

MEETING OF THE MEDICAL CANNABIS COMMISSION

City Hall
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, April 7, 2016
2:00 PM

AGENDA

- I. **Call to Order**
 - A. Roll Call and Ex Parte Communication Disclosures
 - B. Changes to Order of Agenda
- II. **Public Comment**
- III. **Approval of Minutes**
 - A. March 3, 2016 Draft Action Minutes (Attachment)
- IV. **Planning Staff Report**
- V. **Chairperson's Report**
- VI. **Subcommittee Report**
- VII. **Discussion and Action Items**
 - A. Vote on a third member for the Cultivation Subcommittee
 - B. Discuss action taken at March 15, 2015 Council meeting regarding BMC changes regarding cultivation and vote on possible action.
 - C. Discuss and vote on possible action related to Commission vacancies. One attachment:
 1. Draft letter to Council (originally submitted as a late item at the March 3, 2016 MCC meeting)
 - D. Discuss actions that could be taken to show support for protections for patients who live in apartments and/or federally subsidized housing.
 - E. Work Program: Discuss past achievements and possible items to add to 2016-2017 work plan. Three attachments:
 1. MCC Major Markers document drafted by Commissioner Rice
 2. MCC Major Markers document modified by Chair Pappas
 3. 2014-2015 Work Plan
- VIII. **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.*)
 - A. MCC letter to Council in support of Planning Commission's recommended changes to Zoning Ordinance Section 23E.72.040 (included in the February 23rd Council packet).
 - B. Staff memo outlining the different types of permits required for businesses
- IX. **Correspondence**

None.
- X. **Adjournment**

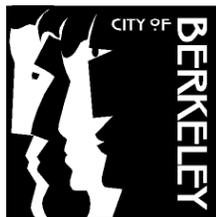
Berkeley Medical Cannabis Commission website: <http://www.cityofberkeley.info/medicalcannabis/>
Medical Cannabis Commission Secretary: Elizabeth Greene, 2120 Milvia Street, 2nd Floor, Berkeley CA 94704.
Phone: 510-981-7484 EGreene@cityofberkeley.info

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
2180 Milvia Street
Redwood Room (Sixth Floor)

Thursday, March 3, 2016
2:00 PM

DRAFT ACTION MINUTES

(Meeting moved to the Cypress Room on the first floor of City Hall due to a last-minute elevator malfunction (beginning immediately before the scheduled start of the meeting) which prevented ADA-compliant access to the 6th floor.)

I. Call to Order – 2:25

A. Roll Call and Ex Parte Communications Disclosures

Commissioners present: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice.

Ex Parte Communications: None

Absent: Jones (excused), Rush and Tims (excused).

Staff present: Secretary Elizabeth Greene

B. Changes to Order of Agenda

Chair Pappas suggested moving the general public comment to after the staff and chair reports. There was general agreement to this change.

III. Approval of Minutes

A. January 28, 2016 Draft Action Minutes

Staff mentioned that recusal information would be added to the minutes. Chair Pappas suggested that questions regarding funding of candidates should be added to Item II.C as “funding”. Motion/second to approve the minutes as amended (/). The motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

B. February 4, 2016 Draft Action Minutes

Staff mentioned that recusal information would be added to the minutes. Motion/second to approve the minutes as amended (/). The motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

IV. Planning Staff Report

Secretary Greene made the following announcements:

- There are two excused absences (Jones and Tims). 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 two excused absences, the number of appointed members of the MCC is 6. The quorum for action is 4 votes.
- Update on dispensary application process: The tentative date for the Council

meeting to consider the dispensary applicants is May 10, 2016. The format of the meeting is to be determined by the Council agenda subcommittee.

- Five late items.

V. **Chairperson's Report**

Chair Pappas reviewed the draft letter to Council regarding the need to fill Commission vacancies.

