

REPORT TO THE PLANNING COMMISSION

ITEM NO.	5a
MEETING DATE	11-10-09
APPROVED BY	
STAFF AUTHOR	<i>Rent Manuel</i>
PLANNING MANAGER	

DATE: November 2, 2009

CODE: M-020

FROM: Development Services Department

SUBJECT: Cultivation of Medical Marijuana for Personal Use

RECOMMENDATION

It is recommended that the Planning Commission review and consider the draft provisions for medical marijuana cultivation and provide direction on provisions to be contained in a draft ordinance addressing this and related matters. Staff will return no later than the December 8 Commission meeting with a draft ordinance for consideration and recommendation to the City Council.

BACKGROUND

In 1996, the voters of the State of California approved Proposition 215, entitled the Compassionate Use Act of 1996, codified as Health and Safety Code Section 11362.5, *et seq.*, which created a limited exception from state criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes, and who obtain and use medical marijuana under limited, specified circumstances.

The California state legislature has adopted Health and Safety Code Section 11362.7, *et seq.*, Medical Marijuana Program (MMP), which clarifies the scope of the Compassionate Use Act and allows cities and counties to adopt and enforce rules and regulations consistent therewith (Health and Safety Code 11362.83). Also known as Senate Bill 420, MMP was signed into law in October 2003 and took effect on January 1, 2004. It imposed statewide *guidelines* outlining how much medicinal marijuana patients may grow and possess. Under the guidelines, qualified patients and/or their primary caregivers may possess up to 8 ounces of dried marijuana and/or 6 mature (or 12 immature) marijuana plants. However, the MMP allows patients to possess larger amounts of marijuana when such quantities are recommended by a physician. The legislation also allows counties and municipalities to approve and/or maintain local ordinances permitting patients to possess larger quantities of medicinal marijuana than allowed under the state guidelines.

At its meeting of October 20, 2009, the Redding City Council considered, and offered for first reading, an ordinance to establish a permitting process and regulations governing medical marijuana cooperatives and collectives (dispensaries) that want to operate in Redding by adding a new chapter to the Redding Municipal Code (Chapter 6.12). The Council also adopted a 45-day moratorium on

the establishment of new dispensaries to allow time to consider related zoning matters, including appropriate zoning districts for dispensaries and standards to address cultivation of marijuana for medical purposes. The moratorium on establishment of new dispensaries will remain in effect until December 4, 2009, unless extended by the Council.

At the special Council meeting of October 26, 2009, the second reading of the ordinance fell short of approval on a 2-2 vote. The matter will be brought back for further discussion when all members of the City Council are present, which is expected to be at the November 17, Council meeting. A copy of the proposed Chapter 6.12, the Council staff report regarding the request for Commission review of zoning issues, as well as additional background materials, was provided to the Commission on October 30, 2009. These materials are also available for public review at the Permit Center counter in City Hall.

Council Request

At its October 20, 2009, meeting the City Council requested that the Planning Commission develop an ordinance for Council's consideration that may:

1. Amend the Zoning Code as necessary to add use definitions pertaining to medical marijuana dispensaries.
2. Establish the appropriate zoning districts where these uses can be established.
3. Regulate the cultivation of medical marijuana for personal use. The Council did not provide any specific direction to the Commission regarding cultivation provisions.

Zoning standards *could* also address larger-scale cultivation and processing within appropriate zoning districts that would supply products to one or more dispensaries. However, given that the provisions of Chapter 6.12 prohibit the cultivation of marijuana within dispensaries, staff feels it is not necessary to address this particular issue at this time.

The following addresses those topical areas that the Council has asked the Commission to address:

DEFINITIONS

The definitions for "Medical Marijuana Cooperative or Collective," "Qualified Patient," and "Primary Caregiver" would be the same as proposed in Chapter 6.12.

APPROPRIATE ZONING DISTRICTS

The substantive question is whether marijuana dispensaries should be treated as a use similar to a pharmacy or whether special characteristics of the use dictate different criteria. Since the City has no existing prohibition on such facilities, they are treated like other medical uses. As such, they have been allowed by right in all nonresidential and nonindustrial districts where similar uses are allowed. This includes the following zoning districts:

- ▶ "LO" Limited Office District
- ▶ "GO" General Office District
- ▶ "NC" Neighborhood Commercial District
- ▶ "SC" Shopping Center District
- ▶ "GC" General Commercial District
- ▶ "GC-V/R" General Commercial, Visitor/Retail District
- ▶ "RC" Regional Commercial District
- ▶ "HC" Heavy Commercial District
- ▶ Downtown Specific Plan districts, including the Central Business District (CBD), Uptown Business District (UBD), and Southern Gateway District (SGD)

The proposed Chapter 6.12, includes provisions prohibiting new dispensaries within 300 feet of a residential district and 1,000 feet of a school, day-care center, park, or similar activity center which would attract children. These restrictions provide a starting point from which to determine those zoning districts where dispensaries should be excluded as a function of zoning. For instance, the "LO," "NC," and "SC" Districts are always located adjacent, or in very close proximity, to residential districts. The provisions of Chapter 6.12 would preclude establishing dispensaries in those districts and it would serve no purpose for the code to suggest that they are allowed therein.

