

March Planning Co Mtg - MCC Synopsis- 6 Limit Medical Cannabis Cultivation Sites - K. Rice/C. Pappas

- Against Berkeley's core values/Reduces economic vitality
- 180,000 sq.ft. (aggregate) maximum should remain sole control factor
- Prepared by Medical Cannabis Commission (MCC) for March 15, 2017 Planning Commission (PC)

- 1. Only 3.5% of 4 Manufacturing Districts' industrial inventory used if allowable 180,000 sq.ft. are cultivated** (180,000 vs. 5,117,653 sq.ft.) PC 5/18/16 meeting agenda, attachment 18
- 2. 0.7% of Land Area for the Manufacturing Districts - used if 180,000 sq.ft. are cultivated** (4.4 % of M / 2% of M + MM / 1% of M+ MM + MU-LI / .7% of M+MM+MU-LI+MUR) Berkeley 12,162 acres, 180k=4.1 acres, M=94 acres, MM=79 acres, MU-LI=300 acres, MUR=120 acres. Sources: Berkeley Historical Soc, West Berk Plan
- 3. 85% parcels - M + MM + MU-LI Districts - under 5,000 sq.ft.** (367 under 5k sq.ft./432 total parcels)
 - M: 72 parcels - 61 under 5k sq.ft. -MM: 22 parcels -10 under 5k sq.ft. - MU-LI: 338 parcels - 296 under 5k sq.ft. Source: 5/18/16 PC meeting agenda, attachment 4, Item 10
- 4. Limit on location number**
 - **reduces economic opportunity for cultivators & for \$1M in new annual taxes** (tax analysis previously provided by the MCC to the PC)
 - \$5,500 taxes annually, every 1,000 sq.ft. cultivated.
 - \$1,000,000 average (low \$658k to high \$1.3k) annual taxes if all 180k sq.ft. cultivated.
 - But only \$165,000 annual taxes if 6 sites cultivated each 5k sq.ft.
 - lost potential tax revenue to City would be \$835,000 if 6 allowed locations total only 30,000 sq.ft.
- 5. Besides city tax revenues & employment, smaller, quality cottage-industry growers** were important consideration, e.g. building shared by more than 1 applicant, & more than 6 permits.
- 6. Encourage small businesses (under 5,000 sq ft area).** These businesses would have own licensing category under State law & may be better suited for Berkeley given lease rates & energy costs associated with indoor growing operations.
- 7. Cannabis Cultivation Program (MCCP – BMCR fmr) – now Cal Cannabis Cultivation Licensing (Cal Cannabis abrv.) - preference local ordinances & participation prior Jan 1, 2018.** Existing local licenses fast tracked for state license - possible tax revenue delay avoided
- 8. Some cannabis leases will not take new space - many underground Berkeley cultivators will seek City cultivation licenses, legitimacy & not take "new space"**
 - i.e. not all vacancies will be leased for cannabis
 - Some landlords will remain reluctant to rent to cannabis businesses
- 9. Surrounding areas are expanding medical cannabis operations** -Alameda County, Emeryville, Oakland, Richmond, San Francisco, San Leandro, Santa Rosa
- 10. Business opportunity/employment**
 - **African Americans & Latinos** disproportionately hurt by war on drugs
 - need sufficient space opportunities to establish cultivation businesses
 - A black person is 3.73 times more likely arrested for marijuana possession than white person, even though blacks & whites use marijuana at similar rates.
 - 1% (based on 150 interviews by Buzzfeed) of cannabis club owners nationwide are black.
 - Start-up business costs
 - high & standard small business loans not an option. Sources: 2013 ACLU study "The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests;" Amanda Chicago Lewis, "How Black People Are Being Shut Out of America's Weed Boom," Buzzfeed, 3/20/16; Nastia Voynovskaya, "Locked Out Of Legal Weed," East Bay Express, 4/5/16.
- 11. Prolonged cultivation subcommittee discussions, beginning in 2014.** Listening to cultivators, crunching tax numbers after determining production output. Crafting ordinance/licensing regulations based on relevance to dispensary regulations. In general, **careful & thorough subcommittee work, reviewed in detail & approved by full MCC.**
- 12. Numeric limits not needed -**
 - **existing Manufacturing uses are already protected M Districts**

13. Probable existing M-zone space availability lacking, based on early subcommittee/WEBAIC on-site review. Therefore, another solution in search of a problem – only in Berkeley.

