208.103
Independent Variable		
Medical Marijuana Law (Post-law Trend)	.393	1.489
Sociodemographic control variables		
Unemployment rate	5.162	1.393
Employment rate	58,568.89	5,043.444
Poverty rate	12.442	3.638
Real per-capita income	5.193	.844
Proportion persons ages 15 to 24	.142	.011
Proportion persons ages 25 to 34	.145	.017
Proportion persons ages 35 to 44	.156	.011
Beer shipments (31-gallon barrels) per 100k	73,670.89	12,003.72
Percent persons with college degree	23.897	4.903
Percent persons residing in metropolitan area	67.654	20.636
Prisoners per 100k	343.072	144.897
Police officers per 100k	278.473	48.917

Note: Descriptive statistics are for the 1990–2006 period. The data sources are noted in the text.
doi:10.1371/journal.pone.0092816.t001

Table 1. Summary Statistics.
doi:10.1371/journal.pone.0092816.t001

Analysis Plan

To identify the effect of MML on crime, we use a fixed-effects panel design, exploiting the within state variation introduced by the passage of MML in 11 states over the 17 year observation period. The design allows for the assessment of whether states adopting MML experienced changes in the trend of crime by analyzing within state changes in crime rates over time and comparing those changes to the crime rate trends among states that did not pass an MML law. To carry out this analysis, we estimate fixed-effects ordinary least squares regression models, where the natural log of each crime rate variable (i.e., homicide, rape, robbery, assault, burglary, larceny, and auto theft) is the dependent variable. This model directly accounts for dynamic factors that cause crime to vary from state to state, as well as those stable unmeasured factors that differ between states [26], [27]. In addition, we also include "year fixed-effects," which capture any national influences on crime that are not captured in any of the time-varying explanatory

LATE ITEMS
MCC 02-04-2016
Page 97 of 298

variables. Robust standard errors are clustered at the state level to avoid biased standard errors due to the non-independence of data points over time [28]. Thus, the fixed effects models can be expressed algebraically following the convention set forth by Wooldridge [27] as:

$$\log(\ddot{y}ijt) = bi0 + bi1\,M\ddot{M}Ljt + \ldots + bik\ddot{x}jt + \ddot{e}it$$

where:

the subscripts *i*, *j*, and *t* are used to identify the crime rate variable being used as the dependent variable, the 50 states, and time (1990–2006), respectively;

$\log(\ddot{y}ijt)$ = the time-demeaned (see [27]) logged crime rate outcome variable;

$bi0$ = the crime-specific constant term;

$bi1\,M\ddot{M}Ljt$ = the time-demeaned crime-specific average impact of MML on crime rates;

$+\ldots+bik\ddot{x}jt$ = the time-demeaned crime-specific effect of the various control variables, including year dummies, a linear trend variable, and state fixed effects;

and, $\ddot{e}it$ = the time-demeaned crime-specific error term.

It is important to note that fixed-effects models are not without limitations. While they are well suited to address the issue at hand and account for unobserved time-invariant factors, they are always vulnerable to time-varying factors that are not accounted for that differ between states with MML and those without. However, we have accounted for the bulk of factors that have been shown associated with state crime rates and our models explain a considerable amount of variation in each outcome. It is also important to acknowledge that fixed-effects models do not account for temporal ordering for time-varying predictors within a given observation period. For example, it is unknown whether states adopted MML after experiencing lower crime rates in a given year(s), however, this is unlikely to be an issue here since policy response to crime rates tend to take time and we account for this via operationalization of MML as an additive effect.

Results

Primary Findings

Before consulting the results from the fixed effects regression models, a series of unconditioned crime rates for each offense type were generated and are presented in Figure 1. Note that two crime rate trends are presented in each panel. One trend—the solid line—shows the crime rate, by year, for states that had *not* passed an MML law. Thus, states that eventually did pass an MML law contribute to the solid line up until the year that they passed the MML law. As expected from the overall crime trend during this time period, the solid line reveals that all states experienced a reduction in each of the seven crimes from 1990 to 2006. Important to note is the trend revealed by the dashed line, which shows the crime rate trends for states *after* passing an MML law. With one exception—forcible rape—states passing MML laws experienced reductions in crime and the rate of reduction appears to be steeper for states passing MML laws as compared to others for several crimes such as homicide, robbery, and aggravated assault. The raw number of homicides, robberies, and aggravated assaults also appear to be lower for states passing MML as compared to other states, especially from 1998–2006. These preliminary results suggest MML may have a crime-reducing effect, but recall that these are unconditional averages, meaning that the impact of the covariates and other factors related to time series trends have not been accounted for in these figures.

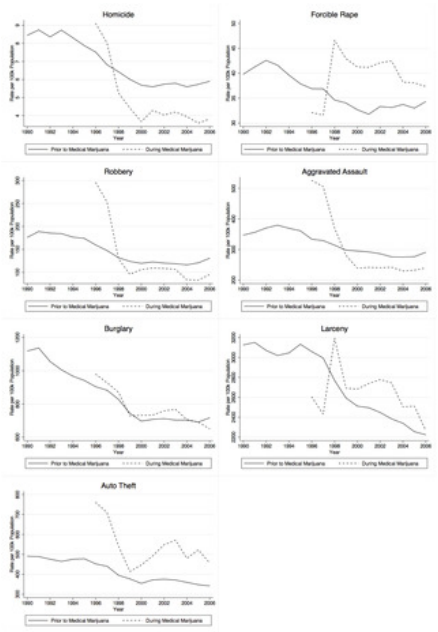

Figure 1. Mean State Crime Rates as a Function of Year, by Medical Marijuana Law (MML).
NOTE: Crime rates for states mandating MML after 1996 remained in the "Prior to Medical Marijuana" line until transition to MML.

LATE ITEMS
MCC 02-04-2016
Page 98 of 298

doi:10.1371/journal.pone.0092816.g001

The results of the fixed effects analyses are presented in Table 2. It is important to note that a Hausman test was carried out to determine whether the fixed effects model was preferable over the random effects model; the latter model is more parsimonious and, thus, should be preferred when results do not systematically differ across the two approaches. The results of the Hausman tests (with year fixed effects omitted for both equations because they are inestimable in the random effects model) suggested that the fixed effects model was preferred in each of the seven analyses. For reference, the Hausman χ^2 values were 302.61, 23.64, 102.50, 414.94, 58.87, 34.18, and 31.28 for homicide, rape, robbery, assault, burglary, larceny, and auto theft, respectively.

Variable	Homicide	Rape	Robbery	Assault	Burglary	Larceny	Auto Theft
Medical Marijuana Law (MML)	−0.024***	−0.005	−0.016	−0.024*	−0.004	−0.002	0.026
	(0.007)	(0.009)	(0.010)	(0.013)	(0.007)	(0.004)	(0.014)
Unemployment rate	0.051***	−0.001	0.039**	−0.021	0.022**	0.005	0.036**
	(0.012)	(0.014)	(0.015)	(0.022)	(0.011)	(0.009)	(0.017)
Employment rate	1.325	3.672***	3.637**	4.249***	0.420	−0.584	−0.069
	(1.277)	(1.156)	(1.536)	(1.383)	(0.945)	(0.747)	(1.715)
Poverty rate	−0.008**	0.006	0.001	0.001	−0.004	−0.002	−0.007*
	(0.003)	(0.004)	(0.005)	(0.005)	(0.003)	(0.002)	(0.004)
Per-capita income	−0.013	−0.226***	−0.148**	−0.173*	−0.194***	−0.099***	−0.137
	(0.057)	(0.067)	(0.072)	(0.100)	(0.048)	(0.036)	(0.102)
Proportion aged 15 to 24	3.528	−0.279	−3.591	−3.245	0.676	−0.266	5.279
	(2.447)	(1.661)	(3.371)	(2.961)	(1.696)	(1.422)	(3.509)
Proportion aged 25 to 34	−4.250**	−0.202	−3.478	−7.492**	5.150***	2.729	11.352***
	(1.884)	(2.058)	(2.920)	(3.112)	(1.904)	(1.712)	(2.609)
Proportion aged 35 to 44	−1.393	−3.083	−4.008	−13.777***	−1.940	0.193	−3.558
	(2.041)	(2.319)	(3.366)	(4.654)	(1.928)	(1.489)	(4.075)
Beer consumption	0.903**	0.504*	1.261***	0.436	0.857***	0.762***	1.376**
	(0.399)	(0.283)	(0.442)	(0.576)	(0.291)	(0.280)	(0.580)
Percent college degree	−0.004	0.016	−0.032**	−0.012	−0.001	0.005	−0.018
	(0.011)	(0.010)	(0.012)	(0.017)	(0.007)	(0.007)	(0.013)
Percent metropolitan	0.015**	0.022**	0.004	0.004	−0.006	−0.005	−0.009
	(0.007)	(0.008)	(0.009)	(0.015)	(0.008)	(0.006)	(0.014)
Prisoners per 100k	−45.675	−20.410	−33.918	41.979	−7.186	9.724	−56.412
	(33.964)	(22.442)	(35.013)	(30.046)	(26.127)	(18.575)	(48.726)
Police officers per 100k	−0.001	0.000	−0.002	−0.001*	−0.000	0.001	−0.001
	(0.001)	(0.001)	(0.001)	(0.001)	(0.001)	(0.001)	(0.002)
R^2	.50	.46	.58	.44	.83	.75	.44

Robust standard errors in parentheses.
*** p<0.01, ** p<0.05, * p<0.1
Note: State fixed-effects and year fixed-effects are included in all estimates but are not shown in the table. The following variables were divided by 100000 in order to produce coefficients that did not require scientific notation to interpret: Employment rate, Beer consumption, and Prisoners per 100k.
doi:10.1371/journal.pone.0092816.t002

Table 2. The Impact of Medical Marijuana Laws on Crime Rates.
doi:10.1371/journal.pone.0092816.t002

The key results gleaned from the fixed effects analyses are presented in row 1 of Table 2, which reveals the impact of the MML trend variable on crime rates, while controlling for the other time-varying explanatory variables. Two findings worth noting emerged from the different fixed effects regression analyses. First, the impact of MML on crime was negative or not statistically significant in all but one of the models, suggesting the passage of MML *may* have a dampening effect on certain crimes. The second key finding was that the coefficients capturing the impact of MML on homicide and assault were the only two that emerged as statistically significant. Specifically, the results indicate approximately a 2.4 percent reduction in homicide and assault, respectively, for each additional year the law is in effect. Because log-linear models were estimated, the coefficient must be transformed according to the following formula to generate percentage changes in crime for a one-unit increase in MML: $e^{(b-1)*100}$ [27]. However, it is important to note that the finding for homicide was less variable (i.e., a lower standard error) as compared to assault. One might argue a Bonferroni correction is necessary given the exploratory nature of the study and the multiple models that were analyzed. Once a Bonferroni correction was carried out (i.e., α/7), only the effect of MML on homicide remained statistically significant (.05/7 = .007). Perhaps the most important finding in Table 2 is the lack of evidence of any increase in robbery or burglary, which are the type of crimes one might expect to gradually increase over time if the MML-crime thesis was correct. Thus, in the end, MML was not found to have a crime enhancing effect for any of the crime types analyzed.

Sensitivity Analyses

The fixed effects models presented above were subjected to a range of sensitivity tests to determine whether the findings were robust to alternative model specifications. First, and as previously noted, data for the two missing cases were imputed using matched case replacement for Louisiana and Mississippi. Importantly, substantive results were identical when this strategy was carried out. A second sensitivity analysis explored the possibility that the effect of MML on crime rates was non-linear. No evidence emerged to support the hypothesis that MML has a non-linear effect on crime rate trends. Third, a related issue concerns whether the MML effect has *both* a trend effect (shown above) *and* a one-time shock effect. We considered this issue by including the MML trend variable (discussed above) along with a dummy variable coded 0 for years when no MML law was present (by state) and coded 1 in years when an MML law had been passed. The findings were practically identical to those shown above: the MML trend variable was negatively related to homicide ($b = -.02$, $p < .10$) and assault ($b = -.02$, $p < .10$). A fourth sensitivity analysis re-estimated the original models (shown above), by weighting each state proportional to its population size. When these weighted fixed effects models were estimated, the substantive findings were somewhat different than those presented above. Specifically, the effect of MML on homicide rates was no longer statistically significant ($b = -.01$, $p = .30$), MML negatively predicted robbery rates ($b = -.02$, $p < .10$), MML negatively predicted assault rates ($b = -.03$, $p < .01$), and MML *positively* predicted auto theft rates ($b = .03$, $p < .05$). While it is common in the crime policy literature to weight observations by resident population to correct for possible heteroskedasticity, this will be the efficient feasible GLS (generalized least squares) procedure only if the heteroskedasticity takes a particular form, i.e. variance proportional to the square of the population. In the present study, the unweighted results produce findings that are substantively consistent with the weighted results, although they differ slightly quantitatively. The most likely explanation for this discrepancy is that the weighted results are driven by a few large population states. For this reason, we present the unweighted results as the main results and the weighted results as part of our numerous robustness checks.

Discussion and Conclusion

The effects of legalized medical marijuana have been passionately debated in recent years. Empirical research on the direct relationship between medical marijuana laws and crime, however, is scant and the consequences of marijuana use on crime remain unknown. Studies have shown that marijuana use was associated with higher prevalence of subsequent illicit drug use [19] and an increased risk of violence [17]. Yet, other studies have found that once additional factors were controlled for, there was no relationship between marijuana use and later serious drug use [7]. Research has also shown that marijuana use is not related to

LATE ITEMS
MCC 02-04-2016
Page 99 of 298

violent crime when measured at the individual-level [20]. Once drug charges are controlled for, Pedersen and Skardhamar [21] reported that the relationship between marijuana and crime was not significantly different from zero. Unfortunately, no study has examined the effect of legalized medical marijuana on state crime rates across the United States. The current study sought to fill this gap by assessing the effect of legalized medicinal marijuana on the seven Part I UCR offenses. The analysis was the first to look at multiple offenses across multiple states and time periods to explore whether MML impacts state crime rates.

The central finding gleaned from the present study was that MML is not predictive of higher crime rates and *may* be related to reductions in rates of homicide and assault. Interestingly, robbery and burglary rates were unaffected by medicinal marijuana legislation, which runs counter to the claim that dispensaries and grow houses lead to an increase in victimization due to the opportunity structures linked to the amount of drugs and cash that are present. Although, this is in line with prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity [8].

In sum, these findings run counter to arguments suggesting the legalization of marijuana for medical purposes poses a danger to public health in terms of exposure to violent crime and property crimes. To be sure, medical marijuana laws were *not* found to have a crime exacerbating effect on any of the seven crime types. On the contrary, our findings indicated that MML precedes a reduction in homicide and assault. While it is important to remain cautious when interpreting these findings as evidence that MML *reduces* crime, these results do fall in line with recent evidence [29] and they conform to the longstanding notion that marijuana legalization may lead to a reduction in alcohol use due to individuals substituting marijuana for alcohol [see generally 29, 30]. Given the relationship between alcohol and violent crime [31], it may turn out that substituting marijuana for alcohol leads to minor reductions in violent crimes that can be detected at the state level. That said, it also remains possible that these associations are statistical artifacts (recall that only the homicide effect holds up when a Bonferroni correction is made).

Given that the current results failed to uncover a crime exacerbating effect attributable to MML, it is important to examine the findings with a critical eye. While we report no positive association between MML and any crime type, this does not *prove* MML has no effect on crime (or even that it reduces crime). It may be the case that an omitted variable, or set of variables, has confounded the associations and masked the true positive effect of MML on crime. If this were the case, such a variable would need to be something that was restricted to the states that have passed MML, it would need to have emerged in close temporal proximity to the passage of MML in all of those states (all of which had different dates of passage for the marijuana law), and it would need to be something that decreased crime to such an extent that it “masked” the true positive effect of MML (i.e., it must be something that has an opposite sign effect between MML [e.g., a positive correlation] and crime [e.g., a negative correlation]). Perhaps the more likely explanation of the current findings is that MML laws reflect behaviors and attitudes that have been established in the local communities. If these attitudes and behaviors reflect a more tolerant approach to one another's personal rights, we are unlikely to expect an increase in crime and might even anticipate a slight reduction in personal crimes.

Moreover, the present findings should also be taken in context with the nature of the data at hand. They are based on official arrest records (UCR), which do not account for crimes not reported to the police and do not account for all charges that may underlie an arrest. In any case, this longitudinal assessment of medical marijuana laws on state crime rates suggests that these laws do not appear to have any negative (i.e., crime exacerbating) impact on officially reported criminality during the years in which the laws are in effect, at least when it comes to the types of offending explored here. It is also important to keep in mind that the UCR data used here did not account for juvenile offending, which may or may not be empirically tethered to MML in some form or another; an assessment of which is beyond the scope of this study.

Author Contributions

Analyzed the data: RM JCB. Contributed reagents/materials/analysis tools: TK. Wrote the paper: RM MT JCB TK.

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LATE ITEMS
MCC 02-04-2016
Page 100 of 298

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LATE ITEMS
MCC 02-04-2016
Page 101 of 298

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Greene, Elizabeth

From: David Prinz <david.prinz@gmail.com>
Sent: Tuesday, February 02, 2016 8:18 PM
To: Greene, Elizabeth
Subject: Excerpt from San Francisco Planning commission report (crime)

3. The nature and extent of effects of the location requirements for MCDs on the public health, safety and welfare in the communities in which MCDs are located.

The impacts of MCDs on the communities in which they are located, like any business, are primarily determined by how the business operates. MCDs can offer many benefits to city residents including better access to medication, increased safety, and added foot traffic for the neighborhood. On the other hand, the nature of this peculiar use can also make integrating it into the community challenging. The following is a discussion of some of the benefits and challenges MCDs bring to neighborhoods. Some of the challenges are faced by a varied of businesses, such as double parking, but some are also peculiar to this specific use, such as exclusivity and "vibe." Throughout the interviews conducted by the Department a narrative of the issues emerged; the following categories are an attempt to distill the issues and concerns into their broader themes.

Double Parking. Double parking is an issue in all commercial areas of the City, not just where MCDs are located. While several MCDs have strict no double parking policies, going so far as to have their security guards turn double parking patients away, still the issue persists. Some nearby businesses also complain about MCD patients illegally parking in private lots and being met with hostility and anger when confronting the illegal parkers about it. There are ways that the Planning Code and planning process can

address the issue of double parking, such as requiring certain monitoring conditions as part of the approval process, but the most effective way to address this issue is to have the City's parking and traffic laws more consistently and effectively enforced.

Diversion. While there are no hard statistics on the practice, diversion or reselling is a common complaint and has been witnessed by several community members. The issue arises when a patient buys medical cannabis and then resells it, often around the corner or even in front of the MCD, to a non-patient. Like the double parking issue, the planning and land use process is not the most effective way to deal with this issue. If reselling is witnessed by police there should be legal consequences, but short of catching resellers in the act the next most effect way to deal with the issue is for the MCD operators to have a strict no tolerance policy for this type of behavior and monitor the area around their stores to ensure that this doesn't happen. The Health Code does have rules that require MCD operators to monitor the front of their establishments for litter and cannabis smoking, but there isn't a specific provision in the Health Code that addresses reselling or diversion monitoring.

Convenient Access. Convenient access to MCDs is a benefit to a community's, health, safety and welfare. MCD patients that suffer from physically debilitating illnesses greatly benefit from convenient access because they can more easily access their medication. But even beyond that population, having convenient access benefits all MCD patients and the City overall. It allows patients to shop in their communities, saving time and reducing traffic. It also lessens the burden on City neighborhoods where MCDs are clustered. We wouldn't expect only a few neighborhoods to have essential services such as grocery stores or banks, and we shouldn't expect only a few neighborhoods in the City to have MCDs.

Crime and Safety. Based on the information available to the Department, it does not appear that MCDs have a negative impact on crime or community safety, and they may actually improve safety in certain neighborhoods because they provide additional eyes on the street. According the report submitted to the Department by SFPD (see Exhibit C), the few issues reported to SFPD regarding MCDs have more to do with quality of life concerns, such as double parking, smell, and loitering, rather than crime and safety. This is also consistent with the types of complaints filed with DPH. There are also several related studies out of UCLA that deal with this issue. One study showed that there was "no correlation between increased violent and property crime and the density of

MCDs."[17] And another study showed that MCDs located in Sacramento with robust security systems actually had lower crime rates within 250 feet than MCDs without those security systems[18]. Another study done by RAND Corporation showed that crime actually decreased around MCDs in Los Angeles; however, this study was later retracted

[17] PubMed.Gov. "Exploring the ecological association between crime and medical marijuana dispensaries." http://www.ncbi.nlm.nih.gov/pubmed/22630790, July, 2012. Web January 21, 2014

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by RAND because "the crime data used in the analysis were insufficient to answer the questions targeted by the study."[19]

Neighborhood Vitality. MCDs can improve neighborhood vitality in many ways. Like any small business the mere act of filling a vacant store front improves neighborhood vitality by bringing added foot traffic to a neighborhood. Some MCDs also have also revitalize neglected store fronts, improved side walk conditions, planted trees, and made other financial investments in the neighborhoods. Two specific examples are SPARC at Mission and 8th Street, often called the "Apple Store" of MCDs, and the Green Cross at Mission and Silver, which is a more typical MCD operation. SPARC took over a small industrial type building on a neglected stretch of Mission Street between 8th and 9th Streets. SPARC renovated the store front using multi-colored obscured glass panes arranged in a unique pattern. While the store front isn't transparent, it's certainly an improvement to the neighborhood and enhances the pedestrian experience along Mission Street. The Green Cross took their improvements a step further by replacing the worn-out sidewalk in front of their store, planting trees and filling the tree well with flowers. Both MCDs recognize the importance that neighborhood vitality plays in the success of their operation and have made significant financial investments in order to ensure that vitality.

Odor. Whether it's being smoked or it's just sitting there in a bag, cannabis has a very distinct and pungent odor. To some the smell is pleasant and welcome, while others find it off-putting or even feel ill from the smell. In some extreme cases the smell of just the cannabis plant can cause a severe allergic reaction. In discussions with some community members, smell often came up as an issue of concern; however, based on DPH complaints, odor emitting from MCDs does not appear to be a huge problem citywide. According to DPH, within the past couple of years there have only been two odor complaints linked to MCDs. One complaint was of odor emanating from an open door to the street, and another was from someone complaining about their neighbor, who was an MCD owner, smoking cannabis. There is no provision in the Health Code that requires MCDs be properly ventilated; however there is a general "nuisance" line (Health Code Section 3308-(e)) that can be applicable to all uses including MCDs. Also, if medical cannabis is smoked on the premises, the Planning Code requires that the MCD "provide adequate ventilation within the structure such that the doors and windows are not left open for such purposes, resulting in odor emission from the premises."

Vibe. Many neighbors complain about what they call the negative "vibe" of MCDs, which from their standpoint is caused by how MCDs relate to the street and the attitude of the MCD's operator's and employees. What the neighbors describe as "vibe" can be described by the combined effect of two factors: design and neighborliness. From a design perspective, some MCDs downgrade the visual character of a neighborhood by using obscured windows and unattractive storefronts. Neighborliness is harder to

[19] Rand
http://www.rand.org/news/press/2011/10/24.html, October 24, 2011. Web January 21, 2014.

Corporation. "RAND Retracts Report about Medical Marijuana Dispensaries and Crime."

characterize. Neighborliness can be experienced by the way staff interact with the public. Staff and security guards working at the MCD's can present as aloof, friendly or hostile. Neighborliness can also indicate the level of involvement of an MCD operator with established community institutions and celebrations: such as participation in street fairs, support of community-serving nonprofits and recreational events. While the Code can't force problem MCD operators or their employees to be friendlier, it can require that greater attention be paid to the design of the store front, the pedestrian experience and how an MCD responds to a neighborhood context. Most MCDs have obscured windows that cut off the facility from the rest of the street and are often covered by security bars. This type of storefront negatively impacts the pedestrian experience and also creates a feeling that something unsavory is happening behind the obscured glass.

Exclusivity. MCDs are by their nature exclusive enterprises and don't provide a service or product that is accessible or needed by the majority of the public. Only those people with a referral from a doctor can enter an MCD, let alone buy the products that MCDs sell. In this way MCDs are not like other commercial uses in the city. MCDs are often compared to pharmacies, but pharmacies allow

anyone to enter, and even if you don't take prescription medication they usually sell toiletries or over the counter medication other most people need and buy. MCDs are a unique use in this respect. There's really no solution to this issue given the nature of medical cannabis; however, this concept of exclusivity should be considered when looking at concentrations in certain neighborhoods. An over concentration of MCDs in any one neighborhood means that there are a number of establishments that are not accessible to the vast majority of people who live in the neighborhood.

Community. MCDs can play a role in building community; not only among patients but also within the neighborhood. The Vapor Room in the Lower Haight, which was shut down by the USDOJ, was in some ways a model example on how and MCD can give back to the community. The operators of this establishment invested in and helped with organizing street fairs, financing murals, participating in the neighborhood organization and by many accounts were very responsive to neighborhood complaints. But this type of community involvement is not limited to just one MCD. Many do participate in neighborhood or local merchant organizations and some even provide grants to local schools. The Apotehcareium at Church and Castro recently gave a grant to the Harvey Milk Civil Rights Academy, a local elementary school in the Castro. However, based on the experience of some neighborhood organization, this community centered approach isn't universal. Like any industry some businesses will be more involved than others and it really depends on the people behind the operation that set the tone for how the MCD interacts with the community.

4. Whether increased community input into the approval process to establish an MCD would benefit the public health, safety and welfare, and, if so, what procedures would be most effective in increasing such community input.

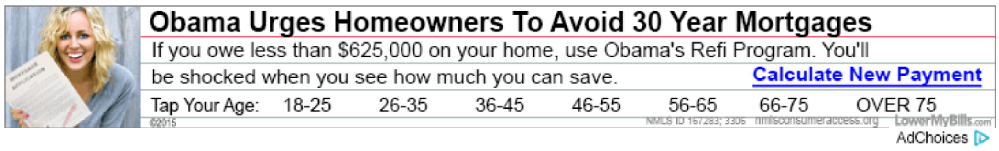
Members of the public can make their concerns known to the Planning Department at any time during the permitting process; they have the opportunity to give testimony

before the Planning Commission; there is a separate publically noticed approval hearing held by The Director of DPH; and any MCD permit can be appealed to the Board of Appeals once issued. Yet, while opportunity exists for community input, it is difficult to know when a permit for an MCD has been filed so that you can engage in the process. The only notice neighbors get about an MCD from the Planning Department 30 days before the hearing. Many MCDs do conduct their own version of a pre-application meeting[20] or open house prior to or early in the permitting process, and not surprisingly those MCDs that hold a pre-application meeting for neighbors, tend to be the ones that are more successfully integrated as community assets. Yet this is not a required practice and any pre-application outreach is done voluntarily.

In addition to knowing when a permit is issued it's also important to understand how the system works so that you can engage in it. While the Department has made a concerted effort to improve its outreach and public information efforts, the City bureaucracy and Planning Code remain daunting to the new participant. In neighborhoods that have more experience dealing with the Department and land use issues in the City, the system tends to work fine. MUMC and DTNA, both organizations that have extensive experience dealing with land use issues, didn't have problems with the current level of community input. However, neighborhoods with less knowledge of the process or less experience working with the Department felt that the system was confusing and unresponsive. Knowing the questions to ask, what the process is, and how to engage in it were all challenges.

Every neighborhood group interviewed for this report felt that a mandatory pre- application meeting was a good idea, and even some MCD owners and advocates the Department spoke with felt that making it a mandatory requirement would benefit the process. Pre-application outreach would enable the neighborhood groups to get involved early in the process and allow MCD owners the opportunity to introduce themselves to their neighbors and hear their concerns. It may also help eliminate MCD operators that aren't prepared to make an investment in the community or become community partners. Since the Department of Public Health is the lead agency for MCD applications, and ultimately responsible for their approval and regulation, it makes sense that pre-application meetings should be done prior to submitting an application to DPH. This will allow neighbors to get involved at the earliest possible point in the process to ensure that their voices are heard from the outset.

LATE ITEMS
MCC 02-04-2016
Page 105 of 298



Medical Marijuana Dispensaries Reduce Crime, Advocates Argue

04/19/2013 04:40 pm ET | **Updated** Apr 20, 2013

Aaron Sankin
Assistant San Francisco Editor, The Huffington Post

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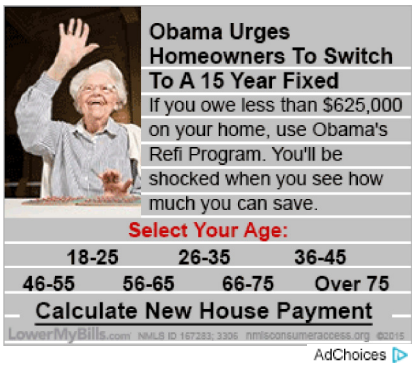
Nine years ago, a small medical marijuana dispensary opened in San Francisco's Lower Haight. The Vapor Room quickly found its place within the neighborhood and its presence had an interesting, if not counterintuitive, effect: It appears to have reduced crime.

"Before the Vapor Room moved in, the neighborhood was riddled with problems: crime, illegal drugs, loitering, graffiti," said Stephanie Tucker, a medical cannabis advocate and former aide to Christina Olauge, who represented the area on the city's Board of Supervisors. "A lot of those issues actually got better because the dispensary had security and worked with other businesses in the neighborhood to build a community."

When the Obama administration launched an aggressive crackdown on California's medical cannabis industry nearly two years ago, prosecutors cited the fear of increased crime as a motivating factor in many of their efforts to shutter marijuana-related businesses. But pot advocates argue that dispensaries actually make their neighborhoods safer.



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LATE ITEMS
MCC 02-04-2016
Page 106 of 298

"We're actually finding they're having a positive effect by taking up retail and industrial space that would otherwise remain vacant and become a magnet for crime," said Mason Tvert of the Marijuana Policy Project. "These are also businesses with a significant level of security that can deter criminals from the whole area."

Marijuana Majority's Tom Angell noted that, in addition to adding both security guards and increased foot traffic to a given area, dispensaries also reduce crime by allowing pot smokers to obtain the plant without turning to the black market.

"It's not like marijuana wasn't already being sold in these neighborhoods," said Angell. "It was being sold illegally on the street by gang members, and the cities aren't getting any tax revenue from it."

California became the first state to legalize cannabis for medicinal purposes when voters passed Proposition 215 in 1996. In the decade and a half that followed, medical marijuana grew into a thriving industry, generating some $100 million in annual tax revenue for the state.

All that changed, however, when Justice Department officials announced in late 2011 that they would begin targeting dispensaries throughout California in an effort to make communities safer and keep marijuana away from parks and schools.

Since their crusade began, more than 100 businesses have been forced to shut down, and hundreds more have received threatening letters. One of the earliest targets was the Vapor Room, which closed its doors for good last summer.

U.S. Attorney Melinda Haag, whose district includes the Bay Area, detailed her concerns about crime in an interview with KQED last March. "There is a belief, backed by facts, that marijuana operations are often times the victims of criminal activity," she said. "Armed robberies at dispensaries, armed robberies at grow operations, and people who are nearby are at risk as a result of that."

Haag then told stories of a dispensary robbed at gunpoint near a preschool in Santa Cruz and a marijuana farmer in Humboldt County who murdered one of his undocumented immigrant employees after the worker asked to be paid.

But research suggests that such anecdotes are more the exception than the rule. A 2011 study out of UCLA that examined dispensaries in the Sacramento area found that their presence in a given neighborhood wasn't associated with an uptick in crime.

"The density of medical marijuana dispensaries was not associated with violent or property crime rates," read the study, which was funded by the National Institute on Drug Abuse.

An analysis by the Los Angeles Police Department found that dispensaries in California's largest city weren't outsize targets for crime, either. An internal report, commissioned by LAPD Chief Charlie Beck, determined that in 2009, only 47 robberies took place at the city's 800 marijuana clinics, while there were 71 robberies at Los Angeles' 350 banks that same year.

LATE ITEMS
MCC 02-04-2016
Page 107 of 298

San Francisco Police Department spokesman Officer Albie Esparza told The Huffington Post that SFPD doesn't keep any official statistics relating to dispensaries and crime.

Meanwhile, questions about the nature of dispensaries' effect on crime rates have divided the city's residents.

When a medical marijuana clinic attempted to open a few years ago in San Francisco's largely residential Sunset District, it provoked a huge uproar among the store's potential neighbors, who worried about their safety.

"Nothing personal against the owner, but we don't want that type of business here," Dallas Udovich, president of the Taraval Parkside Merchants Association, told the San Francisco Chronicle at the time. "People want to come to Taraval because it's safe. Well, there's a reason it's safe."

Tucker, the medical cannabis advocate, noted that this sort of reaction can be common. "Neighbors who don't understand medical cannabis will often have a lot of fear-based complaints about crime whenever a new dispensary threatens to move in," she said.

On the other hand, Angell pointed to the large positive effect that Oaksterdam University had on its downtown Oakland surroundings before its 30,000 square foot campus was raided by federal agents last year.

After the raid, Oakland city leaders gathered outside the building to decry the federal government's actions and tout the effects that businesses like Oaksterdam have had on their surrounding communities. "We have not had crime or violence associated with our dispensaries, and that's because they've been tightly regulated," Oakland City Councilwoman Rebecca Kaplan told the assembled media.

After Oaksterdam's closure, neighborhood residents and businesses flew green flags in support of the institution. The school has since relocated to a significantly smaller building nearby.

Despite the high-profile raids and closures that have targeted medical marijuana businesses across the state, a handful of new dispensaries have managed to open over the past few years -- and the owners are determined to keep their neighborhoods safe.

Stephen Rechif, the manager at the Bloom Room dispensary, which opened in San Francisco's troubled Mid-Market corridor this past January, has already seen his business have a positive influence on its surroundings.

"We have a secure storefront covered by a heavy gate at night, and there's a security guard stationed out front," he said. "Nearby businesses are happy that we're here. We're bringing in more foot traffic to the neighborhood."

Carly Schwartz contributed to this story.

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LATE ITEMS
MCC 02-04-2016
Page 108 of 298

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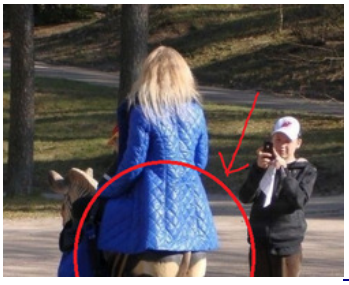
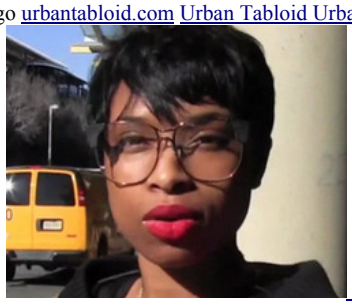
- 1.  The Most Unfortunate Photos Ever Taken a year ago urbantabloid.com Urban Tabloid UrbanTabloid.com (sponsored)
- 2.  Trouble with the law? Hudson's back in the spotlight again for the... 2 months ago drew-reports.com Drew Reports(sponsored)
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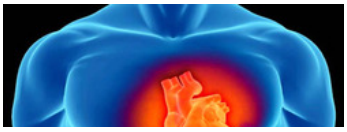

LATE ITEMS
MCC 02-04-2016
Page 109 of 298

CONVERSATIONS

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LATE ITEMS
MCC 02-04-2016
Page 110 of 298

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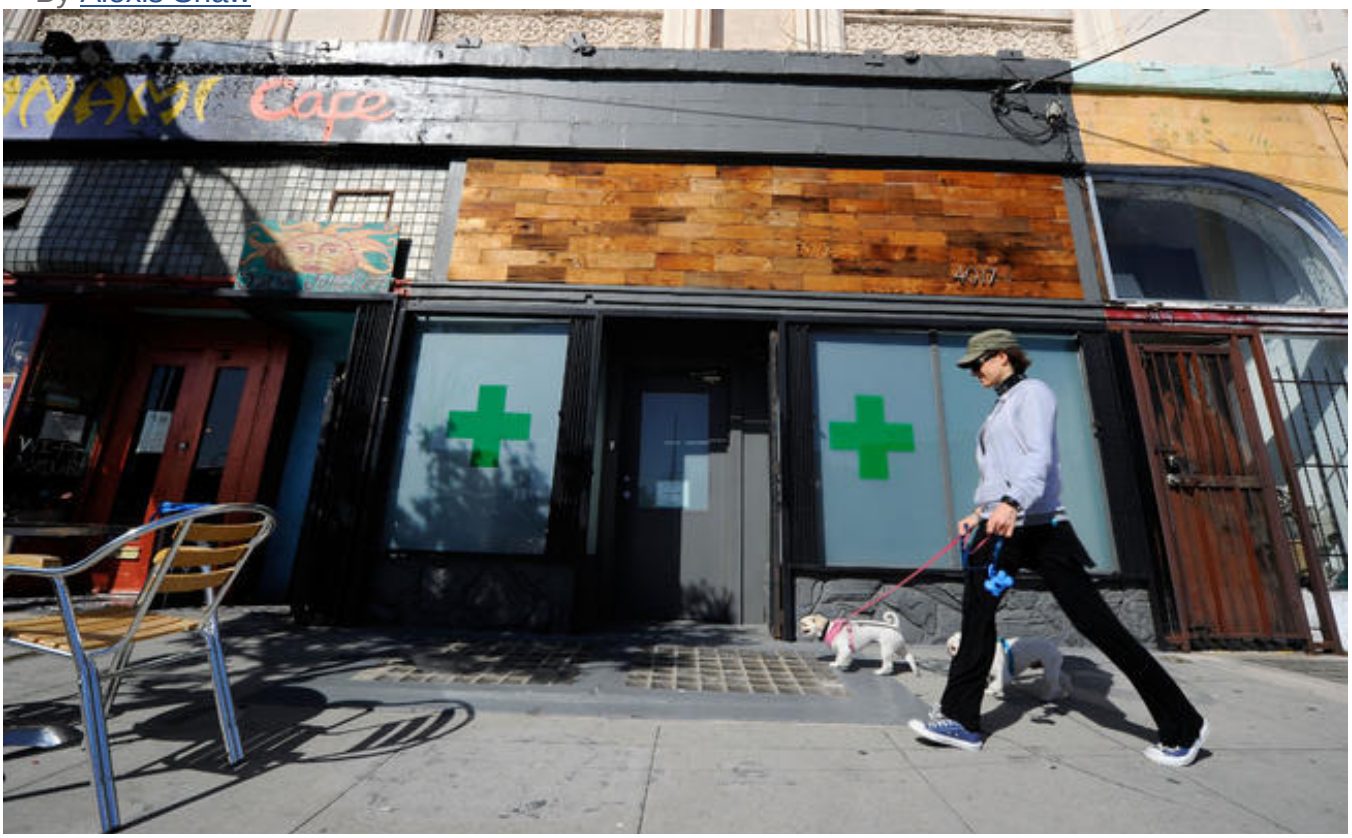
Study Reveals Lower Crime Rate Near Pot Dispensaries

RAND study shows crime lower on blocks near open dispensaries

By Alexis Shaw



Getty Images
The Sunset Junction medical marijuana dispensary is seen on May 11, 2010 in Los Angeles, California.

You'd think a local Los Angeles pot shop would be a mecca for would-be criminals looking to get rich or get high. But this may not be the case.

LATE ITEMS
MCC 02-04-2016
Page 111 of 298

A new study released by the RAND Corporation reveals that crime in communities surrounding open medical marijuana dispensaries is, in fact, lower compared with crime rates in areas where dispensaries have been forced to close.

The study comes on the heels of a 15-month-old ordinance that shut down more than 70% of the city's unlicensed medical marijuana dispensaries.

These dispensaries were linked by law enforcement to rising crime rates in their respective areas.

When the mass-closing of dispensaries in Los Angeles began, Mireille Jacobson, the study's lead author and a senior economist at RAND, jumped on the opportunity to study the issue.

"We'd been reading about it and heard a lot of rhetoric on both sides," Jacobson said. "But there was no real systematic evidence on the topic."

The study examines 21 days of crime reports for 600 dispensaries 10 days before the city's medical marijuana ordiance was implemented, and 10 days after.

The study compares crime reports in the areas surroundings 430 dispensaries that closed and 170 that were allowed to stay open.

On the blocks with closed dispensaries, crime was 60% greater within a three-block radius, and 25% greater within a six-block radius than on the blocks with open dispensaries, according to the study.

"What our study says is that on average, the dispensaries may not be as much of a crime concern as some would lead us to believe," Jacobson said.

But Steve Whitmore, a spokesman for the Los Angeles County Sheriff's Department, disagrees. He says contrary to the RAND study, his agency has found that as dispensaries are shut down, serious crime in the area drops.

"There have been some very serious strong-arm robberies. Once we shut those dispensaries down, those crimes go away."

Two high-profile incidents of violence at medical marijuana dispensaries have fueled the perception that they are a magnet for crime.

In June of 2010 an employee of an Echo Park dispensary was shot and killed while on the job. Two days later an employee at a dispensary in Hollywood was stabbed to death.

LATE ITEMS
MCC 02-04-2016
Page 113 of 298

"We question the findings," Whitmore said. "We don't think they're accurate. We want to know where exactly they're talking about and how they're coming to these conclusions because we've had some very dangerous crimes that have happened at these dispensaries."

Jacobson acknowledged that there are limitations to the study, but disagrees that its conclusions should be dismissed. She said she would welcome the opportunity to review any data kept by the sheriff that contradicts the findings in the RAND study.

"We're just capturing a short period of time," she said. "Show us the data, we'll take a look and see if we agree."

Kris Hermes, media specialist for Americans for Safe Access, a pro-pot dispensary non-profit, said he hopes the RAND report will lead to more cities adopting sensible regulations toward dispensaries.

"Over time, we hope that this report and other reports like it will ease some of the fear that's occurring around not just California, but the rest of the country, in regard to these facilities," Hermes said.

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LATE ITEMS
MCC 02-04-2016
Page 114 of 298

LATE ITEMS
MCC 02-04-2016
Page 115 of 298

LATE ITEMS
MCC 02-04-2016
Page 116 of 298

LATE ITEMS
MCC 02-04-2016
Page 117 of 298

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Abstract

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J Stud Alcohol Drugs. 2012 Jul;73(4):523-30.

Exploring the ecological association between crime and medical marijuana dispensaries.

Kepple NJ[1], Freisthler B.