Motion/second to put discussion of action to take in response to vacancies on the April agenda (Cooper/Ferguson-Riffe). The motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

Chair Pappas also mentioned three other late items – a modified May 2, 2013 MCC rationale for additional dispensaries (for discussion with Item VII.B), and two updates on the status of medical cannabis (January/February and March). He also mentioned that the dispensary application process went well and that the Mayor has made recent statements indicating that he will not support a 4th dispensary.

II. **Public Comment**

Seven comments, regarding the need for an additional dispensary, the need to be proactive in helping seniors who need to medicate in subsidized housing, and the difficulty cultivators are having finding space in the M District. Chair Pappas requested that an item be placed on the April agenda to develop a recommendation for Council adoption that would support protections for patients in apartments and federal housing.

VI. **Subcommittee Reports**

None.

VII. **Discussion and Action Items**

A. **Election of Officers.**

Public Comment: None.

Motion/second to re-elect Charley Pappas as Chair and Tina Ferguson-Riffe as Vice Chair (Rice/Cooper). The motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

B. **Number of dispensaries: Discuss and vote on recommendation to include with the Council report.**

Public Comment: None.

Discussion focused on the need to include another recommendation to Council to increase the number of dispensaries beyond four. Comments included the need to focus on the items currently before the MCC and the need to get Council agreement on those items before adding more issues, and the possibility of a ballot measure to put the question in the hands of the voters.

Motion/second to table increasing the number of dispensaries beyond four indefinitely in order to continue current agenda of expanding cultivation (Rice/Cooper). The motion

carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

C. Review Council report regarding dispensary recommendation and possible vote on Commissioners to review subsequent changes with staff.

Public Comment: None.

Commissioner Cooper and Chair Pappas offered to review the report on behalf of the MCC. 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.)

D. Discussion of cultivation selection process and possible vote on creating a new subcommittee.

Public Comment: Three public comments, pointing out that Cultivation Subcommittee document still has references to dispensaries, and a question about the status of cultivation businesses that are already operating in the M District.

Discussion: The cultivation subcommittee document was developed two years ago and will definitely have changes. Questions were raised about the types of approval processes, whether a selection process is needed, and whether different types of processes could be developed for small and large dispensaries, using the State licensing definitions. Staff explained the differences between discretionary and non-discretionary approvals that apply to business licenses. Commissioners acknowledged that a West Berkeley business group (WEBAIC) has concerns about both cultivation and expansion into districts beyond the M District, and that they should be invited to the cultivation subcommittee meetings. In terms of a cultivation subcommittee, discussion focused around the need for a subcommittee, the role of a subcommittee (to discuss licensing, consensus building, develop specific ideas for expansion, consider general cultivation issues).

Motion/second to create a cultivation subcommittee to consider cultivation issues (Lampach/Pappas). Motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

Commissioner Lampach and Chair Pappas offered to be on the subcommittee. A request for a third member will be on the April agenda.

E. Discuss Council actions at February 23, 2016 meeting and vote on MCC representative for March 15, 2016 Council meeting re. Berkeley Municipal Code changes.

Public Comment: None.

Staff explained that the Zoning Ordinance changes (23E.72.040) will have its second reading on March 8th.

Motion/second to appoint Commissioner Rice to speak for the MCC at the March 8, 2016 Council meeting should the Zoning Ordinance amendment be pulled off the consent calendar (Rice/Ferguson-Riffe). Motion carried 5-0-0-3. (Ayes: Cooper, Ferguson-Riffe, Lampach, Pappas, Rice. Noes: None. Abstain: None. Absent: Jones, Rush, Tims.)

Motion/second to appoint Commissioner Cooper to speak for the MCC at the March 15, 2016 Council meeting regarding the BMC changes (addition of Chapters 12.23 and 12.25, modifications to Chapters 12.26 and 12.27) (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 3:55.

