



Memorandum

DATE: November 3, 2011

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Planning and Community Development Director
Paul Cohen, Senior Planner *PLC*

RE: Study Session on Medical Marijuana Collective Gardens – Development Code Amendments

Introduction

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 on July 18, 2011a moratorium on MMCGs (Ord. No. 611) if they do not meet interim regulations. These interim regulations are consistent with SB 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 (Attachment A) only to reduce the physical separation between different MMCGs from 2,000 to 1,000 feet.

Ordinance No. 614 reads 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 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.

The Commission has been directed to review land use issues and 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.

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 lacked authorization for large scale distribution of marijuana for patients who were unable to grow their own medical marijuana. However, dispensaries have 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 (MRSC) responded that 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 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. The earlier argument used to expand the designated provider into a dispensary was expressly curtailed in the final bill by prohibiting providers from changing their qualified patient more frequently than every fifteen days.

While dispensaries are now clearly unlawful, SB 5073 provides a limited model for cooperative efforts by patients in production and distribution through collective gardens run by up to 10 qualified patients and containing up to 45 marijuana plants. The bill allowed local government to zone and regulate this new land use. It is likely that a collective garden can hire a designated provider or lease a site that would include multiple collective gardens. Even though there are some unanswered issues, the City cannot legislate past SB 5073 or its intent because it is viewed as incomplete legislation and likely to be revisited in the near future. Based on further analysis, staff has recommended few changes to the interim code language (Attachment B).

Discussion

1. What is the current status of 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 use only up to 15 plants and have 24 ounces. The MMCG amendment does not affect a patient's right to grow their own medical marijuana at home. Dispensing of medical marijuana that is not an outlet for only a collective garden remains prohibited. However, a collective garden dispensary can be located in commercial zones in Shoreline even though the actual garden can be located elsewhere.

2. How does dispensing to members work?

State law is clear that a marijuana patient may also serve as a provider to other patients. Though the SB 5073 is not explicit, City Attorney reads SB 5073 to allow a patient to now assist other patient members of a collective garden rather than just one other patient, with marijuana limits again increased. 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.

A key issue is that membership limits can be manipulated to allow members to pick up their prescription and then after dispensation be removed from the membership list. By constantly rotating the membership list it allows dispensaries to sell to any number of patients. This has effectively undermined the purpose of controlling the distribution of medical marijuana. The City Attorney recommended to the Council that they regulate the turn-over of a membership to a 15-day waiting period to prevent this problem. The Council rejected the provision (below) on September 12 (Attachment C) as too difficult to regulate and difficult for patients who may be limited in their mobility and funds.

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

This restriction would have eliminated the quick designation and resignation of the patient's provider which some dispensaries argued prior to SB 5073 to justify a retail outlet to any authorized patient. To allow a garden member to pay a fee for receiving marijuana, resign and be immediately replaced by another garden member that can pay the same fee perpetuates the scheme intended to be ended by SB 5073.

3. What are the regulations of adjoining jurisdictions and how would they affect our interim regulations?

Jurisdictions throughout the state are currently addressing SB 5073 and trying to decide whether to prohibit or regulate MMCGs. Shoreline follows several cities that have adopted moratoria regarding collective gardens. From discussions with other cities, more are anticipated. Some cities have adopted an absolute moratorium on any

collective garden. Staff does not recommend this 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, including moratoria, 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 interim regulations are an important benefit to patients who cannot provide marijuana themselves or through a single provider.

4. What is the purpose of separation from schools and from other collective gardens? Why 1000-foot radii?

The separation rule from schools and other gardens received the most discussion by Council July 18 (Attachment D). 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, however, Council adopted a 1,000 feet as sufficient for public welfare. A map of current and potential collective gardens using this rule is in Attachment D. The intent for the separation from schools and other collective gardens is to minimize conflict with school activity and students and to avoid a concentration of these gardens as a possible magnet for crime.

5. How many MMCGs exist and what is the maximum number of MMCGs possible in Shoreline?

There are currently 4 known collective gardens which 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 (Attachment E). 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, there might be 6-8 additional MMCGs.