Author information

Abstract

OBJECTIVE: Routine activities theory purports that crime occurs in places with a suitable target, motivated offender, and lack of guardianship. Medical marijuana dispensaries may be places that satisfy these conditions, but this has not yet been studied. The current study examined whether the density of medical marijuana dispensaries is associated with crime.

METHOD: An ecological, cross-sectional design was used to explore the spatial relationship between density of medical marijuana dispensaries and two types of crime rates (violent crime and property crime) in 95 census tracts in Sacramento, CA, during 2009. Spatial error regression methods were used to determine associations between crime rates and density of medical marijuana dispensaries, controlling for neighborhood characteristics associated with routine activities.

RESULTS: Violent and property crime rates were positively associated with percentage of commercially zoned areas, percentage of one-person households, and unemployment rate. Higher violent crime rates were associated with concentrated disadvantage. Property crime rates were positively associated with the percentage of population 15-24 years of age. Density of medical marijuana dispensaries was not associated with violent or property crime rates.

CONCLUSIONS: Consistent with previous work, variables measuring routine activities at the ecological level were related to crime. There were no observed cross-sectional associations between the density of medical marijuana dispensaries and either violent or property crime rates in this study. These results suggest that the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters possible motivated offenders.

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LATE ITEMS
MCC 02-04-2016
Page 118 of 298

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February 3, 2016

Elizabeth Greene, Secretary
Berkeley Medical Cannabis Commission
2120 Milvia St.
Berkeley, CA 94704
Subject: Additional information re: Berkeley Compassionate Care Center's Union Contract

Dear Ms. Greene,

For the record, I would like to again ask the Commission Members to please reconsider their "Labor Ranking" of the Berkeley Compassionate Care Dispensary's application. The public comment notes from the November 12, 2015 Berkeley Compassionate Care Center's community meeting briefly mentions a statement regarding union membership. I spoke at some length at that meeting regarding the benefits of having a union contract for future workers and I would like to clarify that Berkeley Compassionate Care Center is the only applicant that has a signed tentative Contractual Bargaining Agreement for their future workers. (It is tentative only in the sense that the workers would 1st get to vote on whether they would like to join a union.)
I am more than happy to scan and send the entire contract to the Commission Members but perhaps I could list some of the highlights of BC3's contract.
BC3's contract offers a starting wage of $18/hour. The employee is entitled to paid Sick Leave (over 6 days a year), paid vacation (1 year/2 weeks, 3 years/3 weeks, 10 years/4 weeks, 16 years/5 weeks), paid holidays (6 paid the 1st year, 9 paid per year after that), paid jury duty and paid funeral leave. BC3's contract also includes a defined benefit retirement plan and an excellent health insurance program. The contract also contains provisions of job security (with a defined grievance process) and seniority benefits regarding promotions and layoffs or rehires. This is a very generous contract with obvious benefit to future workers. Having a labor peace agreement with a union is a provision of new State Law. In the UFCW's opinion, Berkeley Compassionate Care Center is the only applicant that went beyond just talking about labor peace by putting their signatures on a contract. BC3 is showing a commitment to being a business with high community and worker standards. Please consider that only 1 other applicant has a signed (although out dated) neutrality agreement. None of the other applicants have signed a neutrality agreement at this time.
The UFCW thanks the Commission Members for their consideration of this matter.
Sincerely,

Jennifer Garcia, Union Representative
UFCW Local 648
jgarcia@ufcw648.org
(415) 861-7840 x7

Board of Supervisors

Nathan A. Miley
Supervisor, District 4

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1221 Oak Street, Suite 536
Oakland, CA 94612
510-272-6694/510-465-7628 Facsimile

Eden Area District Office
20980 Redwood Road, Suite 250
Castro Valley, CA 94546
510-670-5717/510-537-7289 Facsimile

Pleasanton District Office
4501 Pleasanton Avenue, 2nd Floor
Pleasanton, CA 94566
925-803-7959

district4@acgov.org

February 2nd, 2016

Medical Cannabis Commission / Berkeley City Council
Berkeley City Hall, 6th Floor
2180 Milvia St.
Berkeley, CA 94704

SUBJECT: LETTER OF SUPPORT FOR THE GARDEN OF EDEN COOPERATIVE

Dear City of Berkeley Medical Cannabis Commission,

I would like to express my strong support for the Garden of Eden Cooperative Inc. for a permit to operate a medical cannabis dispensary in Berkeley. The Garden of Eden Cooperative Inc. currently runs a medical marijuana clinic in the unincorporated area of Hayward. As the Supervisor for Alameda County District 4, which includes the western urban unincorporated area, I have witnessed the many ways in which Garden of Eden is an ideal provider that plays by all the rules.

The Garden of Eden Cooperative Inc. has helped to increase the accessibility of medical marijuana for patients who depend on it for their health needs. The Cooperative provides quality service for customers in the unincorporated area. Its existence allows senior citizens, veterans, and others with medical concerns to obtain the cannabis needed for their care. Throughout the time of Garden of Eden's operation in unincorporated Hayward, it has been a good neighbor in its business district and fully cooperative with the local government and law enforcement.

I strongly urge you to consider Garden of Eden as the recipient of the medical cannabis dispensary permit in Berkeley. The Cooperative will be a great resource for Berkeley residents who depend on medical cannabis. Thank you for your time and consideration.

Sincerely,

Nate Miley

Nate Miley, Supervisor
Alameda County District 4

Greene, Elizabeth

From: melissa.t.blanco@kp.org
Sent: Wednesday, February 03, 2016 11:31 AM
To: Greene, Elizabeth
Subject: Proposed Cannabis dispensary at 1229 San Pablo Ave
Attachments: 2015-01-20 Item 21 1820-1828 San Pablo (2).pdf

Good morning Elizabeth,

I'm writing to you to add my support to the neighborhood petitions **against** the proposed cannabis dispensary at 1229 San Pablo Ave. My husband and I moved into 1203 Stannage two years ago with the hope of starting a family is this safe neighborhood filled with other young families. Allowing this cannabis dispensary to locate to 1229 San Pablo will drastically alter the character and safety of this residential community.

The location proposed by Berkeley Innovative Health is of real concern as it is just two blocks from our home. As other neighbors have attested, the lack of parking for this business will mean patrons will be parking in our neighborhood. This will create a situation where people are walking to their cars in front of our homes with large quantities of marijuana. With the dispensary open until 9pm, this is an invitation for robberies and side sales as our block is currently dark and quiet.

To further my point around neighborhood safety, I'd like to bring your attention to the neighbor testimony around the impact of living next to a cannabis dispensary from the 1820/1828 San Pablo Avenue: Public Hearing that took place in January 2015:

II. Public Nuisance Conditions under BMC § 23.B.64.020.A
A. Disturbances of the Peace in Violation of BMC § 23B.64.020.A (page 10)
C. Excessive Noise in Violation of BMC § 23B.64.020.A (page 14)
D. Excessive Littering in Violation of BMC § 23B.64.020.A (page 14)
E. Illegal Drug Activity in Violation of BMC § 23B.64.020.A (page 15)

These negative effects are the reality of living next to a cannabis dispensary. This type of business does not belong immediately adjacent to a residential neighborhood. It would be both safer and more appropriate to have it located in a commercial/industrial area.

I would love to voice these concerns in person at the Commission meeting tomorrow but unfortunately cannot leave work to do so. Thank you for your time and consideration.

Best,
Melissa Blanco

Melissa T Blanco
Senior Associate
National Accounts

Kaiser Permanente
Workforce Health Consulting Group
300 Lakeside Drive, 26th Floor
Oakland, CA 94612

510.267.4559 (office)
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Office of the City Manager

PUBLIC HEARING
January 20, 2015

To: Honorable Mayor and Members of the City Council

From: Christine Daniel, City Manager

Submitted by: Gregory Daniel, Code Enforcement Unit Supervisor

Subject: 1820/1828 San Pablo Avenue: Public Hearing and Determination Regarding a Public Nuisance under BMC Section 23B.64

RECOMMENDATION

1. Conduct a public hearing pursuant to Berkeley Municipal Code (BMC) Section 23B.64.030 and, upon conclusion, find that the uses at 1820/1828 San Pablo Avenue are: a) in violation of Berkeley Municipal Code (BMC) Chapter 12.26; b) in violation of BMC Chapter 12.27; and c) in violation of the Zoning Ordinance; and d) a public nuisance under BMC Chapter 23B.64 and order the unlawful medical cannabis use enjoined and terminated and the 11 separate tenant spaces removed; and

2. Either:
   a. Direct staff to include evidence the Council identifies as supporting the findings in the draft Resolution and issue the Resolution without bringing it back to the Council for its consideration; OR
   b. Direct staff to include evidence the Council identifies as supporting the findings in the draft Resolution and bring a revised Resolution back to the Council for its consideration on January 27, 2015.

FISCAL IMPACTS OF RECOMMENDATION

None.

SUMMARY

Mr. Smith operates an illegal cannabis dispensary at the property located at 1820/1828 San Pablo Avenue; he claimed in the past that it was a cannabis collective and not a dispensary. Because it is located in a commercial district (C-W) a cannabis collective is prohibited pursuant to BMC Chapter 12.26 and a cannabis dispensary is only authorized if Mr. Smith obtains a license pursuant to Chapter 12.27 and the Zoning Ordinance. However, the process for obtaining such a license will not commence until 2015.

Mr. Smith has been notified by the City as early as February 2011 and continually since then that his dispensary is operating illegally, but he has ignored these directives and continues to operate it.

The property owner has also attempted to remove Mr. Smith's dispensary from the property and won a unanimous jury verdict it its favor, but when the sheriff arrived to execute the unlawful detainer judgment, Mr. Smith had taken possession of units that other tenants had recently vacated. The property owner is currently litigating another action to eject him from those units.

Mr. Smith has also filed three separate lawsuits against the City, its employees and the former hearing officer. All of the claims raised in these suits are meritless and Mr. Smith has used the litigation process as a means to delay the City's administrative process.

After considering evidence presented by staff and hearing from several neighbors who testified to the significantly detrimental impacts of the dispensary on the community at public hearing on November 6, on November 13 the ZAB unanimously adopted Resolution 14-01 recommending that the Council find that the property is a public nuisance due both to its impacts on the community and its violation of Chapters 12.26, 12.27 and the Zoning Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The ZAB conducted a public hearing on November 6, 2014 pursuant to BMC Chapter 23B.64 (Abatement of Nuisance) regarding the property at 1820/1828 San Pablo Avenue. The ZAB adopted Resolution No. 14-01 recommending that the City Council find, after a public hearing, that: 1) the property at 1820/1828 San Pablo Avenue is: 1) in violation of Berkeley Municipal Code (BMC) Chapters 12.26 and 12.27; 2) in violation of BMC Sections 23B.56.010.A, 23B.56.020, 23E.16.070, 23A.12.010, and 23E.64.060; and 3) a public nuisance under BMC Chapter 23B.64 for the reasons set forth in Resolution 14-01 and order the use cannabis enjoined and terminated and the unlawful conversion of the property into 11 tenant spaces removed.

The ZAB's recommendation was provided to the property owner and Mr. Smith pursuant to BMC Section 23B.64.050.A which provides an opportunity for parties subject to a nuisance abatement recommendation to consent to it in order to render it a final City decision. Although the property owner has consented to the ZAB's recommendation, Mr. Smith has not.

Consequently, the Council is required to hold a public hearing to consider the ZAB's recommendation pursuant to 23B.64.050.A. Staff is recommending that the Council adopt a resolution determining that the uses at 1820/1828 San Pablo Avenue are: 1) in violation of Berkeley Municipal Code (BMC) Chapter 12.26; 2) in violation of BMC Chapter 12.27; and 3) in violation of the Zoning Ordinance; and 4) a public nuisance

under BMC Chapter 23B.64 and that it order: a) the unlawful medical cannabis use enjoined and terminated; and b) the 11 separate tenant spaces removed.

BMC Section 23B.64.050.D provides that the Council may find that "the use, structure or building constitutes a nuisance and impose any remedy provided for in this Chapter, or take no action."

Upon making any of the required findings, "the Council may impose any remedy available at law or in equity which shall include, but is not limited to, any of the following or combination thereof: enjoining the use in whole or in part; imposing reasonable conditions upon any continued operation of the use, including those uses which constitute non-conforming uses; requiring continued compliance with any conditions so imposed; requiring the use to guarantee that such conditions shall in all respects be complied with; and, upon a failure of the user to comply with any conditions so imposed, imposing additional conditions or enjoining the use in whole or in part (BMC Section 23B.64.060.A)."

BACKGROUND

Ownership and Use of 1820/1828 San Pablo Avenue

According to City records, 1820/1828 San Pablo Ave (the Property) is the second floor of a two-story commercial building located in the C-W District. The Property is owned by Clarence Soe/Soe Group and FJSC Soe Group (collectively "the owner"). The last legal use of the Property was a modern dance studio per Use Permit No. 6894 issued in 1972. (See **Exhibit 1** to November 6, 2014 ZAB Staff Report[1]). Since then, no other use has been approved by the City.

The City Notifies Owner and Operator that No Cannabis Operation is Allowed at the Property

In February 2011, former Interim Director of Planning and Development and Secretary of the Medical Cannabis Commission, Wendy Cosin, concerned by an advertisement she came across in the East Bay Express indicating that a dispensary was being operated out of the Property, emailed Mr. Smith and Ms. Toya Groves, co-founders of the operation then called Forty Acres Medical Marijuana Growers Collective (Forty Acres), that it was unlawful it to operate either a collective or a dispensary at the Property because Berkeley law "***does not allow collectives (other than dispensaries) in commercial districts***". (emphasis supplied.) Although Ms. Groves responded that she and Mr. Smith would look into Ms. Cosin's concerns and follow up with her, they did not respond further and 40 Acres continued to operate. (**Exhibit 2.)**

[1] All future references to Exhibits 1 through 45 are to the Exhibits attached to the November 6, 2014 ZAB Staff report.

In December 2011, the Code Enforcement Unit (CEU) sent two notices to the owner and operator of 40 Acres explaining that an illegal medical cannabis dispensary was operating at the Property. (**Exhibits 3-4**.) These notices were copied to Ms. Cosin. The notices ordered cessation of the operation because *any* cannabis operation in a commercial district was prohibited since: 1) collectives were prohibited in commercial districts; and 2) although dispensaries are allowed in commercial districts, in 2004, the City imposed a cap on the number of dispensaries that may operate in Berkeley at any one time and Mr. Smith's dispensary was not one of the three authorized dispensaries in existence at that time.

On January 25, 2012, City inspectors conducted an inspection and observed that the Property has been illegally converted to 11 tenant spaces. After the inspection, the City issued a Notice of Violation regarding the unlawful conversion to the owner. (**Exhibit 5**.)

Smith Response to Notices

In response to the City's notices, Mr. Smith's counsel claimed that he was not operating a dispensary (although he wished to in the future), but a collective. (**Exhibit 6**.) As Ms. Cosin had noted in February 2011, the City replied that, even if Mr. Smith operated a collective, this was also prohibited since the Property is located in the C-W District which is a commercial zoning district and collectives are prohibited in commercial zones. (**Exhibit 7**.) And, as was true in February 2011, Mr. Smith's counsel provided no further response.

Owner/Smith Litigation

The owner attempted to remove the tenants from all the illegally-created spaces in order to remove the illegal alterations. At the time the owner attempted to remove the tenants, Mr. Smith's cannabis operation was located in units 4 through 10 and other tenants occupied units 1, 2, 3 and 11.

Mr. Smith refused to vacate the Property in response to the owner's Notice to Vacate and, thereafter, the owner commenced an unlawful detainer action against him and 40 Acres (Alameda Superior Court Number (ASCN) RG12637164) (Unlawful Detainer Action). A few weeks prior to the jury trial in the Unlawful Detainer Action, Mr. Smith initiated a separate action against the owner for fraud, (ASCN RG12651266).

The Superior Court granted the owner a writ of possession after it received a unanimous jury verdict in favor of the owner in the Unlawful Detainer Action. The Alameda County Sheriff executed the writ of possession on April 12, 2013 and discovered that Mr. Smith had taken possession of the recently-vacated units, units 1-3 and 11.

The owner then pursued a forcible detainer action against Mr. Smith regarding occupancy of those units (ASCN RG13676259), but because it was not able to prove

that Smith had taken the units by force (a necessary element of the action), the jury ruled against it (Forcible Detainer Action). Consequently, the owner has now filed a cross-complaint for ejectment and trespass in ASCN RG12651266 and maintains that Mr. Smith is a "trespasser" and a "squatter" on the Property (Ejectment Action). The parties have filed cross Motions for Summary Judgment in the Ejectment Action which are scheduled to be heard by the Superior Court on February 25, 2015.

October 21, 2013 Notice of Public Nuisance and Appeal

The City issued a Notice and Order of Public Nuisance on October 21, 2013 to Mr. Smith for violations Chapter 12.26 only. The Notice and Order stated "[b]ased upon the violation of BMC Chapter 12.26, continued operation of 40 Acres at 1820 and 1828 San Pablo is hereby declared to be a Public Nuisance and is subject to abatement by the City of Berkeley if you do not comply with the following Order: YOU ARE HEREBY ORDERED TO cease and desist all cannabis operations at 1820 and1828 San Pablo Avenue by October 28, 2013." Since the property owner was continuing to actively pursue a cure to the Zoning violations at the Property (the unlawful construction of 11 tenant spaces), the Notice was not issued to the owner, did not allege any Zoning violations and, therefore, did not invoke the ZAB or Council's jurisdiction under 23B.64.

Mr. Smith appealed the Order claiming that he was no longer operating his cannabis club. (**Exhibit 8.**) This entitled him to a hearing before a City hearing officer pursuant to BMC Chapter 1.24. After accommodating Mr. Smith's counsel's request for a continuance and for additional City inspectors to be present for cross-examination, a hearing on the appeal was initially scheduled for January 31, 2014.

The City had to engage multiple hearing officers in order to find one with the time available to meet Mr. Smith's counsel's many demands. Ultimately, the City conducted a hearing before a hearing officer in mid-June. On the second day of the hearing, that hearing officer made some unfortunate statements and the City dismissed him.

In order to resolve Mr. Smith's appeal most expeditiously and efficiently, the City offered to allow his counsel to complete his cross-examination of the only remaining witness, Mr. Gregory Daniel, in front of the hearing officer and then to provide another hearing officer with the evidence admitted in the course of the hearing and the certified transcript of the hearing. However, Mr. Smith's counsel rejected that offer.

The City then engaged in a discussion with Mr. Smith's counsel regarding Mr. Smith's request to proceed pursuant to BMC Chapter 23B.64 instead. The City explained that, unlike the BMC Chapter 1.24 procedure, the procedure before the Board and the City Council under Chapter 23B.64 would not involve sworn testimony, cross-examination of witnesses or *voir dire* of the ZAB and City Council members – procedures that had all been made available to Mr. Smith based upon his demands.

ZAB Proceeding

Mr. Smith's counsel eventually confirmed that Mr. Smith would not demand sworn testimony, cross-examination of witnesses or *voir dire* of the Board or City Council members if the City proceeded via Chapter 23B.64. (**Exhibit 9**.) Thus, based on Mr. Smith's lack of objections to the City's process under Chapter 23B.64 and the City's preference not to secure the services of another hearing officer, the Zoning Officer issued a Notice invoking the ZAB and City Council's jurisdiction under BMC Chapter 23B.64 by setting forth Zoning Ordinance violations as well as violations of BMC Chapters 12.26 and 12.27. The Zoning Officer issued the Notice on August 11, 2014 scheduling it for hearing before the ZAB on October 9, 2014. (**Exhibit 10.)**

Mr. Smith's counsel asked for a continuance of the hearing from October to November and his request was accommodated.

The ZAB conducted the public hearing on November 6. In addition to staff testimony, the ZAB heard extensive testimony from neighbors of the Property regarding significant impacts on the community resulting from the operation of the illegal dispensary at the public hearing. This testimony is detailed further below. After closing the public hearing, the ZAB unanimously passed a Motion recommending that the Council find, after a public hearing, that the Property is a public nuisance and directed staff to include additional findings in the draft Resolution reflecting the neighbors' testimony. The ZAB then adopted Resolution No. 14-01 at the November 13 meeting.

Smith/City Litigation

On September 24, 2013, Mr. Smith filed suit against the City and its employees alleging various wrongs stemming from the City's enforcement activities (ASCN RG13696641). The City removed that case to federal court on October 24, 2013 and it is now Case. No. C13-04947 PJH (Federal Action).

The City filed a Motion to Stay the Federal Action in order to allow it to conclude its administrative process and issue a final determination. The Federal Court granted the Motion to Stay on March 21, 2014 finding "allowing the case to go forward before the administrative proceeding (and subsequent petition for writ of mandamus) has been resolved would complicate the issues, proof, and questions of law." (**Exhibit 11.**)

Mr. Smith then filed a Petition for Writ of Mandate seeking to halt the hearing before the hearing officer in June (ASCN RG14728095) (Writ). The Court denied his request and the hearing went forward before the hearing officer. Despite the City's position that this litigation had been rendered moot by its dismissal of the hearing officer, Mr. Smith insisted that it was not and demanded a hearing on his Petition. After hearing, the Court denied the Writ on November 18 and entered Judgment in favor of the City on November 25.

Mr. Smith also filed a third action against the City and various employees and served it on the City only October 1, 2014 (ASCN RG14 728095) (State Action). This action contains the exact same causes of action present in the Federal Action, so the City has asked the Court to either dismiss or stay it pending resolution of the Federal Action. The Court issued a tentative ruling granting the City's request, but Mr. Smith filed a First Amended Complaint (which still includes the same causes of action present in the Federal Action) after the Court had issued its tentative ruling. However, Mr. Smith has failed to serve any of the Defendants with the First Amended Complaint or Amended Summons. Consequently, the Defendants have filed a Motion to Quash the Service of Summons and requested that the Court dismiss the case. This Motion is scheduled to be heard on January 8th.

None of these cases presents a barrier to the Council proceeding.

Issues and Analysis

BMC Section 23B.64.020 defines a public nuisance as:

> Any use, event, structure or building, whether non-conforming or otherwise, which meets any of the nuisance criteria set forth in this section is a public nuisance subject to abatement as set forth herein.
>
> A. Maintenance or operation, by omission or commission in such a way as to result in or facilitate any of the following activities, each of which the City hereby declares to be a public nuisance: disturbances of the peace, illegal drug activity including sales or possession thereof, public drunkenness, drinking in public, harassment of passers-by, gambling, prostitution, public vandalism, excessive littering, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), noxious smells or fumes, curfew violations, lewd conduct or police detention, citations or arrests or any other activity declared by the City to be a public nuisance;
>
> B. Violation of any provision of this chapter or any other City, state or federal regulation, ordinance or statute.

I. Code Violations under BMC § 23.B.64.020.B

A. Violation of BMC § 12.26.130

In 2004, BMC Section 12.26.130 (formerly Section 12.26.110) imposed a cap on the number of dispensaries that may operate in Berkeley at any one time. Mr. Smith's dispensary was not one of the three authorized dispensaries in existence at that time. (**Exhibit 12**.) BMC Section 12.26.130 now allows four medical cannabis dispensaries,

with the fourth to be selected in 2015 through a competitive selection process. Thus, at present, only three dispensaries are allowed in Berkeley.

B. Violation of BMC § 12.27.050

BMC Section 12.27.050 requires that all dispensaries comply with BMC Chapter 12.26 and Title 23. It further requires that dispensaries "comply with the operating standards" set forth in Chapter 12.27. As described above, Mr. Smith's dispensary does not comply with Chapter 12.26 because it is not one of the three authorized dispensaries in existence in 2004 and because it has not been selected to operate as the 4th dispensary. In addition, it does not comply with Title 23 for the reasons set forth in more detail below.

Even if Mr. Smith did have a license for his dispensary, it does not comply with the operating standards in Chapter 12.27. For example, it is incompatible with the neighborhood (12.26.050.F), it allows smoking of cannabis at the dispensary (12.26.050.G) and it is not accessible (12.26.050.H).

It is also not clear that it operates on a "not-for-profit" basis as required by state law (Health & Safety Code § 11362.7) and BMC Section 12.27.030.B, and as defined by Section 12.27.020.G. If the Council is interested in obtaining evidence on this question, it may consider the following questions:

1. Does the organization pay sales taxes to the state?
2. Is the organization a nonprofit corporation?
3. Does the organization operate on a not-for-profit basis? (See BMC § 12.27.020.G):

   > "Not-for-Profit" means that an organization receives compensation only for the reasonable costs of its operation, including reasonable compensation for products and services provided to Members to enable them to use Medical Cannabis pursuant to Health and Safety Code Sections 11362.7 et seq.; reasonable compensation for employees; reasonable out-of-pocket expenses incurred in providing those products or services, or both. Reasonable out-of-pocket expenses may include, but are not necessarily limited to, reasonable expenses for Member services and education, rent or mortgage, utilities, construction, furniture, maintenance, analytic testing, security, professional service costs, regulatory compliance costs, debt service, and reserves.

4. How is income accounted for to ensure that it is so operated?

C. Zoning Ordinance Violations

On March 14, 1972, Use Permit No. 6894 was approved for operation of a modern dance studio at the property from 10:00 a.m. to 10:00 p.m. only. Consequently, the following provisions of BMC Title 23 (Zoning Ordinance) are being violated:

1. Operation of a Use Other Than a Dance Studio in Violation of BMC § 23B.56.010.A

BMC Section 23B.56.010.A mandates "[a]ny approval permits only those uses and activities actually proposed in the application and excludes other uses and activities."

Since Use Permit No. 6984 permits only the use of the property as a dance studio, operation of a dispensary (or any other use except a dance studio) is prohibited. Likewise, it does not allow residential uses.

2. Modification of the Property Into 11 Separate Spaces in Violation of BMC § 23B.56.020

The site plan approved for Use Permit No. 6984 indicates that the Property is to be a completely open floor plan and not divided into any separate spaces or rooms. BMC Section 23B.56.030 mandates that "the site plan … shall be deemed [a] condition[] of approval."

BMC Section 23B.56.020 prohibits any change "in the use or structure for which a Permit has been issued … unless the Permit is modified by the Zoning Officer or Board." In particular, Subsection 23B.56.020.A.4 requires a modification to "[i]ncreas[e] the number of … rooms".

Because the Property has been divided into 11 separate tenant spaces and, therefore, deviates from the approved site plan without approval by the City, it is in violation of BMC 23B.56.020.

3. Operation of a Dispensary in Violation of BMC §23E.16.070

BMC Section 23E.16.070.A.3 prohibits operation of a dispensary (except for the 3 authorized dispensaries in existence before 2004) unless it has been licensed by the City. As described above, Mr. Smith's dispensary has not been selected as the fourth dispensary.

4. Operation of a Use Other Than a Dance Studio in Violation of BMC § 23A.12.010

BMC Section 23A.12.010 prohibits any property from being "used, or designed to be used … except as permitted by this Ordinance, either as of right or by permit."

Because the Property is being used as a dispensary and Use Permit No. 6984 authorizes use of a dance studio only, it is in violation of this provision as well. Neither a dispensary nor residential use is permitted as of right.[2]

5. Operation of a Commercial Use Until Midnight in C-W District in Violation of BMC §23E.64.060

The Property is located in the C-W District. BMC Section 23E.64.060 prohibits commercial uses from operating after 11:00 p.m. in the C-W District "unless a Use Permit is obtained".

Mr. Smith's dispensary operates until midnight on Friday and Saturday and, in addition to the fact that it is unlicensed and in violation of 23E.16.070 and Chapters 12.26 and 12.27, no Use Permit as been obtained to operate a commercial use past 11:00 p.m.

II. Public Nuisance Conditions under BMC § 23.B.64.020.A

A. Disturbances of the Peace in Violation of BMC § 23B.64.020.A

Nine of eleven members of the public testified before ZAB that the neighbors were afraid of the dispensary customers and staff. Such comments included:

- A fear of testifying in front of the Board or gathering evidence of illegal activity: "[W]e have received many complaints from our residents in the building, not one of which felt comfortable coming here tonight to speak about what they've seen." "I don't take a picture of these people because I know what it means. You take a picture that mean you attacking them."

- A fear of walking along San Pablo Avenue, a public sidewalk, in front of the entrance to the Property: "People are afraid to walk in that area." "It's been over a year that I haven't passed by on the side where they are crossing, usually I walk the kids around the block. It's been a year since I haven't been there, because I saw security telling this other guy that he could not walk in front of the place. I was scared myself to walk there, too." "This I have to say is a little less intimidating than what often goes on. You come by that particular area and as other people have said, you're not -- people coming to get marijuana, these are young strong people, rather intimidating, honestly, to other people in the neighborhood…. my daughter who is not young like these kids here, in her 20s, my wife and I said we get nervous when she wants to walk around that area. It's intimidating."

[2] In fact, if the owner had attempted to convert the 11 units to legal residential units, it would have required a Variance due to a lack of required parking and open space and the findings for grant of a Variance could likely not be made in this case.

- A fear of the health effects of the marijuana smoke emanating from the Property: "Where am I going to be safe with my kids, being exposed to smoke or this kind of thing? I just don't know what to do."

- A fear of the customers of Mr. Smith, who buy marijuana at the Property then smoke it in the neighborhood and respond aggressively to requests to stop smoking or move their cars: "My concern is every time we tell them they can't be over there smoking pot, they get aggressive. We cannot say anything because we are afraid that they're going to come by or do a shoot up."

- "And I'm very concerned about our safety. Our family, our kids. As a matter of fact last night, within the time of 30 minutes more than five cars blocked my driveway. My husband, I asked one of them to please move and they, like, they don't pay attention to me. I asked my husband to come out with me. He came out. We ask them properly to please move off the driveway. They got very aggressive with us. Like very aggressive. I called the police, but I was told that they were gone, they can't do anything. The police advised me not to confront them, just call the police every time that happens. So if I were to call the police every time that this thing is happening I would be calling the police at least three or four times a day. Maybe more than four or five times a day. This always happens I would say after 8:00. As soon as it gets dark it gets very bad. The area is so bad..."

- A fear of rising violence in the neighborhood: ". . . we have 25 names here from people, some of whom are here tonight, who are concerned about these issues as well. The noise, the discussions, the arguing sometimes that occurs." "So starting this year, this thing start getting more aggressive and more people in front of it."

- "I came home a couple of weeks ago and found a car completely blocking our driveway with the trunk wide open and the driver standing by the trunk selling from open, reeking bags of marijuana to a young woman who looked to be around 12 years old. He was completely blocking my ability to get by with my bicycle, so I said, "do you realize you're in our driveway?" He immediately turned to me and threatened to kill me at the top of his lungs, walking toward me emphasizing that he would bash my head in, etc., until he realized he was leaving his marijuana behind in a wide open trunk. He continued threatening me while closing his trunk and driving off. This was in broad daylight with a street full of people. But most of those people were marijuana customers, and seemed unconcerned."

- "as someone who has lived in the neighborhood for decades I can assure you that the phenomenon of blatant, all-day, all-night open drug sales, fights, and

drug-buy-related double parking and sidewalk partying coincided with the opening of 40 Acres."

- A fear of the image portrayed to children in the neighborhood: "…the 40 Acres crew does not seem to care about the effect on the residents, school children, and local workers who have to put up with the exposure, noise, congestion, fights, and sights like people bent over retching in the street. I ran to help the latter, and he told me that he was alright, just had had "too much dab" and wanted to just remain on all fours retching on the sidewalk in front of 40 Acres rather than have me call an ambulance."

- "I am not opposed to the recreational use of marijuana for those who choose to use it, but the free-for-all party zone being imposed on our neighborhood comes with fights, threats, guns, violence, dual use of tobacco and other addictive drugs;" and

B. Noxious Smells or Fumes in Violation of BMC § 23B.64.020.A

At the November 6 hearing and in correspondence to the Board, neighbors testified that the use of the Property produced a noxious odor that interfered with the quiet enjoyment of their homes and the neighborhood. Such comments included:

- ". . . people smoke right in front of my house, around 6:00, 7:00 until 3:00 or 2:00 in the morning. I cannot open the windows."

- "I notice a lot of smoke daily and the smell, pretty strongly, end of last month, till today. It's getting more constant. And I have my kids playing on the back patio. I mean eventually it's going to get in there. My point is, if it was banned to smoke around public places, you know, now it's getting to the residential places. What is the point of banning it in public places if it gets to the neighborhood where my kids are playing?" "Where am I going to be safe with my kids, being exposed to smoke or this kind of thing? I just don't know what to do. I been living there for two years, it wasn't like that two years ago. But it concerns me. Because my kids' health, I cannot risk that. If I cannot send them outside to play what am I going to do with them? I have the freedom to send them out and have fresh air."

- ". . . we have been having smelling this for a while, it's bad for our health and the kids' health, too."
- ". . . my concern is that before we can let kids walk around the yard, in the backyard, but now it's hard. In the front yard it smells like marijuana. We go in the back, it smells marijuana. We can't take them to the park, close to the house, because it's full of homeless. So where are we going to take our kids to play?"

- ". . . we have dance class, and there's people sitting over there smoking and I have to come and personally tell them to leave. I don't be too aggressive, I ask them, will you please leave from here, go smoke another place. Why don't you just go to home, to your house and smoke there, why you have to smoke in front of people's house?"

- "And it's surrounded by not just cannabis smokers but tobacco smokers." "There are people who walk out with their classic brown paper bag which is what you get if you buy cannabis there and they smoke everywhere. They roll and smoke all over. That property and up and down the block. So it's become a party zone."

- "It apparently cannot keep its employees from smoking both marijuana and tobacco in what is under the law a smoke-free commercial zone, or it just doesn't care. Its clients who don't drive can be found sitting smoking marijuana and tobacco openly in front of 40 Acres or on the wall at the used car lot next door, around the corner on the wall in front of Finn Hall, or next to the car they drove to get there, in a neighborhood which has two schools and a YMCA Head Start program within two blocks. It is not unusual to see people with the characteristic brown bag they're given with their weed at 40 Acres rolling joints and smoking all up and down our block, making it impossible to come and go without getting exposed."

- "Those of us who live and work on San Pablo Avenue can't leave our homes without getting exposed to both tobacco and marijuana, which may be a low police priority but is deadly for people with cardiovascular and respiratory issues. We can't run out into the street to avoid exposure, and the 40 Acres crew does not seem to care about the effect on the residents, school children, and local workers who have to put up with the exposure…"

- "I support medical marijuana, which is a personal choice for many who, like me, are cancer patients. I appreciate that some people find it useful in alleviating certain symptoms. But nobody should be obligated to be exposed, as we are in our neighborhood. Marijuana, especially smoking marijuana, is not every cancer patient's choice, I can assure you, especially people with severe respiratory issues. Marijuana is listed along with tobacco as a carcinogen on the State of California's Public Health web site. Under the law we are supposed to be protected from tobacco or marijuana exposure while trying to do errands or simply walk to work in the neighborhood, but the volume of sales and sampling both on and off the street make it impossible to simply take a walk to get a breath of fresh air."

Mr. Smith also admitted that his use of the Property produced the marijuana smoke the public was complaining about, asserting that the public comments only demonstrated

that they wanted him to change the dispensary's operation: "They don't necessarily want me gone. What they don't want is they don't want to smell the smoke".

C. Excessive Noise in Violation of BMC § 23B.64.020.A

Neighbors testified at ZAB that the use of the Property produced excessive noise that interfered with the quiet enjoyment of their homes and the neighborhood. Such comments included:

- "People talking all night, so loud . . ."
- "People screaming all night. Last week, I have to get up one time at 3:00 in the morning, second time at 2:00 in the morning, because people are screaming so much, like fighting, ladies asking for help. I called the police - - actually, I see one officer there, and I ask him, what we can do. He said call the police department, 911. If we do that we have to be up all night."
- "And a dramatic increase in car traffic and car noise and car radios that are played so loud you can actually hear them vibrating in your house. And also as has been mentioned, people who hang out in front of our house laughing and distributing marijuana to their friends . . . ."
- "The noise, the discussions, the arguing sometimes that occurs."

D. Excessive Littering in Violation of BMC § 23B.64.020.A

Neighbors also testified that the use of the Property produced excessive littering. Such comments included:

- "People talking all night, so loud, drinking beer, eating food, McDonald's, Jack in the Box, Popeye's, all of the garbage is on the street. I hate to see that, so every morning, I try to pick it up, same like my other neighbors."
- "But there has been very noticeable increase in the amount of trash that is left on the streets in front of our homes. Bottles, cans, empty cigarette packs, plastic food wrappings, sandwich bags, bags used for the sale of pot, plastic bags."

Neighbors also testified that the use of the Property produced excessive traffic and illegal parking in the surrounding neighborhoods. Such comments included:

- "[T]raffic is out of control in there. . . ."

- "On top of that, like we mentioned already, traffic is bad. Sometimes cars go over there and park using two spaces, block the driveway. . . ."

- "And a dramatic increase in car traffic . . . ."

- "There is zero parking . . . I've seen this, openly drug dealing in front of Forty Acres but also around the corner, because there's no parking. This is a really, really busy neighborhood where they'll double park if they have to. And I've seen that in the middle of San Pablo Avenue."

- "As a matter of fact last night, within the time of 30 minutes more than five cars blocked my driveway. My husband, I asked one of them to please move and they, like, they don't pay attention to me. I asked my husband to come out with me. He came out. We ask them properly to please move off the driveway. They got very aggressive with us. Like very aggressive. I called the police . . . The police advised me not to confront them, just call the police every time that happens. So if I were to call the police every time that this thing is happening I would be calling the police at least three or four times a day. Maybe more than four or five times a day. This always happens I would say after 8:00. As soon as it gets dark it gets very bad. The area is so bad."

- "It offers no parking for a clientele it boasts is in the thousands, easily 25 people an hour who often block driveways or simply double-park half a block from one of the busiest, most crowded intersections in Berkeley."

- ". . . as someone who has lived in the neighborhood for decades I can assure you that the phenomenon of blatant, all-day, all-night open drug sales, fights, and drug-buy-related double parking and sidewalk partying coincided with the opening of 40 Acres."

E. Illegal Drug Activity in Violation of BMC § 23B.64.020.A

At the November 6 hearing and in correspondence to the Board, the neighbors testified that the use of the Property facilitated illegal drug activity, including sales. Such comments included:

- "And we have what I would describe as residual drug dealing that occurs. We have two interested parties looking to rent [empty retail space at 1800 San Pablo], they spend time in the area, they observe who is coming and going in that particular neighborhood, and they see the drug dealing occurring on the corner. I cannot confirm directly that it is directly related to Forty Acres but can I tell that you there is a stream of traffic that comes out of the door from that operation, comes down the street around the corner in front of our place and then conversations and other activities occur."

- ". . . the other thing what we see, is people have plastic bags, paper bags, and passing to other people waiting in the dark. One person goes to get -- I mean they have doctor prescription or something. They can remove to it something else. I don't think everybody can have a permit to buy that. But they have permit, they share it, they say they can't make money but I don't think it's free. Because they pass it to 3, 4 people on the street. That area is out of control now."
- "It's all over the neighborhood now. . . . I've seen this, openly drug dealing in front of Forty Acres but also around the corner."

- "And also as has been mentioned, people who hang out in front of our house laughing and distributing marijuana to their friends, typically a car load of four guys will come down and the guy who has the card which allows him to purchase will go and get it, and then he'll bring it down and divvy it up with his friends. I've even seen people, one guy, had four plastic cups that he put on the back of his car. Put marijuana in each of them then walked to different cars that were parked on the street and handed grass."

- "I came home a couple of weeks ago and found a car completely blocking our driveway with the trunk wide open and the driver standing by the trunk selling from open, reeking bags of marijuana to a young woman who looked to be around 12 years old. He was completely blocking my ability to get by with my bicycle, so I said, "do you realize you're in our driveway?" He immediately turned to me and threatened to kill me at the top of his lungs, walking toward me emphasizing that he would bash my head in, etc., until he realized he was leaving his marijuana behind in a wide open trunk. He continued threatening me while closing his trunk and driving off. This was in broad daylight with a street full of people. But most of those people were marijuana customers, and seemed unconcerned."

- ". . . as someone who has lived in the neighborhood for decades I can assure you that the phenomenon of blatant, all-day, all-night open drug sales, fights, and drug-buy-related double parking and sidewalk partying coincided with the opening of 40 Acres."

The Property owner's representative also testified that "there was a unanimous verdict with finding of the jury was that Chris Smith and his pot club were operating illegally and also as a nuisance in the neighborhood" and Mr. Smith failed to rebut this claim.

III. Inspection Warrant

After Mr. Smith was evicted from Units 4-10, City inspectors inspected these units with the consent of the owner in September 2013. During that inspection, they observed

further illegal alterations as well as evidence of an ongoing cannabis operation. In response to Mr. Smith's repeated complaints of alleged housing code violations in Units 1-3 and 11, Mr. Daniel requested consent from Mr. Smith to inspect the units he occupied explaining that a housing inspector was present. Mr. Smith refused to consent, indicating he would contact the City for to schedule inspection. However, Mr. Smith never did contact the City to schedule that inspection and the City obtained an inspection warrant. The City executed the inspection warrant in October 2013.

Mr. Smith claimed that City inspectors violated his rights when conducting the September 2013 inspection and when submitting affidavits in support of their request for an inspection warrant. He has sought to prohibit the City from relying upon the evidence obtained in the October 2013 inspection. The matter was fully briefed for the hearing officer and the hearing officer denied his request. However, because the City dismissed the hearing officer, Mr. Smith has filed another Motion to Quash the evidence in his recent State Action against the City. The City opposed the Motion arguing both that it is meritless and that it is moot because the City no longer intends to rely on this evidence given that it is a year old and, therefore, stale. The Court issued an Order on November 13th staying consideration of Mr. Smith's Motion to Quash pending resolution of the Federal Action.

IV. Conspiracy

Mr. Smith may also argue that the City's witnesses and the owner have engaged in a conspiracy of some nature. The City denies this assertion. Mr. Smith has already made this claim in the Federal and State Actions, and we assume he will reiterate it in any challenge he may make to a nuisance determination, if the Council so determines. It is the sort of claim best resolved by a court. Nonetheless, he may present evidence that he argues supports this claim. To date he has not, in staff's opinion, submitted any persuasive evidence of this claim.

V. Pre-existing Non-Conforming Collective

Apparently conceding that he is not allowed to operate a fourth dispensary, Mr. Smith has claimed that he is not operating a dispensary, but that he is operating a "collective". (Berkeley ordinances do not limit the number of collectives allowed.) He argues that the collective has "legal non-conforming" status because it was established in 2009, before the adoption of Measure T in 2010. This is incorrect for two reasons.

