



The County of San Diego

Planning Commission Hearing Report

Date:	February 10, 2017	Case/File No.:	POD-16-001
Place:	County Conference Center 5520 Overland Avenue San Diego, CA 92123	Project:	Ordinance Amendments banning Medical and Non-Medical Marijuana Collective Facilities
Time:	9:00 a.m.	Location:	County-wide
Agenda Item:	#1	General Plan:	Various
Appeal Status:	Board of Supervisors is the final decision maker	Zoning:	Industrial zones
Applicant/Owner:	County of San Diego	Community:	All
Environmental:	Notice of Exemption	APNs:	N/A

A. EXECUTIVE SUMMARY

1. Requested Actions

This is a request for the Planning Commission to evaluate proposed amendments to the Zoning Ordinance related to Medical and Non-Medical Marijuana Facilities. On January 25, 2017 (1) the Board of Supervisors directed staff to return with Ordinance Amendments to prohibit and ban medical and non-medical marijuana facilities within the unincorporated county. Staff has prepared amendments to amend and repeal existing language in the Zoning Ordinance, adding language prohibiting medical and non-medical marijuana facilities, and updating the amortization requirements applicable to existing non-conforming medical marijuana collective facilities. These changes would result in a local ban on Medical and Non-Medical Marijuana Facilities, both for non-profit and for-profit, which is allowed under recently adopted state laws. These amendments do not preclude the private use of medical and non-medical marijuana as allowed by state law.

Planning & Development Services (PDS) recommends that the Planning Commission take the following actions:

- a. Find that the project, amending the Zoning Ordinance to ban Medical and Non-Medical Marijuana Facilities, complies with the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines.

- b. Recommend that the Board of Supervisors adopt the attached Form of Ordinance:

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE REPEALING MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS AND BANNING MEDICAL AND NON-MEDICAL MARIJUANA FACILITIES (Attachment A1).

B. PROJECT DESCRIPTION

The purpose of this staff report is to provide the Planning Commission with the information necessary to make recommendations to the Board of Supervisors regarding proposed Zoning Ordinance amendments banning Medical and Non-Medical Marijuana Facilities within the unincorporated county.

1. Background

On February 3, 2016, public speakers addressed the Board regarding their concerns about marijuana facilities. The Board referred the matter to the Chief Administrative Officer, with a request to return with potential options available for regulating Medical Marijuana Collective Facilities.

On March 16, 2016 (3), County staff presented several options to the Board further regulating Medical Marijuana Collective Facilities in the unincorporated county. Following public testimony and Board deliberations, the Board directed staff to return with additional options including options to increase buffer distances from sensitive land uses, a new 1000 foot buffer requirement from incorporated cities, and an option to require a Major Use Permit for the establishment of Medical Marijuana Collective Facilities.

Based on the March 2016 Board direction, staff returned to the Board on January 25, 2017 (1). At that meeting, staff presented several options for the Board's consideration including a Planning Commission recommended option. The Planning Commission option was an outcome of public input and discussions from at the Commission's November 4, 2016 public hearing. The Planning Commission recommended that medical marijuana dispensaries be limited to 4 per Supervisorial district, 2 per community planning area and required applicants obtain a Minor Use Permit prior to establishing a Medical Marijuana Collective Facility.

Following public testimony and deliberation, the Board directed staff to return with an Ordinance Amendment to ban Medical and Non-Medical Marijuana Facilities in the unincorporated County. This amendment would amend and repeal existing language in the Zoning Ordinance pertaining to Medical and Non-Medical Marijuana Facilities including the amortization provisions applicable to existing non-conforming Medical Marijuana Collective Facilities. The amortization requirement would compel the existing operating Medical Marijuana Collective Facilities to cease operations within 5-years of the effective date of the ban Ordinance. The Board's action would also amend the County Code Section pertaining to the licensing and operation of the Medical Marijuana Collective Facilities. However, the County Code amendments are not under the Planning Commission's purview.

Medical Marijuana Collective Facilities Under Existing Ordinance

Two Medical Marijuana Collective Facilities (Collectives) have legally opened since the adoption of the Ordinances in 2010. One facility is located near Gillespie Field in unincorporated El Cajon. The other facility is located in Ramona near the Ramona airport.