Five late items were distributed at the meeting:

- a. Staff: Draft selection process from Cultivation Subcommittee (originally distributed at 9/4/14 MCC meeting)
- b. Pappas: Draft letter to Council regarding Commission Vacancies
- c. Pappas: MCC Rational for Additional Dispensaries (June 3, 2014) with modification by Chair Pappas
- d. Pappas: Legal/Health/Medical Updates, January/February 2016
- e. Pappas: Legal/Health/Medical Updates, March 2016

Commissioners in attendance: 5

Members of the public in attendance: Approximately 15

Public speakers: 10

Length of meeting: 1 hour, 30 minutes

APPROVED: _____
Elizabeth Greene
Medical Cannabis Commission Secretary

Possible Medical Cannabis Commission Request to Mayor/BCC to Fill Commission Vacancies

re: Berkeley Medical Cannabis Commission requesting new appointees to present vacancies

Dear Mayor & BCC,

Our commission was pleased earlier this year when councilmember Moore appointed David Lampach to fill a several-month-long vacancy when Richard Pfrommer left earlier last year.

As a friendly reminder, Mayor Bates' second appointee Viveros-Banderas left before our Summer recess and has not been replaced. Also, councilmember Worthington's appointee Dan Rush has been absent since that time as well and will officially no longer have commissioner status after our March 3 meeting.

With the full complement of 9 members, our commission simply functions more efficiently when there are more commissioners to share our workload and concerns, including subcommittees, attending other commission meetings (planning), city council meeting presentations, observing local, statewide, national medical cannabis practices.

Finally, our commission mandate: “to ensure that **medical cannabis provision in Berkeley** is conducted in a **safe and orderly manner** to protect the **welfare of Qualified Patients and the community**.” becomes an easier task with a full complement of commissioners possessing varying perspectives, insights, and energies.

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MAJOR MARKERS**Berkeley Medical Cannabis Commission (MCC)**

April 7, 2016; kmr

Nov. 5, 1996	California Compassionate Use Act (Prop. 215)
Nov. 3, 2008	Berkeley Patients Access to Medical Cannabis Act (Msr. JJ)
Nov. 3, 2010	Msr. T, amendment to Berkeley's medical cannabis ordinance
July 21, 2011	First meeting of the MCC. Mandated by Msr. T to be standard commission.
Oct. 25, 2011	Dispensary & Cultivation subcommittees begin meeting. Ultimately decide to marshal MCC efforts around first developing Dispensary guidelines.
May 2, 2013	Dispensary regulations completed. They are a BCC Action Calendar item, along with request to increase dispensaries permitted to six from four.
May 21, 2013	Councilmember Moore places on BCC agenda postponement of medical cannabis regulations in light of state proposals. On 6/4/13, he removes this item.
Oct. 1, 2013 to July 22, 2014	2nd Cultivation subcommittee convenes. Through 17 meetings develop draft <i>i</i>) position paper for allowing cultivation beyond the M District, <i>ii</i>) cultivation operational guidelines, <i>iii</i>) license selection criteria.
June 5, 2014	Cultivation requested in additional areas: MCC sends BCC position paper to study expanding cultivation beyond the M District.
July 8, 2014	Berkeley City Council (BCC) passes Dispensary rules & selection criteria. Retains limit of four dispensaries, otherwise, votes for MCC over staff versions.
Nov. 18, 2014	BCC refers to the Planning Commission (PC) expanding cultivation areas. PC will study this issue and report back to the BCC.
Sept. 2, 2015	PC assigns high priority to study of expanding cultivation beyond the M District.
Oct, 9, 2015	California Medical Marijuana Regulation & Safety Act (MMRSA) passes, requires minor adjustments to existing Berkeley guidelines.
Dec. 16, 2015	PC codifies 180k SF max citywide for cultivation, removes six-location limit. This action is part of writing language for minor adjustments to bring Berkeley into compliance with MMRSA. MMRSA compliance document forwarded to BCC.
Feb. 4, 2016	MCC votes on recommendation for Dispensary license. Notes of MCC deliberation sent to BCC. (Application period opened 1/12/15)
Feb. 23, 2016	MMRSA compliance & Cultivation guidelines put on BCC meeting agenda.
March 8, 2016	BCC approves MMRSA compliance, including codifying 180k SF citywide limit on cultivation & removal of six-location limit. (Consent Calendar)
March 15, 2016	BCC removes Cultivation operational guidelines from Action Calendar. Councilmember Moore recommends referral to Agenda subcommittee.
FUTURE	FUTURE
?	BCC vote on Cultivation operational guidelines
May 10, 2016	BCC is scheduled to select the fourth dispensary
?	MCC forwards Cultivation license selection criteria to the BCC
?	BCC votes on Cultivation license selection criteria
?	PC forwards to the BCC recommendations for expanding allowable cultivation beyond the M District
?	BCC votes on areas to expand cultivation beyond the M District