6. Will there be an increase of criminal activity because of illegal sales or theft?

Per the opinion of Police Chief Pingery, these are not fly by night operations – it's expensive to start and maintain a grow operation, due to the cost of the grow lights, venting, water, and electricity. The Shoreline Police have their hands tied regarding the criminal enforcement of medical marijuana, as any citizen can grow for personal use and many have prescriptions. Chief Pingery notes that due to the availability of marijuana and limited police resources, the Police will only be responding to calls. In a specific incident Green Hope was robbed by cutting through the adjoining wall. 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 home-grow operations, and if those are consolidated in collective gardens, it presents a more attractive target for crime.

7. Who will enforce land use violations?

The Planning and Community Development Code Enforcement Officer will enforce land use violations and if necessary in coordination with the police.

8. How can we ensure that medical marijuana is not consumed with the operation of a vehicle?

We cannot ensure that consumption and driving will not happen. Like other prescribed drugs that are narcotics such as oxycodone and vicadine, a person can pick up a prescription at the pharmacy, consume the drug, and drive away. Police can pull over and cite a driver for erratic and impaired driving.

Next Steps

The Planning Commission has scheduled a public hearing on November 17, 2011. 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. Ordinance No. 614
- B. Proposed Amendments to the Development Code
- C. City Council Sept 12, 2011 Meeting Minutes
- D. City Council July 18, 2011 Meeting Minutes
- E. Medical Marijuana Collective Garden Locator Map

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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:

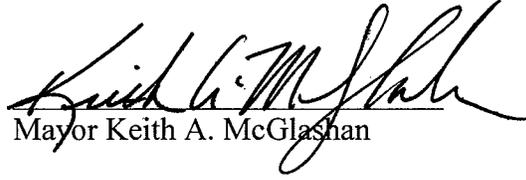
Section 1. Section 2 of Ordinance No. 611 is amended to read as follows:

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:

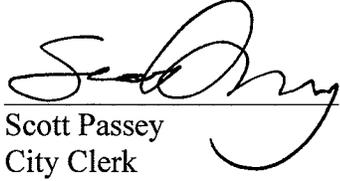
- A. There shall be no more than one collective garden permitted on a property tax parcel.
- B. Collective gardens may only be located in the NB, O, CB, NCB, MUZ, and I zones.
- C. A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1000 feet of schools 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.

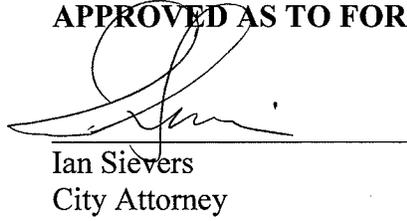
PASSED BY THE CITY COUNCIL ON SEPTEMBER 12, 2011.


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

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							
	<u>Medical Marijuana Collective Gardens</u>				<u>P-i</u> P-i	—	<u>P-i</u>

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 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.

September 12, 2011 Council Business Meeting

A vote was taken on the motion to approve the Briarcrest Neighborhood Association mini-grant application in the amount of \$866 for invasive plant removal and planting of native species on the NE 147th unimproved right-of-way, which carried 6-0.

(b) Public hearing to receive citizens' comments on Ordinance No. 611, which adopted Interim Regulations for Collective Gardens and established a Moratorium for Six Months on the filing or acceptance of any Applications for Development of Land or Business Licenses for Collective Gardens except those in compliance with Interim Regulations and Adoption of Ordinance No. 614, Amending Interim Regulations

Flannary Collins, Assistant City Attorney, provided the staff report and outlined the Council's past action which established a moratorium on Medical Marijuana Dispensaries and created interim regulations on Collective Gardens. She recommended that the Council adopt Ordinance No. 614, which amends interim regulations related to medical marijuana collective gardens to provide a reduction in the distance between collective gardens from 2,000 feet to 1,000 feet. The ordinance also clarifies that members may not be substituted within fifteen days where fees are paid to another member or designated provider. Ms. Collins concluded that the next steps are for the Planning Commission to review the Council's action and recommend permanent regulations.

