

CONSENT CALENDAR
March 20, 2007

TO: Honorable Mayor and Members of the City Council

FROM: Councilmembers Darryl Moore and Linda Maio

SUBJECT: Expand the Appropriate Zoning District(s) for Medical Marijuana Dispensaries

RECOMMENDATION:

That the City Council refer a zoning amendment to the Planning Commission which would allow non-profit, collective, medical services and dispensary facilities to locate in appropriate non-residential zoning districts where they currently are not permitted, recognizing the special site and operational needs of the use. The Planning Commission should also consider whether or not this important community service should be included in protected uses, as outlined by the zoning code.

BACKGROUND:

In November 1996 Berkeley voters demonstrated their overwhelmingly support for the medical use of marijuana when California Proposition 215, the Medical Use of Marijuana initiative, received over 85% of the vote. In order to actualize the voters' intent, patients must have safe and affordable access to medical marijuana.

Currently, medical marijuana dispensaries are limited to three and are only permissible in commercial or mixed use-residential zoning districts as they are characterized as retail uses. Characterizing them as such (retail) places these dispensaries on our retail corridors, adjacent to residential uses. Because of the nature of the use, concerns are raised about safety, parking, and traffic. If a dispensary has many members there can be a high volume of vehicle and pedestrian traffic. The need for on-site parking is particularly crucial for a medical marijuana dispensary due to the health conditions of many of its clients that may inhibit their mobility. Locating these dispensaries in close proximity to residential areas raises many problems both for the dispensary and the residents.

The significantly small number of residences in the M-district makes that district a likely candidate for such dispensaries. Also to be considered in the Planning Commission's discussion is the Zoning Officer's memorandum "Consideration of Medical Marijuana Uses" dated November 19th, 2004, which provides a list of potential standards and issues that should be used as a basis of consideration for zoning ordinance findings or standards.

FINANCIAL IMPLICATIONS: None.

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