Council Meeting Date: January 3, 2012 **Agenda Item: 7(a)**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Medical Marijuana Collective Gardens Code Amendments
DEPARTMENT:	Planning and Community Development
PRESENTED BY:	Paul Cohen, Senior Planner
ACTION:	**____Ordinance ____Resolution ___ Motion __X__Discussion**

PROBLEM/ISSUE STATEMENT:

In July of 2011 the State Legislature adopted regulations that allow medical marijuana collective gardens (SB 5073). On July 18, 2011, the City Council adopted Ordinance No. 611 establishing interim regulations and a six -month moratorium on the submittal or processing of development permits or business license applications for medical marijuana collective gardens (MMCGs) that did not satisfy the interim regulations. On September 12, 2011, the Council held a public hearing on the interim regulations and moratorium and adopted Ordinance No. 614 (Attachment A), amending the interim regulations to reduce the space between collective gardens or delivery sites from 2,000 to 1,000 feet. Council also directed staff to begin the public process to study and recommend permanent regulations.

On December 1, 2011, the Planning Commission held a public hearing (Attachments B and C) and made its recommendations (Attachment D) on the permanent regulations and amendments to the Development Code. The City Council is scheduled to discuss the Planning Commission recommendations this evening and to adopt final Development Code amendments on January 9, 2012, prior to the expiration of the six-month interim regulations on January 18, 2012.

RESOURCE/FINANCIAL IMPACT:

The Planning Commission's recommendations include a required regulatory license to monitor the operation and location of the MMCGs. Staff is proposing to use a rate structure similar to that of the license requirement for an adult cabaret operator. Assuming that there are up to six MMCGs in Shoreline this would generate $3,000 in annual license revenue. Staff anticipates additional staff time will be allocated to license processing and issuance by the City Clerk and Police departments, along with additional police time allocated for patrol and enforcement of City regulations. The license fee is expected to compensate for these additional administrative costs.

RECOMMENDATION

No action is required this evening. Staff recommends that Council discuss the proposed Development Code amendments from the Planning Commission, along with staff's recommendation to include the 1,000 foot separation requirement between MMCGs and give further consideration to the 15 day waiting period for MMCGs acting as designated providers to their patient/members to add a new patient if one should drop out. Staff will use direction from the Council's discussion this evening to develop the ordinance for adopting permanent regulations and amendments to the Development Code. The City Council is scheduled to adopt the Development Code amendments on January 9, 2012.

Approved By: City Manager *DT* City Attorney *IS*

INTRODUCTION

In July 2011 State Senate 5073 (SB 5073) passed the Washington legislature and was subsequently signed into law by the Governor. SB 5073 authorized local governments to regulate "medical marijuana collective gardens" (MMCG). On July 18, 2011, the Council adopted Ordinance No. 611 establishing interim regulations and a six -month moratorium on the submittal or processing of development permits or business license applications for medical marijuana collective gardens (MMCGs) that did not satisfy the interim regulations. On September 12, 2011, the Council held a public hearing on the interim regulations and moratorium and adopted Ordinance No. 614 (Attachment A), amending the interim regulations to reduce the space between collective gardens or delivery sites from 2,000 to 1,000 feet. Council also directed staff to begin the public process to study and recommend permanent regulations.

BACKGROUND

In 1998 Washington voters approved Initiative 692 providing an affirmative defense to criminal prosecution of state laws prohibiting use and possession of marijuana for limited amounts possessed by individuals that are qualified for medical use or for a provider designated by a single patient. The initiative did not authorize large scale distribution of marijuana. Patients who were unable to grow their own medical marijuana were allowed a single designated provider to assist them. However, dispensaries proliferated in some areas under the argument that a commercial dispensary could dispense to one patient and then another as quickly as transactions could occur.

In a July 2010 inquiry as to whether dispensaries were legal, Municipal Research Services Center responded they were not under a reasonable interpretation of the statutes. General Counsel for the City's risk pool, WCIA, issued a Bulletin to member cities reaching the same conclusion in December of 2010. Hearing Examiners have reached the same conclusion in denying licenses to dispensaries.

The 2011 legislature adopted a comprehensive scheme of licensing and regulating dispensaries to better address patient needs in SB 5073. However, marijuana possession and distribution continues to be a criminal offense under the federal Controlled Substances Act, and all provisions relating to dispensaries were vetoed by the Governor due to a perceived potential for federal prosecution of state regulators participating in the regulation of commercial dispensaries as well as the dispensaries themselves.

However, other portions of the bill were passed including a provision prohibiting designated providers from changing their qualified patient more frequently than every fifteen days.

While dispensaries are now clearly unlawful, SB 5073, now codified in chapter 69.51A RCW, provides a limited model for cooperative efforts by patients in production and distribution of medical marijuana through MMCGs run by up to 10 qualified patients and

containing up to 45 marijuana plants and 72 ounces of useable cannabis. The bill allowed local government to zone and regulate this new land use.

The interim regulations adopted by Council with Ordinance No. 614 are:

A. There shall be no more than one collective garden permitted on a property tax parcel.

B. Collective gardens may only be located in the NB, O, CB, NCBD, MUZ, and I zones.

C. A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1000 feet of schools and not within 1000 feet of any other collective garden or delivery site.

D. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.

DISCUSSION

During the Council discussion in September the Council raised issues related to MMCGs. Staff has responded to those issues below.

1. Growing and Dispensing Medical Marijuana in the State

Currently, a patient with a prescription for medical marijuana can grow their own supply at home for their personal use. Regulations limit the propagation to 15 plants, with a possession limit of 24 ounces of useable cannabis or cannabis products that could be reasonably produced with 24 ounces of cannabis. The MMCG amendment does not affect a patient's right to grow their own medical marijuana at home. Dispensing of medical marijuana for other than a collective garden remains prohibited. A collective garden distribution site can be located in commercial zones in Shoreline even though the actual garden can be located elsewhere.

SB 5073 allows MMCGs to have up to 45 plants and 72 ounces of useable cannabis. SB 5073 is silent on whether a MMCG can have cannabis products for patients. Recently in the Seattle Weekly blog, "Locals Social Club", a MMCG in Shoreline, advertised their "medibles" that are available on site. (Attachment H)

2. Medical Marijuana Patients and Providers

State law is clear that a marijuana patient may also serve as a provider to another patient. Though SB 5073 is not explicit, the City Attorney reads SB 5073 to allow a patient to assist other patient members of a collective garden rather than just one other patient. A patient cannot be a member of more than one collective garden. A patient can grow their prescription at home and be a member of a MMCG as long as their allowed quantities are not exceeded.

SB 5073 includes a stipulation that there be a 15 day waiting period before a collective garden acting as a designated provider for one or more patients can add another patient if one drops out. The purpose of this was to prevent the "dispensary" operation.

Staff included the following recommendation in the City's proposed interim regulations:

> "No substitution of members of a collective garden in less than 15 days is allowed where any fee or charge is paid to a garden or a garden member for the delivery of medical marijuana."

The City Council voted 4 to 2 to exclude this from the adopted interim regulations. Staff continues to see this clarification as important in complying with the 15 day waiting period in state law. The designated provider to a patient, or patients of a MMCG, may not change a patient more frequently just because they are also members of the MMCG. This state restriction applies to the designated provider operating in the new garden collective, and without it, the instant replacement of the patient in the MMCG would resurrect the dispensaries the legislature so clearly intended to outlaw. Council could reconsider adding this to the final adopted regulations. Many of the MMCGs have continued to act as dispensaries by ignoring the 15 day waiting period, even though the law is clear that "dispensaries" are not allowed. Also given the 72 ounce limit of on-site marijuana, it appears that a MMCG would need additional supply in close proximity to serve the number of patients that these MMCGs serve.

3. Regulations of Other Jurisdictions

Jurisdictions throughout the state are currently addressing SB 5073 and trying to decide whether to prohibit or regulate MMCGs. Shoreline joins several cities that have adopted interim regulation of collective gardens. Many more have moratoria prohibiting gardens. Staff does not recommend a ban in its permanent regulations for two reasons. First, medical marijuana has been a comprehensive state legislative scheme for patient rights from the passage of Initiative 692 and prohibiting a right granted to patients to act collectively rather than regulate that use as expressly allowed to cities in the statute may bring a challenge, even where a moratorium is declared under existing law. Second, regulations, should be narrowly drawn to address a public harm, and not extend to activity or rights where harm is unlikely. Council believes the gardens that meet the proposed regulations are an important benefit to patients who cannot provide marijuana themselves or through a single provider.

4. Purpose of Separation from Schools and Other MMCGs

The separation rule from schools and other gardens received the most discussion by Council on July 18. School bus routes were not included with school property because it is too limiting to gardens since they are transitory and could unexpectedly conflict with a long term garden lease.

There are no studies that show the optimal separation distance from schools or between MMCGs however, Council adopted a 1,000 feet based on that distance from sensitive land uses including schools used in the drug- free zone for criminal penalty enhancement under state law. The 1,000 foot spacing from other gardens was adopted

to avoid a concentration of gardens that might intensify negative impacts. A map of current and potential collective gardens using this rule is in Attachment C (Exhibit 3).

The City of Seattle has seen a proliferation of MMCGs, and the 1,000 foot separation condition was an attempt to prevent this in Shoreline. Denver and areas in California that have allowed numerous sites in one area have seen an increase in crime in those areas.

5. Existing and Potential MMCGs in Shoreline

There are currently four (4) known collective gardens in the City. These are Green Cure Wellness, Green Hope, Emerald City Compassion Center, and Pacific NW Medical – all along Aurora Avenue. Based on the location parameter of 1,000 feet from schools and other collective gardens and within commercial zones, there is the potential of 19 additional collective gardens. This potential is highly unlikely because it would require that specific parcels be leased or purchased for all the parameters to fit. Any siting of a MMCG, other than at these specific parcels, would greatly diminish the other parcels from meeting the parameters. More realistically, staff estimates that there may be an additional six to eight MMCGs.

6. Criminal Activity

According to Police Chief Pingrey, MMCGs are not fly-by-night operations. MMCGs are expensive to start and it is expensive to maintain a grow operation, due to the cost of the grow lights, venting, water, and electricity. The Shoreline Police are constrained regarding the criminal enforcement of medical marijuana. Any citizen can grow for personal medical use with proper prescriptions. At this time the Police will only be responding to calls for service. Chief Pingrey says that he expects that crime will increase around collective gardens, or wherever anyone is growing or distributing. The larger the grow operation, the larger the target for criminal activity. There have been a number of armed robberies at residential garden operations. In a specific incident, involving a garden dispensing site, Green Hope was robbed by someone cutting through the adjoining wall. Consolidating collective gardens in one area presents a more attractive target for crime.

7. Land Use Enforcement

The City's Code Enforcement Officer will enforce land use violations in coordination with the police.

8. Tax Revenue Possibilities

According to the State Department of Revenue (DOR), the recently passed bill allowing collective gardens has no effect on taxability of medical cannabis. Retail sales of cannabis remain subject to retail sales tax even when sold by a dispensary for medical purposes. As cannabis cannot be legally prescribed, it is not subject to the sales tax exemption for prescription drugs. Given that MMCGs are not "selling" marijuana to their patients, rather they are a collective of up to 10 patients growing for themselves, the DOR does not consider the MMCGs activity as a retail sale and therefore is not subject to retail sales tax at this time.

9. Legislative Remedies

The legislature is likely to take up this issue in the upcoming 2012 legislative session, however it is unclear at this point what the changes will be proposed. After the Governor's partial veto of last year's bill removed the state from any regulatory role, the bill's sponsor worked on a version that was designed to address the Governor's concerns. In the Governor's veto message, she indicated that she is open to legislation to exempt qualifying patients and their designated providers from criminal penalties when they join in non-profit cooperatives to share the responsibility for producing, processing, and dispensing cannabis for medical use.

10. Impacts on Youth

It is known that there are Shoreline residents who now use and abuse marijuana. Fully one fourth of the City's contract with the Center for Human Services, $24,500, is spent on substance abuse services. These funds are fully utilized before the end of the first quarter of each year. Data collected through the bi- annual Healthy Youth Survey indicates that marijuana use rates among Shoreline youth and teens track closely with rates in other communities across the State. Fifty percent of Shoreline 12th graders and 29% of 10th graders report that they have smoked marijuana. Thirty-four percent of 12th graders and 19% of 10th graders self report that they are current users of marijuana.

This survey also contains data to indicate levels of community acceptance of youth marijuana use by asking if youth think that "adults in my neighborhood think smoking marijuana is very wrong." Fifty-two percent and 31% of 10th and 12th graders, respectively, indicate agreement with this statement. A minority of high school age youth in Shoreline and across the State feel that marijuana is hard to obtain with just 14% of twelfth graders and 26% of tenth graders in Shoreline reporting that it would be "hard to get" marijuana. The data suggests that a significant proportion of youth have and do currently smoke marijuana, feel that many adults do not think that this is wrong and see the substance as being readily available.

11. Hours of Operation

There are no limits to business hours of operation for any business in Shoreline unless controlled by the State.

PLANNING COMMISSION

The Planning Commission's recommended Development Code amendments (Attachment D) include the interim language adopted by the Council in Ordinance No. 614 except for provision "C" – the 1,000 foot buffer between collective gardens. The Planning Commission added more language directly from SB 5073 that defines "medical marijuana" and "collective gardens" and unanimously recommended three substantial changes from the staff proposed regulations. The Planning Commission substantial changes included: 1) adding a provision to contain cannabis odors; 2)

adding a requirement for a regulatory license to operate legally; and 3) removing the interim regulations for a 1,000 foot separation between MMCGs.

The containment of cannabis odor is in response to concerns that the pungent odor of cannabis is considered either unpleasant or an "attractive nuisance" as it can affect nearby tenants or residents. There have been current land owners that have leased to a MMCG and now have other tenants complaining about the odor.

A regulatory license to open a collective garden is justified for ongoing enforcement of premises restrictions and conduct of operators. The City has similar licenses for adult entertainment. Both MMCGs and adult entertainment are legal but regulated to be adequately separated from schools and the potential criminal activity that they may attract. If a MMCG is truly a collective garden and not a business, then a business license is not required. A regulatory license rather than a business registration will assist the City in monitoring whether the MMCGs meet the adopted requirements. If a MMCG can be established without the City being legally notified then the City cannot monitor the number of MMCGs opening, the required separation of 1,000 feet, and other regulations that define the land use. Requirements of an annual regulatory license, in addition to compliance with the zoning code use restrictions might include: 1) prohibiting minors on the premises unless a patient and accompanied by a parent or guardian; 2) prohibiting the consumption of marijuana or alcohol on the premises; 3) member's documentation of patient status must be kept on the premises and available for police inspection upon request (Attachment F); 4) conspicuous display of the regulatory license on site; and 5) no display of marijuana plants or useable cannabis in areas of the premises open to the public. It is proposed that the license fee be set at $599.50 for 2012, the same fee charged for an adult cabaret operator's license.

The Planning Commission did have discussions at their November 3 (Attachment E) and December 1, 2011 meetings regarding the benefits and disadvantages of the 1,000 foot separation between MMCGs. Their related concerns were 1) the separation requirement will force some MMCGs to the edge of our narrow commercial districts and thereby closer to nearby residential areas, 2) the separation requirement is not the best way to limit the overall number of MMCGs in the City, and 3) the November 3rd police comments did not indicate strong preferences on whether the separation requirement would be beneficial to reduce criminal activity. It is, however, Chief Pingrey's opinion in the November 3rd Commission staff report that removal of a required separation could result in the consolidation of grow operations and therefore a more attractive target for crime. At the December 1, 2011 public hearing, the Planning Commission concluded that the 1,000 foot separation did not directly serve the purpose of limiting the total number of MMCGs and therefore voted unanimously that the provision should be removed.

SEPA REVIEW

A notice for SEPA review and intent to issue a determination of non-significance was mailed October 17, 2011 and re-noticed November 8, 2011 due to a new public hearing date. No SEPA public comments were received regarding the notice. A Determination of Non-Significance was issued December 6, 2011(Attachment G). Appeals to the determination were due December 27 2011. No appeals have been received.

ALTERNATIVES

1,000 Foot Separation

As stated previously in this staff report the Planning Commission voted to exclude the 1,000 foot separation between MMCGs required in the interim regulations. Council can choose to either follow the Planning Commission recommendation for the final regulations or include the 1,000 foot separation requirement that was included in the interim regulations.

15 Day Waiting Period for New Patients

SB 5073 includes a stipulation that there be a 15 day waiting period before a designated provider can add another patient if one drops out. The purpose of this was to prevent the "dispensary" operation. This was excluded from the City's interim regulations. Council could reconsider including the 15 day waiting period in the final regulations for gardens acting as designated providers to their patient/ members.

State Legislature Actions

It is anticipated that the State Legislature may take further action to clarify the ambiguities of SB 5073 during the 2012 legislative session. In light of this probable change in controlling state law, Council could extend the current moratorium with interim regulations for an additional six months, with the work plan being that staff will monitor the outcomes of the 2012 legislative session and use those outcomes as a basis for recommending final regulations at the end of the 2012 session.