14. Prolonged BCC delay for mc cultivation ordinance/licensing voter-mandated in 2010

MeasureT, crafted by Bates, Capitelli, Moore -

15. Colorado / Berkeley different; CO cities use cannabis taxes - aid the homeless

- Denver & Colorado Springs – have no aggregate sq.ft. limit on cultivation (neither do Oakland, Richmond, San Francisco); do not border state with legalized recreational cannabis; little industrial space outside these cities

- In 2016, Colorado collected more than \$150M in taxes from cannabis, \$50M earmarked for school construction projects. Cities directed local cannabis taxes - problems range from potholes to homelessness.

Sources: Tom Huddleston, Jr., “Colorado Topped \$1B in Legal Marijuana Sales 2016”; Fortune, 12/13/16;

Carlos Illescas, “Marijuana sales tax revenue huge boon for Colorado cities”, Denver Post, 10/2/16

- Only 3% of manufacturing district inventory - possible cultivation use - because 180,000 aggregate sq.ft. maximum

- “opening of marijuana industry here [California] to corporate dollars has caused mad scramble, out-of-state investors, cannabis retailers & financially struggling municipalities all racing to grab a piece of what is effectively a new industry in California, large-scale marijuana farming.” Ian Lovett, “Marijuana Profit is New California Gold Rush,” NYT, 4/12/16.

- “framework is moving from war on drugs to tricky issues of regulation, taxation & who is going to control major new industry.” Robert MacCoun, law professor & drug policy expert, Stanford University - quoted by Jill Tucker and Peter Fimrite, “Pot industry, Oakland score as feds back off,” San Francisco Chronicle, 5/4/16.

16. Cannabis-based medicines gain worldwide, national, & regional certifications

- Sativex to treat spasticity from multiple sclerosis approved 28 countries, not USA.

- FDA granted Orphan Drug Designation for cannabidiol to treat Tuberous Sclerosis Complex.

- Successful clinical trial at New York University for Epidiolex to reduce epileptic seizures.

- Two market drugs, dronabinol & nabilone, synthetic chemicals similar or identical to delta-9 THC.

- Kosher approval to New York company & in final stages for Illinois company.

Sources: Global Newswire, “GW Pharmaceutical Receives Orphan Drug Designation from FDA for Cannabidiol for Treatment of Tuberous Sclerosis Complex,” NYT, 5/7/16; Andrew Pollack, “Marijuana-Based Drug Found to Reduce Epileptic Seizures,” NYT 3/14/16; Rachel Abrams, “The Rabbis Are Here to Inspect the (Legal) Weed,” NYT, 5/6/16.

17. 90% of states allow some access to medical cannabis products

- 28 states, the District of Columbia, Guam, and Puerto Rico allow comprehensive medical cannabis programs.

- 17 states allow “low THC, high cannabidiol (CBD)” products for medical reasons.

- 8 states allow legal adult recreational use of cannabis Source: National Conference of State Legislators website, 2/20/17

18. “Pot not major threat, cops say,” SF Chronicle, 11/6/15.

- DEA’s “2015 National Drug Threat Assessment Summary” ranked marijuana at the bottom of its threat list, named by only 6% of over 1,000 responding law enforcement agencies.

- Colorado & Washington, state surveys - no significant changes in number of teenagers who try marijuana.

Source: Christopher Ingraham, “Here’s how legal pot changed Colorado and Washington”, WP, 10/13/16

- Berkeley Safe Neighborhoods Committee (BSNC) 7/20/15 discussed problem of underage and young adult binge-drinking & subsequent overwhelming of City’s capacity to respond. City officials stated unequivocally - problem is alcohol, not marijuana or other obvious drugs (observed by medical cannabis commissioner attending meeting as private citizen).

- A big thing marijuana opponents warned you about is definitely not happening By Christopher Ingraham March 21 – Washington Post

A state-run survey of 37,000 middle and high school students in Washington state finds that marijuana legalization there has had no effect on youngsters' propensity to use the drug.

