



CITY COUNCIL STAFF REPORT

Cont. to Jan. 07, 2008
DATE: December 3, 2008

PUBLIC HEARING

SUBJECT: CASE NO. 5.1218 – ZONE TEXT AMENDMENT, AN APPLICATION BY THE CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE RELATING TO THE LOCATION AND OPERATION OF MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES.

FROM: David H. Ready, City Manager

VIA: Craig A. Ewing, AICP, Director of Planning Services

SUMMARY

On October 1, 2008, the City Council initiated a Zone Text Amendment to consider standards and regulations for the establishment of medical marijuana cooperatives and collectives. On November 12, 2008 the Planning Commission conducted a public hearing, considered a draft ordinance and adopted a recommendation on the matter. A public hearing has been noticed for this item.

RECOMMENDATION:

1. Open the public hearing and receive public testimony;
2. Waive the reading of the ordinance text in its entirety and read by title only; and
3. Introduce on first reading ordinance no. ____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTIONS 91.00.10-B, 92.17.01-A, AND 92.17.1.01 OF, AND ADDING SUBSECTION N TO SECTION 92.17.03 AND SUBSECTION N TO SECTION 92.17.1.03 OF, THE PALM SPRINGS ZONING CODE, RELATING TO MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES AS PERMITTED USES IN THE M-1 AND M-2 ZONES."

ANALYSIS:

In 1996, California voters approved Proposition 215, an initiative measure that exempted qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. Codified as Health and Safety Code section

ITEM NO. 1A

11362.5 *et seq.* and entitled "The Compassionate Use Act of 1996" (the "Compassionate Use Act"), the purpose of the initiative was to allow patients suffering from a number of serious illnesses the opportunity to find relief through the use of doctor recommended marijuana. (See the attached Commission staff report for additional background information.)

Against a backdrop of opinions and judicial rulings since passage of the Proposition 215, the State Attorney General in August of 2008 adopted the "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" (A copy of the Guidelines is attached to this Staff Report.) Pages 8 – 11 of the Guidelines set forth the Attorney General's recommendations for the general regulation of medical marijuana cooperatives and collectives.

On October 1, 2008, the City Council considered several options for the treatment of medical marijuana cooperatives and collectives:

1. Adopt Medical Marijuana Cooperative / Collective regulatory permit regulations (allow by Conditional Use Permit)
2. Allow collectives / cooperatives in certain zones subject to certain land use standards (allow "by right" or with a land use permit).
3. Declare that Collectives and Cooperatives are not permitted in the City.

The Council initiated a zone text amendment including a draft ordinance which implemented option 2 (above) for the M-1 and M-2 industrial zones, and directed the matter to the Planning Commission for a hearing and recommendation.

On November 12, 2008, the Planning Commission conducted a public hearing and considered the draft ordinance. The Commission adopted a recommendation that included the Council's draft ordinance, but also included the following additional provisions:

1. That the use be allowed by right in the P (Professional) zone, and
2. That the use be allowed subject to a Conditional Use Permit (CUP) in all other non-residential zones.

A final Commission resolution will be adopted at their meeting of December 3, 2008 and will be reported to the Council at its meeting.

Staff believes the P (Professional) zone deserves the Council's consideration since the zone is generally developed with one- and two-story office buildings which often house medical uses. However, staff has concerns regarding the broader recommendation regarding CUP's. If approved, the recommendation opens up substantially more of the

City to medical marijuana establishments, subject to case-by-case review, including the following additional zones:

C-B-D	Central Business District	H-C	Highway Commercial
C-D-N	Designed N'hood Shopping Center	M-1-P	Planned Research and Dev't
C-S-C	Community Shopping Center	E-1	Energy Industrial
C-1	Retail Business	W	Watercourse
C-1AA	Large Scale Retail Commercial	O	Open Space
C-2	General Commercial	A	Airport
C-M	Commercial Manufacturing	CC	Civic Center District

Opening the use to all non-residential zones provides more flexibility to future applicants. However, staff remains uncertain over how inoffensive such collectives and cooperatives will be to the neighborhood over the long run.¹ It is clear that from the both the federal and state perspective, the City is addressing the distribution of an illegal substance². The potential for loitering, burglaries, assaults and other problems should not be dismissed. Consequently, staff is recommending that the City Council adopt its initial draft ordinance limiting the use to M-1 and M-2 zones, by right, and consider the Commission's recommendation regarding the P (Professional) zone. Staff is not recommending the broader authorization suggested by the Commission.

Over time, the use may prove to be a benign activity with no adverse affects on the neighborhood. If the Council allows the use in the M-1, M-2, and possibly the P zones now, it may revisit allowing the use in commercial or other zones – via a CUP or by right – at any time in the future.

ENVIRONMENTAL:

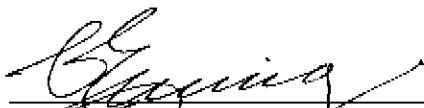
Staff has evaluated the potential environmental impacts of the proposed Zoning Ordinance text amendment and determined that it is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act. The proposed amendment to allow medical marijuana cooperatives and collectives does not increase land use intensity in any significant way.

FISCAL IMPACT:

None.

¹Staff notes that a CUP is not an easy undertaking. The fee is nearly \$2000, notice would be provided to all surrounding property owners, additional conditions may be imposed by the Commission, and there is no certainty of a favorable outcome. When compared to a "by right" status in the M-1 and M-2 (subject only to locational criteria) the CUP may not be a practical option for a non-profit collective / cooperative.

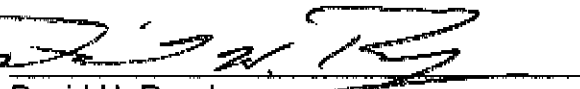
² When marijuana is distributed outside the provisions of the Compassionate Use Act of 1996, it is a violation of California law.



Craig A. Ewing, AICP
Director of Planning Services



Tom A. Wilson
Assistant City Manager, Dev't Svcs



David H. Ready,
City Manager

Attachments:

1. Draft Ordinance – Zone Text Amendment – Establishment of Medical Marijuana Cooperatives and Collectives in the M-1 and M-2 Zones
2. Planning Commission Resolution No. (draft)
3. Planning Commission Meeting Minutes, excerpt (draft November 12, 2008)
4. Planning Commission Staff Report (November 12, 2008)

ORDINANCE NO. ____ (12.30.2008)

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTIONS 91.00.10-B, 92.17.01-A, AND 92.17.1.01 OF, AND ADDING SUBSECTION N TO SECTION 92.17.03 AND SUBSECTION N TO SECTION 92.17.1.03 OF, THE PALM SPRINGS ZONING CODE, RELATING TO MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES AS PERMITTED USES IN THE M-1 AND M-2 ZONES

City Attorney Summary

This Ordinance establishes that medical cannabis cooperatives and collectives that comply with the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued by the Attorney General of the State of California in August 2008 are permitted uses in the M-1 (service and manufacturing) and M-2 (manufacturing) Zones.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:

SECTION 1. Section 91.00.10 of the Palm Springs Zoning Code is amended to add the following definition to subsection 8:

"Medical Cannabis Cooperative or Collective" means five or more qualified patients and caregivers who collectively or cooperatively cultivate and share physician-recommended cannabis or marijuana in a manner strictly consistent with the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued August 2008, by the Office of the Attorney General for the State of California, as may be amended from time to time, on file in the Office of the City Clerk.