First, in order for a use to be considered legal non-conforming, it must "be established or constructed with the prior approval of, or legalized after the fact by, either a Zoning Certificate or all required Permits." (BMC § 23C.04.010.) While BMC Chapter 12.26 specifies allowable locations for dispensaries and collectives, the Zoning Ordinance has never had an approval process or specified allowable locations for a collective or medical cannabis uses other than dispensaries. (BMC § 23E.16.070.)

Therefore, collectives and other non-dispensary medical cannabis uses cannot be considered legal, non-conforming uses under the Zoning Ordinance regardless of when they were established. Since there is no recognized non-conforming status in the BMC (including Chapter 12.26) except as defined in the Zoning Ordinance, a collective could never achieve a legal non-conforming status. The City communicated this to Mr. Smith when it denied his two business license applications in March, 2012. (**Exhibit 13**.)

Also, Mr. Smith admitted that he no longer occupies the units at the Property where he operated his alleged collective in 2009 because he was evicted from that space; now, he instead operates out of different units at the Property: "Well, part of my house was taken apart because I got evicted from part of my house. At first I had one set of rooms then I had all of the rooms, then I had less than half the rooms. So my rooms and my bedrooms have been changing just like that. Over the past few years. So, I go from certain number of units, I go for more units, all of the time I ask for permits and I get nothing . . . . Now I got to get out of those units. Now I got to reduce everything here." He also listed his home address as 1510 Ashby on the ZAB speaker card.

Second, even if BMC Chapter 12.26 authorized legal non-conforming collectives (which it does not), at the time Mr. Smith claims his cannabis collective was established, BMC Section 12.26.030.E defined a "medical cannabis dispensary" as "any person or entity that dispenses, cultivates, stores or uses medical cannabis except *where such cultivation, storage or use is by a patient or that patient's caregiver, incidental to residential use by such patient, and for the sole use of the patient who resides there*." (**Exhibit C of Exhibit 14**) (emphasis supplied.) Thus, any cannabis use other than by a patient and that patient's caregiver in that patient's lawful residence was considered a dispensary between 2004 and 2010.

This fact was highlighted when staff presented the City Council with proposed amendments to Chapter 12.26 in May, 2010. (**Exhibit D of Exhibit 14**.) The staff report explains "the Ordinance currently defines a Dispensary very broadly in BMC 12.26.030(E). For instance, a Dispensary includes not only the three authorized Dispensaries in Berkeley, but also any entity that cultivates or dispenses medical marijuana for its qualified patient members. This definition of Dispensary is so broad that it unintentionally includes a small Collective of only three qualified patients that cultivate collectively and allocate the marijuana only amount themselves. The Ordinance currently prohibits such a group due to the 3-Dispensary cap rule." (*Id*.)

Without actually explaining how BMC Section 12.26.040 as effective in 2009 assists Mr. Smith's claim, Mr. Smith's counsel directed the Board to "take a good look" at this provision and alleged that "City's contention as to what the law states is not accurate".

BMC Section 12.26.040 as effective in 2009 does not alter the definition of a "dispensary" present in BMC Section 12.26.030.E and has no as relevance to whether the cannabis operation at the Property was considered a dispensary pursuant to this definition or not.

At the hearing before the hearing officer, Ms. Toya Groves was called as a witness by Mr. Smith and she testified that the "collective" she and Mr. Smith co-founded had "thousands" of members. (**Exhibit 15**.) At the November 6th hearing, Ms. Groves further testified "there is (sic) a lot of members" of the "collective." When asked if there were 2,000 members, she explained, "We have grown from what started out as a small group of people; it has gotten bigger".

Consistent with that testimony, Berkeleyside also reported on September 29, 2011 that "in the 21 months since it opened, the Forty Acres Medical Marijuana Growers Collective has seen its membership jump to more than 7000 people …. ." (**Exhibit 2**.)

Also, Mr. Smith was interviewed by the New York Times for an article that was printed on June 5, 2010 and it states that "40 Acres Collective consists of about 100 growers and users who gather to share pot, money and plants." The article quotes Mr. Smith as stating "To me, it's a money movement now" and further states "Mr. Smith said the collective would like to be able to get a city permit and become a licensed dispensary. But the city has capped the number of pot clubs at three, and all the spots are taken. Mr. Smith said he worried that 40 Acres Collective might ultimately be shut out." (**Exhibit 16**.)

Thus, Mr. Smith's cannabis operation would have been considered a dispensary in 2009 pursuant to BMC Section 12.26.030.E. Since dispensaries were capped at 3 in 2004, Mr. Smith's dispensary was unlawful at its inception and remains so today.

Indeed, even if Mr. Smith were operating a collective, as he claims, he would be in violation of Section 12.27.120, because [number of visits, hours of operation, smoking, impacts on adjoining properties, etc.] and Section 12.27.130, subdivisions B and C [testing; financial information and reporting].

Because the only authorized use of the Property since 1972 is a commercial use as a modern dance studio pursuant to Use Permit No. 6894, no residential use of the Property has ever been legally established. Therefore, even if the BMC recognized a non-conforming collective (which it does not) and even if the collective at the Property consisted of only "a patient or that patient's caregiver … for the sole use of the patient who resides there" in 2009 pursuant BMC Section 12.26.030.E (which it did not), because no lawful residential use of the Property was ever established, the collective could never have been "incidental to residential use" as further required by BMC Section 12.26.030.E in effect in 2009.

If the Council wishes to inquire further into these claims, it should consider the following questions:

1. How many members does Mr. Smith's operation have?
2. How many member visits occur per day on average?

3. What days of the week is it open?
4. What are its operating hours?
5. Does it have employees? If so, how many?
6. Does Mr. Smith currently require display of a medical cannabis card for entry?
7. Does his operation provide cannabis to anyone from 1820/1828 San Pablo?
8. Did it ever do so?
9. If it does not do so now, when did it stop?
10. If not, why does it require medical cannabis card for entry?

VI. Equal Protection

Mr. Smith has also claimed that the City discriminated against him on the basis of race by initially proceeding before a hearing officer rather than the ZAB, because the other two illegal dispensaries (Perfect Plants Patients Group or 3PG at 2840-B Sacramento Street and Greenleaf Wellness Center at 1515 Dwight Way) were prosecuted as public nuisances before the ZAB and Council and not through the BMC Chapter 1.24 Nuisance Abatement process. This claim is now moot, and does not relate to the propriety of this proceeding. Moreover, as the Council may recall, in both 3PG and the Greenleaf Wellness Center cases, the zoning issues relating to the use of the properties were clear because the property owners had refused to take any action to cease the unlawful uses. In this case, however, the owner has cooperated with the City with respect to the zoning issues.

VII. Due Process

As explained in the Background section of the report, Mr. Smith's attorney had an exchange with the City Attorney regarding whether or not he would demand that testimony provided to the ZAB and Council be sworn, that he be allowed to cross examine City witnesses or be allowed to conduct an examination of the Board and/or Council - as he had done with the hearing officer. The City Attorney represented that none of these procedures are currently available in a nuisance abatement proceeding before the ZAB and Council under BMC Chapter 23B.64 as it is not the City's practice to incorporate such procedures into public hearings (which Mr. Smith specifically requested) and it has consistently rejected requests for cross examination and sworn testimony in this context. Although, Mr. Smith's attorney indicated that he would not insist upon sworn testimony or *voir dire* of the Council, it is possible that he may still do so. In fact, he insisted upon cross examination of staff at the ZAB despite his comments indicating that he would not do so. In addition, Mr. Smith's counsel advanced a new argument at the ZAB that the refusal to provide it with its own attorney is a Due Process violation. Therefore, the following discussion describes why, in staff's opinion, the Council need not allow such procedures, although it has discretion to do so. The discussion also describes why ZAB was not required to be provided its own attorney.

A. ZAB Counsel

On October 14, 2014, the City Attorney advised Mr. Smith's counsel that, per the City's standard procedure, the ZAB would not be advised by its own attorney in this proceeding. However, Mr. Smith's counsel waited until the afternoon of the November 6th hearing to object to this procedure.

Mr. Smith's counsel claimed that "by refusing to provide the ZAB with independent counsel, the City Attorney places the ZAB in the position of naturally deferring to the legal pronouncements of the City Attorney, and to treat its analysis as that of the Board."

Under BMC Chapter 23B.64, the ZAB acts as an advisory body to the City Council and not a decision making body in this proceeding. On its recommendation, the Council conducts a de novo hearing. For that reason, the Due Process principles that apply to a decision making body do not apply equally to the ZAB. Moreover, the ZAB has consistently conducted nuisance abatement hearings without advice of counsel.

However, *even if* the ZAB were a decision making body in this proceeding, no law requires that it be advised by its own counsel. Instead, the Supreme Court ruled in *Morongo Band of Indians v. State Water Resources Bd*. 45 Cal.4th 731 that Due Process was not violated by one attorney appearing before it in a prosecutorial role (as the Deputy City Attorney did before the ZAB) and another attorney advising the decision maker (as will occur at the City Council). In fact, the Supreme Court found in that case that it would not violate Due Process for the *same lawyer* to serve as a prosecuting attorney and advisor to the ZAB on an unrelated matter.

The Court held "any tendency for the agency to favor an agency attorney acting as prosecutor because of that attorney's concurrent advisory role in an unrelated matter is too slight and speculative to achieve constitutional significance." (*Id*. at 737.)

Based on that authority and its advisory role in these proceedings, the ZAB found there was no constitutional requirement that it be advised by its own independent counsel.

B. Sworn Testimony

California courts have held that, in the context of public hearings conducted in nuisance abatement proceedings, "due process requires adequate notice and meaningful opportunity to be heard. However, there is no precise manner of hearing which must be afforded; rather the particular interests at issue must be considered in determining what kind of hearing is appropriate. A formal hearing, with full rights of confrontation and cross-examination is not necessarily required." *Mohilef v. Janovici* (1996) 51 Cal.App.4th 267, 286 (review denied).

As articulated in *People v. Ramirez* (1979) 25 Cal.3d 260, the court analyzed these four factors to determine what process was due: "(1) the private interest that will be affected by the official action, (2) the risk of an erroneous deprivation of such interest through the

procedures used, and the probable value, if any, of additional or substitute procedural safeguards, (3) the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official, and (4) the governmental interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id*. at 287

With regard to sworn testimony, the *Mohilef* court conducted an exhaustive review of California, federal and other state decisions and found consistent determinations that due process did not require sworn testimony in the administrative hearing context. *Id*. at 289-294. The court held "although the property interest [of the owner in operating an ostrich farm] is important, it is not of such magnitude as to mandate a fundamental change in the manner of conducting the hearings, especially in light of the minimal effect that an adverse decision would have on the Mohilefs. Moreover, we do not believe that the City's current hearing process creates an unacceptable risk of an erroneous decision or that the additional requirement of sworn testimony would materially improve the administrative system. If anything, such a requirement—with its emphasis on formal procedures—would place an undue burden on the City." *Id.* at 294.

"Many residents may be unable to attend the public hearing, but they should still be permitted to register their opinions and feelings on the matter. It follows that the [Board] should be able to consider such evidence in reaching a decision." *Id.*

"We decline to interpret the due process clause in a manner that would force municipalities to observe formal rules of evidence in nuisance abatement proceedings. To do so would transform an efficient factfinding process into a technical, cumbersome procedure, would encourage witnesses to assume the financial burden of retaining counsel in preparing their testimony (or discourage them from appearing if they cannot or do not retain counsel), and would alter the nature and functioning of the … Board by injecting legalisms and attorneys into what is currently a process governed by laypersons." *Id*. at 295. Consequently, the ZAB was not, and the Council is not, required to fundamentally alter its procedures to require sworn testimony in this proceeding.

C. Cross Examination

With regard to cross-examination, the *Mohilef* court similarly conducted a wide ranging analysis of existing state and federal case law and held:

"Balancing the probable value, if any, of a right of cross-examination in administrative nuisance abatement proceedings against the fiscal and administrative burdens that cross examination would entail, we conclude that such a right is not mandated by the due process clause. Just as a requirement of sworn testimony would alter the fundamental nature of the administrative proceeding, so a right of cross-examination would strip the public hearings of their informality. In addition, the cross-examination of most or all witnesses would unnecessarily lengthen the hearings and would certainly

encourage witnesses to retain counsel or not testify at all. Moreover, the [Board], as a neutral arbiter, can question witnesses to clarify their testimony." *Id*. 301. This ruling has been followed by other California authority and is good law.

As a result, the ZAB and Council need not require sworn testimony or cross-examination of witnesses in order to comply with Due Process. This is particularly true in this case where all of the City's witnesses were sworn and subject to Mr. Smith's counsel's cross-examination in the prior three-day hearing before the hearing officer. The City offered to allow his counsel to complete his cross-examination of the only remaining witness and then to provide another hearing officer with the evidence admitted in the course of the hearing and the certified transcript of the hearing. However, Mr. Smith's counsel rejected that offer.

Mr. Smith insisted that he be accorded the same process as was used for the two other illegal dispensaries. Consistent with the ZAB's and Council's procedures, both of those prior proceedings did not involve cross-examination of witnesses.

The City Attorney reiterated to Mr. Smith's counsel in June 2014 that it was the Board's standard practice to not allow cross-examination of witnesses and attempted to understand whether Mr. Smith would argue that this standard practice would not accord Mr. Smith due process. In particular, the City Attorney stated in an email to Mr. Smith's counsel "I understand your answer to be that if the City were to proceed by way of a hearing before the ZAB, you would insist that, for instance, … cross-examination be allowed." (**Exhibit 9**.)

Mr. Smith's counsel responded "[t]o be clear, we have never insisted that cross-examination … is required for due process". (Id.) The City Attorney then stated in reply "If I understand you correctly, you agree that the fact that the ZAB/City Council nuisance abatement proceedings under BMC 23B.64 do not include cross-examination … does not result in a denial of due process." (Id.)

Mr. Smith's counsel responded "we request that you confirm that Mr. Smith made no demand for the right to cross-examination … " and the City Attorney replied "what I can confirm is that until now neither you nor Mr. Smith has stated that you or he would *not* demand … cross-examination in the ZAB/City Council process. (Id.) Indeed, at one point you characterized my request to confirm that you were not making these demands as a request that you 'waive' due process rights." (Id.) Having concluded that Mr. Smith's counsel was finally indicating that Mr. Smith would not insist that cross-examination was required in order to comply with due process in a proceeding pursuant to BMC Chapter 23B.64, the City Attorney then stated "[w]e will issue a revised and superseding notice under Chapter 23B.64." (Id.)

Nonetheless, Mr. Smith's counsel submitted a brief to the ZAB on the afternoon of the November 6th hearing that asserted "the failure to allow cross-examination where the facts establish the need for such examination is an abuse of process." (Id.) He then

characterized the City Attorney's request to simply understand whether Mr. Smith intended to argue that the ZAB's standard procedures were in violation of his due process rights as a "demand for waiver of Mr. Smith's due process rights" and, as such were allegedly "contrary to public policy and unenforceable" and then "insist[ed] on the right to confront the City's witnesses" "because under the circumstances presented, cross-examination is necessary in order to have a fair hearing." (Id.)

Mr. Smith's counsel had already cross-examined the City witnesses when the matter proceeded in front of the hearing officer pursuant to BMC Chapter 1.24. However, Mr. Smith was not satisfied with that process and insisted that his case be prosecuted before the Board as the other two illegal dispensaries had been.

Mr. Smith's counsel pointed out that the authority relied upon by staff in the ZAB staff report (*Mohilef v. Janovici* 51 Cal.App.4th 267 (1996)) involved a case where limited cross-examination was allowed. However, the Court did not restrict its holding to the fact that limited cross-examination was allowed or indicate that, where limited cross examination was not allowed in a public nuisance hearing, that Due Process would be violated.

The Court instead found that requiring cross-examination would strip the process of its informality, would lengthen hearings and either encourage witnesses to hire counsel or not testify at all. (*Id*. at 301.)

In response to Board member Tregub's questions about why Mr. Smith was demanding a hearing pursuant to 23B.64 which may not involve cross-examination when the City had proceeded pursuant to Chapter 1.24 which did allow cross-examination, Mr. Smith's counsel claimed "the cross examination could not take place before the hearing officer. He had just been disqualified. And so the cross examination that we sought was to not just cross examine him regarding in a vacuum, but cross examine him before a body."

Staff explained that the City had offered to allow Mr. Smith's counsel to conclude his cross-examination of the only remaining witness before the hearing officer was dismissed and submit the transcript to another hearing officer, but Mr. Smith's counsel declined that offer.

Mr. Smith's counsel explained his desire to cross-examine Mr. Daniel at the ZAB hearing as follows "[o]ne of the critical issues in this case is that the city has engaged in an extensive effort to prevent my client and the other from rehabilitating the facilities at this location. And Mr. Daniels [sic] is one of the people, for example, who although the City, one of our key issues is that the City took the position that they would overtly invite the homeowner to take one of three options to either remove the existing facilities or to repair them, to bring them into compliance. Meanwhile Mr. Daniels [sic] privately told the homeowner don't bring them into compliance."

Mr. Gregory Daniel responded to this accusation and stated: "The attorney for Mr. Smith repeatedly stated that I discouraged Mr. Soe from making any -- correcting any of the violations. That's absolutely not true. In your packet is a notice of violation, we issued in January, 2012. In that notice of violation, it gives you three specific options. In each of those options Mr. Soe is ordered to submit the appropriate application to planning. Code enforcement doesn't make determinations on what you can or cannot correct. We just give you the options. Remove it, legalize it, prove that it existed."

Thus, the ZAB had an opportunity to consider the charge against Mr. Daniel by Mr. Smith's counsel, hear Mr. Daniel's response, observe both individuals demeanor and weigh the credibility of their statements as the Council will as well.

As a result, the ZAB found that allowing cross-examination would strip the process of its informality, would lengthen hearings and either encourage witnesses to hire counsel or not testify at all and, in light of the fact that Mr. Smith's counsel already cross-examined the City's witnesses and he was offered an opportunity to complete his cross-examination of the only remaining witness, Mr. Daniel and Mr. Daniel responded to Mr. Smith's attorney's accusation regarding the alleged statement he made to Mr. Soe, the ZAB was not required to deviate from its standard practice of not allowing cross-examination at public nuisance hearings in this matter.

D. Hearsay

Although Mr. Smith claims he wanted a process like the other illegal dispensaries, he objected to the entire staff report as a "flood of hearsay assertions". Consistent with controlling authority, Berkeley BMC Section 1.24.100 states that the "formal rules of evidence shall not apply" in a nuisance abatement appeal hearing. Also, California courts have held that "it is well established that a presentation to an administrative agency may properly include evidence that would not be admissible in a court of law." *Id*. at 294.

In rejecting the requirement that testimony be sworn in *Mohilef*, the court noted "since the argument for requiring an oath is based on the premise that unsworn testimony is not trustworthy, we fail to see how the due process clause could mandate the use of an oath without also requiring the adoption of other, more formal rules of evidence, such as the hearsay rule." *Id*. at 295. The court then specifically declined to adopt such a formalistic approach and, thereby, disapproved of the notion that hearsay cannot be relied upon in a nuisance abatement proceeding.

Mr. Smith's counsel did not provide any contrary authority to this analysis which was included in the ZAB staff report. Also, the staff report is largely a summary of documentary evidence which is attached as exhibits the majority of which are either not hearsay or fall within exceptions to the hearsay rule.

E. Denial of Business License

Mr. Smith also argued that the City's denial of his application for a business license to operate a collective was a denial of due process. (**Exhibit 16**.) However, even if the City granted him a business license, it would not have legalized his operation because BMC Section 9.04.045 states that "the issuance of such license to any person, shall not entitle the holder to carry on any business unless he/she has complied with all of the requirements of this chapter and all other applicable laws and ordinances."

Also, Mr. Smith failed to appeal the denial of his business license and cannot be heard to complain about any deficiency regarding the denial now. In fact, the only actual result of the denial was to not allow the City to collect taxes on Mr. Smith's operation. In sum, the City's denial of a business license had no effect other than to allow Mr. Smith not to pay the City's business license tax. This did not cause Mr. Smith any prejudice.

VII. Current Operation of a Dispensary

Although Mr. Smith previously claimed that he is not operating either a dispensary or a collective because no distribution of medical cannabis occurs at the Property, at the November 6th hearing, Board member Williams asked Mr. Smith "At one point you claim that you regularly invite patients and other activists to the property to socialize, fundraise and organize around medical marijuana policy. Is that how you operate now, when previously were you operating as a nonprofit medical marijuana dispensary -- collective?" and he responded "I may have been reiterating a possible social interaction."

Board member Williams then asked "But you're claiming you are still operating as a collective, the issue is whether you're legal because of nonconforming status?" and Mr. Smith responded "Oh no, I'm definitely a legal medical marijuana collective".

Also at the November 6th hearing Mr. Ralph Walker, the sole witness who testified in support of Mr. Smith's dispensary, other than Ms. Groves, testified that Mr. Smith was selling marijuana at the property: "The way police describe his operation sounds like a crackhouse; he's not selling crack, he's selling marijuana".

Ms. Groves further acknowledged that the cannabis operation is an ongoing business enterprise, asserting at the November 6th hearing that, "we do pay state taxes, would love to pay city taxes but we can't get the business license".

Despite the fact that Mr. Smith has previously claimed he resides at the Property, at the ZAB hearing, he filled out a speaker card identifying his home address as "1510 Ashby Avenue, Berkeley". (**Exhibit 46**[3].) This is consistent with evidence showing Mr. Smith's address associated with his credit cards used to pay for the Weedmaps webpage as discussed in the next section below.

[3] Again, Exhibit numbers 46 and higher are attached to this report and not the ZAB report.

Mr. Smith also alleged at the November 6th hearing that he attempted to hold a community meeting to discuss the increased impact of his business on the neighborhood, but nobody showed up: "And most of all, about a year ago, I set out a community meeting and I put one on every door in the neighborhood. And we met at Casa Latina, nobody showed up."

He further claimed he was unaware of the neighbors concerns about his dispensary operation and that he wanted to change the operation to address their concerns: "I want to say I never knew, you know, I've asked people in the neighborhood about what they felt, and no one has ever told me." "I want to know, I want y'all to know, that's not how it's supposed to be. So I'm surprised. I have to talk to y'all."

Consistent with Mr. Smith's statements at the ZAB that he wanted to modify his dispensary operation to decrease the impact on the neighbors, a neighbor of the Property found a notice on the street outside the Property shortly after the ZAB hearing which references the "recent" and "numerous" neighbor complaints and announces a "Good Neighbor Policy" to be implemented by its customers as a result of these complaints. (**Exhibit 47**.) The policy described on the notice is the following:

- PLEASE DO NOT PARK IN NEIGHBORS DRIVEWAYS!
- PLEASE DO NOT SMOKE IN ANY AREAS OF THE NEIGHBORHOOD!
- PLEASE NO LITTERING! TAKE YOUR TRASH WITH YOU!
- NO LOITERING (HANGING OUT AROUND THE NEIGHBORHOOD)!
- PLEASE RESPECT THE NEIGHBORS! (Id.)

Despite this, the neighbors of the Property reported to staff on December 16, 2014 that, after the ZAB hearing, Mr. Smith's customers are:

- Parking in their driveways and respond aggressively when asked to move; and
- Smoking in the neighborhood on the sidewalk and the nearby bus stops and in cars parked in the neighborhood including cars parked in disabled parking spots; and
- Selling cannabis to other individuals waiting in cars and in the neighborhood outside the dispensary.

Neighbors also continue to report that the smell and fumes from the cannabis smoke from the Property is so pervasive that they cannot open their windows in their homes and that some of their children are suffering from asthma.

Neighbors further reported that, when walking by the Property on December 10th or 11th, an individual who was inside the stairwell solicited them to come inside because the dispensary had the "best weed in the world".

<u>Smith Interaction with Neighbors After ZAB Hearing</u>

Neighbors who testified at the ZAB hearing have reported to staff that Mr. Smith approached them in a very aggressive manner after the hearing was concluded outside of Old City Hall and challenged them about why they did not bring their complaints regarding the dispensary operation to his attention. They also reported that Mr. Smith stated "how much money do you want to stop talking?" They responded that they did not want money, but just want their neighborhood back to what it was before his dispensary opened. Mr. Smith responded that the City will never stop the dispensary operation.

According to the neighbors, Mr. Smith continued to aggressively argue with them and eventually requested that counsel, who had been at his side during these exchanges, please get him to stop harassing them. In response, his counsel asked Mr. Smith to stop. This interaction indicates that Mr. Smith is operating a dispensary and apparently intends to continue the operation.

Mr. Smith Pays for A Webpage Costing $615 Per Month to Advertise His Dispensary at the Property

Staff has observed a webpage on Weedmaps.com (Weedmaps) for a dispensary located at the Property. Weedmaps describes itself as "a community where medical marijuana patients connect with other patients in their geographic region to freely discuss and review local cannabis co-operatives, dispensaries, medical doctors and delivery services!"

On August 25, 2014, the City issued a subpoena to Weedmaps for all records from December 1, 2011 to September 15, 2014 regarding Mr. Smith and the dispensary at the Property. Weedmaps provided records in response to this subpoena on September 15, 2014. The records produced indicate that Mr. Smith authorized Weedmaps to charge his credit card on a monthly basis for advertising services on its website. (**Exhibit 17**.[4]) The records show that Mr. Smith authorized these monthly charges on: October 16, 2012; May 18, 2013; July 1, 2013; September 6, 2013; October 4, 2013; on November 6, 2013; and July 15, 2014. Each time Mr. Smith authorized these charges, he provided a billing address of 1510 Ashby Avenue, Berkeley 94703 and a "billing phone" of 510-845-4040. The company names listed on the authorizations from October 16, 2012 through November 6, 2013 were 40 Acres Medical Marijuana Collective, Forty Acres, 40 Acres Medical Marijuana Growers Collective and Forty Acres MMGC. The company name listed on the July 15, 2014 authorization was CSHC. (**Exhibit 17.)**

In addition, Weedmaps provided Marketing Agreements between it and 40 Acres Medical Marijuana Growers Collective located at the Property dated May 18, 2013 and

[4] Weedmaps produced the records with Mr. Smith's credit card information present including his card number, expiration date and security code, but the City has redacted that information in its production for the Board.

July 1, 2013 for a $295 monthly charge for an "on-line marketing relationship". It further provided Marketing Agreements between it and CSHC Collective aka 40 Acres located at the Property dated May 22, 2014 for a $420 monthly charge for an "on-line marketing relationship" listing Christopher Smith as the billing contact and another Marketing Agreement for a "dispensary delivery additional listing" between the same parties dated September 9, 2014 for a $195 monthly charge. **(Exhibit 17.)** Finally, Weedmaps produced its billing transactions from December 11, 2012 through September 11, 2014 demonstrating that it has automatically charged Mr. Smith's credit card for the monthly costs reflected in the Marketing Agreements with the most current charge being $615 per month. **(Exhibit 17.)**

Smith's Website for the Dispensary is Continually Updated With Advertisements, Specials and Customer Reviews

As described above, Mr. Smith has paid to advertise his dispensary at the Property on Weedmaps ever since the City notified him that he could not lawfully operate at that location. Code Enforcement staff has been monitoring the website on a regular basis and has found that the site is updated regularly with specials and advertisements. Initially, as indicated on the Marketing Agreements, the dispensary was advertised as 40 Acres.

Ads and Annoucements

However, after Mr. Smith began claiming that he had "lost his business" due to the eviction, he renamed it the "Chris Smith Center for Compassion" or "CSCC". CSCC was describe as a "medical dispensary" located at "1828 San Pablo Avenue, Berkeley California 94702". The CSCC description further stated "WELCOME HOME!!! Chris Smith Center for Compassion - Providing compassion and therapeutic relief for medical marijuana patients in California. Come visit our DAB BAR and MEDICATING LOUNGE! Now accepting ATM CARDS! Monday Compassion Day - 30% off any purchase - Ask if you qualify today! WEDNESDAY ***SENIOR COMPASSION*** AGES 55 and UP - 20% off any purchase!!! PATIENTS HELPING PATIENTS! JOIN ASA...BECOME A MEMBER OF THE BERKELEY CHAPTER!!"[5]. (**Exhibit 18**.)

On April 22, 2014, the webpage included an announcement that Chris Smith Center for Compassion (CSCC) was "under new management" and that the "management says: 'it's 420 everyday'." (**Exhibit 20.**) It further advertised "receive a free gift with every order (gift changes daily!)" and "free gift for referrals!" (Id.) Under its "description" the page was updated to state "It has always been a goal of mine to help people heal their aches and pains. Sometimes through the use of cannabis, sometimes through music and sometimes, just through basic conversation. Here at CSCC, you will find all three,

[5] Americans for Safe Access (ASA) submitted a declaration in the Soe/Smith litigation indicating it was "not affiliated in any manner whatsoever" with Mr. Smith, his dispensary or the Property. (**Exhibit 19**.)

most importantly, some of my favorite types of Cannabis. Pick from Indica, Sativa and Hybrid flowers or edibles and concentrates. Just come on through. You won't be disappointed!" (Id.) It further included these new ads "MONDAYS *** Compassion Day FREE Shake 1/8 Eighth or 30% off"; "FRIDAYS *** STUDENT 20% off any purchase!!! – must show current student id." (Id.) It also included a new customer review from April 21, 2014. (Id.)

Only a week later the "description" was updated to advertise the following "double up on wax special! 2 grams for $55/mix & match! Prices slashed on all flowers!!! Discounts for veterans, students and seniors everyday!" (**Exhibit 21**.) It also now included "C.Smith" as the author of description of the CSCC's "goal". (*Id*.) It further advertised "delivery is back! Starting Monday April 28, 2014". (*Id*.)

On May 15, 2014, CEU staff noticed that the CSCC webpage was altered to re-name the dispensary "Christopher Smith's House of Compassion" "CSHC (CSCC)" although the description still called itself the "Christopher Smith Center for Compassion". (**Exhibit 22.**) It also included a new ad stating "seeds and clones now available!!" (Id.)

On May 28, 2014, staff observed that the webpage was again updated to advertise "Open Memorial Day to honor our Fallen Soldiers and Veterans!! 25% off entire purchase for Veterans" and again changed the description to "CSHC (CSCC/House of Compassion)" which is how it is currently described. (**Exhibit 23.**)

On August 26, 2014, staff observed that the webpage included a new announcement stating "DAB BRUNCH!! Come on in before noon daily, spend $10 or more at the counter and receive a free wax dab from our dab bar!" (**Exhibit 24.**)

On September 2, 2014, staff observed that the webpage was again updated to include this advertisement "HOUSE OF COMPASSION – Get a taste of the Rockies! The House of Compassion is now serving up Colorado's own Golden Goat strain. With a light golden hue and a sweet, flavorful aroma prove to be one of the strongest Sativa dominant hybrids in the Bay Area. Try one of Colo. Best at CSHC!" (**Exhibit 25.**)

On September 11, 2014, staff again noticed that the webpage was updated to include this advertisement "HOUSE OF COMPASSION – EDIBLE AWARENESS MONTH! EDIBLES MARKED DOWN AS MUCH AS 20%! SAMPLE DAYS SCHEDULED ALL MONTH LONG! MIX AND MATCH 8TH SPECIAL!! CREANE AN 8TH BY COMBINING ANY TWO STRAINS IN THE SAME CATEGORY! WAX/SHATTER MARK DOWN! EXTRACT DOUBLE UP DEAL EXPANDED! SAVE UP TO $10 WHEN YOU BUY 2 GRAMS! MIX & MATCH!" (**Exhibit 2.**)

On November 17, 2014, staff observed that the webpage had been updated to include the following announcement "UNTIL FURTHER NOTICE: DAB LOUNGE IS CLOSED FOR RENOVATIONS. Most available product will be listed on menu. Come on by and

see what more we have in store. We keep rotation of stock and most of all, our patients leave happy!" (**Exhibit 47**.)

WeedMenu

The webpage also includes a list of the cannabis products for sale at the dispensary, the price, photographs and descriptions under its "WeedMenu". (**Exhibit 27**.)

Customer Reviews

As of the writing of this report, the webpage includes customer reviews of the dispensary ranging from February 8, 2011 to December 26, 2014. (**Exhibits 28 and 48-49**.) It also states that it has been a member of Weedmaps since "February 2nd, 2011", the email address is listed as 40acresmedicalmarijuana@gmail.com and the phone number is the same as that listed as the "billing phone" on Mr. Smith's credit card authorizations for charges from Weedmaps. (*Id.*)[6]

The reviews provide specifics that strongly indicate continuous operation of a dispensary at the Property. These are examples from the more recent reviews:

- "Polo is the homie with the jug."
- "they told me my son could not stand a safe distance from the club. Walgreens does not ask to leave your child outside and away from the building. I am not asking to bring my son into the bud room. Just where at least in eye shot from security. After about 7 min I was done with my $399 purchase. The budtender told me I could take my ticket into the hash bar and get a free dab. After being ignored for about 1 min while they ate carls junior over the bar. So I asked the very rude asian girl if she could take care of my transaction. She took my tag looked at her phone and said while rolling her eyes at me 'it's past noon sorry'. As her and her cheer squad laughed at me. Then went back to lunch."
- "will not turn away new patients like a lot of other places do after a certain hour! I was short three buck and [the budtender] let me slide!"

[6] Staff has been monitoring the reviews posted on the webpage and, on July 16, 2014, printed two reviews dated July 9th and 13th. (**Exhibit 29**.) These were negative reviews posted by the same individual who complained about the dispensary selling a product called "OxyContin" and was looking for a response from the dispensary. (*Id.*) When staff reviewed the webpage again on August 1, 2014, these 2 reviews were gone. Since the Weedmaps Marketing Agreements explain that Weedmaps will not remove a review based on a request by the dispensary (**Exhibit 17**), it is logical to assume that this individual reviewer removed these reviews after getting their requested "explanation from the club."

- “Dre & Triston the best bud tenders.”

- “There's a guy that works there his name is Polo best budtender in the eastbay hands down he's helpful, cool and knowledgeable to the strains.”

- “Normally I go at night around 10 or 11 when they close late on weekends and I’ve always got the best customer service and firre bud. They get really busy at night because it’s the only club open late so sometimes there is a long line, sometimes the staff will spark up a joint and tell u to pass it back which s cool. I never got taxed before and now it’s like $9.90 extrra. I don’t like that they never ask me for my stamp card I always have to tell them I have one for them to stamp it and I always buy at least three 1/8ths every time I do go.”

- “This is not an ADA friendly club. Their is stairs leading up to the collective with no wheelchair access. The thing that bugged me the most about this collective though was that I was assured by the bud tender that the Pineapple Kush Wax and the GDP Wax were completely purged but when I got home and cold hit them in my Vape I could taste all sorts of butane and ended up throwing away well over half of the GDP as it gave me an extremely bad tasting butane throat hit.”

- “just wish they showed most of the strains. after spending 400$ I saw something I would of rather had and was cheaper. then I get to the concentrates. the BT told me I could have 2 grams of wasp nest for 55$ then it wasn't.”

- “really appreciate House of Compassion for slashing their prices and keeping a wide assortment of product in stock. On the flip side, there are two things I will say that may be perceived as negative. One, this location is NOT wheelchair accessible, which is very sad. The second is that the employees are sometimes a tad too stoned. In conclusion, if you are looking for some beautifully priced medication because 'home-girl's on a budget' and your Urban Decay eyeshadow pallets/bills don't buy/pay themselves, then shoot over to House of Compassion and stand in line. :) They have the lowest prices on the edible chocolate bars, some chill folk, and great prices/selection on flowers and concentrates.”

- “Incredibly wide selection of flowers concentrates and edibles. Eights from $15-$50 and quite possibly the most extensive concentrate selection I've come across. Andres was very helpful and patient with me(I looked at about everything on the menu) and informative telling me what the better deals where as we'll as what to shy away from. I ended up with a half of cherry pie

for $98 that easily could of cost me 150-200 else where. The free dab was awesome too and I enjoyed reesa at the dab bar who seemed very passionate and energetic."

- "The first time I came here, the place seemed really new because they were literally selling their meds out of a square hole in the wall, but I've come back quite a few times with my girlfriend, AND my mother! Every time we've come back they've had some new updates, products, or remodels and it's definitely an incredible space in the making that I will be visiting again and again. ALSO: check out the dab bar! Antoine (I'm sorry if I've messed up the spelling!) is a real cool guy. I told him yesterday it was my first time doing a dab, so he walked me through the whole process, and another one of a kind staff members made sure I had water. Swell folks! And a special thanks to Tristan (rad fello with lion hair) for being so helpful with my order at the med counter!"

- "I already drive 45 mins to get to Berkeley, and I never usually weigh out my bud out of granted trust for dispensaries but this time I did because I bought 5 grams, 5 strains of their top shelf that came out to be 4.5 grams. Every gram came to be .9 g even, I was so pissed off that I made the decision not to come here again."

- "Came in today and picked up a half of gdp and a half of gsc. CSHC made some nice upgrades inside and broadened their selection substantially. Adreas was awesome in showing me the selection of indicas and is always an easy guy to work with."

- "I went to the club Sept 6, around 11:00 AM. I walked up to the counter then budtender's cell phone rang and he answered his phone and talked for a couple minutes before helping myself and the other patients waiting behind me. What kind of customer service is that? horrible."

- "recently bought an ounce for $175.00 ask for my military discount if 10% which is $17.50...so price should be $157.50 was charged $171 and some change so please get your math skills better ok besides that a so so place to go."

- "Only club where you can actually smoke in Berkeley. Not to mention they have a dab bar with some of the coolest dab tenders I've met. The Kitchen Sink is no joke the biggest dab I've seen. The new smoking lounge is dope too. But forty acres has been providing medicine for a diverse group of people for years. It's one of the most beautiful dispensaries I've visited, where anybody can come and feel at home. Only thing they need is an entrance for handicapped patients."

- "There was a young lady working the dab bar and she spent most of her time attending to obviously more important things than assisting customers. My weed was almost a full gram off and like the other review when I asked them to re weigh it. I recieved a irritated sigh."

- "Went to CSCC tonight for the first time. Went to the window and asked for two ounces of skywalker OG. The tender showed me some weed, I nodded, and he weighed me out two ounces and charged me $600. When I got home and showed my son what I received he told me I had been swindled and sold some garbage outdoor weed. I immediately called back and was told to come back and they would see what they could do. When I got there and demanded to know what happened the guy behind the counter gave me the excuse "Well, I showed you what I was giving you before I weighed it and you said OK." Nevermind that I he knew I was a first time patient and likely had no clue of the difference between strains."

Yelp Reviews

In addition, staff found 13 reviews for "40 Acres Medical Marijuana" listed as being located at "1820 San Pablo Ave. Berkeley CA" on yelp.com ranging from May 14, 2012 through December 1, 2014. (**Exhibits 30 and 50**.) The phone number listed on yelp.com is the same as listed on Weedmaps and the credit card authorizations. (Id.) Again, the recent reviewers provide very detailed descriptions of their experience with the dispensary including the following:

- "first off is a security guard at the front door who greets you with the most handsome smile and very customer service orientated, friendly, professional, courteous and helpful, the new set is great, two different rooms are a plus no more dealing with a room full of people ,,,,one rooms for medication another for patient relaxation, the office lady is great too she gave off such a warm welcoming feeling I loved it, the bud tenders were kick ass and the medication was comparable to walking into Willy Wonka's chocolate factory. this place has been here so long,, the best time is all the time, I like during the day myself. Late hours 9-10 Sunday threw Thursday and FRIDAY SAT 9-12am I can't beat that."

- "My first time in, I wasn't even sure it was a club were it not for the imposing security guard standing outside munching on a tri-tip sandwich, which sort of threw me off. Once getting inside, my paperwork was processed very quickly by a polite lady in their new member office, then was given a brief tour of the store.

  Upon entering the room where both the buds were sold and the smoking/hash bar was located, the lady giving my tour made an announcement of my new membership: "Everyone, I'd like to you to welcome to the newest member of

our club, Dylan. Everyone say Hi, Dylan!" to which I received a very warm welcoming into their family-like collection of club regulars. Not only were these people (mostly older) very friendly, they were quite entertaining as well... though it was a bit tough to see through the thick smoke permeating the space.

The buds were very well priced for what I received and range from lower-end cheap strains to top-shelf $55 eighths, though I opted for the "smackback" $30 eighth of purple which was well trimmed and quite sticky. Also took a couple hits of their hash bar which is a unique feature of a club for this area - most clubs around don't even let you smoke inside so seeing a hash bar was refreshing."

- "definitely have the nicest driver, Matthew Schoch who is always a positive, nice guy and makes the delivery process even more enjoyabe- . If you live in berkeley you only need to purchase $10 worth of medicine and it will be delivered within 15-60 mins and usually on the shorter end. on top of speedy delivery, they include A FREE GIFT WITH EACH DELIVERY its like whaaa?! but its for real- usually a preroll, sometimes an edible. and the people who answer the phone are super nice too which makes ordering easy and fun."

Sticky Guide Review

A website similar to Weedmaps called "Sticky Guide" also lists a dispensary at the Property and includes one review from November 7, 2014. This review states "If you are disabled, forget this place, it only has stairs and a lot of them." (**Exhibit 51**.)

Lab Results from SC Labs

On April 30, 2014 staff viewed the dispensary's Weedmaps webpage and noticed that it was advertising "lab-tested" cannabis. The "WeedMenu" from that date indicates that various types of cannabis for sale were lab tested on "4/19/14 at SC Labs" and that those test results "expire on 5/24/14." (**Exhibit 31**.)

Again on May 15, 2014, staff viewed the dispensary's webpage and noticed it was advertising cannabis for sale that had been lab tested on "5/12/14 at SC Labs" and those results "expire on 6/11/14." (**Exhibit 32.**)

Staff then went to SC Labs website and it confirmed that it had tested various strains of cannabis from "CSCC" on May 11, 2014 and April 19, 2014. (**Exhibit 33**.) The cannabis strains listed as having been tested on SC Labs website match those advertised on Mr. Smith's webpage. (Compare Exhibits 34 and 35 with 36.) SC Labs website also indicated that it had tested cannabis from CSCC previously on December 28, 2013, December 5, 2013, October 24, 2013, October 8, 2013 and September 26, 2013. (**Exhibit 33**.)

Facebook Pages

40 Acres Medical Marijuana Grower's Collective also maintains a Facebook page which describes itself as a "Night Club", posts the same hours of operation as are listed on the Weedmaps page and identifies itself as being located at the Property. (**Exhibit 34**.) Individuals also reviewed the dispensary on the Facebook page with comments as recently as early October, 2014. (*Id*.)

