TO: Planning Commission  
FROM: Lucas Shadduck, Long-Range Planning Division  
SUBJECT: Medical Cannabis Moratorium  
DATE: March 30, 2012

At the next meeting on April 4, 2012, the Planning Commission will review the preliminary recommendations of the Medical Cannabis Task Force (MCTF) to the City Council and review the potential draft code solutions to regulating medical cannabis within the land use code.

The Commission will review preliminary siting and land use proposals by the MCTF (Attachment A), a working draft of a medical cannabis land use and zoning summary, which outlines how cannabis uses may be categorized and imported into the Land Use Regulatory Code (Attachment B), and a draft use table (Attachment C) indicating where cannabis uses may be permitted throughout the city.

Staff intends to seek the Commission’s feedback and direction on the emerging zoning scheme that will be put out for public review in the near future. The emerging zoning scheme contains the following elements:

- Four levels of Medical Cannabis use, whereas the highest level allows for the expansion of “collective gardens” to organize in a commercial/industrial-like fashion. Thus, the highest level is proposed to be subject to land use regulation and controls.
- The highest level of Medical Cannabis Use is broken into two uses (Medical Cannabis Distribution and Medical Cannabis Processing/Production). These uses are comparable to “retail” and “light industry” where the lower intensity use is allowable in commercial, mixed-use and industrial areas and the higher intensity use is allowable in industrial areas only.
- Land use regulation and controls include buffering from sensitive uses, limitation on size and limitation of location to specific zoning districts within the city.

Background information about the moratorium can be viewed at www.cityoftacoma.org/planning (under HOT TOPICS, click on “Medical Cannabis Moratorium”). In response to the moratorium, the Commission is requested to develop and recommend appropriate revisions to the land use code by May 2012.

If you have any questions, please contact me at (253) 594-7975 or lshadduc@cityoftacoma.org.

Attachments (3)

c: Peter Huffman, Assistant Director
TACOMA MEDICAL MARIJUANA TASK FORCE

SITING AND LAND USE PROPOSALS

RECOMMENDATIONS:

I. Siting and Land Use

A. Distribution Center

- 1,000 foot minimum distance from churches, schools, and day-cares in existence at the time of application. Following the permitting of any network member distribution center, those entities or individuals wanting to establish a church, school, or day-care must do so subject to the existing member network distribution centers location.

- Zoning where use is allowed are to be commercial, industrial, or downtown. Selected mixed use zones may be considered if of sufficient size to allow the network member distribution center to be reasonably unobtrusive.

- Size for brick and mortar facilities to be no greater than 2,000 square feet, and no less than 500 square feet if offering only distribution of medical cannabis to patients.

Size for brick and mortar facilities to be no greater than 3,000 square feet, within which up to 1,500 square feet can be used for distribution, if in addition to distributing medical cannabis other services (i.e. educational classes, health services), are provided. Up to 150 square feet of the distribution center space may be devoted to sale of marijuana delivery products.

No network member distribution center shall be located within 500 feet of a communal garden or facility which provides authorizations to qualified patients for medical marijuana use.

- The maximum hours of operation should be daily from 7:00 a.m. to 9:00 p.m.

No individual under the age of 18 shall operate a network member distribution center in any capacity, including but not limited to management member, employee, contractor or volunteer.

No individual under the age of 18 years shall be allowed on the member network distribution center property unless they are a qualified patient and accompanied by their parent or legal guardian.
The Floor Plan: A network member distribution center shall have a lobby waiting area at the entrance to receive persons for verification of their membership to that network member distribution center, or to determine whether the person meets the criteria of a valid qualified patient or primary care giver. This verification process shall take place in an area segregated from the medical cannabis distribution location within the facility. The network member distribution center shall also have a separate and secure area designated for the actual distribution of medical cannabis to its members. The main entrance shall be located and maintained clear of barriers, landscaping, and similar obstructions such that it is clearly visible from public streets or sidewalks.

Storage: A distribution center shall have adequate locked storage on the property, identified and approved as a part of the security plan. Medical cannabis shall be stored at the network member distribution center in secured rooms that are completely enclosed, or in a safe that is bolted to the floor.

A detailed floor plan, to include a lighting plan, security plan and locations of appropriate signage shall be submitted at the time of application for an operational permit.

Security Plans: A network member distribution center shall comply with a security plan that is approved by the land use and/or other regulatory department within the City of Tacoma. This security plan shall include, but is not necessarily limited to calling out building security specifications, lighting, alarms, and video recording systems.