SECTION 2. Section 92.17.01 of Chapter 92.00 of the Palm Springs Zoning Code is amended to add the following to subsection A:

12. Medical Marijuana Cooperative or Collective, subject to the property development standards contained in Section 97.17.03 of this Code.

SECTION 3. Subsection N is added to Section 92.17.03 of the Palm Springs Municipal Code to read:

N. Medical Cannabis Cooperative or Collective Special Standards.

No Medical Cannabis Cooperative or Collective shall be established, developed, or operated within five hundred (500) feet of a school, public playground or park, or any residential zone property, youth center, or church, or within one thousand (1000) feet of any other Medical Cannabis Cooperative or Collective.

SECTION 4. Section 92.17.1.01 of Chapter 92.00 of the Palm Springs Zoning Code is hereby amended to add the following to sub-section A:

6. Medical Marijuana Cooperative or Collective.

SECTION 5. Subsection N is added to Section 92.17.1.03 of the Palm Springs Municipal Code to read:

N. Medical Cannabis Cooperative or Collective Special Standards.

1. No Medical Cannabis Cooperative or Collective shall be established, developed, or operated within five hundred (500) feet of a school, public playground or park, or any residential zone property, youth center, or church, or within one thousand (1000) feet of any other Medical Cannabis Cooperative or Collective, and shall not be located on any property that is occupied with a commercial retail use

2. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited on the premises of the cooperative or collective.

3. All windows on the building that houses the cooperative or collective shall be barred and all marijuana securely stored, and a reliable, commercial alarm system shall be installed and maintained.

4. Cannabis shall only be grown within a fully enclosed building.

5. No one under 18 years of age shall be a member of a cooperative or a collective without written authorization of a parent or legal guardian.

6. Cooperatives and collectives shall distribute only medical cannabis and no retail sales of any kind shall be allowed.

SECTION 6. The distance of separation required by Sections 3 and 5 of this Ordinance shall be made using a straight line, without regard to intervening structures or objects, from the property line of the lot on which the medical cannabis cooperative or collective shall be located to the nearest property line of the lot upon which is located a residential use, playground, park or school.

SECTION 7. The City Council finds, determines, and declares that pursuant to public testimony, reports from staff, and written or documentary evidence provided to this Council, this Ordinance and the standards contained herein are appropriate and warranted for various reasons as stated therein, including without limitation:

A. In 1996, the voters of the State of California approved Proposition 215, known as the "Compassionate Use Act" ("Act") (codified as Health and Safety (H&S) Code § 11362.5 et seq.), which creates a limited exception from criminal liability under California law as opposed to federal law for seriously ill persons who are in need of

medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances.

B. In 2004, Senate Bill 420, known as the Medical Marijuana Program Act, became law (codified as H&S Code § 11362.7 et seq.) which established a statewide identification card program for qualified medical marijuana patients and their primary caregivers and recognized a qualified right to collective and cooperative cultivation of medical marijuana.

C. In August 2008, the Attorney General of the State of California set forth Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use ("Guidelines") which Guidelines affirm the legality of medical marijuana collectives and cooperatives under California law, but make clear that such entities cannot be operated for profit, may not purchase marijuana from unlawful sources and must have a defined organizational structure that includes detailed records proving that members are legitimate patients.

D. The City Council determines that it is in the best interest of the residents of the City to allow cooperatives and collectives that comply with the Guidelines to be established and operated as permitted uses within specified manufacturing and industrial zones.

SECTION 8. No use, business, or activity of any kind which distributed marijuana prior to the enactment of this Ordinance shall be deemed to have been a legally established use under the provisions of the Zoning Code and such use shall not be entitled to claim legal nonconforming status.

SECTION 9. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, then the provisions of Section 1 through 6, inclusive, of this Ordinance shall be deemed invalid and unenforceable and the dispensing of cannabis for any reason in any zone shall be deemed a prohibited use under the City's Zoning Code. The City Council hereby declares that it would not have adopted this Ordinance if any of the sections or provisions thereof may be declared invalid or unconstitutional or contravened via legislation.

SECTION 10. By regulating Medical Cannabis Cooperatives and Collectives, the City of Palm Springs is only assuming an undertaking to preserve the general welfare through the provision of a method of implementing the Compassionate Use Act. The City Council is not assuming, nor is it imposing on its officers and employees, an obligation for which a breach thereof would expose the City to a liability in money damages to any person who claims that such breach proximately caused injury. To the fullest extent permitted by law, the City shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to any provision of this Ordinance or for the activities of any Medical Cannabis Cooperative or Collective. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the City. Nothing in this Ordinance shall be deemed or

considered in any respects to constitute authorization to violate any state or federal law.

SECTION 10. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED THIS _____ DAY OF _____, 2009.

STEPHEN P. POUQUET
MAYOR

ATTEST:

James Thompson, City Clerk

APPROVED AS TO FORM:

Douglas Holland, City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. is a full, true and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on and adopted at a regular meeting of the City Council held on the _____ day of _____, 2008 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

RESOLUTION NO. _____

OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND CERTAIN SECTIONS OF THE PALM SPRINGS ZONING CODE TO ALLOW MEDICAL MARIJUANA COOPERATIVES AND COLLECTIONS SUBJECT TO CERTAIN DEVELOPMENT STANDARDS IN THE M-1 AND M-2 ZONES, AND IN OTHER NON-RESIDENTIAL ZONES SUBJECT TO APPROVAL OF A CONDITIONAL USE PERMIT.

WHEREAS, on October 1, 2008, the City Council voted unanimously to direct staff to initiate a Zoning Ordinance Text Amendment (Case No. 5.1218) to consider the establishment of standards and procedures for the establishment of medical marijuana cooperatives and collectives, including a draft ordinance allowing such uses by right in the M-1 and M-2 zones, subject to certain location standards; and

WHEREAS, on November 19, 2008, the Planning Commission conducted a duly noticed public hearing on the proposed amendment, at which hearing the Commission carefully reviewed and considered all of the evidence presented in connection with the project, including but not limited to the staff report and all written and oral testimony presented; and

WHEREAS, the Planning Commission has evaluated the potential environmental impacts of the proposed Zoning Ordinance text amendment and determined that it is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act in that the proposed amendment does not result in any significant increase land use density.

THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS;

Section 1: The Planning Commission hereby finds that adoption of the proposed Zoning Text Amendment would:

- a. Provide opportunities for residents and others to obtain medical marijuana as allowed by the Compassionate Use Act of 1996,
- b. Allow for the development and placement of medical marijuana cooperatives and collectives in a manner that would provide adequate oversight of, and protection for such uses and the surrounding neighborhood, and
- c. Assure that medical marijuana collectives and cooperatives are located sufficient distances from each other and from potentially sensitive land uses.

Section 2: The adoption of the proposed Zone Text Amendment would be consistent with the intent of the Zoning Ordinance and the City's General Plan because it provides for the establishment of medical marijuana cooperatives through reasonable standards and regulation, and provides an opportunity for those seeking the benefits of medical marijuana to do so in a safe and secure manner:

LU 1.4 Encourage the expansion of existing facilities or the introduction of new uses that are considered to be of significant importance and contribute exceptional benefits to the City.

Section 3: Based upon the foregoing, the Planning Commission does hereby recommend to the City Council amendment of the Palm Springs Zoning Code to establish standards and regulations for medical marijuana cooperatives and collectives, as described in the draft ordinance, attached hereto and made a part of this resolution as Exhibit A, in which the use is allowed by right in the M-1 and M-2 zones; and also recommends the following additional provisions:

1. That the use is allowed by right in the P (Professional) zone, and
2. That the use may be allowed subject to approval of a Conditional Use Permit in other non-residential zones.