Staff also found information on another Facebook page for "Forty Acres MMGC" described as being located at the Property and with the same phone number as listed on the Weedmap Agreements which has abundant information regarding recent events and photographs of the dispensary and its products. Staff printed the postings from this site on November 3, 2014 and they have not changed as of the writing of this report. (**Exhibit 44**.)

Recent Photos of the Interior of the Property Describing New Smoking Lounge and Notice of Bong Rentals Beginning

Staff also found a notice regarding a "medical marijuana event" scheduled for October 30, 2014 at the Property on the Facebook page of a group called Bay Area Urban Artists. (**Exhibit 41**.) It indicates that the event is to begin at 10:30pm will include a black light 3-D scavenger hunt and that 277 people were invited. (Id.)

Staff also found photographs of the interior of the Property posted on this Facebook page. (**Exhibit 43**.) Some of these photographs depict the artist painting the Property in October 2014 to prepare for the Black Light Extravaganza. (Id.) One of the photos depicts a notice posted on the wall that states the following "DUE TO A LARGE AMOUNT OF BROKEN GLASS RECENTLY, STARTING ON SUNDAY, [??] BONG RENTALS WILL BEGIN. YOU CAN NO LONGER USE THE HOUSE'S BONG UNLESS YOU ARE PURCHASING GLASS. YOU MAY BRING YOUR OWN BONG OR [??]. THANK YOU. CSHC."

Other photographs from this Facebook page depict the interior of the Property in July 2014 and state "I encourage all that have a medical marijuana card to visit The House of Compassion. 1828 San Pablo Berkeley, Ca. To see the Art in the new smoke Lounge. Tell them Gremlin1114 sent you." (Id.)

Instagram Profiles for the Dispensary

The Forty Acres MMGC Facebook page also states "Check out our latest profile on Instagram! http://instagram.com/houseofcompassion#. " This Instagram profile also describes the "House of Compassion" as being located at the Property and "open daily". It also includes photographs of the dispensary and its products as well as photos and a

video described as being taken on Halloween of a party at the Property. (**Exhibit 45**.) The video depicts the same art in the background.

Staff also found another Instagram profile in linked to the page for "CSHC (CSCC/House of Compassion)" listed on "Simpleweed.org" at http://www.simpleweed.org/stores/cshc-cscc-house-of-compassion. The Instagram profile linked to this website is http://instagram.com/csccflowers. Similar to the other Instagram profile, it lists the dispensary as operating at the Property and contains photos of the products it sells which are described as "flowers, edibles and concentrates." (**Exhibit 52**.) It also includes a video shot on April 25, 2014 which depicts customers waiting to purchase products and the list of cannabis products for sale on a digital display board. The video is available for viewing at this link: http://www.cityofberkeley.info/attorney/exhibit53/index.html.

In addition, staff was able to download photos from Instagram on December 16, 2014 of individuals who tagged themselves and their photos to the Property on a specific date. (Id.) For example, the most recent tag is from December 12 when "godsgift_90" tagged himself at the Property and wrote that he was working at "Forty acres". (Id.) There is also a photo from December 9 which depicts a decorated Christmas tree in front of the same artwork depicted in photographs on the Bay Area Urban Artists' and Dispensary's Facebook pages and states "Christmas at 40". (See **Exhibits 41 and 43**.) There is also a photo from December 2nd described by the individual who tagged it as cannabis covered in "hash". (**Exhibit 52.**)

Mr. Smith Applied for and Obtained a Seller's Permit from the California Board of Equalization to Sell Medical Marijuana at the Property in February 2014

As recently as February 18, 2014, Mr. Smith obtained a seller's permit to sell medical marijuana at the Property for the entity doing business as "CSCC" from the California Board of Equalization (BOE). (**Exhibit 35**.) The BOE confirmed that this seller's permit is current and active. (Id.)

Forty Acres Medical Marijuana Members Cooperative Corporation Is Registered as an Active Business With the Secretary of State

As further support of his claim that he "was forced to close down [his] business", Mr. Smith has alleged that 40 Acres is currently "registered as suspended with California's Office of the Secretary of State." However, a search for "Forty Acres" in the Secretary of State's database returned 2 businesses, one suspended and one active, with Christopher Smith as the Agent for Service of Process. (**Exhibit 36**.) The Forty Acres Medical Marijuana ("THE FAMM") Members Cooperative Corporation was filed on February 10, 2012 and is active. (*Id*.) The Forty Acres Medical Marijuana ("FAMM") Growers Collective was filed on January 8, 2010 and is suspended. (*Id*.)

A Dispensary Member Called BPD for Assistance

On March 23, 2014 at approximately 11:30 a.m., Ms. Daujeniqe Taylor called 911 to report that she was being hit, punched and thrown down stairs of the dispensary. (**Exhibit 37**.) When BPD responded to this call, Ms. Taylor stated that she had come to see her boyfriend, Mr. Greer, who worked as a security guard at the cannabis dispensary because he would not return her calls. Ms. Taylor also claimed that she was a member of the dispensary.

The responding officers interviewed the staff present at the time of the incident which included another security guard in addition to Mr. Greer and a "manager" of the dispensary. The staff claimed that Ms. Taylor was making a scene "in front of the customers" because Mr. Greer would not speak to her and that she grabbed the metal detector wand hanging by the guard's station outside of Unit 1 and began swinging it over her head. They claim they removed her from the dispensary based on these actions and "carry-walked" her down the stairs.

Officer Kassebaum, who testified at ZAB and who is scheduled to testify again at Council, asked to see the top of the stairs where the incident occurred and the manager complied. At the top of the stairs, the door to the Unit 1 was open and he saw approximately 3 people inside and smelled a very strong smell of burning cannabis coming from the Unit. However, the dispensary manager quickly closed the door to Unit 1 after he arrived at the top of the stairs. Despite the presence of numerous staff and other individuals at the Property on this Sunday at 11:30 a.m., Mr. Smith was not present.

Further, Officer Kassebaum has observed a "constant stream of foot traffic coming and going from the property" while on patrol in the neighborhood and frequently observes individuals exiting the property with brown paper bags.

Ms. Taylor was dissatisfied with the police response to her call, so requested to speak to a supervisor about the incident. (**Exhibit 38.**) In response to Ms. Taylor's request, Sergeant Murphy, who is scheduled to testify at the Council meeting, spoke with her. (Id.) Ms. Taylor claimed that her boyfriend, Mr. Greer, was head of security at the cannabis dispensary at the Property, that she had a valid medical cannabis card, was a member of the dispensary and goes there regularly as a customer. (Id.) Because of that, she asserted that she had a legal right to be at the dispensary and the guards had no right to remove her. (Id.)

<u>Surveillance Shows High Traffic</u>

Officer Rodrigues, who testified at the Board hearing and is scheduled to testify at the Council, has conducted surveillance of the Property on September 19, 2014, October 17, 2014 and October 22, 2014. (**Exhibit 39**.) On each of these dates, she conducted surveillance for one hour. (*Id*.) On September 19, 2014 between 10:15pm to 11:15pm, she observed that the door was wide open and the lights were on. (*Id*.) She further

observed that a security guard was standing at the door. (*Id*.) Within the first 5 minutes, she observed 10 people leave the Property and, over the course of the hour she was there, she observed another 31 people enter and then leave 10-15 minutes later. (*Id*.) Each person who entered was required to show identification to the guard. (*Id*.)

On October 17, 2014, between 10pm and 11pm, she observed the same conditions of the door wide open, lights on and security guard standing on the sidewalk near the front door. (*Id*.) This time, she observed 29 people enter and then exit shortly thereafter. (*Id*.) Again, each person entering was required to show identification to the security guard. (*Id*.)

On October 22, 2014, between 9:30pm and 10:30pm, she observed the same conditions at the Property except that, at 10pm, the security guard moved into the Property and shut the door. (*Id*.) After that, she observed several people approach the closed door and then be greeted by the security guard who again checked their identification and then let them in. (*Id*.) On this evening, Officer Rodrigues observed 35 people enter and shortly thereafter exit the Property in the hour. (*Id*.)

<u>BPD Has Effectuated Four Undercover Purchases of Cannabis from the Dispensary Between February 2014 and December 2014</u>

On four occasions since Mr. Smith claims he "closed down" his cannabis operation, Officer Rodrigues has facilitated a purchase of cannabis products from the Property by a confidential informant. In particular, within 72 hours of February 5, 2014, Officer Rodrigues searched the confidential informant and found him/her not to be in possession of any money or contraband. (**Exhibits 40 and 53**.) She then gave the confidential informant money to purchase cannabis from the Property. (Id.) She observed the informant as he/she entered and exited the Property a few minutes later. (Id.) The informant and Officer Rodrigues met up at a pre-determined location and, after the informant handed her 5.91 grams of cannabis, she searched the informant again and did not find him/her in possession of any money or contraband. (Id.)

The informant observed several people inside the dispensary smoking cannabis, described that he/she waited in line to purchase cannabis with several other people,that he/she saw a digital price board that was located above the counter which indicated different types of cannabis available for purchase with the associated prices per weight and that, behind the counter, there were numerous clear jars of cannabis that were available for purchase. (Id.) Officer Rodrigues then tested the cannabis and it tested presumptive NIK E positive for cannabis. (Id.)

Officer Rodrigues then caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on February 13, 2014. (Id.) The lab results identified that the substance purchased by the confidential informant was, in fact, cannabis. (Id.)

For a second time within 72 hours of April 13, 2014, Officer Rodrigues searched the confidential informant and found him/her not to be in possession of any money or contraband. She then gave him/her money to purchase cannabis from the Property. She observed the informant as he/she entered and exited the Property a few minutes later. The informant and Officer Rodrigues met up at a pre-determined location and, after the informant handed her 5.03 grams of cannabis in a baggie with a sticker on it that read, "Not for sale, for medical use only, Health and Safety Code 11362.7.", she searched the informant again and did not find him/her in possession of any money or contraband.

Again, the informant observed several people inside the dispensary smoking cannabis and that he/she saw a digital price board that was located above the counter which indicated different types of cannabis available for purchase. Officer Rodrigues then tested the cannabis and it tested presumptive NIK E positive for cannabis.

Officer Rodrigues then caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on May 23, 2014. (Id.) The lab results identified that the substance purchased by the confidential informant was, in fact, cannabis. (Id.)

For a third time within 72 hours of August 22, 2014, Officer Rodrigues searched the confidential informant and found him/her not to be in possession of any money or contraband. (Id.) She then gave him/her money to purchase cannabis from the Property. She observed the informant as he/she entered and exited the Property a few minutes later. (Id.) The informant and Officer Rodrigues met up at a pre-determined location and, after the informant handed her 5.07 grams of cannabis in a baggie with a sticker on it that read, "Not for sale, for medical use only, Health and Safety Code 11362.7.", she searched the informant again and did not find him/her in possession of any money or contraband. (Id.)

The informant stated that he/she purchased the cannabis from two employees that stood behind a glass counter. (Id.) The glass counter displayed glass cannabis smoking pipes and other smoking paraphernalia that were for sale. (Id.) Behind the glass counter, the informant observed dozens of glass jars that contained different strains of cannabis that were available for sale. (Id.) The informant again observed several other customers in line to purchase cannabis and a digital price board to the left of the glass counter which was affixed to the wall and indicated different types of cannabis available for purchase. (Id.) Officer Rodrigues then tested the cannabis and it tested presumptive NIK E positive for cannabis. (Id.)

Officer Rodrigues then caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on August 26, 2014. (Id.) The lab results identified that the substance purchased by the confidential informant was, in fact, cannabis. (Id.)

For a fourth time within 72 hours of December 22, 2014, Officer Rodrigues searched the confidential informant and found him/her not to be in possession of any money or contraband. (Id.) She then gave him/her money to purchase cannabis from the Property. She observed the informant as he/she entered and exited the Property a few minutes later. (Id.) The informant and Officer Rodrigues met up at a pre-determined location and, after the informant handed her 1.81 grams of cannabis in a baggie with a sticker on it that read, "Not for sale, for medical use only, Health and Safety Code 11362.7.", she searched the informant again and did not find him/her in possession of any money or contraband. (Id.)

The informant stated that he/she walked past the security guard and was not required to show a medical cannabis recommendation or other identification and was not required to become a member of the dispensary, but was able to purchase the cannabis from an employee that stood behind a glass counter. (Id.) The glass counter displayed glass jars that contained different strains of cannabis that were available for sale and each jar had a sticker with the price per gram. (Id.) The informant again observed several other customers in line to purchase cannabis and a digital price board to the left of the glass counter which was affixed to the wall and indicated different types of cannabis available for purchase. (Id.) Officer Rodrigues then tested the cannabis and it tested presumptive NIK E positive for cannabis. (Id.)

Officer Rodrigues then caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on December 22, 2014. (Id.) The lab results identified that the substance purchased by the informant was in fact cannabis. (**Exhibit 57.)**

<u>Recent Owner Observations</u>

Consistent with the above evidence are observations made by the owner's representative, Mr. Clarence Soe. On or around August 7, 2014, Mr. Soe visited the Property at approximately 10am. He walked into the Property and noticed a podium approximately 4 feet north of Unit 1. At the podium was a security guard who, upon viewing Mr. Soe said "just wait a minute" and then "oh yes, I know who you are." Mr. Soe asked the guard if Mr. Smith was present and the guard said he was not. Unit 1's door was open and Mr. Soe then proceeded into it. In Unit 1, he observed a glass counter along the north wall displaying cannabis smoking pipes and other smoking paraphernalia.

A woman was working behind the counter and she asked if she could help Mr. Soe. The guard said "he is the building owner". A wooden bar which Mr. Soe had previously observed in this Unit has been removed. Mr. Soe also observed cannabis plants through the window located in Unit 1 that connected to Unit 3. He also observed the digital display board mounted on the wall that displayed prices of cannabis offered for sale. Mr. Soe did not observe any residential furniture or other evidence of residential use in Unit 1. Mr. Soe then checked Units 2 and 3 and they were locked. However,

Unit 11 was open and Mr. Soe stood at the doorway and observed office furniture including desks, computers, office chairs and membership intake forms on a podium. Again, Mr. Soe did not observe any residential furniture or other evidence of residential use in Unit 11. Rather it appeared to be organized in a similar manner as what you would observe in a doctor's office.

Staff provided the photos posted on the Bay Area Urban Artists' Facebook page to Mr. Soe and he has confirmed that he viewed the same art when visiting the Property in August 2014 and on October 30, 2014.

In fact, during his October 30, 2014 visit, the door to Unit 2 was open and the Property owner's representative was able to view the same art on the wall and observed that it was now set up as a smoking lounge with a wooden bar, a row of chairs and an open area. Unit 11 was in the same condition as he observed it in August 2014 (an office) and Unit 1 contained the same lobby/sales area with the glass display case that he observed in August 2014. He also observed Halloween decorations in the hallway including cobwebs and skeletons as depicted in the photographs.

He first visited the Property on October 30, 2014 at approximately 10:15 pm and encountered a security guard who spoke with him as he viewed Unit 2 and approximately 3 to 4 other people in Unit 1 who appeared to be closing down the dispensary for the evening. Mr. Smith was not present.

The Property owner's representative returned to the Property again at 11:15 pm and encountered the same security guard again, but no other individuals were present at this time including Mr. Smith.

Recent Neighbor Observations

Neighbors of the Property have described seeing a large amount of traffic coming and going from the Property and observing the security guard sitting on a chair outside the Property, identifying members and then admitting them entrance. They also describe observing selling and buying of cannabis in the surrounding neighborhood outside the Property. They further describe observing individuals leave the Property, roll cannabis cigarettes and smoke them in the neighborhood.

A neighborhood business owner also described heavy foot traffic in and out of the Property all the time with individuals leaving with brown paper bags and the security guard's constant presence. The business owner also explained that an individual named Cam Bailey described himself as an employee of the dispensary and came into his business during the week of October 13. Mr. Bailey was complaining to the business owner about the City's nuisance abatement action.

Neighbors also testified at the ZAB that the operation had increased in intensity within the last year – the year during which the City was conducting its nuisance abatement proceeding.

Such comments included:

- "They've been around for years back, but this year is the worst year."
- "I notice a lot of smoke daily and the smell, pretty strongly, end of last month, till today. It's getting more constant."
- "I been living there for two years, it wasn't like that two years ago. But it concerns me. . . . I don't know if it's coming from that place but I know it's there, the smoke started. But I started noticing it recently. And I hope it stops. Because it wasn't like that two years ago."
- "So starting this year, this thing start getting more aggressive and more people in front of it."
- "I want to reiterate what the other speakers were saying, the last few years at the corner of San Pablo and Tenth has become a real problem."
- "[It] is obviously a cannabis dispensary that has been operating in full force for years now. Probably, I thought it was about three years and it's good, I learned something here tonight, that it's been going on even longer than that but it keeps getting bigger and bigger."

Admissions by Dispensary Staff

Mr. Daniel spoke with Mr. Paul Pinguelo prior to the ZAB hearing. Mr. Pinguelo was involved in the March 23, 2014 incident involving Ms. Daujeniqe Taylor and described himself to BPD Officers as security guard for the dispensary. Mr. Pinguelo was also identified as a witness to an auto accident that occurred outside the Property on June 13, 2014. The accident involved a City refuse truck and the refuse truck driver, Mr. Gayton, indicated that he sees Mr. Pinguelo at the entrance to the Property each week when he drives his route.

Mr. Pinguelo spoke with Mr. Daniel on October 22, 2014 and stated that he "helps out a lot" at the Property because "people need their medication and it is wrong that the City is taking away medication from people who have legal prescriptions for it." He asked Mr. Daniel "you wouldn't shut down a pharmacy where patients get their diabetes medication and since you don't even know what their ailments are, how can you take away their medication?" Mr. Daniel asked him how he "helped out" and Mr. Pinguelo responded that "sometimes I stand guard in the hallway, sometimes I escort patients to the office." He also said "Chris is doing a good job of providing medication to people

who can't afford it." He further said "the alcohol they sell downstairs[7] does more damage than the medication being dispensed" at the Property.

Mr. Daniel also spoke with Mr. Darro Hudspeth on October 22, 2014. Mr. Hudspeth had previously testified in the Unlawful Detainer Action that he was co-founder of 40 Acres and was responsible for the "day to day" operation as a "director". Mr. Daniel asked Mr. Hudspeth if he was willing to discuss "CSHC" with him and Mr. Hudspeth indicated he was. Mr. Daniel asked him what his involvement with CSHC was and Mr. Hudspeth indicated he was a "volunteer". Mr. Daniel asked Mr. Hudspeth in what capacity he volunteers and Mr. Hudspeth stated that he "helps Chris out with whatever he needs", but did not offer any additional specifics. Mr. Hudspeth then stated "you are trying to shut it down" and "I don't want to speak with you" and ended the conversation.

Mr. Smith has claimed that he "regularly invites patients and other activists to his property in order to socialize, fundraise, and to organize around medical marijuana policy" in an attempt to explain the presence of many individuals at the Property. However, Mr. Smith was not present on March 23, 2014 when officers responded to Ms. Taylor's 911 call, yet 3 staff members of the dispensary were on duty and approximately 3 "customers" were observed in a room filled with cannabis smoke. (**Exhibits 37 and 38.**) Mr. Smith was also not present on March 26, 2014 when a building inspector attempted to investigate a complaint of illegal construction and was told by yet another staff member, "Cameron", that he could not allow the inspector to enter, but would give his card to Mr. Smith. At that time, the building inspector smelled cannabis as well. (**Exhibit 42**.)

Mr. Smith was also not present on each of the 3 occasions between February 2014 and August 2014, when a confidential informant purchased cannabis products at the dispensary without having been "invited" by Mr. Smith to "socialize, fundraise and organize around medical marijuana policy". Instead, the informant described a busy cannabis dispensary where he/she had to wait in line with several people in order to purchase cannabis while several other people were smoking cannabis in the lounge. (**Exhibit 40**.)

Mr. Smith was also not present each time Mr. Soe visited the Property between August and October, 2014 although security guards and various other were present.

<u>Cannabis Product Websites Advertise That The Products Are Available for Purchase at the Dispensary</u>

Staff also found three websites for cannabis products which advertise that the products are available for purchase at the Dispensary. For example, as of October 13, 2014, Korova Edibles lists that its products are available for purchase at "CSHC (CSCC/House of Compassion)" in the East Bay. (**Exhibit 54**.) Absolute Xtracts

[7] The reference appears to be to the Albatross Pub.

described as "concentrated, highly aromatic [cannabis] oil" also indicates that its products can be purchased at "CSHC (CSCC/House of Compassion)" located at "1828 San Pablo Ave. Berkeley". (**Exhibit 55**.) Finally, staff found that Pure Vida which also makes cannabis edibles and lists their products as available for sale at "40 Acres CSHC (CSCC/House of Compassion) Berkeley, CA". (**Exhibit 56**.) In fact, the Facebook page for Pure Vida listed an event on August 1 for a "demo tonight in Berkeley - at CSCC" and linked the dispensary's weedmaps' webpage. (Id.)

Conclusion

As a result of the above, is it apparent that Mr. Smith's cannabis operation at 1820/1828 San Pablo is in violation of BMC Chapters 12.26 and 12.27 and the Zoning Ordinance. In addition, the Property is in violation of the Zoning Ordinance due to its unlawful conversion into 11 tenant spaces. Consequently, the Property meets the requirements for nuisance under BMC Section BMC 23B.64.020.B.

In addition, the cannabis operation meets the requirements for nuisance under BMC Section 23B. 64.020.A for facilitating disturbances of the peace, illegal drug activity including sales or possession thereof, excessive littering, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), and noxious smells or fumes.

Because staff anticipates that Mr. Smith will continue to operate his dispensary at the Property despite a Council resolution ordering him to cease operations, it requests that Council authorize all enforcement action appropriate to enforce its determination of a public nuisance including, but not limited to, administrative citations, seeking an injunction, a nuisance abatement warrant or any other available remedy.

RATIONALE FOR RECOMMENDATION

See above

ALTERNATIVE ACTIONS CONSIDERED
None.

CONTACT PERSONS
Laura McKinney, Deputy City Attorney 981-6998
Gregory Daniel, Code Enforcement Unit Supervisor 981-2482

Attachments:

1. Resolution
2. Exhibits 46-57
3. Index to Administrative Record
4. Administrative Record
5. Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

DECLARING THE PROPERTY AT 1820/1828 SAN PABLO AVENUE OPERATING AS AN UNLAWFUL CANNABIS USE IN VIOLATION OF BERKELEY MUNICIPAL CODE (BMC) CHAPTERS 12.26 AND 12.27 AND THE ZONING ORDINANCE (SECTIONS 23B.56.010.A, 23B.56.020, 23E.16.070, 23A.12.010, AND 23E.64.060); AND IS A PUBLIC NUISANCE UNDER BMC CHAPTER 23B.64; AND (2) ORDERING THE UNLAWFUL CANNABIS USE ENJOINED AND TERMINATED AND THE UNLAWFUL CONVERSION OF THE PROPERTY INTO 11 TENANT SPACES REMOVED

WHEREAS, on November 6, 2014 the Zoning Adjustments Board (ZAB) held a duly noticed public hearing as required by Berkeley Municipal Code (BMC) Section 23B.64.030; and

WHEREAS, on November 13, 2014 the ZAB adopted Resolution Number 14-01 recommending that the City Council, after conducting a public hearing, find and determine as follows: that 1820/1828 San Pablo Avenue a public nuisance pursuant to BMC Section 23B.64.020 and order the unlawful medical cannabis use enjoined and terminated and the 11 separate tenant spaces removed; and

WHEREAS, although the property owner has consented to the ZAB's recommendation, Mr. Smith has not; and

WHEREAS, on January 20, 2015, the City Council held a duly noticed public hearing as required by BMC Chapter 23B.64; and

WHEREAS, on October 14, 2014, the City Attorney advised Mr. Christopher Smith's counsel that, per the City's standard procedure, the Board would not be advised by its own attorney in this proceeding. However, Mr. Smith's counsel waited until the afternoon of the November 6 hearing to provide his objections to this procedure; and

WHEREAS, Mr. Smith's counsel claimed that "by refusing to provide the ZAB with independent counsel, the City Attorney places the ZAB in the position of naturally deferring to the legal pronouncements of the City Attorney, and to treat its analysis as that of the Board"; and

WHEREAS, under BMC Chapter 23B.64, the ZAB acts as an advisory body to the City Council and not a decision making body in this proceeding. On its recommendation, the Council conducts a de novo hearing. For that reason, the same Due Process principles that apply to a decision making body do not apply to the ZAB; and

WHEREAS, *even if* the ZAB were a decision making body in this proceeding, no law requires that it be advised by its own counsel. Instead, the Supreme Court ruled in *Morongo Band of Indians v. State Water Resources Bd*. 45 Cal.4th 731 that Due Process was not violated by one attorney appearing before it in a prosecutorial role (as the Deputy City Attorney did here) and another attorney advising the decision maker (as will occur when the Board's recommendation reaches the City Council). In fact, the

Supreme Court found in that case that it would not violate Due Process for the *same lawyer* to serve as a prosecuting attorney and advisor to the Board on an unrelated matter; and

WHEREAS, the Court held "any tendency for the agency to favor an agency attorney acting as prosecutor because of that attorney's concurrent advisory role in an unrelated matter is too slight and speculative to achieve constitutional significance" (*Id*. at 737.); and

WHEREAS, based on that authority and its advisory role in these proceedings, the Council finds there was no constitutional requirement that the ZAB be advised by its own independent counsel; and

WHEREAS, Mr. Smith's counsel also claimed at the November 6 hearing that the City argued to the Superior Court the week prior that his Motion to Quash evidence from an inspection warrant would be decided by Board and, thus, the Board must rule on the Motion. However, the City actually argued Mr. Smith's Motion to Quash was moot because the "City no longer intends to rely on evidence gathered a year ago because, frankly, it is stale"; and

WHEREAS, although Mr. Smith's counsel claimed at the November 6 hearing that he had provided the Board "with a motion to quash certain of the evidence that was received here" "because the City is relying substantially on evidence that we contend was unlawfully seized", he failed to identify *any evidence* relied upon by staff that was subject to his Motion to Quash; and

WHEREAS, in fact, the ZAB staff report did not rely on any evidence generated from the October 2013 inspection and staff presented no evidence generated from the October 2013 inspection during the November 6 hearing; and

WHEREAS, based on the foregoing, the Council finds that the ZAB was not required to make a determination on Mr. Smith's Motion to Quash because no evidence subject to it was before it; and

WHEREAS, Mr. Smith insists that he be accorded the same process as was used for the two other illegal dispensaries. Consistent with the ZAB's and Council's procedures, both of those prior proceedings did not involve cross-examination of witnesses; and

WHEREAS, the City Attorney reiterated to Mr. Smith's counsel in June 2014 that it was the Board's standard practice to not allow cross-examination of witnesses and attempted to understand whether Mr. Smith would argue that this standard practice would not accord Mr. Smith due process. In particular, the City Attorney stated in an email to Mr. Smith's counsel "I understand your answer to be that if the City were to proceed by way of a hearing before the ZAB, you would insist that, for instance, … cross-examination be allowed"; and

WHEREAS, Mr. Smith's counsel responded "[t]o be clear, we have never insisted that cross-examination … is required for due process". The City Attorney then stated in reply "If I understand you correctly, you agree that the fact that the ZAB/City Council nuisance abatement proceedings under BMC 23B.64 do not include cross-examination … does not result in a denial of due process"; and

WHEREAS, Mr. Smith's counsel responded "we request that you confirm that Mr. Smith made no demand for the right to cross-examination … " and the City Attorney replied "what I can confirm is that until now neither you nor Mr. Smith has stated that you or he would *not* demand … cross-examination in the ZAB/City Council process. Indeed, at one point you characterized my request to confirm that you were not making these demands as a request that you 'waive' due process rights." Having concluded that Mr. Smith's counsel was finally indicating that Mr. Smith would not insist that cross-examination was required in order to comply with due process in a proceeding pursuant to BMC Chapter 23B.64, the City Attorney then stated "[w]e will issue a revised and superseding notice under Chapter 23B.64"; and

WHEREAS, nonetheless, Mr. Smith's counsel submitted a brief to the ZAB on the afternoon of the November 6 hearing that asserted "the failure to allow cross-examination where the facts establish the need for such examination is an abuse of process." He then characterized the City Attorney's request to simply understand whether Mr. Smith intended to argue that the ZAB's standard procedures were in violation of his due process rights as a "demand for waiver of Mr. Smith's due process rights" and, as such were allegedly "contrary to public policy and unenforceable" and then "insist[ed] on the right to confront the City's witnesses" "because under the circumstances presented, cross-examination is necessary in order to have a fair hearing"; and

WHEREAS, Mr. Smith's counsel already cross-examined the City witnesses when the matter proceeded in front of the hearing officer pursuant to BMC Chapter 1.24. However, Mr. Smith was not satisfied with that process and insisted that his case be prosecuted before the Board as the other two illegal dispensaries had been; and

WHEREAS, Mr. Smith's counsel pointed out that the authority relied upon by staff in the staff report (*Mohilef v. Janovici* 51 Cal.App.4th 267 (1996)) involved a case where limited cross-examination was allowed. However, the Court did not restrict its holding to the fact that limited cross-examination was allowed or indicate that, where limited cross examination was not allowed in a public nuisance hearing, that Due Process would be violated; and

WHEREAS, the Court instead found that requiring cross-examination would strip the process of its informality, would lengthen hearings and either encourage witnesses to hire counsel or not testify at all. (*Id*. at 301.); and

WHEREAS, in response to Board member Tregub's questions about why Mr. Smith was demanding a hearing pursuant to 23B.64 which may not involve cross-examination

when the City had proceeded pursuant to Chapter 1.24 which did allow cross-examination, Mr. Smith's counsel claimed "the cross examination could not take place before the hearing officer. He had just been disqualified. And so the cross examination that we sought was to not just cross examine him regarding in a vacuum, but cross examine him before a body"; and

WHEREAS, staff explained that the City had offered to allow Mr. Smith's counsel to conclude his cross-examination of the only remaining witness before the hearing officer was dismissed and submit the transcript to another hearing officer, but Mr. Smith's counsel declined that offer; and

WHEREAS, Mr. Smith's counsel explained his desire to cross-examine Mr. Daniel at the ZAB hearing as follows "[o]ne of the critical issues in this case is that the city has engaged in an extensive effort to prevent my client and the other from rehabilitating the facilities at this location. And Mr. Daniels [sic] is one of the people, for example, who although the City, one of our key issues is that the City took the position that they would overtly invite the homeowner to take one of three options to either remove the existing facilities or to repair them, to bring them into compliance. Meanwhile Mr. Daniels [sic] privately told the homeowner don't bring them into compliance"; and

WHEREAS, Mr. Gregory Daniel responded to this accusation and stated: "The attorney for Mr. Smith repeatedly stated that I discouraged Mr. Soe from making any -- correcting any of the violations. That's absolutely not true. In your packet is a notice of violation, we issued in January, 2012. In that notice of violation, it gives you three specific options. In each of those options Mr. Soe is ordered to submit the appropriate application to planning. Code enforcement doesn't make determinations on what you can or cannot correct. We just give you the options. Remove it, legalize it, prove that it existed"; and

WHEREAS, the ZAB had an opportunity to consider the charge against Mr. Daniel by Mr. Smith's counsel, hear Mr. Daniel's response, observe both individuals demeanor and weigh the credibility of their statements; and

WHEREAS, the Council finds that allowing cross-examination would strip the process of its informality, would lengthen hearings and either encourage witnesses to hire counsel or not testify at all and, in light of the fact that Mr. Smith's counsel already cross-examined the City's witnesses and he was offered an opportunity to complete his cross-examination of the only remaining witness, Mr. Daniel and Mr. Daniel responded to Mr. Smith's attorney's accusation regarding the alleged statement he made to Mr. Soe, the Board and Council are not required to deviate from the standard practice of not allowing cross-examination at public nuisance hearings in this matter; and

WHEREAS, although Mr. Smith claims he wanted a process like the other illegal dispensaries, he objected to the entire ZAB staff report as a "flood of hearsay assertions"; and

WHEREAS, the staff report explains that hearsay is admissible in administrative nuisance abatement proceedings and Mr. Smith's counsel did not provide any contrary authority; and

WHEREAS, the staff report is largely a summary of documentary evidence which is attached as exhibits the majority of which are either not hearsay or fall within exceptions to the hearsay rule; and

WHEREAS, according to City records, 1820/1828 San Pablo Avenue (the Property) is the second floor of a two-story commercial building located in the C-W District which is a commercial zoning district. The Property is owned by Clarence Soe/Soe Group and FJSC Soe Group (collectively "the owner"). The last legal use of the Property was a modern dance studio per Use Permit No. 6894 issued in 1972. Since then, no other use has been approved by the City; and

WHEREAS, because the only lawful use of the Property from 1972 until today has been a commercial use as a modern dance studio pursuant to Use Permit No. 6894, no lawful residential use has ever been established at the Property; and

WHEREAS, in 2004, Berkeley Municipal Code (BMC) Section 12.26.130 (formerly Section 12.26.110) imposed a cap on the number of medical cannabis dispensaries that may operate in Berkeley at any one time. Mr. Smith's cannabis operation was not one of the three authorized dispensaries in existence at that time; and

WHEREAS, BMC Section 12.26.130 now allows four medical cannabis dispensaries, with the fourth to be selected in 2015 through a competitive selection process. Thus, at present, only three dispensaries are allowed in Berkeley; and

WHEREAS, Mr. Smith has claimed that he is not operating a dispensary. Rather, he has claimed that he is operating a "collective" (Berkeley ordinances do not limit the number of collectives allowed), but collectives are prohibited in commercial zoning districts pursuant to BMC Section 12.26.030.D, which states "[m]edical cannabis collectives shall not be located in commercial or manufacturing districts, and shall only be allowed in residential districts, and only to the extent they are incidental to residential use"; and

WHEREAS Mr. Smith has further claimed that his alleged collective has "legal non-conforming" status because it was established in 2009, before the adoption of Measure T in 2010; and

WHEREAS, at the November 6, 2014, hearing, Mr. Smith admitted that he no longer occupies the units at the Property where he operated his alleged collective in 2009 because he was evicted from that space; now, he instead operates out of different units at the Property: "Well, part of my house was taken apart because I got evicted from part of my house. At first I had one set of rooms then I had all of the rooms, then I had less than half the rooms. So my rooms and my bedrooms have been changing just like that.

Over the past few years. So, I go from certain number of units, I go for more units, all of the time I ask for permits and I get nothing . . . . Now I got to get out of those units. Now I got to reduce everything here"; and

WHEREAS, in order for a use to be considered legal non-conforming, it must "be established or constructed with the prior approval of, or legalized after the fact by, either a Zoning Certificate or all required Permits" (BMC § 23C.04.010.); and

WHEREAS, while BMC Chapter 12.26 specifies allowable locations for dispensaries and collectives, the Zoning Ordinance has never had an approval process or specified allowable locations in commercial districts for collectives or medical cannabis uses other than dispensaries. (BMC § 23E.16.070.) Therefore, collectives and other non-dispensary medical cannabis uses cannot be considered legal, non-conforming uses under the Zoning Ordinance regardless of when they were established; and

WHEREAS, since there is no recognized non-conforming status in the BMC (including Chapter 12.26) except as defined in the Zoning Ordinance, a collective could never achieve a legal non-conforming status. The City communicated this to Mr. Smith when it denied his two business license applications in March, 2012; and

WHEREAS, even if BMC Chapter 12.26 authorized legal non-conforming collectives (which it does not), at the time Mr. Smith claims his cannabis collective was established, BMC Section 12.26.030.E defined a "medical cannabis dispensary" as "any person or entity that dispenses, cultivates, stores or uses medical cannabis except *where such cultivation, storage or use is by a patient or that patient's caregiver, incidental to residential use by such patient, and for the sole use of the patient who resides there*." (emphasis supplied.) Thus, any cannabis use other than by a patient and that patient's caregiver in that patient's lawful residence was considered a dispensary between 2004 and 2010; and

WHEREAS, this fact was highlighted when staff presented the City Council with proposed amendments to Chapter 12.26 in May, 2010. The staff report explains "the Ordinance currently defines a Dispensary very broadly in BMC 12.26.030(E). For instance, a Dispensary includes not only the three authorized Dispensaries in Berkeley, but also any entity that cultivates or dispenses medical marijuana for its qualified patient members. This definition of Dispensary is so broad that it unintentionally includes a small Collective of only three qualified patients that cultivate collectively and allocate the marijuana only amount themselves. The Ordinance currently prohibits such a group due to the 3-Dispensary cap rule"; and

WHEREAS, at the administrative nuisance hearing before the hearing officer, Ms. Toya Groves was called as a witness by Mr. Smith and she testified under oath that the "collective" she and Mr. Smith co-founded had "thousands" of members; and

WHEREAS, at the November 6, 2014 hearing, Ms. Groves further testified "there is (sic) a lot of members" of the "collective." When asked if there were 2,000 members, she

explained, "We have grown from what started out as a small group of people; it has gotten bigger"; and

WHEREAS, consistent with that testimony, Berkeleyside also reported on September 29, 2011 that "in the 21 months since it opened, the Forty Acres Medical Marijuana Growers Collective has seen its membership jump to more than 7,000 people …."; and

WHEREAS, Mr. Smith was interviewed by the New York Times for an article that was printed on June 5, 2010 and it states that "40 Acres Collective consists of about 100 growers and users who gather to share pot, money and plants"; and

WHEREAS, because the only authorized use of the Property since 1972 is a commercial use as a modern dance studio pursuant to Use Permit No. 6894, no residential use of the Property has ever been legally established. Therefore, even if the BMC recognized a non-conforming collective (which it does not) and even if the collective at the Property consisted of only "a patient or that patient's caregiver … for the sole use of the patient who resides there" in 2009 pursuant BMC Section 12.26.030.E (which it did not), because no lawful residential use of the Property was ever established, the collective could never have been "incidental to residential use" as further required by BMC Section 12.26.030.E in effect in 2009; and

WHEREAS, without actually explaining how BMC Section 12.26.040 effective in 2009 assists Mr. Smith's claim, Mr. Smith's counsel directed the ZAB to "take a good look" at this provision and alleged that "City's contention as to what the law states is not accurate"; and

WHEREAS, BMC Section 12.26.040 effective in 2009 does not alter the definition of a "dispensary" present in BMC Section 12.26.030.E and has no as relevance to whether the cannabis operation at the Property was considered a dispensary pursuant to this definition or not; and

WHEREAS, Mr. Smith's cannabis operation would have been considered a dispensary in 2009 pursuant to BMC Section 12.26.030.E. Since dispensaries were capped at 3 in 2004, Mr. Smith's dispensary was unlawful at its inception and remains so today; and

WHEREAS, although Mr. Smith has previously claimed that he is not operating either a dispensary or a collective because no distribution of medical cannabis occurs at the Property, at the November 6, 2014 hearing, Board member Williams asked Mr. Smith "At one point you claim that you regularly invite patients and other activists to the property to socialize, fundraise and organize around medical marijuana policy. Is that how you operate now, when previously were you operating as a nonprofit medical marijuana dispensary -- collective?" and he responded "I may have been reiterating a possible social interaction."

WHEREAS, Board member Williams then asked "But you're claiming you are still operating as a collective, the issue is whether you're legal because of nonconforming

status?" and Mr. Smith responded "Oh no, I'm definitely a legal medical marijuana collective"; and

WHEREAS, at the November 6, 2014, hearing Mr. Ralph Walker, the sole witness who testified in support of Mr. Smith's dispensary, other than Ms. Groves, testified that Mr. Smith was selling marijuana at the property: "The way police describe his operation sounds like a crackhouse; he's not selling crack, he's selling marijuana"; and

WHEREAS, at the November 6, 2014, hearing Ms. Groves acknowledged that the cannabis operation is an ongoing business enterprise, asserting, "we do pay state taxes, would love to pay city taxes but we can't get the business license"; and

WHEREAS, neighbors also testified that the operation had increased in intensity within the last year – the year during which the City was conducting its nuisance abatement proceeding. Such comments included:

- "They've been around for years back, but this year is the worst year."
- "I notice a lot of smoke daily and the smell, pretty strongly, end of last month, till today. It's getting more constant."
- "I been living there for two years, it wasn't like that two years ago. But it concerns me. . . . I don't know if it's coming from that place but I know it's there, the smoke started. But I started noticing it recently. And I hope it stops. Because it wasn't like that two years ago."
- "So starting this year, this thing start getting more aggressive and more people in front of it."
- "I want to reiterate what the other speakers were saying, the last few years at the corner of San Pablo and Tenth has become a real problem."
- "[It] is obviously a cannabis dispensary that has been operating in full force for years now. Probably, I thought it was about three years and it's good, I learned something here tonight, that it's been going on even longer than that but it keeps getting bigger and bigger;" and

WHEREAS, at the November 6, 2014, hearing, Mr. Smith alleged that he attempted to hold a community meeting to discuss the increased impact of his business on the neighborhood, but nobody showed up: "And most of all, about a year ago, I set out a community meeting and I put one on every door in the neighborhood. And we met at Casa Latina, nobody showed up"; and

WHEREAS, Mr. Smith further claimed he was unaware of the neighbors concerns about his dispensary operation and that he wanted to change the operation to address their concerns: "I want to say I never knew, you know, I've asked people in the neighborhood

about what they felt, and no one has ever told me." "I want to know, I want y'all to know, that's not how it's supposed to be. So I'm surprised. I have to talk to y'all;" and

WHEREAS, consistent with Mr. Smith's statements at the ZAB that he wanted to modify his dispensary operation to decrease the impact on the neighbors, a neighbor of the Property found a notice on the street outside the Property shortly after the ZAB hearing which references the "recent" and "numerous" neighbor complaints and announces a "Good Neighbor Policy" to be implemented by its customers as a result of these complaints. The policy described on the notice is the following:

- PLEASE DO NOT PARK IN NEIGHBORS DRIVEWAYS!
- PLEASE DO NOT SMOKE IN ANY AREAS OF THE NEIGHBORHOOD!
- PLEASE NO LITTERING! TAKE YOUR TRASH WITH YOU!
- NO LOITERING (HANGING OUT AROUND THE NEIGHBORHOOD)!
- PLEASE RESPECT THE NEIGHBORS! (Id.)