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MAJOR MARKERS- Chronology, Permit Application Process, Cultivation**Berkeley Medical Cannabis Commission (MCC)**April 7, 2016; kmr *(with CAP adds)*

Nov 5 1996	California Compassionate Use Act (Prop. 215).
<u>Nov 2 2004</u>	<u>Measure R, Patients' Access to Medical Cannabis Act- fails, 2 unsuccessful recounts .</u>
Nov 3 2008	Measure JJ Berkeley Patients Access to Medical Cannabis Act (2008), <u>an Alameda Co. judge rewrites measure R after inability to locate voting machines for recount.</u>
<u>Dec 8 2008</u>	<u>First meeting original BMCC (peer review committee-mandated in JJ).</u>
<u>May 4 2010</u>	<u>BCC discuss' marijuana taxation (2010 CA ballot mj legalization), 3 subcommittee meetings scheduled after public dissatisfaction expressed for local dispensaries, medical cannabis commission- make-up, focus.</u>
<u>June 29 2010</u>	<u>Subcommittee meetings prompt measure T (medical cannabis ordinance changes).</u>
<u>July 6 2010</u>	<u>Further measure T discussion, passage.</u>
Nov. 3, 2010	Msr. T, amendment to Berkeley's medical cannabis ordinance.
<u>Dec 16 2010</u>	<u>Final meeting original BMCC.</u>
July 21, 2011	First meeting of the MCC. Mandated by Msr. T to be standard commission.
Oct. 25, 2011	Dispensary & Cultivation subcommittees begin meeting. Ultimately decide to marshal MCC efforts around first developing Dispensary guidelines.
May 2, 2013	Dispensary regulations completed. They are a BCC Action Calendar item, along with request to increase dispensaries permitted to six from four.
May 21, 2013	Councilmember Moore recommends postponement of medical cannabis regulations in light of state proposals, per item he placed on Action Calendar.
Oct. 1, 2013 to July 22, 2014	2nd Cultivation subcommittee convenes. Through 17 meetings develop draft <i>i)</i> position paper for allowing cultivation beyond the M District, <i>ii)</i> cultivation operational guidelines, <i>iii)</i> license selection criteria.
June 5, 2014	Cultivation requested in additional areas: MCC sends BCC position paper to study expanding cultivation beyond the M District.
July 8, 2014	Berkeley City Council (BCC) passes Dispensary rules & selection criteria. Retains limit of four dispensaries, otherwise, votes for MCC over staff versions.
Nov. 18, 2014	BCC refers to the Planning Commission (PC) expanding cultivation areas. PC will study this issue and report back to the BCC.
<u>Jan 12 2015</u>	<u>Fourth dispensary applications accepted.</u>
<u>March 20 2015</u>	<u>Final application date for fourth dispensary-12 applications accepted.</u>
<u>March 27 2015</u>	<u>Letters to applicants for incomplete information to be provided.</u>
<u>April 20 2015</u>	<u>"Deadline" for missing, incomplete applicant information to be provided.</u>
<u>May 7 2015</u>	<u>Disqualified applicants notified:</u>
<u>+++++</u>	<u>+++++</u>
<u>May- Nov 2015</u>	<u>City Manager/Staff- please provide chronology- rounds 2-5 determinations.</u>
<u>+++++</u>	<u>+++++</u>
Sept. 2, 2015	PC assigns high priority to study of expanding cultivation beyond the M District.