Security Cameras: Security surveillance cameras and a video recording system shall be installed to monitor the interior, main entrance, and exterior of the distribution center so as to discourage loitering, crime, and illegal or nuisance activities. The camera and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present in the network member distribution center area, or the immediate exterior of the building.

Security Video Retention: Video and/or digital recording from security surveillance cameras shall be maintained for a period of not less than 30 days and shall be made available to the city or any accredited law enforcement organization upon request.
• Alarm System: The network member distribution center shall have a professional and centrally monitored fire, robbery, and burglar alarm that are maintained in good working condition.

• Visibility: A network member distribution center shall not allow or permit medical marijuana or marijuana delivery products to be visible from the building exterior.

• Signage: Signage for the network member distribution center which is visible from or located on the exterior of the facility shall not exceed the dimensions of 36 inches by 30 inches.

• Any network member distribution center not in compliance with these requirements at the time the ordinance becomes effective will have 60 days to terminate operations or relocate the facility by obtaining a permit in compliance with these regulations.

II. Permitting

• The following criteria shall be addressed and complied with by those seeking a permit to operate a network member distribution center in the City of Tacoma.

• The application shall be filed only by an owner of the property, or shall contain a lease signed by the owner, or the owner’s duly authorized agent. The lease must specifically allow the applicants for the medical marijuana network member distribution center to occupy the premises for the intended use of distributing medical marijuana to duly authorized members.

• Any application or permit renewal request shall be accompanied by an application fee in an amount established by the Tacoma City Council from time to time, which shall be applied equally to all permit seekers. The application fee does not cover standard City fees for fingerprinting, background check, photography, and is in addition to business license fees required by any state, county, or municipal entity.

• The application shall be accompanied by a plat map which can be obtained by the applicant by the City of Tacoma, upon which the applicant will, at its own expense, accurately detail all existing uses for buildings or parcels within 1,000 feet of the proposed location of the proposed network member distribution center.
No network member distribution center permit shall be issued to any person ever convicted of a felony involving controlled substances or a Class A felony of any kind. If completion of the sentence for said felony (including any period of probation or parole) has occurred, at a minimum, five years from the date of application, this prohibition shall be inapplicable so long as the applicant has not been convicted of, or plead guilty to any felony crime since the sentence completion occurred.

The application shall include the name, street address, and telephone number of all owners of the network member distribution center and, if the owner is a corporation, limited liability company, partnership, or sole proprietorship with an assumed name, of all directors, officers, members, partners, and individuals, all of whom are considered collectively to be the applicant for the permit applied for.

The name, address, and telephone number of all business managers of the network member distribution center shall be supplied.

The application shall contain a copy of a notice, to be posted within the facility and not visible from the street, which specifies that compliance with state and local laws and ordinances related to the medical use of marijuana is neither an assurance of nor a defense to any enforcement action that a duly authorized federal authority may chose to take. State and local laws which provide an affirmative defense, or reflect an intent not to penalize the use and cultivation of medical marijuana, so that the health and welfare of its citizens can be advanced, does not provide any defense to the enforcement of any federal law related to the use or cultivation of marijuana. If you have any questions about the legal status of your use of medical marijuana, please contact your attorney.

The application for the permit to distribute medical marijuana to network members shall be accompanied by evidence of insurance for liability in an amount not less than one million dollars ($1,000,000.00) per person, or two million dollars $2,000,000.00) in the aggregate for any claim(s).

The application shall include the current name and primary and secondary telephone numbers of at least one emergency contact available on a 24 hour basis who may be called to address and resolve complaints, and to respond to operational problems or concerns associated with the network member distribution center.
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Sighting and Land Use Proposals
Page 5

- It is anticipated that the network member distribution center shall make good faith efforts to encourage neighborhood residents to call this contact, or a similarly authorized person to solve operational problems, if any, before calls or complaints are made to the City.

III. Collective Gardens

A. Collective gardens shall be subject to the same considerations as the network member distribution center where applicable, and will be subject to the following provisions:

- Collective gardens shall be located in an industrial use zone only.

- A maximum of six collective gardens may be located within any given real estate parcel number.