There are currently 10 open building permit applications for Medical Marijuana Collective Facilities. PDS issued building permits for five of the 10 open applications (two in Ramona, two in unincorporated El Cajon and one in Valley Center). The additional five of the 10 applications do not have issued building permits (two in Lakeside, and two in Ramona and one in Julian). Staff reviewed the five applications with issued building permits and determined that four of the applications have established vested rights to proceed with their medical marijuana facilities (See table below). The remaining applications were not considered vested.

TABLE 1: Medical Marijuana Facility Building Permit Application Status

	Site Location	Community	Status	Project Vested?
1	736 Montecito Way	Ramona	Operating	N/A
2	8157 Wing Ave.	El Cajon	Operating/Building Permit Issued for Facility Expansion for Cultivation	Yes
3	1210 Olive St.	Ramona	Building Permit Issued	Yes
4	618 Pine St.	Ramona	Building Permit Issued	Yes
5	8530 Nelson Way	Valley Center	Building Permit Issued	Yes
6	287 Vernon Way	El Cajon	Building Permit Issued	No
7	2471 Montecito Rd.	Ramona	Application Submitted	No
8	15939 Olde Hwy 80	Lakeside	Application Submitted	No
9	15945 Olde Hwy 80	Lakeside	Application Submitted	No
10	3578 Hwy 78	Julian	Application Submitted	No
11	2338 Montecito Rd.	Ramona	Application Submitted	No

C. ANALYSIS AND DISCUSSION

The project has been reviewed to ensure it conforms to all the relevant ordinances and guidelines, including, but not limited to, the San Diego County General Plan and CEQA Guidelines. A detailed discussion of the project analysis and consistency with applicable codes, policies, and ordinances follows.

1. Zoning Ordinance Amendments

Pursuant to Board direction, staff has prepared a Zoning Ordinance amendment that will ban and prohibit Medical and Non-Medical Marijuana Facilities within the unincorporated county. Amendments to the Zoning Ordinance include:

- a. Amend Definition of Non-Medical Marijuana Dispensary. The current definition of Non-Medical Marijuana Dispensary would be amended to state *Medical and Non-Medical Marijuana Facility* and restate that the definition does not apply to a single Qualified Patient

or Primary Caregiver growing medical marijuana. The definition provides a detailed description of activities that define both Medical and Non-Medical Facilities.

- b. Amend and Repeal Section 6935 Pertaining to Medical Marijuana Collective Facilities. Section 6935 establishes the locational criteria for the siting of Medical Marijuana Collective Facilities, amortization for nonconforming uses and other miscellaneous requirements. All language in this Section will be repealed except for the amortization provisions. The amortization paragraph will remain in the Zoning Ordinance until all nonconforming Medical Marijuana Collective Facilities cease operations.

Pursuant to the amortization provision, if the Board adopts the Zoning Ordinance Amendments, legally established non-conforming Collectives would need to cease their operations within 5-years of the effective date of the ban and may request one six month extension from the Director of PDS. The amortization time period allows a facility operator to recoup facility costs prior to ceasing operations. As the above table indicates, five Collectives are either operating or have obtained vested rights. The amortization provision would apply to the two open Collectives in unincorporated El Cajon and Ramona (Rows 1 and 2) and would allow Collectives (Rows 3, 4, 5) to finalize their building permits and obtain a Sheriff's Operating Certificate, which are also subject to amortization.

- c. Amend Section 6976 Pertaining to Non-Medical Marijuana Dispensary. This Section of the Zoning Ordinance currently prohibits Non-Medical Marijuana Dispensaries. This section would be changed consistent with the above definition, so as to prohibit both Medical and Non-Medical Marijuana Facilities and activities described in the definition thereby creating a local ban of all marijuana facilities within the unincorporated county to the maximum extent allowed by state law. This prohibition would apply throughout all use regulations.

2. California Environmental Quality Act (CEQA) Compliance

This action has no potential for resulting in physical change to the environment, directly or indirectly. This action would amend and repeal existing language in the Zoning Ordinance pertaining to Medical and Non-Medical Marijuana Facilities and update the amortization requirements applicable to existing non-conforming Medical Marijuana Collective Facilities. Therefore, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and the activity is not subject to the CEQA (Attachment B).

D. PUBLIC INPUT

Community Planning Groups, Community Sponsor Groups and stakeholders were informed of the Planning Commission's consideration of the matter as part of the public notice of the Planning Commission hearing.