The Washington State Healthy Youth Survey found that the 2016 rate of marijuana use was basically unchanged since 2012, when the state voted to legalize marijuana for recreational use. In the survey, researchers used the measure of “monthly use,” asking students across all grade levels whether they’d used the drug within the past month.

The survey's numbers show that neither the vote for legalization nor the opening of pot shops in 2014 have had any measurable effect on the rate of marijuana use among teenagers in the state.

https://www.washingtonpost.com/news/wonk/wp/2017/03/21/a-big-thing-marijuana-opponents-warned-you-about-is-definitely-not-happening/?utm_term=.432200692c4a

Berkeley Medical Cannabis Commission Vice Chairman's Updates – March/April

Los Angeles Sheriff Thinks Feds May Target Legal Cannabis. ASSOCIATED PRESS, March 7, 2017. The leader of the nation's largest sheriff's department expects federal drug agents will attempt to step up marijuana enforcement as California moves forward with legalization. But he believes there isn't the manpower to conduct widespread raids on growers and businesses selling cannabis.

<https://www.leafly.com/news/politics/los-angeles-sheriff-thinks-feds-may-target-legal-cannabis>

Sessions Admits He Can't Arrest Everyone For Marijuana. Tom Angell for MassRoots.com, March 09, 2017. U.S. Attorney General Jeff Sessions is remaining coy about the Trump administration's approach to marijuana, but he admitted in a new interview that the Department of Justice just doesn't have enough resources to go after every cannabis consumer, cultivator and retailer in legal states even if it wanted to.

<https://www.massroots.com/news/sessions-admits-he-cant-arrest-everyone-for-marijuana>

L.A. voters back Measure M, overhauling city's cannabis industry. Cannifornian staff for theCannifornian.com, Mar 7, 2017. Pot will be regulated in the city of Los Angeles. Measure M won a decisive victory in the primary election Tuesday night, with nearly 80 percent of voters approving the initiative. At stake was regulation of the pot industry in L.A., where there are perhaps 1,000 retail shops, with untold numbers of cultivators, delivery services, testing labs, edibles bakers and concentrate makers operating in the city. Supporters of the measure touted it as groundbreaking. "Los Angeles is leading the country and world in responsible and inclusive approaches to legalization," said Los Angeles City Council President Herb Wesson in a joint statement from the Southern California Coalition, a group representing all facets of the cannabis industry. "The passing of Proposition M is a great victory for common sense, law enforcement and all Angelenos. We gave communities a voice in the process, and their voices will be continued to be heard. This measure is what responsible marijuana laws should look like, and we couldn't be prouder of our city." http://www.thecannifornian.com/cannabis-news/southern-california/l-voters-back-measure-m-overhauling-citys-cannabis-industry/?utm_medium=Social&utm_campaign=Echobox&utm_source=Twitter&utm_term=Autofeed#link_time=1488952767

Sonoma County voters back cannabis business tax. GUY KOVNER for THE PRESS DEMOCRAT, March 7, 2017. Sonoma County voters overwhelmingly approved a proposed cannabis business tax Tuesday by nearly 3-to-1 on a measure that had no push by supporters and opposition from local marijuana growers. With ballots from all 358 precincts counted, Measure A — placed on the special election ballot by the Board of Supervisors — had 72.4 percent approval against 27.6 percent opposed. Voters throughout the county were asked to approve a tax of up to 10 percent on the revenue of all commercial cannabis growers and related businesses, including dispensaries and manufacturers, located outside the county's nine cities.

<http://www.pressdemocrat.com/news/local/6747269-181/early-returns-on-sonoma-county?artslide=0>

Jean Quan's weed shop gets chilly reception in Sunset. Matier & Ross -SF Chron, March 5, 2017. Former Oakland Mayor Jean Quan & her physician husband, Dr. Floyd Huen, are turning their talents from politics to pot — and not with the greatest of results. The couple partners in medical marijuana dispensary looking to be licensed in San Francisco's heavily Asian American Outer Sunset. If license approved, dispensary at 2505 Noriega St. would be latest branch of Apothecarium, high-end medical marijuana outfit founded six years ago in the Castro. The club's owners also operate in Las Vegas & have approvals for new branches in the Marina neighborhood and in downtown Berkeley. Huen has a practice as a gerontologist but told us he has been moonlighting as a medical adviser to the Apothecarium for several months. Why aren't setting up in hometown of Oakland, where both Quan & Huen politically active for years? "We didn't want there to be the appearance of a conflict of interest." Eliot Dobris, Apothecarium spokesman. <http://www.sfchronicle.com/bayarea/matier-ross/article/Jean-Quan-s-weed-shop-gets-chilly-reception-in-10976486.php>

