



Planning Commission Staff Report

DATE: April 8, 2015

PUBLIC HEARING

SUBJECT: CITY OF PALM SPRINGS FOR A ZONE TEXT AMENDMENT TO AMEND PALM SPRINGS ZONING CODE (PSZC) REGARDING CULTIVATION OF MEDICAL CANNABIS AND DEVELOPMENT STANDARDS FOR MEDICAL CANNABIS COOPERATIVES OR COLLECTIVES, (CASE 5.1218-D ZTA). (FF)

FROM: Department of Planning Services

SUMMARY

The City Council Subcommittee on medical cannabis has requested recommendations from the Planning Commission regarding the following:

- Allowing medical cannabis cultivation facilities separate from Medical Cannabis Cooperatives or Collectives; and
- Expanding the zoning districts where Medical Cannabis Cooperatives or Collectives may be permitted.

RECOMMENDATION:

Open the public hearing and forward recommendations to the City Council.

BACKGROUND & SETTING

The City Council Subcommittee on medical cannabis has recommended consideration of two potential ordinances relating to medical cannabis. The first recommendation is an ordinance that could allow the cultivation of marijuana in locations other than within an approved medical cannabis cooperative or collective. The second recommendation is an ordinance expanding the zoning districts where medical cannabis cooperatives or collectives are allowed to include commercial and/or office zones. The recommendations of the subcommittee were presented to the City Council on January 21st, 2015; the City Council voted to initiate Zone Text Amendments and to refer these amendment concepts to the Planning Commission for recommendations.

Based on the direction of the subcommittee, the following issues have been identified for discussion by the Planning Commission:

Medical Cannabis Cultivation Facilities

- Operational provisions: It is intended that cultivation facilities would only be operated by an approved Medical Cannabis Cooperative or Collective (MCCC) as a means to supply the collective. As proposed, the cultivation facility could be on the premises of the MCCC or could be located on a separate site. The approval process and development standards would generally be the same as currently in place for MCCC facilities.
- Zoning districts: It is proposed that cultivation facilities be permitted only within enclosed buildings, and that cultivation activities be restricted to the City's industrial zoning districts. While agricultural uses may be permitted in the O (Open Land) and UR (Urban Reserve) zoning districts, the environmental and development restrictions associated with these zoning districts would most likely preclude the development of a facility that would conform to the operational requirements for marijuana cultivation.
- Separation distance requirements: Separation distance requirements are currently in place for MCCC facilities, and prevent MCCC facilities from being located within a specified distance of protected uses and other MCCC facilities. As cultivation facilities would be within enclosed facilities and not be open or accessible to the general public, the need for separation distance requirements for cultivation facilities may be unnecessary.

Medical Cannabis Cooperative or Collective Facilities (MCCC)

- Operational requirements: No changes are currently proposed to the operation requirements or development standards for MCCC facilities.
- Zoning districts: Currently, MCCC facilities are only allowed in industrial zoning districts. The City Council subcommittee has considered the expansion of MCCC facilities into commercial and/or office zoning districts. The following discussion offers two different approaches to allowing MCCC facilities in commercial and/or office zoning districts:
 1. Comparable to a medical office or pharmacy use. Allow MCCC facilities in the same zoning districts as medical offices and pharmacies, which would include the following zoning districts:
 - P (Professional)
 - C-B-D (Central Business District)
 - C-D-N (Designed Neighborhood Shopping Center)
 - C-S-C (Community Shopping Center)
 - C-1 (Retail Business)
 - C-1AA (Large-Scale Retail Commercial)
 - C-2 (General Commercial)
 - HC (Highway Commercial)
 2. Comparable to liquor uses. Allow MCCC facilities in the same zoning districts as liquor-related uses, which would include the districts listed above, with the exception of the P (Professional) zoning district.
- Distance separation requirements: The current regulations require a 500-foot separation distance from schools, public parks/playgrounds, child care

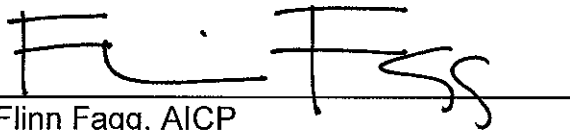
facilities, youth center, church, or residential zones. In addition, a 1000-foot separation distance is required from the nearest adjacent MCCC facility. The Planning Commission may consider expansion, reduction or elimination of one or more of the separation distance requirements, based on any other current or proposed development restrictions.