RECOMMENDATION

No action is required this evening. Staff recommends that Council discuss the proposed Development Code amendments from the Planning Commission, along with staff's recommendation to include the 1,000 foot separation requirement between MMCGs and give further consideration to the 15 day waiting period for MMCGs acting as designated providers to their patient/members to add a new patient if one should drop out. Staff will use direction from the Council's discussion this evening to develop the ordinance for adopting permanent regulations and amendments to the Development Code. The City Council is scheduled to adopt the Development Code amendments on January 9, 2012.

ATTACHMENTS

Attachment A - Ordinance No. 614
Attachment B – 12-1-11 Minutes of the Planning Commission Public Hearing
Attachment C - Planning Commission Public Hearing Record
Attachment D - Planning Commission Recommendation
Attachment E – 11-3-11 Minutes of the Planning Commission
Attachment F – SEPA Determination
Attachment G - Example of Existing Collective Garden Agreements
Attachment H – Article from Seattle Weekly Blog

ORIGINAL

ORDINANCE NO. 614

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING INTERIM REGULATIONS FOR COLLECTIVE GARDENS REDUCING THE DISTANCE PERMITTED BETWEEN COLLECTIVE GARDENS

WHEREAS, E2SSB 5073 (the Act) effective on July 22, 2011 authorizes "collective gardens" which would authorize certain qualifying patients the ability to produce, grow and deliver cannabis for medical use; and

WHEREAS, the Act authorizes local municipalities to exercise local location, health and safety controls for the regulation of collective gardens; and

WHEREAS, the City Council established interim regulations with passage of Ordinance No.611 on July 18, 2011 and held a public hearing on September 12, 2011 on these interim regulations; and

WHEREAS, based on comment received since the adoption of Ordinance No. 611 the Council now wishes to amend interim collective gardens to reduce the space required between gardens; now therefore

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 2 of Ordinance No. 611 is amended to read as follows:

A moratorium is adopted upon the filing of any application or issuance of any permit or business license for the establishment of a collective garden as defined in E2SSB 5073 that does not meet the following criteria:

A. There shall be no more than one collective garden permitted on a property tax parcel.
B. Collective gardens may only be located in the NB, O, CB, NCBD, MUZ, and I zones.
C. A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1000 feet of schools and not within 1000~~2000~~ feet of any other collective garden or delivery site.
D. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.

Section 2. Publication. This ordinance shall take effect five days after publication of the title of this ordinance as an approved as a summary of the ordinance in the official newspaper of the City.

ORIGINAL

PASSED BY THE CITY COUNCIL ON SEPTEMBER 12, 2011.

Mayor Keith A. McGlashan

ATTEST:

Scott Passey
City Clerk

APPROVED AS TO FORM:

Ian Sievers
City Attorney

Date of publication: September 15, 2011
Effective date: September 20, 2011

DRAFT

These Minutes Subject to January 5th Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

December 1, 2011 Shoreline City Hall
7:00 P.M. Council Chamber

Commissioners Present	Staff Present
Vice Chair Perkowski	Steve Cohn, Senior Planner, Community & Development Services
Commissioner Behrens	Paul Cohen, Senior Planner, Community & Development Services
Commissioner Broili	Steve Szafran, Associate Planner, Community & Development Services
Commissioner Esselman	Ian Sievers, City Attorney
Commissioner Kaje	Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent
Chair Wagner
Commissioner Moss

CALL TO ORDER

Vice Chair Perkowski called the regular meeting of the Shoreline Planning Commission to order at 7:01 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Vice Chair Perkowski and Commissioners Behrens, Broili, Esselman and Kaje. Chair Wagner and Commissioner Moss were absent.

APPROVAL OF AGENDA

The agenda was approved as submitted.

DIRECTOR'S COMMENTS

Mr. Cohn did not provide any comments during this portion of the meeting.

APPROVAL OF MINUTES

The minutes of November 3, 2011 were approved as amended.

GENERAL PUBLIC COMMENT

No one in the audience expressed a desire to comment during this portion of the meeting.

LEGISLATIVE PUBLIC HEARING – MEDICAL MARIJUANA COLLECTIVE GARDENS (MMCG)

Vice Chair Perkowski reviewed the rules and procedures for the legislative public hearing and then opened the hearing.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Cohen reviewed that the Commission held a study session to discuss code amendments for medical marijuana collective gardens (MMCG) on November 3rd. At that time a Commissioner pointed out that Section 20.40.445.D.6, which requires that production, processing or delivery of cannabis cannot be visible to the public from outside of the building or structure, might contradict the current Development Code that requires commercial development to have 50% of their first floor façade in transparent windows. Staff determined that the two requirements do not necessarily conflict, but it could be difficult for someone to meet both. However, an MMCG could have transparent windows to a lobby and the locate the remainder of the operation behind. If the Commission concludes that more clarity is necessary, they could recommend an amendment to Section 20.50.280.B (mixed use – commercial design standards) to exempt MMCGs from the transparent window requirement.

Commissioner Broili noted that although ground floor windows must be transparent, the code would not prevent a property owner from putting a curtain or false wall in front of the building. Mr. Cohen agreed that the code allows sufficient flexibility to enable property owners to meet both requirements without taking up an enormous amount of space.

Commissioner Behrens said he visited MMCG sites in Shoreline and found that both would be consistent with the proposed code language. Both have clear windows, with lobbies at the entrances where people are screened before they are allowed to access the remainder of the building. None of the operation is visible to the public from the outside.

Mr. Cohen summarized that staff is not recommending that Section 20.50.280.B be amended because they believe both requirements could be met at the same time.

Mr. Cohen recalled that on November 3rd the Commission discussed the requirement for a 1,000-foot separation between MMCG's and schools. Concern was raised that because commercial areas where MMCG's are likely to locate are narrow, the separation requirement may force these businesses to the edges of the commercial zones and closer to residential areas. Concern was also raised that the

separation requirement would disperse the MMCGs, making it more difficult to monitor and enforce the code requirements. However, law enforcement representatives have suggested that the potential concentration of MMCGs could result in a bigger draw for criminal activity. The Commission also discussed whether or not the City should adopt a cap on the number of MMCGs allowed citywide instead of a separation requirement. However, there is no information available about what the appropriate cap should be.

Mr. Cohen said staff also recommends that a Safety License be required under Section 20.40.244.D.8, which would allow the City to monitor the operation and location of MMCGs. Commissioner Behrens asked if the proposed language is intended to require Safety Licenses for MMCGs that do not need Business Licenses. Mr. Cohen said staff is proposing that all MMCGs would require a Safety License, and those that are not cooperatives would also require a Business License. Mr. Sievers further explained that supplemental Safety Licenses can be required for uses that have more potential to harm the public welfare, and they offer the City the ability to do additional inspections to ensure the regulations are being followed.

Commissioner Kaje referred to the minutes from the November 3rd study session, in which Sergeant Neff stated that "it is important, from a law enforcement standpoint, to keep the MMCG's within the business district. They can become problematic when located in residential areas because it is hard for law enforcement to know where they are. If law enforcement knows where all the dispensaries or MMCG's are located, it is easier for them to police the areas to prevent burglaries." Sergeant Neff further stated on November 3rd that she does not have a strong feeling about whether or not the 1,000-foot separation requirement would be beneficial, and that the concept was brought forward by the City Council.

Mr. Sievers recalled that at the November 3rd Study Session he discussed Senate Bill 5073. He specifically noted that Governor Gregoire vetoed a large portion of the bill, leaving inconsistencies in the remaining portions. The curative act that was intended to recover some of the substance of SB5073 was proposed by law enforcement agencies and contains a new provision that only one MMCG should be located on a parcel. Law enforcement's opposition to multiple MMCGs operating off a single parcel leads him to suggest that aggregation is not a good thing.

Mr. Cohen recalled that concern was expressed on November 3rd that Section 20.40.445.D.1 was not explicit about whether or not a patient would be allowed to hire a provider, who is not a patient, to grow for them. Because the intent of the State legislation is to allow a patient to hire a provider, staff has recommended language to make this issue clearer. City Attorney Sievers suggested the proposed language should be changed by replacing "and" with "or." Mr. Cohen agreed that would be appropriate.

Commissioner Behrens asked if the proposed language in Section 20.40.445.D.1 would limit the size of a cooperative to a maximum of 10 people. Mr. Cohen answered affirmatively and explained that it could include a combination of patients and patient providers. Commissioner Behrens asked if staff has contacted existing MMCGs to determine how this limitation would impact their ability to operate. He expressed concern about placing so many regulations on MMCGs that they cannot effectively function. City Attorney Sievers said he previously explained to the City Council that the legislation was not

intended to allow large, commercial MMCG operations, and the Legislature amended the provisions related to how quickly designated providers could be changed. He recommended to the City Council that the City's interim ordinance be amended to place a limit on how quickly an MMCG would change providers, but the City Council did not adopt the amendment because they were concerned that it would prevent MMCGs from being commercially viable.

Commissioner Broili said his understanding is that MMCGs are intended to be cooperatives and not businesses. They are not intended for the transaction of money, but to provide a product to patients. He also questioned whether this is an issue the Planning Commission should even address since their purview is zoning and code issues only.

Commissioner Kaje expressed concern that changing Section 20.40.445.D.1 to include providers seems contrary to their previous discussion. He summarized that the intent of this section is to limit the number of people with prescriptions for medical marijuana who can participate in an operation. He requested further clarification regarding the intent of the proposed amendment. Mr. Sievers clarified that the intent has always been to allow patients with disabling illness to have someone grow marijuana for them. He pointed out that Governor Gregoire's veto message states that the legislation was intended to cover only ten patients or their providers. He expressed his belief that the proposed amendment is consistent with the legislature's intent, as well as the direction provided previously to both the City Council and the Planning Commission. He emphasized that changing the word "and" to "or" would make it clear that an MMCG could only service the needs of 10 patients.

Commissioner Behrens commented that even if a MMCG is not set up for profit, the City should make sure the restrictions are not so cumbersome that it is unfeasible for MMCG's to operate.

Mr. Cohen advised that a last-minute concern was raised about Section 20.40.445.B, which requires a 1,000-foot separation from schools and other collective gardens. He suggested that additional language should be added to define how the separation between collective gardens would be measured. He recommended it be the distance between the building entries of the collective gardens.

Commissioner Esselman referred to the map and pointed out that the separation line for Einstein Middle School intersects with the shopping area that bisects Richmond Beach Road. She asked if an MMCG could be located in this shopping area given that school children tend to "hang out" on the north side. Mr. Cohen advised that while a MMCG could not locate in the northern portion of the shopping center because it is too close to the school, the use would be allowed on the portion of shopping center property that is outside of the 1,000-foot separation line. However, because of the proposed separation requirements, only one MMCG would be allowed in the shopping area. Commissioner Esselman suggested that the community might have a significant concern if an MMCG is allowed within the northern most portion of the shopping area.

Commissioner Esselman suggested that the map should also identify a 1,000-foot separation line around the Sunset School site. While no school is currently located on the site, it is identified in the district's land bank as a potential school site. If the student population increases, a school might be constructed on the site in the future. Mr. Cohen asked if the definition of "schools" includes all school property, or

just functioning schools. Mr. Sievers said the intent is to protect the students that are using the property, but he suggested they could add additional language to include vacant school sites. Mr. Cohen suggested that the Sunset School site could be added to the map if and when it becomes a functioning school.

Commissioner Behrens asked if there is a commercial area close to the Sunset School site. Commissioner Esselman answered no. Commissioner Behrens pointed out that the Shoreline Center is not an active school yet a separation line was drawn around it. He observed that there is no commercial property near this site, either. He questioned the need to draw separation circles around schools when there is no potential for MMCGs to locate within 1,000 feet. Commissioner Broili agreed and suggested that, for clarity, the boundaries should be removed around schools that do not have adjacent business districts.

Vice Chair Perkowski observed that the proposed language does not reference enforcement and penalties for code violations. Mr. Cohen said the general code enforcement provisions would apply for all code violations, and all MMCGs would be required to meet all Development Code requirements. There is no need for specific code enforcement language in this particular section.

Ms. Simulcik Smith announced that the following additional exhibits were received after the Commission packet was sent out:

- Exhibit 7 – Comment Letter from Peter Mueller, with an article from *THE SEATTLE TIMES* as an attachment.
- Exhibit 8 – Article from *THE HUFFINGTON POST.*
- Exhibit 9 – Article from *THE SEATTLE TIMES.*

Mr. Cohen said staff received a last minute public comment from Mr. Mueller expressing confusion about patients versus providers, but this issue has been resolved. Concern was also raised about whether or not distribution and delivery could occur on the same site. To address this issue, staff recommends that the definition for "medical marijuana collective gardens" be changed to simply read, "Facility used by qualifying patients or their provider(s) for the producing, processing, transporting or delivery of cannabis for medical use." Mr. Sievers referred to Mr. Mueller's point that although the proposed language only allows one collective garden per tax parcel, there would be no limitation on the number of delivery sites on a tax parcel. Rather than placing a limitation on the number of delivery sites in each of the subsections, the new definition would make it clear that only one of any of the uses listed would be allowed per tax parcel. Mr. Cohen advised some minor changes in other sections of the proposed code language would be necessary to be consistent with the new definition.

Vice Chair Perkowski asked if it is necessary to add a definition for "qualifying patient." Mr. Sievers explained that it is illegal in Washington State for a person to have marijuana unless he/she is qualified with a prescription. He did not believe a definition would be necessary.

Commissioner Broili cautioned that discussing regulations related to how MMCGs are operated goes beyond the realm of the Commission's responsibility. Once again, he reminded them to focus their

discussion on the proposed code amendments related to zoning. Commissioner Kaje pointed out that as the Commission deliberates on the proposed separation requirements, it is important for them to understand exactly what needs to be separated. However, he agreed with Commissioner Broili that the Commission's responsibility is to deal with land use issues and policy.

Mr. Sievers referred to Section 20.40.445.D.4 and explained that because the registry provision was part of the statute that was vetoed, patients cannot provide this type of identification. Because the requirement for valid documentation would be part of the Safety License requirement, he suggested this provision be removed from the proposed language.

Mr. Cohen announced that the State Environmental Protection Act (SEPA) review has been completed. No public comments were received, and staff will issue a Determination of Non-Significance on December 5th. There will be a 14-day public comment period for the determination. He also announced that the Commission received an additional public comment from Peter Mueller, which was provided in the Commission's desk packet.

Mr. Cohen referred to information provided in the Staff Report to explain how the proposed amendment meets the three Development Code criteria (SMC 20.30.350). He reviewed the criteria as follows:

1. *The amendment is in accordance with the Comprehensive Plan.* There is no language about MMCGs in the Comprehensive Plan, but there are some general comments in the framework goals and policies. Framework Goal 3 calls for supporting the provisions of human services to meet community needs, and Framework Goal 10 calls for respecting neighborhood character and engaging the community in decisions that affect them.

2. *The amendment will not adversely affect the public health, safety or general welfare.* The amendment is intended to improve public health by providing collective gardens for patients to raise prescribed medical marijuana.

3. *The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.* The provisions of the amendment would not be contrary to the best interest of the citizens and property owners because they would:

    - Enact State Bill 5073
    - Ensure adequate separation between MMCGs and residential and school properties
    - Require adequate regulations to ensure the community of potential size and location
    - Require registration through a Safety License to monitor the businesses

Mr. Cohen referred to Attachment F, which provides draft language for a Commission recommendation. He noted that the amendment is scheduled to go before the City Council for a study session on December 12th. Staff anticipates the City Council will adopt the amendment on January 9th, prior to expiration of the 6-month moratorium. The Commission noted that Attachment F was not included in the Staff Report. Mr. Cohen said Attachment F provides basic language for introducing the proposed code to the City Council, but it does not include the actual proposed code language.

Mr. Cohen announced that two notices were sent out for the public hearing. The first notice was sent out for the initial hearing that was scheduled for November 17th but postponed to December 2nd. A second notice was sent out to clarify the date of the hearing.

In reference to earlier Commission discussion about focusing their discussion on land use issues only, Commissioner Behrens pointed out that, with the exception of Provision 7, none of the other provisions in Section 20.40.445.D deal specifically with land use issues. Mr. Cohn noted that these provisions are intended to place parameters around the activity that goes on with the MMCG land use. It is appropriate to place all provisions related to MMCGs in one location in the Development Code. He said this same approach has been used in other code sections, such as home occupations. Commissioner Kaje said he understands that the provisions may need to be located in a single place within the Development Code. However, he recommended the Commission focus their discussion and deliberation to points within their purview and knowledge base.

Public Testimony

Peter Mueller, Shoreline, said he is an attorney and a Federal prosecutor with considerable experience administering Federal drug statutes. He commended the staff and City Council for responsively responding to a very complex and difficult issue that was rendered even more complex by the joint actions of Governor Gregoire and the Legislature. He referred to his legal comments that were submitted to the Commission in writing, one of which was addressed by the proposed new definition for "medical marijuana collective gardens."