The question before the Commission is whether there are other districts where these uses should be prohibited. For instance, the Commission could consider whether dispensaries should be excluded in the City's main visitor-serving corridors represented by the "GC-V/R" District and/or within Downtown's "CBD" because these areas are of a limited scale or have specific purposes which may not be compatible with the activities associated with medical marijuana dispensaries.

To provide a perspective, the "GC-V/R" zoned Hilltop Drive corridor between East Cypress Avenue and State Route 44 is approximately 4,000 feet in length. Depending on dispensary location, the corridor could accommodate between two and four dispensaries under the proposed Chapter 6.12 regulations, which require a 1,000-foot separation between facilities. Similarly Downtown's "CBD" District extends for approximately 2,000 feet from north to south, suggesting that between one and two dispensaries can be accommodated, again, depending on dispensary location. Given the limitations and permitting requirements proposed by Chapter 6.12, further limiting the commercial zoning districts that allow such use may not be a concern.

The Commission should provide input to staff on which commercial or office zoning districts, if any, should prohibit dispensaries. This input can be based on your understanding of the General Plan land use goals and policies and any public input you receive at the meeting. It is staff's intent to exclude dispensaries from the "LO," "NC," and "SC" Districts unless otherwise directed by the Commission.

CULTIVATING MEDICAL MARIJUANA

The cultivation of medical marijuana in residential areas has led some communities to enact local zoning regulations to address the various issues related to these activities. These include complaints regarding strong plant odors; concerns regarding security related to theft, burglary, and/or robbery

as the result of marijuana cultivation; and building safety related to indoor cultivation. The City occasionally receives complaints regarding plant odors, and the Police Department has responded to a substantial number of complaints associated with cultivation, including the theft of plants. Police Chief Hansen indicates that marijuana cultivation has been identified on approximately 200 individual properties in and around Redding in the recent past. In all cases, such cultivation is only permissible where the resident has a legitimate purpose for growing pursuant to the Compassionate Use Act.

To address cultivation issues, the City of Lakeport adopted an ordinance in 2007 banning the growth of medical marijuana inside the city limits, citing the plant's strong smell and concerns about potential crimes. The City Attorney has opined that a complete ban may not be legal, since the Act explicitly provides for cultivation where the grower is acting in accordance with the Act.

More recently, the City of Arcata adopted a local ordinance placing limits on where and how residents may grow marijuana for personal medicinal use, citing building safety and neighborhood- nuisance problems associated with unregulated cultivation. Arcata banned all outdoor growing and established specific standards for indoor growing. The communities of Ukiah, Willits, and Gridley have also banned outdoor growing of marijuana, and the City of Chico discussed the issue at its October 5, 2009, City Council meeting.

The experience of Arcata provides an example of potential problems created by virtually uncontrolled cultivation within residences. Officials there estimate that as many as 1,000 of the 7,500 homes in that city were being used at one time exclusively for marijuana cultivation, reducing the housing stock and creating building-safety problems (see Los Angeles Times article in Attachment "B"). It is important to note that individuals who meet the legal test of a "caregiver" and who cultivate marijuana in accordance with the law may provide marijuana to "qualified patient(s)".

In the opinion of staff, zoning regulations considered by the City, relative to the indoor and/or outdoor cultivation of marijuana for medical use at private residences, should focus on basic zoning standards, with the intent to prevent the creation of nuisances; protect property from fire, mold, and similar problems; and reduce the potential for criminal activity.

Among the specific areas that the Commission could consider in this regard are the following:

- ▶ **Size of Cultivation Areas.** It is important to recognize that the primary use of a residential property is for living purposes and that all other activities must be accessory to that use. While it may be necessary to allow marijuana cultivation by a patient or caregiver for medical uses consistent with state law, it is also appropriate to establish clear limits as to the amount of building floor area or outdoor land area that should be used for such accessory activities.

In reviewing the available literature, it appears that many cities throughout the state have determined that 100 square feet of cultivation area on a residential parcel is adequate to accommodate the cultivation needs of most patients and caregivers and can support in the range of 6 mature (or 12 immature) plants. This is consistent with the Attorney General's Guidelines for possession of mature plants by a qualified patient.

There may be instances, given an appropriate doctor's recommendation or where multiple patients reside on a single property, that a larger cultivation area could be requested. Options exist for amending the Zoning Code to address these specific circumstances and include: (1) allowing the Development Services Director to approve a greater cultivation area upon a determination of need; (2) requiring an approval of a zoning exception; or (3) requiring a site development permit issued by the Director or Board of Administrative Review. Regardless of the mechanism, the approving authority must include in its findings that the use is accessory to the residential use of the property.