San Diego police go after drugged drivers with new mouth swab test. Kristina Davis

SanDiegoUnionTribune.com, **March 16, 2017**. San Diego police have a new way to confirm the presence of marijuana and other drugs in impaired drivers — a mouth-swab device that is already being used by police departments in more than a dozen states and is expected to become more popular with the legalization of marijuana. It is the first technology of its kind to be used in San Diego County. The two Dräger DrugTest 5000 machines, which cost about \$6,000 each, were donated by the San Diego Police Foundation last week. They are expected to debut Friday night at the St. Patrick's Day DUI checkpoint downtown. The machine, about the size of a mini bookshelf stereo system, tests for the presence of seven drugs — marijuana, cocaine, opiates, methamphetamine, amphetamine, methadone and benzodiazepines. The device does not read the level of intoxication; drivers would have to take a blood test for that information.

<http://www.sandiegouniontribune.com/topic/crime-law-justice/law-enforcement/san-diego-police-department-ORGOVV00029-topic.html>

California business groups take on Teamsters in pot battle in Legislature. TARYN LUNA, **MARCH 20, 2017**.

Some of the state's leading business associations are taking sides against the powerful Teamsters union in a fight going down in the California Legislature over pot distribution. As part of the budget package, legislators are crafting a trailer bill that would merge existing medical marijuana laws with the voter-approved recreational pot measure. Their goal is to reconcile differences between the two laws and establish a single regulatory framework governing the new industry. The state is acting on a short timeline to begin distributing licenses to marijuana businesses on Jan 1, 2018. Business groups, unions and others with a hand in the industry want to shape the laws. The Teamsters in particular have been advocating for a mandatory independent distribution model that would force growers and manufacturers to pay a third-party distributor to transport products to retail market, similar to the alcohol industry.

New opposition to the independent distribution model emerged last week from the California Manufacturers and Technology Association, California Retailers Association, California Restaurant Association, California Business Properties Association and National Federation of Independent Business. The groups, as well as the California Cannabis Industry Association and the marijuana investment fund Truth Enterprises, sent a joint letter to legislative leaders and Gov. Jerry Brown outlining policy recommendations, including a request to eliminate forced independent distribution. "Our experience with alcohol is that the distributors have too much power," said Bill Dombrowski, president of the California Retailers Association. "They control the flow of the merchandise. They control pricing to some extent. We want to point this out and make sure that people understand this is not a perfect model." Distributors like the approach because it gives them a mandatory cut. Some lawmakers want distributors also to transport the products to testing facilities, which they believe will ensure safety compliance. The Teamsters, local governments, police chiefs and distribution companies have banded together to form a coalition in support of the distribution model and other issues. At urging of stakeholders, legislators wrote the mandatory independent distribution model into medical cannabis laws passed in 2015. California Growers Association previously indicated support for mandatory independent distribution model but was officially neutral, announced last week that it supported voluntary distribution for cultivators and manufacturers, said Hezekiah Allen, executive director. The business groups have joined United Food & Commercial Workers, California Cannabis Industry Association & marijuana manufacturers. Want to uphold free market structure of Proposition 64, marijuana legalization measure, by allowing growers to distribute products themselves.