ADOPTED this 3rd day of December, 2008.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST: CITY OF PALM SPRINGS, CALIFORNIA

Craig A. Ewing, AICP
Director of Planning Services



PLANNING COMMISSION STAFF REPORT

Date: November 12, 2008

Case No.: 5.1218

Type: Zone Text Amendment

Location: City-wide

Applicant: City of Palm Springs

To: Planning Commission

From: Craig A. Ewing, AICP, Director of Planning Services

Subject: Zoning Ordinance Amendment Relating to Medical Cannabis Cooperatives and Collectives as Permitted Uses in the M-1 and M-2 Zones

SUMMARY

Recent court decisions regarding the Compassionate Use Act and the Attorney General's adoption of Guidelines relating to marijuana grown for medical use have provided the City with guidance regarding the range of options for regulating the cultivation and dispensing of medical cannabis to qualified patients. On October 1, 2008, the City Council initiated a Zone Text Amendment to set standards for the establishment of cooperatives and collectives for medical marijuana.

The proposed ordinance is an amendment to the City's Zoning Code and would allow cooperatives and collectives in the M-1 and M-2 Zones of the City. With the exception of certain distance requirements would be imposed as development standards, no other local regulatory program would be imposed. The Police Department would enforce traditional penal and health and safety state laws consistent with the Attorney General's Guidelines.

As a Zoning Code text amendment, the ordinance is required to be submitted to the Planning Commission for review and recommendation. A public hearing has been noticed for this item.

RECOMMENDATION

Staff recommends the Planning Commission:

1. Open the public hearing and receive any testimony.
2. Direct staff to prepare a resolution and draft ordinance to return to the Commission for final action.

STAFF ANALYSIS

The Compassionate Use Act.

In 1996, California voters approved Proposition 215, which exempted qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. Codified as Health and Safety Code section 11362.5 *et seq.* and known as "The Compassionate Use Act", the initiative's purpose was to allow patients suffering from a number of serious illnesses the opportunity to find relief through the use of doctor recommended marijuana.

As enacted, the Compassionate Use Act did not define how much a patient could legally possess or cultivate. In addition, the definition of "primary caregiver" was vague, resulting in the creation of numerous storefront marijuana dispensaries throughout the state operating without standards or local control. In response to these issues, the California legislature enacted SB 420, known as the Medical Marijuana Program ("MMP"), which did the following:

- Refined the definition of "caregiver" and clarified the expenses for which a primary caregiver could be reimbursed;
- Set out a maximum amount of marijuana a patient or caregiver could possess and cultivate (8 oz. of marijuana plus 6 mature or 12 immature plants);
- Required the State Department of Health, working with county health departments, to set up a voluntary statewide identification program to protect qualified patients and their primary caregiver from arrest and prosecution of certain marijuana related crimes. Orange County has set up such a program.
- Extended protection from criminal prosecution beyond possession and cultivation to related activities (e.g., transportation, delivery, storage for qualified patients and their primary caregivers);
- Permitted patients and primary caregivers to collectively or cooperatively cultivate marijuana for medical purposes;
- Prohibited the use of marijuana near schools or recreation centers, on school buses, while in an operating car, or while operating a boat; and
- Allowed cities to adopt and enforce laws consistent with the MMP.

The MMP requires that the primary caregiver and the patient live in the same city or county if the primary caregiver has more than one patient. Conversely, if the primary caregiver and patient do not live in the same city or county, the primary caregiver may only have one qualified patient. Although qualified patients and their primary caregivers may collectively or cooperatively cultivate marijuana for medical purposes, the MMP is silent as to dispensaries, neither permitting nor forbidding them. What constitutes a cop-op or collective, which is permitted, versus a dispensary, and whether a dispensary would be considered a co-op/collective or a store under the MMP remain unclear. Nor have the courts provided much guidance on that issue. To staff's knowledge, no local agency has been sued for regulating the location and / or operation of the MMDs; however, there are a number of lawsuits involving cities and counties who have adopted blanket dispensary bans.

Judicial and the Administrative Guidance

In 2005 the United States Supreme Court, in the case of Gonzalez v. Raich, ruled that the application of the federal Controlled Substance Act to the manufacture, distribution, or possession of marijuana to intrastate growers and users of marijuana for medical purposes is not a violation of the US Constitution. The Controlled Substance Act established a federal regulatory system designed to combat recreational drug abuse by making it illegal to manufacture, distribute, dispense, or possess any controlled substance. Under the Controlled Substance Act, the manufacture, distribution, or possession of marijuana is a federal criminal offense. Thus, even though certain activities may not be a criminal act under California law, the same activities may still violate federal laws and the federal government has the authority to regulate and criminalize such activity. The case did not hold that Proposition 215 is unconstitutional or pre-empted by federal law; nor did the case prohibit California from continuing to honor the procedures and protections set forth in Prop. 215. What the case does say, however, is that compliance with California law will not protect a person from prosecution under federal laws.

This situation where one can be prosecuted under federal laws for doing something that is legal under California law arguably defies common sense and creates a great deal of confusion for the general public and especially for qualified medical patients. Nevertheless, there are two worlds that involve the regulation of marijuana: 1) The absolute prohibition on the manufacture, cultivation, distribution, and possession under the Controlled Substance Act, and 2) the not-so-absolute prohibition on manufacture, cultivation, distribution, and possession that contains a limited exception for medical purposes under California law.

It should be emphasized that the Compassionate Use Act does not establish marijuana use by a qualified medical patient as a right or privilege protect under law. The California Supreme held earlier this year in Ross v. Ragingwire that an employer has not engaged in impermissible disability-based discrimination under the Fair Employment and Housing Act when that employer requires a pre-employment drug test and takes illegal drug use

into consideration in making employment decisions. Simply stated, the Compassionate Use Act only provides a defense to certain state criminal charges for state law violations involving marijuana for a person who uses marijuana for medical purposes on a physician's recommendation.

These exceptions do not include a local government's Zoning Code. There is nothing in the Compassionate Use Act or the MMP that provides that the defense is applicable to violations of local land use laws or any local regulatory program. As discussed above, there is nothing in the law that establishes any rights beyond the defense; thus, there is no right to establish a collective or cooperative that dispenses marijuana in contravention of local laws. The decision of the California Court of Appeals in August of this year in Corona v. Naulls confirms and supports this conclusion.

Against this backdrop of opinions and judicial rulings, the State Attorney General in August of 2008 adopted the "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" which attempts to: 1) Ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit market; 2) Help law enforcement agencies perform their duties effectively and in accordance with California law; and 3) Help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.

A copy of the Guidelines is attached to this Staff Report. Staff would specifically call your attention to pages 8 – 11 for the basic rules that the attorney General is recommending as embracing the general regulation of medical marijuana cooperatives and collectives.

The Local Approach

In a poll conducted by the City of Anaheim in the winter of this year, 63 California cities had banned medical marijuana dispensaries in their jurisdictions and 29 had adopted ordinances permitting and regulating dispensaries to varying degrees. A number of cities have also adopted temporary moratoriums on new dispensaries as they draft either regulations or permanent prohibitions.

Although Palm Springs' moratorium expired in early 2008, medical marijuana dispensaries are not permitted uses in any zone in the City and is therefore deemed a prohibited use. Thus, unless the City adopts an ordinance that allows such uses, marijuana cultivation and dispensing, regardless of whether it is described as a dispensary, cooperative, or collective, is not a legal land use in the City.