The Commission should provide direction to staff regarding: (1) the maximum amount of area that may be allotted to cultivation (staff recommendation: a base area of 100 square feet); and (2) the approval/permit process to be utilized to exceed the base area (staff recommendation: zoning exception process that could allow up to two times the base amount subject to specific findings).

- ▶ **Location of Cultivation Areas.** Should the City allow cultivation indoors, outside, or both locations?

Outdoor Cultivation. A principal complaint about outdoor cultivation relates to intense "skunk" odor that occurs when the plants begin to bud. This odor cannot be controlled and may last for several months during the late summer and early fall until the plants are harvested. Another significant concern is the safety of residents and neighbors, since mature plants have a high monetary value; and easy access to them in yard areas may lead to incidences of theft. A final concern of some community residents is the ability of juveniles to access plants which are readily visible to the passing public and lack adequate security. These concerns are not unlike those associated with other accessory residential activities, such as the keeping of farm animals or the scale of agricultural activities, when conducted in a residential area. A significant difference is that medical marijuana is an intoxicant and a controlled substance and, as such, is worthy of higher security standards and zoning controls.

Considerations for the Commission include establishing basic property-line setbacks for these gardens, as well as fencing requirements. The following draft standard has been crafted to provide a basis for Commission discussion of fencing and setback issues. The intent is to provide some measure of security, minimize the view of the gardens from public streets, and provide separation from neighboring residences to help minimize nuisance odors.

1. *Outdoor cultivation areas must be contained within a solid, non-climbable, 6-foot-high fence with a self-closing, locking gate.*
2. *Marijuana plants shall not be located:*
 - ▶ *Within 50 feet of a front property line.*
 - ▶ *Within 25 feet of a street side property line.*
 - ▶ *Within 15 feet of a side or rear property line.*
 - ▶ *Within 40 feet of any residence not occupied by the patient or caregiver.*

Indoor Cultivation. Indoor-cultivation issues are primarily related to providing adequate ventilation and ensuring that residential electrical systems are adequate to accommodate intensive lighting systems. Inadequate systems in other communities have resulted in mold and odor issues as well as an increase in residential fires.

The ventilation and lighting systems required for indoor cultivation can be complicated to set up and operate and can significantly increase electric bills. Strictly limiting cultivation to indoor areas *could* result in fire and mold issues that would not occur in outdoor gardens. Outdoor cultivation could be seen as an easier option for many patients and caregivers.

The commission should provide input to staff regarding whether: (1) cultivation areas should be limited to indoor or outdoor areas, and (2) the appropriate standards for fencing and garden setbacks that should be established if outdoor cultivation is allowed. Staff will work with the Building Official as necessary to address ventilation and electrical-supply concerns if indoor cultivation is recommended.

CONCLUSIONS AND RECOMMENDATIONS

There are myriad questions to be addressed regarding marijuana cultivation for medicinal use. The above discussion addresses some of the larger issues, and the Commission may want staff to address others. The Commission is being asked to provide staff with direction which will be used to craft a draft ordinance for consideration. Your direction will be used to form a basic set of standards for discussion at your November 24 meeting. Staff will then craft a draft ordinance for consideration at the Commission's December 8, 2009, meeting.

ATTACHMENTS

- A. Memo from City Attorney Rick Duvernay
- B. Los Angeles Times Article

KM:jh


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Jim H.

CITY OF REDDING
INTERNAL COMMUNICATION

DATE: November 3, 2009
M-020; A-050-060

TO: Honorable Mayor and City Council

FROM: Rick Duvernay, City Attorney 

RE: Role of Primary Caregiver in Regulating Collectives

Council Member Dickerson has asked for clarification regarding the role of primary caregivers in the operation of medical marijuana collectives and cooperatives. This memo will explain how the law has evolved and where the debatable question exists about lawful operation of storefront collectives and cooperatives.

The Compassionate Use Act - Prop 215 - The First Reference to Primary Caregivers

Proposition 215, the Compassionate Use Act of 1996 (Act), created Health and Safety Code section 11362.5, which provides that statutes prohibiting possession and cultivation of marijuana "shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician." (Health & Saf. Code, § 11362.5).

In turn, section 11362.5, subdivision (e) defines "primary caregiver" as "the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person." This statutory definition has two parts: (1) a primary caregiver must have been designated as such by the medicinal marijuana patient; and (2) he or she must be a person "who has consistently assumed responsibility for the housing, health, or safety of" the patient.

It is important to note that the Compassionate Use Act/Prop 215 is silent on the issue of collectives, cooperatives or dispensaries.

ITEM 5a
ATTACHMENT "A"

SB 420 - The Medical Marijuana Program Act

In 2003 the Legislature passed the Medical Marijuana Program Act (MMPA) to clarify and implement the Act. (Stats. 2003, ch. 875, § 2.) The MMPA added section 11362.77, which specifies an individual may possess no more than eight ounces of dried marijuana and maintain no more than six mature or 12 immature marijuana plants per qualified patient. (§ 11362.77, subd. (a)).