Mayor McGlashan opened the public hearing.

a) Kurt Boehl, Seattle, supported the amendment to reduce the distance to 1,000 feet but opposed limitation of patients. He said there are 3,000 patients in Shoreline and this would serve only 60 patients every month, which is not monetarily feasible for any access point.

b) Laura Healy, Lake Stevens, opposed the 15-day waiting period and said it will just push people to the black market.

c) Chris Healy, Green Hope Patient Network, said he appreciated working with the City Attorney and thanked the City for everything. He added that collective gardens reduce crime.

d) Dawn Darrington, Seattle, commented that cannabis is saving his life and that there are many shops that should probably be closed down, but Green Hope is a great place.

e) Patrick Gahan, Seattle, on behalf of A Green Cure, stated that these limitations would force people elsewhere and would not allow businesses to pay their bills. He stated that they are trying to create safe access and they have built a network of 550 patients and 52% are Shoreline residents.

September 12, 2011 Council Business Meeting

f) Steven Lee, Seattle, spoke against the limitations on collective gardens. He stated that he goes to A Green Cure because many marijuana providers in Seattle are unprofessional.

g) Whitney Arnot favored the reduction in distance and opposed the 15-day waiting period, adding that A Green Cure is a clean facility.

h) Kimberly Lind, Mill Creek, stated that A Green Cure is good and has safe access to medical marijuana. She said A Green Cure is a professional facility that has always treated her like a patient.

i) Lauren Harris, Shoreline, commented that naturopaths at Hempfest were writing prescriptions for anyone and young people are having more problems with marijuana addiction. She expressed concerns about how this will affect the community.

j) David Semkin, Seattle, commented that proper zoning makes sense and it needs to be kept away from schools. He stated that A Green Cure is a responsible club and that it makes sense to allow this kind of club.

k) Daniel Torres, Mukilteo, stated that his injuries led him to medical marijuana and it has helped him tremendously. He added that A Green Cure is a proper and law-abiding business.

l) Krista Iverson, Mountlake Terrace, voiced her support for Green Cure and said she does not agree with the limitations.

Councilmember Eggen moved to adopt Ordinance No. 614, amending interim regulations. Deputy Mayor Hall seconded the motion. Councilmember Eggen felt there is a need for interim regulations. He noted that the Planning Commission will discuss permanent regulations and they will protect the public in accordance with the State. Responding to Councilmember Roberts, Ms. Collins said she was not aware of other cities establishing limitations on new members for the collective garden model.

Councilmember Roberts moved to strike “Section E. 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.” Councilmember McConnell seconded the motion.

Councilmember Roberts discussed the opinion of the Municipal Research Services Center (MRSC) and said he is not convinced the City can regulate this at a higher level of state law. Ms. Collins also highlighted that Section 4 under designated providers is not spelled out clearly in state law.

Councilmember McConnell expressed concern about how the City ensures a facility is good since there isn't much information about them. She questioned the City staff

September 12, 2011 Council Business Meeting

rationale for the ten patients, 15-day waiting period because she felt having ten patients would not be economically feasible.

Councilmember Eggen also asked about pushing the growth of marijuana out into the neighborhoods and enforceability of the 15-day wait period. Ms. Collins replied that the police would have to enforce and check the collective garden lists by spot checking. She added that commercial gardens are not allowed in residential neighborhoods. The rationale for the 15-day waiting period is to try to put a stop to dispensaries with no limits on marijuana distribution and model what the State did for designated providers.

Councilmember Eggen inquired if the City has the means to assure providers are safe and clean. Ms. Collins replied that the State law requires that each collective garden must ensure each patient has valid documentation and identity. She concluded that there is no language in the City ordinance concerning the safety of the environment or the providers.

Deputy Mayor Hall noted that this amendment means that collective gardens would be allowed to have an unlimited number of patients, but neither State law nor this ordinance intended such an outcome. He opposed the amendment because collective gardens should not be permitted to operate as dispensaries. Mayor McGlashan concurred and opposed the amendment.

Councilmember Eggen inquired if there would be any penalties if the ordinance is violated and Ms. Collins replied that they would fall under a misdemeanor offense through court.

Councilmember Scott asked if the City would be in violation of state law if section E were stricken. Ms. Collins replied that it would not be in direct violation and it would be consistent with the spirit of the law.

Councilmember McConnell wondered if there were any other examples of other cities that have stricken this section. She said she would rather err on the side of access, comfort, and care. She said she was in favor of striking the language from the ordinance.