The City has several options in addressing the medical marijuana issue:

1. Adopt Medical Marijuana Cooperative/Collective regulatory permit regulations

The City may amend the zoning code to allow cooperatives or collectives in certain zoning districts with a Condition Use Permit. In addition, it could adopt regulations that address the location of medical marijuana dispensaries and provisions governing their operation. The actual permit process would be implemented and monitored by Planning, Building, and Police Departments. Specific regulations or conditions could include the following requirements:

- Limitations on the amount of marijuana that can be kept in the facility and the amount of cultivation.
- Limitations on the age of persons allowed on site.
- A requirement for a safety and security plan.
- Limitations on hours of operation.
- Prohibitions on the sale or consumption of alcohol.
- Requirements for outdoor maintenance, including monitoring the conditions around the site regular removal of litter, as necessary.
- Prohibitions on the consumption of marijuana on the premises and surroundings.

The City could also consider impose even more stringent permit conditions. The City of Laguna Woods recently adopted a regulatory program that includes one or more of these components. These restrictions are unusual; however, due to the unique nature of the product being dispensed, its unusual status under federal and state law, and the potential secondary effects each collective or cooperative may have on its environment, these restrictions may be appropriate and justified:

- Requirements that marijuana transactions be done by credit card or personal check only; no cash transaction allowed.
- Requirements for background checks and permits for employees, volunteers and all persons providing services at the collective / cooperative.
- Prohibitions on any retail sales other than marijuana.
- A limitation that patients using the collective / cooperative be city residents.
- Restrictions on the number of collectives / cooperatives that could operate in the City at any one time.

2. An Ordinance Amending the Zoning Code to allow collectives/cooperatives in certain Zones subject to certain land use standards or a land use permit.

The draft ordinance initiated by the City Council is consistent with Option 2. It provides that cooperatives and collectives are permitted in the M-1 and M-2 Zones "by right", subject to special location development standards. These standards include a 500-foot minimum separation between any collective / cooperative and any school, park, playground, or property zoned for residential uses. This approach is predicated on the assumption that the Attorney General Guidelines will be adequate in the oversight and

regulation of the operation of the collectives and cooperatives and that additional local regulations are not necessary or desirable (see Option 1 for additional regulations).

3. An Ordinance declaring that Collectives and Cooperatives are not permitted in the City.

The City may choose to expressly prohibits collectives and cooperatives within the City limits. Although we believe that this is the current status of such uses in the City, a clear statement ratifying the City's intent would reaffirm the Zoning Code intent and application.

We recommend that the Commission consider the draft ordinance establishing medical cannabis collectives and cooperatives as permitted uses in the M-1 and M-2 Zones and the other options identified in this memo. Following a public hearing, the Commission may adopt any recommendation it considers appropriate on the issue. Staff will return at a future meeting with a resolution reflecting the Commission's recommendation.

NOTICE

Notice was provided by advertisement in the Desert Sun. No written communications have been received at the writing of this report.

ENVIRONMENTAL:

Staff has reviewed the draft ordinance under the provisions of the California Environmental Quality Act (CEQA) and has determined that the proposed Zone Text Amendment is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of CEQA. The proposed amendment does not result in any significant change in land use or density.



Craig A. Ewing AICP
Director of Planning Services

cc: Draft Ordinance

**CITY OF PALM SPRINGS
PUBLIC HEARING NOTIFICATION**



CITY CLERK'S DEPARTMENT
James Thompson, City Clerk

Meeting

Date: December 3, 2008

Subject: APPLICATION TO AMEND THE PALM SPRINGS ZONING CODE
RELATING TO THE LOCATION AND OPERATION OF MEDICAL
CANNABIS COOPERATIVES AND COLLECTIVES

AFFIDAVIT OF PUBLICATION

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing will be published in the Desert Sun on November 22, 2008.

I declare under penalty of perjury that the foregoing is true and correct.

Handwritten signature of Kathie Hart in cursive.

Kathie Hart, CMC
Chief Deputy City Clerk

AFFIDAVIT OF POSTING

I, Dolores Strickstein, Secretary, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board and in the Office of the City Clerk on November 20, 2008.

I declare under penalty of perjury that the foregoing is true and correct.

Handwritten signature of Dolores Strickstein in cursive.

Dolores Strickstein
Secretary

NEIGHBORHOOD COALITION REPS
Case 5.1218 ZTA
Medical Cannabil Coop. & Collec.
PHN for CC Meeting 12.03.08

MODCOM AND
HISTORIC SITE REP I I I

MR PETE MORUZZI
PALM SPRINGS MODERN COMMITTEE
PO BOX 4738
PALM SPRINGS CA 92263-4738

CITY OF PALM SPRINGS
PLANNING SERVICES DEPARTMENT
ATTN SECRETARY
PO BOX 2743
PALM SPRINGS, CA 92263-2743

CASE 5.1218 ZTA
MRS. JOANNE BRUGGEMANS
506 W. SANTA CATALINA ROAD
PALM SPRINGS, CA 92262

MS MARGARET PARK
AGUA CALIENTE BAND OF CAHUILLA
INDIANS
777 E. TAHQUITZ CANYON WAY, #301
PALM SPRINGS, CA 92262

AGUA CALIENTE BAND OF CAHUILLA
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NOTICE OF PUBLIC HEARING
CITY COUNCIL
CITY OF PALM SPRINGS

CASE 5.1218 - APPLICATION BY THE CITY OF PALM SPRINGS
FOR A ZONING ORDINANCE AMENDMENT RELATED TO
MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of December 3, 2008. The City Council meeting begins at 6:00 p.m. in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider Case 5.1218, an application by the City of Palm Springs to amend the Palm Springs Zoning Code relating to the location and operation of medical cannabis cooperatives and collectives.

ENVIRONMENTAL DETERMINATION: The City of Palm Springs, in its capacity as the lead agency for this project, under the California Environmental Quality Act (CEQA) has determined that the proposed Zoning Ordinance text amendment is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of CEQA. The proposed amendments do not result in any significant changes in land use or density.

REVIEW OF PROJECT INFORMATION: The staff report and other supporting documents regarding this project are also available for public review at City Hall between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Please contact the Office of the City Clerk (760) 323-8204 if you would like to schedule an appointment to review these documents.

COMMENT ON THIS APPLICATION: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

James Thompson, City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior to, the public hearing. (Government Code Section 65009[b][2]).

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Craig A. Ewing, Director, Planning Services Department at (760) 323-8245.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.


James Thompson, City Clerk



Inland Valley
Drug Free
Community Coalition

www.ivdfc.org

Serving Riverside and San Bernardino County

youth • parents • schools • law enforcement • health care • media • businesses • government •
non profits • community groups • religious entities • fraternal and service organizations

November 25th 2008

City of Palm Springs
City Council
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Dear City Council Members:

On December 3rd, you will vote on an item referenced in 1B, which in short, will send a shockwave throughout the Inland Empire by allowing medical marijuana to establish a footing in Palm Springs.

Our Coalition encourages you to vote "No" on any item which brings pot/drugs into a community.

We are parents, teachers, cops, youth, business leaders, health care providers, and others who are helping the Inland Empire push back against a pro-marijuana movement that has set its sights on Palm Springs after losing battles everywhere else in the region.