The MMPA also added section 11362.775, providing that qualified patients who associate within the state in order to collectively or cooperatively cultivate marijuana for medical purposes will not be subject to state criminal sanctions. Section 11362.7 et seq. also provides a defense to cultivation and possession for sale charges for those who give assistance to patients and primary caregivers in (1) administering medical marijuana, and (2) acquiring the skills necessary to cultivate or administer medical marijuana (§ 11362.765, subds. (a), (b)(3)).

Therefore, the MMPA extends the immunity from prosecution beyond just individual patients and caregivers as envisioned under Prop 215, but additionally grants immunity to groups of qualified patients who collectively and cooperatively cultivate medical marijuana. Unfortunately, the Legislature gave no clear guidance as to what specific conduct for collectives and cooperatives falls within the parameters of “giving assistance to patients and primary caregivers” and “administering medical marijuana” and “acquiring the skills necessary to cultivate or administer medical marijuana.”

There are many legal professionals who believe that a qualified patient who joins a collective/cooperative and whose sole participation in the cooperative is paying cash for dried product or for plants falls outside of the above definitions. The California Supreme Court has not squarely ruled on the issue and many collectives and cooperatives are currently in existence utilizing this model.

The California Attorney General published Guidelines in 2008 which specify that storefront collectives properly structured and operated MAY be legal. However, in many areas (such as the questions raised above) those guidelines are not particularly helpful on defining what is the proper organization and proper operation model. The Guidelines say:

Storefront Dispensaries: Although medical marijuana “dispensaries” have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially

comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver – and then offering marijuana in exchange for cash “donations” – are likely unlawful. (*Peron, supra*, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].)

Proposed City Ordinance

The City ordinance which has been introduced and will be considered by Council for adoption does not mandate any particular business model for operating a collective or cooperative. From staff's perspective, there are low risk models, moderate risk models, and high risk models. Should the ordinance be adopted, it would be staff's intention to include a condition in each permit which would provide that should the Legislature change the law or an Appellate Court or the Supreme Court rule that the model proposed by an applicant is unlawful under current law, the City could and would suspend the permit, pending changes in business operations to bring the collective or cooperative into compliance with the law.

Low Risk Model

Attachment A is a diagram depicting a model for operating a collective which clearly complies with both Prop 215 and the MMPA. Here, the owner/manager of the cooperative is the primary caregiver for each qualified patient who is a member of the cooperative. In this model, all marijuana is grown and supplied to the patients by the owner/caregiver. It should be noted that more than ten years ago the California Supreme Court ruled in the Peron case that designation of the collective owner as primary caregiver has limits. The owner must satisfy the legal definition of a true caregiver as a person “who has consistently assumed responsibility for the housing, health, or safety of the patients.” Therefore, this model cannot feasibly be implemented when a collective or cooperative has large numbers of members, or members whose sole relationship with the owner/caregiver is that the owner/caregiver supplies medical marijuana to the patient.

Medium Risk Model

Attachment B is a diagram depicting a model for operating a collective which seemingly complies with both Prop 215 and the MMPA. Here, the owner/manager of the cooperative has primary

caregivers who are also members of the cooperative and associated with each qualified patient. The medical marijuana is supplied to the collective by the caregivers and dispensed to the patients in quantities associated with the contributing caregiver and consistent with the recommendation of the patient's physician.

High Risk Model

Attachment C is a diagram depicting a model for operating a collective which may or may not comply with the MMPA. Here, there are no primary caregivers involved, and the members of the cooperative rely upon the "group immunity" established in the law under the MMPA for conduct falling within the parameters of "giving assistance to patients and primary caregivers," "administering medical marijuana," and "acquiring the skills necessary to cultivate or administer medical marijuana." As mentioned above, it is unclear whether the following conduct would qualify under the law for protection: growing more than your personal share and selling surplus to the cooperative for re-sale to other members, or where a member's sole participation in the cooperative consists of exchanging cash for product. The Americans for Safe Access group believes this conduct qualifies as protected group immunity activity under the MMPA. Many law enforcement professionals and their legal advisors believe it is not protected conduct. Until the law is clarified, it is impossible for law enforcement officials to enforce the law, and local jurisdictions are left pondering whether to regulate or not to regulate in an area that is unclear.

If you have any questions, please give me or Chief Hansen a call.