Mr. Mueller said he is sensitive to the Commission's concern that their purview is land use issues rather than policy issues, which are the purview of the City Council. He announced that on November 30th, Governor Gregoire, in conjunction with the governor of Rhode Island, submitted a very comprehensive petition to the Drug Enforcement Administration (DEA) requesting that they reschedule cannabis from Schedule 1 to Schedule 2. If this change is made, all of the problems that local governments and law enforcement agencies are experiencing would be eliminated. It would solve the problem of getting the substance to patients who need it in a compassionate way while controlling its abuse and proliferation, which has been demonstrated over and over again in those states that have grappled with trying to make medical marijuana available. If the DEA acts on this petition, patients will be able to obtain the substance based on a normal prescription by a qualified medical practitioner, and it would be administered and compounded by a qualified pharmacist through a regular pharmacy. Most importantly, it would be compounded and distributed in a way that does not require patients to smoke the substance.

Mr. Mueller referred to a statement issued on October 31st by Gil Kerlikowski, Director of the Office of National Drug Control Policy, on behalf of President Obama in response a petition the White House received asking for legalization of marijuana. The point of the statement is that the National Institute of Health has recognized that substance abuse by teenagers of marijuana is a much more serious problem than any recreational use by adults. Although he is a lawyer, he said the real reason he is present is because he is a dad, and he knows the substance is dangerous to kids. Making it available to the community through the loose structure involved in the proposed amendment is not good. He suggested

Shoreline step back and give the DEA a chance to respond to Governor Gregoire, and this may solve the entire problem.

Kirk Bayle said he is an attorney with a focus on medical marijuana businesses and defense. He said he represents A Green Cure, which is located in Shoreline on Northeast 145th Street and Highway 99. He said he has worked very closely with Pete Holmes's office in creating the City of Seattle's ordinance, and they are currently working on their zoning issues. He has also worked with the City of Issaquah to draft an ordinance that will allow some medical marijuana access points or collective gardens in their city.

Mr. Bayle explained that the purpose of the proposed ordinance is to create a safer community through regulations. It is important for citizens to feel safe, but it is also important that the patients who need cannabis can continue to have safe access to the substance. He referred the Commission to Revised Code of Washington (RCW) 69.51A.025, which codifies the medical marijuana statute (SB5073) and states, "nothing in this chapter or in the rules adopted to implement it precludes a qualifying patient or designated provider from engaging in the private, unlicensed, non-commercial production, possession, transportation, delivery or administration of cannabis for medical use as authorized under RCW 69.51A." That means people can have collective gardens without a license. They can have three on a block if they want. Because law enforcement has indicated it is easier to patrol 1, 2 or 3 access points, the medical marijuana community wants to consolidate the locations. They support regulation and the creation of guidelines so the businesses can operate and patients can continue to have access to their medicine.

Mr. Bayle referred to Section 20.40.445 of the proposed code language (Attachment B) and said his clients do not take issue with Provision D.6 regarding visibility because it is a civil infraction to use or display medical cannabis in public. He also said his clients do not object to Provision B, which calls for a 1,000-foot separation between MMCG and schools and other MMCGs. He noted that this use has proliferated in some areas of Seattle because they do not require a separation between MMCG access points. He suggested that the 1,000-foot separation requirement would create safer communities and continue to allow patients to have access to their medicine. He said he does not have a position on whether or not a patient should be allowed to hire a provider. He suggested this may be something for the City Council to consider. He also has no position regarding the proposed new definition for "medical marijuana collective gardens."

Mr. Bayle said he does object to Provision D.1, which would limit a MMCG to no more than ten qualifying patients at any given time. This provision would eliminate the current businesses because it would be financially unfeasible to operate. He suggested that Provision D.1 has been blurred because some employees of Shoreline are opposed to having medical marijuana facilities in the suggested. He said he was present at the City Council meeting when they addressed this issue, and it was their intention to resolve the issue rather than passing it on to the Planning Commission.

Commissioner Behrens asked Mr. Bayle to comment on the City Attorney's recommendation to strike Provision D.4, which would require a patient to provide valid documentation. He asked if businesses have internal mechanisms to ensure that people use MMCGs appropriately. Mr. Bayle answered that his

clients require patients to provide authorization and a copy of their valid Washington ID. These items are entered into the system and checked every time. He pointed out that City Attorney Sievers' comments were related to the registry, which was vetoed by the Legislature.

Greg Logan, Shoreline, said it is important to make the distinction that MMCGs are collectives and not businesses. However, as noted by Commissioner Behrens, collectives need funds to cover their costs. He also agreed with Commissioner Esselman that the Richmond Beach Business area would not necessarily be an appropriate place for an MMCG. Aurora Avenue seems to be a satisfactory location for these uses. Regarding Mr. Mueller's comments about Governor Gregoire's petition to the DEA, Mr. Logan observed that people have been asking the DEA to address this issue for many years. Because the DEA has chosen not to take action, it is important for the City to move forward with its own provisions. He noted that people who use medical cannabis do not need to smoke at all. It's more advantageous to take it in edible form, and it can also be vaporized and made into creams.

Mr. Logan said he is also familiar with Mr. Kerlikowski's letter and found it to be self-interest Federal Government propaganda. The National Institute of Health is more involved in espousing this issue than genuinely and adequately expressing what is known through cultural and personal experiences. He said he is also concerned about kids abusing marijuana, but he also grew up in a time when kids abused the substance and most of them became professionals and did not go on to use heroin. He said his hunch is that people who get medical cannabis are not interested in giving it away. While this is a concern, he suggested there are ways to address the issue without limiting access.

Final Questions by the Commission

Commissioner Kaje referred to the map that was prepared to identify potential MMCG sites based on the proposed 1,000-foot separation requirement. He pointed out that, as proposed, an MMCG could exclude another MMCG by locating in the center of the Ballinger Neighborhood commercial area. He said he was interested to hear from Mr. Bayle that the medical marijuana community is not concerned about the proposed 1,000-foot separation requirement, particularly given the City's very limited commercial areas except along Aurora Avenue North. Mr. Cohen agreed that locating an MMCG in the center of the Ballinger Neighborhood commercial area could preclude options for another MMCG in the area.

Deliberations

COMMISSIONER KAJE MOVED TO AMEND THE DEVELOPMENT CODE REGARDING MEDICAL MARIJUANA COLLECTIVE GARDENS (MMCGs) AS PROPOSED BY STAFF. COMMISSIONER ESSELMAN SECONDED THE MOTION.

Commissioner Kaje said he believes the proposed amendment is an important step. He said he has a strong feeling that the amendment will be temporary because the State will probably clean up the situation they left to local governments. He encouraged the Commissioners to focus on key elements of the proposed amendment that are within their purview, with the understanding that the issue will likely come before them again with better direction from the State Legislature and City Council.

Mr. Cohen reminded the Commission of staff's recommendation to replace the definition of "medical marijuana collective gardens" with the language provided. He also reminded the Commission of staff's recommendation to add more information to define how the 1,000-foot separation between two collective gardens would be measured. In addition, staff has recommended that the words "or their providers" be added to Section 20.40.445.D.1. Lastly, the City Attorney has recommended that Section 20.40.445.D.4 be removed in its entirety.

COMMISSIONER KAJE MOVED TO AMEND SECTION 20.20.34.M BY REPLACING THE PREVIOUS DEFINITION FOR MEDICAL MARIJUANA COLLECTIVE GARDENS WITH: "FACILITY USED BY QUALIFYING PATIENTS OR THEIR PROVIDER(S) FOR THE PRODUCING, PROCESSING OR DELIVERY OF CANNABIS FOR MEDICAL USE." COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Kaje said he is not sure the word "transporting" adds value to the definition, and it could actually add confusion. Using the word "delivery" adequately describes the intent. City Attorney Sievers concurred.

THE MOTION TO AMEND THE MAIN MOTION WAS APPROVED UNANIMOUSLY.

COMMISSIONER KAJE MOVED TO AMEND SECTION 20.40.445.B TO READ, "A COLLECTIVE GARDEN OR FACILITY FOR DELIVERY OF CANNABIS PRODUCED BY THE GARDEN MAY NOT BE LOCATED WITHIN 1,000 FEET OF SCHOOLS MEASURED IN A STRAIGHT LINE FROM THE CLOSEST SCHOOL PROPERTY LINE TO THE NEAREST BUILDING ENTRY TO A COLLECTIVE GARDEN." COMMISSIONER BROILI SECONDED THE MOTION.

Vice Chair Perkowski pointed out that because the Commission recommended a new definition for a MMCG, it is no longer necessary to include the phrase "or facility for delivery of cannabis produced by the garden." Commissioner Kaje concurred.

Commissioner Kaje said he is opposed to using distance separation as a way to limit the number of MMCG's because he did not hear any compelling evidence from the City's law enforcement staff that it would be better to spread the uses out. While he respects the opinion of the commenter who said it was okay to spread the uses out, it is important to keep in mind that the City's has a unique geography of business districts. Many of them are very small. He said he does not believe that the separation requirement is an appropriate tool for limiting the number of MMCGs. There are better ways to accomplish this goal such as identifying specific locations where the use is allowed. He said he does, however, believe it is appropriate to separate MMCGs from schools.

COMMISSIONER KAJE CHANGED HIS MOTION TO AMEND SECTION 20.40.445.B TO READ, "A COLLECTIVE GARDEN MAY NOT BE LOCATED WITHIN 1,000 FEET OF ANY SCHOOL MEASURED IN A STRAIGHT LINE FROM THE CLOSEST SCHOOL PROPERTY LINE TO THE NEAREST BUILDING ENTRY TO A COLLECTIVE GARDEN." COMMISSIONER BROILI AGREEDTO THE CHANGE.

Commissioner Behrens expressed his belief that the market place is a better way to regulate the location of MMCGs. There may be a temporary surge in MMCGs. Those that operate well will stay in business, and those that are questionable and don't follow the rules will soon find themselves out of business. He said he is not opposed to a separation requirement from schools, but he pointed out there are not similar restrictions for taverns.

THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER KAJE MOVED TO AMEND SECTION 20.40.445.D.1 TO READ, "NO MORE THAN TEN QUALIFYING PATIENTS, OR THEIR PROVIDERS, MAY PARTICIPATE IN A SINGLE COLLECTIVE GARDEN AT ANY TIME." COMMISSIONER BROILI SECONDED THE MOTION.

Commissioner Kaje said he respects the comments provided by Mr. Bayle about whether or not an MMCG could be viable with only ten patients, but he is not in a position to speak knowledgeably about the issue at this time. He recalled that at the study session, staff indicated this provision was intended to be consistent with State law. He expects the issue will be revisited at some point in the future. Commissioner Behrens felt it would be more appropriate to strike Provision D.1. Commissioner Kaje said this is something the Commission could consider after they have voted the motion on the floor.

THE MOTION CARRIED 4-1, WITH COMMISSIONER BEHRENS VOTING IN OPPOSITION.

COMMISSIONER BROILI MOVED TO DELETE SECTION 20.40.445.D.4 AS RECOMMENDED BY THE CITY ATTORNEY. COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

VICE CHAIR PERKOWSKI MOVED TO ADD SECTION 20.40.445.D.8 TO READ, "TO ESTABLISH A LEGAL, COLLECTIVE GARDEN A SAFETY LICENSE MUST BE OBTAINED FROM THE CITY OF SHORELINE." COMMISSIONER BEHRENS SECONDED THE MOTION.

Vice Chair Perkowski advised that this new language would address his earlier question about how MMCGs would be established and tracked. Commissioner Kaje said a Safety License requirement could also be a potential tool for limiting the number of MMCGs. While there has been mixed testimony about whether licensing should be required, this decision is not within the Commission's purview.

THE MOTION CARRIED 4-0, WITH COMMISSIONER BROILI ABSTAINING.

COMMISSIONER BEHRENS MOVED THAT SECTION 20.40.445.D.1 BE DELETED. THE MOTION DIED FOR LACK OF A SECOND.

Vice Chair Perkowski questioned if Section 20.40.445.D should be amended to reflect the new definition for medical marijuana collective gardens, which was approved earlier. Mr. Sievers agreed it would be appropriate to amend the language to be consistent with the new definition.

COMMISSIONER KAJE MOVED TO AMEND SECTION 20.40.445.D TO READ, "QUALIFYING PATIENTS MAY CREATE AND PARTICIPATE IN COLLECTIVE GARDENS FOR THE PURPOSE OF PRODUCING, PROCESSING AND DELIVERING CANNABIS FOR MEDICAL USE SUBJECT TO THE FOLLOWING CONDITIONS:" VICE CHAIR PERKOWSKI SECONDED THE MOTION.

Commissioner Behrens asked if the amendment would allow someone from the collective garden to transport cannabis to a patient who can legally have the substance but cannot come to the site to pick it up. Commissioner Kaje said this issue is addressed in Section 20.40.445.C. The amendment is to make the language more consistent with the definition that was previously amended. Mr. Sievers pointed out that a person who delivers cannabis to a patient would be considered the provider. He added that the proposed amendment would allow a single provider to deliver to all the patients of the collective. A patient can also be a provider.

Mr. Cohen suggested that the words, "for the purpose of producing, processing and delivering cannabis for medical use" could be removed because they are already included as part of the definition for MMCGs. Commissioner Kaje pointed out that it would not be possible to amend the motion at this point. However, the Commission could vote the motion down and place a new motion on the floor.

THE MOTION FAILED UNANIMOUSLY.

COMMISSIONER KAJE MOVED TO AMEND SECTION 20.40.445.D TO READ, "QUALIFYING PATIENTS MAY CREATE AND PARTICIPATE IN COLLECTIVE GARDENS SUBJECT TO THE FOLLOWING CONDITIONS." COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Commissioner Kaje reviewed the Development Code Amendment Criteria as follows:

1. *The amendment is in accordance with the Comprehensive Plan.* As staff noted, there is no specific language in the Comprehensive Plan about MMCGs, but there is language regarding the provision of human services, respecting neighborhood character, etc. The amendment is in accordance with the Comprehensive Plan.

2. *The amendment will not adversely affect the public health, safety or general welfare.* The proposed amendment would benefit patients and their health. By putting appropriate limitations on location there would be no adverse affects to the public health.

3. *The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.* As noted by staff, the proposed amendment enacts a State Bill. The Commission

chose to recommend elimination of the separation requirement, but they have clearly provided for separation from schools and residential areas.

Commissioner Kaje summarized that the proposed amendment meets the Development Code Amendment Criteria as laid out in SMC 20.33.50.

Vice Chair Perkowski pointed out that while Section 20.40.445.D.7 states that no odors shall be allowed to migrate beyond the interior portion of the building or structure, it does not define the type of odor. While he understands the intent, the language is vague. Commissioner Broili suggested there are advantages to leaving the language vague. For example, it gives enforcement a tool to close a MMCG down if it becomes an obstruction. Once again, Commissioner Kaje reminded the Commission that this is not likely the last time this issue will come before the Commission and City Council.

Vote by Commission to Recommend Approval or Denial or Modification

THE MAIN MOTION TO AMEND THE DEVELOPMENT CODE REGARDING MEDICAL MARIJUANA COLLECTIVE GARDENS (MMCGs) AS PROPOSED BY STAFF AND AMENDED BY THE COMMISSION WAS UNANIMOUSLY APPROVED.

Closure of Public Hearing

Vice Chair Perkowski closed the public hearing.

Commissioner Kaje reminded staff that the Commission did not receive Attachment F. Mr. Cohn advised that Attachment F is a draft transmittal letter from the Chair of the Commission to the City Council. The Commission does not generally review transmittal letters; it was provided by staff for the Commission's information. He noted that the transmittal letter will need to be updated to outline the reasons for the Commission's recommendation, and the actual recommendation will be attached.

DIRECTOR'S REPORT

Mr. Cohn reported that the City Council adopted the Planning Commission's recommendation that the Commission no longer conduct hearings and make recommendations on quasi-judicial actions. All quasi-judicial actions will now go to the Hearing Examiner, including Master Plan Permits. The City Council also accepted the Commission's recommendation regarding the Southeast Shoreline Neighborhood Subarea Plan by a vote of 4-3.

Ms. Simulcik Smith advised that the upcoming Commission vacancy will be advertised in the next edition of *CURRENTS,* which will reach Shoreline residents on December 19th. Applications will be accepted through the end of January. A City Council Committee will be appointed to review the applications and interview applicants in February and March and make a final recommendation to the City Council. She noted that letters will be sent to Planning Commissioners whose terms expire on March 31st, inviting them to apply.

Mr. Cohn announced that this is the last Planning Commission meeting he will attend. He said it has been a pleasure to with the Planning Commissioners.

UNFINISHED BUSINESS

Planning Commission Bylaw Amendments

Ms. Simulcik Smith reviewed that the Planning Commission was presented with potential Bylaw amendments on July 21st and October 6th. She referred to the Staff Report, which answers the questions raised by the Commission at their October 6th meeting. She advised that changes were made to the Bylaws based on Commission comments and direction. The staff and Commission reviewed the proposed changes as follows:

- **Article II – Membership.** Ms. Simulcik Smith recalled that there was some discussion about whether a Commissioner appointed to fill a vacant term would be eligible for two additional consecutive terms. They considered two potential options: 1) Commissioners who fulfill a vacated term are eligible to apply for reappointment for two additional consecutive term; and 2) Commissioners who serve less than two years of a vacated term are eligible to apply for reappointment for two additional consecutive terms. She noted that Option 2 is supported by Roberts Rules of Order, which states that, "for purposes of determining eligibility to continue in an office under such a provision, an officer who has served more than half a term is considered to have served a full term in that office."