E. RECOMMENDATIONS

- a. Find that the project, amending the Zoning Ordinance to ban Medical and Non-Medical Marijuana Facilities, complies with the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines.

- b. Recommend that the Board of Supervisors adopt the attached Form of Ordinance:

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE REPEALING MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS AND BANNING MEDICAL AND NON-MEDICAL MARIJUANA FACILITIES (Attachment A1).

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Report Approved By:
Mark Wardlaw, Director
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AUTHORIZED REPRESENTATIVE:



MARK WARDLAW, DIRECTOR

ATTACHMENTS:

- Attachment A1 – Zoning Ordinance Amendments-Clean
- Attachment A2 – Zoning Ordinance Amendments- Informational Copy
- Attachment B – Notice of Exemption
- Attachment C – January 25, 2017 Board of Supervisor Minute Order

**Attachment A1 – Form of Ordinance
Clean Version**

ORDINANCE NO. _____ (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE
REPEALING MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS AND
BANNING MEDICAL AND NON-MEDICAL MARIJUANA FACILITIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Legislative Findings and Intent

- (a) The Board of Supervisors finds and determines that the following amendments to the Zoning ordinance to amend the Medical and Non-Medical Marijuana Facility regulations are reasonable and necessary for public health, safety and welfare, and are consistent with the General Plan, and the intent of these amendments is to prohibit the establishment and operation of both Medical and Non-Medical Marijuana Facilities.
- (b) In May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc., et al.*, holding that cities and counties have the authority to ban medical marijuana land uses.
- (c) On October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"), effective January 1, 2016, which establishes a state licensing system for medical marijuana cultivation, manufacturing, delivery and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, or dispensing within their jurisdictions. Under the MCRSA, cities and counties may continue to ban these marijuana facilities and activities, in which case the state will not issue licenses within those jurisdictions.
- (d) On November 8, 2016, the state voters approved the Adult Use of Marijuana Act, also identified as Proposition 64 ("Prop 64"). Prop 64 legalized adult non-medical use of marijuana and established a state licensing scheme for non-medical marijuana facilities largely patterned on the MCRSA, and generally; (1) allows adults 21 years and older to possess up to one ounce of marijuana and cultivate up to six plants for personal use; (2) regulates and taxes the production, manufacture, and sale of marijuana for adult use; and (3) rewrites criminal penalties so as to reduce the most common marijuana felonies to misdemeanors and allow prior offenders to petition for reduced charges. Prop 64, similar to MCRSA, allows cities and counties to prohibit the establishment of non-medical facilities and licenses that are provided under Prop 64, providing for minimal personal use exceptions.

Section 2. Section 1110 of the San Diego County Zoning Ordinance definition is hereby amended to read as follows:

Marijuana Facility – Medical and Non-Medical: (a) Any store, office, business, building, property or other facility in or from which marijuana is sold, given, traded, supplied, bartered, consumed, raised, processed, stored, used, cultivated indoors or outdoors, possessed, or transported; (b) This definition shall not apply to cultivation of medical marijuana; (1) by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, and no exchanges of marijuana or reimbursements for marijuana occur; and, (2) by a Primary Care Giver where the amount of marijuana at no time exceeds 1.5 times the amount allowed for a single Primary Care Giver under Health & Safety Code section 11362.77, and no exchanges of marijuana or reimbursements for marijuana occur.

Section 3. Section 6935 of the San Diego County Zoning Ordinance is hereby amended and/or repealed to read as follows:

6935 MEDICAL MARIJUANA COLLECTIVE FACILITIES

Amortization of Nonconforming Medical Marijuana Collective Facilities. Notwithstanding Section 6852, a nonconforming Collective Facility which was lawfully established before April 14, 2017 shall cease operations no later than April 14, 2022. In order for a Collective Facility to be “lawfully” established it must have applied for and obtained a building permit and/or a certificate of occupancy and Sheriff’s Operating Certificate prior to commencing operations, or received County approval of a vested right to continue under previous regulations. The Collective Facility may apply for one six-month extension of this period. The Director may grant that extension upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering: (1) the term of any applicable lease for the premises and whether it may be modified or terminated; (2) the non-recoverable costs of any improvements that would only be of use to the Collective Facility; (3) the profits which have been received during the period from April 14, 2017 to April 14, 2022; and (4) the potential for other conforming uses to locate on the site.

Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

Section 3. Section 6976 of the San Diego County Zoning Ordinance is hereby amended to read as follows:

6976 PROHIBITION OF MARIJUANA FACILITIES – MEDICAL OR NON-MEDICAL

No person shall cause or permit the establishment, operation, enlargement or transfer of ownership of a facility of marijuana for medical or non-medical purposes, meeting the definition "Marijuana Facility – Medical and Non-Medical" in Section 1110. To the maximum extent allowed by state law this prohibition shall apply throughout all use regulations.

Section 4. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

**Attachment A2 – Form of Ordinance
Strike-out/Underline Version**

ORDINANCE NO. _____ (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE
REPEALING MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS AND
BANNING MEDICAL AND NON-MEDICAL MARIJUANA FACILITIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Legislative Findings and Intent

- (a) The Board of Supervisors finds and determines that the following amendments to the Zoning ordinance to amend the Medical and Non-Medical Marijuana Facility regulations are reasonable and necessary for public health, safety and welfare, and are consistent with the General Plan, and the intent of these amendments is to prohibit the establishment and operation of both Medical and Non-Medical Marijuana Facilities.
- (b) In May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc., et al.*, holding that cities and counties have the authority to ban medical marijuana land uses.
- (c) On October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"), effective January 1, 2016, which establishes a state licensing system for medical marijuana cultivation, manufacturing, delivery and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, or dispensing within their jurisdictions. Under the MCRSA, cities and counties may continue to ban these marijuana facilities and activities, in which case the state will not issue licenses within those jurisdictions.
- (d) On November 8, 2016, the state voters approved the Adult Use of Marijuana Act, also identified as Proposition 64 ("Prop 64"). Prop 64 legalized adult non-medical use of marijuana and established a state licensing scheme for non-medical marijuana facilities largely patterned on the MCRSA, and generally: (1) allows adults 21 years and older to possess up to one ounce of marijuana and cultivate up to six plants for personal use; (2) regulates and taxes the production, manufacture, and sale of marijuana for adult use; and (3) rewrites criminal penalties so as to reduce the most common marijuana felonies to misdemeanors and allow prior offenders to petition for reduced charges. Prop 64, similar to MCRSA, allows cities and counties to prohibit the establishment of non-medical facilities and licenses that are provided under Prop 64, providing for minimal personal use exceptions.

Section 2. Section 1110 of the San Diego County Zoning Ordinance definition is hereby amended to read as follows:

~~Marijuana Dispensary Facility – Medical and Non-Medical (Not Authorized Under State Law):~~
~~(a) Any store, office, business, building, property or other facility in or from which marijuana is sold, given, traded, supplied, bartered, consumed, raised, processed, stored, used, cultivated indoors or outdoors, possessed, or transported: by any person other than a person authorized to possess or cultivate marijuana for the personal medical purposes of the qualified patient, pursuant to the provisions of the Compassionate Use Act of 1996 (Health and Safety Code Sections 11362.5 and following) and the Medical Marijuana Program Act (Health and Safety Code Sections 11362.7-11362.83) Persons authorized to possess or cultivate marijuana for the personal medical purposes of the qualified patient include persons, who under state law, are: (i) qualified patients, (ii) primary caregivers of qualified patients, or (iii) such patients and caregivers who associate to collectively or cooperatively cultivate marijuana for medical purposes.~~
~~(b) This definition shall not apply to cultivation of medical marijuana: (1) by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, and no exchanges of marijuana or reimbursements for marijuana occur; and, (2) by a Primary Care Giver where the amount of marijuana at no time exceeds 1.5 times the amount allowed for a single Primary Care Giver under Health & Safety Code section 11362.77, and no exchanges of marijuana or reimbursements for marijuana occur.~~

Section 3. Section 6935 of the San Diego County Zoning Ordinance is hereby amended and/or repealed to read as follows:

6935 MEDICAL MARIJUANA COLLECTIVE FACILITIES

a. ~~Purpose and Intent. It is the purpose of this section to implement the Compassionate Use Act of 1996 (Health & Safety Code Section 11362.5) and the Medical Marijuana Program (Health & Safety Code Sections 11362.7 et seq.) by establishing reasonable and uniform zoning regulations of medical marijuana collective facilities which, in combination with licensing requirements contained in the San Diego County Code, will allow qualified patients and primary caregivers to collectively or cooperatively cultivate marijuana for medical purposes, and at the same time protect the public health, safety and welfare of communities, within the unincorporated area of San Diego County. It is the intent of this section that the regulations be utilized to preserve the character of neighborhoods and property values and to deter the spread of crime and prevent problems of blight, deterioration, and public safety which often accompany and are brought about by the operation of medical marijuana collective facilities.~~

b. ~~Definition. The terms “Qualified Patient”, “Primary Care Giver”, “Medical Marijuana Collective Facility” and “Collective Facility” shall have the meanings given in San Diego County Code Section 21.2502. However, this Zoning Ordinance shall not apply to the following: (1) a Collective Facility operated by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur; and, (2) a Collective Facility operated by a~~

~~Primary Care Giver where the amount of marijuana at no time exceeds the amount allowed for a single Primary Care Giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.~~

~~e. Use Regulations Where Collective Facilities Are Allowed. A Collective Facility may only be located upon property to which the M50, M52, M54, M56 or M58 Use Regulations apply, and within those areas, the separation restrictions of paragraph d below shall apply.~~

~~d. Separation Requirements For Collective Facilities. A Collective Facility shall not be allowed or permitted upon any parcel, any portion of which would be, at the time of establishment of the Collective Facility, within any of the following:~~

- ~~1. 1000 feet from a parcel to which a residential Use Regulation applies;~~
- ~~2. 1000 feet from a parcel containing a school, playground, park, church, recreation center, or youth center or~~
- ~~3. 1000 feet from a parcel on which another Collective Facility has been established.~~

~~The distance between a Collective Facility and the parcels containing the uses listed in paragraph d above shall be measured in a straight line, without regard for intervening structures, from any parcel line of the real property on which the Collective Facility is located, to the nearest point on a parcel line of the real property on which any portion of the facility, building, or structure in which the above listed use occurs or is located. The distance requirements specified above shall apply whether the use is in the unincorporated area or in an adjacent city.~~

~~e. Openness of Premises. A Collective Facility shall be designed and constructed such that no area or portion where marijuana is cultivated or stored is visible from the exterior; however, the entrance shall be fully visible from the public street or building frontage.~~

~~f. Operating License Required. Pursuant to San Diego County Code Section 21.2503, a Medical Marijuana Collective Facility Operating Compliance Certificate is required for the operation of a Collective Facility.~~

~~g. Premises Requirements.~~

- ~~1. Signage. Exterior signage shall conform to the requirements of Section 6250 et al.~~
- ~~2. Parking. A Collective Facility shall conform to the requirements of Section 6762 and shall be considered an "Office" occupancy type for purposes of that Section.~~
- ~~3. Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or~~

~~deterioration or substantial diminishment or impairment or property values within the immediate area.~~

h. Amortization of Nonconforming Uses Medical Marijuana Collective Facilities. Notwithstanding Section 6852, a nonconforming Collective Facility which was lawfully established before ~~August 5, 2009~~ April 14, 2017 shall cease operations no later than ~~August 5, 2013~~ April 14, 2022. In order for a Collective Facility to be “lawfully” established it must have applied for and obtained a building permit and/or a certificate of occupancy and Sheriff’s Operating Certificate prior to commencing operations, or received County approval of a vested right to continue under previous regulations. The Collective Facility may apply for one six-month extension of this period. The Director may grant that extension if upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering; ~~(1) the availability of alternative complying locations;~~ (12) the term of any applicable lease for the premises and whether it may be modified or terminated; (23) the non-recoverable costs of any improvements that would only be of use to the Collective Facility; (34) the profits which have been received during the period from April 14, 2017 to April 14, 2022; and ~~(45)~~ the potential for other conforming uses to locate on the site.

Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

Section 3. Section 6976 of the San Diego County Zoning Ordinance is hereby amended to read as follows:

6976 PROHIBITION OF MARIJUANA DISPENSARIES FACILITIES -- MEDICAL OR NON-MEDICAL (NOT AUTHORIZED UNDER STATE LAW)
No person shall cause or permit the establishment, operation, enlargement or transfer of ownership of a dispensary facility of marijuana for medical or non-medical purposes, meeting the definition “Marijuana Dispensary Facility – Medical and Non-Medical (Not Authorized Under State Law)” in Section 1110. To the maximum extent allowed by state law, ~~This~~ prohibition shall apply throughout all use regulations.