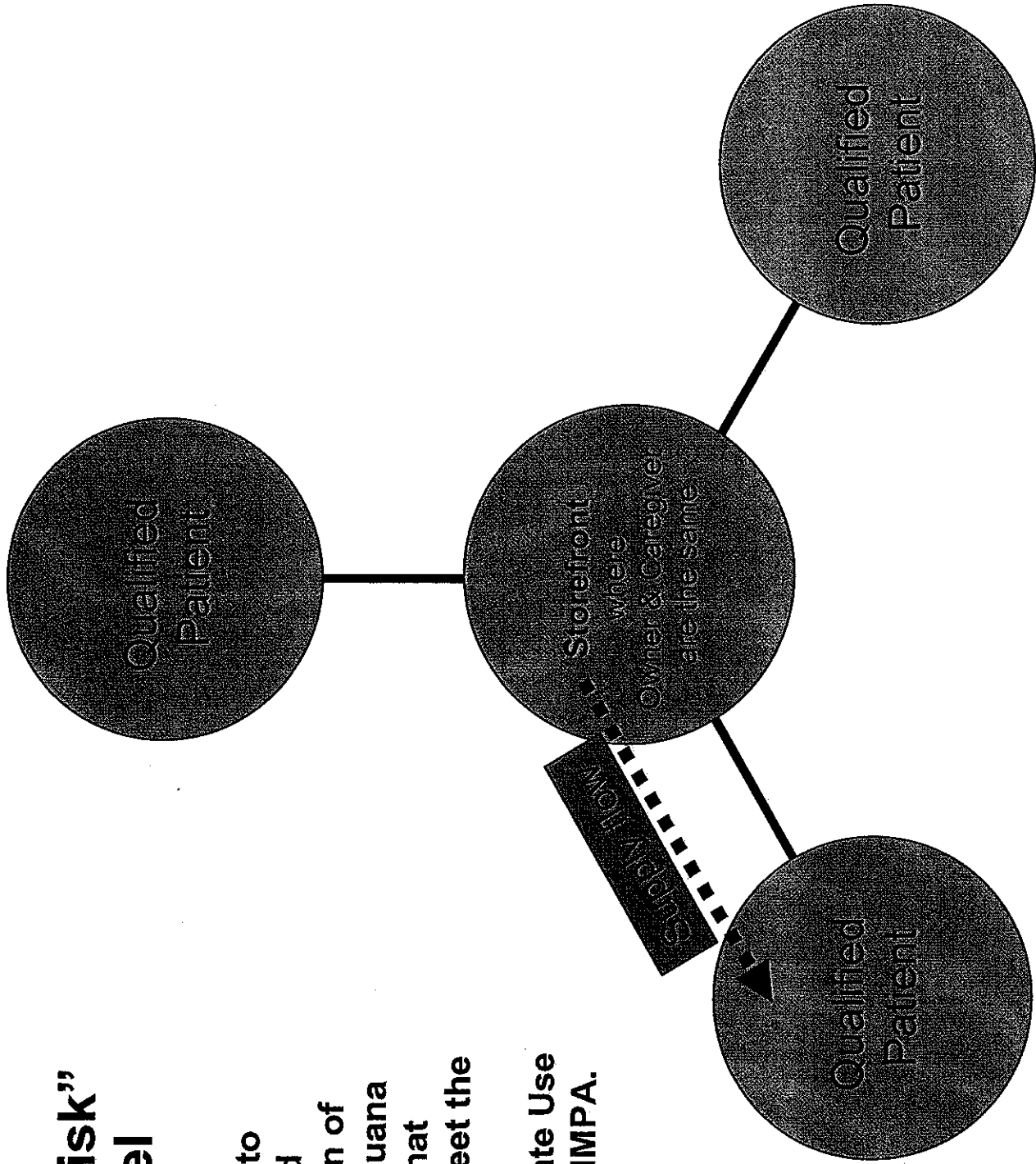
RD/sel

Attachment

c: Kurt Starman, City Manager
Peter Hansen, Police Chief
✓ Jim Hamilton, Development Services Director