<http://www.sacbee.com/news/politics-government/capitol-alert/article139743428.html>

California's Great Cannabis Unbanning. CHRIS ROBERTS **March 16, 2017.** By every estimate, California produces and consumes significantly more marijuana than any other state in America. But in much of the state, the multibillion-dollar industry still behaves as an underground enterprise, operating as if it were still illegal—because, for now at least, it still is. While the right of medical cannabis patients and adults 21 and over to possess and grow cannabis is now enshrined in state law, cities and counties wield retain significant close power control to regulate over how marijuana businesses are regulated locally. It's authority they haven't been shy to use: So far, 17 counties—about a third of the state—have banned or severely restricted either commercial cannabis cultivation, retail sales, or both, according to data recently compiled by the California Cannabis Industry Association. Bans are also in effect in 204 cities, or 42 percent of California's incorporated communities. In a very few extreme cases, some cities have gone as far as to outlaw or otherwise curtail *all* marijuana growing, including the six plants all adults are supposed to be allowed to grow at home for personal use under Proposition 64, the state's successful legalization initiative. But with commercial adult-use sales set to begin as early as Jan. 1, this trend toward outlawing cannabis is now reversing itself—quickly.

Early last year, the League of California Cities, a local government association, encouraged its members to ban cultivation outright. Many small communities, unsure of what to do, took what seemed like sage advice and banned.

The league has since updated its views, acknowledging a range of workable approaches.

"It's not bans anymore," said Nate Bradley, policy director for the California Cannabis Industry Association. "Now they're saying, 'How can we make this work? Write us an ordinance that works.'" The best explanation for this phenomenon is the simplest and most predictable: money.

<https://www.leafly.com/news/politics/californias-great-cannabis-unbanning>

Sessions Says Obama Marijuana Memo Is 'Valid'. Tom Angell, **March 15, 2017.**

U.S. Attorney General Jeff Sessions is indicating that he might keep Obama-era marijuana enforcement guidelines in place, perhaps with some modifications.

"The Cole Memorandum set up some policies under President Obama's Department of Justice about how cases should be selected in those states and what would be appropriate for federal prosecution, much of which I think is valid," he said in a question-and-answer session with reporters on Wednesday following a speech in Richmond, Virginia. That memo, adopted in 2013, lays out guidelines for how states can avoid federal interference with their marijuana laws. Sessions added that he *"may have some different ideas myself in addition to that"* but indicated that the federal government would not be able to enforce its remaining marijuana prohibition laws across the board in states with legalization. *"Essentially we're not able to go into a state and pick up the work that the police and sheriffs have been doing for decades,"* he said. The attorney general also addressed medical cannabis, suggesting that it *"has been hyped, maybe too much."*

<https://www.massroots.com/news/sessions-says-obama-marijuana-memo-is-valid>

Composters find booming new market in pesticide-free pot farms. Stephen Scauzillo, Southern California News Group Mar 12, 2017. An estimated 50,000 farms — mostly Northern California — growing medical cannabis, sold to customers suffering from glaucoma to cancer to anxiety. With Proposition 64, Ritchie & partner, Colum Riley, 43, hope to sell high-grade, cow manure-based compost to growers in recreational market as well. National compost conference January, Bonaventure Hotel, Los Angeles, the partners advised about 300 growers, composters & farmers to jump into \$7.2 billion marijuana business experts predict will reach \$22 billion nationwide by 2020. Compost companies can make a killing by selling to growers who want to produce a "cleaner" product free of pesticides. "in the compost industry, you need to be actively lobbying for outdoor organic cannabis cultivation. That's market for composting," Compost sellers want market of "organic" marijuana, much like vegetables grown without pesticides & meat from cows raised without hormones.

<http://www.thecannifornian.com/cannabis-business/composters-find-booming-new-market-pesticide-free-pot-farms/>

A big thing marijuana opponents warned you about is definitely not happening. Christopher Ingraham, Washington Post **March 21**. A state-run survey of 37,000 middle and high school students in Washington state finds that marijuana legalization there has had no effect on youngsters' propensity to use the drug. The Washington State Healthy Youth Survey found that the 2016 rate of marijuana use was basically unchanged since 2012, when the state voted to legalize marijuana for recreational use. In the survey, researchers used the measure of “monthly use,” asking students across all grade levels whether they'd used the drug within the past month. The survey's numbers show that neither the vote for legalization nor the opening of pot shops in 2014 have had any measurable effect on the rate of marijuana use among teenagers in the state.

https://www.washingtonpost.com/news/wonk/wp/2017/03/21/a-big-thing-marijuana-opponents-warned-you-about-is-definitely-not-happening/?utm_term=.5068140d614a

Marijuana News Roundup: Feds Sentenced 3,500 to Prison Last Year for Pot-Related Offenses.