Section 4. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

Attachment C – Notice of Exemption

1 16 NOTICE OF EXEMPTION

TO: Recorder/County Clerk
Attn: James Scott
1600 Pacific Highway, M.S. A33
San Diego, CA 92101

FROM: County of San Diego
Planning & Development Services, M.S. O650
Attn: Project Planning Division Section Secretary

SUBJECT: **FILING OF NOTICE OF EXEMPTION IN COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 21108 OR 21152**

Project Name: Zoning Ordinance Amendments to ban Medical and Non-Medical Marijuana Facilities.

Project Location: The action will affect the entire unincorporated area of the County.

Project Applicant: County of San Diego

Project Description: The project consists of amendments to the County Code and Zoning Ordinance to prohibit and ban Medical and Non-Marijuana Facilities.

Agency Approving Project: County of San Diego

County Contact Person: Joe Farace Telephone Number: 858-694-3690

Date Form Completed: 1/26/17

This is to advise that the County of San Diego Board of Supervisors (County decision-making body) has approved the above described project on March 15, 2017/# (date/item #) and found the project to be exempt from the CEQA under the following criteria:

- Exempt status and applicable section of the CEQA ("C") and/or State CEQA Guidelines ("G"): (check only one)
 - Declared Emergency [C 21080(b)(3); G 15269(a)]
 - Emergency Project [C 21080(b)(4); G 15269(b)(c)]
 - Statutory Exemption. C Section:
 - Categorical Exemption. G Section:
 - G 15061(b)(3) - It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and the activity is not subject to the CEQA.
 - G 15182 - Residential Projects Pursuant to a Specific Plan
 - G 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning
 - Activity is exempt from the CEQA because it is not a project as defined in Section 15378.
- Mitigation measures were were not made a condition of the approval of the project.
- A Mitigation reporting or monitoring plan was was not adopted for this project.

Statement of reasons why project is exempt: This action is for the Board of Supervisors to consider Zoning Ordinance Amendments to repeal and amend these ordinances to ban medical and non-medical marijuana facilities. This action has no potential for resulting in physical change to the environment, directly or indirectly. This action would amend and repeal existing language pertaining to Medical and Non-Medical Marijuana Facilities and update the amortization provisions applicable to existing non-conforming Medical Marijuana Collective Facilities. Therefore, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and the activity is not subject to the CEQA.

The following is to be filled in only upon formal project approval by the appropriate County of San Diego decision-making body.

Signature: _____ Telephone: (858) 694-3690

Name (Print): Joseph Farace Title: Group Program Manager

This Notice of Exemption has been signed and filed by the County of San Diego.

This notice must be filed with the Recorder/County Clerk as soon as possible after project approval by the decision-making body. The Recorder/County Clerk must post this notice within 24 hours of receipt and for a period of not less than 30 days. At the termination of the posting period, the Recorder/County Clerk must return this notice to the Department address listed above along with evidence of the posting period. The originating Department must then retain the returned notice for a period of not less than twelve months. Reference: CEQA Guidelines Section 15062

**Attachment D – Board Minute Order
January 25, 2017**

COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
WEDNESDAY, JANUARY 25, 2017

MINUTE ORDER NO. 1

**SUBJECT: NOTICED PUBLIC HEARING:
ORDINANCE OPTIONS AMENDING THE SAN DIEGO COUNTY
ZONING ORDINANCE REGARDING MEDICAL MARIJUANA
COLLECTIVE FACILITY REGULATIONS, NON-MEDICAL
MARIJUANA DISPENSARY REGULATIONS, AND EXTENDING A
MORATORIUM ON THE ESTABLISHMENT OF MEDICAL
MARIJUANA COLLECTIVE FACILITIES; POD 16-001
(DISTRICTS: ALL)**

OVERVIEW:

This is a request for the Board to consider proposed amendments to the Zoning Ordinance related to Medical Marijuana Collective Facilities. On March 16, 2016 (3), the Board of Supervisors (Board) adopted an interim urgency ordinance enacting a moratorium on the establishment of medical marijuana collective facilities for a 45-day period. This moratorium was extended on April 27, 2016 (2), for an additional 10 months and 15 days. The current interim urgency ordinance will expire on March 16, 2017. At the April 27, 2016 hearing, the Board directed staff to return with several options to amend the Zoning Ordinance section(s) pertaining to Medical Marijuana Collective Facilities.