<u>Sept 29 2015</u>	<u>At BCC meeting Mayor questions need for 4th dispensary, cites CA ballot legalization measures, 6 dispensary applicants allowed for round 5 (or 4?).</u>
Oct, 9, 2015	California Medical Marijuana Regulation & Safety Act (MMRSA) passes, requires minor adjustments to existing Berkeley guidelines.
<u>Nov 5-25, 2015</u>	<u>6 remaining dispensary applicants hold public hearings.</u>
<u>Dec 16 2015</u>	<u>PC codifies 180k SF max citywide for cultivation, removes six-location limit.</u> This action is part of writing language for minor adjustments to bring Berkeley into compliance with MMRSA. MMRSA compliance document forwarded to BCC.
<u>Jan 28 2016</u>	<u>MCC holds public hearing for 1st review of 6 dispensary applicants.</u>
<u>Feb. 4, 2016</u>	<u>MCC votes on recommendation for Dispensary license.</u> Notes of MCC deliberation sent to BCC.
<u>Feb. 23, 2016</u>	<u>MMRSA compliance & Cultivation guidelines put on BCC meeting agenda.</u>
<u>March 8, 2016</u>	<u>BCC approves MMRSA compliance, including codifying 180k SF citywide limit on cultivation & removal of six-location limit. (Consent Calendar)</u>
<u>March 15, 2016</u>	<u>BCC removes Cultivation operational guidelines from Action Calendar.</u> Councilmember Moore recommends referral to Agenda subcommittee.
<u>FUTURE</u>	<u>FUTURE</u>
?	BCC vote on Cultivation operational guidelines.
May 10, 2016	BCC is scheduled to select the fourth dispensary.
?	MCC forwards Cultivation license selection criteria to the BCC.
?	BCC votes on Cultivation license selection criteria.
?	PC forwards to the BCC recommendations for expanding allowable cultivation beyond the M District.
?	BCC votes on areas to expand cultivation beyond the M District.

TO: Medical Cannabis Commission

FROM: Elizabeth Greene, Secretary

SUBJECT: Final Work Program, 2014-2015

DATE: October 2, 2014

In accordance with Chapter V.A of the City of Berkeley Commissioners' Manual, the Commission voted 7-0-0-2 at the September 4, 2014 meeting to adopt the following work plan:

1. Cultivation regulations

- a. Develop regulations and a selection process for cultivation businesses.
- b. Consider the need to expand the areas where cultivation is permitted.

Products:

- Draft recommendations to staff for incorporation into an ordinance
- Develop information for Planning Commission and Council as necessary.

Timing: On-going (September 2014 – June 2015)

2. Annotated bibliography of medical cannabis research

- a. To inform the Council and the public about the medical benefits of medical cannabis.

Product:

- Written bibliography for submission to Council

Timing: Moderate (November 2014 - February 2015)

3. Delivery services

- a. Research how delivery services are regulated in other cities
- b. Discuss options with City Attorney

Product:

- No product necessary unless there is a decision to develop regulations

Timing: Moderate (September – January)

4. Review dispensary candidates

- a. Review written applications of top five applicants (Round 4)
- b. Determine the need for presentations at an MCC meeting
- c. Rank the candidates

Product:

- Memo for Council

Timing: Long range (May – July 2015)