A vote was taken on the motion to strike “Section E. 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.” Motion carried 4-2, with Mayor McGlashan and Deputy Mayor Hall dissenting.

Deputy Mayor Hall pointed out that this amendment means that he will vote against the main motion because it would allow the retail sale of marijuana in Shoreline.

Councilmember Roberts supported the amendment and ordinance and encouraged the City staff and Planning Commission to look closely at what the City wants from the permanent regulations. He encouraged the City staff to think about the density between mixed use versus Town Center, etc. He added that he hopes the legislature clarifies this law because the spirit of the law does not encourage a retail marijuana establishment.

September 12, 2011 Council Business Meeting

Councilmember Scott said there might be some abusers, but there are patients out there that really need help. He encouraged residents to make their voices heard in Olympia because the State legislature put cities in this predicament. He supported the ordinance.

Councilmember Eggen said he is also voting for this ordinance and said there needs to be some state regulation. This is necessary medicine for people, he said. He also stated that there should be a way to figure out how to prevent adverse affects to neighborhoods or facilities.

Councilmember McConnell noted that the map does not really leave room for another dispensary to open up in the community and said she wants the Planning Commission to address this.

Deputy Mayor Hall inquired if a collective garden can purchase wholesale products elsewhere and Ms. Collins confirmed that they would have to produce their own products.

Mayor McGlashan communicated that the State left everyone wondering what to do and the City decided to have some control by doing the moratorium. He noted that the amended ordinance allows for a retail operation to serve an unlimited number of patients. He opposed the ordinance.

Mayor McGlashan closed the public hearing.

A vote was taken on the motion to adopt amended Ordinance No. 614, amending interim regulations, which carried 4-2, with Mayor McGlashan and Deputy Mayor Hall dissenting.

RECESS

Mayor McGlashan called for a five-minute break at 8:58 p.m. The meeting reconvened at 9:02 p.m.

9. UNFINISHED BUSINESS

(a) Sound Transit Update - North Corridor Transit Project

Kirk McKinley, Transportation Services Manager, Alicia McIntyre, Senior Transportation Planner, and Matt Shelden, Sound Transit, provided information regarding the Sound Transit plan to extend high capacity transit north of Northgate. Mr. Shelden discussed the alignment and mode alternatives, the environmental process, and the need for the City to participate in Sound Transit's process by providing technical and policy direction. He said that after a light rail alignment has been determined in 2014, the City will work with the community on station area planning for the selected station locations and to identify appropriate mitigation. The Council and speakers reviewed photos and discussed both the I-5 and Hwy 99 project alternatives.

CITY OF SHORELINE

SHORELINE CITY COUNCIL SUMMARY MINUTES OF SPECIAL MEETING

Monday, July 18, 2011
7:00 p.m.

Shoreline City Hall – Council Chamber
17500 Midvale Avenue North

PRESENT: Mayor McGlashan, Councilmember Eggen, Councilmember McConnell,
Councilmember Roberts, Councilmember Scott, and Councilmember Winstead

ABSENT: Deputy Mayor Hall

1. CALL TO ORDER

At 7:00 p.m., the meeting was called to order by Mayor McGlashan, who presided.

2. FLAG SALUTE/ROLL CALL

Mayor McGlashan led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present with the exception of Deputy Mayor Hall.

Upon motion by Councilmember Winstead, seconded by Councilmember Eggen and carried 6-0, Deputy Mayor Hall was excused.

3. CITY MANAGER'S REPORT AND FUTURE AGENDAS

Julie Underwood, City Manager, provided reports and updates on various City meetings, projects, and events.

4. COUNCIL REPORTS

Councilmember Eggen reported on the congestion relief measure and said SeaShore's core cities put together a letter to King County that supported a councilmatic adoption of that measure because of the economic effects on transit-dependent populations.

