



CITY COUNCIL STAFF REPORT

DATE: April 7, 2010

UNFINISHED BUSINESS

SUBJECT: SUSPEND THE PERMIT TO OPERATE A MEDICAL CANNABIS COLLECTIVE/COOPERATIVE TO CANNAHELP (COUNCIL RESOLUTION No. 22666); SCHEDULE A HEARING FOR MAY 5, 2010 TO CONSIDER RESCISSION OF RESOLUTION 22666 AND AWARD OF A MEDICAL CANNABIS COLLECTIVE/COOPERATIVE PERMIT TO ANOTHER QUALIFIED APPLICANT.

FROM: David H. Ready, City Manager

BY: Douglas C. Holland, City Attorney

RECOMMENDATION:

- 1) Suspend the permit to operate a medical cannabis collective/cooperative to Cannahelp granted pursuant to Council Resolution No. 22666.
- 2) Schedule a hearing for May 5, 2010, for Council to consider the rescission of Resolution No. 22666 and award of a permit to another qualified applicant and direct the City Clerk to provide notice to Cannahelp, Herbal Solutions, and CAPS Apothecary of the hearing.
- 3) Provide other or additional direction as the Council may deem appropriate.

STAFF ANALYSIS:

On February 3, 2010, the City Council concluded its lengthy hearings on the review and consideration of applications for medical cannabis collectives and cooperatives and approved permits for Cannahelp and Desert Organics. In early March, during the course of performing inspections of Cannahelp's compliance with the City's security requirements and conditions of approval at 505 Industrial Way, city inspectors observed that considerable tenant improvements had been made to the building without necessary plans, permits, and inspections by the Planning, Building, and Fire Departments, as required under the City's Municipal Code. (Attachment A, a letter from the Building and Safety Supervisor and attached materials, describes the various violations observed at the site.) In addition, the city inspectors also observed that several thousand cannabis plants, from seedlings to fully mature plants, were being grown on the premises. Thus, the facility was occupied and in operation without the

benefit of appropriate building and life safety requirements. The cannabis plants were subsequently removed from the premises.

Cannahelp has retained an architect to prepare plans and drawings; however, final plans have not been prepared and the City has not been provided any time estimate as to when the plans will be completed, when work will commence or be completed, or when Cannahelp reasonably expects to open.

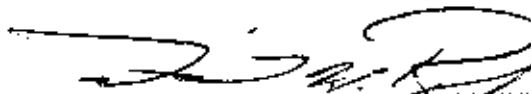
It appears that Cannahelp's application may not have accurately described its operation prior to the award of the permit. This failure to provide accurate information in its application, coupled with Cannahelp's failure to comply with provisions of the Palm Springs Municipal Code, may provide a basis for the rescission of the resolution approving the medical cannabis cooperative/collective permit. In light of the overall circumstances and the desire of the City Council to secure two fully qualified, code compliant medical cannabis cooperatives or collectives in the City within a reasonable time period, it would be appropriate for the City Council to suspend Cannahelp's medical cannabis cooperative/collective permit, provide Cannahelp with the opportunity to present evidence and testimony as to why the permit should not be rescinded, and if the Council decides to rescind the permit, consider whether the Council may wish to grant a permit to one of the other finalist applicants for permits.

FISCAL IMPACT:

None.



Douglas C. Holland, City Attorney



David H. Ready, City Manager

Attachment:

Letter of March 8, 2010



City of Palm Springs

Department of Building & Safety

3200 East Tahquitz Canyon Way, Palm Springs CA 92262

PO Box 2743, Palm Springs CA 92263

Tel 760.323-8242 • Fax 760.322.8360 • TDD 760.864.9527

www.palmsprings-ca.gov

March 8, 2010

Mr Hochanadel
505 Industrial Way
Palm Springs, CA 92262

Re: 505 Industrial Way

Dear Mr Hochanadel:

Representatives of the City of Palm Springs Department of Building & Safety and the Fire Department conducted a site visit of the above referenced address on Tuesday, March 2, 2010. We observed that considerable tenant improvements had been made to the building, all done without necessary plans, permits and inspections by the Planning, Building and Fire Departments.

In the course of this inspection, it was noted that a number of the elements involving electrical, HVAC and gas piping are not compliant with current codes and will need to be addressed prior to authorization of the reinstallation of utilities and the issuance of a Certificate of Occupancy.

To start the process of bringing your project into legal compliance with current codes, you must submit an application for building permit and submit plans for plans examination. This will require a detailed floor plan showing the dimensions of all the rooms and their intended use. Also required for the plan check process are a complete electrical plan, a lighting plan with electrical calculations, a mechanical plan showing all HVAC units and all duct work installed, a gas isometric along with all of the framing that has been installed, a list of the type of materials used and a Title 24 energy report. These items are to be designed by licensed professionals.

All drawings submitted must be drawn at 1/4 inch per foot scale and clearly legible. Please note that all of the work done on the electrical, mechanical and plumbing systems must be verified that the work was performed by qualified licensed contractors and a building permit may only be issued to a licensed general contractor.