WHEREAS, Mr. Smith pays monthly for a webpage to advertise his dispensary at the Property and the website is continually updated with advertisements, announcements, specials and customer reviews. The customer reviews describe the operation of the dispensary in great detail and identify many employees by name. Customer reviews have also been posted on Yelp.com and the dispensary's Facebook page recently; and

WHEREAS, the webpage includes many different types of cannabis products for sale with a description, the cost and photographs of the products and these are continually updated as well; and

WHEREAS, the dispensary also maintains two Facebook and Instagram profiles where photographs and a video of the interior of the dispensary are posted depicting the products offered for sale, promotions and various other offerings. The photos and videos are consistent with the observations of the interior of the dispensary made by the confidential informant(s) and the property owner as discussed further below. Also, dispensary employees have tagged themselves and posted photos of the dispensary while working at the Property on Instagram as recently as December 12, 2014; and

WHEREAS, various cannabis product websites advertise that the products are available for purchase at the Property and one even announced an event at the Property on August 1, 2014 for a demonstration of its products; and

WHEREAS, Mr. Smith advertised "lab tested" cannabis by SC Labs on his website and SC Labs' website confirms that it had tested various strains of cannabis from Mr. Smith's dispensary on May 11, 2014 and April 19, 2014. The cannabis strains listed as having been tested on SC Labs website match those advertised on Mr. Smith's webpage. SC Labs website also indicated that it had tested cannabis from CSCC previously on December 28, 2013, December 5, 2013, October 24, 2013, October 8, 2013 and September 26, 2013; and

WHEREAS, as recently as February 18, 2014, Mr. Smith obtained a seller's permit to sell medical marijuana at the Property for the entity doing business as "CSCC" from the California Board of Equalization (BOE). The BOE confirmed that this seller's permit is current and active; and

WHEREAS, at the November 6, 2014, hearing Officer Kassenbaum testified that on March 23, 2014 at approximately 11:30 a.m. a dispensary member called BPD for assistance claiming she had come to the dispensary to see her boyfriend, Mr. Greer, who was employed as "a security guard at the marijuana club," but he would not speak to her and instead she was "picked up, thrown down the stairs, hit kicked, et cetera" by other club staff; and

WHEREAS, Officer Kassenbaum, one of the responding officers, testified at the November 6, 2014 hearing that he interviewed the self-identified "staff" present at the time of the incident, which included another security guard in addition to Mr. Greer and Mr. Sims, who introduced himself as the "manager" of the dispensary. The staff claimed that they worked there as security guards and that she grabbed the metal detector wand hanging by the guard's station outside of Unit 1 and began swinging it over her head when her boyfriend wouldn't see her. They claim they removed her from the dispensary based on these actions and "physically carried her down the stairs"; and

WHEREAS, Officer Kassebaum testified at the November 6, 2014 hearing that he asked to see the top of the stairs where the incident occurred and the manager complied. At the top of the stairs, he saw the door to the Unit 1 was open and he saw several people inside smoking and smelled burning cannabis coming from the Unit. He further testified that the dispensary manager quickly closed the door to Unit 1 after he arrived at the top of the stairs. Despite the presence of numerous staff and other individuals at the Property on this Sunday at 11:30 a.m., Mr. Smith was not present; and

WHEREAS, Officer Kassebaum testified at the November 6, 2014 hearing that "as a patrol Officer driving around I constantly see the flow of human traffic . . . standing at the doors talking to security guards"; and

WHEREAS, Officer Kassebaum testified at the November 6, 2014 hearing that the police have been called to the Property on other occasions as well; and

WHEREAS, Sgt. Murphy testified that Ms. Taylor was dissatisfied with the police response to her March 23 call, so she went to the police department to speak to a supervisor about the incident. Sgt. Murphy testified that Ms. Taylor told her that "she was a member of the cannabis club and she had the right to be there and neither the Manager, Mr. Sims, should have disallowed her from being there nor removed her from the property"; and

WHEREAS, the Zoning Ordinance declares the "[v]iolation of any provision of [Chapter 23]" to be a public nuisance, (BMC § 23B.64.020(B)) and Chapter 23 specifies that "[n]o

commercial use shall operate except between the hours of 7:00 a.m. and 11:00 p.m. unless a Use Permit is obtained" (BMC § 23E.64.060(A).); and

WHEREAS, Detective Rodrigues testified at the November 6, 2014, hearing that she has conducted surveillance of the Property on September 19, 2014, October 17, 2014 and October 22, 2014. On each of these dates, she conducted surveillance for one hour. On September 19, 2014 from 10:15 p.m. to 11:15 p.m., she "saw that the door was wide open, the lights were on, and within the first five minutes, [she] observed 10 people leave the Property." She also saw a "security guard standing at the door who required each person seeking to enter to show identification." Over the course of the hour she was there, she observed another 31 people enter and then leave ten to fifteen minutes later; and

WHEREAS, on October 17, 2014, between 10:00 p.m. and 11:00 p.m., Detective Rodrigues testified that she observed the same conditions of the door wide open, lights on and security guard standing on the sidewalk near the front door. This time, she observed 29 people enter and then exit within fifteen minutes. Each person was again required to show identification to the security guard; and

WHEREAS, on October 22, 2014, between 9:30 p.m. and 10:30 p.m., Detective Rodrigues testified that she observed the same conditions at the Property except that, at 10pm, the security guard moved into the Property and shut the door. After that, she observed several people approach the closed door and then be greeted by the security guard who again checked their identification and then let them in. On this evening, Detective Rodrigues observed 35 people enter and shortly exit the Property in the hour; and

WHEREAS, at the November 6, 2014, hearing, a neighbor confirmed the volume of traffic observed by the police by testifying that the "police were estimating 35 people an hour, I thought it was at least 25, just because now and then I'll walk out there and watch. Because I just couldn't believe, they operate so openly. And with no concern about the impact on the neighborhood;" and

WHEREAS, Detective Rodrigues testified that she has facilitated a purchase of cannabis products from the Property by a confidential informant. Within 72 hours of February 5, 2014, Detective Rodrigues searched the confidential informant and found him/her not to be in possession of any money or contraband. She then gave the confidential informant money to purchase cannabis from the Property. She observed the informant as he/she entered and exited the Property a few minutes later. The informant and Detective Rodrigues met up at a pre-determined location and, after the informant handed her 5.91 grams of cannabis, she searched the informant again and did not find him/her in possession of any money or contraband; and

WHEREAS, Detective Rodrigues testified that the informant observed several people inside the dispensary smoking cannabis, described that he/she waited in line to purchase cannabis with several other people, that he/she saw a digital price board that

was located above the counter which indicated different types of cannabis available for purchase with the associated prices per weight and that, behind the counter, there were numerous clear jars of cannabis that were available for purchase. Detective Rodrigues then tested the cannabis and it tested presumptive positive for cannabis; and

WHEREAS, Detective Rodrigues testified that she then caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on February 13, 2014. The lab results identified that the substance purchased by the confidential informant was, in fact, cannabis; and

WHEREAS, Detective Rodrigues testified that, within 72 hours of April 13, 2014, she searched a confidential informant and found him/her not to be in possession of any money or contraband. She then gave him/her money to purchase cannabis from the Property. She observed the informant as he/she entered and exited the Property a few minutes later. The informant and Detective Rodrigues met up at a pre-determined location and, after the informant handed her 5.03 grams of cannabis in a baggie with a sticker on it that read, "Not for sale, for medical use only, Health and Safety Code 11362.7.", she searched the informant again and did not find him/her in possession of any money or contraband; and

WHEREAS, Detective Rodrigues testified that the informant observed "several people inside the dispensary smoking cannabis" and that he/she saw "a digital price board that different types of cannabis available for purchase and the price per weight and that behind the counter there were a lot of clear jars with cannabis available for purchase." Detective Rodrigues then tested the cannabis that the informant had purchased and it tested presumptive positive for cannabis; and

WHEREAS, Detective Rodrigues testified that she caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on May 23, 2014. The lab results identified that the substance purchased by the confidential informant was, in fact, cannabis; and

WHEREAS, Detective Rodrigues testified that, within 72 hours of August 22, 2014, she conducted another controlled purchase "in the same manner that the other two previous controlled purchases were conducted." On that date, the informant purchased 5.07 grams of cannabis, which later tested presumptive positive for cannabis. The cannabis was then taken to the crime lab and tested positive for cannabis; and

WHEREAS, Detective Rodrigues submitted a police report which described her conversation with the informant who stated that he/she purchased the cannabis from two employees that stood behind a glass counter. The glass counter displayed glass cannabis smoking pipes and other smoking paraphernalia that were for sale. Behind the glass counter, the informant observed dozens of glass jars that contained different strains of cannabis that were available for sale. The informant again observed several other customers in line to purchase cannabis and a digital price board to the left of the glass counter which was affixed to the wall and indicated different types of cannabis

available for purchase. Officer Rodrigues then tested the cannabis and it tested presumptive NIK E positive for cannabis; and

WHEREAS, Detective Rodrigues testified that she then caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on August 26, 2014. The lab results identified that the substance purchased by the confidential informant was, in fact, cannabis; and

WHEREAS, Detective Rodrigues testified that, within 72 hours December 22, 2014, she conducted another controlled purchase "in the same manner that the other two previous controlled purchases were conducted." On that date, the informant purchased 1.81 grams of cannabis, which later tested presumptive positive for cannabis. The cannabis was then taken to the crime lab and tested positive for cannabis; and

WHEREAS, Detective Rodrigues submitted a police report which described her conversation with the informant who stated that he/she purchased the cannabis from two employees that stood behind a glass counter. The glass counter displayed glass cannabis smoking pipes and other smoking paraphernalia that were for sale. Behind the glass counter, the informant observed dozens of glass jars that contained different strains of cannabis that were available for sale. The informant again observed several other customers in line to purchase cannabis and a digital price board to the left of the glass counter which was affixed to the wall and indicated different types of cannabis available for purchase. Officer Rodrigues then tested the cannabis and it tested presumptive NIK E positive for cannabis; and

WHEREAS, Detective Rodrigues testified that she then caused the cannabis purchased by the informant on this occasion to be delivered to the Alameda County Sheriff's Office Crime Laboratory for testing on December 22, 2014. The lab results identified that the substance purchased by the confidential informant was, in fact, cannabis; and

WHEREAS, staff testified that they found a notice regarding a "medical marijuana event" scheduled for October 30, 2014 at the Property on the Facebook page of a group called Bay Area Urban Artists and that 277 people were invited; and

WHEREAS, the Property owner's representative testified he visited the Property on approximately August 7, 2014 at approximately 10am. He walked into the Property and noticed a podium approximately 4 feet north of Unit 1. At the podium was a security guard who, upon viewing him, asked him to wait, but then allowed him to proceed after he recognized who he was. The owner's representative testified that he entered Unit 1which was open and observed a glass counter along the north wall displaying cannabis smoking pipes and other smoking paraphernalia; and

WHEREAS, the owner's representative testified he saw a woman was working behind the counter and she asked if she could help him. Before he could answer, the guard told the employee that he was the building owner. The owner's representative observed cannabis plants through the window located in Unit 1 that connected to Unit 3. He also

observed the digital display board mounted on the wall that displayed prices of cannabis offered for sale. He did not observe any residential furniture or other evidence of residential use in Unit 1; and

WHEREAS, the owner's representative stood at the doorway and observed office furniture including desks, computers, office chairs and membership intake forms on a podium. Again, he did not observe any residential furniture or other evidence of residential use in Unit 11. Rather it appeared to him to be organized in a similar manner as a doctor's office; and

WHEREAS at the November 6, 2014 hearing, the owner's representative testified that there is evidence Mr. Smith may live at a property on Ashby Avenue, not at the Property: "The owner has believed that for a long time, long before 2009, Chris Smith has been living in a house on Ashby Avenue. He has signed a lease with K&S realty for a house on Ashby Avenue; that's his home;" and

WHEREAS, at the November 6 hearing, Mr. Smith indicated his home address was 1510 Ashby Ave. on the speaker card he completed; and

WHEREAS, Mr. Smith's explanation that he lives at the Property is not credible given the weight of the contrary evidence and his following explanation: "How do I sleep there? Well, part of my house was taken apart because I got evicted from part of my house. At first I had one set of rooms then I had all of the rooms, then I had less than half the rooms. So my rooms and my bedrooms have been changing just like that. Over the past few years. So, I go from certain number of units, I go for more units, all of the time I ask for permits and I get nothing. I go up to the whole floor, everything is moved around. There's sinks and stuff, there's a bigger kitchen area over here, everything moves. Yeah, I changed things around. Everything moves. Now I got to get out of those units. Now I got to reduce everything here. Wow. I have fold up beds, I've had no beds, I've slept on sofas, I have had king beds, I have had a baby in there. I've done everything"; and

WHEREAS, neighbors of the Property testified to seeing a large amount of traffic coming and going from the Property and observing the security guard sitting on a chair outside the Property, identifying the club members and then admitting them entrance. They also describe observing selling and buying of cannabis in the surrounding neighborhood outside the Property. They further describe observing individuals leave from the Property and then roll cannabis cigarettes and either smoking them in the neighborhood or selling them to others; and

WHEREAS the Zoning Ordinance declares the facilitation of "disturbances of the peace" to be a public nuisance (BMC § 23B.64.020(A).); and

WHEREAS, at the November 6, 2014, hearing, nine of eleven speakers testified that the neighbors were afraid of the dispensary customers and staff. Such comments included:

- A fear of testifying in front of the Board or gathering evidence of illegal activity: "[W]e have received many complaints from our residents in the building, not one of which felt comfortable coming here tonight to speak about what they've seen." "I don't take a picture of these people because I know what it means. You take a picture that mean you attacking them."

- A fear of walking along San Pablo Avenue, a public sidewalk, in front of the entrance to the Property: "People are afraid to walk in that area." "It's been over a year that I haven't passed by on the side where they are crossing, usually I walk the kids around the block. It's been a year since I haven't been there, because I saw security telling this other guy that he could not walk in front of the place. I was scared myself to walk there, too." "This I have to say is a little less intimidating than what often goes on. You come by that particular area and as other people have said, you're not -- people coming to get marijuana, these are young strong people, rather intimidating, honestly, to other people in the neighborhood…. my daughter who is not young like these kids here, in her 20s, my wife and I said we get nervous when she wants to walk around that area. It's intimidating."

- A fear of the health effects of the marijuana smoke emanating from the Property: "Where am I going to be safe with my kids, being exposed to smoke or this kind of thing? I just don't know what to do."

- A fear of the customers of Mr. Smith, who buy marijuana at the Property then smoke it in the neighborhood and respond aggressively to requests to stop smoking or move their cars: "My concern is every time we tell them they can't be over there smoking pot, they get aggressive. We cannot say anything because we are afraid that they're going to come by or do a shoot up."

- "And I'm very concerned about our safety. Our family, our kids. As a matter of fact last night, within the time of 30 minutes more than five cars blocked my driveway. My husband, I asked one of them to please move and they, like, they don't pay attention to me. I asked my husband to come out with me. He came out. We ask them properly to please move off the driveway. They got very aggressive with us. Like very aggressive. I called the police, but I was told that they were gone, they can't do anything. The police advised me not to confront them, just call the police every time that happens. So if I were to call the police every time that this thing is happening I would be calling the police at least three or four times a day. Maybe more than four or five times a day. This always happens I would say after 8:00. As soon as it gets dark it gets very bad. The area is so bad..."

- A fear of rising violence in the neighborhood: ". . . we have 25 names here from people, some of whom are here tonight, who are concerned about these issues as well. The noise, the discussions, the arguing sometimes that occurs."

"So starting this year, this thing start getting more aggressive and more people in front of it."

- "I came home a couple of weeks ago and found a car completely blocking our driveway with the trunk wide open and the driver standing by the trunk selling from open, reeking bags of marijuana to a young woman who looked to be around 12 years old. He was completely blocking my ability to get by with my bicycle, so I said, "do you realize you're in our driveway?" He immediately turned to me and threatened to kill me at the top of his lungs, walking toward me emphasizing that he would bash my head in, etc., until he realized he was leaving his marijuana behind in a wide open trunk. He continued threatening me while closing his trunk and driving off. This was in broad daylight with a street full of people. But most of those people were marijuana customers, and seemed unconcerned."

- "as someone who has lived in the neighborhood for decades I can assure you that the phenomenon of blatant, all-day, all-night open drug sales, fights, and drug-buy-related double parking and sidewalk partying coincided with the opening of 40 Acres."

- A fear of the image portrayed to children in the neighborhood: "…the 40 Acres crew does not seem to care about the effect on the residents, school children, and local workers who have to put up with the exposure, noise, congestion, fights, and sights like people bent over retching in the street. I ran to help the latter, and he told me that he was alright, just had had "too much dab" and wanted to just remain on all fours retching on the sidewalk in front of 40 Acres rather than have me call an ambulance."

- "I am not opposed to the recreational use of marijuana for those who choose to use it, but the free-for-all party zone being imposed on our neighborhood comes with fights, threats, guns, violence, dual use of tobacco and other addictive drugs;" and

WHEREAS the Zoning Ordinance declares the facilitation of "noxious smells or fumes" to be a public nuisance (BMC § 23B.64.020(A).); and

WHEREAS, at the November 6, 2014, hearing and in correspondence to the ZAB, neighbors testified that the use of the Property produced a noxious odor that interfered with the quiet enjoyment of their homes and the neighborhood. Such comments included:

- ". . . people smoke right in front of my house, around 6:00, 7:00 until 3:00 or 2:00 in the morning. I cannot open the windows."

- "I notice a lot of smoke daily and the smell, pretty strongly, end of last month, till today. It's getting more constant. And I have my kids playing on the back patio. I mean eventually it's going to get in there. My point is, if it was banned to

smoke around public places, you know, now it's getting to the residential places. What is the point of banning it in public places if it gets to the neighborhood where my kids are playing?" "Where am I going to be safe with my kids, being exposed to smoke or this kind of thing? I just don't know what to do. I been living there for two years, it wasn't like that two years ago. But it concerns me. Because my kids' health, I cannot risk that. If I cannot send them outside to play what am I going to do with them? I have the freedom to send them out and have fresh air."

- ". . . we have been having smelling this for a while, it's bad for our health and the kids' health, too."

- ". . . my concern is that before we can let kids walk around the yard, in the backyard, but now it's hard. In the front yard it smells like marijuana. We go in the back, it smells marijuana. We can't take them to the park, close to the house, because it's full of homeless. So where are we going to take our kids to play?"

- ". . . we have dance class, and there's people sitting over there smoking and I have to come and personally tell them to leave. I don't be too aggressive, I ask them, will you please leave from here, go smoke another place. Why don't you just go to home, to your house and smoke there, why you have to smoke in front of people's house?"

- "And it's surrounded by not just cannabis smokers but tobacco smokers." "There are people who walk out with their classic brown paper bag which is what you get if you buy cannabis there and they smoke everywhere. They roll and smoke all over. That property and up and down the block. So it's become a party zone."

- "It apparently cannot keep its employees from smoking both marijuana and tobacco in what is under the law a smoke-free commercial zone, or it just doesn't care. Its clients who don't drive can be found sitting smoking marijuana and tobacco openly in front of 40 Acres or on the wall at the used car lot next door, around the corner on the wall in front of Finn Hall, or next to the car they drove to get there, in a neighborhood which has two schools and a YMCA Head Start program within two blocks. It is not unusual to see people with the characteristic brown bag they're given with their weed at 40 Acres rolling joints and smoking all up and down our block, making it impossible to come and go without getting exposed."

- "Those of us who live and work on San Pablo Avenue can't leave our homes without getting exposed to both tobacco and marijuana, which may be a low police priority but is deadly for people with cardiovascular and respiratory issues. We can't run out into the street to avoid exposure, and the 40 Acres

crew does not seem to care about the effect on the residents, school children, and local workers who have to put up with the exposure…"

- "I support medical marijuana, which is a personal choice for many who, like me, are cancer patients. I appreciate that some people find it useful in alleviating certain symptoms. But nobody should be obligated to be exposed, as we are in our neighborhood. Marijuana, especially smoking marijuana, is not every cancer patient's choice, I can assure you, especially people with severe respiratory issues. Marijuana is listed along with tobacco as a carcinogen on the State of California's Public Health web site. Under the law we are supposed to be protected from tobacco or marijuana exposure while trying to do errands or simply walk to work in the neighborhood, but the volume of sales and sampling both on and off the street make it impossible to simply take a walk to get a breath of fresh air;" and

WHEREAS, at the November 6, 2014, hearing, Mr. Smith admitted that his use of the Property produced the marijuana smoke the public was complaining about, asserting that the public comments only demonstrated that they wanted him to change the dispensary's operation: "They don't necessarily want me gone. What they don't want is they don't want to smell the smoke"; and

WHEREAS the Zoning Ordinance declares the facilitation of "excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.)" to be a public nuisance (BMC § 23B.64.020(A).); and

WHEREAS, at the November 6, 2014, hearing, neighbors testified that the use of the Property produced excessive noise that interfered with the quiet enjoyment of their homes and the neighborhood. Such comments included:

- "People talking all night, so loud . . ."

- "People screaming all night. Last week, I have to get up one time at 3:00 in the morning, second time at 2:00 in the morning, because people are screaming so much, like fighting, ladies asking for help. I called the police - - actually, I see one officer there, and I ask him, what we can do. He said call the police department, 911. If we do that we have to be up all night."

- "And a dramatic increase in car traffic and car noise and car radios that are played so loud you can actually hear them vibrating in your house. And also as has been mentioned, people who hang out in front of our house laughing and distributing marijuana to their friends . . . ."

- "The noise, the discussions, the arguing sometimes that occurs"; and

WHEREAS the Zoning Ordinance declares the facilitation of "excessive littering" to be a public nuisance (BMC § 23B.64.020(A).); and

WHEREAS, at the November 6, 2014, hearing in front of the Board, neighbors testified that the use of the Property produced excessive littering. Such comments included:

- "People talking all night, so loud, drinking beer, eating food, McDonald's, Jack in the Box, Popeye's, all of the garbage is on the street. I hate to see that, so every morning, I try to pick it up, same like my other neighbors."

- "But there has been very noticeable increase in the amount of trash that is left on the streets in front of our homes. Bottles, cans, empty cigarette packs, plastic food wrappings, sandwich bags, bags used for the sale of pot, plastic bags"; and

WHEREAS, at the November 6, 2014, hearing and in correspondence to the Board, neighbors testified that the use of the Property produced excessive traffic and illegal parking in the surrounding neighborhoods. Such comments included:

- "[T]raffic is out of control in there. . . ."

- "On top of that, like we mentioned already, traffic is bad. Sometimes cars go over there and park using two spaces, block the driveway. . . ."

- "And a dramatic increase in car traffic . . . ."

- "There is zero parking . . . I've seen this, openly drug dealing in front of Forty Acres but also around the corner, because there's no parking. This is a really, really busy neighborhood where they'll double park if they have to. And I've seen that in the middle of San Pablo Avenue."

- "As a matter of fact last night, within the time of 30 minutes more than five cars blocked my driveway. My husband, I asked one of them to please move and they, like, they don't pay attention to me. I asked my husband to come out with me. He came out. We ask them properly to please move off the driveway. They got very aggressive with us. Like very aggressive. I called the police . . . The police advised me not to confront them, just call the police every time that happens. So if I were to call the police every time that this thing is happening I would be calling the police at least three or four times a day. Maybe more than four or five times a day. This always happens I would say after 8:00. As soon as it gets dark it gets very bad. The area is so bad."

- "It offers no parking for a clientele it boasts is in the thousands, easily 25 people an hour who often block driveways or simply double-park half a block from one of the busiest, most crowded intersections in Berkeley."

- ". . . as someone who has lived in the neighborhood for decades I can assure you that the phenomenon of blatant, all-day, all-night open drug sales, fights,

and drug-buy-related double parking and sidewalk partying coincided with the opening of 40 Acres"; and

WHEREAS, the Zoning Ordinance declares the facilitation of "illegal drug activity including sales" to be a public nuisance (BMC § 23B.64.020(A).); and

WHEREAS, at the November 6, 2014 hearing and in correspondence to the Board, the neighbors testified that the use of the Property facilitated illegal drug activity, including sales. Such comments included:

- "And we have what I would describe as residual drug dealing that occurs. We have two interested parties looking to rent [empty retail space at 1800 San Pablo], they spend time in the area, they observe who is coming and going in that particular neighborhood, and they see the drug dealing occurring on the corner. I cannot confirm directly that it is directly related to Forty Acres but can I tell that you there is a stream of traffic that comes out of the door from that operation, comes down the street around the corner in front of our place and then conversations and other activities occur."

- ". . . the other thing what we see, is people have plastic bags, paper bags, and passing to other people waiting in the dark. One person goes to get -- I mean they have doctor prescription or something. They can remove to it something else. I don't think everybody can have a permit to buy that. But they have permit, they share it, they say they can't make money but I don't think it's free. Because they pass it to 3, 4 people on the street. That area is out of control now."

- "It's all over the neighborhood now. . . . I've seen this, openly drug dealing in front of Forty Acres but also around the corner."

- "And also as has been mentioned, people who hang out in front of our house laughing and distributing marijuana to their friends, typically a car load of four guys will come down and the guy who has the card which allows him to purchase will go and get it, and then he'll bring it down and divvy it up with his friends. I've even seen people, one guy, had four plastic cups that he put on the back of his car. Put marijuana in each of them then walked to different cars that were parked on the street and handed grass."

- "I came home a couple of weeks ago and found a car completely blocking our driveway with the trunk wide open and the driver standing by the trunk selling from open, reeking bags of marijuana to a young woman who looked to be around 12 years old. He was completely blocking my ability to get by with my bicycle, so I said, "do you realize you're in our driveway?" He immediately turned to me and threatened to kill me at the top of his lungs, walking toward me emphasizing that he would bash my head in, etc., until he realized he was leaving his marijuana behind in a wide open trunk. He continued threatening

me while closing his trunk and driving off. This was in broad daylight with a street full of people. But most of those people were marijuana customers, and seemed unconcerned."

- ". . . as someone who has lived in the neighborhood for decades I can assure you that the phenomenon of blatant, all-day, all-night open drug sales, fights, and drug-buy-related double parking and sidewalk partying coincided with the opening of 40 Acres"; and

WHEREAS, at the November 6, 2014, hearing, the Property owner's representative testified that "there was a unanimous verdict with finding of the jury was that Chris Smith and his pot club were operating illegally and also as a nuisance in the neighborhood" and Mr. Smith failed to rebut this; and

WHEREAS, a neighborhood business owner also described heavy foot traffic in and out of the Property all the time with individuals leaving with brown paper bags and the security guard's constant presence. The business owner also explained that an individual named Cam Bailey described himself as an employee of the dispensary and came into his business during the week of October 13th. Mr. Bailey was complaining to the business owner about the City's nuisance abatement action; and

WHEREAS, Mr. Daniel spoke with Mr. Paul Pinguelo who was involved in the March 23, 2014 incident involving Ms. Daujeniqe Taylor and described himself to BPD Officers as security guard for the dispensary. Mr. Pinguelo was also identified as a witness to an auto accident that occurred outside the Property on June 13, 2014. The accident involved a City refuse truck and the refuse truck driver, Mr. Gayton, indicated that he sees Mr. Pinguelo at the entrance to the Property each week when he drives his route; and

WHEREAS, Mr. Pinguelo spoke with Mr. Daniel on October 22, 2014 and stated that he helps out a lot at the Property because people need their medication and it is wrong that the City is taking away medication from people who have legal prescriptions for it. Mr. Daniel asked him how he "helped out" and Mr. Pinguelo responded that sometimes he stands guard in the hallway and sometimes he escorts patients to the office. He also testified that Mr. Pinguelo stated that Mr. Smith is doing a good job of providing medication to people who can't afford it. Mr. Pinguelo also said "the alcohol they sell downstairs does more damage than the medication being dispensed" at the Property; and

WHEREAS, Mr. Daniel spoke with Mr. Darro Hudspeth on October 22, 2014. Mr. Hudspeth had previously testified in the Unlawful Detainer Action that he was co-founder of 40 Acres and was responsible for the "day to day" operation as a "director". Mr. Daniel asked Mr. Hudspeth if he was willing to discuss "CSHC" with him and Mr. Hudspeth indicated he was. Mr. Daniel asked him what his involvement with CSHC was and Mr. Hudspeth indicated he was a "volunteer". Mr. Daniel asked Mr. Hudspeth in what capacity he volunteers and Mr. Hudspeth stated that he "helps Chris out with

whatever he needs", but did not offer any additional specifics. Mr. Hudspeth then stated "you are trying to shut it down" and "I don't want to speak with you" and ended the conversation; and

WHEREAS, Mr. Smith has claimed that he "regularly invites patients and other activists to his property in order to socialize, fundraise, and to organize around medical marijuana policy" in an attempt to explain the presence of many individuals at the Property. However, Mr. Smith was not present on March 23, 2014 when officers responded to Ms. Taylor's 911 call, yet 3 staff members of the dispensary were on duty and approximately 3 "customers" were observed in a room filled with cannabis smoke. Mr. Smith was also not present on March 26, 2014 when building inspectors attempted to investigate a complaint of illegal construction and they were told by yet another staff member, "Cameron", that he could not allow them to enter, but would give his card to Mr. Smith and they smelled cannabis as well; and

WHEREAS, Mr. Smith was also not present on each of the 4 occasions between February 2014 and December 2014, when a confidential informant purchased cannabis products at the dispensary without having been "invited" by Mr. Smith to "socialize, fundraise and organize around medical marijuana policy". Instead, the informant described a busy cannabis dispensary where he/she had to wait in line with several people in order to purchase cannabis while several other people were smoking cannabis in the lounge; and

WHEREAS, Mr. Smith was also not present when Mr. Soe visited the Property in early August and late October although a security guard another employees working in the smoking lounge were present; and

WHEREAS, Mr. Smith indicated that his address was 1510 Ashby Avenue on the speaker card he filled out at the ZAB hearing; and

WHEREAS, Mr. Smith and his counsel failed to rebut any of the evidence supplied by the City that a dispensary is currently in operation at the Property and, instead, Mr. Smith's counsel limited his claim to the following: "I note the issue that there's been a significant change since 2012. That's when Forty Acres was formally shut down"; and

WHEREAS, Board member Hahn asked the following question of Mr. Smith "if you went to a residential area, if you just moved to a residential zone, you could operate a collective with no permits whatsoever. That's how the law is written, it's very liberal actually in a neighborhood, you could be doing this, with no permits at all. And there are maybe three dispensaries that have licenses right now in Berkeley to operate in commercial and manufacturing areas, non-residential. There will be an opportunity in a year, if I understand correctly, for another application to be set forward. That could be yours. And there are also other communities that have different laws in places around this where you could locate. I would like to understand what is so special about this location, where clearly the landlord would prefer that you were not operating. The City

would prefer that you are not operating. The neighbors would prefer that you are not operating. Why is it so important for you to do this here?"; and

WHEREAS, Mr. Smith stated in response to this question that "It's my right" which demonstrates that Mr. Smith's is acting in his own self interest and not that of the community; and

WHEREAS, it is not credible that "the garbage and the traffic is largely due to" the operation of the Albatross Pub as Mr. Smith's counsel claimed since the neighbors testified that they have witnessed the customers of the dispensary entering and exiting the dispensary while double parking, blocking driveways and creating excessive traffic and have witnessed these same customers smoking cannabis they purchased at the dispensary and littering and have identified the trash as trash from the dispensary (i.e. brown paper bags and plastic bags from the dispensary). For example, a neighbor testified that "as someone who has lived in the neighborhood for decades I can assure you that the phenomenon of blatant, all-day, all-night open drug sales, fights, and drug-buy-related double parking and sidewalk partying coincided with the opening of 40 Acres"; and

WHEREAS, the Council of the City of Berkeley has considered the staff report as well as all of the evidence and testimony received at the public hearing; and

WHEREAS, the City Council has evaluated the probative value of all of the evidence, drawn reasonable inferences there from, and considered the credibility of the various witnesses, based on both their observed demeanor at the public hearing before the Board and the substance of their testimony (e.g., whether it has been consistent over time, is internally consistent, is illogical, etc.).

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley finds and determines as follows:

I. BMC Section 23B.64.020.B defines a public nuisance as "Any use, event, structure or building, whether non-conforming or otherwise, which … [is in] violation of any provision of this chapter or any other City, state or federal regulation, ordinance or statute."

1820/1828 San Pablo Avenue and the uses therein are also a public nuisance under Section 23B.64.020.B based upon the following violations which exist at the Property:

Violation of BMC § 12.26.130

In 2004, BMC Section 12.26.130 (formerly Section 12.26.110) imposed a cap on the number of dispensaries that may operate in Berkeley at any one time. Mr. Smith's dispensary was not one of the three authorized dispensaries in existence at that time. BMC Section 12.26.130 allows four medical cannabis dispensaries subject only to

licensing requirements and Mr. Smith does not possess a license to operate a dispensary.

Violation of BMC § 12.27.050

BMC Section 12.27.050 requires that all dispensaries comply with BMC Chapter 12.26 and Title 23. It further requires that dispensaries "comply with the operating standards" set forth in Chapter 12.27. As described above, Mr. Smith's dispensary does not comply with Chapter 12.26 because it is not one of the three authorized dispensaries in existence in 2004 and because it has not been selected to operate as the 4th dispensary. In addition, it does not comply with Title 23 for the reasons set forth in more detail below.

Even if Mr. Smith did have a license for his dispensary, it does not comply with the operating standards in Chapter 12.27. For example, it is incompatible with the neighborhood (12.26.050.F), it allows smoking of cannabis at the dispensary (12.26.050.G) and it is not accessible (12.26.050.H).

Zoning Ordinance Violations

On March 14, 1972, Use Permit No. 6894 was approved for operation of a modern dance studio at the property from 10:00 a.m. to 10:00 p.m. only. Consequently, the following provisions of BMC Title 23 (Zoning Ordinance) are also being violated:

A. Operation of a Use Other Than a Dance Studio in Violation of BMC § 23B.56.010.A

BMC Section 23B.56.010.A mandates "[a]ny approval permits only those uses and activities actually proposed in the application and excludes other uses and activities."

Since Use Permit No. 6984 permits only the use of the property as a dance studio, operation of a dispensary (or any other use except a dance studio) is prohibited.

B. Modification of the Property Into 11 Separate Spaces in Violation of BMC § 23B.56.020

The site plan approved for Use Permit No. 6984 indicates that the Property is to be a completely open floor plan and not divided into any separate spaces or rooms. BMC Section 23B.56.030 mandates that "the site plan … shall be deemed [a] condition[] of approval."

BMC Section 23B.56.020 prohibits any change "in the use or structure for which a Permit has been issued … unless the Permit is modified by the Zoning Officer or Board." In particular, Subsection 23B.56.020.A.4 requires a modification to "[i]ncreas[e] the number of … rooms".

Because the Property has been divided into 11 separate tenant spaces and, therefore, deviates from the approved site plan without approval by the City, it is in violation of BMC 23B.56.020.

C. Operation of a Dispensary in Violation of BMC §23E.16.070

BMC Section 23E.16.070.A.3 prohibits operation of a dispensary (except for the 3 authorized dispensaries in existence before 2004) unless it has been licensed by the City. As described above, Mr. Smith's dispensary has not been selected as the fourth dispensary.

D. Operation of a Use Other Than a Dance Studio in Violation of BMC § 23A.12.010

BMC Section 23A.12.010 prohibits any property from being "used, or designed to be used … except as permitted by this Ordinance, either as of right or by permit."

Because the Property is being used as a dispensary and Use Permit No. 6984 authorizes use of a dance studio only, it is in violation of this provision as well.

E. Operation of a Commercial Use Until Midnight in C-W District in Violation of BMC §23E.64.060

The Property is located in the C-W District. BMC Section 23E.64.060 prohibits commercial uses from operating after 11:00 p.m. in the C-W District "unless a Use Permit is obtained".

Mr. Smith's dispensary operates until midnight on Friday and Saturday and, in addition to the fact that it is unlicensed and in violation of 23E.16.070 and Chapters 12.26 and 12.27, no Use Permit as been obtained to operate a commercial use past 11:00 p.m.

II. BMC Section 23B.64.020.A defines a public nuisance as "[a]ny use, event, structure or building, whether non-conforming or otherwise, which [is] [m]aint[ained] or operat[ed], by omission or commission in such a way as to result in or facilitate any of the following activities, each of which the City hereby declares to be a public nuisance: disturbances of the peace, illegal drug activity including sales or possession thereof, public drunkenness, drinking in public, harassment of passers-by, gambling, prostitution, public vandalism, excessive littering, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), noxious smells or fumes, curfew violations, lewd conduct or police detention, citations or arrests or any other activity declared by the City to be a public nuisance.

1820/1828 San Pablo Avenue and the uses therein are a public nuisance under Section 23B.64.020.A for facilitating disturbances of the peace, illegal drug activity including sales or possession thereof, excessive littering, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), and noxious smells or fumes based on the evidence discussed above.

BE IT FURTHER RESOLVED that the Council declares that each of the bases set forth above is an independent basis upon which the Property is determined to be a nuisance pursuant to BMC Section 23B.64.020 and orders the cannabis use enjoined and terminated.

BE IT FURTHER RESOLVED that the Council authorizes all enforcement action appropriate to enforce its determination of a public nuisance including, but not limited to, administrative citations, seeking an injunction, a nuisance abatement warrant or any other available remedy.

EXHIBIT

46

CITY OF BERKELEY
ZONING ADJUSTMENTS BOARD
REQUEST TO ADDRESS THE BOARD

NAME Ralph Walker
(Please Print)

AGENDA TOPIC –
(Project Address)

SUPPORT ✓ for Chris OPPOSITION ____

SIGNATURE ____

ADDRESS ____

PHONE ____ DATE ____

CITY OF BERKELEY
ZONING ADJUSTMENTS BOARD
REQUEST TO ADDRESS THE BOARD

NAME Chris Smith
(Please Print)

AGENDA TOPIC Collective Remedy
(Project Address)

SUPPORT ✓ OPPOSITION ____

SIGNATURE ____

ADDRESS 1510 Ashby AVE Berkeley

PHONE (510) 816-1306 DATE 11/6/14

CITY OF BERKELEY
ZONING ADJUSTMENTS BOARD
REQUEST TO ADDRESS THE BOARD

NAME Modesto Castro
(Please Print)

AGENDA TOPIC ____
(Project Address)

SUPPORT ____ OPPOSITION ____

SIGNATURE Modesto Castro

ADDRESS 1029 Hearst Ave

PHONE (510) 845-1676 DATE ____

CITY OF BERKELEY
ZONING ADJUSTMENTS BOARD
REQUEST TO ADDRESS THE BOARD

NAME Clifford Fried
(Please Print)

AGENDA TOPIC 1820-8 San Pablo
(Project Address)

SUPPORT ____ OPPOSITION ____

SIGNATURE Cliff F

ADDRESS 480- 9th Street Oakland

PHONE 510-625-0100 DATE 11-06-2014

EXHIBIT

47

Dear 40 Acre Family,

Recently there have been numerous amount of complaints. They state 40 Acres members are loitering in the neighborhood, blocking driveways and littering. We do not know if these allegations are true or not. However as a measure of Good Faith, 40 Acres will be implementing its Good Neighbor policy!

Thanks. To the VIBES!!!!

40 Acres
GOOD NEIGHBORHOOD POLICY

- PLEASE DO NOT PARK IN NEIGHBORS DRIVEWAYS!
- PLEASE DO NOT SMOKE IN ANY AREAS OF THE NEIGHBORHOOD!
- PLEASE NO LITTERING! TAKE YOUR TRASH WITH YOU!
- NO LOITERING (HANGING OUT AROUND THE NEIGHBORHOOD)!
- PLEASE RESPECT THE NEIGHBORS!

EXHIBIT

48

LATE ITEMS
MCC 02-04-2016
Page 198 of 298

CSHC (CSCC / House of Compassion)

Medical Dispensaries / Berkeley *(126,333 hits)*

- Photos
- Videos

- WeedMenu
- Description

WELCOME TO THE HOUSE OF COMPASSION

CREATE AN 8TH BY COMBINING ANY TWO STRAINS IN THE SAME CATEGORY!
*Strains must be in the same category in order to receive this deal.
Half 8ths cannot be purchase separately.

DISCOUNTS FOR VETERANS, STUDENTS AND SENIORS EVERYDAY!

NOW ACCEPTING ATM!

+.+ D A B BRUNCH *.+*+*
Come on in before noon (12pm), spend $10 or more at the counter and receive a free wax dab from our dab bar!

"It has always been a goal of mine to help people heal their aches and pains. Sometimes through the use of cannabis, sometimes through music and sometimes, just through basic conversation. Here at CSCC, you will find all three, most importantly, some of my favorite types of medical Cannabis. Pick from Indica, Sativa and Hybrid flowers or edibles and The Christopher Smith Center for Compassion - Providing compassion and therapeutic relief for Medical Cannabis patients in California.Just come on through. You won't be disappointed!" C.SMITH

Reviews

Sort By
Featured ▼
4.1*Avg. Rating*
5.0
Overall Rating
5.0
Price
5.0

Staff
5.0
Accessibility
5.0
Bud Quality
5.0
Atmosphere

jbflywalker

December 13th, 2014

View all my reviews

Report

great spot!!!

I visited House of Compassion for the first time this week and the place is awesome. The staff was friendly and I was in and out in no time at all. They even hooked me up for my first visit. Ill definitely be back.

Please login or sign up to comment.

5.0
Overall Rating
5.0
Price
5.0
Accessibility
5.0
Staff
5.0
Atmosphere
5.0
Bud Quality

pali26king

December 6th, 2014

View all my reviews

Report

Prices, Quality and BT's here are DOPE!

1 personthought this review was helpful!

This is my new go-to spot in Berkeley. The prices cant be beat and the wax specials are from another planet. Flowers and Concentrates are all high-quality and once again, the PRICES are DOPE. Highly recommend this spot for anyone looking for good product that suits any budget. GO GO GO!!

Please login or sign up to comment.

2.0
Overall Rating
1.0
Atmosphere
3.0
Bud Quality
1.0
Accessibility
1.0
Staff
4.0
Price

Taniyat

November 20th, 2014

View all my reviews

Report

Rude asf for what?

2 peoplethought this review was helpful!

We all smoke! Chill out if someone has questions just answer and have some respect for people regardless of who they are.

Please login or sign up to comment.

5.0
Overall Rating

5.0
Bud Quality
5.0
Price
5.0
Accessibility
5.0
Staff
5.0
Atmosphere

jackherer420

November 18th, 2014

View all my reviews

Report

Awesome meds at a great price!

1 personthought this review was helpful!

Always have great deals, Polo is the homie with the jug, wax is pricey but GREAT, GREAT quality. Always worth it. They have great deals on flower too!

Please login or sign up to comment.