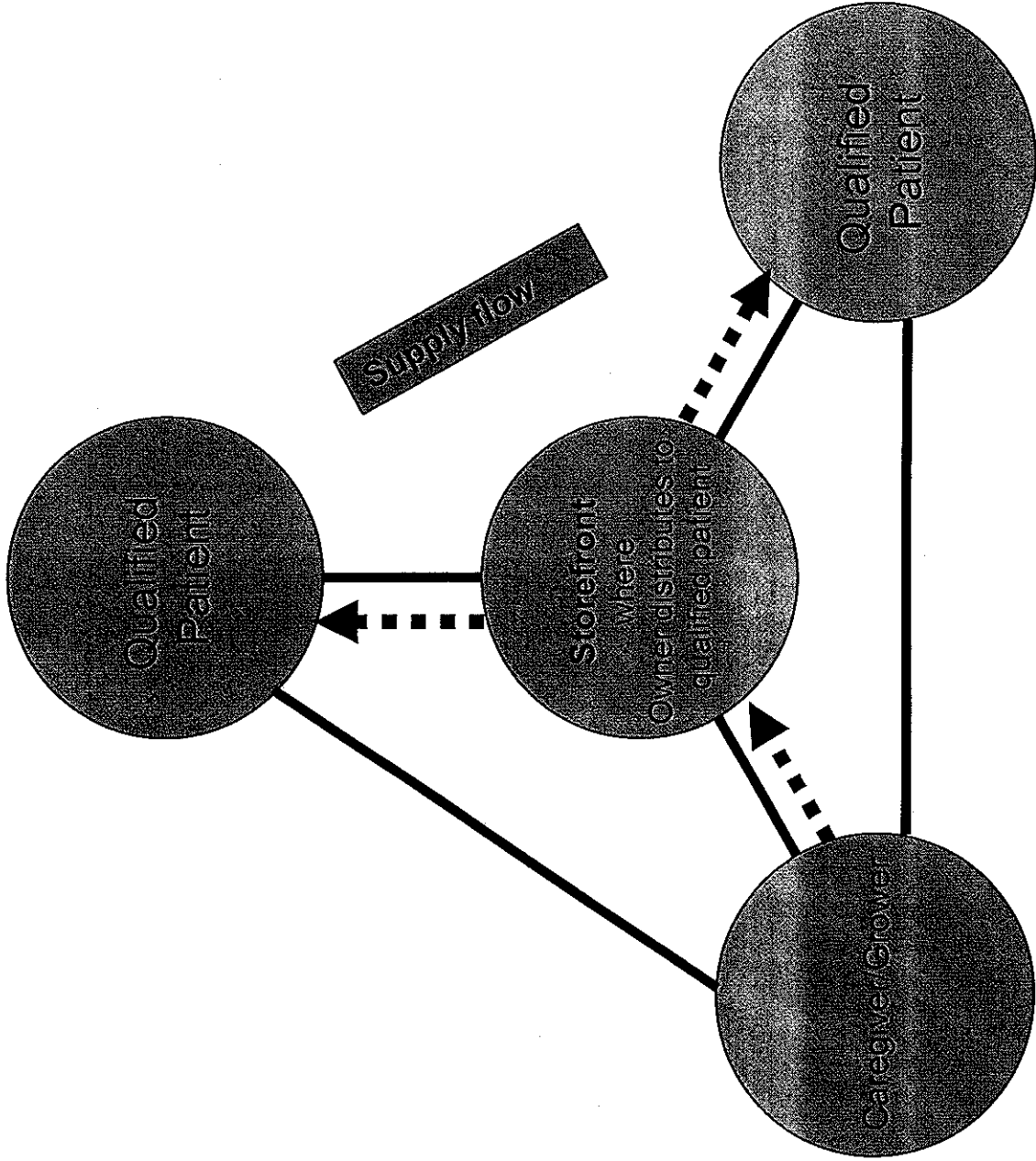
“Low Risk” Model

An approach to formation and administration of medical marijuana distribution that appears to meet the intent of the Compassionate Use Act and the MMPA.



“Medium Risk” Model

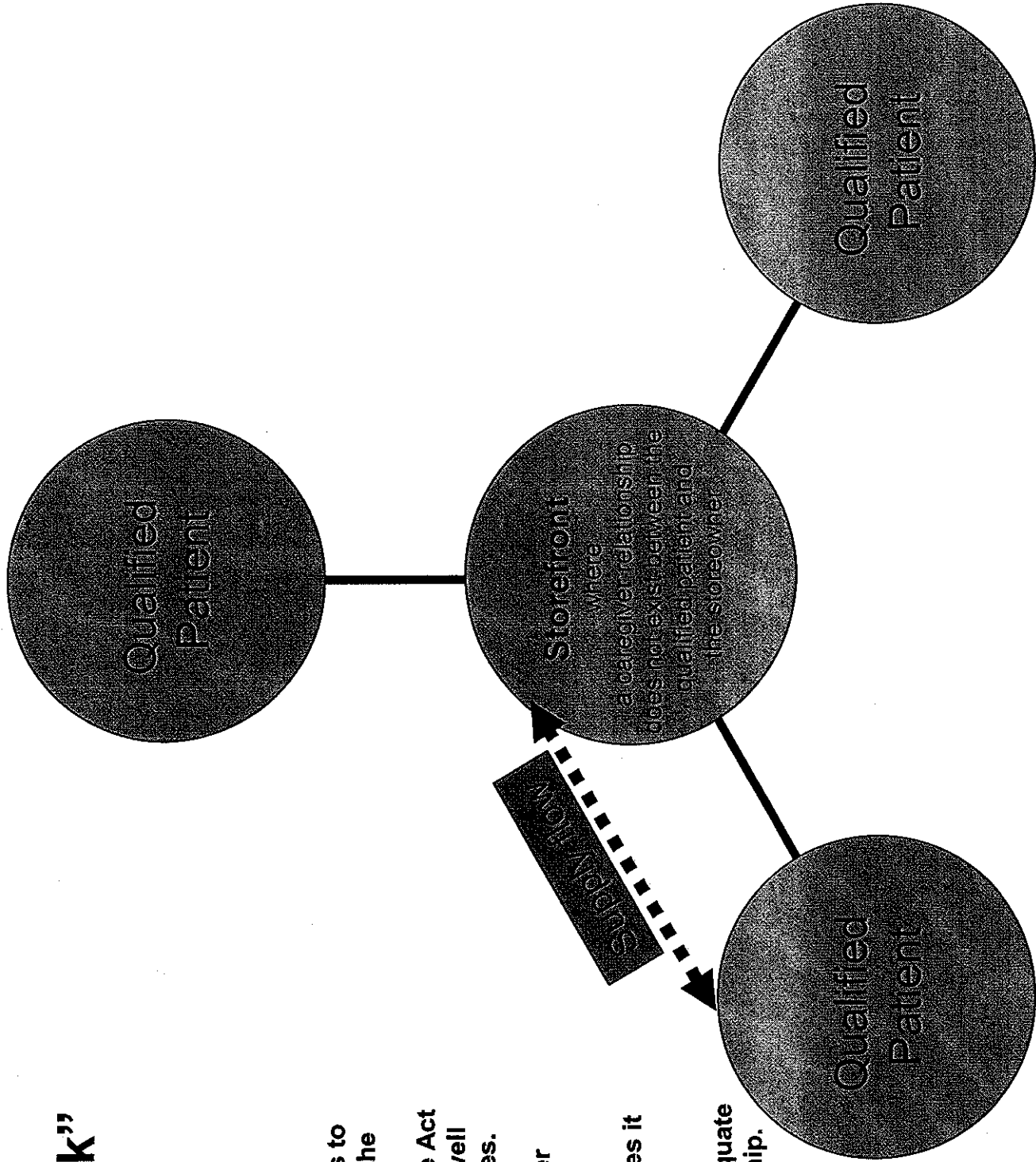
This approach allows caregivers who are members of the collective to supply medical marijuana to qualified patients via a storefront dispensary. The storefront owner becomes a “middleman” lacking an adequate caregiver relationship to the holder of the recommendation.