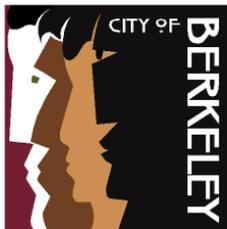
Medical Cannabis Commission

To: Honorable Mayor and Members of the City Council
From: Medical Cannabis Commission
Submitted by: Elizabeth Greene, Secretary, Medical Cannabis Commission
Subject: Letter in support of Planning Commission recommendation regarding changes to Zoning Ordinance 23E.72.040 related to medical cannabis cultivation
Date: February 23, 2016

At its regular meeting on January 7, 2016, the Medical Cannabis Commission (MCC) voted to ask the Council to support the Planning Commission recommendations to change Zoning Ordinance 23E.72.040 related to medical cannabis cultivation in the Manufacturing (M) District.

M/S/C: (Pappas/Ferguson-Riffe)
Ayes: Cooper, Ferguson-Riffe, Pappas, Rice, Tims.
Noes: Lampach.
Abstain: None.
Absent: Jones, Rush.

Attachment: Letter to Council



Medical Cannabis Commission

TO: Honorable Mayor and Members of the City Council

FROM: Medical Cannabis Commission

Submitted By: Charles Pappas, Chair, Medical Cannabis Commission

Subject: Support for Planning Commission Changes to Zoning Ordinance
Section 23E.72.040 (Medical Cannabis Cultivation)

Date: February 23, 2016

I am writing on behalf of the Medical Cannabis Commission to express the Commission's strong support for the Planning Commission's recommended changes to Zoning Ordinance Section 23E.72.040, related to medical cannabis cultivation. The Medical Cannabis Commission's 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-foot buffers between schools and 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 with a maximum size of 30,000 square feet each, as well as restates and maximizes production area, therefore increasing tax revenue.
3. Removing the limit on the number of cultivation locations will allow more opportunities for smaller businesses to become established. These smaller businesses will have their own State licensing category under the new State regulations.

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 bested suited and most likely to locate in Berkeley. These are important things to consider if Berkeley is to have a cultivation industry that meets the needs of the City's patients and provides opportunity for local small businesses to locate in the City.

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.

Types of Permits

All new structures and modifications to structures in the City of Berkeley are required to be in conformance with the Zoning Ordinance. In addition, all businesses in the City of Berkeley are required to be in conformance with the uses permitted in the Zoning Ordinance. Applicants for development projects and new businesses should begin with review by zoning staff to determine what type of zoning permit is needed and to ensure that a use is allowed in the location proposed. Some types of development and uses are allowed “as-of-right,” meaning that no public review is required so long as the proposed project or use conforms to the requirements of the zoning ordinance. An as-of-right project or use is issued a Zoning Certificate and the applicant can proceed to submit an application and plans for a building permit or proceed with application for a business license. However, many proposed development projects or new businesses require some level of “discretionary review,” meaning they are subject to public notice to neighbors and a public hearing. In this instance, prior to submitting an application for a building permit, an applicant is required to proceed through the public review process to receive a Use Permit or other entitlement. Each permit type is described below.

ZONING PERMITS

1. **Zoning Certificate (ZC)** – for projects that are specifically listed in the Zoning Ordinance as allowed as matter of right.

- Issued by: Land Use Planning staff
- Time Frame: Issued over-the-counter at Permit Service Center
- Public comment: No
- Discretionary? No – “as-of-right”

2. **Administrative Use Permit (AUP)** – discretionary permit requires administrative review and determination and public notification

- Issued by: Zoning Officer (ZO)
- Time Frame: 6-8 months
- Process: Pre-submission requirements, submission and review, appeal period after decision (20 days)
- Public comment: Yes. Notice of Decision is posted on the on-site yellow sign, which starts the appeal period.
- Discretionary? Yes

3. **Use Permit (UP)** – discretionary permit issued by Zoning Adjustments Board (ZAB) after a public hearing