Within the last two-years, over a dozen cities in the Inland Empire have taken up the issue of medical pot dispensaries, co-ops, etc, and 100% have voted them down. They did so only after they learned of the fallacies with so-called medical pot.

Pot shops are common on the streets of San Francisco and West Los Angeles and that is because a pro-drug legalization movement has succeeded in those neighborhoods.

Just last week, Fox News O'Reilly Factor reported on the ruse that medical marijuana has become in California. He cited children being sold pot from those who possess medical marijuana ID cards. In fact, there are now more pot shops on the streets of S.F. and West L.A. than Starbucks.

If Palm Springs allows any type of pot store to exist within its boundaries, it will, without a doubt, open the door to yet another way for children to find drugs; through the hands of someone holding a marijuana ID card who purchase pot at a Palm Spring Pot Non-Profit.

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Rancho Cucamonga, CA 91739

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But this is just the beginning. Palm Springs/Palm Desert area is known around the region as a headquarters for the most outspoken pro-marijuana organization in the area. It's no surprise that you will see them in your council chambers touting the benefits of marijuana use.

Let's remember: Prop 215 was passed in 1996 by a marginal 55% of the vote. And those who voted for it thought the marijuana would be given only to the most seriously/terminally ill. It was a ruse. The small print of that law, as described by pro-drug groups (who funded but failed to convince the electorate this November to pass Prop 5 – another pro drug effort) allows anybody to get pot for any condition, whatsoever.

Before you vote for this effort, take a tour of the West Los Angeles and San Francisco. By opening to the door to just one shop (co-op) will be enough for the pro-drug movement to come crashing through as they have in other areas – and when that happens, it's virtually impossible to turn back (again, look at S.F and West L.A).

Palm Springs is a beautiful city and doing anything other than voting down pot will immediately tarnish the city.

We understand that initially, this may have seemed confusing. You want to do the right thing; you want to help patients in need of medicine. But smoked marijuana is not medicine, and it's against Federal law. What you should consider is a law mandating that all businesses that operate within the city must abide by local, state and federal laws. As such, never again would you be harassed by pro-drugs wanting to set up a marijuana shop. Meds like marinol already exist in pill form, which is approved by the FDA (and is not a violation of Federal law and not sought after by youth for abuse).

Clearly, the residents of Palm Springs need your help. This issue requires the utmost attention.

We implore you to vote no on item #1B and all other related marijuana articles.

Our Coalition has grown over 200% in the last 4-years and we are working towards the creation of Palm Springs Drug Free, Inc., which will work with the community in building 12-sectors (including local elected officials) to push back against drug legalization efforts while educating youth to remain drug free.

Yours truly,

//s//

Roger Anderson
Coalition Chair

Cc: Coalition Members, Palms Springs Chamber of Commerce, Board of Education, The Desert Sun, Palm Springs Police Officers Association, Palm Springs Fireman's Association, Palm Springs Teachers Association – Executive Board

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What's Wrong With Permitting the Use of Smoked Marijuana?

- Simply put, the smoked form of marijuana is not considered modern medicine. On April 20th, 2006, the FDA issued an advisory concluding that no sound scientific studies have supported medical use of smoked marijuana for treatment in the United States, and no animal or human data support the safety or efficacy of smoked marijuana for general medical use.
- A number of states have passed voter referenda or legislative actions making smoked marijuana available for a variety of medical conditions upon a doctor's recommendation. According to the Food and Drug Administration (FDA), these measures are inconsistent with efforts to ensure medications undergo the rigorous scientific scrutiny of the FDA approval process and are proven safe and effective under the standards of the FD&C Act.
- While smoking marijuana may allow patients to temporarily feel better, the medical community makes an important distinction between inebriation and the controlled delivery of pure pharmaceutical medication. The raw (leaf) form of marijuana contains a complex mixture of compounds in uncertain concentrations, the majority of which have unknown pharmacological effects.
- The Institute of Medicine (IOM) has concluded that smoking marijuana is not recommended for any long-term medical use, and a subsequent IOM report declared that, "marijuana is not modern medicine." Additionally, the American Medical Association, the National Cancer Institute, the American Cancer Society, and the National Multiple Sclerosis Society do not support the smoked form of marijuana as medicine.

"We created Prop. 215 so that patients would not have to deal with black market profiteers. But today it is all about the money. Most of the dispensaries operating in California are little more than dope dealers with store fronts."
—Rev. Scott Limer Co-Founder of Prop. 215, *California's Medical Marijuana Law*
Source: *Alternatives Magazine* Fall, 2006 Issue 39

Smoking Marijuana May Unintentionally Cause Serious Harm to Patients

- The delicate immune systems of seriously ill patients may become compromised by the smoking of marijuana. Additionally, the daily use of marijuana compromises lung function and increases the risk for respiratory diseases, similar to those associated with nicotine cigarettes.
- Marijuana has a high potential for abuse and can incur addiction. Frequent use of marijuana leads to tolerance to the psychoactive effects and smokers compensate by smoking more often or seeking higher potency marijuana.
- In people with psychotic or other problems, the use of marijuana can precipitate severe emotional disorders. Chronic use of marijuana may increase the risk of psychotic symptoms in people with a past history of schizophrenia. Marijuana smoking by young people may lead to severe impairment of higher brain function and neuropsychiatric disorders, as well as a higher risk for addiction and polydrug abuse problems.

Existing Legal Drugs Provide Superior Treatment for Serious Medical Conditions

- The FDA has approved safe and effective medication for the treatment of glaucoma, nausea, wasting syndrome, cancer, and multiple sclerosis.
- Marinol, the synthetic form of THC (the psychoactive ingredient contained in marijuana), is already legally available for prescription by physicians whose patients suffer from pain and chronic illness.

"Medical marijuana was supposed to be for the truly ill cancer victims and AIDS patients who could use the drug to relieve pain or restore their appetites. Yet the number of dispensaries has skyrocketed from five in 2005 to 143 by the end of 2006. In North Hollywood alone, there are more pot clinics than Starbucks."

—Pasadena Star-News, January 21st, 2007

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In Their Words: *What the Experts Say:*

The American Academy of Ophthalmology:

"Based on reviews by the National Eye Institute (NEI) and the Institute of Medicine and on available scientific evidence, the Task Force on Complementary Therapies believes that **no scientific evidence has been found that demonstrates increased benefits and/or diminished risks of marijuana use to treat glaucoma compared with the wide variety of pharmaceutical agents now available.**"

Complementary Therapy Assessment: Marijuana in the Treatment of Glaucoma, American Academy of Ophthalmology, May 2003

The American Medical Association:

"...AMA recommends that marijuana be retained in Schedule I of the Controlled Substances Act...AMA believes that the NIH should use its resources and influence to support the development of a smoke-free inhaled delivery system for marijuana or delta-9-tetrahydrocannabinol (THC) to reduce the health hazards associated with the combustion and inhalation of marijuana..."

Policy Statement H-95.952, American Medical Association, <http://www.ama-assn.org>

The National Multiple Sclerosis Society:

"Studies completed thus far have not provided convincing evidence that marijuana or its derivatives provide substantiated benefits for symptoms of MS."