You will also need to contact Fire Division Chief Scott Ventura at the Palm Springs Fire Department at 760/323-8181, for its list of requirements to be submitted in conjunction with the items listed above.

Sincerely,

Terry Tatum
Building & Safety Supervisor

TT:bo



**CITY OF PALM SPRINGS FIRE DEPARTMENT
FIRE PREVENTION BUREAU**

300 N. El Cielo Road, Palm Springs, CA 92262

TEL: (760) 323-8186

FAX: (760) 778-8430

TDD: (760) 864-9527

March 8, 2010

RE: Walk through inspection of Cannahelp, Inc. medical marijuana dispensary

A Fire & Life Safety inspection was conducted at the Cannahelp, Inc. Medical Marijuana dispensary located at 505 Industrial Place on Tuesday March 2, 2010 by Deputy Chief/Fire Marshal Ventura and Deputy Fire Marshal Warstler. We were accompanied by City of Palm Springs Building Inspectors Raul Licon and Rick Van Tuyle.

Fire department inspection records indicate that this business property consisted of business offices and was classified as a Group B occupancy. Upon entering the business fire personnel observed numerous alterations to the building construction that included removal of interior walls, blocked doors, alterations to emergency egress and modifications to the fire resistive construction that were no longer consistent with that of a Group B occupancy. The main use of the building was set up for agriculture growing of plants. This change in use and occupancy group classification presents greater hazards based on life and fire risk than the previous Group B occupancy.

In addition to the building modifications, we observed many fire code violations present throughout the building and have been noted below and constitute imminent life safety hazards. All sections cited are from the 2007 California Fire Code:

- 1) **102.3 Change of Use or Occupancy.** No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the *California Building Code*. There has been a change of use for this building that is no longer consistent with the Group B occupancy classification. Cannahelp must submit detailed plans for the building layout and proposed use of the building prepared by a licensed architect. Based on the plans submitted, the Building Department will determine correct occupancy classification and use for this building. If this building occupancy group changes, then Cannahelp must conform to the 2007 Building, Electrical, Mechanical and Fire Codes.

- 2) **110.1 General.** If during the inspection of a premises, a building or structure or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.
- 3) **110.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Alterations to the means of egress and non permitted modifications in this building have created have unsafe conditions to the public welfare.
- 4) **315.2.3 Equipment Rooms.** Combustible material shall not be stored in boiler rooms, mechanical rooms or electrical equipment rooms. All combustible materials are to be removed from the equipment room.
- 5) **304.3.3 Capacity Exceeding 1.5 Cubic Yards. Discontinue storing dumpster inside the building.** Dumpsters and containers with an individual capacity of 1.5 cubic yards [40.5 cubic feet (1.15 m³)] or more shall not be stored in buildings or placed within 5 feet (1524 mm) of combustible walls, openings or combustible roof cave lines. **Exceptions:**
 - a) Dumpsters or containers in areas protected by an approved automatic sprinkler system installed throughout in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
- 6) **315.2.2 Means of Egress.** Combustible materials shall not be stored in exits or exit enclosures.
- 7) **407.2 Material Safety Data Sheets.** Material Safety Data Sheets (MSDS) for all hazardous materials shall be readily available on the premises.
- 8) **407.3 Identification.** Individual containers of hazardous materials, cartons or packages shall be marked or labeled in accordance with applicable federal regulations. Buildings, rooms and spaces containing hazardous materials shall be identified by hazard warning signs in accordance with Section 2703.5.
- 9) **407.5 Hazardous Materials Inventory Statement.** Where required by the fire code official, each application for a permit shall include a Hazardous Materials Inventory Statement (HMIS) in accordance with Section 2701.5.2.

- 10) **407.6 Hazardous Materials Management Plan.** Where required by the fire code official, each application for a permit shall include a Hazardous Materials Management Plan (HMMP) in accordance with Section 2701.5.1. The fire code official is authorized to accept a similar plan required by other regulations.
- 11) **407.7 Facility Closure Plans.** The permit holder or applicant shall submit to the fire code official a facility closure plan in accordance with Section 2701.6.3 to terminate storage, dispensing, handling or use of hazardous materials.
- 12) **504.1 Required Access.** Exterior doors and openings required by this code or the *California Building Code* shall be maintained readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided when required by the fire code official.
- 13) **504.2 Maintenance of Exterior Doors and Openings.** Exterior doors and their function shall not be eliminated without prior approval. Exterior doors that have been rendered nonfunctional and that retain a functional door exterior appearance shall have a sign affixed to the exterior side of the door with the words THIS DOOR BLOCKED. The sign shall consist of letters having a principal stroke of not less than 0.75 inch (19.1 mm) wide and at least 6 inches (152 mm) high on a contrasting background. Required fire department access doors shall not be obstructed or eliminated. Exit and exit access doors shall comply with Chapter 10. Access doors for high-piled combustible storage shall comply with Section 2306.6.1.
- 14) **506.1 Key Box Required to be Installed:** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be flush mount type and shall contain keys to gain necessary access as required by the fire code official.
- 15) **605.1 Abatement of Electrical Hazards.** Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the code official responsible for enforcement of the *California Electrical Code*: Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used.
- 16) **605.3 Electrical Panel Clearance.** A working space of not less than 30 inches in width, 36 inches in depth and 78 inches in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.