  The Commission agreed to incorporate the language used in Roberts Rules of Order as noted by staff. If a Commissioner serves more than half of a vacated term, they would not be eligible for two additional consecutive terms.

- **Article V, Section 3 – Order of Business.** Ms. Simulcik Smith recalled that the Commission requested clarification about the agenda items "New Business" and "Unfinished Business." She referred to the explanation from Roberts Rules of Order, which was outlined in the Staff Report. She said staff is proposing to alter the Order of Business for regular meetings by changing "Staff Reports" to "Public Hearings" and adding a new item called "Staff Items," which will consist of a "Staff Presentation" and Public Comment." Both "Unfinished Business" and "New Business" would remain as regular agenda items. She referred to the criteria outlined in the Staff Report, which would be used for inserting topics under the appropriate agenda items. She also shared a few examples of items that would be considered "New Business" and "Unfinished Business."

  The Commission concurred with staff's recommendation to change the order of business.

- **Article V, Section 4 – Public Comment and Testimony.** Ms. Simulcik Smith advised that the changes made in this section mirror the changes proposed to Section 3 (Order of Business). The three comment periods would be "General Public Comment," "Public Hearing Testimony," and "Study Item Public Comment." There would be no public comment period after items inserted under "Unfinished Business" or "New Business."

Commissioner Kaje observed that the second sentence in the second paragraph could be misconstrued to mean that public comment would be allowed after the staff report and after initial questions by the Commission. The Commission agreed to change the language to read, "During public hearings and study sessions, public testimony/comment will occur after the initial questions by the Commission that follow the presentation of each staff report."

The Commission questioned the need to include the last sentence of the second paragraph. Ms. Simulcik Smith explained that this sentence mainly applies to quasi-judicial hearings, but some of the procedures have been adopted for legislative hearings, as well. She said she does not believe the two sentences conflict with each other.

The Commission accepted this amended as recommended by staff and amended by the Commission.

- **Article VI, Section 4 – Voting.** Ms. Simulcik Smith recalled that there was some confusion about the term "present members may abstain for cause." Roberts Rules of Order makes it clear that abstaining is deciding not to vote at all and calling for abstentions is asking someone to make their vote. Staff is recommending that the words "for cause" be stricken from the Bylaws.

  The Commission concurred with this amendment as proposed by staff.

- **Article VI, Section 5 – Recesses/Continuations.** Ms. Simulcik Smith said staff recommends adding "adjournment" to the title, because Section 5 contains language regarding adjournment. Language was also added to state that "meetings can be adjourned by a majority vote of the Commission or by the Chair when it appears that there is no further business.**"** This is consistent with Roberts Rules of Order. In addition, a section was added to outline the process the Commission must use when recessing for a short break. She suggested the language should be further altered to allow the Commission to enter into a recess by a majority vote or by consensus, which is the Commission's typical process. The Commission agreed that the first sentence in the second paragraph should be changed by inserting the words "or by consensus" after "majority vote."

  The Commission accepted the proposed change to Article VI, Section 5 as amended.

- **New Article.** Ms. Simulcik Smith advised that this language talks about how each individual Commissioner should handle their personal opinions when they differ from the recommendation of the Commission. She referred to the Assistant City Attorney's response to each of the scenarios Commissioner Kaje offered for when this situation could come into play. Commissioner Kaje said he appreciates the Assistant City Attorney's guidance on this issue. However, rather than trying to capture all of the scenarios in the proposed New Article, he suggested it would be useful to review the scenarios with new Commissioners to illustrate the types of situations that may come up.

Commissioner Behrens expressed concern about how a Commissioner would know if his/her opinion is contrary to the majority opinion of the Commission when speaking before a community group or other government agency. Commissioner Kaje clarified that, with the exception of the Chair and Vice Chair, individual Commissioners cannot speak on behalf of the Commission. He suggested the language should make it clear that as a good practice, individual Commissioners should make groups aware that they are not speaking on behalf of the Commission. The remainder of the Commission concurred.

The Commission agreed to postpone a final decision on the language for the new article to allow staff to create language that better expresses the Commission's intent.

- **Written Testimony.** Ms. Simulcik Smith recalled that the Commission talked about the challenge of how to thoughtfully review written testimony when it is submitted just before or during a public hearing. Mr. Cohn summarized the guidance the Commission received just prior to the meeting from the Assistant City Attorney's regarding this issue. He summarized that if the Commission wants to limit written testimony, the Assistant City Attorney recommends they set a deadline ahead of time so the public has a clear understanding that written testimony submitted after the deadline may not be included as part of the Commission's consideration. Ms. Simulcik Smith said the Assistant City Attorney also said the Commission could choose to suspend the rules to allow written testimony, and then take a recess to read it. Commissioner Behrens questioned how the Commission would decide if written testimony submitted after the deadline is important enough to suspend the rules without taking the time to read it first. Mr. Cohn said that if numerous written comments are submitted, the Commission could decide to continue the public hearing.

  The Commission discussed the pros and cons of setting a deadline for written comments. The deadline could be advertised on the public hearing notice, as well as on the City's website. It was pointed out that the Commission wants to hear public opinions, but they cannot give their written comments the attention they deserve when they are submitted the day of the hearing. They also discussed whether or not written comments submitted prior to or during a public hearing should be included as part of the record that is forwarded to the City Council along with the Commission's recommendation. Some Commissioners expressed concern about having a hard and fast rule that prevents the Commission from considering good written testimony because it is submitted after the deadline.

  The Commission agreed to postpone final action on amendments related to written testimony and deadlines.

- **Article IX – Appearance of Fairness.** Ms. Simulcik Smith reminded the Commission that, effective November 28th, the City Council made the decision to send all quasi-judicial actions to the Hearing Examiner.

  The Commission agreed that because they will no longer be conducting quasi-judicial public hearings, this section should be deleted from the Bylaws.

NEW BUSINESS

No new business was scheduled on the agenda.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Behrens referred to a sample copy of a patient information and authorization release form for patients who use Medical Marijuana Collective Gardens. The form mirrors those used by most doctors and may have some value to the City Council's future discussion and final action on the proposed Development Code amendments related to Medical Marijuana Collective Gardens. He suggested the document be forwarded to the City Council for informational purposes.

AGENDA FOR NEXT MEETING

Vice Chair Perkowski announced that the Commission's December 15th meeting has been cancelled. Instead, the Commissioners have been invited to a holiday party at Chair Wagner's home.

Mr. Szafran advised that two applications would be presented to the Commission on January 5th: Miscellaneous Development Code amendments and the docket for the 2012 Comprehensive Plan amendments. In addition, staff will review the first steps in the process to update the Comprehensive Plan.

ADJOURNMENT

The meeting was adjourned at 9:40 P.M.

_____	_____
Michelle Linders Wagner	Jessica Simulcik Smith
Chair, Planning Commission	Clerk, Planning Commission

TIME STAMP
December 1, 2011

ROLL CALL – 0:20

APPROVAL OF AGENDA – 0:36

DIRECTOR'S COMMENTS – 0:44

APPROVAL OF MINUTES – 0:50

GENERAL PUBLIC COMMENT – 1:53

PUBLIC HEARING – MEDICAL MARIJUANA COLLECTIVE GARDENS – 2:23

Staff Overview and Presentation of Preliminary Staff Recommendation and Questions by the Commission to Staff – 3:35

Public Testimony – 58:02

Final Questions by the Commission – 1:14:10

Deliberations – 1:16:26

Vote by Commission to Recommend Approval or Denial or Modification – 1:51:00

Closure of Public Hearing – 1:52:05

DIRECTOR'S REPORT – 1:53:35

UNFINISHED BUSINESS

Planning Commission Bylaw Amendments – 1:56:30

NEW BUSINESS – 2:37:03

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS – 2:37:08

AGENDA FOR NEXT MEETING – 2:38:27

ADJOURNMENT

PUBLIC HEARING RECORD

Medical Marijuana Collective Gardens

December 1, 2011 | List of Exhibits

Exhibits 1-5 were part of the December 1 Planning Commission meeting packet

Exhibit 1 December 1, 2011 Staff Report "Public Hearing on Medical Marijuana Collective Gardens Code Amendments"

Exhibit 2 Proposed Amendments to the Development Code

Exhibit 3 Medical Marijuana Collective Garden Locator Map

Exhibit 4 SEPA Checklist

Exhibit 5 Re-Notice of December 1, 2011 Public Hearing

Exhibits 6-8 were submitted at the public hearing

Exhibit 6 Comment letter from Peter Mueller, dated December 1, 2011

Exhibit 7 Huffington Post Article, submitted by Peter Mueller, titled "White house Statement Rejecting Petition to Legalize Marijuana"

Exhibit 8 Seattle Times Article, submitted by Peter Mueller, titled "Legal pot could hurt more youth"

The Hearing Record also includes any oral testimony given at the public hearing.

Planning Commission Meeting Date: December 1, 2011 **Agenda Item: 7.A**

PLANNING COMMISSION AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	**Public Hearing on Medical Marijuana Collective Gardens Code Amendments**
DEPARTMENT:	**Planning & Community Development Department**
PRESENTED BY:	**Paul Cohen, Senior Planner**

INTRODUCTION

The Planning Commission held a study session on November 3, 2011 to discuss proposed code amendments for medical marijuana collective gardens. Based on that session staff has made a few proposed changes to the proposed code amendments (Attachment B). This December 1, 2011 meeting is to hold a public hearing, deliberate, and make final recommendations to the City Council.

BACKGROUND

In July 2011 State Bill 5073 was passed which allowed medical marijuana collective gardens (MMCG) to become a legal activity. A collective garden has prescribed patient/members that can only grow medical marijuana for their use. In response, Shoreline City Council adopted a moratorium on July 18, 2011 regarding MMCGs (Ord. No. 611) that do not meet interim regulations. These interim regulations are consistent with State Bill 5073. The 6-month moratorium is for the City to regulate and study MMCG before adopting permanent regulations. On September 12, 2011 the City Council amended the interim regulations in Ordinance No. 614.

The Commission was directed by the City Council to review the interim regulations and related land use issues and to recommend amendments to the Development Code. Issues outside the Development Code such as crime, licensing, revenue, etc. will be considered by the Council when they adopt the amendment. The Council expects to adopt Development Code regulations by mid-January 2012.

PROPOSAL & ANALYSIS

The Commissioners raised several questions at the November 3 study session. Staff responses are below:

1. The current Development Code requires commercial development to have 50% of their first floor façade in transparent windows. The proposed MMCG code requires that production, processing, or delivery cannot be visible to the public. These two requirements are not necessarily conflicting. A MMCG could have transparent windows into a lobby but have the remainder of the operation separate and not visible to the public. If the Commission concludes that more

clarity would result in less cost to the applicant or a better product, it could recommend an amendment to the mixed use - commercial design standards in section 20.50.280.B that exempt MMCGs from this requirement.

2. On November 3 there was significant discussion regarding the 1,000 foot separation requirement between MMCGs (Attachment C). There was concern that this requirement would result in an outcome where many operations, in order to separate would locate at the edge of commercial zones and adjacent to residential zones because commercial areas are narrow. In addition there was concern that dispersing these uses through the separation requirement would make monitoring or enforcing the code more difficult. However, based on police testimony staff believes that the potential concentration of MMCGs could result in a bigger draw for criminal activity.

   There was discussion regarding establishing a cap on the number of MMCGs city-wide instead of a separation requirement. There are benefits and disadvantages to the different approaches. As reflected in the attached proposed Development Code amendment, staff recommends that the City adopt the requirement for a Safety License under 20.40.244.D.8. This will allow the City to monitor the operation and location of MMCGs. If MMCGs proliferate to a point where the community cannot tolerate more gardens then the City can consider amending the Development Code to establish a cap to the number of operations or the number of patient-members.

3. The November 3, 2011 proposed Development Code was not explicit under 20.40.445.D.1 if a patient can hire a provider, who is not a patient, to grow for them. The intent of the state legislation is to allow a patient to hire a provider. In that regard, Staff recommends amending the Development Code to be less ambiguous.

SEPA Review

The SEPA checklist and notice have been publicized (Attachment D) with the intent to make a determination of non-significance. To date, no comments regarding the SEPA checklist have been received. Staff anticipates issuance of a SEPA determination of non-significance by the December 1, 2011 public hearing.

Development Code Amendment Criteria

SMC 20.30.350 establishes the following criteria for approval of a Development Code amendment:

1. *The amendment is in accordance with the Comprehensive Plan;*

- Framework Goal 3: Support the provision of human services to meet community needs.
- Framework Goal 10: Respect neighborhood character and engage the community in decisions that affect them.
- There are no policies that specifically address or discourage pharmacies, clinics or, MMCG's as a land use.

2. *The amendment will not adversely affect the public health, safety or general welfare;*

- The amendment is intended to improve public health by providing collective gardens for patients to raise prescribed medical marijuana.

3. *The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.*

The provisions of the amendment are not contrary to the best interest of the citizens and property owners by:

- Enacting State Bill 5073.
- Ensuring adequate separation between collective gardens and between collective gardens and school property.
- Requiring adequate regulation to ensure the community of the potential size and location of the gardens.
- Requiring registration through a safety license to monitor these businesses

Recommendation

Staff recommends that the Commission hold and close the public hearing, deliberate, and make recommendations to amend the Development Code (Attachment F) as drafted by staff.

TIMING AND NEXT STEPS

July 2011 – State Bill 5073 passed allowing MMCGs.
July 18, 2011 – Shoreline City Council adopted a 6 month moratorium – Ord. No 611.
September 12, 2011 – Shoreline City Council adopted Ord. No. 614.
October 17, 2011- Notice of SEPA and Public Hearing date.
November 3, 2011 – Commission Study Session.
November 8, 2011 - Re-notice of SEPA and new Public Hearing date (Attachment E).
December 1, 2011 – Commission Public Hearing, Deliberation, and Recommendation

Staff is scheduled to return to the City Council with the Commission's recommendation on December 12, 2011 and again January 9, 2012 for adoption. The 6-month moratorium ends mid-January 2012.

ATTACHMENTS

A. List of Exhibits
B. Proposed Amendments to the Development Code
C. Medical Marijuana Collective Garden Locator Map
D. SEPA Checklist
E. Re-Notice of Public Hearing
F. Draft Commission Recommendations

Proposed Development Code Amendments for Medical Marijuana Collective Gardens

Chapter 20.20 - Definitions.

20.20.034 M definitions.

Medical Marijuana Collective Garden – Qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

Useable Cannabis – Dried flowers of the Cannabis plant having a THC concentration greater than three-tenths of one percent without stems, stalks, leaves, seeds, and roots containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

20.40.130 Nonresidential uses.

NAICS #	SPECIFIC LAND USE	R4-R6	R8-R12	R18-R48	NB & O	CB & NCBD	MUZ & I
RETAIL/SERVICE TYPE							
	Medical Marijuana Collective Gardens				P-i	P-i	P-i

P = Permitted Use S = Special Use
C = Conditional Use i = Indexed Supplemental Criteria

20.40.445 Medical Marijuana Collective Gardens.

A. There shall be no more than one collective garden permitted on a tax parcel.

B. A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1,000 feet of schools and not within 1,000 feet of any other collective garden or delivery site measured in a straight line from the closest school property line to the nearest building entry to a collective garden.

C. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.

D. Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to the following conditions:

(1) No more than ten qualifying patients, **and their providers**, may participate in a single collective garden at any time;

(2) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

(3) A collective garden may contain no more than twenty-four ounces of useable cannabis per patient up to a total of seventy-two ounces of useable cannabis;

(4) A copy of each qualifying patient's valid documentation or proof of registration with the registry established in section 901 of this act, including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and

(5) No useable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden.

(6) No production, processing or delivery of cannabis shall be visible to the public from outside of the building or structure.

(7) No odors shall be allowed to migrate beyond the interior portion of the building or structure where the garden is located.

(8) To establish a legal, collective garden a Safety License must be obtained from the City of Shoreline.