5.0
Overall Rating
5.0
Price
5.0
Atmosphere
5.0
Bud Quality
5.0
Accessibility
5.0
Staff

Dillon D

November 14th, 2014

View all my reviews

Report

awesome place pt2

1 personthought this review was helpful!

and I got what I needed. tender was cool too. will be coming back

Please login or sign up to comment.

5.0
Overall Rating
5.0
Accessibility
5.0
Price
5.0
Staff
5.0
Bud Quality
5.0
Atmosphere

Dillon D

November 14th, 2014

View all my reviews

Report

awesome place

1 personthought this review was helpful!

Went yesterday because they had shake at a good price. the guy outside was very nice, explained everything to me once the paperwork was out of the way

Please login or sign up to comment.

3.4
Overall Rating
5.0
Price
2.0
Staff
1.0
Accessibility
4.0
Bud Quality
5.0
Atmosphere

jASON a

November 12th, 2014

View all my reviews

Report

great prices terriable customer service..

2 peoplethought this review was helpful!

#1 they told me my son could not stand a safe distance from the club. I teach my family that this is a medicine not a drug. wallgreens does not ask to leave your child outside and away from the building. iam not asking to bring my son into the bud room. just where at least in eye shot from security.#2 after that i went into the budroom. the prices are great. the budtender was really cool.#3 After about 7min i was done with my 399.$ dollar purchase. the budtender told me i could take my ticket into the hash bar and get a free dab. she was cool across the hall was a differnt story. after begin ignored for about 1min while they ate carls junior over the bar. so i asked the very rude asian girl if she could take care of my transaction. she took my tag looked at her phone and said while rolling her eyes at me. its past noon sorry. as her and her cheer squad laughed at me. then went back to lunch. to petty to fight over a dab. just thought someone should know. like they say one good expeirence you might tell one or two people. a bad one you you will tell all. after all that. i will be back just for the pricing....that girl is not good for bizz.

Please login or sign up to comment.
5.0
Overall Rating
5.0
Atmosphere
5.0
Price

5.0
Staff
5.0
Accessibility
5.0
Bud Quality

harris.oscar

November 4th, 2014

View all my reviews

Report

Awesome spot

1 personthought this review was helpful!

Just left there right now! Nice people very professional they will not turn away new patients like a lot of other places do after a certain hour! Compassionate care at it's finest. Most the of people on here giving negative reviews are obviously ignorant, angry at life or both. Located off a Main Street Right by the freeway. Great place. Also they have a sweet lounge to medicate in! Thanks guys! Can't wait to go back with my friends! Ps also the budtender was so cool, I was short three bucks and he let me slide! Also great 1st patient gift. I'll be a regular. Great prices

Please login or sign up to comment.

3.6
Overall Rating
2.0
Staff
5.0
Price
5.0
Atmosphere
5.0
Bud Quality
1.0
Accessibility

jASON a

October 23rd, 2014

View all my reviews

Report

best prices

first time. got very turned around at first. the prices are great I come from sf to get my meds here. just wish they showed most of the strains. after spending 400$ I saw something I would of rather had and was cheaper. then I get to the concentrates. the BT told me I could have 2 grams of wasp nest for 55$ then it wasn't. but I will be back. in a few days. hope to have a more positive experience.

Please login or sign up to comment.

5.0
Overall Rating
5.0
Atmosphere
5.0
Price
5.0
Accessibility
5.0
Bud Quality
5.0
Staff

Cardeezy420

October 17th, 2014

View all my reviews

Report

Great buds

1 personthought this review was helpful!

Loved this place. Convenient off the freeway. No line copped me some green crack and OG Hindu Kush for legit prices. Definitely will be coming back

Please login or sign up to comment.

LATE ITEMS
MCC 02-04-2016
Page 206 of 298

- 1
- 2
- 3
- 4
- 5
- ...
- Next ›
- Last »

×

Confirm your email

Please confirm your email before writing a review.

Resend email confirmation?
X
Membership

To access this feature, you need to upgrade your membership. Give your friendly Sales Rep a call today at 844-Weedmaps!

Close
Open for 9 hours
4.1**(161 reviews)**

First-Time Patients

FREE GIFT FOR FIRST TIME PATIENTS
AND NEW-PATIENT REFERRALS!

leave us a review :)

Announcement

11/17/14-UNTIL FURTHER NOTICE: MEDICATING LOUNGE IS CLOSED FOR RENOVATIONS.

Most available product will be listed on menu

Come on by and see what more we have in store

We keep a rotation of stock and most of all, our patients leave happy!

Available Here

Hours & Info

SUNDAY
9:00am - 10:00pm
MONDAY
9:00am - 10:00pm
TUESDAY
9:00am - 10:00pm
WEDNESDAY
9:00am - 10:00pm
THURSDAY
9:00am - 10:00pm
FRIDAY
9:00am - 12:00am
SATURDAY
9:00am - 12:00am
ADDRESS
1828 San Pablo Ave
Berkeley, CA, 94702
EMAIL
40acresmedicalmarijuana@gmail.com
PHONE
510-845-4040
SOCIAL

MEMBER SINCE
February 2nd, 2011

Find

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- Contact Us
- Terms and Conditions
- Privacy Policy

EXHIBIT

49

LATE ITEMS
MCC 02-04-2016
Page 210 of 298

CSHC (CSCC / House of Compassion)

Medical Dispensaries / Berkeley *(125,029 hits)*

- Photos
- Videos

- WeedMenu
- Description

WELCOME TO THE HOUSE OF COMPASSION

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NOW ACCEPTING ATM!

+.+ D A B BRUNCH *.+*+*
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Reviews

Sort By
Featured ▼
4.1*Avg. Rating*
5.0
Overall Rating
5.0
Price
5.0

Accessibility
5.0
Staff
5.0
Atmosphere
5.0
Bud Quality

pali26king

December 6th, 2014

View all my reviews

Report

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1 personthought this review was helpful!

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Please login or sign up to comment.

2.0
Overall Rating
4.0
Price
1.0
Atmosphere
3.0
Bud Quality
1.0
Accessibility
1.0
Staff

Taniyat

November 20th, 2014

EXHIBIT

50

LATE ITEMS
MCC 02-04-2016
Page 213 of 298

Find | Near Rockridge, Oakland, CA

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yelp

40 Acres Medical Marijuana

13 reviews Details

Cannabis Clinics Edit

1820 San Pablo Ave Edit
Berkeley, CA 94709
West Berkeley
Get Directions
(510) 845-4040
Message the business
test.com

Recommended Reviews

Yelp Sort Date Rating Elites

Your trust is our top concern, so businesses can't pay to alter or remove their reviews. Learn more.

A. N.
Berkeley, CA
0 friends
7 reviews

12/1/2014

Based on 2 visits as a customer, no complaints. Entrance feels a bit scruffy, but the sales area is small, low-key, and pleasant.

I like the extended hours. Also the $8 grams, which make it affordable to try multiple strains. The low-cost grams also help low-volume users buy only the amount we'll actually use while fresh.

You'll probably find more options, and more-informed advice, at bigger dispensaries with larger inventories and staff. But the two advantages above are rather unique in this market.

Also listed elsewhere as "CSHC (CSCC / House of Compassion)."

EXHIBIT

51

LATE ITEMS
MCC 02-04-2016
Page 215 of 298

House Of Compassion (CSHC)

based on 1 review

VIEW MENU

Location: Bay Area, Berkeley, East Bay
1820 San Pablo Ave.
Berkeley, CA 94702
(510) 845-4040

Hours:

Monday	09:00 am – 10:00 pm
Tuesday	09:00 am – 10:00 pm
Wednesday	09:00 am – 10:00 pm
Thursday	09:00 am – 10:00 pm
Friday	09:00 am – 11:59 pm
Saturday	09:00 am – 11:59 pm
Sunday	09:00 am – 10:00 pm

Tweet Share 8+1 Pinit

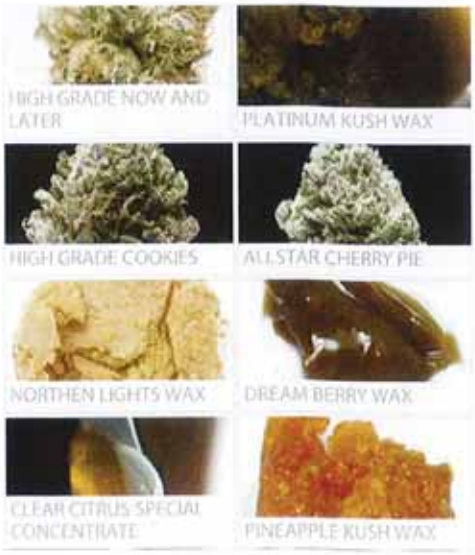
What's New About Us

Discounts for Seniors (55/up), veterans & students.

Medicating Lounge & Dab Bar!

Double Up Wax & Shatter Special. 2 grams for $55 + tx.

FEATURED MEDICINES


HIGH GRADE NOW AND LATER
PLATINUM KUSH WAX
HIGH GRADE COOKIES
ALL STAR CHERRY PIE
NORTHEN LIGHTS WAX
DREAM BERRY WAX
CLEAR CITRUS SPECIAL CONCENTRATE
PINEAPPLE KUSH WAX

- View Full Menu -

STICKY COUPON

DAB BRUNCH!

Make a Purchase of $10 or more before noon DAILY and recieve a free dab from our Dab Bar. NO COUPON NEEDED!

**One dab per purchase of $10 or more.*

- Print Coupon -

DISPENSARY REVIEWS

SUBMIT REVIEW

VIEW: by Date

Reviewed 11/7/14 by:
TBONE22

Average outdoor

Outdoor bud with supplemental lighting makes for harsh less potent meds, but the prices do reflect the quality.

If you are disabled, forget this place, it only has stairs and a lot of them.

Staff is friendly and they usually have good deals.

They have lots of concentrates and lots of strains just go for top shelf to not be disappointed.

Last edited by Tbone22 on 11/26/14 at 1:55 PM Pacific

LOCATION

- View Map & Directions -

1 FAN

- Become a Fan -

EXHIBIT

52

Follow

csccflowers

CsccFlowersEdiblesConcentrate 1828 San Pablo Ave Berkeley, Ca

8	14	6
posts	followers	following

April 2014

csccflowers

7 months ago

Follow

csccflowers, im_out_this_bitch and honeyvape like this.

Leave a comment...

csccflowers

7 months ago

#dabs#wax#concentrates

Follow

csccflowers, dabsnsnaps_, justinstyle18 and 5 others like this.

Leave a comment...

csccflowers Follow

7 months ago

#smoketrees#Elevateyourmind#GodsGift

im_out_this_bitch, **honeyvape**, **medical_shoutout** and **meowforkush** like this.

Leave a comment...

csccflowers Follow

7 months ago

#weed#potclub#Trees#fire

im_out_this_bitch, **honeyvape** and **medical_shoutout** like this.

Leave a comment...

csccflowers Follow

7 months ago

#domelessNail#dabs#Berkeley

dabsnsnaps_, justinstyle18, lilchloepie_ and 3 others like this.

Leave a comment...

csccflowers

Follow

7 months ago

#GSC#purp#Dablife#potclub#notprepacked#Wax#marijuana#Berkeley

alextract and medical_shoutout like this.

Leave a comment...

Follow
csccflowers
7 months ago
#potclub#dabs#weed#Berkeley#multitasking
alextract, im_out_this_bitch and meowforkush like this.
Leave a comment...

csccflowers

Follow

7 months ago

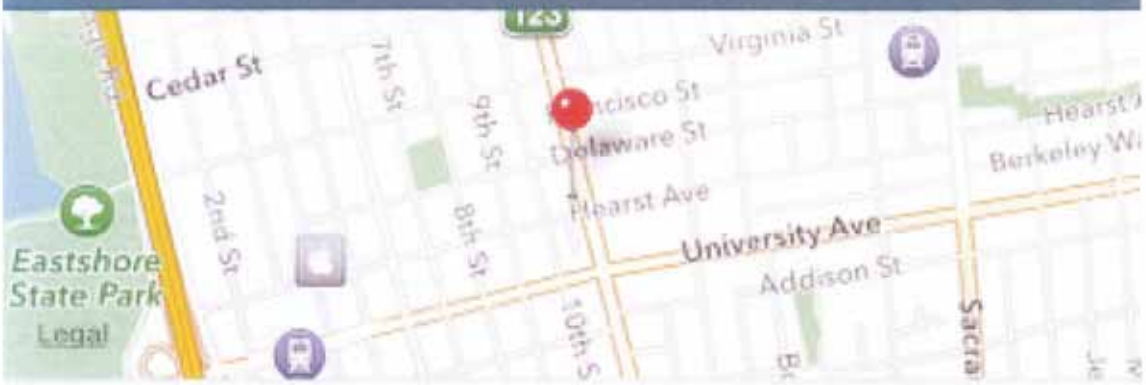
CSCC LOUNGE AREA

godsgift_90 likes this

Leave a comment...

Verizon LTE 1:36 PM 85%

40 ACRES



Open in Maps

Verizon LTE 1:34 PM 85%

PHOTO

godsgift_90 4d

244 likes

godsgift_90 I'm At The Top, And I Swear To God It's Really Lonely. Photo By @wussytaco #AMG #Givenchy #BayArea

neilhiva11 Was up wit bluhd

godsgift_90 @neilhiva11 shit at the job chillin

neilhiva11 Where u work at? @godsgift_90

godsgift_90 Forty acres @neilhiva11 #RatchetCannabisClub

Verizon LTE 1:38 PM 84%

PHOTO

isabellelulucifer
40 Acres

+ Follow

13 likes 1w

isabellelulucifer Christmas at 40 ❄️ 🎄

mayaautumnmontoya Yus

Like Comment

Verizon LTE 1:39 PM 84%

PHOTO

topshelfgold
40 Acres

+ Follow

36 likes 2w

view all 12 comments

the_veronicamidnight YAASS! I kinda figured it was that or some crumble

topshelfgold Mmm yaaasssss @the_veronicamidnight your pipe cute

the_veronicamidnight Thanks boo! Love your page

Verizon LTE 1:38 PM 84%

COMMENTS

topshelfgold 2w
#nofilter #wedontsmokethesame #topshelfgold at work like~ 😉 😍 😁

smaakkk 2w
@aaronweeeed

aaronweeeed 2w
@smaakkk flispaas

aaronweeeed 2w
😍

aob_avi 2w
😍 😍 😍 😴 😴 😴

topshelfgold 2w
avi ❤️

the_veronicamidnight 1w
What's the brown stuff

topshelfgold 1w
Hash babygirl @the_veronicamidnight

the_veronicamidnight 1w
YAASS! I kinda figured it was that or some crumble

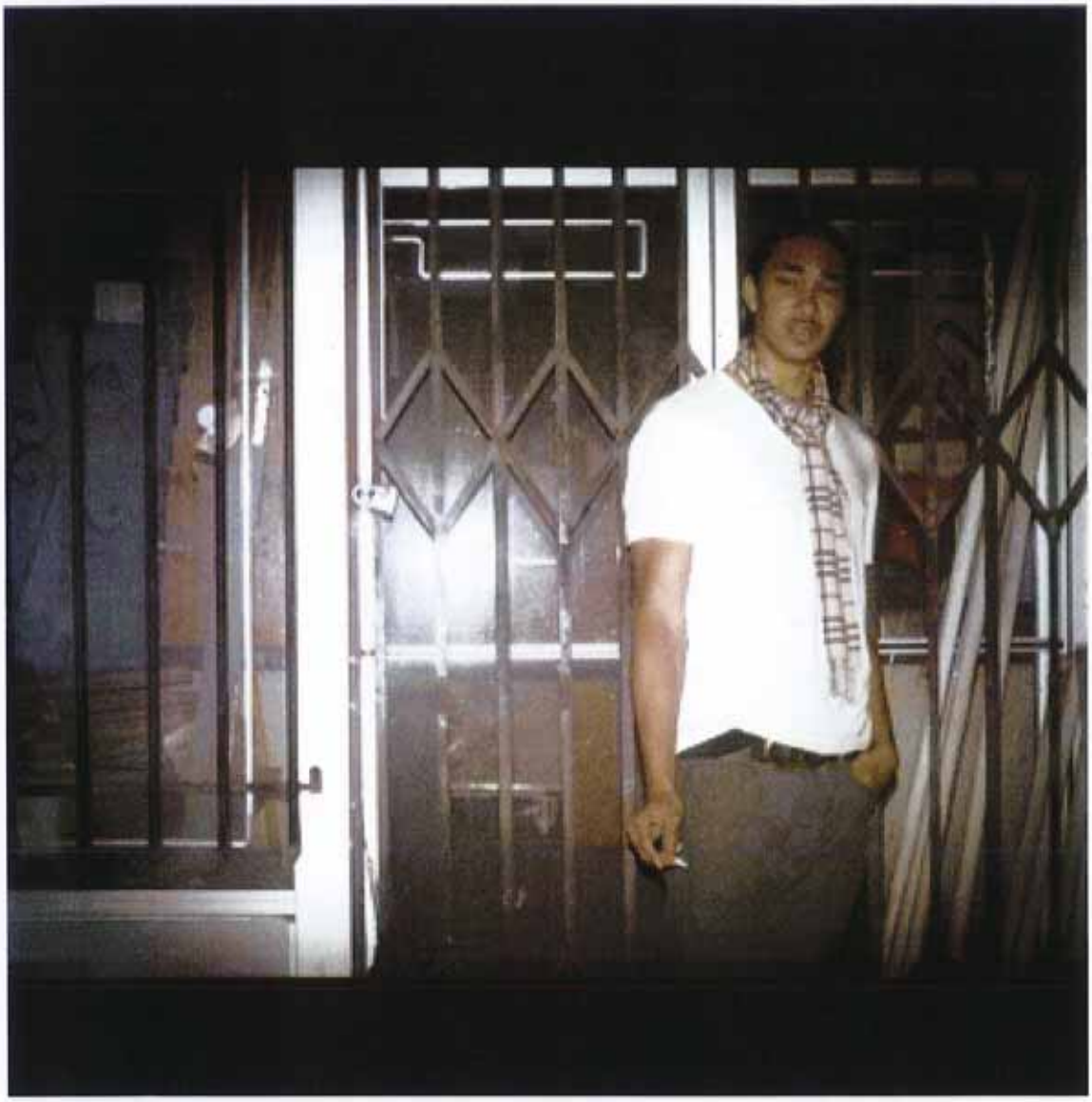
topshelfgold 1w
Mmm yaaasssssss @the_veronicamidnight your

Add a comment... Send

Verizon LTE 1:36 PM 85%

PHOTO

godsgift_90
40 Acres
8w



192 likes

godsgift_90 I'm Cookin' Dope In Burberry Because I'm kinda Fancy #Burberry #7forallmankind #1017 #TrapGod #BackToTheTrapHouse

view all 6 comments

rainbow_world_23 cute (;

cristinal0ve What she said 👆 #youfancyhuh

Verizon LTE 1:43 PM 83%

PHOTO

neeneedollface
40 Acres

+ Follow

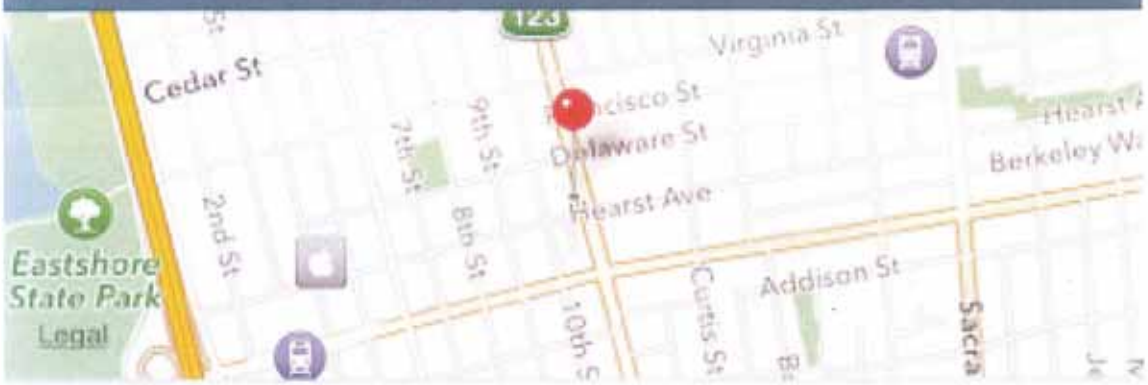
33 likes 19w

neeneedollface I Spy Wit My Lil Brown Eye #LP #WhatDoYouSee #Turnup #MyJobIsCoolerTheYours #MyBossIscoolerThenYours

Like Comment

Verizon LTE 1:45 PM 82%

FORTY ACRES MMGC



Open in Maps

Verizon LTE 1:44 PM 82%

PHOTO

neeneedollface
Forty Acres MMGC

+ Follow

34 likes 13w

neeneedollface Coming Soon‼️ #CannabisQuencher #myJob😍

view all 6 comments

flamegangslutty Yea mayne

outofsite12_ You back at 40 acres ?

89drg 😍😂 Lol thanks for The love 👌

benehannas What time you off

Like Comment •••

Verizon LTE 1:46 PM 81%

PHOTO

neeneedollface
Forty Acres MMGC

+ Follow

Win Your Ticket

- Tag @houseofcompassion w/your best pic
- Follow "Houseofcomassion"
- #40acresthevibe

12 likes 13w

neeneedollface ◆ Tag @houseofcompassion w/your best pic
◆ Follow "Houseofcompassion"
◆ #40acresthevibe !!

view all 7 comments

benehannas Just did boo @neeneedollface

EXHIBIT

53

BERKELEY POLICE DEPARTMENT
2100 Martin Luther King, Jr. Way, Berkeley, CA 94704
TEL: (510) 981-5900, TDD: (510) 981-5799, FAX: (510) 981-5744
EMAIL: police@cityofberkeley.info

Case # 2013-00072085

INCIDENT REPORT

BPD-125 (rev. 03-29-2013)

DETAILS

INCIDENT TYPE	REPORTED DATE / TIME / DAY	LOCATION OF OCCURRENCE
DISTURBANCE	12/11/2013 15:03 WED	1828 SAN PABLO AVE / BERKELEY

SUBJECTS

(ROLE: MH - CIT / MH, IP - INVOLVED PARTY, OP - OTHER PARTY, WI - WITNESS, RP - REPORTING PARTY, RO - REGISTERED OWNER)

ROLE	LAST, FIRST, MIDDLE, SUFFIX (OR BUSINESS NAME)	RACE	SEX	DOB	AGE

ADDRESS	PHONE	LICENSE	STATE	PFN

BUSINESS / OTHER ADDRESS	BUSINESS / OTHER PHONE	EMAIL ADDRESS

ROLE	LAST, FIRST, MIDDLE, SUFFIX (OR BUSINESS NAME)	RACE	SEX	DOB	AGE

ADDRESS	PHONE	LICENSE	STATE	PFN

BUSINESS / OTHER ADDRESS	BUSINESS / OTHER PHONE	EMAIL ADDRESS

VEHICLES

(ROLE: AB - ABANDONED, BO - BOLO (BE ON THE LOOKOUT), IM - IMPOUND TOW, IN - INVOLVED VEHICLE, PA - PARKED, RE - REPOSSESSED)

ROLE	PLATE	STATE	YEAR	MAKE	MODEL	STYLE	VEHICLE TYPE

COLOR TOP	COLOR BOTTOM	VIN	DESCRIPTION

RECOVERED VEHICLE

(ROLE: S - STOLEN, R - RECOVERED, D - DAMAGED, E - EVIDENCE, SU - SUSPECT, IN - INVOLVED, RO - REGISTERED OWNER, O - OTHER)

ROLE	PLATE	STATE	YEAR	MAKE	MODEL	STYLE	VEHICLE TYPE

COLOR TOP	COLOR BOTTOM	VIN	DESCRIPTION

PROPERTY

(CODE: D - DAMAGED, DE - DESTRUCTION, F - FOUND, R - RECOVERED, K - SAFEKEEPING)

CODE	QUANTITY	UNIT OF MEASURE	PROPERTY TYPE	SERIAL NUMBER	VALUE
E	1.81	GRAMS	Drugs (Marijuana)		

DESCRIPTION: Clear, press lock plastic bag with marijuana; 1.81 grams AGW

CODE	QUANTITY	UNIT OF MEASURE	PROPERTY TYPE	SERIAL NUMBER	VALUE

DESCRIPTION:

CODE	QUANTITY	UNIT OF MEASURE	PROPERTY TYPE	SERIAL NUMBER	VALUE

DESCRIPTION:

CODE	QUANTITY	UNIT OF MEASURE	PROPERTY TYPE	SERIAL NUMBER	VALUE

DESCRIPTION:

NARRATIVE

Within 72 hours of 12-21-14, I contacted a confidential, reliable informant (identified as X) for the purpose of conducting a controlled purchase of suspected narcotics from 1828 San Pablo Avenue (40 Acres Marijuana Collective) in Berkeley.

I believe X to be reliable for the following reasons:

X has;

(1) Provided me with specific information on several unrelated narcotic dealers, and the addresses of houses where narcotics are being sold. X has provided names, phone numbers, and vehicle information of known narcotic dealers. This information has been corroborated by personal knowledge, investigations, arrests of known drug dealers, computer checks, and surveillances.

REPORTING OFFICER	DATE / TIME WRITTEN	REVIEWED BY SUPERVISOR	PAGE
Rodrigues, Veronica #45	12/21/2014 21:30		1 of 3

BERKELEY POLICE DEPARTMENT
2100 Martin Luther King, Jr. Way, Berkeley, CA 94704
TEL: (510) 981-5900, TDD: (510) 981-5799, FAX: (510) 981-5744
EMAIL: police@cityofberkeley.info

Case # 2013-00072085

REPORT NARRATIVE

BPD-108 (rev. 03-29-2013)

NARRATIVE

(2) Never given any information which I know to be false or misleading, and believe the information given in this case to be truthful as well.

(3) Conducted 2 reliability buys of narcotics from individuals while under my direction. On each occasion, X was searched prior to and found to not be in possession of any narcotics or narcotic paraphernalia. On each occasion, X was observed contacting a group of people. On each occasion, X returned directly to me and gave me an amount of narcotics, which were purchased with police funds. All narcotics were Valtox or NIK tested, packaged, and placed into a narcotics locker under an in-house case number. Both buys were conducted solely to test the reliability of X and no prosecution was sought.

(4) Provided information that led to the arrests of several people and the recovery of narcotics and firearms.

I request the identity of X remain anonymous for the following reasons:

(1) Disclosure of X's identity would jeopardize the health and well-being of X and his/her family.

(2) Disclosure of X's identity would jeopardize the usefulness of X in future and current investigations.

X has admitted to possessing marijuana on several occasions in the past. X has a criminal history. For these reasons I believe X is able to identify marijuana on sight and is familiar with the manner in which marijuana is packaged and sold.

Prior to the controlled purchase, X was searched and was not in possession of any money or contraband. I gave X money from Berkeley Police funds to purchase suspected marijuana from 1828 San Pablo Avenue.

Sergeant C. Lindenau assisted me in this operation.

Sergeant C. Lindenau and myself followed X and saw him/her walk inside of 1828 San Pablo Avenue. I did not see X contact anyone else.

Sergeant C. Lindenau and I observed a security guard in front of the business.

After several minutes, I saw X walk out of 1828 San Pablo Avenue and return to our pre-determined meet location. I did not see X contact anyone else.

X handed me a clear, plastic press lock baggie that contained suspected marijuana (1.81 grams AGW). There was a small, white label on the bag that read "NOT FOR RESALE MEDICAL USE ONLY HEALTH & SAFETY CODE 11362.7."

X stated that he/she purchased the marijuana from inside of 1828 San Pablo Avenue. I searched X and he/she was not in possession of any money or contraband.

REPORTING OFFICER	DATE / TIME WRITTEN	REVIEWED BY SUPERVISOR	PAGE
Rodrigues, Veronica #45	12/21/2014 21:30		2 of 3

BERKELEY POLICE DEPARTMENT
2100 Martin Luther King, Jr. Way, Berkeley, CA 94704
TEL: (510) 981-5900, TDD: (510) 981-5799, FAX: (510) 981-5744
EMAIL: police@cityofberkeley.info

Case # 2013-00072085

REPORT NARRATIVE

BPD-108 (rev. 03-29-2013)

NARRATIVE

X stated that he/she walked past the security guard and entered the business without showing any type of identification or medical marijuana documents. X told me that he/she observed the security guard checking other customers for their identification or medical marijuana documents. X told me that he/she did not have a medical marijuana recommendation and is not a member of the 40 Acres collective. X also stated that nobody offered to sign him/her up as a member of the 40 Acres collective after he/she entered.

X informed me that he/she purchased the marijuana from an employee behind a counter. Behind the counter was glass jars filled with marijuana. Each jar of marijuana had a sticker with the price per gram. X also noticed a digital price list for the different types of marijuana.

X noticed several other customers in line to purchase marijuana.

X did not observe a smoking lounge or area where people could gather to smoke marijuana.

I returned to the Berkeley Police Department to process the evidence. The suspected marijuana packaged inside of the pouch tested presumptive NIK E positive for marijuana.

I packaged and placed the evidence into the Berkeley Police property room

REPORTING OFFICER	DATE / TIME WRITTEN	REVIEWED BY SUPERVISOR	PAGE
Rodrigues, Veronica #45	12/21/2014 21:30		3 of 3

EXHIBIT

54

LATE ITEMS
MCC 02-04-2016
Page 241 of 298

KOROVA

UNRIVALED POTENCY

PRODUCTS ABOUT US LOCATIONS CONTACT

NORTHERN CALIFORNIA DISPENSARIES

UPDATED 5/23/2014

An asterisk (*) means delivery service.

SACRAMENTO- UPDATED 10/13/14

(12 Hour Care)/THC. 515 Broadway. A Therapuetic Alternative. Abatin Wellness. All About Wellness. Alpine Alternative. CC101. Cloud 9. Doctor's Orders. Horizon Collective. House Of Organics. Hugs Alternative Care. Keep It Green*. Northstar Holistic Collective. PureLife Collective. SafeCCC. South Sacramento Care Center. Two Rivers. Foothill Health

LATE ITEMS
MCC 02-04-2016
Page 242 of 298

and Wellness.

SAN FRANCISCO- UPDATED 10/13/14

1944 Ocean. Barbary Coast. BASA Collective. Bloom Room. Green Door. Herbal Mission. Igzactly 420. Ketama Collective. Medithrive. Mission Organic. SFFOGG. SPARC. Waterfall Wellness. Green beauties*. Delta 11*. Marin Holistic Solutions*. The Hemp Center.

SONOMA AND SOLANO COUNTY- UPDATED 10/13/14

HTP. Releaf. Speedy Weedy RX*. US Bloom. VallejoHHC. Greenleaf Solutions. Eartheart. Alternatives. OrganiCann. Green Light Alternatives. Riverside Wellness. Sonoma Patients Group. Sunshine Vitality Corp*. Garden Gateway*. Redwood Herbal. Vallejo Patients Care. Enhanced Energies. Vallejo Organic Center. Life Enhancement Services. Mercy Wellness.

OAKLAND/BERKELEY/EASTBAY- UPDATED 10/13/14

Harborside Health Center. Berkeley Patient's Group. CSHC (CSCC / House of Compassion). CBCB. Blum. Green Remedy. Magnolia Wellness. Oakland Community Partners.

LATE ITEMS
MCC 02-04-2016
Page 243 of 298

Phytologie Wellness. PureCure Farmacy*. Purple Heart. Holistic Healing Collective. 7 Stars. Telegraph Health Center.

SAN JOSE

Amsterdam's Garden. Bay Leaf. Blue Sky. Buddy's. Delta Health Center. Harborside Health Center. Haze. Leaf Lab. Medmar Healing Center. Natural Herbal Pain Relief. Papadon's SVCRC. Patient to Patient. Santa Cruz Naturally Collective. SJ Patients Group. South Bay CRC. South Bay Healing Center. Dabs. Yerba Buena Valley Fair. Yerba Buena Amber Pearl. Herb's. Revolution Health Center. San Jose Organics.

BACK TO LOCATIONS

PREV / NEXT

NORTHERN CALIFORNIA DISPENSARIES

CENTRAL CALIFORNIA DISPENSARIES

SOUTHERN CALIFORNIA DISPENSARIES

Stay updated on sample days in your area.

LATE ITEMS
MCC 02-04-2016
Page 244 of 298

KOROVA EDIBLES

LATE ITEMS
MCC 02-04-2016
Page 245 of 298

KOROVA

UNRIVALED POTENCY

IT ALL STARTED WITH AN IDEA FOR AN AFFORDABLE, DELICIOUSLY POTENT EDIBLE. AFTER YEARS OF MASTERING OUR CRAFT, KOROVA EDIBLES IS A HOUSEHOLD NAME IN THE MEDICAL MARIJUANA WORLD. A GRASS ROOTS BAY AREA NOT FOR PROFIT COLLECTIVE, KOROVA EDIBLES SUPPLIES TO THOUSANDS OF PATIENTS THROUGHOUT DISPENSARIES OVER CALIFORNIA. OUR INTENSELY POTENT EDIBLES ARE LAB TESTED THROUGH CW ANALYTICAL, ENSURING OUR PATIENTS GET THE BEST IN QUALITY, POTENCY, AND FOOD SAFETY!

OFFICIAL STATEMENT:

LATE ITEMS
MCC 02-04-2016
Page 246 of 298

"At Korova Edibles™ we are dedicated to offering a superior tasting product with truly unrivaled potency, at a fair price.

Why do our cookies taste better? We start with only high quality, fresh ingredients and our award winning recipes are bursting with mouth watering flavor. We use special ingredients and techniques during preparation to make our cookies the most delicious on the market. All Korova products are prepared in our health department certified, industrial kitchen, by our knowledgeable kitchen staff, with a certified food manager on site.

How do we make our products so potent? We use only top quality cannabis trim and flowers (and lots of it!). Our medicinal edibles are extremely strong, with prices similar to those of our less potent competitors. We are setting new standards for high potency edibles. Quite simply, unrivaled.

Taste, potency and value, make Korova the smart choice in medicinal cannabis edibles. Find all Korova Edibles products at your local Medicinal Cannabis dispensary."

- KOROVA EDIBLES

- **Consult with your doctor to find a dose that's right for you.**
- **Korova Edibles is a California not-for-profit cooperative.**

Stay updated on sample days in your area.

KOROVA EDIBLES

EXHIBIT

55

AbsoluteXtracts

An AbsoluteXtract is a concentrated, highly aromatic oil from an extraction process specifically designed for delicate Cannabis flowers. AbsoluteXtracts uses Super Critical CO2 to extract Cannabis at low temperatures. This captures the highest level of the flower's true aroma and medicinal cannabinoids.

After extraction, the lipids and waxes are removed.
What remains is only the highest quality Cannabis Oil...
an AbsoluteXtract.

LATE ITEMS
MCC 02-04-2016
Page 249 of 298

AbsoluteXtracts

100% Super Critical C02 Oil

Click to set custom HTML

Northern California

All About Wellness	1900 19th St.	Sacramento	95811	916-454-4327	www.sactown420.c
A Therapeutic Alternative	3015 H St	Sacramento	95816	916-822-4717	youtu.be/bQQcQLi
BASA Collective	1326 Grove St.	San Francisco	94117	415-409-1002	http://www.bayare
Berkeley Patients Group	2366 San Pablo Ave	Berkeley	94702	510-540-6013	www.berkeleypatie
CSHC (CSCC / House of Compassion)	1828 San Pablo Ave	Berkeley	94702	510-845-4040	https://weedmaps.
Harborside Oakland	1840 Embarcadero	Oakland	94606	888-994-2726	www.harborsidehe
Herbal Cruz	1001 41st Ave	Santa Cruz	95062	831-462-9999	www.herbalcruz.co
House of Meds	(By Delivery Only)	Oakland/Berkeley	94618	510-575-6466	https://houseofme
The Leonard Moore Cooperative	44970 Ukiah St	Mendocino	95460	707-937-4562	www.thelmc.org (h
OrganiCann	301 East Todd Road	Santa Rosa	95407	707-588-8811	organicann.com (o
Sonoma Patient Group	2425 Cleveland Avenue # 140	Santa Rosa	95403	707-526-2800	www.sonomapatie

Southern California

Green Goddess Collective	1716 Main St.	Venice	90921	310-396-7770	https://weedmaps.
High 5 Delivery #3	(By Delivery Only)	Menifee / Inland Empire	92586	951-723-0634	https://weedmaps.
Kush Kings	24643 Alessandro Blvd.	Moreno Valley	92553	951-485-6480	https://www.mmjn
Pain Free Collective	72152 Northshore, Suite G	Thousand Palms	92276	760-343-5220	https://www.faceb
Perennial Hollistic	11705 Ventura Blvd	Studio City,	91604	818-505-3631	www.perennialholi
Sherman Oaks Organic	13619 Moorpark St.	Sherman Oaks	91423	818-616-3122	http://420101.com

EXHIBIT

56

LATE ITEMS
MCC 02-04-2016
Page 251 of 298

THE BEST TASTING EDIBLES ON THE PLANET

Empower Your Day the Alternative Way

- REAL INGREDIENTS
  Every ingredient is chosen with care.
- PARTNERSHIPS
  Our farmers are passionate to provide sustainably grown consistent organic cannabis.
- COMMUNITY
  Exceeding patient's expectations.

GET IN TOUCH

Send the Pura Vida Team a Message!

Your Name

Your Email

Your Telephone

Your Message

SUBMIT NOW

OUR PASSION

The key to happiness and healing is what we put in our bodies. Not only is it important to know specifically what ingredients you are ingesting, but also the source in which they come from. Pura Vida promises the highest standard of food grade that our current market offers. Conceived with all organic, vegan, gluten-free, non-GMO, and third party tested ingredients creating the ultimate healing super food. Delicious too!

ORGANIC

We source our ingredients from around the world, supporting the organic and sustainable movement.

GLUTEN FREE

Easier to digest, allowing the purest form of nutrients to be absorbed

VEGAN

To encourage health, environmental, and ethical sustainability

LATE ITEMS
MCC 02-04-2016
Page 252 of 298

WHY EDIBLES?

Gentle on the throat and lungs, and combines long lasting medicinal healing with anti-oxidant rich ingredients.

Awareness of healthy eating habits is needed more than ever! People today are facing the highest rates and risk of disease, and fatal health related problems. By making simple lifestyle changes, we can heal ourselves and lead longer, healthier lives. Pura Vida is recognized as the premier supplier of Medicinal cannabis edibles. We regularly exceed patient's expectations by providing healthy, delicious and innovative edibles.

FREQUENTLY ASKED QUESTIONS

WHAT IS AN EDIBLE?

Marijuana infused products that provide patients the option to benefit from the healing effects of cannabis without having to smoke. Edibles come in many different forms including snack foods, cooking oils, tinctures, and much more.

WHAT IS OUR SECRET?

Coconut infused cannabis oil is the healthiest form of oil in existence. Proven to have internal and external magical properties when ingested and applied topically. Combining Coco Oil with our earth derived ingredients- creates a product that can not be duplicated. Enjoy!

ARE EDIBLES FOR YOU?

Consult your doctor before using. If you are new to edibles, we recommend eating smaller amounts and waiting 45 minutes before eating a full dosage. Edibles are for those who need it, and those who want it.

HOW MUCH SHOULD I EAT?

Until you know the effects of this product, eat only half of a segment and wait 75 minutes before consuming another portion. THC Content is intended for reference only, consult with your doctor to find a dose that's right for you.

In compliance with CA Prop 215 SB420, Section 1136.5 and 11362.7 of HSC. Do not drive or operate heavy equipment. Keep out of reach of children. Unlawful to redistribute.

WHERE TO FIND OUR AMAZING PRODUCT

OAKSTERDAMN UNIVERSITY

Oakland, CA 94612

DTPC

Riverside

MISSION ORGANICS

San Francisco, CA 94112

BLUE SKY

San Jose

PURPLE STAR

San Francisco, CA 94110

40 ACRES CSHC (CSCC / HOUSE OF COMPASSION)

Berkeley, CA 94702

LATE ITEMS
MCC 02-04-2016
Page 253 of 298

Email or Phone | Password | Log In

Keep me logged in | Forgot your password?

Pura Vida Health is on Facebook.

To connect with Pura Vida Health, sign up for Facebook today.

Sign Up | Log In

Pura Vida Health

Product/Service

Timeline | About | Photos | Likes | Videos

PEOPLE

186 likes

ABOUT

Pura Vida Health is an alternative medicinal cannabis company dedicated to offering the highest grade medication for living a well balanced life.

http://puravidahealth.org/

PHOTOS

POSTS TO PAGE

Pura Vida Health
17 hours ago

A little sneak preview Our new packaging launches 12.7.14! Keep a look out DOUBLE THE food, DOUBLE THE POTENCY. yes you heard that right. 10 doses per bag! First and only edible in the market to be all organic, vegan, gluten free, and non-G... See More

Like · Comment · Share

Pura Vida Health and Heather Hoffman like this.

Pura Vida Health
November 5

Cannabis has a long history in Traditional Chinese Medicine. Cannabis is one

Sign Up

Email or Phone

Password

Log In

Keep me logged in

Forgot your password?

Pura Vida Health
August 1 ·

Pura Vida Gramola Demo tonight in Berkeley- at CSCC. COME CHECK US OUT!
https://weedmaps.com/dispensaries/california/berkeley/cscc

CSHC (CSCC / House of Compassion)

CSHC (CSCC / House of Compassion) - Berkeley, California

WEEDMAPS.COM

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EXHIBIT

57

ALAMEDA COUNTY SHERIFF'S OFFICE
CRIME LABORATORY EXAMINATION REPORT

15001 Foothill Boulevard, 2nd Floor, San Leandro, CA 94578
Phone (510) 667-7700, FAX (510) 667-7764

SUBMITTING AGENCY Berkeley Police Department		LABORATORY NUMBER L14-0605-4
EXAMINATION REQUESTED BY Special Enforcement Unit	VICTIM OR SUSPECT (S): UNKNOWN	CASE NUMBER 13-72085
LABORATORY CLASSIFICATION Controlled Substance Analysis	DATE OF REPORT January 5, 2015	OFFENSE 11359 H&S

Chain of Custody

One sealed evidence envelope (Item 5), identified by the above case information, was received into the Laboratory on December 22, 2014 from Detective Salas by Sheriff's Technician Overcash.