“High Risk” Model

This approach to medical marijuana distribution appears to be in conflict with the intent of the Compassionate Use Act and the MMPA, as well as recent court cases.

The collective owner receives medical marijuana from a member and supplies it to other members without having established an adequate caregiver relationship.



[VIEW IN FRAME](#)

Important note: Information in this article was accurate in 2008. The state of the art may have changed since the publication date.






**PRINT THIS
ARTICLE**

Marijuana 'grow houses' are creating problems in Arcata, California

Los Angeles Times - May 31, 2008

Tim Reiterman, tim.reiterman@latimes.com and Eric Bailey, eric.bailey@latimes.com

About \$55,000 in damage was caused in this rental house in Arcata, Calif., where marijuana was being grown and a piece of equipment started a fire. The owner didn't know how the house was being used.

Officials estimate as many as 1,000 of the 7,500 homes in town are used for pot, reducing housing stock and creating building-safety problems.

ARCATA, CALIF. -- LaVina Collenberg thought she had ideal tenants for her tidy ranch-style home on the outskirts of this university town nestled in the redwoods of the North Coast. Then the 74-year-old widow received an urgent call last September from a neighbor, who said firefighters had descended on the house she had rented to a pleasant young man from Wisconsin.

Collenberg found her charred and sooty rental filled with grow lights and 3-foot-high marijuana plants. Seeds were germinating in the spa. Water from the growing operation had soaked through the carpeting and sub-flooring. Air vents had been cut into the new roof. A fan had fallen over, causing the fire.

"It was the first time I had been in a grow house," Collenberg said. "I had heard about them but never thought I had one. I was completely shocked."

Law enforcement officials estimate that as many as 1,000 of the 7,500 homes in this Humboldt County community are being used to cultivate marijuana, slashing into the housing stock, spreading building-safety problems and sowing neighborhood discord.

Indoor pot farms proliferated in recent years as California communities implemented Proposition 215, the statewide medical marijuana measure passed overwhelmingly a dozen years ago. A backlash over the effects and abuses of legally sanctioned marijuana growing has emerged in some of the most liberal parts of the state.

For example, in neighboring Mendocino County, a measure on Tuesday's election ballot seeks to repeal a local proposition passed eight years ago that decriminalized cultivation of as many as 25 pot plants.

The experience of Arcata, a bastion of cannabis culture, reveals the unintended consequences of the 1996 Compassionate Use Act, designed to provide relief to AIDS patients, cancer victims and others.

"If the average citizen . . . could see what I see, they probably would vote against it now," Police Chief Randy Mendosa said of Proposition 215. "We are seeing large-scale grow operations where greedy people are taking huge amounts of affordable housing and are using entire houses to grow marijuana. The going rate is \$3,000 a pound [wholesale], and they are selling it and making a huge amount of money."

State officials say such problems exist throughout the state, including Southern California, but are particularly prevalent in northwestern counties that have relatively liberal limits on possession and cultivation of medical marijuana.