City of Shoreline
Geographic Information System

Exhibit 3

Potential Collective Garden Sites

Collective Garden & 1000 Foot Buffers From School Perimeter

Woodway
Edmonds
Lake Ballinger
Mountlake Terrace
Puget Sound
Seattle
Lake Forest Park

NW 205TH ST
NW 200TH ST
N 200TH ST
NE 205TH ST
20TH AVE NW
15TH AVE NW
8TH AVE NW
3RD AVE NW
14TH AVE NW
10TH AVE NW
NW 195TH PL
RICHMOND DR NW
NW BCH RD
RICHMOND BCH RD
N RICHMOND BCH RD
RIDGEFIELD RD NW
NW INNIS ARDEN
SPRINGDALE CT NW
NW 180TH ST
NW 175TH ST
NW 167TH ST
N 195TH ST
N 185TH ST
N 175TH ST
N 165TH ST
N 155TH ST
N 152ND ST
N 145TH ST
NW 145TH ST
NE 195TH ST
NE 185TH ST
NE 180TH ST
NE 175TH ST
NE 168TH ST
NE 165TH ST
NE 155TH ST
NE 150TH ST
NE 178TH ST
NE 145TH ST
NE PERKINS WY
15TH AVE NE
10TH AVE NE
5TH AVE NE
1ST AVE NE
24TH AVE NE
25TH AVE NE
MERIDIAN AVE N
FREMONT AVE N
LINDEN AVE N
DAYTON AVE N
ASHWORTH AVE N
AURORA AVE N
99
5

Horizon School
Syre Elementary
Albert Einstein Jr High School
N 195TH ST Crista & Kings School
Pacific Northwest Medical
Echo Lake Elementary
Shoreline Center
Saint Marks Church and School
Living Wisdom School
Lake Forest Park Monstessori
Aldercrest Annex
Saint Luke Church and School
Shorewood High School
Meridian Park Elementary
Shoreline Community College
Higland Terrace Elemetary School
Ridgecrest Elementary
Kellogg Middle School
Briarcrest Elementary School
Shorecrest High School
Shoreline Christian School
NW School for the Hearing Impaired
Parkwood Elementary School
The Evergreen School
Lakeside School

Emerald City Compassion Center
Green Hope
Green Cure Wellness

1000' from Collective Garden 4 Sites
1000' from Potential Site 19 Sites
1000' from School
Collective Garden
PotentialSite

Feet
0 387.5 775 1,550 2,325 3,100

No warranties of any sort, including accuracy, fitness, or merchantability, accompany this product.

CITY OF SHORELINE

Date: 8/3/2011

Path: J:\GIS\Maps\CMO\CollectiveGardenReview.mxd

CITY OF SHORELINE

Planning & Community Development

STATE ENVIRONMENTAL POLICY ACT (SEPA) ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Public notice is required for all projects reviewed under SEPA. Please submit current Assessor's Maps/Mailing Labels showing:

- Subject property outlined in red.
- Adjoining properties under the same ownership outlined in yellow.
- All properties within 500' of the subject property, with mailing labels for each owner.

NOTE: King County no longer provides mailing label services. Planning and Development Services can provide this for a fee or provide you instructions on how to obtain this information and create a mail merge document to produce two sets of mailing labels for your application.

Use of Checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply". IN ADDITION complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "propose," and "affected geographic area," respectively.

Part Eleven – 197-11-960 **SEPA Rules**

EVALUATION FOR AGENCY USE ONLY

TO BE COMPLETED BY APPLICANT

A. BACKGROUND

1. Name of proposed project, if applicable:
   Medical Marijuana Collective Gardens Development Code Amendments

2. Name of applicant:
   City of Shoreline, Paul Cohen - Project Manager

3. Address and phone number of applicant and contact person:
   17500 Midvale Ave N
   206 801 2551

4. Date checklist prepared:
   September 30, 2011

5. Agency requesting checklist:
   Planning and Community Development

6. Proposed timing or schedule (including phasing, if applicable):
   Planning Commisson study, public hearing, and recommendations November 3 and 17, 2011. City Council adoption by January 18, 2012.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
   NA

8. List any environmental information you know about that has been prepared or will be prepared, directly related to this proposal.
   NA

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EVALUATION FOR AGENCY USE ONLY

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
NA

10. List any government approvals or permits that will be needed for your proposal, if known.
State Dept. of Commerce 60-day review notice and adoption notice.

11. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description).
Amendments to the Development Code permitting medical marijuana collective gardens within parameters.

(See attached proposed amendment.)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.
City-wide in MUZ, NB, O, CB, I, zones. Medical Marijuana Collective Gardens need 1,000 foot separate between other gardens and schools. Based on these parameters there is a unlikely potential of 18 collective gardens in addition to the 3 currently located in Shoreline (see attached map).

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B. ENVIRONMENTAL ELEMENTS

1. Earth:

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other: NA

b. What is the steepest slope on the site (approximate percent of slope).
NA

c. What general types of soils are found on the site (for example clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
NA

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so describe.
NA

e. Describe the purpose, type and approximate quantities of any filling or grading proposed. Indicate source of fill.
NA

f. Could erosion occur as a result of clearing construction or use? If so generally describe.
NA

g. About what percent of the site will be covered with hardscape after project construction (for example asphalt or buildings)?
NA

h. Proposed measures to reduce or control erosion , or other impacts to the earth, if any:
NA

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2. Air:

a. What types of emissions to the air would result from the proposal (i.e. dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.
NA

b. Are there any off site sources of emissions or odor that may affect your proposal? If so, generally describe.
NA

c. Proposed measures to reduce or control emissions or other impacts to air if any:
NA

3. Water:

a. Surface:

1. Is there any surface water body on or in the immediate vicinity of the site (including year round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.
NA

2. Will the project require any work over, in, or adjacent to (within 200') of the described waters? If yes, please describe and attach available plans.
NA

3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.
NA

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4. Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities, if known.
   NA

5. Does the proposal lie within a 100 year floodplain? If so, note location on the site plan.
   NA

6. Does the proposal involve any discharges of waste materials to surface waters? If so describe the type of waste and anticipated volume of discharge.
   NA

b. Ground:

1. Will ground water be withdrawn or will water be discharged to ground water? Give general description, purpose and approximate quantities if known.
   NA

2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals …; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.
   NA

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c. Water Runoff (including storm water):

1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.
NA

2. Could waste materials enter ground or surface waters? If so, generally describe.
NA

3. Proposed measures to reduce or control surface ground and runoff water impacts, if any:
NA

4. **Plants:**

a. Check or circle types of vegetation found on the site:

- ☐ deciduous tree: alder, maple, aspen, other
- ☐ evergreen tree: fir, cedar, pine, other
- ☐ shrubs
- ☐ grass
- ☐ pasture
- ☐ crop or grain
- ☐ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ water plants: water lily, eelgrass, milfoil, other
- ☐ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?
NA

c. List threatened or endangered species known to be on or near the site.
NA

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d. Proposed landscaping use of native plants or other measures to preserve or enhance vegetation on the site if any:
NA

5. Animals:

a. Mark all boxes of any birds and animals which have been observed on or near the site or are known to be on or near the site:

Birds: ☐hawk, ☐heron, ☐eagle, ☐songbirds, other:
Mammals: ☐deer, ☐bear, ☐elk, ☐beaver, other:
Fish: ☐bass, ☐salmon, ☐trout, ☐herring, ☐shellfish, other:_____

b. List any threatened or endangered species known to be on or near the site.
NA

c. Is the site part of a migration route? If so explain.
NA

d. Proposed measures to preserve or enhance wildlife if any:
NA

6. Energy and Natural Resources:

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc
NA

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
NA

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c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts if any:
NA

7. **Environmental Health:**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur a result of this proposal? If so describe.
NA

1. Describe special emergency services that might be required.
NA

2. Proposed measures to reduce or control environmental health hazards, if any:
NA

b. Noise:

1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
NA

2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
NA

3. Proposed measures to reduce or control noise impacts, if any:
NA

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8. Land and Shoreline Use:

a. What is the current use of the site and adjacent properties?
NA

b. Has the site been used for agriculture? If so, describe
NA

c. Describe any structures on the site.
NA

d. Will any structures be demolished? If so, what?
NA

e. What is the current zoning classification of the site?
NA

f. What is the current comprehensive plan designation of the site?
NA

g. If applicable, what is the current shoreline master program designation of the site?
NA

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, please specify.
NA

i. Approximately how many people would reside or work in the completed project?
NA

j. Approximately how many people would the completed project displace?
NA

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k. Proposed measures to avoid or reduce displacement impacts, if any:
NA

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
NA

9. Housing:

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low income housing.
NA

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low income housing.
NA

c. Proposed measures to reduce or control housing impacts if any:
NA

10. Aesthetics:

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
NA

b. What views in the immediate vicinity would be altered or obstructed?
NA

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c. Proposed measures to reduce or control aesthetic impacts, if any:
NA

11. Light and Glare:

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
NA

b. Could light or glare from the finished project be a safety hazard or interfere with views?
NA

c. What existing off site sources of light or glare may affect your proposal?
NA

d. Proposed measures to reduce or control light and glare impacts if any:
NA

12. Recreation:

a. What designated and informal recreational opportunities are in the immediate vicinity?
NA

b. Would the proposed project displace any existing recreational uses? If so, please describe.
NA

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EVALUATION FOR AGENCY USE ONLY

c. Proposed measures to reduce or control impacts on recreation including recreation opportunities to be provided by the project or applicant if any:
NA

13. Historic and Cultural Preservation:

a. Are there any places or objects listed on or proposed for national, state or local preservation registers known to be on or next to the site? If so, generally describe.
NA

b. Generally describe any landmarks or evidence of historic, archaeological, scientific or cultural importance known to be on or next to the site.
NA

c. Proposed measures to reduce or control impacts, if any:
NA

14. Transportation:

a. Identify public streets and highways serving the site and describe proposed access to the existing street system. Show on site plans, if any:
NA

b. Is site currently served by public transit? If not what is the approximate distance to the nearest transit stop?
NA

c. How many parking spaces would the completed project have? How many would the project eliminate?
NA

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d. Will the proposal require any new roads, streets or improvements to existing roads or streets not including driveways? If so, generally describe (indicate whether public or private).
NA

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
NA

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.
NA

g. Proposed measures to reduce or control transportation impacts if any:
NA

15. Public Services:

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.
NA

b. Proposed measures to reduce or control direct impacts on public services, if any.
NA

16. Utilities:

a. Mark all boxes of utilities currently available at the site:
☐electricity, ☐natural gas, ☐water, ☐refuse service,
☐telephone, ☐sanitary sewer, ☐septic system, other:NA

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Telephone (206) 801-2500 Fax (206) 801-2788 pcd@shorelinewa.gov
The Development Code (Title 20) is located at mrsc.org

Part Eleven – 197-11-960 **SEPA Rules**

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity that might be needed.
NA

c. SIGNATURE
The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Printed Name: Paul Cohen

Address 17500 Midvale Ave N

Telephone Number: (206)801 2551 Date Submitted 9/30/11

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EVALUATION FOR AGENCY USE ONLY

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS
(DO NOT USE THIS SHEET FOR PROJECT ACTIONS)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent of the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water/emissions to air/production, storage, or release of toxic or hazardous substances; or production of noise?
Growing marijuana emits plant aromas considered pungent and distinctive.

Proposed measures to avoid or reduce such increases are:
No measures to reduce smells are proposed.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
Very unlikely because marijuana gardens would have the same controls to avoid offsite impacts as a plant nursery.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:
No measures are proposed beyond the city's exisitng measures to protect and conserve plant, animal, fish, and marine life.

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EVALUATION FOR AGENCY USE ONLY

3. How would the proposal be likely to deplete energy or natural resources?
Marijuana gardens will likely require indoor grow lights, feritlizers, soil, and water. The addition of marijuana plants will increase oxygen production unless replacing exisitng plants.

Proposed measures to protect or conserve energy and natural resources are:
None

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?
Unlikely to affect sensitive areas, etc. because marijuana gardens will only be allowed in commercial zones and existing environmentally critical area regulations will apply.

Proposed measures to protect such resources or to avoid or reduce impacts are:
None

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
The proposal would not likely affect land and shoreline use or be encourage incompatible uses.

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EVALUATION FOR AGENCY USE ONLY

Proposed measures to avoid or reduce shoreline and land use impacts are:
None.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?
None above other uses that could locate there.

Proposed measures to reduce or respond to such demands(s) are:
None are proposed.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposed land use by itself would not conflict with local, state, and federal environmetal laws.

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ReNOTICE - The City of Shoreline Notice of Public Hearing of the Planning Commission including SEPA DNS Process

Amend the Development Code to Allow Medical Marijuana Collective Gardens in Compliance with State Bill 5073.

The City of Shoreline has determined that the proposal will not have probable significant adverse impacts on the environment and expects to issue a SEPA Determination of Non-significance (DNS). The DNS process described in WAC 197-11-355 is being used. The City will not act on this proposal for at least 14 days from the date of issuance. This decision was made after review of the environmental checklist and other information on file with the City. The information is available to the public upon request at no charge.

This may be your only opportunity to submit written comments, including comments on the environmental impacts of the proposal. Written comments must be received at the address listed below before **5:00 p.m. November 23, 2011**. Please mail, fax (206) 801-2788 or deliver comments to the City of Shoreline, Attn: Paul Cohen - Senior Planner, 17500 Midvale Avenue North, Shoreline, WA 98133 or emailed to pcohen@shorelinewa.gov. Upon request, a copy of the SEPA checklist for this proposal may be obtained.

Interested persons are encouraged to provide oral and/or written comments regarding the above project at an open record public hearing. The **public hearing is scheduled for December 1, 2011 at 7 PM** in the Council Chamber at City Hall, 17500 Midvale Avenue N, Shoreline, WA.

Copies of the SEPA checklist and the proposed code amendments are available for review at the City Hall, 17500 Midvale Avenue North in the Planning and Community Development Department. There is no administrative appeal of this determination. The SEPA Threshold Determination may be appealed with the decision on the underlying action to superior court. If there is not a statutory time limit in filing a judicial appeal, the appeal must be filed within 21 calendar days following the issuance of the underlying decision in accordance with State law.

Questions or More Information: Please contact Paul Cohen, Planning & Community Development at (206) 801-2551.

Any person requiring a disability accommodation should contact the City Clerk at (206) 801-2230 in advance for more information. For TTY telephone service call (206) 546-0457. Each request will be considered individually according to the type of request, the availability of resources, and the financial ability of the City to provide the requested services or equipment.

PETER O. MUELLER
18238 24th Avenue N.E.
Shoreline, WA 98155
(206) 361-0776
(206) 618-9546 C
kevinsdad@aol.com

December 1, 2011

Planning Commission
City of Shoreline
17500 Midvale Avenue N.
Shoreline, WA 98155

RE: Comments Concerning Proposed Ordinance No. 614
Concerning Medical Marijuana Collective Gardens

Dear Planning Commission Members:

I have been a resident here since 1979, before Shoreline existed as a separate municipality. My elder son attended Shoreline schools and graduated from Shorecrest High School. My younger son is now a second grader in the Shoreline School System. I am an attorney and member of the Washington State Bar. In 2006 I retired from the U.S. Department of Justice after a career in federal law enforcement as an Assistant United States Attorney, first in the District of Columbia, and subsequently in the Western District of Washington. In that capacity I had extensive experience with the application of the Federal Controlled Substances Act, and in the investigation and prosecution of drug trafficking offenses.

I write to express my views concerning the proposed ordinance governing the

operation of Medical Marijuana Gardens and locations from which the product of such gardens is delivered, in Shoreline.

First and foremost, The staff report which accompanied the City Council Agenda Item 8(a) for the Council meeting of September 12, 2011, recommending the adoption of Ordinance 614, contained an Attachment D described as "Collective Garden Rules of Operation." This Attachment bore the title "Notice to Collective Garden Businesses." Paragraph 2 of this document reads as follows:

> 2. **Distribution of Useable Canabis.** If the business includes transportation or delivery of cannabis for a Collective Garden either from the Garden or a separate delivery location,
>
> 1) Delivery of usable canabis may only be to the qualified patients of one Collective Garden at any business location;

This limitation of each authorized distribution location to serving only one authorized collective garden, (not more than 10 patients, 45 plants, and/or 72 ounces) appears to me to be what the Council intended and believed it was requiring in enacting Ordinance 614. Moreover, such a requirement is both prudent and necessary to avoid the abuses and problem that have been evident in the operation of medical marijuana business, not only in California and Colorado but also as demonstrated by the recent enforcement action undertaken by Federal authorities against marijuana distribution sites operating under the "collective gardens" legislation in Seattle, Tacoma and Olympia. I believe that a characteristic of those operations was that they were distribution sites which claimed to be supplying multiple collective groups of patients. It is likely that those sites were distributing marijuana grown at locations outside the

municipalities in which they operated, including smuggled, Canadian grown marijuana. Unless the above quoted provision of Appendix D is included in the Proposed Development Code Amendments, similar abuses are foreseeable in Shoreline. Indeed, given that the current sites operating as "Collective Gardens" in Shoreline are located on expensive real estate in the Aurora corridor, it seems likely to me that none of them actually contain gardens, but rather are operating as distribution locations for marijuana being grown elsewhere, in grows far exceeding 45 plants. Given the rental rates for businesses in these locations it also seems likely that the current operations are each supplying multiple groups of 10 "patients" each, whom they have recruited and organized so as to permit operation of a profitable marijuana distribution business.

Unfortunately, the language of the *Proposed Development Code Amendments for Medical Marijuana Collective Gardens*, which is currently before the Planning Commission, does not incorporate the "one site/one collective" principal found in the Attachment D "Notice to Collective Garden Businesses" quoted above. Although it provides only one "collective garden" per tax parcel, it does not impose the same limitation on "facilit[ies] for delivery of canabis produced by the garden," but rather only states that such facilities may not be located within 1000 feet of a school, or within 1000 feet of each other or of a collective garden. This results in the creation of a loophole which I suggest will be readily and quickly exploited by business claiming to be supplying multiple collective groups of patients at a single site, with marijuana that is actually grown in locations outside the city, and perhaps outside the country. At a minimum, I urge the Commission to amend the current proposal to ensure that locations in

Shoreline that distribute marijuana to qualified patients, may only serve one collective group of ten patients, and not multiple groups.