5. PUBLIC COMMENT

a) Laura Healy, Lake Stevens, Green Hope Patient Network, addressed item 8(a) and urged the City to explore options for allowing access points to medical marijuana.

b) David Westberg, Shoreline, urged the City to work with Green Hope, noting that it is a well-behaved, orderly, quiet, and efficient business.

c) Philip Dowdy, Seattle, said Green Hope is a stellar and clean operation that will comply with the collective garden model and urged the Council to look at what Seattle passed in regards to medical marijuana.

d) Robert Magnum, Lynnwood, commented on the benefits of the Green Hope Patient Network and its positive impact on the community.

e) Jonathan Farmer, Mountlake Terrace, discussed his injuries and spoke in favor of Green Hope Patient Network.

f) Dennis Ryder, Everett, commented that he takes less pain medication due to new pain management through medical marijuana.

g) James Burley, Kenmore, commented that medical marijuana is a bill that brings more jobs to the City and commented that Green Hope has done everything right to stay open.

h) Matt Harmon, Shoreline, noted that dispensaries provide safe access and urged the Council to keep it open and safe to provide revenue for the City.

i) Wayne Ferguson, Kirkland, spoke in favor of medical marijuana and its benefits on society in curbing violence and crime.

Councilmember Eggen stated that the people of this state have made medical marijuana legal, but the state government has not shown cities how to make it available. He hoped a law will come out soon that is good for everyone and the Council is serious about doing the best it can.

Mayor McGlashan confirmed that there would be a public hearing on this issue before the Council.

6. APPROVAL OF THE AGENDA

Upon motion by Councilmember Winstead, seconded by Councilmember Eggen and unanimously carried, the agenda was approved.

7. CONSENT CALENDAR

Upon motion by Councilmember Scott, seconded by Councilmember Winstead and unanimously carried, the following Consent items were approved:

(a) **Motion to Authorize the City Manager to Approve the Sidewalk Construction Contract**

(b) **Motion to Authorize the City Manager to Obligate \$6,357,839 of Washington State Department of Transportation (DOT) Regional Mobility Funds for the Aurora Corridor Project**

(c) **Motion to Authorize the City Manager to Execute a Construction Contract with Doolittle Construction, LLC for the Implementation of the Bituminous Surface Treatment (BST) Program**

8. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS, AND MOTIONS

(a) Approval of Ordinance No. 611 to Establish a Moratorium on Collective Gardens

Ian Sievers, City Attorney, explained the reasoning for adopting Ordinance No. 611, which would establish a moratorium on collective gardens and interim regulations controlling the growth and distribution of medical marijuana. Shoreline has two active dispensaries; one hearing is extended to August 5. He reviewed the legislative history on this item and reviewed the vetoed sections of the legislative bill. He noted that the City does not have a dispensary model and discussed other moratoria. He noted that some cities have introduced moratoria and others have banned collective gardens completely. Mr. Sievers discussed section 2 of the ordinance and noted that it limits collective gardens to a small scale.

Councilmember Scott moved adoption of Ordinance No. 611 adopting a moratorium and interim regulations for medical marijuana and collective gardens. Councilmember McConnell seconded the motion.

Councilmember Roberts moved to amend Ordinance No. 611 by inserting clauses in the Whereas portion as follows: “Whereas, federal law prohibits the production, processing, and dispensing of medical cannabis or medical cannabis products, and strict sentencing guidelines enhance the penalties for violations of more than 99 plants or within 1,000 feet of school; and Whereas, state law strictly enhances the penalties for violations of the Controlled Substances Act for violations within 1,000 feet of a school.” His motion also included striking “1,000 feet of schools or school bus routes stops and not” from Section 2(c) as follows: “A collective gardens or facility for delivery of cannabis produced by the garden may not be located ~~within 1000 feet of schools or school bus route stops, and not~~ within 2000 feet of any other collective garden or delivery site.” Councilmember Eggen seconded the motion.

Councilmember Eggen spoke in favor of the amendment and confirmed that the 1000-foot restriction from bus stops is covered by RCW 69.50.435 in Washington State law. He added that by deleting this from our ordinance it refers it back to state law. Mr. Sievers interjected that he

does not think the 1,000-foot language is required since the City sets land use. He said he has no objection to removing the routes from the ordinance. Councilmember Eggen said he prefers including the 1,000-foot restriction for schools, but utilizing a shorter distance for bus routes.

Councilmember Winstead noted that drug-free zones are 1,000 feet and inquired if bus routes are included. Mr. Sievers discussed local, state, and federal laws concerning medical marijuana. He said he has no objection to either adding or leaving the bus routes language in the ordinance.