ENVIRONMENTAL ASSESSMENT

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the proposed Zone Text Amendment has been deemed a "project." Staff has determined that the proposed Zone Text Amendment (Case 5.1365 ZTA) may be deemed Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act. The proposed zone text amendment proposes only insignificant changes to the title.

NOTIFICATION

A public hearing notice was published in accordance with the requirements of State law and local ordinance. As of the writing of this report, staff has not received any comment on the proposed ordinance.

A handwritten signature in black ink, appearing to read 'Flinn Fagg', written over a horizontal line.

Flinn Fagg, AICP
Director of Planning Services

Attachments:

1. Proposed Amendments
2. City Council Staff Report and Minutes – January 21, 2015

Medical Cannabis Regulatory Program: Proposed Amendments

Section 91.00.10(B) Definitions

“Medical Cannabis Cultivation Facility” means an enclosed facility where medical cannabis is cultivated and processed only for distribution to the licensed Medical Cannabis Cooperative or Collective which it serves.

Section 93.23.15 Medical Cannabis Cooperative or Collective and Medical Cannabis Cultivation Facility Special Standards

- A. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a MCCC or Medical Cannabis Cultivation Facility (MCCF) shall be granted or permitted except in conformance with this Section.
- B. The MCCC and MCCF establishments shall be permitted only upon application and approval of a regulatory permit in accordance with the criteria and process set forth in Chapter 5.35 of this Code. Prior to initiating operations and as a continuing requisite to conducting operations, the legal representative of the persons wishing to operate a MCCC or MCCF shall obtain a regulatory permit from the City Manager under the terms and conditions set forth in Chapter 5.35 of this Code and shall otherwise fully comply with the provisions of this Section.
- C. No MCCC shall be established, developed, or operated within five hundred (500) feet of a school, public playground or park, or any residential zone property, child care or day care facility, youth center, or church, or within one thousand (1,000) feet of any other MCCC, ~~and shall not be located on any property that is occupied with a commercial retail use where such use is the primary use on such property.~~ All distances shall be measured in a straight line, without regard to intervening structures, from the nearest property line of the property on which the MCCC is, or will be located, and to the nearest property line of those uses described in this Subsection. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.
- D. A MCCC or MCCF is not and shall not be approved as an accessory use to any other use permitted by this Zoning Code. MCCC and MCCF facilities may be located on the same parcel or on the same premises as otherwise permitted by this Zoning Code.
- E. A MCCC or MCCF shall be parked at a rate of one (1) space for every two hundred fifty (250) gross square feet of office space, and one (1) space for every eight hundred (800) feet of warehouse/cultivation space. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.

MCCC Permitted Zoning Districts – Proposal 1:

District	MCCC Existing	MCCC Proposed
P (Professional)		<u>P</u>
C-B-D (Central Business District)		<u>P</u>
C-D-N (Designed Neighborhood Shopping Center)		<u>P</u>
C-S-C (Community Shopping Center)		<u>P</u>
C-1 (Retail Business)		<u>P</u>
C-1AA (Large-Scale Retail Commercial)		<u>P</u>
C-2 (General Commercial)		<u>P</u>
HC (Highway Commercial)		<u>P</u>
C-M (Commercial Manufacturing)	P	<u>P</u>
M-1-P (Planned Research and Development Park)		<u>P</u>
M-1 (Service/ Manufacturing)	P	<u>P</u>
M-2 (Manufacturing)	P	<u>P</u>
A (Airport)	P	<u>P</u>

MCCC Permitted Zoning Districts – Proposal 1:

District	MCCC Existing	MCCC Proposed
P (Professional)		
C-B-D (Central Business District)		<u>P</u>
C-D-N (Designed Neighborhood Shopping Center)		<u>P</u>
C-S-C (Community Shopping Center)		<u>P</u>
C-1 (Retail Business)		<u>P</u>
C-1AA (Large-Scale Retail Commercial)		<u>P</u>
C-2 (General Commercial)		<u>P</u>
HC (Highway Commercial)		<u>P</u>
C-M (Commercial Manufacturing)	P	<u>P</u>
M-1-P (Planned Research and Development Park)		<u>P</u>
M-1 (Service/ Manufacturing)	P	<u>P</u>
M-2 (Manufacturing)	P	<u>P</u>
A (Airport)	P	<u>P</u>

District	MCCF Proposed
C-M (Commercial Manufacturing)	<u>P</u>
M-1-P (Planned Research and Development Park)	<u>P</u>
M-1 (Service/ Manufacturing)	<u>P</u>
M-2 (Manufacturing)	<u>P</u>
A (Airport)	<u>P</u>



City Council Staff Report

DATE: January 21, 2015

LEGISLATION

SUBJECT: INITIATION OF AMENDMENTS TO THE CITY'S ZONING CODE REGARDING CULTIVATION OF MARIJUANA IN THE CITY AND TO ALLOW MEDICAL CANNABIS WITHIN COMMERCIAL AND/OR OFFICE ZONES IN THE CITY

FROM: David Ready, City Manager

BY: Douglas Holland, City Attorney

SUMMARY

The Council's Subcommittee on medical cannabis is recommending the City Council consider the adoption of two potential ordinances relating to medical cannabis. One of these ordinances would address the issue of cultivation of marijuana in locations other than within an approved medical cannabis co-operative or collective. The second ordinance would address the issue of allowing medical cannabis cooperatives or collectives within commercial and/or office zones. These ordinances are required to be reviewed and considered by the Planning Commission and the Subcommittee is recommending the Council refer these issues to the Planning Commission for its review and recommendations.

RECOMMENDATION:

1. INTITIAE ZONE TEXT AMENDMENTS PURSUANT TO SECTION 97.07.01.A.1.6 OF THE CITY'S ZONING CODE FOR THE CULTIVATION OF MARIJUANA WITHIN THE CITY AND MEDICAL CANNABIS COOPERATIVES OR COLLECTIVES WITHIN COMMERCIAL AND/OR OFFICE ZONES IN THE CITY AND REFER THESE AMENDMENT CONCEPTS TO THE PLANNING COMMISSION FOR HEARING, REVIEW, AND RECOMMENDATION.

STAFF ANALYSIS:

The City currently regulates medical cannabis through zoning and locational requirements of the City's Zoning Ordinance and the operational requirements provided in Chapter 5.35 of the Municipal Code. Medical Cannabis Collectives and Cooperatives (MCCC) are only allowed in the City's industrial zones: the C-M, M-1-P, M-1, and M-2

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Zones. Certain locational requirements are provided in Section 93.23.15 of the Zoning Code. Cultivation of cannabis/marijuana is not specifically addressed in the Zoning Ordinance and a few cultivation requirements are provided as part of the City's regulatory program in Chapter 5.35. Cultivation is only allowed on the premises of each approved MCCC. The Council's Subcommittee on Medical Cannabis is recommending the City Council consider allowing additional cultivation approaches within the City. One approach would allow the approved MCCC's to separately or collectively operate one or more cultivation facilities off-site; that is, on property that is not being operated as a medical cannabis facility. It is contemplated that such facilities would be indoors, within an industrial or commercial building, managed by one or more of the permitted MCCC's and such facilities would not be used for the distribution of cannabis to patients or caretakers. A second approach would be to allow cultivation of marijuana as an agricultural use of land within a building on land where agriculture uses are allowed. Locational requirements and various development standards would also need to be considered.

The Subcommittee is also supportive of increasing the number of permitted MCCC's in the City. If it appears the Council would be willing to consider an increase, the Subcommittee would recommend the Council consider allowing medical MCCC's to be located in commercial and/or office zones the Council and Planning Commission deem most appropriate. For example, the Subcommittee would not recommend such use within the C-B-D, Central Business District Zone. The current locational requirements under the Zoning Code should also be revisited and considered for application to any proposal to allow MCCC's in any other Zone.

