



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street Sacramento CA 95814-2604

STAFF REPORT
July 24, 2012

Honorable Members of the
Law and Legislation Committee

Title: Discussion on Location of Medical Marijuana Dispensaries in relation to U.S. Attorney Decisions (M12-007)

Location/Council District: Citywide

Recommendation: Discussion and recommendation on amending the Zoning Code to modify zoning regulations regarding the location of Medical Marijuana Dispensaries in relation to enforcement decisions made by the U.S. Attorney's Office, Eastern District of California, located in the City of Sacramento.

Contact: Joy Patterson, Principal Planner, (916) 808-5607

Presenter: Joy Patterson, Principal Planner, (916) 808-5607

Department: Community Development

Division: Planning

Organization No: 21001221

Description/Analysis:

Issue: At the City Council meeting of May 22, 2012 Council member Jay Schenirer requested that Community Development Department staff prepare a report for the Law and Legislation Committee on the U.S. Attorney's Office enforcement decisions on medical marijuana and the effects of these decisions on existing dispensaries in the City of Sacramento.

On November 8, 2011, the City Council adopted amendments to the City's medical marijuana ordinance to extend application deadlines and allow time for the uncertain state of the law to settle or at least buy additional time to explore alternatives. At that time a state court decision out of Southern California (Pack vs. City of Long Beach) raised serious legal concerns that questioned the viability of the City's ordinance. On the advice of the City Attorney, Sacramento followed the lead of a number of other local governments and placed an administrative hold or freeze on the dispensary application process. This hold was extended on April 3, 2012 to November 12, 2013 (Ordinance

2012-013). Since November the city has been on an administrative hold and no applications have been processed or permits issued.

Shortly after the council adopted the amendments in November, the U. S. Attorney's Office in Sacramento and in other districts of California commenced federal enforcement action against owners of properties that leased to dispensary tenants or operated dispensaries themselves. City staff is aware of at least 16 dispensaries within the City limits that have closed down after the U.S. Attorney's Office announced its enforcement action. Staff has also been informed that the property owners of many of the remaining dispensaries have received enforcement letters from the U. S. Attorney demanding that they stop all medical marijuana distribution from their properties or face criminal and/or civil sanctions, including the forfeiture of property. It is unknown whether the remaining dispensaries will close down based on these federal threats.

Several of the dispensaries have chosen to attempt to relocate if they receive a letter from the U.S. Attorney at their current location. The location criteria adopted by the City Council in November 2010 requires that a dispensary meet the following:

1. No dispensary shall be established or located within 1,000 feet of any other medical marijuana dispensary.
2. No dispensary shall be established or located within 300 feet of any existing residential zone or residential use.
3. No dispensary shall be established or located within 600 feet of any park, school (public or private K-12), child care center, child care-family day care home (large or small), youth-oriented facility, church/faith congregation, substance abuse center, movie theater/cinema, or tobacco store.

Under the Zoning Code a registered medical marijuana dispensary on the City's list may not meet these criteria and apply for the required special permit as long as they have operated in the same location as of October 26, 2010. If the dispensary chooses to relocate, however, they must meet the location criteria listed above. Dispensaries that are contemplating relocation because they received a letter from the U.S. Attorney have indicated that they are having difficulties finding locations in the City that meet the criteria.

In order to modify the location criteria the City Council would need to amend the City Zoning Code. Staff does not recommend that the council take this action. The location criteria were put in place to insure that dispensaries were at an adequate distance from the sensitive uses listed above. It remains appropriate for a dispensary to be located an appropriate distance from these uses.

Committee/Commission Action: None.

Policy Considerations: The Sacramento City Council found in adopting the location criteria in November 2010 that it was appropriate for a medical marijuana dispensary to be located a minimum distance from sensitive uses. These distance requirements were developed after substantial staff research and public input. Nothing in the operation of the dispensaries has changed to indicate that

indicate that a dispensary proposing to relocate to a different site should be permitted to locate closer to one of the sensitive uses listed above. . The only change has been the level of federal enforcement. It is unknown whether federal enforcement will take into account the city’s criteria for sensitive use restrictions if they are modified. For example, if the City relaxed restrictions and allowed a dispensary to relocate in the same neighborhood where they were operating and received an enforcement letter from the US Attorney, then would the US Attorney send another letter to the new location for the same reasons they sent the first letter?

Environmental Considerations:

California Environmental Quality Act (CEQA): Because this report concerns general policy and procedure making, CEQA does not apply per Section 15378(b)(3), which states that continuing administrative or maintenance activities, which are not conducted in conjunction with a project subject to CEQA review, are not considered to be “projects” and are therefore exempt from CEQA.

Sustainability Considerations: None.

Rationale for Recommendation: The existing Zoning Code location criteria are consistent with the Sacramento City Council’s policy direction and the actions of the United States Attorney.

Financial Considerations: None.

Emerging Small Business Development (ESBD): None

Respectfully Submitted by:  _____

Joy Patterson
Principal Planner

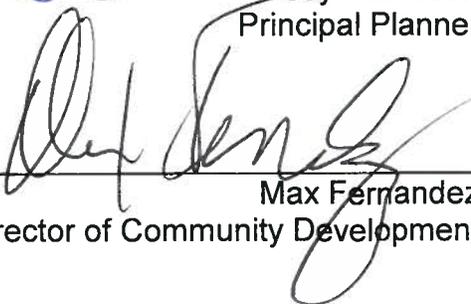
Approved by:  _____
Max Fernandez
Director of Community Development

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