- Issued by: Zoning Adjustment Board (ZAB)
- Time Frame: 8 – 16 months
- Process: Pre-submission requirements, public hearing (14 - 21 days notice), appeal period (14 days)
- Public Comment: Yes. Notice of public hearing is provided with on-site yellow signs and mailing to residents and property owners within 300 feet.
- Discretionary? Yes

BUILDING PERMITS

A Building Permit ensures that structures are constructed to an appropriate standard and are safe for the intended uses. A Building Permit can be considered and issued after any required discretionary zoning permits are approved. The time frame for a building permit depends on the scope of the work; it can range from

OTHER POSSIBLE PERMITS/REVIEWS

1. **Design Review** - Discretionary permit issued by the staff or the Design Review Board (DRC)

- Required for any commercial or industrial building making exterior changes, including signage.
- Time line: Can run concurrently with Zoning Permit or Building Permit.

2. Structural Alteration Permit – Discretionary permit issued by the Landmarks Preservation Commission (LPC)

- Required for any changes to a building that is on the City's Landmark list or any proposal that would significantly alter a building over 40 years old.
- Is only triggered by projects subject to discretionary review based on changes to the building, not use.
- Time line: Can run concurrently with Zoning Permit.

3. Hazardous Material Business Plan – Non-discretionary permit issued by the Toxics Management staff

- Required for any business that uses hazardous materials (gases, liquids or solids).
- Processed within 30 days of hazardous material placement at a site.
- Time line: Generally ranges between a couple of weeks and a couple of months.

Revision-Possible Medical Cannabis Commission Request to Mayor to Fill Commission Vacancies

re: Berkeley Medical Cannabis Commission requesting new appointees to present vacancies

Dear Mayor Bates,

Our commission was pleased earlier this year when councilmember Moore appointed David Lampach to fill a several-month-long vacancy after his earlier appointee (and our previous commission chairman) Richard Pfrommer resigned before last summer. Just this month, councilmember Worthington's appointee Dan Rush, absent since that time as well, has been replaced by new appointee, Keith Carlisle.

As a friendly reminder, Mayor Bates' second appointee SbeydehViveros-Banderas also left before our summer recess and has not been replaced.

With the full component of 9 members, our commission simply functions more efficiently when there are more commissioners to share our workload and concerns, including subcommittees, attending other commission meetings (planning), city council meeting presentations, observing local, statewide, national medical cannabis practices.

In conclusion, our commission mandate: *“to ensure that medical cannabis provision in Berkeley is conducted in a safe and orderly manner... to protect the welfare of Qualified Patients and the community”* is simply an easier task with a full compliment of commissioners possessing varying perspectives, insights, and energies.

Thank you for your attention and consideration.

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MAJOR MARKERS- Chronology, Permit Application Process, Cultivation

Berkeley Medical Cannabis Commission (MCC)

April 7, 2016; by Karen, kmr *(with Charley adds)*

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- May 2, 2013 **Dispensary regulations completed.** They are a BCC Action Calendar item, along with request to increase dispensaries permitted to six from four.
- May 21, 2013 **Councilmember Moore recommends postponement** of medical cannabis regulations in light of state proposals, per item he placed on Action Calendar.
- Oct. 1, 2013 to **2nd Cultivation subcommittee convenes.** Through 17 meetings develop draft *i*) July 22, 2014 position paper for allowing cultivation beyond the M District, *ii*) cultivation operational guidelines, *iii*) license selection criteria.
- June 5, 2014 **Cultivation requested in additional areas:** MCC sends BCC position paper to study expanding cultivation beyond the M District.
- July 8, 2014 **Berkeley City Council (BCC) passes Dispensary rules & selection criteria.** Retains limit of four dispensaries, otherwise, votes for MCC over staff versions.
- Nov. 18, 2014 **BCC refers to the Planning Commission (PC) expanding cultivation areas.** PC will study this issue and report back to the BCC.
- Jan 12 2015 Fourth dispensary applications accepted.
- March 20 2015 Final application date for fourth dispensary-12 applications accepted.
- March 27 2015 Letters to applicants for incomplete information to be provided.
- April 20 2015 "Deadline" for missing, incomplete applicant information to be provided.
- May 7 2015 Disqualified applicants notified:,,,,
- +++++ +++++
- May- Nov 2015 City Manager/Staff- please provide chronology- rounds 2-5 determinations.
- +++++ +++++
- Sept. 2, 2015 **PC assigns high priority to study of expanding cultivation** beyond the M District.