Based on the Board's direction, staff is proposing seven different options for consideration, which include (Attachment A1):

1. Require a separation buffer from a Residential Use rather than a Residential Zone.
2. Increase the sensitive land use buffer from 1,000 feet to ¼ mile.
3. Increase the sensitive land use buffer from 1,000 feet to ½ mile.
4. Increase the sensitive land use buffer from 1,000 feet to 1 mile.
5. Require a 1,000-foot separation buffer from incorporated cities.
6. Require a Major Use Permit for a Medical Marijuana Collective Facility.
7. Limit the number of Medical Marijuana Collective Facilities to four per supervisorial district.

On November 4, 2016, the Planning Commission reviewed these options and added an eighth option for the Board to consider. The Planning Commission's recommended Option would limit medical marijuana dispensaries (storefronts) to four per supervisorial district and two dispensaries per Community Planning Area. Cultivation-only facilities would continue to have to meet the regulatory requirements of the Zoning Ordinance. In addition this Option would require applicants obtain a Minor Use Permit, County Code amendments to increase the facility membership age from 18 to 21 and decrease the hours of operation.

An interim urgency ordinance extending the moratorium for a one-year period ending January 25, 2018, is also included for Board consideration.

Today's action includes minor amendments to a previously imposed ordinance to remove redundant and unnecessary language related to non-medical marijuana dispensaries.

FISCAL IMPACT:

N/A

BUSINESS IMPACT STATEMENT:

N/A

RECOMMENDATION:

PLANNING COMMISSION

The Planning Commission recommends that the Board take the following actions on January 25, 2017:

1. Find that the project, comprising of several options for the Board to consider, complies with the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines.
2. Introduce the attached modified Form of Ordinance (Attachment B1a):
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO AMEND THE MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS
3. Introduce the attached San Diego County Code amendment (Attachment B2a):
AN ORDINANCE AMENDING SECTION 21.2505 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO OPERATING REQUIREMENTS FOR MEDICAL MARIJUANA COLLECTIVE FACILITIES

If, on January 25, 2017, the Board takes actions recommended in Items 2 and 3, then, on February 15, 2017:

4. Adopt the attached Form of Ordinance (Attachment B1a):
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO AMEND THE MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS
5. Submit the Ordinance (Attachment B2a) for further Board consideration and adoption (second reading):
AN ORDINANCE AMENDING SECTION 21.2505 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO OPERATING REQUIREMENTS FOR MEDICAL MARIJUANA COLLECTIVE FACILITIES

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services (PDS) concurs with Recommendation 1 of the Planning Commission and recommends that the Board take the following actions on January 25, 2017:

1. Find that the proposed Ordinance extending the Moratorium is not a project as defined by CEQA, pursuant to Sections 15060(c)(3) and 15378 of the State CEQA Guidelines.
2. Find that the project, updating and clarifying existing regulations pertaining to non-medical marijuana, complies with CEQA and State and County CEQA Guidelines because the amendments can be found exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines.
3. Adopt the attached Form of Ordinance (Attachment C1):
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO AMEND AND CLARIFY NON-MEDICAL MARIJUANA DISPENSARY REGULATIONS
4. If the Board chooses, adopt an Ordinance Option, a combination of Ordinance Options or amended Ordinance Options from the attached Form of Ordinances (Attachment A1):
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO AMEND THE MEDICAL MARIJUANA COLLECTIVE FACILITY REGULATIONS
5. If the Board chooses, adopt the attached Form of Ordinance (Attachment D):
AN ORDINANCE EXTENDING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE FACILITIES AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY (4 VOTES)

ACTION:

ON MOTION of Supervisor Gaspar, seconded by Supervisor Horn, the Board closed the Hearing and directed the Chief Administrative Officer to return to the Board, with an Ordinance to place a ban on all medical and non-medical marijuana facilities, collectives, dispensaries, and cultivation within the unincorporated areas of San Diego County, including an amortization clause for those that have been determined to be vested or are legally operating, for a period of five years with the ability of one 6-month extension.

AYES: Jacob, Gaspar, Horn

NOES: Cox, Roberts

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the original entered in the Minutes of the Board of Supervisors.

DAVID HALL
Clerk of the Board of Supervisors



By 
Marvice E. Mazyck, Chief Deputy