Councilmember McConnell preferred to keep the 1,000-foot restriction in the ordinance even if it is repetitive. However, she noted that dealing with school bus routes might be difficult.

Councilmember Scott supported the two new whereas clauses, but questioned the portion concerning bus routes. He added that if bus stops change he would be in favor of striking the second portion of the amendment. Councilmember Eggen agreed, but stated that this is a six-month moratorium so they will not change during the duration of this ordinance. He felt comfortable with the bus routes limitation.

Councilmember McConnell pointed out that bus stops can change in the first month or two and if they do, it might make police enforcement difficult. Councilmember Roberts did not object to adding the 1,000-foot school zone restriction back in, but is concerned about adding a 50 or 100-foot radius around bus stops. He explained that all of the bus stops are in residential zones and the ordinance already states that collective gardens are not permitted in residential zones.

Mayor McGlashan commented that he is leaning toward not supporting the whereas clauses and omitting the bus stop amendment. Mr. Sievers responded to Councilmember Eggen that the whereas clauses do not address the school bus stops.

Councilmember Roberts explained that the purpose of having this language is to say explicitly that the City will not be in violation of federal or state law, thereby recognizing the primacy of state and federal law.

Councilmember Roberts withdrew the motion on the table and moved to amend Ordinance No. 611 by inserting the following clauses: “Whereas, federal law prohibits the production, processing, and dispensing of medical cannabis or medical cannabis products, and strict sentencing guidelines enhance the penalties for violations of more than 99 plants or within 1,000 feet of school; and Whereas, state law strictly enhances the penalties for violations of the Controlled Substances Act for violations within 1,000 feet of a school.” Councilmember Eggen seconded the motion, which carried 6-0.

Councilmember Roberts moves to strike "or school bus route stops" from Section 2(c) as follows: “A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1000 feet of schools ~~or school bus route stops~~, and not within 2000 feet of any other collective garden or delivery sites.” Councilmember Eggen seconded the motion, which carried 6-0.

Councilmember Eggen moved to amend Section 2 (c) by striking “and not within 2,000 feet of any other collective garden or delivery site” and inserting “and collective gardens must be separated by at least 2,000 feet and delivery sites must be separated by at least 2,000 feet.” Councilmember Scott seconded the motion. Council and staff discussed the merits of the motion. Councilmember Eggen explained that the goal of his amendment is to ensure a delivery site is somewhat separated from a garden that produces. **A vote was taken on the motion to amend Section 2 (c) by striking “and not within 2,000 feet of any other collective garden or delivery site” and inserting “and collective gardens must be separated by at least 2,000 feet and delivery sites must be separated by at least 2,000 feet”, which failed 4-2, with Councilmembers Eggen and Mayor McGlashan voting in the affirmative.**

Councilmember Roberts stated that he supports the ordinance but has concerns with directing the Planning Commission. He has issues with having them in certain zones because a couple who produces plants in a residential zone can grow 30 plants if they reside in one home. He also communicated that 1,000 feet from a school is a far distance and is unnecessary.

A vote was taken on the motion to adopt Ordinance No. 611 adopting a moratorium and interim regulations for medical marijuana and collective gardens, as amended, which carried 6-0.

Councilmember Roberts left meeting at 8:40 p.m.

RECESS

At 8:35 p.m., Mayor McGlashan called for a five-minute recess. The meeting reconvened at 8:42 p.m.