More broadly, however, while I appreciate the effort that has gone in to Shoreline's attempt to implement the State Collective Gardens legislation in a controlled and responsible way, I simply do not see the necessity of permitting the operation any such business while they remain in direct violation of governing federal law. It seems to me that the City could, and should follow the example of many other municipalities around the state and decline to permit such operations within its boundaries on the ground that it is not required to permit such unlawful activity, regardless of the State law provisions on the subject. Under the Supremacy Clause of the United States Constitution, the State simply cannot authorize activity which violates federal criminal law. Furthermore, since Seattle has plainly chosen to permit largely unregulated operations of such businesses, the relatively few Shoreline residents who are bona fide qualified individuals under the State law, can supply their needs from these Seattle operations.

Most importantly, in this regard, the comprehensive petition filed yesterday by Governor Gregoire, jointly with Governor Chaffe of Rhode Island, seeking to have the Federal Drug Enforcement Administration reclassify Marijuana as schedule II controlled substance provides the lawful and correct method for finally resolving this issue and removing the conflict with Federal law. Such a reclassification would permit the dispensing of medical marijuana to medically qualified patients through professional pharmacies filling lawful medical prescriptions issued in accordance with acceptable medical practice, and would

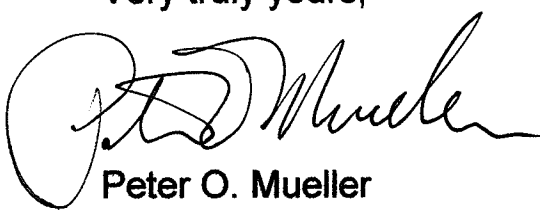
avoid the hypocrisy and abuse which currently characterize the medical marijuana issue. I believe that Shoreline should decline to authorize any medical marijuana sites, at least until the Drug Enforcement Administration has an opportunity to consider and act on Governor Gregoire's petition.

Finally, I oppose the existing system for distribution of medical marijuana because it has been proven to be a sham, rife with abuse, which provides an unfortunately quasi legal source for recreational users of marijuana to obtain the product under the pretense of medical need. Having successfully gotten one child through the precarious gamut of adolescence, where a misstep into drug experimentation and abuse can cause lifelong detrimental consequences, and having another child approaching that difficult period, I would prefer not to provide an easily abused legal pathway for this substance, proven so potentially harmful to children, to find its way into their parents homes in the guise of medicine.

My concern, is that allowing wide spread legal access to this substance under the guise of "medical" recommendation will greatly increase the access of children to this product in the home, just as the primary route for substance abuse by children now is through their parents' liquor cabinets and prescription drug supplies. (as indicated on one of the attachments medical recommedation for marijuana is easily obtained, without demonstration of true medical need, from a limited group of ideologically motivated or unscrupulous physicians who focus their practice on providing such recommendations).

Thank you for your consideration of these matters.

Very truly yours,



Peter O. Mueller

Enclosure as stated

Exhibit 6

Northwest Voices

Letters, faxes and emails

Marijuana card

Concerns confirmed

Editor, The Times:

The article "No records? No problem. Got pot card" [page one, Aug. 21] confirms what I have long suspected about the medical-marijuana movement — that many nonqualifying people (who just want to get high) are obtaining easy authorizations at clinics whose main motive is not humanitarian but profit-driven.

These places, and the medical providers who work there and dole out authorizations, are making lots of money when they do this, at $150 to $200 a pop.

Reporter Jonathan Martin clearly does not qualify under the "intractable pain" category, yet he received an authorization with a brief interview and cursory examination, without any medical records. If this isn't an example of abuse of the 1998 law, I don't know what is, and it happens all too frequently.

The medical-marijuana law is well-intentioned, and no doubt genuinely helps some legitimate patients, but it is being badly subverted by dishonest individuals and by certain unscrupulous marijuana clinics. The state Legislature needs to act to close the loopholes.

— Bob Knudson, Seattle

WEB EXTRA

Read more letters online at our Northwest Voices blog.
***seattletimes.com**/opinion*

Follow Times commentary:
***twitter.com**/SeaTimesOpinion*

Letters, not exceeding 200 words, must include your full name, address and telephone numbers for verification. Email: opinion@seattletimes.com; mail: Letters Editor, The Seattle Times, P.O. Box 70, Seattle, WA 98111; fax: (206) 382-6760.

blethen@seattletimes.com | **Kate Riley**, Associate editor 206-464-2260 *kriley@seattletimes.com*

ST 8/23/11

WHITE HOUSE STATEMENT REJECTING PETITION TO LEGALIZE MARIJUANA,
1031/11 SOURCE– HUFFINGTON POST, aol

When the President took office, he directed all of his policymakers to develop policies based on science and research, not ideology or politics. So our concern about marijuana is based on what the science tells us about the drug's effects.

According to scientists at the National Institutes of Health -- the world's largest source of drug abuse research -- marijuana use is associated with addiction, respiratory disease, and cognitive impairment. We know from an array of treatment admission information and Federal data that marijuana use is a significant source for voluntary drug treatment admissions and visits to emergency rooms. Studies also reveal that marijuana potency has almost tripled over the past 20 years, raising serious concerns about what this means for public health — especially among young people who use the drug because research shows their brains continue to develop well into their 20's. Simply put, it is not a benign drug.

Like many, we are interested in the potential marijuana may have in providing relief to individuals diagnosed with certain serious illnesses. That is why we ardently support ongoing research into determining what components of the marijuana plant can be used as medicine. To date, however, neither the FDA nor the Institute of Medicine have found smoked marijuana to meet the modern standard for safe or effective medicine for any condition.

As a former police chief, I recognize we are not going to arrest our way out of the problem. We also recognize that legalizing marijuana would not provide the answer to any of the health, social, youth education, criminal justice, and community quality of life challenges associated with drug use.

That is why the President's National Drug Control Strategy is balanced and comprehensive, emphasizing prevention and treatment while at the same time supporting innovative law enforcement efforts that protect public safety and disrupt the supply of drugs entering our communities. Preventing drug use is the most cost-effective way to reduce drug use and its consequences in America. And, as we've seen in our work through community coalitions across the country, this approach works in making communities healthier and safer. We're also focused on expanding access to drug treatment for addicts. Treatment works. In fact, millions of Americans are in successful recovery for drug and alcoholism today. And through our work with innovative drug courts across the Nation, we are improving our criminal justice system to divert non-violent offenders into treatment.

Our commitment to a balanced approach to drug control is real. This last fiscal year alone, the Federal Government spent over $10 billion on drug education and treatment programs compared to just over $9 billion on drug related law enforcement in the U.S.

Thank you for making your voice heard. I encourage you to take a moment to read about the President's approach to drug control to learn more.

Legal pot could hurt more youth

BY PATTI SKELTON-MCGOUGAN
Special to The Times

Seattle Times
3/3/2011

AS we consider the legalization of marijuana, we must bear in mind the impact on our youth. Politics aside, the legalization debate is sending a confusing message that's contributing to a rise in marijuana use among teens.

In the Seattle Times' Feb. 20 editorial calling for the legalizing of marijuana and Editorial Page Editor Ryan Blethen's Feb. 27 column, the potential impact on youth was blithely dismissed.

As the head of an agency that provides treatment to youth who abuse drugs and alcohol, I venture to say no one talked with experts in my field.

The number of middle-, junior- and high-school students experimenting with marijuana is the highest since the 1980s, according to the National Institute on Drug Abuse. Puget Sound agencies that treat substance abuse in youth, like Youth Eastside Services (YES), report marijuana is the No. 1 drug of choice for teens battling addiction. And most experts would say the legalization debate is one of the factors accounting for this increase.

At YES, we work with youth in schools, teen centers and in our substance abuse and mental health treatment programs. Across the board, our counselors report a change in attitude toward marijuana. Most teens see it as less dangerous and we hear them talk about the drug being natural, medicinal and "almost legal."

Contrary to popular belief, marijuana is an addictive substance.

Join the debate today at noon

DISCUSS MARIJUANA legalization with proponents and opponents of legalization, including Times opinion writers, in a live chat at noon Thursday. Go to www.seattletimes.com

Moreover, the potency of marijuana today has doubled and even tripled when compared to that of the 1960s, '70s and '80s — making for powerful highs and powerful addictions.

It typically costs YES more than $1,000 to provide substance-abuse treatment to a single youth, to say nothing of the costs of recovery support. While insurance can cover some of this expense, for those who lack insurance or income to cover the costs, it's often subsidized by taxpayers.

Since the Times is supporting selling pot in liquor stores, let's look at alcohol and the comparison it provides. Alcohol is the No. 1 drug used by teens. Why? Because it is legal, they see their parents using it, it's more accepted and because they have easy access to it. Youth can get it at home, they can ask others to purchase it for them, they can even purchase it themselves (with enough perseverance or a fake ID). And unfortunately, some parents even make it available to their teens.

Local and national studies show that approximately 25 percent of teens have had a drink in the last 30 days. And 80 percent of those are binge drinkers. Not all teens who drink will become alcoholics, but those who do have a significantly higher chance of developing alcoholism as an adult — 40 percent higher for those who start drinking between ages 14 and 17.

If we legalize marijuana, kids will see their parents using it, it will be more accepted and they will have easier access. It's not a stretch to say we will see an increased use and more problems with addiction with kids and their parents.

We also can't dismiss a recent Harvard study showing that marijuana has an especially negative impact on the developing brain. Regular marijuana use results in poorer school performance and attendance as well as loss of interest in other activities. In addition, pot use is associated with respiratory and mental illness, poor motor performance and impaired cognitive and immune system functions. Furthermore, addiction can be associated with increased rates of anxiety, depression, and suicidal thoughts.

To look at only the taxpayer benefits of legalizing pot is shortsighted and potentially dangerous. Marijuana is a powerful drug that needs full consideration of *all* its impacts and costs. And without a doubt the impact and costs associated with our youth should be at the top of that list — not relegated to a small consideration.

Patti Skelton-McGougan is executive director of Youth Eastside Services.

Northwest Voices

Letters, faxes and e-mails

Seattle Public Schools

Administrators for America

College kids with five-weeks of training couldn't do much worse.
— Mary Maddox, Seattle

King Co. stadium taxes

To be fair, end the regressive tax

While directing funds to the improvement of downtown districts is essential, maintaining the .5 per-

my view comes less from a promise-keeping angle and more from a fairness perspective.

As all sales taxes are regressive and weigh more heavily on lower income citizens, the burden of funding these projects should be distributed more fairly.

Maintaining and manipulating expired regressive taxes should not be the method used to combat the difficulty of levying new taxes.

Eddie Kirschenbaum, Seattle

Exhibit 9

PATIENT INFORMATION AND AUTHORIZATION FOR THE RELEASE OF MEDICAL RECORDS

I, _____ (**print name**), declare that I have given a valid copy of my Washington State Medical Marijuana Authorization and a valid copy of my Washington State photo ID or photo ID with proof of WA State residence, and that with this application I am applying to become a member of Emerald Gardens (EG).

Patient contact information is as follows:

Current email address: _____

Current telephone/mobile #(s): _____

IF YOU WOULD LIKE TO GET TEXTS FROM US, PLEASE LET US KNOW YOUR MOBILE PROVIDER : _____

PLEASE INITIAL^

Current residence & mailing address: _____

STREET

_____, State of WASHINGTON, _____

CITY ZIP CODE

PATIENT'S NAME _____ DOB:_____

(Please Print) First Middle Last

Are medical records filed under any other name(s)?_____

❑ I HEREBY AUTHORIZE EMERALD GARDENS TO RECEIVE MEDICAL INFORMATION FROM:

Name_____ Address_____ City_____

(Doctor)

Name_____ State **WA** Zip_____Phone # _____ Auth Exp Date _____

(Facility)

How did you hear about us? _____

_____

I declare that all of the information given on this form is truthful and valid.

_____ <Signature _____ <Date

IMPORTANT: READ ALL INFORMATION BEFORE SIGNING

I hereby consent to the release of the above information. You are authorized to release to the person or entity above all information or medical records relating to diagnosis, testing or treatment for such disease(s) as specified above. I understand that such information cannot be released without my informed consent. Expires in 90 days.

I hereby release Emerald Gardens and its staff from all legal responsibility that may arise from this release of information.

My rights: I understand that I do not have to sign this authorization in order to obtain healthcare (medicine, treatment, or membership). I may revoke this authorization in writing. I understand that once the health information I have authorized to be disclosed reaches the noted recipient, that person or organization may redisclose it, at which time it may no longer be protected under Privacy Laws.

Emerald Gardens IS PROHIBITED FROM MAKING ANY FURTHER DISCLOSURE OF YOUR INFORMATION WITHOUT THE SPECIFIC WRITTEN CONSENT OF THE PERSON TO WHOM IT PERTAINS, OR AS OTHERWISE PERMITTED/REQUIRED BY STATE LAW.

EMERALD GARDENS
PATIENT/CAREGIVER/PROVIDER AGREEMENT

I hereby appoint The EMERALD GARDENS (EG) as my agent for the sole purpose of procuring substances which I may obtain for my personal medical use. I understand that all donations to EMERALD GARDENS are for water, electricity, supplies, and time and in no way constitute a commercial transaction.

1. In order for EMERALD GARDENS to serve you, all members must conform to the laws of the state of Washington. We require all of our members to agree and obey these simple rules and regulations. Any violation of these rules and regulations will result in the termination of the patient/caregiver/provider agreement. All members must have proper WA state issued identification proving age and residency. While Washington state law allows the medical use of marijuana with a physician's recommendation, marijuana is still considered illegal federally.
2. All members must be in need of medicine in accordance with **RCW 69.51A.040**. All members agree to accept limitation on the amount of medicine they must obtain in times of scarcity, in order to provide medicine to the greatest number of patients.
3. Before beginning your cannabis therapy treatment, please consult with your physician for advice regarding usage and dosage. EMERALD GARDENS will not be responsible for any ill or adverse effects possibly experienced during your cannabis therapy.
4. All members agree not to attempt to sell or give away any form of MEDICAL CANNIBIS obtained from EMERALD GARDENS. All members understand that the service provided to them by EMERALD GARDENS have a solely medical focus, NOT being made available for "recreational use" or abuse, and will not be utilized for illegal purposes of any type.
5. All members agree to protect the privacy and confidentiality of themselves and al other members of the patient/caregiver/provider relationship.
6. All members agree not to consume any MEDICAL CANNABIS while operating any automobile or heavy equipment.
7. All members agree to keep their medicine safely locked away in their vehicle until they are home and at home as well.
8. Patients, caregivers, and providers agree, through this written form, that, should the need arise, they will make themselves personally available to testify in court as to {he fact that members of EMERALD GARDENS have provided for the "significant responsibility for the wellbeing of the patient" (i.e.- YOU), as obtained in Washington state law.
9. Excessive swearing, fighting, and/or use of any and all offensive terms will not be tolerated, i.e.; Be cool and respectful! This is a place for us to come and feel better!
10. You will also be asked not to return if we see or get reliable/multiple reports of you being seen:
    - Medicating on site or around the premises
    - Sharing medication
    - With weapons
    - With narcotics or any illegal substance
11. All members agree that the staff of EMERALD GARDENS has the right to refuse to provide services to any person, (INCLUDING MEMBERS), at any time and agree to this right of refusal as a condition of the patient/caregiver/provider relationship.

I certify that I have read and agree to all above, and that I have received a copy of these rules. I verify that all information and documents regarding my condition submitted to EMERALD GARDENS are factual. I made this appointment of my own free will and acknowledge that no effort has been made on the part of EMERALD GARDENS to encourage me to procure use of medical marijuana. I hereby agree, for myself, my heirs and assign to hold EMERALD GARDENS and anyone acting on their behalf free and harmless from any liability of my procurement and/or use of any substance which I obtain through EMERALD GARDENS. EMERALD GARDENS assures that all my provided information will be kept totally confidential. EMERALD GARDENS does not and will not give, trade or sell any patient or caregiver information unless written consent is given by the patient/caregiver.

_____
Legibly Print Name

_____
Signature Date

_____ Verifies that a copy of this agreement was given to the Patient and/or Designated Caregiver.
Emerald Gardens Initials

-EG COPY-

CITY OF SHORELINE

Memorandum

DATE: December 1, 2011

TO: Shoreline City Council

FROM: Shoreline Planning Commission

RE: Commission Recommendation for Medical Marijuana Collective Gardens Development Regulations

---

The Planning Commission held a study session and a public hearing on the Medical Marijuana Collective Garden Development Code. The Commission voted to recommend the attached development regulations. We understand that the City Council will begin its review of our recommended amendments to the development code at your study meeting of December 12, 2011.

The Commission concluded its hearing on the Medical Marijuana Collective Gardens December 1 and forwarded the attached recommendations. The proposed development regulations have been crafted to enact State Bill 5073, which allows Medical Marijuana Collective Gardens, to protect the community, and to improve the administration of the code.

Planning Commission believes the proposed development regulations meets the applicable criteria set forth in the City's Code.

A. Public Outreach Chronology

- The Commission publicized their meetings on the City website and in Currents.
- Public notice for SEPA review and the public hearing was publicized initially October 17 and re-noticed November 8 because of new date for the hearing.
- A public hearing was held on December 1, 2011.