Sept 29 2015 **At BCC meeting Mayor questions need for 4th dispensary, cites CA ballot legalization measures, 6 dispensary applicants allowed for round 4.**
Oct, 9, 2015 California Medical Marijuana Regulation & Safety Act (MMRSA) passes, requires minor adjustments to existing Berkeley guidelines.

Nov 5-25, 2015 **6 remaining dispensary applicants hold public hearings.**
Dec 16 2015 **PC codifies 180k SF max citywide for cultivation, removes six-location limit.**
This action is part of writing language for minor adjustments to bring Berkeley into compliance with MMRSA. MMRSA compliance document forwarded to BCC.

Jan 28 2016 **MCC holds public hearing for 1st review of 6 dispensary applicants.**
Feb. 4, 2016 **MCC votes on recommendation for Dispensary license.** Notes of MCC deliberation sent to BCC.

Feb. 23, 2016 **MMRSA compliance & Cultivation guidelines put on BCC meeting agenda.**
March 8, 2016 **BCC approves MMRSA compliance, including codifying 180k SF citywide limit on cultivation & removal of six-location limit.** (Consent Calendar)

March 15, 2016 **BCC removes Cultivation operational guidelines from Action Calendar.**
Councilmember Moore recommends referral to Agenda subcommittee.

FUTURE

FUTURE

? BCC vote on Cultivation operational guidelines.
May 10, 2016 BCC is scheduled to select the fourth dispensary.
? MCC forwards Cultivation license selection criteria to the BCC.
? BCC votes on Cultivation license selection criteria.
? PC forwards to the BCC recommendations for expanding allowable cultivation beyond the M District.
? BCC votes on areas to expand cultivation beyond the M District.

Submitted to Berkeley Medical Cannabis Commission
April 6, 2016
By Michael Allaire, West Coast Members Services, Inc.

Below is a link to, and text from assembly bill—AB-2516 - Woods, an act to amend Section 19332 of the state Business and Professions Code, relating to medical marijuana—specifically, to establish an additional licensing classification to the MMRSA, Type 1C, Specialty Cottage.

While the rather brief language of the bill does not specifically reference “home-based commercial cultivation”, it certainly opens the door to the issue in a way that is not currently addressed in the MMRSA. Hopefully we can build on this gesture, and with supportive action from forward thinking/acting cities like Berkeley we can rectify this glaring, and ultimately damaging omission by including in our local codes, ordinances, and policies & practices language and actions that allows, provides for, and protects home-based commercial cultivation as the backbone to the legal medical cannabis supply chain.

Link to California legislative site for AB-2516:

http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201520160AB2516

Text of AB 2516 referencing “Specialty Cottage” license:

(4) Type 1C, or “specialty cottage,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

Vertical Integration Grandfather Clause in the MMRSA?:

There is existing language in the MMRSA regarding grand-fathering in operations that were in compliance with existing ordinances/regulations prior to Jan. 1, 2016, could possibly allow for vertical integration and home-based commercial cultivation if the City were to deem to approve such operations at the municipal level, and then forward a list of these operations up to the state level for licensing.

Specific text in the MMRSA:

”In issuing licenses, the licensing authority shall prioritize any facility or entity that can demonstrate to the authority’s satisfaction that it was in operation and in good standing with the local jurisdiction by January 1, 2016.”