- Ten individual collective members may combine to support one collective garden. The number of collective gardens on any given real estate parcel number shall not increase until the existing collective gardens have the full allotment of ten individuals supporting the existing garden.
Medical Cannabis Land Use and Zoning Summary

The four levels of Medical Cannabis that appear to exist are as follows:

**Level 1 – Self Use**: A single qualified patient who produces and converts cannabis into a medical product for self-use only. The City would not regulate this level beyond typical code and law enforcement complaints.

**Level 2 – “One-on-one”:** A partnership whereas the grower of cannabis for medical use is a designated provided for a qualified patient and the conversion of cannabis into a medical product is divided between the two parties. This “one-on-one” partnership allows for a qualified patient, who may undertake both the production and conversion of cannabis, to share the final medical product with other family members, friends or individuals who otherwise could not produce and convert cannabis into a medical product themselves. As with Level 1, the City would not regulate this level beyond typical code and law enforcement complaints.

**Level 3 – A “Collective”, a.k.a. “collective garden” (as defined by the State):** State law allows for up to 10 qualified patients to function as a “collective” in order to maximize efficiency, safety and availability to medical cannabis to members within its “collective”. In this arrangement up to 10 individuals may share in providing the space, resources and time needed for the growing and processing of cannabis into a medical product. As with Levels 1 and 2, the City would not regulate this level beyond typical code and law enforcement complaints.

**Level 4 – Medical Cannabis Commercial/Industrial Facility**: It is at this level that we see the Medical Cannabis use arrange itself to meet the needs of qualified patients who are transit-dependent and lack the ability to produce their own medical cannabis and who are not, for any reason, part of a partnership or collective that can produce a medical cannabis product. This level of Medical Cannabis use manifests itself into something which may be both visible and impactful to the immediate neighborhood or community at large but also provide a framework for reducing the impacts of growing, processing and distributing medical cannabis throughout the city. These facilities are storefronts, dispensaries, laboratories, grow operations, production facilities, etc. These facilities may produce, process and distribute to a network of qualified patients. These facilities may not only provide a finished medical cannabis product but may also provide medical cannabis delivery products (i.e. hookahs, pipes, vaporizers, containers, etc.), cannabis-infused products and edibles, and other cannabis related paraphernalia.

Further, it has been identified that the Level 4 Medical Cannabis Commercial/Industrial Facility can be divided into two uses. The first use, “cannabis distribution”, is comparable to the existing “retail” use and may be zoned similarly. The “cannabis-distribution” use would allow for the distribution only of finished cannabis products. This use may also be allowed to coexist with other non-cannabis uses, permitted by the zoning district, such as educational classes, health/therapeutic services, and general retail. Preliminary considerations call for a new “cannabis-distribution” use to be allowed in the following zones: all Industrial zones where retail is permitted; all Downtown zoning districts; all Shoreline and Commercial zones where retail is permitted; and in the Mixed-use zones of NCX, CCX, UCX, UCX-TD, CIX and HMX. This use would be prohibited elsewhere.

“Cannabis production and processing”, the second use category for Medical Cannabis Commercial/Industrial, would allow for the production and processing of medical cannabis. This use would be comparable to the existing “light-industry” and/or “heavy-industry” uses and would be zoned
similarly. This use would allow for collective gardens and/or collective garden networks to establish facilities for the growing and cultivation of cannabis plants. A “cannabis production and processing” facility, for example, may perform cannabis infusion, testing, assembly, packaging, etc. Preliminary considerations call for a new “cannabis production and processing” use to be allowed in the following zones: all Industrial zones; all Shoreline zones where industrial uses are permitted; and in the Mixed-use zones of CIX and UCX-TD. This use would be prohibited elsewhere.

The basic zoning scheme that is taking shape could also incorporate additional land use regulation and development standards:

- **Buffering from Sensitive Uses**- Medical Cannabis uses shall maintain up to a 1,000-foot minimum distance from the following potential sensitive uses: residential zones, churches, parks, schools, day-cares, community gathering spaces and other Medical Cannabis uses in existence at the time of the application.

- **Size**- “Medical Cannabis Commercial/Industrial Facility” to be no greater than 2,000 square feet and no less than 500 square feet if offering only “cannabis distribution” of medical cannabis to patients.

  “Medical Cannabis Commercial/Industrial Facility” to be no greater than 3,000 square feet and no less than 500 square feet if offering “cannabis distribution” and other permitted uses allowed within the zoning district (i.e. educational classes, health/therapeutic services, and general retail) are proposed to be co-located.