The Subcommittee is recommending that the land use and zoning issues identified in this report be referred to the Planning Commission for hearing, review, and recommendation in accordance with the provisions of the City's Zoning Code.

ENVIRONMENTAL ASSESSMENT:

An amendment to the City's Zoning Code is a "project" as defined by CEQA and will be environmentally assessed prior to or concurrently with its review by the Planning Commission and prior to submission to the City Council.

FISCAL IMPACT:

No fiscal impact.



Douglas Holland, City Attorney



David Ready, City Manager

Mayor Pro Tem Lewin commented on the practice and policy of the City awarding public works contracts to the lowest responsible bidder.

ACTION: 1) Waive the reading of the ordinance text in its entirety and read by title only; and 2) Introduce on first reading Ordinance No. 1870, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 7.08.030 OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO BID PROTESTS." Motion Councilmember Foat, seconded by Councilmember Mills and unanimously carried on a roll call vote.

3.B. PROPOSED ORDINANCE AMENDING AND RESTATING CHAPTER 5.34 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS:

City Attorney Holland provided background information as outlined in the Staff Report dated January 21, 2015.

ACTION: 1) Waive the reading of the ordinance text in its entirety and read by title only; and 2) Introduce on first reading Ordinance No. 1871, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING AND RESTATING CHAPTER 5.34 OF THE PALM SPRINGS MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS." Motion Councilmember Mills, seconded by Councilmember Foat and unanimously carried on a roll call vote.

3.C. INITIATION OF AMENDMENTS TO THE PALM SPRINGS ZONING CODE REGARDING CULTIVATION OF MARIJUANA IN THE CITY AND TO ALLOW MEDICAL CANNABIS WITHIN COMMERCIAL AND/OR OFFICE ZONES IN THE CITY:

Mayor Pougnet provided background information on the discussion of the City Council Subcommittee regarding medical cannabis, and commented on the process for permitting the prior medical cannabis collectives.

Councilmember Foat commented on impact to patients and medical cannabis users, and the objectives for the growing of medical cannabis.

Councilmember Mills requested a review and analysis be provided for the past history of illegal operations.

Mayor Pro Tem Lewin commented on the access to patients, ease of access, sufficient operators to reduce the cost to patients, and the benefits for well regulated grow facilities.

Councilmember Hutcheson stated his support for other Councilmember comments, and the cultivation and regulation of medical cannabis.

Councilmember Foat stated the land use operations will be forwarded to the Planning Commission, and requested the Commission review the many restrictions in proximity to other types of establishments.

ACTION: Initiate Zone Text Amendments pursuant to Section 97.07.01.A.1.6 of the Palm Springs Zoning Code for the cultivation of marijuana within the City and medical cannabis cooperatives or collectives within the commercial and/or office zones in the City and refer these amendment concepts to the Planning Commission for hearing, review, and recommendation. **Motion Councilmember Hutcheson, seconded by Mayor Pro Tem Lewin and unanimously carried on a roll call vote.**

4. UNFINISHED BUSINESS:

4.A. UPDATE ON THE PALM SPRINGS BUZZ TROLLEY SERVICE PILOT PROGRAM:

Josh Morgerman, Symblaze, provided an update on the Palm Springs BUZZ.

Councilmember Hutcheson commented on the successful launch of the BUZZ, requested the expansion of days to include the Coachella Weekend and other special events in the Coachella Valley.

Councilmember Foat questioned the current operational hours and the availability of information to make further decisions, and operational changes for summer months.

Mayor Pro Tem Lewin commented on the successful launch and the remarks from outside tourism publications.

Mayor Pougnet commented on the successful roll-out of the program and the public's positive reception.

No action taken.

4.B. CITY WIDE SOLAR REQUEST FOR PROPOSAL UPDATE:

Al Smoot, Special Projects Coordinator, provided background information as outlined in the Staff Report dated January 21, 2015.

Councilmember Foat commented on the participation of local firms in the process, the potential for smaller vendors to bid on a portion of the projects, if the City will consider some projects with the system owned by the City, and some as third party providers.