B. Development Code Amendment Criteria – 20.30.350

SMC 20.30.350 establishes the following criteria for approval of a Development Code amendment:

1. *The amendment is in accordance with the Comprehensive Plan;*

- Framework Goal 3: Support the provision of human services to meet community needs.
- Framework Goal 10: Respect neighborhood character and engage the community in decisions that affect them.
- There are no policies that specifically address or discourage pharmacies, clinics or, MMCG's as a land use.

2. *The amendment will not adversely affect the public health, safety or general welfare;*

- The amendment is intended to improve public health by providing collective gardens for patients to raise prescribed medical marijuana.

3. *The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.*

The provisions of the amendment are not contrary to the best interest of the citizens and property owners by:

- Enacting State Bill 5073.
- Ensuring adequate separation between between collective gardens and school property.
- Requiring adequate regulation to ensure the community of the potential size and location of the gardens.
- Requiring registration through a safety license to monitor these businesses

The Shoreline Planning Commission reviewed the proposal in light of the criteria and concluded that the proposal met the criteria for amendment of the Development Code.

Date: Dec. 6, 2011

By: _____
Planning Commission Chair

Proposed Development Code Amendments for Medical Marijuana Collective Gardens

Chapter 20.20 - Definitions.

20.20.034 M definitions.

Medical Marijuana Collective Garden – Facility used by qualifying patients or their provider(s) for the producing, processing or delivery of cannabis for medical use.

Useable Cannabis – Dried flowers of the Cannabis plant having a THC concentration greater than three-tenths of one percent without stems, stalks, leaves, seeds, and roots containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

Chapter 20.40 – Zoning and Use Provisions

20.40.130 Nonresidential uses.

NAICS #	SPECIFIC LAND USE	R4-R6	R8-R12	R18-R48	NB & O	CB & NCBD	MUZ & I
RETAIL/SERVICE TYPE							
	Medical Marijuana Collective Gardens				P-i	P-i	P-i

P = Permitted Use S = Special Use
C = Conditional Use i = Indexed Supplemental Criteria

20.40.445 Medical Marijuana Collective Gardens.

A. There shall be no more than one collective garden permitted on a tax parcel.

B. A collective garden may not be located within 1,000 feet of any school measured in a straight line from the closest school property line to the nearest building entry to a collective garden.

C. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.

D. Qualifying patients may create and participate in collective gardens subject to the following conditions:

(1) No more than ten qualifying patients, or their providers, may participate in a single collective garden at any time;

(2) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

(3) A collective garden may contain no more than twenty-four ounces of useable cannabis per patient up to a total of seventy-two ounces of useable cannabis;

(4) No useable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden;

(5) No production, processing or delivery of cannabis shall be visible to the public from outside of the building or structure;

(6) No odors shall be allowed to migrate beyond the interior portion of the building or structure where the garden is located; and

(7) To establish a legal collective garden a Safety License must be obtained from the City of Shoreline.

These Minutes Approved
December 1st, 2011

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
MINUTES OF REGULAR MEETING

November 3, 2011 Shoreline City Hall
7:00 P.M. Council Chamber

Commissioners Present	Staff Present
Chair Wagner	Steve Cohn, Senior Planner, Community & Development Services
Vice Chair Perkowski	Paul Cohen, Senior Planner, Community & Development Services
Commissioner Broili	Ian Sievers, City Attorney
Commissioner Esselman	Captain Strathy, Shoreline Police Department
Commissioner Kaje	Sergeant Neff, Shoreline Police Department
Commissioner Moss	Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent
Commissioner Behrens

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:02 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, Vice Chair Perkowski and Commissioners Broili, Esselman, Kaje and Moss. Commissioner Behrens was absent.

APPROVAL OF AGENDA

The agenda was accepted as presented.

DIRECTOR'S COMMENTS

Mr. Cohn did not provide any comments during this portion of the meeting.

APPROVAL OF MINUTES

The minutes of the September 29, 2011 dinner meeting were approved as presented. The minutes of the October 6, 2011 regular meeting were approved as amended.

GENERAL PUBLIC COMMENT

No one in the audience expressed a desire to address the Commission during this portion of the meeting.

STAFF REPORTS

Study Session: Medical Marijuana Collective Gardens

Mr. Cohen advised that the State Legislature passed State Bill (SB) 5073 in July of 2011, which allows medical marijuana collective gardens (MMCG) to become legal activities in the State. However, before the bill was adopted, Governor Gregoire vetoed some line items, causing a lot of confusion. Local jurisdictions are left with the responsibility of amending their codes to administer the new bill, but they fully expect the State Legislature to revisit the issue soon. In response to the new legislation, the City Council adopted Ordinance 611 later in July, which placed a moratorium on MMCG's unless they can meet four basic parameters. In September, the City Council adopted ordinance 614, which reduced the physical separation requirement between different MMCG's from 2,000 to 1,000 feet.

Mr. Cohen advised that the City Attorney and Police Department staff are present to answer questions of the Commission. If the Commission is comfortable with the proposed amendment after the study session, a public hearing would be held on November 17th. He reported that State Environmental Protection Agency (SEPA) Checklist has been completed for the proposed amendment, and the City Council anticipates a recommendation from the Commission for their December 12, 2011 meeting and is expected to make a final decision by January 9th, 2012. The six-month moratorium expires in mid January.

City Attorney Sievers explained that the Department of Justice does not find any medical evidence that cannabis (marijuana) is useful as a drug, and it is high on their list of controlled substances. However, memorandums from the Department of Justice state that they will tolerate homes uses, as long as they do not become commercial enterprises. There is still some question about whether or not the message has been consistently applied across the country. In some states, such as California and Colorado, dispensaries are quite wide spread and seem to be distributing the product via retail sales.

City Attorney Sievers explained that SB5073 was designed to solve problems with an initiative that approved marijuana for medical uses, but individuals could only possess certain quantities of marijuana if they have documentation from a physician. In addition, there is no efficient way for patients to obtain marijuana. The bill was quite comprehensive in solving the problem, but the Department of Justice notified Governor Gregoire that it was concerned about portions of the bill. Governor Gregoire decided to veto a large portion of the bill, and the portions left had inconsistencies because they referred to other sections that were repealed.

City Attorney Sievers advised that the bill allows patients to cooperate collectively with ten other patients or their patient providers to make production and distribution of marijuana more efficient than the one-on-one provider identified in the old act. It also allows local governments to adopt policies for zoning, regulation and taxing. Because this is a new land use, the City did not have any existing language to deal with it. As with anything else, the new regulations cannot conflict with the general rules of the State, and they must provide space for MMCG's to operate in the City. Consistent with the SB5073, Interim Ordinance 611 sympathizes with patients who utilize the tool of a collective garden and makes marijuana easier to get, particularly for people with disabling illnesses. However, the ordinance also includes elements designed to protect the community, such as limiting the use to commercially zoned areas. In addition, it requires that the MMCG's be dispersed a certain distance from each other and from schools, to deal with a concern that concentrating the dispensaries in small areas could increase criminal activity.

City Attorney Sievers referred to a recent update from the Municipal Research and Services Center of Washington (MRSC), which notes that the legislation does not specify any timeframe for when the 10 patients may be involved in a garden at the same time. To address this issue, he recommended the interim ordinance be amended so that patients would be unable to utilize a new provider sooner than every 15 days. The City Council did not adopt this provision because they were concerned it would make it more difficult for patience to gain access to cannabis.

City Attorney Sievers announced that another bill was introduced in the special session to correct the veto message and get the situation fixed. It proposed expanding the language to allow for increased quantities and garden cooperatives of up to 1,000 members. He cautioned against this approach, since the bigger the number, the more it looks like a commercial retail operation. He expressed concern about the Federal Government's earlier indication that they will actively enforce the prohibition on commercial level distribution. He said they have actually backed up their position by raiding two dispensaries in Spokane where the rules of operation are very liberal.

Commissioner Kaje asked the Police Department representatives to share their thoughts on whether the 1,000-foot separation requirement would be a useful and practical way to separate and police the uses. He noted there are no other uses in the City that are required to be separated by a certain distances. He questioned if locating the facilities closer together would make them easier to enforce.

Sergeant Neff said it is important, from a law enforcement standpoint, to keep the MMCG's within the business districts. They can become problematic when located in residential areas because it is hard for law enforcement to know where they are. If law enforcement knows where all the dispensaries or MMCG's are located, it is easier for them to police the areas to prevent burglaries, etc. She said she does not have a strong feeling one way or the other whether the 1,000-foot separation requirement would be beneficial. This concept was brought forward by the City Council.

Mr. Cohen commented that if the 1,000-foot separation requirement were eliminated, then many more collective gardens and their dispensaries could be located in Shoreline. He referred to a map that identifies potential collective garden sites. He pointed out the four existing dispensaries on Aurora Avenue North, as well as other locations within the commercial zones where the use would be allowed

because it would meet the separation requirement called out in the interim ordinance. He pointed out that eliminating the separation requirement would result in more places for the dispensaries or MMCG's to locate.

Commissioner Kaje asked if the City has used the separation requirement concept to limit the number of other types of uses in the City. Mr. Cohen said there are separation requirements for adult entertainment uses. They also have specific limitations on gambling uses. Commissioner Kaje suggested that if the City Council has an opinion that there should only be a certain number of MMCG's, then they should establish a cap rather than trying to limit the number via a separation requirement. He said he did not hear anything compelling from law enforcement to support a separation requirement, but he does understand the need to limit the use to commercial zones only and keep them at least 1,000 feet from schools.

Commissioner Broili requested clarification of the City Council's decision to change the separation requirement from 2,000 to 1,000 feet. Mr. Cohen responded that the City Council decreased the separation requirement between MMCG's to 1,000 feet. City Attorney Sievers advised that the City Council had some informal discussions about establishing a very large separation requirement, and 2,000 feet was found to be more reasonable. However, when the rule was applied, it eliminated one of the MMCG's that had applied for a license but was not yet established. This may have affected their decision to reduce the separation distance.

Commissioner Broili asked staff to describe an MMCG. Mr. Cohen referred to the definition for MMCG's that is contained in the draft amendment, which was taken directly from SB5073. Commissioner Broili asked if MMCG's are typically in enclosed areas. Mr. Cohen answered affirmatively.

Sergeant Neff commented that law enforcement supports the requirement that MMCG's must be located at least 1,000 feet from schools because they have enhanced sentencing laws for drug violations in these areas. Commissioner Esselman asked if the drug free zone around schools is currently set at 1,000 feet. Sergeant Neff answered affirmatively.

Commissioner Moss said she compared the map that illustrates potential MMCG sites with the land use map on the City's website and found that some parcels in the Town Center Subarea and mixed-use zones were not included. Mr. Cohen responded that some mixed use commercial zones were intentionally excluded by the City Council, as were the planned areas (Ridgecrest and Aldercrest).

Commissioner Moss requested clarification of the term "useable cannabis." City Attorney Sievers said there are various tinctures, extractions, and food products made with cannabis or the THC that is in cannabis. He reminded the Commission that the definition is built around an enforceable quantity, so there must be something uniform to weigh. "Useable cannabis" does not include consumables. Commissioner Moss said she comes from a health care background and is concerned that for some people, smoking or vaporizing the cannabis is not a preferable or practical route of administration. City Attorney Sievers as a policy measure, they don't want to force people into smoking, but the law requires that people make their own consumables.

Commissioner Moss questioned whether a person with a debilitating illness has the ability to make a consumable product. Chair Wagner summarized that it appears to be the City Attorney's preference not to go down the path of trying to go beyond the State's definition. City Attorney Sievers said Commissioner Moss's approach would be fine if the Legislature had identified an equivalent for the quantity of useable cannabis in terms of a drug and if there was an efficient way for law enforcement to measure consumables and translate the quantity of THC into the consumables that a garden is allowed. But this is a costly process and something the City is not equipped to do.

Vice Chair Perkowski referred to the proposed language for SMC 20.40.445 and asked how the City would know of a collective garden's existence. Mr. Cohen answered that a business license would be required, and the use must comply with the existing regulations. Vice Chair Perkowski suggested that the proposed amendment should make the business license requirement clear. It should also make it clear that a single qualifying patient does not constitute a "collective garden." It becomes a collective garden when the qualifying patient decides to distribute. City Attorney Sievers said the easiest approach is to require collective gardens to comply with the definition. In the most utopian sense, a group could take care of the garden collectively, each walking away with their own share with no money transaction. A business license would not be required in these situations. However, the use would only be allowed in commercial zones. If law enforcement is aware of people possessing and controlling marijuana in these quantities and it involves a certain number of people, they will enforce the definition. Vice Chair Perkowski summarized that the use would only be enforced on a complaint basis. Mr. Cohen said the gardens would be required to obtain other types of permits to do tenant improvements in an existing space, which is the most common. A new development for this type of use would also be required to obtain a development permit.

Vice Chair Perkowski referred to SMC 20.40.445.D.6, which states that no production, processing or delivery of cannabis shall be visible to the public from outside the building or structure. He asked if this would prohibit a member of a collective garden from distributing cannabis to a patient off site. Mr. Cohen answered that the garden could occur in a different location than the dispensing of the cannabis, as long as the dispensary only provides medical marijuana to members of the collective. City Attorney Sievers explained that the definition for MMCG's includes growing, cultivating, transporting, and delivery/dispensary. But the building must be involved in one of the functions of the garden. Item D.6 was taken directly from State law, and the intent is that any use of medical marijuana should not be visible to the public. Vice Chair Perkowski asked if it would be legal to deliver cannabis to a property that is closer than 1,000 feet to a school. City Attorney Sievers answered that delivery to a patient within 1,000 feet of a school would likely be allowed because it would not be considered the collective site where the garden is operating.

Commissioner Kaje asked if the limits under SMC 20.40.445.D.6 mirror language from State law. Mr. Cohen answered that Items 1 through 6 were taken directly from State Law. Item 7 was added by the City after talking to other jurisdictions about their concerns. He reviewed that the definitions are from the state, the zones where the use is permitted are from the City Council, provisions A through C are from the City Council, and provisions D.1 through D.6 are from the State. City Attorney Sievers summarized that the dispersal requirement, the distance requirements and the odor requirement are local requirements. However, the distance requirement from schools and from other gardens was proposed in

corrective legislation that was also presented during a special Legislative session. Mr. Cohen added that the 1,000 feet would be measured from the nearest entry from the collective garden to the boundary of the school.

Commissioner Kaje suggested that "users" should be changed to "uses" in the title of SMC 20.40.130.

Chair Wagner asked how the requirement in SMC 20.40.445.D.6 would mesh with the requirement that ground floor space in the mixed use zone is required to have 50% transparent windows. She suggested that they consider an exception for MMCG's facilities. Mr. Cohen reminded the Commission that while transparent windows are required in some mixed-use zones, they are allowed to put up walls or shelving behind the windows. The intent is for the windows to be in place so that visibility is an option as uses change. He suggested that Chair Wagner's concern could be addressed by requiring some type of screening behind the window. He agreed to research this issue and provide additional direction at the next meeting.

Vice Chair Perkowski asked how the City would determine which collective gardens get to remain when it is found that two are located closer than 1,000 feet from each other. Mr. Sievers said most will be required to obtain a business license, so there will be a registry and accurate stamp date for these uses. Vice Chair Perkowski suggested additional language should be added to the definition to address this issue. Mr. Cohen agreed to consider the issue further and come back with proposed language at the next meeting.

Commissioner Kaje said he supports the language that prohibits MMCG's from being located within 1,000 feet of a school. However, he suggested that if the goal is to limit the number of MMCG's, they should simply identify the maximum number of MMCG's that would be allowed in the City rather creating a map of bubbles to identify potential locations. He said that not only is the separation requirement a slightly disingenuous way of limiting the number of MMCG's, it also creates situations where the uses are pushed to the perimeter of the commercial zones and closer to the residential neighborhoods. Mr. Cohen asked if Commissioner Kaje is suggesting a citywide cap on MMCG's. Commissioner Kaje clarified that he is not saying there must be a cap; but if the City Council's goal is to limit the uses, they should identify a maximum number instead of using the separation requirement.

Commissioner Broili asked if it is possible place a cap on the number of MMCG's allowed in the City, but also limit the use to designated areas of the City. For instance, they could allow MMCG's to locate within close proximity to each other, as long as they are more than 1,000 feet from schools and residential areas. Commissioner Kaje suggested that the zoning provision is sufficient to limit the location of MMCG's to very known places, and law enforcement will know where they are and can be located. He said he does not believe it is necessary to limit the uses to the commercial zones along Aurora Avenue North. If they want to limit the number, they should do so without creating awkwardness about where they can be located.

Commissioner Broili referred to the Ballinger area and noted that, zoning wise, an MMCG might be allowed, but it would end up being located very close to the residential neighborhood in order to achieve the required distance from a school. There may need to be some restriction on where the uses are

placed, as well as how many are allowed. Commissioner Kaje felt this approach would be too difficult and detailed unless they simply limit the use to Aurora Avenue North only. Before recommending Commissioner Broili's suggestion, they should carefully consider how it would be applied in each of the neighborhood commercial areas. Mr. Cohen referred to the map and noted that residential zones are located within 1,000 feet of all of the existing MMCG's and most of the potential sites.