For collective gardens and/or collective garden networks establishing “Medical Cannabis Commercial/Industrial Facility” for “cannabis production and processing” a size restriction may be considered. The Medical Cannabis Task Force (MCTF) has preliminarily recommended a size restriction on the collective garden network itself rather than a size restriction on the square-footage of the facility. The MCTF draft recommendation calls for a maximum of six collective gardens (as defined by the State), where the cultivation, production, processing of cannabis takes place, may be located within any given real estate parcel number whereas; it shall be recognized that 10 individual members may combine to support one collective garden and the number of collective gardens on any given real estate parcel number shall not increase until the existing collective gardens have the full allotment of 10 individuals supporting the existing garden.

- **Other Considerations**- limiting hours of operation; incentivize cannabis distribution locating off-street/upper-story by relaxing buffers; eliminating buffers, altogether, for cannabis uses in certain industrial zones; size restrictions for establishments engaged in the sale of cannabis delivery products (pipes, containers, etc.) when co-located with cannabis uses.

Within this zoning scheme there seems to be recognition that a commercial/industrial cannabis use outside of single-family neighborhoods is unavoidable and necessary since it is not clearly addressed under current State Law. If the City is committed to filling in the blanks left behind by State regulations then it may be assumed that future regulations should provide added protection to single-family neighborhoods and community organizations, such as schools, daycares and churches and the city should limit the size, number, and concentration of dispensaries and collective gardens without compromising safety and accessibility.
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Draft Use Table for Medical Cannabis Distribution and
Medical Cannabis Processing/Production – Commercial and Industrial Districts

13.06.200 Commercial Districts.
A. Land use requirements.
1. Use table abbreviations.

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
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<tbody>
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<td>P</td>
<td>Permitted use in this district.</td>
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<td>CU</td>
<td>Conditional use in this district. Requires conditional use permit, consistent with the criteria and procedures of Section 13.06.640.</td>
</tr>
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<td>TU</td>
<td>Temporary Uses allowed in this district subject to specified provisions and consistent with the criteria and procedures of Section 13.06.635.</td>
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<td>N</td>
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2. District use table.

<table>
<thead>
<tr>
<th>Uses</th>
<th>T</th>
<th>C-1</th>
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<th>HM</th>
<th>PDB</th>
<th>Additional Regulations (also see footnotes at bottom of table)</th>
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<tr>
<td>Medical Cannabis Distribution</td>
<td>N</td>
<td>P*/**</td>
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<td>See definition for “Medical Cannabis Distribution”.</td>
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<td>Subject to buffering from surrounding sensitive uses at the time of application for permit: allowed not within 1,000 ft. of schools, 500 feet of daycares, parks, and other Medical Cannabis Distribution or Medical Cannabis Processing/Production facilities, and not within 300 ft of churches. Facilities are required to be indoors and limited to 2,000 sq ft. and must be no less than 500 sq ft. Facilities may include other permitted non-Medical Cannabis Distribution uses. These facilities are required to be indoors and limited to 3,000 sq ft., total, with no more than 2,000 sq ft. and no less than 500 sq ft. for Medical Cannabis Distribution and up to 150 square feet may be devoted to the sale of medical cannabis delivery products. See definition for “medical cannabis delivery products”.</td>
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<td>N</td>
<td>N</td>
<td>See definition for “Medical Cannabis Processing/ Production”.</td>
</tr>
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Footnotes:
1. Designated Pedestrian Streets – For segments here noted, additional use limitations apply to areas within C-2 Commercial District zoning to ensure continuation of development patterns in certain areas that enhance opportunities for pedestrian-based commerce. North 30th Street from 200 feet east of the Starr Street centerline to 190 feet west of the Steele Street centerline: street level uses are limited to retail, personal services, eating and drinking, and customer service offices.
2. For historic structures and sites, certain uses that are otherwise prohibited may be allowed, subject to the approval of a conditional use permit. See Section 13.06.640.F for additional details, limitations and requirements.
3. Commercial shipping containers shall not be an allowed type of accessory building in any commercial zoning district. Such storage containers may be allowed as a temporary use, subject to the limitations and standards in Section 13.06.635.
4. Up to ten qualified members may combine to support one “collective garden” (as defined by the State), pursuant to local and State regulations. A maximum network of six collective gardens may co-locate and/or operate on any one site. The number of collective gardens on any one site shall not increase until the existing collective garden(s) have the full allotment of ten individuals supporting the existing garden.
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**Commercial District Use Comparison – Retail and Light Industry**