Paul Ausick **March 26, 2017**. In a report issued earlier this month, the U.S. Sentencing Commission, an independent agency of the judicial branch of the federal government established in 1984 as a response to the wide disparity in federal sentencing, reported that nearly 20,000 Americans were sentenced under federal guidelines related to drug offenses in fiscal year 2016. Of that total, 3,534 were sentenced in cases related to marijuana. Of the total number of marijuana-related sentences, 96% — 3,398 — were related to trafficking charges, and 122 (3.5%) were related to simple possession. In total drug-related cases, marijuana ranks third behind methamphetamine (6,626, of which 6,567 were trafficking cases) and powder cocaine (3,891, of which 3,642 were trafficking cases). In all, 19,231 trafficking cases resulted in a median sentence of 48 months and a mean of 66 months. For all federal sentences (e.g., murder, kidnapping, child pornography) last year the median sentence was 21 months and the mean was 44 months. The median sentence length for a marijuana-related conviction was 18 months, compared with a median of 70 months for a meth-related conviction and 65 months for a crack cocaine conviction. By race, 77% of marijuana offenders were Hispanic, 11.9% were white, and 8.3% were black. Report available, Sentencing Commission website, & 3 yrs reports.

<http://247wallst.com/consumer-products/2017/03/26/marijuana-news-roundup-feds-sentenced-3500-to-prison-last-year-for-pot-related-offenses/>

A pharma company that spent \$500,000 trying to keep pot illegal just got DEA approval for synthetic marijuana.

Christopher Ingraham, WP, **March 24**. Insys Therapeutics, a pharmaceutical company, a chief financial backer of marijuana legalization opposition in Arizona last year, received preliminary approval from DEA this week for Syndros, synthetic marijuana drug. Insys gave \$500k last summer to Arizonans for Responsible Drug Policy, group opposing marijuana legalization in Arizona. Donation - 10% money raised by group in successful campaign against legalization. Insys only pharmaceutical company known giving money to oppose legalization, according to Washington Post. Syndros synthetic formulation of THC, main psychoactive component in cannabis. Approved by FDA last summer to treat nausea, vomiting & weight loss, cancer & AIDS patients. DEA approval places Syndros & generic formulations in Schedule II, Controlled Substances Act, indicating “high potential for abuse.” Other Schedule II drugs, cocaine, morphine, prescription painkillers. Whole-plant marijuana Schedule I of CSA, even stricter category designates lack of medically accepted use, high abuse potential. Insys active marijuana policy several years. 2011 wrote DEA, opposing loosening restrictions, naturally derived THC, citing “*abuse potential - need to cultivate substantial crops of marijuana in US.*” Last year petitioned DEA loosen restrictions on synthetic CBD, another compound in cannabis plant. Company developing CBD-based drug - pediatric epilepsy.

https://www.washingtonpost.com/news/wonk/wp/2017/03/24/a-pharma-company-that-spent-500000-trying-to-keep-pot-illegal-just-got-dea-approval-for-synthetic-marijuana/?utm_term=.ea0c2b7d1603

To: Berkeley Medical Cannabis Commission
From: Solidarity Nursery Cooperative
Re: Berkeley Medical Cannabis Permitting

April 5, 2017

We would like to thank the Commission and staff for all of the excellent work they have done so far in bringing Berkeley's cannabis regulations in line with state law.

We want to reiterate our support for the pending commercial cultivation regulations, as well as delivery only dispensaries. We also urge the Commission to introduce language defining retail nurseries with all due speed. Nurseries would provide citizens with the materials they need for personal cultivation including seeds, clones and planting mediums and containers. Nurseries could also provide education for those wishing to learn more about cultivation and can participate in breeding programs and the preservation of land race strains.

Statewide regulations require seed to sale tracking and nurseries are a foundational piece of this system. The goal of bringing the chain of cannabis commerce into the light of regulation will be bolstered by the recognition and regulation of cannabis nurseries.

In solidarity,

Matthew Witemyre, Natalie Koski-Karell, Rick Kelley
Founders, Solidarity Nursery Cooperative

Amanda Reiman, PhD
Secretary, International Cannabis Farmers Association