Commissioner Moss reminded the Commission that they are only talking about allowing collective gardens for medical uses. If they are intended to be community gardens, then proximity to neighborhoods is particularly important. Limiting the use to Aurora Avenue North might be disrespective of the intent, since it would make it more difficult for people with medical conditions to access the MMCG's.

PUBLIC COMMENT

Greg Logan, Assistant Director, Highland Terrace Neighborhood Association, said he was present to support increased access for those who need and use cannabis. He understands that the City has been placed in an awkward position by Governor Gregoire. Many citizens, as well as State Representatives, have been distressed by this situation, which has resulted in a horrible waste of time for a lot of capable people that could be doing other things. He recalled a comment by Council Member McConnell, which urged the City Council to focus on the humanitarian aspect, which is the same direction that he and many other citizens are coming from. He said he does not believe the concern raised by Deputy Mayor Hall about retail establishments is valid. MMCG's cannot be considered retail establishments because there are specific limitations on who can go use them. He said there was also concern about a break in that occurred at one of the current MMCG's, and it was suggested that the use can invite additional crime. He pointed out that his neighbor's house was burglarized. Rather than getting rid of the neighbor, they need to figure out how to make the neighborhood more secure. They don't necessarily need more deputies to accomplish this task. He summarized that the City should figure out a system that has as few procedural constraints as possible so people have access to what they need.

Jeff Denton, Shoreline, observed that the issue of MMCG's appears to be complex. Issues have been raised about zoning, number of plants, number of patients, amounts, weights, measures, where it can be dispensed, etc. He questioned where all the proposed limitations came from. He clarified that the intent of the proposed language is to allow patients to grow cannabis and serve other patients who have medical prescriptions. As proposed, no license would be required to grow cannabis as long as no money transactions occur, but a license would be needed to transact funds. He expressed concern that the proposed regulation would discriminate against non-users because it would not allow them to run a licensed operation for profit without a prescription from a medical provider.

Robin McClelland, Shoreline, referred to proposed SMC 20.40.445.D.1 and D.2 and suggested that staff rework the math before the public hearing.

Chair Wagner clarified that this is a study session and not a public hearing. Therefore, the comments from the public will not be included as part of the public record that is forwarded to the City Council. If

citizens want their comments to be entered into the public record, they should submit written testimony and/or attend the public hearing to provide oral testimony.

DIRECTOR'S REPORT

Mr. Cohn explained that the Commission packets include a copy of the proposed Shoreline Master Program (SMP). The 62-page document was provided two weeks ahead of time so the Commission has ample time for review prior to their study session on November 17th. The Commission could continue their study session on December 1st, if necessary. He invited them to forward their comments, questions and alternative language to staff prior to the meeting via Plancom. He noted that Ms. Redinger also provided a brief summary of how she came to her recommendations.

UNFINISHED BUSINESS

No unfinished business was scheduled on the agenda.

NEW BUSINESS

No new business was scheduled on the agenda.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Moss announced that she was selected to be a community representative for the Growing Transit Communities Committee, a program that is being coordinated through the Puget Sound Regional Council (PSRC). She attended the first meeting on November 3rd, and Ms. Markle and Mr. Tovar were also present to represent the City of Shoreline. She explained that PSRC received grant funding to promote livable communities that are centered around transit, and they have established committees to explore a variety of activities. Because of her particular interest in transit-oriented development, she felt the committee would be a good match for her. The committee will review basic guidelines for the portion of the north corridor project from Northgate to Everett, but they will not be involved in station area planning. The committee includes representatives from both public and private organizations, including Sound Transit, City of Seattle, King County Metro, King County, Community Transit, people who represent disadvantaged populations, etc. This is an 18-month project, and the goal is to come up with an implementation plan. They will meet once a month, and she will provide regular updates to the Commission. She invited Commissioners to provide feedback, as well. She advised that three public meetings would be scheduled at some point over the 18-month period. Mr. Cohn explained that the work is intended to culminate into a nationwide program for all jurisdictions to use.

Commissioner Moss reported that she attended the joint Oregon/Washington planning conference titled, "Cascade Collaborative: Bridging to the Future," which was sponsored by the American Planning Association (APA). Chair Wagner said she also attended the joint APA Conference. She noted that the Commissioners and staff that attended the event split up to attend a variety of sessions. She specifically highlighted the following:

- She attended a session about dedicating a certain percent of project funds for public art. She suggested the City should create a more precise policy for requiring the allocation of a percentage of project costs or space to the arts.
- She attended a session on Leadership in Energy and Environmental Design for Neighborhood Development (LEED ND). She suggested that is it important the City recognize that it is about more than just obtaining a certain certification. A developer's actions speak louder than the gold star they have been assigned.
- She said she particular enjoyed the key note speaker, Mitch Silver, AICP and APA President and Planning Director in Raleigh, North Carolina. He pointed out that when a City says no to something, it says yes to something else. For example, when they say no to taller buildings in commercial zones, they are also saying yes to higher taxes for single-family residential properties. It is important to communicate this concept to the community.

Mr. Cohn added that Mr. Silver also talked about how the demographics in the country would change by the year 2050. He made the point that by 2050, there would be no majority race. He discussed that people are having fewer children, which means the demand for multi-family residential housing is likely to increase.

Commissioner Moss said she attended a session about high-speed, inter-city passenger rail where the Mayor of Eugene, Oregon, reported that the State of Oregon only received $8 million out of $598 million in federal funding that was made available to Washington and Oregon as a result of the American Reinvestment and Recovery Act. The State of Washington received the rest because they had "shovel-ready" plans to move forward with. She thanked City staff for recognizing the importance of having plans that are ready to move forward. It can make a significant difference in how the City is able to leverage federal and state funding.

Commissioner Broili observed that the world population reached 7 billion just a few days ago. When he was born 70 years ago, the population was 2 billion. He emphasized that this significant population increase has an impact on the work the Planning Commission is doing.

AGENDA FOR NEXT MEETING

There was no further discussion about the November 17th agenda.

ADJOURNMENT

The meeting was adjourned at 8:34 P.M.

Michelle Linders Wagner	Jessica Simulcik Smith
Chair, Planning Commission	Clerk, Planning Commission

ATTACHMENT F

PATIENT INFORMATION AND AUTHORIZATION FOR THE RELEASE OF MEDICAL RECORDS

I, _____ (**print name**), declare that I have given a valid copy of my Washington State Medical Marijuana Authorization and a valid copy of my Washington State photo ID or photo ID with proof of WA State residence, and that with this application I am applying to become a member of Emerald Gardens (EG).

Patient contact information is as follows:

Current email address: _____

Current telephone/mobile #(s): _____

IF YOU WOULD LIKE TO GET TEXTS FROM US, PLEASE LET US KNOW YOUR MOBILE PROVIDER : _____

PLEASE INITIAL^

Current residence & mailing address: _____

STREET

_____, State of WASHINGTON, _____

CITY ZIP CODE

PATIENT'S NAME _____ DOB: _____

(Please Print) First Middle Last

Are medical records filed under any other name(s)? _____

❑ I HEREBY AUTHORIZE EMERALD GARDENS TO RECEIVE MEDICAL INFORMATION FROM:

Name_____ Address_____ City_____

(Doctor)

Name_____ State **WA** Zip_____Phone # _____ Auth Exp Date _____

(Facility)

How did you hear about us? _____

I declare that all of the information given on this form is truthful and valid.

_____ <Signature _____ <Date

IMPORTANT: READ ALL INFORMATION BEFORE SIGNING

I hereby consent to the release of the above information. You are authorized to release to the person or entity above all information or medical records relating to diagnosis, testing or treatment for such disease(s) as specified above. I understand that such information cannot be released without my informed consent. Expires in 90 days.

I hereby release Emerald Gardens and its staff from all legal responsibility that may arise from this release of information.

My rights: I understand that I do not have to sign this authorization in order to obtain healthcare (medicine, treatment, or membership). I may revoke this authorization in writing. I understand that once the health information I have authorized to be disclosed reaches the noted recipient, that person or organization may redisclose it, at which time it may no longer be protected under Privacy Laws.

Emerald Gardens IS PROHIBITED FROM MAKING ANY FURTHER DISCLOSURE OF YOUR INFORMATION WITHOUT THE SPECIFIC WRITTEN CONSENT OF THE PERSON TO WHOM IT PERTAINS, OR AS OTHERWISE PERMITTED/REQUIRED BY STATE LAW.

EMERALD GARDENS
PATIENT/CAREGIVER/PROVIDER AGREEMENT

I hereby appoint The EMERALD GARDENS (EG) as my agent for the sole purpose of procuring substances which I may obtain for my personal medical use. I understand that all donations to EMERALD GARDENS are for water, electricity, supplies, and time and in no way constitute a commercial transaction.

1. In order for EMERALD GARDENS to serve you, all members must conform to the laws of the state of Washington. We require all of our members to agree and obey these simple rules and regulations. Any violation of these rules and regulations will result in the termination of the patient/caregiver/provider agreement. All members must have proper WA state issued identification proving age and residency. While Washington state law allows the medical use of marijuana with a physician's recommendation, marijuana is still considered illegal federally.
2. All members must be in need of medicine in accordance with **RCW 69.51A.040**. All members agree to accept limitation on the amount of medicine they must obtain in times of scarcity, in order to provide medicine to the greatest number of patients.
3. Before beginning your cannabis therapy treatment, please consult with your physician for advice regarding usage and dosage. EMERALD GARDENS will not be responsible for any ill or adverse effects possibly experienced during your cannabis therapy.
4. All members agree not to attempt to sell or give away any form of MEDICAL CANNIBIS obtained from EMERALD GARDENS. All members understand that the service provided to them by EMERALD GARDENS have a solely medical focus, NOT being made available for "recreational use" or abuse, and will not be utilized for illegal purposes of any type.
5. All members agree to protect the privacy and confidentiality of themselves and al other members of the patient/caregiver/provider relationship.
6. All members agree not to consume any MEDICAL CANNABIS while operating any automobile or heavy equipment.
7. All members agree to keep their medicine safely locked away in their vehicle until they are home and at home as well.
8. Patients, caregivers, and providers agree, through this written form, that, should the need arise, they will make themselves personally available to testify in court as to {he fact that members of EMERALD GARDENS have provided for the "significant responsibility for the wellbeing of the patient" (i.e.- YOU), as obtained in Washington state law.
9. Excessive swearing, fighting, and/or use of any and all offensive terms will not be tolerated, i.e.; Be cool and respectful! This is a place for us to come and feel better!
10. You will also be asked not to return if we see or get reliable/multiple reports of you being seen:
    - Medicating on site or around the premises
    - Sharing medication
    - With weapons
    - With narcotics or any illegal substance
11. All members agree that the staff of EMERALD GARDENS has the right to refuse to provide services to any person, (INCLUDING MEMBERS), at any time and agree to this right of refusal as a condition of the patient/caregiver/provider relationship.

I certify that I have read and agree to all above, and that I have received a copy of these rules. I verify that all information and documents regarding my condition submitted to EMERALD GARDENS are factual. I made this appointment of my own free will and acknowledge that no effort has been made on the part of EMERALD GARDENS to encourage me to procure use of medical marijuana. I hereby agree, for myself, my heirs and assign to hold EMERALD GARDENS and anyone acting on their behalf free and harmless from any liability of my procurement and/or use of any substance which I obtain through EMERALD GARDENS. EMERALD GARDENS assures that all my provided information will be kept totally confidential. EMERALD GARDENS does not and will not give, trade or sell any patient or caregiver information unless written consent is given by the patient/caregiver.

_____
Legibly Print Name

_____
Signature Date

_____ Verifies that a copy of this agreement was given to the Patient and/or Designated Caregiver.
Emerald Gardens Initials

-EG COPY-

CITY OF SHORELINE

Planning & Community Development

17500 Midvale Avenue North
Shoreline, WA 98133-4905
(206) 801-2500 ♦ Fax (206) 801-2788

SEPA THRESHOLD DETERMINATION OF NONSIGNIFICANCE (DNS)

PROJECT INFORMATION

DATE OF ISSUANCE: **December 6, 2011**

PROPONENT: **City of Shoreline**

LOCATION OF PROPOSAL: **Not Applicable - Non Project Action**

DESCRIPTION OF PROPOSAL:
Amend the development code to provisionally allow medical marijuana collective gardens

PUBLIC HEARING
December 1, 2011

SEPA THRESHOLD DETERMINATION OF NONSIGNIFICANCE (DNS)

The City of Shoreline has determined that the proposal will not have a probable significant adverse impact(s) on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of the environmental checklist, the City of Shoreline Comprehensive Plan, the City of Shoreline Development Code, and other information on file with the Department. This information is available for public review upon request at no charge.

This Determination of Nonsignificance (DNS) is issued in accordance with WAC 197-11-340(2). The City will not act on this proposal for 14 days from the date below.

RESONSIBLE OFFICIAL: **Joseph W. Tovar, FAICP, Director of Planning and Community Development Department**

ADDRESS: **17500 Midvale Avenue North**
Shoreline, WA 98133-4905

PHONE: **206 801 2501**

DATE: 12/2/11 SIGNATURE:

PUBLIC COMMENT AND APPEAL INFORMATION

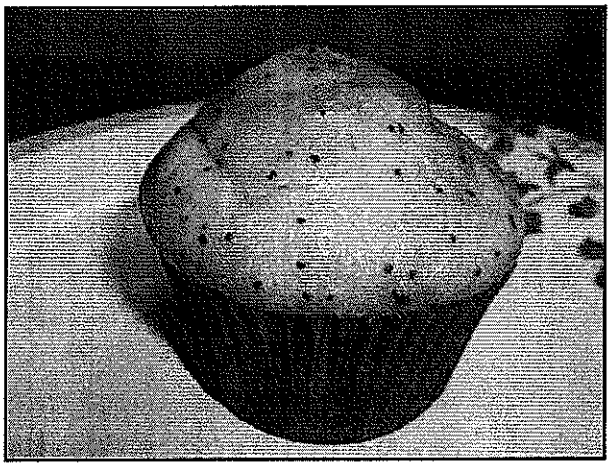
The public comment period will end on December 27, 2011. There is no administrative appeal of this determination. The SEPA Threshold Determination may be appealed with the decision on the underlying action to superior court. If there is not a statutory time limit in filing a judicial appeal, the appeal must be filed within 21 calendar days following the issuance of the underlying decision in accordance with State law.

The file is available for review at the City Hall, 17500 Midvale Ave N., 1st floor – Planning & Community Development.

Attachment H

Lemon Pot-Poppy Seed Muffins: Potent and Tasty

By Steve Elliott ~alapoet~
published: Tue., Dec. 13 2011 @ 10:00AM



Pleasurably palatable and potent

Locals Social Club in Shoreline is one of the newer medical marijuana collective gardens in the area, having opened in September, but with its nice selection of medibles -- including some potent Lemon Pot-Poppy Seed Muffins -- the club is sure to have lots of repeat customers.

Friendly and knowledgeable budtender Nick guided me through Locals' extensive selection of treats -- the shop's small refrigerator is absolutely packed to the gunwales with 'em -- cookies, cupcakes, fudge, "Whales' Tails" (think Goldfish, except medicated), and much more.

My Lemon Pot-Poppy Seed Muffin was moist and fresh, revealing its scrumptious sweet/savory secrets in a much more subtle style that your average medible. As Nick proudly and accurately noted, Locals has one hell of a talented cannabis cook.

So far, so good -- the muffin tasted great. But how thrilling? As you may have noted in past columns, too often cannabis-laced treats just don't have a substantial enough dose in them, especially for serious pain patients.

Let me assure you that such is not the case with these mighty marijuana muffins. An hour after consuming this treat, it kicked my weak attempt at jaded nonchalance in the ass. I wasn't unhappy to realize I was heavily medicated, with back pain gone and a pleasantly fuzzy buzzing sensation in my head.

Big kudos to the cook for combining delicious culinary qualities and adequate dosage into one treat. And one of the coolest things about these muffins is you can get them for a donation of only $3 each, or two for $5. I call that one of the best medibles values around.

You can find Locals Social Club at 938 N. 200th Street, Suite B, Shoreline, telephone 629-4985. They're open late for your convenience, from 10 a.m. until midnight Sunday through Thursday and from 10 a.m. until 3 a.m. Friday and Saturday nights.

Incredible Medibles wants to review your cannabis-infused food items. E-mail tokesignals@seattleweekly.com.

*Steve Elliott edits **Toke of the Town**, Village Voice Media's site of cannabis news, views, rumor and humor.*

Showing 1 comment

YellowJuana Cake 2 days ago

Kudos to the cook - especially if the dose is clearly labeled so you know how much you're consuming. Once again, I wouldn't ever suggest eating an edible from someone who isn't sure of the dose. I can tell you how much you get in a dose when I use butter or oil or alcohol as the carrier. Best of all - the price is right - I don't think canna-treats should be any more expensive than, say, their gourmet (non medicated) counterparts. Lastly, if you have access to buds to smoke, you can use my recipe to make these for yourself if you're too far from the dispensary. Self sufficient patients feel the best. Nice find, Steve, I hope you see an improvement in labeling and effect of the medibles in your area. If only it were statewide.