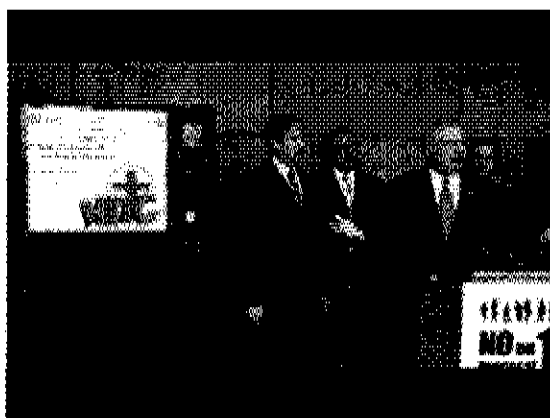
The MS Information Sourcebook: Marijuana (Cannabis), National Multiple Sclerosis Society, September 18th, 2006

The Institute of Medicine (IOM):

"Because of the health risks associated with smoking, smoked marijuana should generally not be recommended for long-term medical use."

Marijuana and Medicine: Assessing the Science Base, Institute of Medicine, 1999

The Marijuana Vending Machine and Legalizing Pot Under the Guise of Medicine



A few years ago, the FDA issued an Interagency Advisory asserting that claims of marijuana as "medicine" are inconsistent with efforts to ensure the safety and efficacy of medical treatment.

The *Oakland Press* has now posted video of Director Walters' public remarks in Southfield,

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Michigan regarding the state's smoked medical marijuana ballot initiative. Also in the video: the so-called marijuana "vending machine" that was seized recently in California. The vending machine illustrates how smoked medical marijuana ballot initiatives are not about medicine, but instead about legalizing marijuana.

By BILL O'REILLY

March 23, 2007

It seemed like a good idea at the time, the Compassionate Use Act of 1996, which allowed Californians to use marijuana with a doctor's permission to alleviate pain. Golden State voters passed the ballot measure into law by 56 percent to 44 percent.

The biggest bankroller of the referendum was George Soros, the billionaire who champions drug legalization. He pumped about \$350,000 into pro-medpot ads, according to published reports.

Since the act was passed into law, thousands of pot "clinics" have opened across the state. In San Francisco, things got so out of control that Mayor Gavin Newsom, a very liberal guy, had to close many of the "clinics" because drug addicts were clustering around them, causing fear among city residents.

In San Diego, there's another problem: Some high school kids have found a loophole in the Compassion Act. Incredibly, there is no age requirement to secure medical marijuana in California - and no physical exam needed, either. So some kids tell a doctor they have a headache, pay him \$150 for a card, and then buy all the pot they want. Unbelievable, but true.

Catherine Martin, a school official in San Diego, actually sent letters to parents in the Grossmont Union School District warning that some students are getting the medical-MJ cards and then selling them to other students. The result: an increasing number of kids arriving at school stoned. Martin warned parents to supervise their children.

San Diego DA Bonnie Dumanis told me that some "clinics" are even marketing medical marijuana under names like "Reefer's Peanut Butter Cup," and "Baby Jane." Cheech and Chong would be proud.

Now, I'm sure George Soros doesn't give a hoot about this, but the unintended consequence of non-prescription medical-marijuana legalization is that some kids are making an industry out of it. Sure, pot is available illegally in most places, but now children have a legal option. Why work at Burger King when you can sell pot cards?

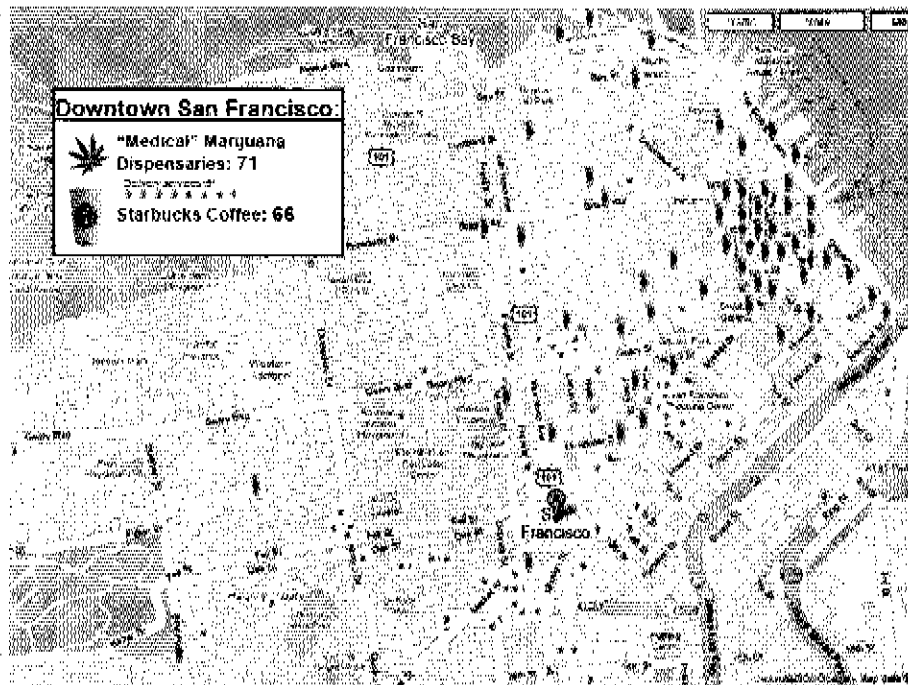
Of course, there is nothing "compassionate" about kids being intoxicated. It changes them forever. Once a child alters himself with chemicals, childhood vanishes. A national study by the Center on Addiction and Substance Abuse says more teens are in rehab for marijuana than any other intoxicant, including alcohol.

Society needs to rethink its strategy on intoxicants in general. If marijuana can help those suffering with debilitating diseases, then doctors should have the power to prescribe it and licensed pharmacies should carry it.

But storefront "clinics" run by irresponsible adults who are aided by corrupt doctors are a joke only a confirmed stoner would find funny.

Bottom line: Be careful what you vote for. Compassion can easily turn into chaos.

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Did You Know? There Are More "Medical" Pot Shops in San Francisco Than There Are Starbucks

As we've noted previously, state "medical" marijuana laws breed confusion, abuse, and violence in neighborhoods and communities.

Here's our latest analysis of this phenomenon. In downtown San Francisco alone, there are 71 marijuana dispensaries, compared to 66 Starbucks Coffee shops:

The Use of Marijuana as a Medicine

California Narcotic Officers Association

There currently exists some controversy concerning smoking marijuana as a medicine. Many well-intentioned leaders and members of the public have been misled by the well-financed and organized pro-drug legalization lobby into believing there is merit to their argument that smoking marijuana is a safe and effective medicine. A review of the scientific research, expert medical testimony, and government agency findings shows this to be erroneous. There is no justification for using marijuana as a medicine.

The California Narcotic Officers' Association consists of over 7,000 criminal justice professionals who are dedicated to protecting the public from the devastating effects of substance abuse, whether cocaine, methamphetamine, or marijuana. We have seen first hand the debilitating and often tragic results, both psychologically and physically, of those who choose intoxication as part of their lifestyle. We have studied the medicinal use of marijuana issue, compiling information from medical experts to present to those we are sworn to protect. It is our firm belief that any movement that liberalizes or legalizes substance abuse

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laws would set us back to the days of the '70s when we experienced this country's worst drug problem and the subsequent consequences. In the '80s, through the combined and concerted efforts of law enforcement, prevention and treatment professionals, illicit drug use was reduced by 50 percent. Teenagers graduating from the class of 1992 had a 50 percent less likely chance of using drugs than those who graduated in the class of 1979.