Evidence Description

5	One heat-sealed plastic pouch holding one press-lock plastic bag containing plant material, examined.

Examination Results

5	**The sample was microscopically examined and chemically tested and was determined to be Marijuana. Net Weight = 1.15 gram(s).**

Evidence Disposition

Upon completion of the examinations, the evidence was resealed into the original evidence containers and was prepared for release to the submitting agency.

Penny L. Ritter
Criminalist III

Technical Reviewer — Date: 01/06/2015

Administrative Reviewer — Date: 01/06/2015

INDEX TO ADMINISTRATIVE RECORD

1820-1828 San Pablo Avenue

Code Enforcement

Prepared: December 15, 2014

	DOCUMENT		DATE	PAGE	# of pages
	RESOLUTION				
1.	ZAB Resolution No. 14-01		11/13/2014	5	25
	STAFF REPORTS				
2.	ZAB Staff Report, with exhibits:		11/6/2014	31	38
	Exhibit 1	Use permit and application for modern dance studio	3/14/1972	69	4
	Exhibit 2	Berkeleyside article "Rapid Growth of Cannabis Collective Raises Concern" by Frances Dinkelspiel	9/29/2011	74	7
	Exhibit 3	Cease and Desist Notice from Greg Daniel to Clarence Soe to "Operator" re medical marijuana dispensary operations	12/8/2011	82	2
	Exhibit 4	Citation Warning Letter from Greg Daniel to Clarence Soe, Chris Smith, and 40 Acres Medical Marijuana Growers Collective	12/22/2011	85	4
	Exhibit 5	Notice of Violation to Clarence Soe	1/26/2012	90	6
	Exhibit 6	Notice of Legal Representation by G. Whitney Leigh	1/3/2012	97	2
	Exhibit 7	Letter from Gregory Daniel to G. Whitney Leigh elucidating the requirements for a medical cannabis dispensary or collective and instructing that FAMMGC must immediately cease operations.	1/27/2012	100	3
	Exhibit 8	Appeal of Notice of Public Nuisance Determination by G. Whitney Leigh & Letter re Unlawful Entry of Chris Smith's Residence and Failure to Repair Noticed Defects	11/5/2013 & 10/31/2013	104	14
	Exhibit 9	Email Chain between Zach Cowan, Laura McKinney and Whitney Leigh re conduct of hearing	7/18/2014	119	6
	Exhibit 10	Superseding Notice of Public Nuisance Pursuant (to) Berkeley Municipal Code (BMC) Chapter 23B.64 at 1820 and 1828 San Pablo Avenue and October 9, 2014 Hearing	8/11/2014	126	4
	Exhibit 11	Order Granting Defendants' Motion to Stay; Order Granting Plaintiff's Motion to Amend	3/21/2014	131	14

	Exhibit 12	Memorandum re Medical Marijuana Peer Review Committee; Identifying Members to be Seated from Dispensaries When Measure JJ became Effective	12/17/2008	146	2
	Exhibit 13	Letter to Chris Smith from Elizabeth Greene explaining the denial of his applications for a collective at 1820 San Pablo and 510 Ashby Avenue w/supporting exhibits	3/15/2012	149	11
	Exhibit 14	Declaration of Mark Numainville in Support of October 21, 2013 Notice and Order and exhibits A through D	6/2/2014	161	34
	Exhibit 15	Excerpt of Toya Groves' testimony at Public Nuisance Hearing Proceedings	6/18/2014	195	9
	Exhibit 16	New York Times article entitled "The Legal but Largely Unregulated World of Pot Merchants Thrives"	6/5/2010	205	5
	Exhibit 17	Weedmaps documents	9/15/2014	211	26
	Exhibit 18	Screenshots from Weedmaps website	4/16/014	238	3
	Exhibit 19	Declaration of Don Duncan denying affiliation with Chris Smith or Forty Acres Medical Marijuana Grower' Collective	1/30/2014	242	2
	Exhibit 20	Reviews from Weedmaps	4/22/2014	245	3
	Exhibit 21	Reviews from Weedmaps	4/30/2014	249	3
	Exhibit 22	Weedmaps printouts	5/15/2014	253	2
	Exhibit 23	Weedmaps printouts	5/28/2014	256	2
	Exhibit 24	Weedmaps ad announcing Dab Brunch	8/26/2014	259	1
	Exhibit 25	Weedmaps printouts	9/2/2014	261	1
	Exhibit 26	Weedmaps printouts	9/11/2014	263	1
	Exhibit 27	Menu on Weedmaps	10/28/2014	265	22
	Exhibit 28	Weedmaps reviews	10/28/2014	288	95
	Exhibit 29	Weedmaps reviews	7/16/2014	384	2
	Exhibit 30	Yelp reviews	10/28/2014	387	7
	Exhibit 31	Weedmaps menu	4/30/2014	395	6
	Exhibit 32	Weedmaps menu	5/15/2014	402	6

	Exhibit 33	SC Labs menu of product tested	8/6/2014	409	28
	Exhibit 34	40 Acres Medical Marijuana Growers' Collective Facebook page	10/23/2014	438	7
	Exhibit 35	Taxable Activity Registration System Account Inquiry	4/16/2014	446	1
	Exhibit 36	California Secretary of State Business Search Results printout	4/16/2014	448	1
	Exhibit 37	BPD Report Case # 2014-00016887 re disturbance at 1828 San Pablo Avenue	3/23/2014	450	3
	Exhibit 38	Declaration of Emily Murphy in Support of Opposition to Motion to Quash the Administrative Inspection Warrant	4/18/2014	454	2
	Exhibit 39	BPD Report Case # 2013-00072085 re disturbance at 1828 San Pablo Avenue	12/11/2013	457	6
	Exhibit 40	BPD Report Case # 2013-00072085 re confidential buy at 1828 San Pablo Avenue	12/11/2013	464	11
	Exhibit 41	Advertisement for The House of Compassion Black Light Extravaganza featuring Bay Area Urban Artisit (sic)	10/30/2014	476	3
	Exhibit 42	Declaration of Patrick Emmons with Exhibits	10/29/2014	480	17
	Exhibit 43	Bay Area Artisit *(sic) Facebook page printout	11/3/2014	498	11
	Exhibit 44	Forty Acres MMGC Facebook page	2014	510	8
	Exhibit 45	Instagram printout	2014	519	7
3.	ZAB Materials: Draft Resolution		11/13/2014	58	26
	CAPTIONER'S RECORD				
4.	ZAB Captioner's record from 11/6/2014		11/6/2014	915	44
5.	ZAB captioner's record from 11/13/14		11/13/2014	960	3
	REMAINDER OF ADMIN RECORD				
6.	Notice of public nuisance and October 9, 2014 hearing		8/11/2014	963	4
7.	Certified mail receipts		8/12/2014	967	2
8.	Certified mail return receipt		8/19/2014	969	2
9.	Motion to Quash the Inspection Warrant and Suppress Evidence Before the Zoning Adjustments Board		10/21/2014	971	19

10.	Declaration of G. Whitney Leigh in Support of Motion to Quash the Inspection Warrant and Suppress Evidence Before the Zoning Adjustments Board and exhibits	10/21/2014	991	54
11.	Public hearing notice and mailing list	10/23/2014	1045	9
12.	Public hearing notice posted on site	10/23/2014	1054	3
13.	Christopher Smith's Objections to the Procedures Proposed in the City's Report and Recommendation; Request for Pre-Hearing Determination of Procedure	11/6/2014	1057	7
14.	Supplemental Correspondence: Materials related to recusal of Hearing Officer Craig Scott	11/6/2014	527	144
15.	Additional Correspondence Received	11/6/2014	671	214
16.	ZAB Speaker Cards	11/6/2014	885	4
17.	Consent to Order Letter - occupant	11/20/2014	1064	2
18.	Consent to Order Letter - owner	11/20/2014	1066	2
19.	Notice of Decision - occupant	11/20/2014	1068	1
20.	Notice of Decision - owner	11/20/2014	1069	1
21.	Certified mail receipts	11/20/2014	1070	1
22.	Certified mail return receipt	11/21/2014	1071	1

Administrative Record

1820/1828 San Pablo Avenue: Public Hearing and Determination Regarding a Public Nuisance Under BMC Section 23B.64

Attachment 4 to this report, 1820/1828 San Pablo Avenue: Public Hearing and Determination Regarding a Public Nuisance under BMC Section 23B.64, is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site
http://www.cityofberkeley.info/citycouncil/

NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL
CITY COUNCIL CHAMBERS, 2134 MARTIN LUTHER KING JR. WAY

1820/1828 San Pablo Avenue - Public Nuisance

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, JANUARY 20, 2015 at 7:00 PM**, a public hearing will be conducted pursuant to Berkeley Municipal Code section 23B.64.050 to make a determination whether 1820/1828 San Pablo Avenue is: a) in violation of Berkeley Municipal Code (BMC) Chapter 12.26; b) in violation of BMC Chapter 12.27; c) in violation of the Zoning Ordinance; and d) a public nuisance under BMC Chapter 23B.64 and order the unlawful medical cannabis use enjoined and terminated and the 11 separate tenant spaces removed.

A copy of the agenda material for this hearing will be available at the City Clerk's Office and on the City's website at www.CityofBerkeley.info as of **January 8, 2015.**

For further information, please contact: Gregory Daniel, Code Enforcement, (510) 981-2482

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Mailed: January 6, 2015, pursuant to Berkeley Municipal Code Section 23B.32.020

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Greene, Elizabeth

From: Gary Paul <garyspaul@yahoo.com>
Sent: Wednesday, February 03, 2016 7:05 PM
To: Greene, Elizabeth
Subject: Medical Cannabis Commission / City Council

Dear Cannabis Commission and City Council,

I am writing to express my support of the applicant, Berkeley Innovative Health, in their quest to be awarded a permit for a dispensary location on San Pablo Ave.

As a citizen who is concerned with the well being of the community and who believes strongly in giving back, I prefer to patronize firms that feel and act as I do, not only with words but with deeds. The applicants fill this bill in a very large way. I have served on the Board of Directors for Meals on Wheels of Alameda County for the past 8 years. I do so because I believe that the vulnerable seniors in our community need a voice, and more importantly they need a personal visit and a daily meal to maintain their health, their connection to the outside world and to remain in their homes with dignity for as long as is possible. It would be impossible for us to fulfill our mission without the generous support of that the applicants provide through their dispensary in Hayward, Garden of Eden.

For the past 5 years they have been the largest supporter of our annual fundraiser with a $10,000 sponsorship and additional gifts that add up to a total of over $20,000 per year. When Shareef and Soufyan (owners of Garden of Eden) learned that we have a large list of seniors who we couldn't serve because of lack of funding, they asked what could be done to reduce that list to zero. When I explained that is is a certainty of funding into the future, they stepped up and committed to sponsoring us for the next 5 years with the same dollar level as a minimum! This translates to over $100,000 which is tantamount to over 16,000 senior meals served. Their commitment to the frail, homebound seniors in our community is critically important to us and to the seniors in the Berkeley community. So much so that their firm is being awarded our annual honor which is reserved for firms that have a long history of sponsorship and tried and true commitment to our cause.

I do so hope that the commissioners and the city council members take this input into consideration when making this important decision. With Berkeley Innovative Health, you will have a proven, community minded, local company that has proven ties to the important causes that we all share.

Respectfully,

Gary Paul
510-913-6026
garyspaul@yahoo.com

Vice President, Board of Directors
www.feedingseniors.org

Berkeley Medical Cannabis Commission
Elizabeth Greene, Secretary

February 3, 2016

Members of the Berkeley Medical Cannabis Commission:

I am writing to express my deep concern about the Berkeley Innovative Health proposal for 1229 San Pablo Avenue. I live on the 1300 block of Kains Avenue and attended both the neighborhood presentation by the proponents on November 15 at Ashkenaz, as well as your special meeting on January 28.

I feel that Berkeley Innovative Health has made very little effort to research the neighborhood and address our concerns. At the neighborhood presentation, Mr. El-Sissi basically admitted that they had a limited application window, and their choice of the rug cleaning building was based on real estate availability more than neighborhood considerations or adequate facilities. He did not know that our Kains Avenue block association existed, or that its major issues over the past 20 years have related to spillover of traffic, parking, and crime from San Pablo Avenue. At the public meeting last week, when the commissioner asked about the negative public comments his proposal received, Mr. El-Sissi responded that he guessed the neighborhood was opposed to his proposal because we are opposed to medical cannabis.

The neighborhood concerns about safety and security have not been made up out of NIMBYism or disapproval of medical cannabis. Many of us likely voted for the measures that established the current system. When some brought up problems at the old San Pablo/Delaware site, one former resident--a cancer survivor--reminded us that dispensaries like Berkeley Patients Group with appropriate facilities/siting and management can be good neighbors. For the most part I would say the neighbors are trying to be open minded, objective, and respectful of the process, and feel that the proponent is both dismissing our concerns and assuming that he can apply his experience in Hayward to a completely different neighborhood context.

Here are the issues:

- Parking: Ashkenaz patrons already use the limited parking on Kains during daytime classes and evening concerts/events. The current rug-cleaning business at 1229 San Pablo generates almost no vehicle traffic, and neighboring restaurants use the street parking in front. At the November meeting Mr. El-Sissi acknowledged that parking was a "problem" and said they would look into leasing a parking lot. He had the same response last week. The only available parking lot is across San Pablo and seems to be fully used by Dollar Tree and the adjacent businesses, now with spillover from Whole Foods as well.

- Traffic safety: If there is no parking at the dispensary and patrons rely heavily on public transit, they will have to cross San Pablo and/or Gilman. This has always been a challenge for slow walkers, seniors and those with disabilities—recently a wheelchair-bound resident of our block was hit by a car in the crosswalk. And the intersection of Gilman and San Pablo has only become busier with the new businesses in the "Gilman District".

- Public transit: The 72 bus shelters on either side of Gilman are often resting places for the homeless, and not particularly inviting or even usable by seniors or disabled patrons. In fact, patrons using the 72 to reach the proposed dispensary could just as easily reach Berkeley Patients Group, less than a mile and a half away on the same bus line.

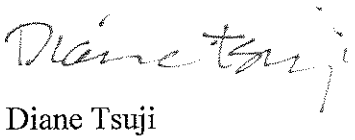
- Street safety: Berkeley Innovative Health does not have an off street lot and like Ashkenaz, dispensary employees and patrons will likely have to park on Kains. Kains is not well lit and has street trees that would limit the kind of camera surveillance that was being discussed at the meeting last week. At night patrons walking to their cars could easily be victimized out of view or control of the dispensary's security staff.

- Community benefits: The applicants did not present agreements, philanthropic goals, or even a vision for benefiting the local community, even though the city application offers many possible examples. They only said that they have given donations to schools and churches in Hayward, and visited Berkeley Youth Alternatives to learn about their program.

- Local enterprise and management: Berkeley Innovative Health's application mainly rests on experience operating the Garden of Eden dispensary in Hayward, which they plan to replicate in Berkeley. Mr. El-Sissi has not provided a staffing plan or transition plan showing how he and his partners will double their operations and deliver adequate management at both sites.

I hope this is not too late to be included in the public comment—I won't be able to attend the meeting tomorrow afternoon. This has been an interesting and enlightening process, and I appreciate the opportunity to participate in it.

Thank you,



Diane Tsuji

Greene, Elizabeth

From: Diana Wood <aawdew1@aol.com>
Sent: Tuesday, February 02, 2016 9:50 PM
To: Greene, Elizabeth; dan.hayes@yahoo.com
Subject: Proposed Cannabis Disppensary @ 1229 San Pablo

Hello Ms. Greene,

I live on Gilman, two blocks from the proposed cannabis dispensary at 1229 San Pablo. I attended the meeting held by the prospective proprietors several months ago at Ashkenaz and spoke against their application at that time. I also have emailed Councilwoman Maio describing our neighborhoods' concerns about the prospective dispensary.

I and my neighbors understand that the sale of medical marijuana in Berkeley is legal.

However, we are opposed to the siting of a new dispensary for Berkeley at 1229 San Pablo because of the problems of:

1) diversionary sales occurring on our zoned residential sidewalks and streets which will affect our children's safety.
2) no off-street parking which will cause double-parking on San Pablo which is supposed to be clear to facilitate traffic diversion from I-80 at the east end of the Bay Bridge when rush hour traffic problems occur. San Pablo already is a heavily congested street during rush hours.
3) increase in robberies in our zoned residential neighborhood due to the cash nature of the dispensary business.
4) the proposed dispensary would be doing business less than one block from a Montessori school with young children. Other schools also are located nearby.

Please take into consideration the unsuitability of the 1229 San Pablo building to be used as a medical marijuana dispensary due to the reasons described above and the fact that we live in a zoned residential neighborhood including Kains, Stannage, Cornell, etc.

Sincerely,
Diana Wood
1139 Gilman Street

Greene, Elizabeth

From: Dan Hayes <djhayes.sf941@yahoo.com>
Sent: Wednesday, February 03, 2016 2:13 PM
To: Greene, Elizabeth
Subject: Proposed BIH Cannabis Dispensary

Dear Members of the Medical Cannabis Commission,

We are writing to urge the commission to reject the Berkeley Innovative Health's proposal to operate a medical cannabis dispensary at 1229 San Pablo Ave. While we are not opposed to the use of medical cannabis and agree that the city should have a fourth dispensary, we feel that the location selected by BIH is inappropriate and will have a negative impact on a neighborhood that is teaming with families with young children.

The lack of on-site parking will force many of the anticipated daily clients(by BIH's estimate as many as 500 with in a year or two) into parking in a surrounding neighborhood that is already difficult to park in. And more importantly, the lack of a parking lot under the watch of the dispensary's security will invite robberies of the cannabis being walked back to cars in the neighborhood.

Also, while not covered by the city regulations creating a 600ft buffer between K-12 schools and dispensaries, there is a Montessori school and the Studio Grow children's educational play center within less than 600ft of the proposed location.

Please take these things into account when making your recommendation to the City Council regarding these matters.

Thank You
Dan Hayes
Elise Obolensky
1116 Harrison St

Greene, Elizabeth

From: John F. Houde <johnfhoude@gmail.com>
Sent: Wednesday, February 03, 2016 5:12 PM
To: Greene, Elizabeth
Subject: Concerning the Cannabis Center's application for 4th Berkeley Medical Cannabis Dispensary

Dear Berkeley Cannabis Commission

This letter concerns the selection of the location of the next medical cannabis dispensary in Berkeley, and specifically concerns the application of the Cannibis Center. I am a Berkeley resident and a neighbor living within three blocks of the proposed Cannabis Center site at 1440 University Ave. I attended their community meeting on 11/10/2015, where I listened to their proposal.

I wish to point out several problems with their application and business plan.

First, they do not have any plan for dealing with parking. In their application and their presentation, they claimed to have access to a large parking lot where the 'grocery store' is. In fact, the building they are referring to, which most recently housed the Savers thrift store, hasn't been a grocery store for over 5 years, and the landlord of that building does not allow anyone but patrons and employees of the thrift store to park in that lot. In fact, the landlord has had court proceedings with the businesses at 1440 University Ave (called the Strawberry Creek Walk) to prevent them from using the parking lot. Indeed, one result of this court action was the construction of a fence along the Strawberry Creek Walk facing the parking lot, specifically constructed to impede access to Strawberry Creek Walk from the parking lot. Thus, all the businesses of Strawberry Creek Walk depend on nearby street parking for their businesses. The Cannabis Center, therefore would also depend on street parking for customers driving to it. And with the Cannabis Center estimating over 300 customers per day, this will overwhelm street parking in the surrounding neighborhoods. As many of the potential customers may be disabled and unable to walk or take public transporation, parking seems to be an important part of the business plan. Additionally, our neighborhood is filled with Schools, Preschools, and Churches that may feel uncomfortable having the Cannabis Center customers park nearby. The saturation of parking throughout these neighborhoods by Cannabis Center customers will certainly strain the ability of anybody else to park, which will not be appreciated by the neighbors and local businesses. It appears that some of the other applicants have made better arrangements for parking and/or are located in areas where there is higher adult foot traffic. I encourage you to consider this when recommending applicants to the City Council. Note also that these problems and mistakes in their application were mentioned to the Cannabis Center applicants at the community meeting that they held, but apparently the Cannabis Center never felt the need to correct these mistakes in their application before their recent presentation to the Berkeley Cannabis Commision this past Thursday (1/28/2016).

Also, I encourage you to come to the actual site where the center is proposed. The long fence along the Strawberry Creek Walk makes a narrow entrance and walkway into the proposed Cannabis Center location, and I question whether this would give adequate access for the customers of the Center.

A third problem with the Cannabis Center's application is the lack of specificity in the community benefits they would provide. The other applicants, such as the Apothecarium and BCCC have specific experience in working with local non-profits. For example, the Apothecarium talked about supporting Harvey Milk School in San Francisco, and BCCC talked about providing musical instruments to Berkeley high School. The Cannabis Center vaguely mentions supporting different types of local non-profits and agencies (such as veterans groups or the homeless), but seems to have no specific experience or plan in working with such a partnership).

Finally, the Cannabis Center has indicated that they have contacted local businesses and found that they welcome their presence in the neighborhood. They do not list what businesses they have contacted, and I question how many and who they contacted. None of the local businesses that I know of were contacted and gave their approval. Again, the lack of specificity is concerning, both because we don't know what is really going on, and because a business person should be able to communicate reasonably effectively with neighbors and agencies.

Thank you for considering these reasons when you make a recommendation to the City Council.

John F. Houde

2206 Acton Street

Berekeley, CA 94702

Greene, Elizabeth

From: Robin W <redrobinw@yahoo.com>
Sent: Wednesday, February 03, 2016 4:47 PM
To: Greene, Elizabeth
Subject: Fwd: ICANN 282693 - confirmation for Graffiti

Please include as part if the public record
For the proposed ICANN dispensary. Please also conform
you have forwarded my prior email comments to the commission.
This is my Third report for graffiti at the site.
Robin Wright
510-649-9909
Thank you.

Sent from my iPhone

Begin forwarded message:

From: Customer Service <customerservice@ci.berkeley.ca.us>
Date: February 3, 2016 at 4:33:55 PM PST
To: "redrobinw@yahoo.com" <redrobinw@yahoo.com>
Subject: 282693 - confirmation for Graffiti

Dear Robin Wright,

Thank you for your submission. Your service request number is **282693**.

Description of issue: Type = Graffiti, Location = 3243 Sacramento St ~ Alcatraz Av ~ North side of building and Sac side of building. I didn't get to look at the south side because I was driving.

Please feel free to reply to this email if you have any follow-up documents or photos to attach to your request. Photos are especially helpful for any request that must be assigned to a work crew, so they can see the condition that you've reported.

We will contact you at redrobinw@yahoo.com if we need any additional information. If you have additional requests or questions, you can call us by dialing 311 Monday through Friday, 8:00 AM to 5:00 PM. To access additional online services, you may visit the Online Service Center.

Regards,
City of Berkeley Customer Service
http://www.cityofberkeley.info/onlineservicecenter

Greene, Elizabeth

From: Martin O'Brien <m@mofilms.org>
Sent: Wednesday, February 03, 2016 4:06 PM
To: Greene, Elizabeth
Subject: Letter of support for Sue Taylor and iCann

Hello Beth,

I know it's A few minutes past 4 PM. But I am hoping that the following letter of support could be included in the Medical Cannabis Commission packet for tomorrow, if possible please.

Best.

Martin.

_____

To the members of the Berkeley Medical Cannabis Commission,

I'm writing on behalf of Patient's Care Collective. We would like to express our support for Sue Taylor and her team at iCann, in regards to the 4th dispensary permit.

We believe that iCann's proposed location will help many geographically under-served patients in Berkeley. We also see how medical cannabis helps so many of our mature members every day, so we love and support iCann's focus on Seniors.

Sue Taylor is genuine, caring and focused on community. We believe Sue and her team will bring great value to Berkeley and it's patients.

Thank you and best regards,

Martin O'Brien
President
Principal

2590 Telegraph Avenue I Berkeley, CA 94704 I 510-540-7878

Greene, Elizabeth

From: Salwa Ibrahim <salwa411@gmail.com>
Sent: Thursday, February 04, 2016 11:12 AM
To: Greene, Elizabeth
Subject: Blum crime stats update and Response to public comment

Hello Ms. Greene and the Medical Cannabis Commission,

During the last MCC meeting one of the commissioners requested that we provide the crime statistics showing a reduction in crime around our other facilities. The city of Oakland in partnership with the Oakland Police Department track crime geographically. According to their data base, the occurrence of crime in the immediate areas surrounding our facilities declined by 50% in the first year Blum opened in Oakland. Our security team has maintained that decrease to date. Unfortunately, the City's website does not go back far enough for me to capture the pre-Blum crime data.

I have submitted a public records request for October 2012-2015 to show the drop in crime as requested by members of the Berkeley Cannabis Commission. However, it takes at least 10 business days for them to manually collect the requested data. As soon as it is complete I will make the data available to your office as well as the commission. In the meantime, I am able to provide the contact information for a representative of the Oakland Police Department who should be able to verify our good standing in the neighborhood.

I also would like to address the comments made regarding Black Oak Gallery DBA Blum Oakland's recent merger with Terra Tech Corp. To clarify, Blum was not sold but rather combined with a publicly traded cannabis and agricultural company. This merger was accomplished with the explicit written permission of the City of Oakland and the encouragement of the Mayor of Oakland.

The effect of this merger is to extend to Terra Tech, Blüm's industry expertise and intellectual property, in exchange for workforce resources, a research and development department and the financial support of Terra Tech.

Terra Tech's ownership and involvement is isolated to Oakland and is in no way affiliated with the Berkeley Women's Cannabis Alliance. The BWCA ownership structure is currently held by myself, Salwa Ibrahim and Lillian Kang. Additionally I have reserved a portion of BWCA's equity to incentivize our staff in Berkeley. This employee owned structure is in my opinion a big reason Blum has experienced such success in Oakland and is something I look forward to replicating in Berkeley.

Thank you,
Salwa Ibrahim

Sent from my iPhone

LATE ITEMS
MCC 02-04-2016
Page 275 of 298

Garden Of Eden Cooperative Inc. <gardenofedencoop@gmail.com>

Medical Cannabis Commission / City Council

1 message

Gary Paul <garyspaul@yahoo.com> Wed, Feb 3, 2016 at 7:05 PM
Reply-To: Gary Paul <garyspaul@yahoo.com>
To: "egreene@ci.berkeley.ca.us" <egreene@ci.berkeley.ca.us>

RECEIVED
FEB 04 2016
LAND USE PLANNING

Dear Cannabis Commission and City Council,

I am writing to express my support of the applicant, Berkeley Innovative Health, in their quest to be awarded a permit for a dispensary location on San Pablo Ave.

As a citizen who is concerned with the well being of the community and who believes strongly in giving back, I prefer to patronize firms that feel and act as I do, not only with words but with deeds. The applicants fill this bill in a very large way. I have served on the Board of Directors for Meals on Wheels of Alameda County for the past 8 years. I do so because I believe that the vulnerable seniors in our community need a voice, and more importantly they need a personal visit and a daily meal to maintain their health, their connection to the outside world and to remain in their homes with dignity for as long as is possible. It would be impossible for us to fulfill our mission without the generous support of that the applicants provide through their dispensary in Hayward, Garden of Eden.

For the past 5 years they have been the largest supporter of our annual fundraiser with a $10,000 sponsorship and additional gifts that add up to a total of over $20,000 per year. When Shareef and Soufyan (owners of Garden of Eden) learned that we have a large list of seniors who we couldn't serve because of lack of funding, they asked what could be done to reduce that list to zero. When I explained that is is a certainty of funding into the future, they stepped up and committed to sponsoring us for the next 5 years with the same dollar level as a minimum! This translates to over $100,000 which is tantamount to over 16,000 senior meals served. Their commitment to the frail, homebound seniors in our community is critically important to us and to the seniors in the Berkeley community. So much so that their firm is being awarded our annual honor which is reserved for firms that have a long history of sponsorship and tried and true commitment to our cause.

I do so hope that the commissioners and the city council members take this input into consideration when making this important decision. With Berkeley Innovative Health, you will have a proven, community minded, local company that has proven ties to the important causes that we all share.

Respectfully,

Gary Paul
510-913-6026
garyspaul@yahoo.com

Meals on Wheels
OF ALAMEDA COUNTY

Board of Supervisors

Nathan A. Miley
Supervisor, District 4

Oakland Office
1221 Oak Street, Suite 536
Oakland, CA 94612
510-272-6694/510-465-7628 Facsimile

Eden Area District Office
20980 Redwood Road, Suite 250
Castro Valley, CA 94546
510-670-5717/510-537-7289 Facsimile

Pleasanton District Office
4501 Pleasanton Avenue, 2nd Floor
Pleasanton, CA 94566
925-803-7959

district4@acgov.org

February 2nd, 2016

RECEIVED
FEB 04 2016
LAND USE PLANNING

Medical Cannabis Commission / Berkeley City Council
Berkeley City Hall, 6th Floor
2180 Milvia St.
Berkeley, CA 94704

SUBJECT: LETTER OF SUPPORT FOR THE GARDEN OF EDEN COOPERATIVE

Dear City of Berkeley Medical Cannabis Commission,

I would like to express my strong support for the Garden of Eden Cooperative Inc. for a permit to operate a medical cannabis dispensary in Berkeley. The Garden of Eden Cooperative Inc. currently runs a medical marijuana clinic in the unincorporated area of Hayward. As the Supervisor for Alameda County District 4, which includes the western urban unincorporated area, I have witnessed the many ways in which Garden of Eden is an ideal provider that plays by all the rules.

The Garden of Eden Cooperative Inc. has helped to increase the accessibility of medical marijuana for patients who depend on it for their health needs. The Cooperative provides quality service for customers in the unincorporated area. Its existence allows senior citizens, veterans, and others with medical concerns to obtain the cannabis needed for their care. Throughout the time of Garden of Eden's operation in unincorporated Hayward, it has been a good neighbor in its business district and fully cooperative with the local government and law enforcement.

I strongly urge you to consider Garden of Eden as the recipient of the medical cannabis dispensary permit in Berkeley. The Cooperative will be a great resource for Berkeley residents who depend on medical cannabis. Thank you for your time and consideration.

Sincerely,

Nate Miley

Nate Miley, Supervisor
Alameda County District 4

BERKELEY
INNOVATIVE
HEALTH

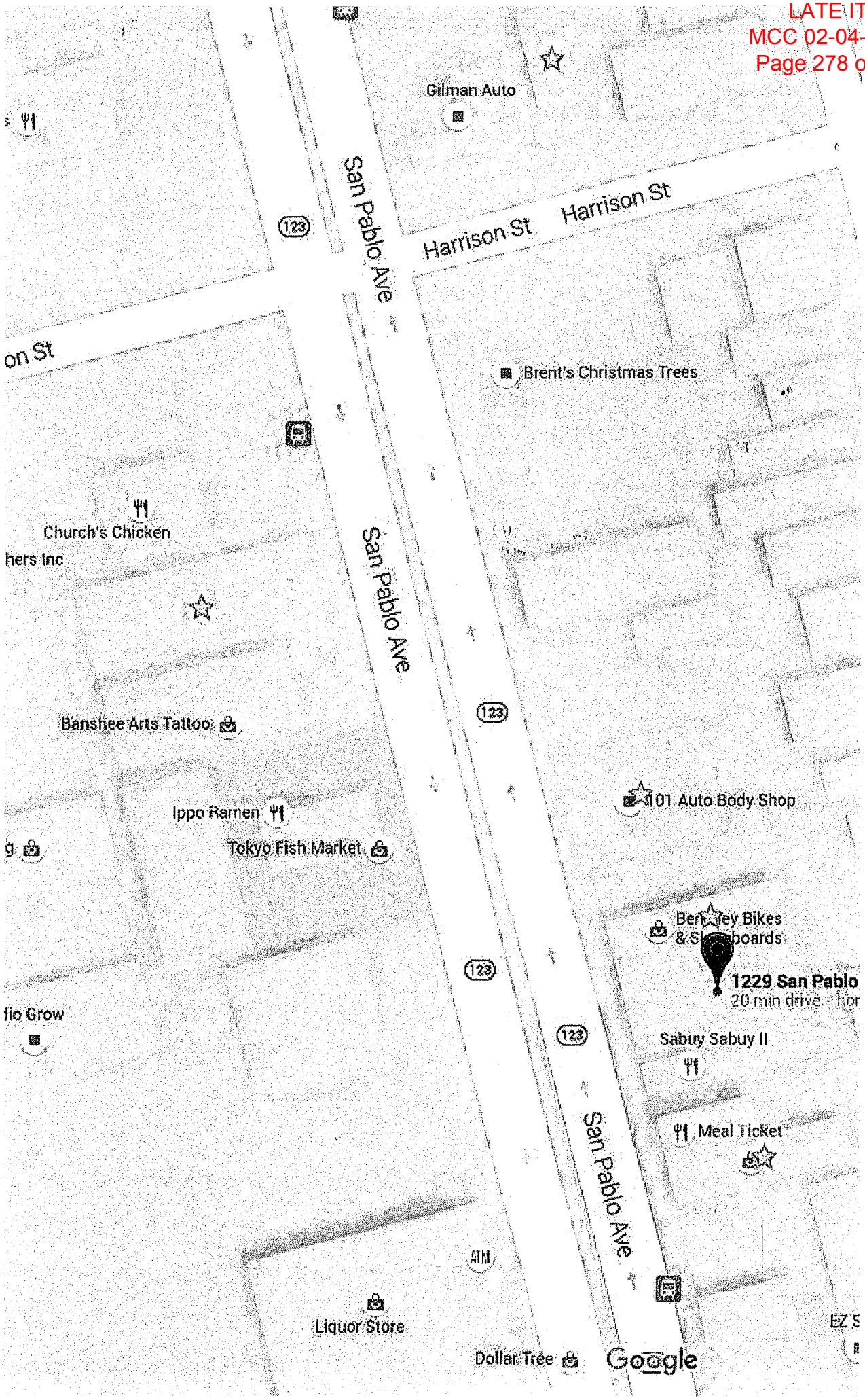
RECEIVED
FEB 04 2016
LAND USE PLANNING

RE: Parking

Medical Cannabis Commission,

After the meeting on 1/28, I made a trip down to our proposed location see if the people who where my immediate neighbors had an issue with our dispensary. In a quick 10 minute walk on San Pablo, I found support by many of the adjacent businesses. The supporters are marked with a star and our location is marked on the map as well. All but one, were supportive of the proposal, a restaurant named Meal Ticket. Many who supported were not willing to sign and seemed to fear the implications of going against the Kains street group. I explained to them the added benefits of having a dispensary as the neighborhood watchdog. with security patrols and surveillance systems. Many where happy to hear that vandalism would be curbed and their sense security would rise. What I found is the people who are the neighbors of the dispensary do not have an issue with parking and welcome the increased activity in the area. The restaurants were excited at the idea there would be hundreds of patrons per day in their corridor. I also made my way down Kains street and what I saw was a lack of parking in the residential, an area that does not interact with the public metered parking spaces we would be using in San Pablo. It is unfortunate that neighbors with a stigma against cannabis cannot see the benefit of having a neighborhood partner like BIH to clean up the neighborhood, secure the populace, and fund programs supporting children and senior in their localized area. We will continue to fight the uphill battle, struggling to help those who deny us.

-Shareef El-Sissi
Principal
BIH


Gilman Auto
San Pablo Ave
Harrison St
Harrison St
on St
Brent's Christmas Trees
Church's Chicken
hers Inc
San Pablo Ave
Banshee Arts Tattoo
Ippo Ramen
Tokyo Fish Market
101 Auto Body Shop
Bert Jey Bikes
& Sk boards
1229 San Pablo
20 min drive - hor
flo Grow
Sabuy Sabuy II
Meal Ticket
San Pablo Ave
ATM
Liquor Store
Dollar Tree
Google
EZ S

BERKELEY INNOVATIVE HEALTH

MEDICAL CANNABIS DISPENSARY PETITION

Help support the opening of Berkeley Innovative Health, a medical cannabis dispensary, here in Berkeley at 1229 San Pablo.

This petition is meant to highlight all the positive consequences that result from adding a medical cannabis dispensary in the West Berkeley neighborhood. Research and real life evidence shows medical cannabis businesses contribute very positively to their community in many ways:

A study by RAND Corporation shows medical cannabis dispensaries actually lower crime in their neighborhoods. Economists examined over 600 dispensaries and their neighborhoods in CA and found that "crime in communities surrounding open medical marijuana dispensaries is, in fact, lower compared with crime rates in areas where dispensaries have been forced to close." (Shaw, 2016. Los Angeles Times).
The Marijuana Policy Project found similar results when it researched surveys of the Los Angeles, Denver, and Colorado Springs police departments, which confirmed that medical cannabis dispensaries are less likely to be victims of crime and robberies as opposed to their neighboring businesses, including banks. (Zorn, 2014. The Chicago Tribune).

Furthermore, research out of UCLA actually shows that when medical cannabis dispensaries are forced to close, crime increases in those neighborhoods and communities! (Sankin, 2013. The Huffington Post).

Medical cannabis dispensaries are often attributed to lowered crime due to the utilization of technologically advanced and very involved security systems. In addition to high definition security cameras acting as deterrents to crime in areas surrounding the dispensaries, they also hire round-the-clock security personnel that monitor the neighborhood, and going as far as ensuring the areas are clean of littering, loitering, and nuisances.

We can say this with confidence because we have done it! In our current location in Hayward, we have contributed tremendously to lowered crime and cleaning up the neighborhood for the past 13 years we've been open. Also, we are actively involved in community service programs that we plan to bring to Berkeley as well. Some of these programs include Dig Deep Farms which takes unused county land and teaches kids to farm fruits and vegetables in afterschool programs (digdeepfarms.org). Another program is REACH Ashland Youth Centers for underprivileged kids, where we were able to donate a state-of-the-art gym for kids there.
We at Berkeley Innovative Health have already committed to donating a minimum of 15% of our net proceeds to programs helping our immediate community and neighborhood. When we are permitted to open our location in West Berkeley, this will mean hundreds of thousands of dollars that will go to community service and youth programs in the area. As a Berkeley resident, we are very curious to know what YOU think is most needed in this community. We will make it a reality!

Please sign this petition and help bring Berkeley Innovative Health to this neighborhood. We are excited to serve the patients of this area, as well as improving the security, and being involved in the community. **Thank you.**

BERKELEY INNOVATIVE HEALTH

MEDICAL CANNABIS DISPENSARY PETITION

NAME	ADDRESS	SIGNATURE	COMMUNITY OUTREACH
Billy SINGH	1275 SAN PABLO AVE		ADDED SECURITY
Mike Mostajo	1227 San Pablo ave		
Mack McGhee Jr	1227 San Pablo ave		New coats
Chris Serrano	1227 San Pablo Ave		
Sergio Hernandez	1199 San Pablo Ave		
Brian Quakenbush	1212 San Pablo Ave		

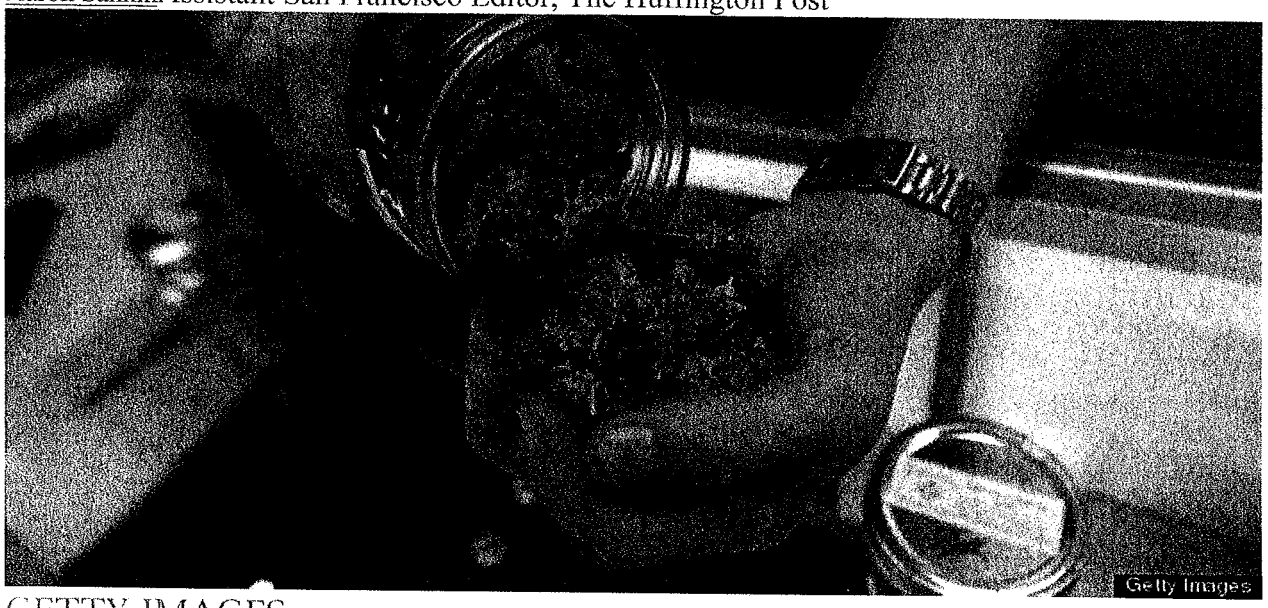
LATE ITEMS
MCC 02-04-2016
Page 281 of 298

RECEIVED
FEB 04 2016
LAND USE PLANNING

Medical Marijuana Dispensaries Reduce Crime, Advocates Argue

04/19/2013 04:40 pm ET | **Updated** Apr 20, 2013

Aaron SankinAssistant San Francisco Editor, The Huffington Post



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Nine years ago, a small medical marijuana dispensary opened in San Francisco's Lower Haight. The Vapor Room quickly found its place within the neighborhood and its presence had an interesting, if not counterintuitive, effect: It appears to have reduced crime.

"Before the Vapor Room moved in, the neighborhood was riddled with problems: crime, illegal drugs, loitering, graffiti," said Stephanie Tucker, a medical cannabis advocate and former aide to Christina Olauge, who represented the area on the city's Board of Supervisors. "A lot of those issues actually got better because the dispensary had security and worked with other businesses in the neighborhood to build a community."

When the Obama administration launched an aggressive crackdown on California's medical cannabis industry nearly two years ago, prosecutors cited the fear of increased crime as a motivating factor in many of their efforts to shutter marijuana-related businesses. But pot advocates argue that dispensaries actually make their neighborhoods safer.

"We're actually finding they're having a positive effect by taking up retail and industrial space that would otherwise remain vacant and become a magnet for crime," said Mason Tvert of the Marijuana Policy Project. "These are also businesses with a significant level of security that can deter criminals from the whole area."