13.06.200 Commercial Districts.

A. Land use requirements.

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<tr>
<td>Retail</td>
<td>N</td>
<td>P</td>
<td>P/CU~</td>
<td>P*</td>
<td>P*</td>
<td>=A conditional use permit is required for retail uses exceeding 45,000 square feet within the C-2 District. See Section 13.06.640.J.</td>
</tr>
<tr>
<td>Industry, light</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>*Limited to 7,000 square feet of floor area, per business, in the HM and PDB Districts.</td>
</tr>
</tbody>
</table>

Note:

A definition for “Medical Cannabis Distribution” will make the distinction between Medical Cannabis Use Levels 1-3 (see attachment B) and Level 4, the highest and most intense level of medical cannabis use. It is intended that only the Level 4 Use, which is something other than self use, one-on-one partnerships and small collectives, be prohibited and restricted in areas of the City. In general, Level 4 is a commercial and/or industrial scale establishment requiring licensing, permitting, zoning compliance, etc., and is not appropriate for residentially-zoned property. At this level we see the establishment of built facilities such as storefronts, dispensaries, laboratories, and production facilities. In summary, Level 4 is considered the Medical Cannabis Commercial/Industrial Facility.

Level 4 Medical Cannabis Commercial/Industrial Facility may be divided into at least two separate uses. In the tables above you can see that two different uses have been identified and are named “Cannabis Distribution” and “Cannabis Processing/Production”. Further, notice that these two uses are comparable to existing uses “retail” and “light industry”, respectively, and may be zoned similarly. See below for the Land Use Regulatory Code definition of “retail” and “light industry”:

*Retail.* Establishments engaged in retail sales of goods, including, but not limited to, the retail sale of merchandise not specifically listed under another use classification. This classification includes, but is not limited to, department stores, clothing stores, furniture stores, pawn shop, pharmacies, and businesses retailing the following goods as examples: toys, hobby materials, food and beverages sales (including catering), hand-crafted items, jewelry, cameras, photographic supplies, electronic equipment, records, sporting goods, kitchen
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utensils, hardware, appliances, art, antiques, art supplies and services, baseball cards, coins, comics, paint and wallpaper, carpeting and floor covering, medical supplies, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

Industry, light. Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services, both within an enclosed building. This classification includes commercial bakeries, dry cleaning plants, lumber yards, retail storage, and businesses engaged in processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials, food processing, log yards, bulk storage, and raw materials storage.

13.06.400 Industrial Districts.

A. Land use requirements.

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2. District use table.

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Footnotes:
1. Up to ten qualified members may combine to support one “collective garden” (as defined by the State), pursuant to local and State regulations. A maximum network of six collective gardens may co-locate and/or operate on any one site. The number of collective gardens on any one site shall not increase until the existing collective garden(s) have the full allotment of ten individuals supporting the existing garden.
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Commercial District Use Comparison – Retail and Light Industry

13.06.400 Industrial Districts.

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<tr>
<td>Retail</td>
<td>P~</td>
<td>P~</td>
<td>P*</td>
<td>*Limited to 7,000 square feet of floor area, per development site, in the PMI District.</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>~Within the South Tacoma M/IC Overlay District, unless an accessory use, limited to 10,000 square feet of floor area per development site in the M-2 district and 15,000 square feet in the M-1 district.</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Outside of the South Tacoma M/IC Overlay District, limited to 65,000 square feet per use, unless approved with a conditional use permit. See Section 13.06.640.J.</td>
</tr>
<tr>
<td>Industry, light</td>
<td>P</td>
<td>P</td>
<td>P</td>
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Note:

Retail uses are limited in size in industrial zones contained within the M/IC Overlay District. The intent of this is to provide additional protection to existing industrial and manufacturing uses and preserve traditionally industrial property within the M/IC Overlay District for future appropriate use. Consideration of how Medical Cannabis Distribution might be further restricted in the M/IC Overlay District should be made. However, you can see in the tables above that the base limitation on the size of Medical Cannabis Distribution facilities already results in less floor area than retail uses are allowed.

Shown in the tables above you can see how Medical Cannabis Processing/Production can be zoned similarly to “light industry” and would be allowed in all industrial districts.

Again, these regulations are not proposed to apply to Cannabis Use, Levels 1-3, which are characterized as self use, one-on-one partnerships, and small collectives.