Substance abuse rises whenever public attitude is more tolerant toward drugs, i.e., they are safe and harmless. Other factors that contribute to a rise in use include increased availability, reduced risk associated with using or selling, and lower prices. In 1993, for the first time after 12 years of steady decline, illicit drug use rose and continues to climb. A major contributing factor is a message that drugs "aren't so bad." To counter this "just say yes" campaign, we feel compelled to provide the facts on the use of smoking marijuana as a medicine. These well-documented facts will prove beyond a doubt that **MARIJUANA IS NOT A MEDICINE.** **FACT:** The movement to legitimize smoking marijuana as a medicine is NOT encouraged by the pharmaceutical companies, Federal Food and Drug Administration, health and medical associations, or medical experts; but instead by groups such as the National Organization for the Reform of Marijuana Laws (NORML) and the Drug Policy Foundation (DPF). These organizations have little medical expertise and favor various forms of legalizing illicit drugs.

FACT: Pro-legalization organizations have admitted that their strategy to legalize marijuana begins with legitimizing smoking marijuana as a medicine. As reported in High Times magazine, the Director of NORML expressly stated that the medicinal use of marijuana is an integral part of the strategy to legalize marijuana. Tony Serra, a criminal defense attorney associated with the pro-legalization groups, stated that medicinal marijuana is the "chink in the administration's armor" that will lead to society seeing pot's mystical effects of peace, sisterhood and brotherhood. He is also the one who said, "If you kill a cop, I'll pay to take the case;" and "My sustenance is drugs and murder." A former director of NORML, Keith Stroup, told an Emory University audience that NORML would be using the issue of medicinal marijuana as a red herring to give marijuana a good name. The director of NORML, Dick Cowan, is quoted, "The key is medical access. Because once you have hundreds of thousands of people using marijuana under medical supervision, the whole scam is going to be brought up...then we will get medical, then we will get full legalization." Is there any doubt about their true motive while they play this cruel hoax on people with legitimate illnesses?

FACT: A leader of the medicinal use of marijuana movement, Dr. Lester Grinspoon, is an associate professor of psychiatry at Harvard as well as chairman of the board of NORML. He has made absurd claims such as marijuana, like aspirin, is "unusually safe;" using cocaine two or three times a week "creates no serious problems;" and "Chronic cocaine abuse usually does not appear as a medical problem." He wrote a book called *Marihuana: The Forbidden Medicine*, which is the bible for pro-marijuana advocates.

FACT: The studies cited by the marijuana advocates have been found to be either unscientific, poorly researched, or involved pharmaceutical THC, not marijuana. One of their "experts" who testified at the 1987 federal hearings to reschedule marijuana was a wellness counselor at a health spa who admitted under oath to using every illegal mind-altering drug he ever studied. Another "expert" admitted he had not kept up with new medical or scientific information on marijuana for over 18 years. Another doctor claimed there was voluminous medical research on the effectiveness of marijuana but under oath, when asked to cite the number of the studies, he replied, "I would doubt very few." The fact is that there is not one reliable scientific study that shows smoking marijuana to be a safe and effective drug.

FACT: The majority of the marijuana advocates' "evidence" comes from unscientific, non-scrutinized or analyzed anecdotal statements from people with a variety of illnesses. It is unknown whether these individuals used marijuana prior to their illness or are using marijuana in combination with other medicines. It is also unknown whether they have had recent medical examinations, are justifying their use of marijuana, experiencing a placebo effect, or experiencing the intoxicating effect of smoking marijuana.

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FACT: The main psychoactive ingredient in marijuana (THC) is already legally available in pharmaceutical capsule form by prescription from medical doctors. This drug, Marinol, is less often prescribed because of the potential adverse effects, and there are more effective new medicines currently available. Marinol differs from the crude plant marijuana because it consists of one pure, well-studied, FDA-approved pharmaceutical in stable known dosages. Marijuana is an unstable mixture of over 400 chemicals including many toxic psychoactive chemicals which are largely unstudied and appear in uncontrolled strengths.

FACT: The manufacturers of Marinol, Roxane Laboratories Incorporated, do not agree with the pro-marijuana advocates that THC is safe and harmless. In the Physician's Desk Reference, a good portion of the description of Marinol includes warnings about the adverse effects.

FACT: Common sense dictates that it is not good medical practice to allow a substance to be used as a medicine if that product is:

- not FDA-approved
- ingested by smoking
- made up of hundreds of different chemicals
- not subject to product liability regulations
- exempt from quality control standards
- not governed by daily dose criteria
- offered in unknown strengths (THC) from 1 to 10+ percent
- self-prescribed and self-administered by the patient.

FACT: The federal government, over the last 20 years involving a number of administrations from both political parties, has determined that smoking marijuana has no redeeming medicinal value, and is in fact harmful to health. These governmental agencies include the Drug Enforcement Administration, the Food and Drug Administration, and the U.S. Public Health Service. Their latest finding, as recently as 1994, was affirmed in a decision by the U.S. Court of Appeals in Washington, D.C.

FACT: Since the pro-marijuana lobby has been unsuccessful in dealing with the federal government, they have targeted state and local governments to legitimize smoking marijuana as a medicine. A careful examination of their legislative and/or ballot proposals reveals they are written to effectively neutralize the enforcement of most marijuana laws. Crude, intoxicating marijuana under their proposals would be easier to obtain and use than even the most harmless, low-level prescription drug.

FACT: Major medical and health organizations, as well as the vast majority of nationally recognized expert medical doctors, scientists and researchers, have not accepted smoking marijuana as a safe and effective medicine. These organizations include: the American Medical Association, the American Cancer Society, National Sclerosis Association, the American Glaucoma Association, American Academy of Ophthalmology, National Eye Institute, National Cancer Institute, National Institute for Neurological Disorders and Stroke, National Institute of Dental Research, and the National Institute on Allergy and Infectious Diseases.

FACT: There are thousands of studies available documenting the harmful physical and psychological effects of smoking marijuana. The harmful consequences include but are not limited to premature cancer, addiction, coordination and perception impairment, a number of mental disorders including depression, hostility and increased aggressiveness, general apathy, memory loss, reproductive disabilities, impairment to the immune system, numerous airway injuries, and other general problems associated with intoxication.

FACT: The medicinal marijuana movement and its media campaign have helped contribute to the

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changing attitude among our youth that marijuana is harmless, therefore contributing to the increase of marijuana use among our young people after 12 years of steady decline.

The overriding objective behind this movement is to allow a minority (less than five percent) of our society to get "stoned" with impunity. This small minority is willing to put our citizens at risk from all the negative and disastrous effects caused to and by those who are intoxicated. What we don't need in this society is more intoxicated people on our highways, in workplaces, schools, colleges, or in our homes.

If you would like more information, call the CNOA office at (661) 775-6960

By: Dr. Kevin A. Sabet, Ph.D.
909.457.4229 // info@ivdfc.org

MEDICAL MARIJUANA IS BAD FOR OUR COMMUNITIES

A native of Southern California, Kevin A. Sabet, Ph.D., is an Advisor to the Inland Valley Drug Free Community Coalition (www.ivdfc.org) and has been researching and consulting on drug abuse matters for over fourteen years. A Marshall Scholar, he is a former Office of National Drug Control Policy senior official under the Clinton and Bush Administrations, and is currently working on a book analyzing drug policy.

By Kevin A. Sabet, Ph.D.