- 17) **605.4 Multi-plug adapters.** Multi-plug adapters, such as cube adapters, unfused plug strips or any other device not complying with the *California Electrical Code* shall be prohibited.
- 18) **605.5 Extension Cords.** Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances. Extension cords were observed throughout the building.
- 19) **605.6 Unapproved Conditions.** Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes. Open junction boxes were observed throughout the building.
- 20) **703.1 Fire Resistive Rated Construction Maintenance.** The required fire-resistance rating of fire-resistance-rated construction (including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems) shall be maintained. Such elements shall be properly repaired, restored or replaced when damaged, altered, breached or penetrated. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings and holes made for any reason shall be protected with approved methods capable of resisting the passage of smoke and fire. This includes the painted plywood sheets that have been secured to the ceiling.
- 21) **NFPA 13 Fire Sprinkler System will be required if the use of this building changes from the current Group B occupancy classification:** An automatic fire sprinkler system is required. Only a C-16 licensed fire sprinkler contractor shall perform system design and installation.
- a) **903.4.2 Audible Water Flow Alarms:** An approved audible sprinkler flow alarm (Wheelock horn/strobe # MT4-115-WH-VFR with WBB back box or equal) shall be provided on the exterior of the building in an approved location. An approved audible sprinkler flow alarm (Wheelock horn/strobe # MT4-115-WH-VFR with WBB back box or equal) to alert the occupants shall be provided in the interior of the building in a normally occupied location.
- b) **903.4 Valve and Water-Flow Monitoring:** All valves controlling the fire sprinkler system water supply, and all water-flow switches, shall be electrically monitored. All control valves shall be locked in the open position. Valve and water-flow alarm and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station.

- c) **Fire Hydrant & FDC Location (CFC 912.2):** A public commercial fire hydrant is required within 30 feet of the Fire Department Connection (FDC). Fire Hose must be protected from vehicular traffic and shall not cross roadways, streets, railroad tracks or driveways or areas subject to flooding or hazardous material or liquid releases.
- d) **Fire Department Connections (CFC 912.2.1 & 912.3):** Fire Department connections shall be visible and accessible, have two 2.5 inch NST female inlets, and have an approved check valve located as close to the FDC as possible. All FDC's shall have KNOX locking protective caps. Contact the fire prevention secretary at 760-323-8186 for a KNOX application form.
- e) **Fire Alarm System:** Fire alarm system is required and installation shall comply with the requirements of NFPA 72, 2007 Edition.

22) **1006.1 Illumination Required.** The means of egress, including the exit discharge, shall be illuminated at all times the building space served by the means of egress is occupied.

23) **1006.3 Illumination Emergency Power.** The power supply for means of egress illumination shall normally be provided by the premises' electrical supply. In the event of power supply failure, an emergency electrical system shall automatically illuminate the following areas:

- a) Aisles and unenclosed egress stairways in rooms and spaces that require two or more means of egress.
- b) Corridors, exit enclosures and exit passageways in buildings required to have two or more exits.
- c) Exterior egress components at other than the level of exit discharge until exit discharge is accomplished for buildings required to have two or more exits.
- d) Interior exit discharge elements, as permitted in Section 1024.1, in buildings required to have two or more exits.
- e) Exterior landings, as required by Section 1008.1.5, for exit discharge doorways in buildings required to have two or more exits.

The emergency power system shall provide power for duration of not less than 90 minutes and shall consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with Section 2702 of the *California Building Code*.

- 24) **1009.5.3 Enclosures Under Stairways.** The walls and soffits within enclosed usable spaces under enclosed and unenclosed stairways shall be protected by 1-hour fire resistance-rated construction or the fire-resistance rating of the stairway enclosure, whichever is greater. Access to the enclosed space shall not be directly from within the stair enclosure.
- 25) **1011.1 Exit Signs.** Exits and exit access doors shall be marked by an approved exit sign readily visible from any direction of egress travel.
- 26) **1011.2 Exit Signs Illumination.** Exit signs shall be internally or externally illuminated. Exits and exit access doors shall be marked by an approved exit sign readily visible from any direction of egress travel throughout the building.
- 27) **1019.3 Exit continuity.** Exits shall be continuous from the point of entry into the exit to the exit discharge. Alterations to the second floor exiting corridor have been modified and must be changed to the original design.
- 28) **Section 1212.4 of the 2007 California Plumbing Code. Equipment Shutoff Valves and Connections.** Gas utilization equipment connected to a piping system shall have an accessible, approved manual shutoff valve with a no displaceable valve member or listed gas convenience outlet installed within six feet of the equipment it serves.
- 29) **CO₂ generators.** To be installed and operated per the manufacturer's instructions and recommendations. Combustible clearances surrounding the CO₂ generators are to be maintained. The Palm Springs Fire Department is requiring the installation and use of carbon monoxide alarms in those areas where CO₂ generators are located. CO₂ levels are to be monitored and maintained below 1500ppm (parts per million) in areas accessible to humans and animals.

Scott Ventura
Deputy Fire Chief/Fire Marshal