ITEM 5a
ATTACHMENT 'B'

"People who clearly are in it for profit see it as a loophole and have flooded into these areas from across California and the U.S.," said Kent Shaw, assistant chief of the state Bureau of Narcotics Enforcement. "What comes along with it is criminal elements who want to come and steal marijuana," sometimes through home invasion robberies.

Medical marijuana advocates say problems have been isolated, and they question the validity of attempts to link crime to a medicine. "Law enforcement sensationalizes a lot of the issues around growing and dispensaries," said Kris Hermes of Americans For Safe Access.

A doctor's recommendation is required for a medical marijuana patient to use, grow or acquire cannabis. Activists estimate there are more than 200,000 patients statewide.

In Arcata's leafy neighborhoods, residents and officials say the telltale signs of grow houses are evident: no full-time dwellers, blacked-out windows, scruffy yards, comings and goings at night. Then there's the skunk-like odor of marijuana and the whirring fans and electricity meters that generate thousand-dollar monthly power bills.

So many houses have been converted into pot farms that the availability of student rentals has been reduced and the community's aura of marijuana is turning off some prospective students, said Humboldt State University President Rollin Richmond. "My own sense is that people are abusing Prop. 215 to allow them to use marijuana . . . as recreational drugs," he said.

Arcata Mayor Mark Wheatley said marijuana growing has become a quality-of-life issue in the town of 17,000. "People from all camps say enough is enough," he said. "It is like this renegade Wild West mentality . . . I think people want to see a greater level of control and oversight."

Mark Sailors, 37, a medical marijuana patient and caregiver who moved here from Baltimore, said the community was overreacting. "They claim to support 215, and do not want you to have access to medicine," he said. "It sounds like the older people . . . are afraid of the younger."

The largest of the city's four pot dispensaries is the Humboldt Cooperative, known as THC, the abbreviation for the psychoactive chemical component in marijuana. Officials say that the nonprofit at a former auto dealership has 6,000 registered patients, 2,000 of whom are currently eligible to buy weed, and that it has paid roughly \$500,000 in taxes over the last five years.

The dispensary grows marijuana in an on-site warehouse and buys additional pot from about 100 patients -- most from outside Arcata -- who do not need all they have grown under Proposition 215.

THC founder Dennis Turner said that many residential growing operations amount to "full-on crime" and that he would welcome more regulation for dispensaries, particularly to protect marijuana quality. "There are holes in this [Proposition 215] like a piece of Swiss cheese," he said.

The City Council recently issued a moratorium on new dispensaries downtown, on grounds that agriculture is not permitted there. New land-use guidelines also are in the works.

Officials say secretive marijuana operations in houses are their highest priority for increased regulation. They say they do not know how many people are violating the county's legal requirements limiting them to 100 square feet of leaf canopy and as many as 99 plants -- provisions that may be invalidated by a recent state appellate court decision.

Community development Director Larry Oetker said the city does not even know the locations of grow houses because growers tend not to get permits for electrical and plumbing work.

Oetker said they fear prosecution by federal authorities who do not recognize the state's medical marijuana law. "The concern is . . . the federal government will use city records to go bust the people."

Some growers have cut holes in floors so plants can go directly in the ground below, officials say. And many use jury-rigged wiring and extension cords that overload circuits.

Arcata Fire Protection District Chief John McFarland says that most local structural fires involve marijuana cultivation -- and that after a fire starts, it often spreads quickly through holes cut for ducts, pipes and wires.

Wade DeLashmutt, a carpenter who voted for Proposition 215, said he complained for many months about marijuana odors that hovered over his backyard after a man from Montana moved next door.

But the neighbor contended that it was medical marijuana. "He said, 'The voters of California said I could do this,'" DeLashmutt recalled.

In March, the county drug task force arrested the neighbor and another man after hundreds of marijuana plants, \$12,000 and 27 pounds of processed pot were seized at that home and another in town.

Humboldt County Dist. Atty. Paul Gallegos said his office does not keep statistics on prosecutions for marijuana growing in Arcata. But Gallegos said he would prosecute any growers who posed a safety hazard, a public nuisance or environmental harm.

"If you converted a house to grow dandelions, petunias and roses, my concerns would be the same," he said.

LaVina Collenberg wishes she had known that her friendly young renters from Wisconsin intended to turn her house into a marijuana-growing cooperative. Her insurance paid \$55,000 to repair the damage from the fire and modifications.

The former tenant did not respond to calls seeking comment. Dr Ken Miller, who issued the tenant's medical marijuana recommendation, said he did not recall the patient.

A petition campaign dubbed "Nip It in the Bud" is asking the City Council to bar marijuana growing and dispensing from residential and public gathering areas.

A neighborhood ban is overdue, said 82-year-old Wilma Johnston.

"We are becoming a community of rentals for marijuana plants instead of people," she said.

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Always watch for outdated information. This article first appeared in 2008. This material is designed to support, not replace, the relationship that exists between you and your doctor.

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