Marijuana Majority's Tom Angell noted that, in addition to adding both security guards and increased foot traffic to a given area, dispensaries also reduce crime by allowing pot smokers to obtain the plant without turning to the black market.

"It's not like marijuana wasn't already being sold in these neighborhoods," said Angell. "It was being sold illegally on the street by gang members, and the cities aren't getting any tax revenue from it."

California became the first state to legalize cannabis for medicinal purposes when voters passed Proposition 215 in 1996. In the decade and a half that followed, medical marijuana grew into a thriving industry, generating some $100 million in annual tax revenue for the state.

All that changed, however, when Justice Department officials announced in late 2011 that they would begin targeting dispensaries throughout California in an effort to make

communities safer and keep marijuana away from parks and schools.

Since their crusade began, more than 100 businesses have been forced to shut down, and hundreds more have received threatening letters. One of the earliest targets was the Vapor Room, which closed its doors for good last summer.

U.S. Attorney Melinda Haag, whose district includes the Bay Area, detailed her concerns about crime in an interview with KQED last March. "There is a belief, backed by facts, that marijuana operations are often times the victims of criminal activity," she said. "Armed robberies at dispensaries, armed robberies at grow operations, and people who are nearby are at risk as a result of that."

Haag then told stories of a dispensary robbed at gunpoint near a preschool in Santa Cruz and a marijuana farmer in Humboldt County who murdered one of his undocumented immigrant employees after the worker asked to be paid.

But research suggests that such anecdotes are more the exception than the rule. A 2011 study out of UCLA that examined dispensaries in the Sacramento areafound that their presence in a given neighborhood wasn't associated with an uptick in crime.

"The density of medical marijuana dispensaries was not associated with violent or property crime rates," read the study, which was funded by the National Institute on Drug Abuse.

An analysis by the Los Angeles Police Department found that dispensaries in California's largest city weren't outsize targets for crime, either. An internal report, commissioned by LAPD Chief

Charlie Beck, determined that in 2009, only 47 robberies took place at the city's 800 marijuana clinics, while there were 71 robberies at Los Angeles' 350 banks that same year.

San Francisco Police Department spokesman Officer Albie Esparza told The Huffington Post that SFPD doesn't keep any official statistics relating to dispensaries and crime.

Meanwhile, questions about the nature of dispensaries' effect on crime rates have divided the city's residents.

When a medical marijuana clinic attempted to open a few years ago in San Francisco's largely residential Sunset District, it provoked a huge uproar among the store's potential neighbors, who worried about their safety.

"Nothing personal against the owner, but we don't want that type of business here," Dallas Udovich, president of the Taraval Parkside Merchants Association, told the San Francisco Chronicle at the time. "People want to come to Taraval because it's safe. Well, there's a reason it's safe."

Tucker, the medical cannabis advocate, noted that this sort of reaction can be common. "Neighbors who don't understand medical cannabis will often have a lot of fear-based complaints about crime whenever a new dispensary threatens to move in," she said.

On the other hand, Angell pointed to the large positive effect that Oaksterdam University had on its downtown Oakland surroundings before its 30,000 square foot campus was raided by federal agents last year.

After the raid, Oakland city leaders gathered outside the building to decry the federal government's actions and tout the effects that businesses like Oaksterdam have had on their surrounding communities. "We have not had crime or violence associated with our dispensaries, and that's because they've been tightly regulated," Oakland City Councilwoman Rebecca Kaplan told the assembled media.

After Oaksterdam's closure, neighborhood residents and businesses flew green flags in support of the institution. The school has since relocated to a significantly smaller building nearby.

Despite the high-profile raids and closures that have targeted medical marijuana businesses across the state, a handful of new dispensaries have managed to open over the past few years -- and the owners are determined to keep their neighborhoods safe.

Stephen Rechif, the manager at the Bloom Room dispensary, which opened in San Francisco's troubled Mid-Market corridor this past January, has already seen his business have a positive influence on its surroundings.

"We have a secure storefront covered by a heavy gate at night, and there's a security guard stationed out front," he said. "Nearby businesses are happy that we're here. We're bringing in more foot traffic to the neighborhood."

Carly Schwartz contributed to this story.

LATE ITEMS
MCC 02-04-2016
Page 286 of 298

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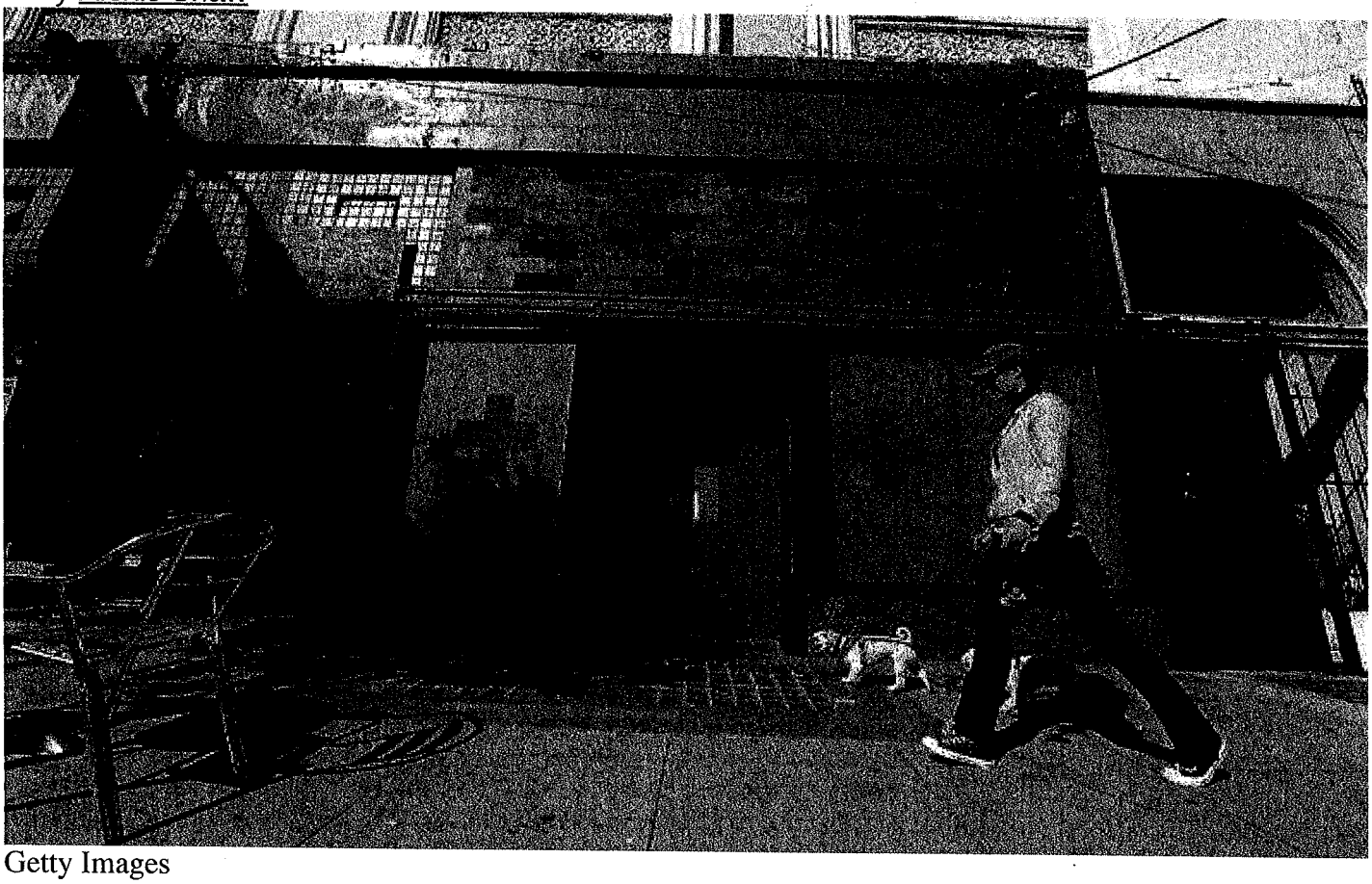
Study Reveals Lower Crime Rate Near Pot Dispensaries

RAND study shows crime lower on blocks near open dispensaries

By Alexis Shaw



Getty Images
The Sunset Junction medical marijuana dispensary is seen on May 11, 2010 in Los Angeles, California.

You'd think a local Los Angeles pot shop would be a mecca for would-be criminals looking to get rich or get high. But this may not be the case.

A new study released by the RAND Corporation reveals that crime in communities surrounding open medical marijuana dispensaries is, in fact, lower compared with

LATE ITEMS
MCC 02-04-2016
Page 287 of 298

crime rates in areas where dispensaries have been forced to close.

Celebrities Gone to Pot

The study comes on the heels of a 15-month-old ordinance that shut down more than 70% of the city's unlicensed medical marijuana dispensaries.

These dispensaries were linked by law enforcement to rising crime rates in their respective areas.

Meet the MET: Marijuana Eradication Team

When the mass-closing of dispensaries in Los Angeles began, Mireille Jacobson, the study's lead author and a senior economist at RAND, jumped on the opportunity to study the issue.

"We'd been reading about it and heard a lot of rhetoric on both sides," Jacobson said. "But there was no real systematic evidence on the topic."

The study examines 21 days of crime reports for 600 dispensaries 10 days before the city's medical marijuana ordiance was implemented, and 10 days after.

The study compares crime reports in the areas surroundings 430 dispensaries that closed and 170 that were allowed to stay open.

On the blocks with closed dispensaries, crime was 60% greater within a three-block radius, and 25% greater within a six-block radius than on the blocks with open dispensaries, according to the study.

"What our study says is that on average, the dispensaries may not be as much of a crime concern as some would lead us to believe," Jacobson said.

But Steve Whitmore, a spokesman for the Los Angeles County Sheriff's Department, disagrees. He says contrary to the RAND study, his agency has found that as dispensaries are shut down, serious crime in the area drops.

"There have been some very serious strong-arm robberies. Once we shut those dispensaries down, those crimes go away."

Two high-profile incidents of violence at medical marijuana dispensaries have fueled the perception that they are a magnet for crime.

In June of 2010 an employee of an Echo Park dispensary was shot and killed while on the job. Two days later an employee at a dispensary in Hollywood was stabbed to death.

"We question the findings," Whitmore said. "We don't think they're accurate. We

LATE ITEMS
MCC 02-04-2016
Page 289 of 298

want to know where exactly they're talking about and how they're coming to these conclusions because we've had some very dangerous crimes that have happened at these dispensaries."

Jacobson acknowledged that there are limitations to the study, but disagrees that its conclusions should be dismissed. She said she would welcome the opportunity to review any data kept by the sheriff that contradicts the findings in the RAND study.

"We're just capturing a short period of time," she said. "Show us the data, we'll take a look and see if we agree."

Kris Hermes, media specialist for Americans for Safe Access, a pro-pot dispensary non-profit, said he hopes the RAND report will lead to more cities adopting sensible regulations toward dispensaries.

"Over time, we hope that this report and other reports like it will ease some of the fear that's occurring around not just California, but the rest of the country, in regard to these facilities," Hermes said.

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Published at 4:35 PM PDT on Sep 21, 2011

Find this article at:
http://www.nbclosangeles.com/news/local/RAND-Study-Reveals-Lower-Crime-Rate-Around-Medical-Marijuana-Dispensaries.html

Check the box to include the list of links referenced in the article.

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"We change laws."

Medical Marijuana Dispensaries and Their Effect on Crime

Opponents of medical marijuana sometimes speculate that medical marijuana dispensaries will lead to increased crime rates in surrounding areas.[1] These dispensaries, they claim, will attract thieves and robbers to the facilities and breed secondary crimes in surrounding areas. Such claims have prompted empirical and statistical analyses by researchers and law enforcement agencies. In what should not come as a surprise, given the robust security at most medical marijuana facilities, these studies have routinely shown that, contrary to these concerns, dispensaries are not magnets for crime. Instead, these studies suggest that dispensaries are no more likely to attract crime than any other business, and in many cases, by bringing new business and economic activity to previously abandoned or run-down retail spaces, dispensaries actually contribute to a reduction in crime.

While the data is reassuring, one public safety challenge for dispensaries and adult use marijuana stores has been that many have been forced to operate as cash-only businesses because of banks' concern about federal legal issues. However, with new guidance that was issued by the federal government in February 2014, it is expected that more small banks and credit unions will open accounts for marijuana businesses.

What follows is a brief summary of anecdotal and scientific evidence, including law enforcement data analyses and academic research on medical marijuana dispensaries and their effect on crime. For more information on dispensaries, medical use of marijuana, state laws, and other issues related to medical marijuana, please visit mpp.org/medical.

2009 Los Angeles Police Department survey — In response to debate over medical marijuana regulations by the Los Angeles City Council, and claims from medical marijuana opponents that dispensaries were magnets for crime, Los Angeles Police Chief Charlie Beck asked his department to produce a report comparing the robbery rates of L.A. banks and medical marijuana dispensaries. The report indicated that there were 71 robbery reports filed with the LAPD at the city's 350 banks. Despite there being far more medical marijuana dispensaries — more than 800 at the time according to Beck — there were fewer robbery reports filed at dispensaries: just 47.

When asked about the report, and claims that dispensaries are crime magnets, Beck said, "I have tried to verify that because, of course, that is the mantra. It really doesn't bear out. … Banks are more likely to get robbed than medical marijuana dispensaries."[2]

2009 Denver Police Department survey — An analysis of robbery and burglary rates at medical marijuana dispensaries conducted by the Denver Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than

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[1] "'Across the state, we're seeing an increase in crime related to dispensaries,' said Ernie Martinez, a Denver police detective who is president of the Colorado Drug Investigators Association." "Medical marijuana dispensaries' effect on crime unclear," *The Denver Post*, January 24, 2011. http://www.denverpost.com/news/marijuana/ci_17178820#ixzz1ngbvMOlI.

[2] "LAPD Chief: Pot clinics not plagued by crime," *Los Angeles Daily News*, January 17, 2010. http://www.dailynews.com/news/ci_14206441.

area banks and liquor stores and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for dispensaries, equal to that of pharmacies. That's lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks, the analysis found.[3]

2010 Denver Police Department analysis — In late 2010, the Denver Police Department looked at crime rates in areas in and around dispensaries. The analysis showed that through the first nine months of 2010, crime was down 8.2% relative to the same period in 2009. The decrease was comparable to the city's overall drop in crime of 8.8%.[4] *The Denver Post* completed a similar analysis and found that crime rates in some areas with the highest concentration of dispensaries saw bigger decreases in crime than neighborhoods with no dispensaries.[5]

2010 Colorado Springs Police Department analysis — An analysis by the Colorado Springs Police Department found that robbery and burglary rates at area dispensaries were on par with those of other businesses. Specifically, the department's data indicated that there were 41 criminal incidents reported at the city's 175 medical marijuana businesses in the 18-month period ending August 31, 2010. Meanwhile, over that same period, there were 797 robberies and 4,825 burglaries at other city businesses. These findings led the department's spokesman, Sgt. Darrin Abbink, to comment, "I don't think the data really supports [dispensaries] are more likely to be targeted at this point."[6]

October 2011 UCLA study, "Exploring the Ecological Link Between Crime and Medical Marijuana Dispensaries," — Researchers from UCLA, funded by the National Institute on Drug Abuse, used data from 95 census tracts in Sacramento to analyze two types of crime (violent and property) in areas with varying concentrations of dispensaries. What they found was that while factors traditionally understood to lead to increased crime — for example, large percentages of land zoned for commercial rather than residential use, a high percentage of one-person households, the presence of highway ramps, and a higher percentage of the population being ages 15-24 — were positively associated with crime in those areas, "the density of medical marijuana dispensaries was not associated with violent or property crime rates." In their conclusion, the researchers said, "[t]hese results suggest that the density of [medical marijuana dispensaries] may not be associated with increased crime rates or that measures dispensaries take to reduce crime (i.e., doormen, video cameras) may increase guardianship, such that it deters possible motivated offenders."[7]

Specifically, the study applied the "routine activity theory" of crime, which suggests that crime is more likely when three criteria are met: (1) a motivated offender, (2) a suitable target, as defined by factors like value, visibility, and access, and (3) a lack of guardianship such as low residency or poor security. The authors hypothesized that the lack of a relationship between dispensaries and crime could be attributable to either of two possible conclusions: either medical marijuana dispensaries were no more valuable a target than other businesses in the area — a possibility supported by the law enforcement surveys in L.A. and Denver discussed above — or heightened security at dispensaries was sufficient to deter criminal activity in the area.

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[3] "Analysis: Denver pot shops' robbery rate lower than banks," *The Denver Post*, January 27, 2010. http://www.denverpost.com/ci_14275637.
[4] See note 1, *supra*.
[5] *Id.*
[6] "Marijuana shops not magnets for crime, police say," *Fort Collins Gazette*, September 14, 2010. http://www.gazette.com/articles/wall-104598-marijuana-brassfield.html.
[7] http://www.uclamedicalmarijuanaresearch.com/node/10.

June 2011 Regent University study — Researcher Maura Scherrer of Regent University looked at the perception of crime, and medical marijuana dispensaries' impact on crime, among residents of Denver neighborhoods with varying socio-economic profiles. In so doing, she found that most crimes, including robbery, vandalism, and disorderly conduct increased in Denver from 2008 to 2009. However, in areas within 1,000 feet of a dispensary, rates were down for most types of crime, including burglary, larceny, and a 37.5% reduction in disorderly conduct citations. In her conclusion the author notes, "it appears that crime around the medical marijuana centers is considerably lower than citywide crime rates; a much different depiction than originally perceived."[8]

February 2014 *Urban Geography* — Researchers from the University of South Florida, the University of Colorado, and the New York City Criminal Justice Agency set out to determine whether medical marijuana dispensaries in Denver could be considered locally undesirable land uses (LULUs), land uses that people do not want to live close to, but which provide services to the community.[9] The researchers studied 275 medical marijuana centers in 75 Denver neighborhoods and concluded that:

> "[w]hile public officials, and especially law enforcement, clearly warn residents about the negative effects of these centers on the communities in which they are situated, there is little evidence that residents are listening, as these centers do not appear to have any impact on the urban landscape — and therefore on the health of the communities in which they are located."[10]

The study did find that medical marijuana centers are more likely to be opened in areas that have higher crime rates, but that is not unusual because crime follows retail concentrations. "In short, medical marijuana facilities appear to … be more similar to drugstores and coffee houses than they are to LULUs."[11]

Los Angeles crime trends — Los Angeles has frequently been cited as the city with the most dispensaries and the least regulation of those dispensaries. It is also the most populous city in the state that has the oldest and the broadest medical marijuana law, where any medical condition qualifies. While L.A. voters do prefer some regulation and control — and they approved a ballot measure to create a regulatory system in May 2013 — the city that has been cited as having more dispensaries than Starbucks certainly has not suffered a crime epidemic as a result of its permissive policies. On the contrary, overall crime in Los Angeles has dropped dramatically since dispensing collectives became legal in 2004. Crime rates have plummeted in the past 11 years, with decreases each of those 11 years. They are now the lowest they have been since 1949.[12]

The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006[13] — Researchers Robert Morris, Michael TenEyck, J.C. Barnes, and Tomislav Kovandzic

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[8] Study available at http://adr.coalliance.org/codr/fez/view/codr:983.
[9] Lyndsay N. Boggess, Deanna M. Pérez, Kathryn Cope, Carl Root & Paul B. Stretesky, Urban Geography (2014): Do medical marijuana centers behave like locally undesirable land uses? Implications for the geography of health and environmental justice, *Urban Geography*.
[10] *Id.* at p. 15
[11] *Id.* at p.16
[12] Kathy Mather, "L.A. crime falls for 11th year; officials note historic drops," *L.A. Times*, Jan. 13, 2014. http://www.latimes.com/local/lanow/la-me-ln-crime-falls-20140113,0,3357277.story#axzz2vJ6f1xlX
[13] Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014). "The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006." *PLoS ONE* 9(3): e92816. doi: 10.1371/journal.pone.0092816

analyzed the association between the enactment of a medical marijuana law and state crime rates for all Part 1 offenses — homicide, rape, robbery, assault, burglary, larceny, and auto theft — as collected by the FBI. The purpose was to help inform the debate on whether passage of medical marijuana laws leads to increased crime rates. The researchers used fixed-effects panel design to identify what, if any, effect passage of a medical marijuana law has on crime rates. This design analyzes changes individual states see in their respective crime rates over time and compares the changes to the crime rate trends among states that enacted medical marijuana laws and those that did not.

While all states experienced a reduction in Part 1 offenses during the period studied, those that had passed a medical marijuana law experienced greater reductions in those offenses than those states that had not. The researchers conclude that enactment of a medical marijuana law "is not predictive of higher crime rates and *may* be related to reductions in rates of homicide and assault."[14] They note that the most "important finding . . . is the lack of evidence of any increase in robbery or burglary, which are the type of crimes one might expect to gradually increase over time if the [medical marijuana laws lead to increased crime] theory was correct."[15]

[14] *Id.* at 5.
[15] *Id.*

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Berkeley Medical Cannabis Commission Chairman's Updates January/February 2016
Legal & Health / Medical Updates

Legal Updates-Nation/Local/State

"Obama says marijuana reform is not on his agenda for 2016" by Christopher Ingraham 1/29/2016 Marijuana advocates hoping for a substantial shift in federal marijuana policy in the last year of the Obama administration are likely to be disappointed. At a briefing Friday, White House press secretary John Earnest said any progress on marijuana reform would need to come through Congress. President Obama had signaled his position a day earlier at the House Democratic retreat in Baltimore, saying marijuana reform is not on his list of end-of-term priorities, according to Rep. Steve Cohen (D-Tenn.). Cohen said he asked the president whether he wanted to "reschedule" marijuana. Many lawmakers want to see it moved to Schedule 2, which acknowledges the plant's medical potential. Democratic presidential candidate Bernie Sanders wants to remove marijuana from the federal list of controlled substances altogether. *[The Senate marijuana reform bill would bring federal policy in line with medical research]* But Obama's answer on the rescheduling was "disappointing," Cohen said in an interview. "On marijuana, he gave the same answer as when I asked him seven years ago: 'If you get me a bill, and get it on my desk, I'll probably sign it,' " Cohen said (emphasis his). Earnest clarified: "There are some in the Democratic Party who have urged the president to take this kind of action. The president's response was, 'If you feel so strongly about it, & you believe there is so much public support for what it is that you're advocating, then why don't you pass legislation & we'll see what happens.' "
https://www.washingtonpost.com/news/wonk/wp/2016/01/29/obama-says-marijuana-reform-is-not-on-his-agenda-for-2016/

"New Report Evaluates Medical Marijuana Programs Nation-wide" Steph Sherer, ED, ASA 1/29/2016 The report evaluates the array of differing laws across the country from a patient's perspective by using a point system to grade each medical marijuana law on: 1) patients' rights and protection from discrimination, 2) access to medicine, 3) ease of navigation, 4) functionality, and 5) product safety protocols. Letter-grades for all 23 state laws and Washington, D.C.:Alaska (D-), Arizona (B-), California (B+), Colorado (B), Connecticut (C+), Delaware (C), Hawaii (B), Illinois (B+), Maine (B-), Maryland (B), Massachusetts (B), Michigan (D+), Minnesota (C), Montana (D-), Nevada (B), New Hampshire (C), New Jersey (C), New Mexico (B+), New York (C), Oregon (B), Rhode Island (C-), Vermont (D+), Washington (B), and the District of Columbia (C). ...legal landscape for medical cannabis patients state-wise continues to improve. 23 states & the District of Columbia have legalized medical cannabis; 17 other states have some limited form of medical cannabis laws.
http://www.huffingtonpost.com/steph-sherer/new-report-evaluates-medi_b_9106180.html

"Top Pot State Hawaii Creates Strict Medical Marijuana Program" by Debra Borchardt 1/29/2016 The 50th state has had a medical marijuana program for 15 years and was the first state to legalize it through the legislative process back in 2000. The law only allowed for patients to grow their own, but that was changed last July. It's a fairly restrictive program since Hawaii is considered a "national leader" among states in production of high-grade marijuana according to website www.hawaii-aloha.com. Hawaii is one of 5 states whose pot crops are worth over $1 billion and the state ranks number 4 in the U.S. for marijuana market share.. The dispensary bill will launch a limited program with 8 licenses to start and the application window is limited. January 12thwas the first day to apply and hopefuls will need to be done by January 29th. It is expected to create 800 jobs according to the Medical Cannabis Coalition of Hawaii. The licenses must be issued by April 15th and the dispensaries could be up and running by July 15th. So far only 3 are allowed for city and county of Honolulu, 2 each for counties of Hawaii & Maui, 1 for Kauai. More added in 2017 if there seems to be a need.
http://www.forbes.com/sites/debraborchardt/2016/01/29/top-pot-state-hawaii-creates-strict-medical-marijuana-program/#668413c6464d

"Bipartisan Congressional Asks V.A. to Allow Physicians to Recommend Cannabis to Veterans" by Mike Liszewski January 27, 2016 Bipartisan group of 21 members U.S. House & Senate has sent letter to Veterans Administration urging to revise their medical cannabis policy. Current V.A. policy expires end of January. Policy prohibits doctors from filling out state medical cannabis forms or even discussing potential benefits of the therapeutic substance with veteran patients. Veteran advocates for medical cannabis access have characterized current policy as a "gag order." Today's Congressional letter seeks to allow their physicians to recommend the therapeutic substance in accordance with state law. Letter points out policy was approved by the Senate as part of the funding bill 93-0 in November, but the provision was not included in the final version of the bill. The policy change was narrowly defeated during a House appropriations vote in April, 213-210, an increase of 15 aye votes from year before. If approved in this year's appropriations bill, the protection would have to be renewed with a vote each year. Issue is also addressed in CARERS Act, which would permanently solve issue w/o need for annual reauthorization. http://bit.ly/20Dr9Hu

Bill to Halt Pot Bans in California Goes to Governor's Desk By David Downs 1/28/2016 California demonstrated its seriousness about regulating medical marijuana by passing to the governor one of the first bills of the year. Assembly Bill 21 passed - unanimous vote 65-0 today & heads to the governor's desk for his signature. AB 21 lifts a March 1 deadline for localities to regulate medical cannabis activity locally, or face state regulatory override. The fear of losing local control this winter prompted more than one hundred cities and counties to preemptively ban medical cannabis activity — sometimes including the cultivation of a single plant. http://bit.ly/1o8Npem

County approves medical marijuana cultivation ordinance by Will Houston 1/27/16 A capacity Humboldt County Board of Supervisors chambers erupted - long applause & cheering immediately after the board unanimously approved county's 1st-ever regulations on medical marijuana commercial cultivation at its Tuesday meeting… The ordinance sets permitting & land use regulations for both existing & new commercial cultivation, processing, & manufacturing practices. The ordinance allows up to 10,000 square feet of new outdoor cultivation, up to 1 acre of existing outdoor cultivation, up to about one-half acre of outdoor mixed-light grows and up to 10,000 sq. ft. of indoor grows depending on the parcel zone. The ordinance also creates a program to incentivize growers to relocate their grows from what the county deems unsuitable cultivation sites to more appropriate sites - agricultural zones, in exchange for leaner permitting requirements http://bit.ly/1S29pEa

California Marijuana Growers Face New Crop of Local Bans by Lisa Leff, AP 1/23/16
When California Legislature passed state's first comprehensive medical marijuanaregulations in September, pot advocates hoped the move heralded new era of trust in their often-tumultuous relationship with local officials & police. … Facing what appears a rapidly closing window for action, dozens of cities & counties from across California are racing to enact new bans on marijuana-growing. Some apply only to commercial cultivation, both indoor & outdoor, many also prohibit personal pot gardens that have been legal — or overlooked — for 19 years. http://bit.ly/1PTxKFF

Berkeley marijuana dispensary robbed at gunpoint by Emilie Raguso 1/13/2016 Police are looking for 3 masked robbers with a gun who tied up a security guard & took several trays of marijuana plants from a Berkeley medical cannabis dispensary over the weekend while the business was closed. The robbery took place Sunday just before 1:20 a.m., said Officer Jennifer Coats, Berkeley Police spokeswoman, when 3 people went into parking lot of Berkeley Patients Group (BPG) dispensary at 2366 San Pablo Ave., near Channing Way.
A security guard was posted in parking lot. No other employees were on site. "Suspects approached the guard, one armed with a gun," said Coats. "The guard was tied up. Suspects entered the business & forced security guard to lay on the ground." Trio then went through the business, & took 3 trays of marijuana plants before fleeing. After they left, guard was able to call 911, Coats said. He said the robbers were inside dispensary less than 5 minutes, & the entire episode was caught on video. http://bit.ly/1SJOGDO

Santa Cruz County medical marijuana dispensaries ring up more than $32.3M in sales by Samantha Clark 1/13/16 SANTA CRUZ>> While the medical marijuana industry is budding, business is booming in Santa Cruz County. Region's 14 dispensaries rang up $32 million last year from sales of flowers, concentrates, tinctures, edibles & other forms of the drug. And it's a boost to local coffers. In 2014, voters in Santa Cruz passed Measures L and K, which levy a 7 percent tax on receipts of pot retailers with the option to increase to 10 percent. Officials expected taxes to bring in $100,000 annually for Santa Cruz, where there were 2 dispensaries until 1 closed in November, & $900,000 between November & June, the rest of the fiscal year, to the county, where there are 12 dispensaries in unincorporated areas. County expected to collected $1.6 million for the full year, but got more — $1.95 million between November 2014 & October 2015. City collected more than anticipated — $305,000 between January & December 2015. http://bit.ly/1Qef587

Alameda County Fast-Tracks Medical Pot Ban by David Downs 1/13/16 California's rash of medical pot bans continues to spread in 2016 & has now reached into the historic heartland of medical cannabis law reform. Patients in places like East Bay's Castro Valley could face new threats for growing even 1 medical pot plant indoors if new, fast-moving county effort succeeds. Alameda County's lawyers recommended on January 6 the board of supervisors ban any medical cannabis cultivation or deliveries in unincorporated areas by January 24. In a letter to the board, county counsel Donna Ziegler wrote patients growing a single plant & collectives delivering to neediest should be banned & fined "in order to protect the environment & preserve public peace, health, [and] safety." Observers note Alameda County's lawyers appear to have copied & pasted their arguments directly from documents created by pro-ban group, League of California Cities. The league is openly telling cities that bans are "quickest, cleanest" form of regulation. http://bit.ly/20b2848

"San Diego immediately establishes marijuana cultivation rules" By Staff Writer Jan 06, 2016 For the first time in history, the cultivation of medical marijuana is considered to be allowed and regulated within city limits. A new state law is prompting San Diego about this and may permit its full operation months from now. According to Los Angeles Times, Deputy City Atty. Shannon Thomas issued a memo last week describing methods that the city can regulate marijuana cultivation. This includes making zoning regulations that specify the drug or the simple permission of growing marijuana in all areas that are considered as agricultural zones.
http://www.lawyerherald.com/articles/25632/20160106/san-diego-establishes-marijuana-cultivation-rules

"Judge Dismisses 40 Acres RICO Suit vs Berkeley Dispensaries" By Jeremy Daw December 30, 2015 - 40 Acres Collective, the longstanding quasi-legal Berkeley cannabis club which has held on by its fingernails in the face of regulatory opposition, has had a rough day in court. Judge William Alsup of the federal Northern District of California resoundingly dismissed a RICO suit filed by one of the club's principals Christopher Smith which alleged that the city of Berkeley and its 3 currently licensed retail dispensaries had conspired like an organized crime ring to prevent 4o Acres from participating in the city's market for medical marijuana. The low-key club with a lax policy toward toking on-site has operated with a speakeasy vibe in the northwest quadrant of the famously groovy California city for years, and this author can attest that you will never find a friendlier or more welcoming vibe anywhere on the coast. The reception 40 Acres has received from the city has been colder, characterized by lawsuits and a city police raid with timing which smacked of retaliation. Talks of a 4th licensed dispensary have been underway for years, and hopes among 40 Acres supporters has been high that the scrappy club could vie for the coveted additional slot, but to date only 3 dispensaries remain licensed in Berkeley. http://bit.ly/23KjCcf

Health and Medical Updates:

NFL News On Marijuana Ban: Former Players Want Medical Marijuana Off The List by Gurmeet Singh Pandher 1/4/16 Former NFL players want medical marijuana taken off list of prohibited substances so players are able to access the most effective treatment for football related injuries. Jackson who spent 6 seasons playing tight end for the Denver Broncos feels medical marijuana was most effective for him after tinkering with various cocktails of painkillers throughout his playing days. "I feel I can speak about this because I've tried everything. I've shot up HGH [human growth hormone], done the injections, tried pills, tried marijuana. I'm not this big marijuana guy, it just helped my body the most." Nate Jackson & Kyle Turley are among group of former players lobbying NFL to change policy & allow players access to medical marijuana instead of prescription painkillers routinely abused by football players. Football players use cocktail of pain pills & anti-inflammatory injections such as Hydrocodone, Vicodin, Percocet, Toradol, Celebrex, & Vioxx to get back from injury. According to the Guardian report, 2011 study by researchers at Washington University, St Louis found former NFL players 4 X more likely to abuse prescription painkillers than general population. Study mentioned more than 7 in 10 players who used pain medications during their playing dates went on to abuse them. Former offensive tackle Kyle Turley believes number is actually closer to 90%. Meantime, Kyle Turley who had been subjected to different prescriptions to deal with injuries, insomnia, mood disorders & suicidal thoughts described his experience as "horrific" after suffering number of side effects. But Turley said after moving to California last year & becoming a medical marijuana patient changed his life & he weaned off his other medications. http://bit.ly/1VP6dtz

ps... for more NFL news, On HBO- "Real Sports With Bryant Gumbel", season 22, episode 1, segment on NFL players' head trauma & Dr. Raphael Mechoulan, Hebrew University, Jerusalem; he "discovered" THC in 1964!

Twins study finds no evidence that marijuana lowers IQ in teens By Emily Underwood Jan. 18, 2016 Most studies that linked marijuana to cognitive deficits, such as memory loss & low IQ, looked at a single "snapshot" in time, says statistician Nicholas Jackson of University of Southern California, Los Angeles, lead author of the new work. That makes it impossible to tell which came first: drug use or poor cognitive performance. "It's a classic chicken-egg scenario," he says. One "powerful" way to address such concerns is to study identical twins, who share genes & upbringing, Jackson says. In the new study, he & his colleagues looked at 789 pairs of adolescent twins from 2 ongoing studies—1 from the Los Angeles, California, area & the other from Minnesota—who enrolled between ages 9 & 11. Over the course of 10 years, the team administered 5 intelligence tests & confidential surveys about marijuana use. They asked about other drug use - opioid painkillers, cocaine, & binge drinking. Marijuana users lost about 4 IQ points over course of study. But their abstinent twin siblings showed a similar pattern of decline, suggesting loss of mental sharpness was due to something other than pot, Jackson says. "Our findings lead us to believe that this 'something else' is related to something about the shared environment of twins, which would include home, school, and peers," he says. In the new study, teens who reported daily marijuana use for 6 months or longer did not show any difference in how much their IQ changed, compared with teens who had tried pot fewer than 30 times. This is a "clear indication cannabis is unlikely to be the cause of any IQ decline," says Claire Mokryz, a Ph.D. student in Curran's lab.
http://www.sciencemag.org/news/2016/01/twins-study-finds-no-evidence-marijuana-lowers-iq-teens

Ex-Bear Jim McMahon: Medical marijuana got me off narcotic pain pills by Rober McCoppin 1/29/16 Chicago Tribune - Former Super Bowl champion and Chicago Bears quarterback Jim McMahon says an unfairly demonized drug helped him recover from the pain of his football career: medical marijuana. http://www.chicagotribune.com/news/local/breaking/ct-chicago-bears-jim-mcmahon-medical-marijuana-met-20160128-story.html

Medical Marijuana May Be A Cure For Migraines, And Many Other Conditions By Lecia Bushak 1/15/16 For the first time, researchers have completed a study that proves medical marijuana can treat migraines. A study like this has never been done before due to federal regulations preventing scientists in the U.S. from obtaining cannabis for research. Throughout the years, migraine and headache sufferers have turned to smoking pot to alleviate their pain, but this is the first time scientific evidence exists to back up their claims. Researchers at the University of Colorado Anschutz Medical Campus gathered 121 participants who were diagnosed with migraines. They treated them with medical marijuana between January 2010 and September 2014, and found that their migraines were reduced from over 10 a month to less than five per month. The majority of participants — 103 of them — reported a decrease in migraines overall. And only three saw an increase in migraines over the course of the trial. http://www.medicaldaily.com/medical-marijuana-may-be-cure-migraines-and-many-other-conditions-369666

Texas epilepsy patients set to get medical cannabis oil by Phil Prazen 12/18/15 AUSTIN (KXAN) — In a big decision this year, lawmakers allowed patients with uncontrollable epilepsy to have access to a special oil made from marijuana plants. Thursday, the rules surrounding that decision were approved. http://kxan.com/2015/12/17/texas-epilepsy-patients-set-to-get-medical-cannabis-oil/

Eight Senators Demand Government Speed Up Marijuana Research by Don Fitch 12/28/15 Oregon's two senators, joined by six democratic colleagues, are demanding anew medical marijuana research answers, solutions, and actions from obstructive federal agencies. Ron Wyden and Jeff Merkley, led by Elizabeth Warren (D-Mass.), and along with Barbara Mikulski (D-Md.), Barbara Boxer (D-Calif.), Kirsten Gillibrand (D-N.Y.), Edward J. Markey (D-Mass.), and Cory Booker (D-N.J.) sent queries to several federal agencies that failed to explain their inaction on cannabis research. http://marijuanapolitics.com/eight-senators-demand-government-speed-up-marijuana-research/

International Cannabis Researh Institute Opens in Prague 12/17/15 The International Cannabis and Cannabinoids Institute (ICCI) was opened in Prague today with US and Canadian investors contributing half a billion crowns, which health minister said is the biggest private investment in Czech medical reasearch in recent years.http://www.praguepost.com/czech-news/51182-international-cannabis-research-institute-opens-in-prague

Can medical marijuana help treat heroin addicts? By Pat Anson 12/03/15 A recent study by researchers at Columbia University found that medical marijuana improves the treatment outcome of heroin addicts. Patients who were given dronabinol -- a prescription drug that contains THC, the active ingredient in marijuana - had lower withdrawal symptoms compared than those given a placebo. In addition, patients who smoked marijuana regularly during the outpatient phase of treatment had fewer sleeping problems, less anxiety and were more likely to finish treatment. http://bit.ly/1KrKxmF

Cannabinoids are Safe, Effective Treatment for Non-Cancer Pain by National Pain Report 11/30/15 While there are still no studies conducted in the United States regarding the effectiveness of medical marijuana for treatment of chronic illnesses like chronic pain, researchers in Canada are increasing their research work. Cannabinoids are a modestly safe and effective treatment for chronic non-cancer pain, according to the results of a systematic review of randomized controlled trials published in the Journal of Neuroimmune Pharmacology. Researchers conducted a systemic review of 11 placebo-controlled trials conducted from 2010 and 2014 investigating cannabinoids and chronic pain. Cannabinoids studied included smoked cannabis, oromucosal extracts of cannabis based medicine, nabilone, dronabinol and a novel THC analogue. http://bit.ly/1QiB0yn

Dr. Sanjay Gupta shares his thoughts on research, medical marijuana at Toronto event by Global News Staff 11/17/15 http://globalnews.ca/news/2345521/dr-sanjay-gupta-shares-his-thoughts-on-research-medical-marijuana-at-toronto-event/

FYI: 7 states that accept out-of-state medical marijuana cards by topthings2know.com 12/20/15 Possession only: New Hampshire, Arizona, Michigan, Rhode Island. Possession and Purchase: Hawaii, Maine, Nevada. http://topthings2know.com/7-states-that-accept-out-of-state-medical-marijuana-cards/

BMCC Letter to BCC, February 23, 2016 Meeting, re: Planning Commission Recommendations

I am writing on behalf of the Medical Cannabis Commission to express the Commission's unanimous support for the Planning Commission's recommended changes to Zoning Ordinance Section 23E.72.040, related to medical cannabis cultivation. The Medical Cannabis Commission support for these changes is based on the following reasons:

1. Many of these changes are necessary to address compatibility with new State laws, passed in October 2015, related to medical cannabis regulations, specifically maximum indoor cultivation area (22,000 square feet) and 600 feet school buffer zone from cultivation sites.
2. Identifying the total square footage that can be used for cultivation with a numeric limit (180,000 square feet) mirrors the current limit of six locations each with a maximum size of 30,000 square feet,restates, maximizes production area, increasing taxation revenue as well.
3. Removing the limit on the number of cultivation locations will allow more opportunities for smaller businesses to become established, which the new State laws mention specifically: *Vertical Integration- Complicated restrictions to prevent vertical integration (AB 266, 19328). In general, licensees can only hold licenses- 2 separate categories.* These smaller businesses will have their own State licensing category under the new State regulations.
4. The Commission believes these changes will make the City's existing medical cannabis cultivation ordinance more compatible with new State law, and certainly more favorable to (the) smaller cultivation businesses which we consider to be the best suited and most likely to locate in Berkeley.

Thank you for your careful, serious consideration of this important issue, which should improve the quality of medicine and lower the cost to qualified medical cannabis patients, as well as provide employment and tax revenue for our community in general.

Addendum- FYI (perhaps unnecessary to include?)

1. Changes to the Zoning Ordinance **Section 23E.72.040** (reduce size of cultivation locations, add buffer from schools, remove limit on the number of sites). This is coming from the Planning Commission and is an urgency item to address the State's requirement to have a cultivation ordinance in place by March 1, 2016, which explains why it is coming to the Council so quickly, but is scheduled for further review- *"The state Senate Health Committee on Wednesday approved a bill that would give local governments more time to implement marijuana laws, sending the measure to the full Senate. The state Senate could vote as early as Monday (1/25/2016) on AB 21, which would remove a March 1 deadline that has caused many cities and counties to quickly pass local land-use ordinances regarding marijuana. The bill would proceed from there to the state Assembly and then the governor's desk, if approved by both chambers."* The Union, Jan 20, 2016, Alan Riquelmy,
http://www.theunion.com/news/20248246-113/marijuana-bill-heads-to-full-state-senate-after#

2. Changes to Berkeley Municipal Code, primarily related to creation of cultivation regulations. This will add **Chapters 12.23** and **12.25**, & modify **12.26** and **12.27**... what the MCC has been working on for the past year+.

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