9. STUDY ITEMS

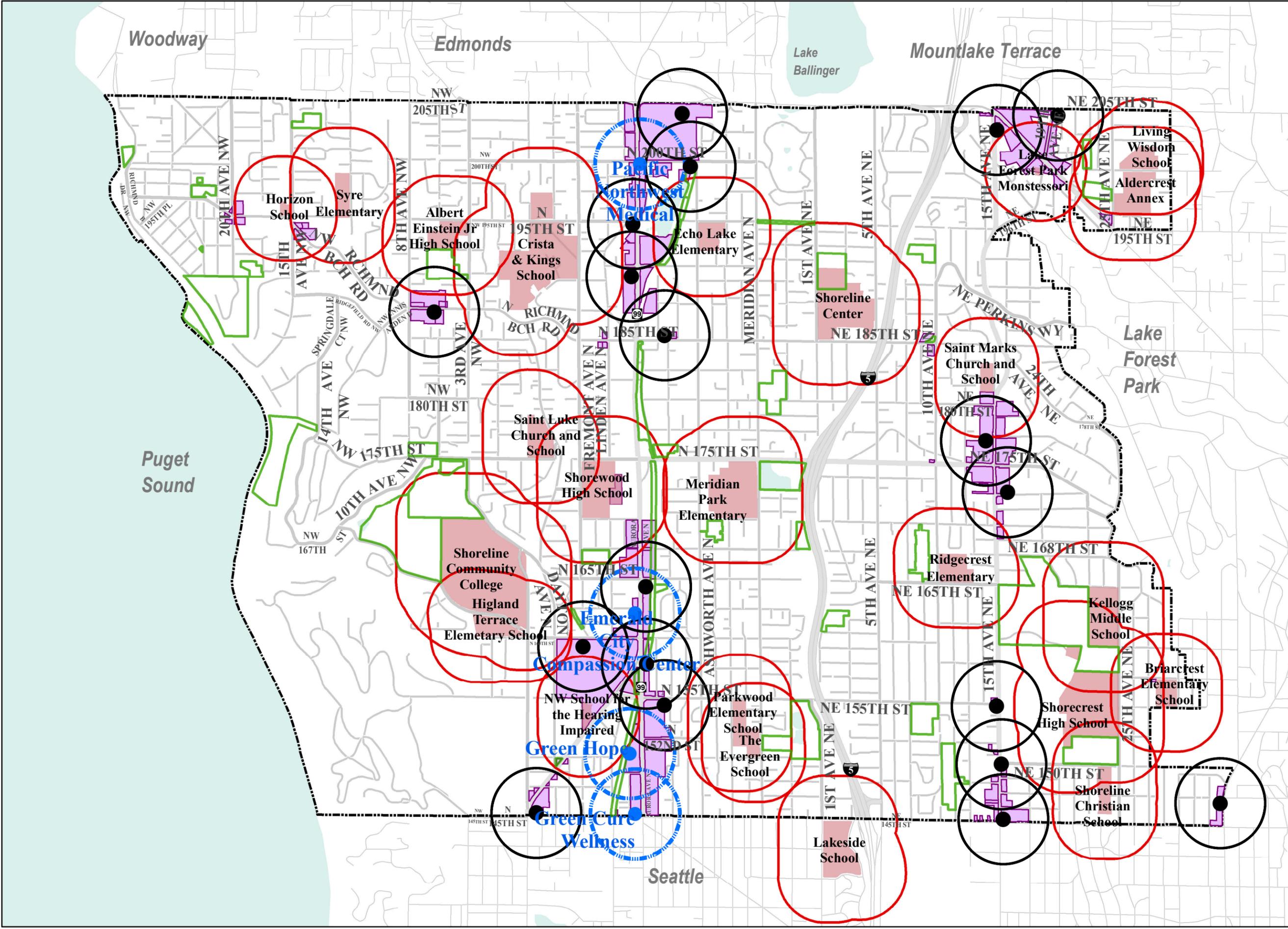
(a) Transportation Master Plan (TMP) Bicycle Plan, Pedestrian Plan, Transit Plan, Master Street Plan, Sustainability Procedures

Mark Relph, Public Works Director, introduced Kirk McKinley, Transportation Services Manager, and Alicia McIntyre, Senior Transportation Planner, who provided the staff report.

Ms. McIntyre stated that the City staff has provided responses to Council questions within the staff report, and City staff is requesting direction on goals, policies, implementation strategies, and the system plans regarding Sustainability and Quality of Life, Master Street Plan, Bicycle Plan, Pedestrian Plan, Transit Plan, and Street classifications.

Councilmember Eggen confirmed that the City staff will work with residents to get their input and noted that there are limits to what can be done in the short term.

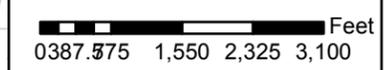
Councilmember Winstead noted that there was no complete streets map in the Council packet. Ms. McIntyre explained that the concept of complete streets is to consider all users. She said



Potential Collective Garden Sites

Collective Garden & 1000 Foot Buffers From School Perimeter

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



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



Date: 8/3/2011

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