RIVERSIDE / SAN BERNARDINO COUNTY, CA - May 21, 2008 - With all of the talk about medical marijuana dispensaries in California, it is hard to separate truth and science from ideology and dogma. In recent years, marijuana activists in the state have donned white coats and exclaimed a new found concern for the seriously ill, while legislators and judges have been left to wrestle with the consequences of a poorly written referendum, Proposition 215. Unfortunately, Proposition 215 has nothing to do with the sick and dying, as a simple read of its text reveals that marijuana can be legally recommended for "any illness for which marijuana provides relief." This has led to a multi-million dollar, state sanctioned drug distribution industry, resulting in a substantial increase in medical fraud (the drug has been recommended for everything from hangnails to fatigue to reduced sex drive), "medical marijuana" use by minors, and increased local crime.

That is why scores of California localities, like the northern cities of San Pablo, San Rafael, Concord, Dublin, Fremont, Livermore, Newark, Pleasanton, and the southern cities of San Diego, San Marcos, Anaheim, Oxnard, Rancho Cucamonga, Norco, Hemet, Fontana, Murrieta, Temecula, Colton, Chino (among others), and after thoroughly studying the issue, have come out with a ban on such dispensaries. They should be commended. A recent article in the *Los Angeles Times*, "This bud's for you, and you, and you" by Joel Stein and a 2007 expose by *60 Minutes* have revealed just how easy it is to obtain marijuana - "sick" or not. So it is also not surprising that the Food and Drug Administration, American Medical Association, and the renowned Mayo Clinic have come out against smoked marijuana as a so-called "medicine." A landmark study almost ten years ago, conducted by the Institute of Medicine, stated that "...smoked marijuana should generally not be recommended for...medical use." Smoked

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marijuana (smoked anything) has never passed basic medical standards of safety and efficacy.

Medical marijuana dispensaries mask as havens for the sick, when in reality they serve as city condoned centers for drug use. Of course there may be some people who genuinely use it to "feel better" from their illness, but smoking a drug as volatile and unstable as marijuana is like chewing on willow bark to partake in the benefits of aspirin. For those whose doctors think that some components of the cannabis plant may be therapeutic, *Marinol*, derived from the plant's most active ingredient, THC, already exists. Though it's not often prescribed, doctors have the right to prescribe this drug if they feel it would best serve their patient (though non-cannabis based drugs are almost always chosen as a first resort). Other isolated components in marijuana – delivered in aerosol sprays or patches – are currently being studied and research in this area is important. Cannabis-based drugs could indeed open new pathways to fight obesity, nausea, multiple sclerosis, and other illnesses, but, just as someone should not inject heroin to gain the therapeutic effects of morphine, these drugs need to be used in the proper context and setting.

Legalizing smoked marijuana under the guise of medicine is irresponsible and contradictory to basic scientific standards for therapeutic drugs. Even if smoking marijuana might make someone "feel better," that is not enough to call it a medicine. If that was the case, then tobacco cigarettes or vodka shots could be called medicine because they are often attributed to making one "feel better." Furthermore, it is contrary to common sense and established law to have the electorate, influenced by big spending from pro-marijuana interest groups, decide what medicine is.

Serious loopholes exist in Proposition 215 that permit the abuse of current drug laws, and allow drug dealers to avoid arrest and prosecution. These are key reasons why a large, growing number of local city and county governments have moved toward banning medical marijuana identification cards and dispensaries. Other California communities should follow suit. Science needs to be the basis of both our legal and illegal drug policies, not political ploys designed to legalize smoked marijuana for *any* reason.

Concerned communities, parents, educators and youth can learn more about the dangers of marijuana at www.ivdfc.org. The Inland Valley Drug Free Community Coalition is committed to strengthening community action for the safety of our children.

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RESOLUTION NO. 7184

OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND CERTAIN SECTIONS OF THE PALM SPRINGS ZONING CODE TO ALLOW MEDICAL MARIJUANA COOPERATIVES AND COLLECTIONS SUBJECT TO CERTAIN DEVELOPMENT STANDARDS IN THE M-1 AND M-2 ZONES, AND IN OTHER NON-RESIDENTIAL ZONES SUBJECT TO APPROVAL OF A CONDITIONAL USE PERMIT.

WHEREAS, on October 1, 2008, the City Council voted unanimously to direct staff to initiate a Zoning Ordinance Text Amendment (Case No. 5.1218) to consider the establishment of standards and procedures for the establishment of medical marijuana cooperatives and collectives, including a draft ordinance allowing such uses by right in the M-1 and M-2 zones, subject to certain location standards; and

WHEREAS, on November 19, 2008, the Planning Commission conducted a duly noticed public hearing on the proposed amendment, at which hearing the Commission carefully reviewed and considered all of the evidence presented in connection with the project, including but not limited to the staff report and all written and oral testimony presented, and

WHEREAS, the Planning Commission has evaluated the potential environmental impacts of the proposed Zoning Ordinance text amendment and determined that it is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act in that the proposed amendment does not result in any significant increase land use density.

THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS;

Section 1: The Planning Commission hereby finds that adoption of the proposed Zoning Text Amendment would:

- a. Provide opportunities for residents and others to obtain medical marijuana as allowed by the Compassionate Use Act of 1996,
- b. Allow for the development and placement of medical marijuana cooperatives and collectives in a manner that would provide adequate oversight of, and protection for such uses and the surrounding neighborhood, and
- c. Assure that medical marijuana collectives and cooperatives are located sufficient distances from each other and from potentially sensitive land uses.

Section 2: The adoption of the proposed Zone Text Amendment would be consistent with the intent of the Zoning Ordinance and the City's General Plan because it provides for the establishment of medical marijuana cooperatives through reasonable standards and regulation, and provides an opportunity for those seeking the benefits of medical marijuana to do so in a safe and secure manner:

LU 1.4 Encourage the expansion of existing facilities or the introduction of new uses that are considered to be of significant importance and contribute exceptional benefits to the City.

Section 3: Based upon the foregoing, the Planning Commission does hereby recommend to the City Council amendment of the Palm Springs Zoning Code to establish standards and regulations for medical marijuana cooperatives and collectives, as described in the draft ordinance, attached hereto and made a part of this resolution as Exhibit A, in which the use is allowed by right in the M-1 and M-2 zones; and also recommends the following additional provisions:

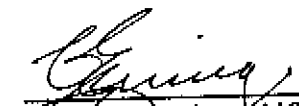
1. That the use is allowed by right in the P (Professional) zone, and
2. That the use may be allowed subject to approval of a Conditional Use Permit in other non-residential zones.

ADOPTED this 3rd day of December, 2008.

AYES: 6, Conrad, Cohen, Ringlein, Caffery, Scott and Donenfeld
NOES: None.
ABSENT: None.
ABSTAIN: 1, Hochanadel

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA



Craig A. Ewing, AICP
Director of Planning Services



City of Palm Springs

Office of the City Clerk

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NOTICE OF CONTINUANCE

NOTICE IS HEREBY GIVEN that the Regular Meeting of December 3, 2008, Public Hearing Item No. 1.B.

APPLICATION TO AMEND THE PALM SPRINGS ZONING CODE RELATING TO THE LOCATION AND OPERATION OF MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES

By a unanimous vote of the City Council of the City of Palm Springs the public hearing was continued to Wednesday, January 7, 2009, Council Chamber, 3200 E. Tahquitz Canyon Way, at 6:00 p.m., or as soon thereafter as possible.

AFFIDAVIT OF POSTING

State of California)
County of Riverside) ss.
City of Palm Springs)

I, James Thompson, City Clerk of the City of Palm Springs, California, certify this Notice of Continuance was posted at or before 5:30 p.m., December 4, 2008, as required by established policies and procedures.



James Thompson
City Clerk